ПРОБЛЕМЫ И ПЕРСПЕКТИВЫ РАЗВИТИЯ СОТРУДНИЧЕСТВА МЕЖЛУ СТРАНАМИ ЮГО-ВОСТОЧНОЙ ЕВРОПЫ В РАМКАХ ЧЕРНОМОРСКОГО ЭКОНОМИЧЕСКОГО СОТРУДНИЧЕСТВА И ГУАМ

привлечения инноваций и инвестиций для стабилизации и роста экономики, активизации межрегионального экономического сотрудничества.

Следует отметить, что еврорегион «Донбасс» является одним из катализаторов процесса украинско-российского трансграничного сотрудничества. На границе Украины и России за последнее десятилетие сформировался комплекс территориально компактных Еврорегионов, в основе которых лежат соглашения между расположенными по обе стороны границы территориальными органами власти и самоуправления. В этот комплекс, кроме «Слобожанщины» (2003), входят еврорегионы «Днепр» (2003 г.), «Ярославна» (2007 г.) и «Донбасс» (2010 г.). В то же время дальнейшее эффективное развитие сотрудничества в рамках этих еврорегионов требует выработки действенных механизмов финансовой поддержки совместных программ и проектов. Этому должна способствовать имплементация подписанного Украиной в ноябре 2011 г. Протокола № 3 к Мадридской конвенции о трансграничном сотрудничестве, предусматривающего создание и деятельность "объединений еврорегионального сотрудничества" со статусом юридического лица и правом на собственный бюджет.

Приграничное сотрудничество является одной из важных особенностей современных международных связей регионов, поскольку именно на границе пересекаются многие важные проблемы государств, включая внешнеполитические, экономические, гуманитарные контакты. Приграничное сотрудничество также помогает укреплять исторически сложившиеся связи.

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РЕЗЮМЕ

Досліджуються головні особливості соціально-економічного розвитку єврорегіону «Донбасс» та його конкурентні переваги.

Ключові слова: Єврорегіон, соціально-економічний розвиток, транскордонна співпраця, конкурентні переваги, суспільство.

Исследуются основные особенности социально-экономического развития еврорегиона «Донбасс» и его конкурентные преимущества.

Ключевые слова: Еврорегион, социально-экономическое развитие, приграничное сотрудничество, конкурентные преимущества, общество.

The basic features of the socio-economic development of the euroregion "Donbass" and its competitive advantages are investigated.

Keywords: Euroregion, socio-economic development, cross-border cooperation, competitive advantages, society.

BANKRUPTCY LAW AS AN ELEMENT OF MARKET INFRASTRUCTURE

Wojtkowiak G., The Poznań University of Economics, Poland

Introduction

In business literature, both academic and popular, a lot of attention is paid to the process of starting a company as well as to company management patterns. Similarly, numerous activities of the Polish government together with a number of European programmes focus on providing support for widely understood entrepreneurship. Commercial initiatives (regardless of the type of entity starting such activity) turn into a driving force of the economy, promoting innovations, employment and general prosperity.

Establishing a company and company development constitute one of crucial priorities for the majority of countries in the world. Creating good conditions for business activity is one of the factors of international competition allowing for local markets to become attractive for foreign capital and to prosper with the use of global resources. Both business academics and practitioners invest a lot of time and effort in developing good conditions for entrepreneurship to thrive. Their results within this area are very well expressed in the Index of Economic Freedom created by The Heritage Foundation and The Wall Street Journal. It is a tool for evaluating nations by the means of 10 broad factors of economic freedom, based on the statistic data delivered by renowned international organisations. The factors include as follows [from Wikipedia and The Heritage Foundation website]:

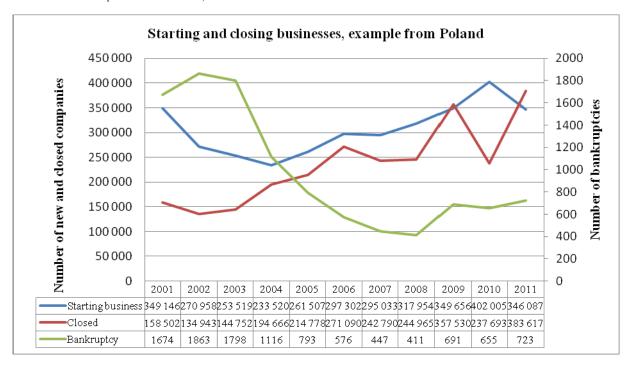
- business freedom a quantitative measure for assessing the ability to start, operate and close a business corresponding to the general 1) regulation and effectiveness of trade freedom;
- monetary freedom a combination of a measure of price stability and an assessment of price control mechanisms;
- 3) government size/spending – a measure specifying the percentage of government expenditures with respect to the given country's GDP;
- fiscal freedom a measure specifying the tax burden to be complied with in the given country;
- property rights a measure of the ability of individual persons to increase their private property, as enabled by well-defined regulations duly implemented by the state;
- investment freedom a measure specifying to what extent resources can be freely transferred across the country and businesses; 6)
- financial freedom a component for assessing the effectiveness of banks and other financial institutions, as well as government control and state interference in the sector of finances;
- freedom from corruption a component for assessing the level of corruption which has a negative impact on economic freedom, as it generally distorts the economic situation in the country by introducing the feeling of insecurity, instability and uncertainty in market relations;
- labour freedom a measure for assessing legal and regulatory mechanisms present in the given labour market;
- government in the regulatory process.

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The article focuses on one of the specific factors applied in the Index of Economic Freedom used within the Business Freedom category, i.e. the ability to close a business. The author aims at defining the reasons for which the ways in which companies are closed, particularly the possibility of declaring them bankrupt, may have a positive impact on entrepreneurship rates.

The article was prepared on the basis of an overview of the respective literature and available statistic data, as well as on the author's case-study research on bankruptcy process management and ongoing research in form of a structured interview, aimed at recognising different patterns of behaviour adopted by companies in case of permanent crisis in their business activity (including insolvency) or their plan to close the business. The current stage of the research and particularly lack of established knowledge on the implementation of exit strategies do not yet allow to make any generalisations; it is however possible to look for some regularities and form respective hypotheses. In his research the author applies the method of structured interview (in certain cases also document analysis) carried out in selected companies offering economic consulting services and in law firms providing legal assistance to business entities. The conclusions presented in the course of the discussion have been drawn based on the deduction method.

At the beginning it is necessary to take a look at the scale of the problem, significance of bankruptcy and other solutions enabling company liquidation, perceived as an element of market infrastructure. The table below [based on polish Central Statistic Office webpage www.stat.gov.pl] uses the Polish example to present the number of newly established, closed and bankrupt companies (the conclusions would most probably be similar even if based on examples of other countries).



The following sections of the article discuss social and market significance of bankruptcy, as well as its role as perceived by entrepreneurs. They present determinants used for evaluation purposes with respect to effectiveness of bankruptcy and liquidation proceedings.

Social and market impact of bankruptcy

In press and other media a lot is being said about costs of bankruptcy of companies, consequences for local communities, people, subcontractors; on the other hand nobody discuses the problem of social and market costs connected with the maintenance of organisations which in fact are in a very poor condition. Rarely an analysis is carried out with respect to the organisational dimension of enterprises for a long time functioning on the verge of bankruptcy. Typically press articles focus on spectacular actions organised by trade unions or other groups united under one common threat: lay-offs. We are overloaded with information – numbers representing the costs of governmental recovery plans and analyses offering hope for the survival of practically ruined state-owned companies. Based on such general picture a simple conclusion can be drawn: bankruptcy is bad – it leads to significant social damage.

Although it would be difficult to undermine the negative effects of bankruptcy, it is worth to consider a number of positive aspects of closing down an ineffective company, and to point out what a negative impact an unprofitable organisation and its postponed downfall may have on its environment.

From the economic point of view the entrepreneur is considered bankrupt when they are no longer able to continue their business activity independently, without external aid [5, p. 41-54]. Such situation is usually connected with the loss of trust of subcontractors and clients, a significant drop in financial ratios, inability to meet one's obligations or to finance current business operations, which eventually paralyses the whole organisation.

In the legal context bankruptcy results from the respective regulations and depends on court decision. It constitutes a kind of enforced action aimed at securing the payment of any active debts with the given entity's assets, acceptable in case of the entity's insolvency or (exceptionally) over-indebtedness [B. Prusak, p. 41-54]. Thus, from the legal point of view the concept of bankruptcy should be associated with the proceedings comprising the implementation of certain procedures (declaring bankruptcy, bankruptcy proceedings etc.), as results from the respective legal acts specific for the given country.

A number of positive aspects of bankruptcy may be found already in its definitions. A strictly economic, market-based look must lead to the following cold calculation: if you work ineffectively and you are over-indebted, you will fail; it is an obvious consequence and precondition for the market mechanisms to work well. The market however does not eliminate badly functioning and hardly managing companies on its own – in fact, it is supported by the law for the purposes of protecting the given company's immediate environment against the effects of such operation. For ex ample Bulgarian insolvency law expresses the principle of equal treatment for all creditors [H. Rajak, p. 170].

One of the authors of the Polish bankruptcy law, Feliks Zedler, suggests that it is not an executive or liquidation law, and thus it is not its role to lead to company elimination. The Bankruptcy and Restructuring Act regulates the resolution of economic and legal problems of the entrepreneur in crisis caused by their insolvency or threat of insolvency [F. Zedler, p. 23]. The aim of bankruptcy law is to satisfy the claims of creditors to the highest extent possible and – when reasonable – to preserve the debtor's company.

The essence of the bankruptcy and restructuring law should therefore be based on minimising the negative effect of the debtor's insolvency on their environment. It needs to be stated then that when carried out effectively, bankruptcy can only be a sign of a well-functioning legal system and should not be perceived as a necessary evil, especially that according to economists a greater evil would be to allow for a further waste of resources

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by an unprofitable organisation. On the one hand bankruptcy constitutes a remedial measure for excessive ambitions of entrepreneurs who would otherwise gladly indebt their companies over and over again; on the other hand it is a way of preserving the organisation, its know-how and resources which in a changed form may be used more effectively in the future.

Bankruptcy, together with its principles and rules, also enables to eliminate the burden of never-ending organisations which year-in year-out function on the verge of solvency. Internal resistance to changes, willingness to exist no matter the cost, ever increasing egoism of individual persons and whole structures often make it impossible for an organisation to cut itself off from its failures, in result of which its precious resources are wasted on a game already lost ["praise of bankruptcies", p. 29]. Rescue programmes modelled on American bailout plans (the so-called "Section 13"), constant protection and abolition of debts of unprofitable, ill-managed companies do not bring the desired effect, whereby the indebted companies which were offered support and protection often slip back into their old habits.

To sum up, if efficient and effective the bankruptcy law:

- eliminates non-competitive entities;
- prevents the already ineffective companies from falling into further debts;
- contributes to limited need for state aid provided as support for ineffective companies;
- allows for a release of resources owned by companies unable to manage their resources effectively;
- guarantees an equal and just division of the company assets, while also protecting related, more vulnerable subjects (i.e. employees and small creditors).

Protection of owners, entrepreneurs

As results from the previous analysis carried out from the economic and legal point of view, bankruptcy and bankruptcy process itself do offer some positive aspects. The previous discussion however does not refer to another important dimension of bankruptcy, i.e. the social one, affecting all the institutions affiliated to such company, groups of people and individuals – altogether society. One can easily agree with the statement that generally bankruptcies have a negative effect on society as a whole. At the same time though it needs to be pointed out that the very individuals that society is comprised of may sometimes go bankrupt themselves.

An interesting aspect of this discussion may be the bankruptcy of natural persons (persons who are not self-employed and do not run any business activity), i.e. the so-called consumer bankruptcy [F. Zedler, p. 24]. In some cases households or individual persons who have loans or are somehow indebted start losing their solvency due to their own actions or independent causes. Taking an action they usually do not manage to improve their situation because all the money they earn has to be used to pay their debts in arrears, which eventually ends in general sluggishness or even makes them resort to illegal actions [F. Zedler, p. 25]. In such cases the tool allowing for declaring bankruptcy by over-indebted persons releases them from their debts and thus liberates one of the production resources, i.e. much more effective work, which in turn gives the indebted persons an opportunity to come back to economic activity and therefore function normally in it.

This very just idea may be easily reflected in economic activity. Many companies (organisations) often build up living structures whose characteristics and behavioural patterns are similar to the human ones. A lot of them make mistakes or become over-indebted due to external factors. Making it possible for an organisation to declare bankruptcy somehow releases it from its debts, thus enabling it to once again mobilise its employees in new structures and often start the same type of business activity, but in a much more effective way. Even when a company goes into liquidation, its assets are respectively transferred. A typical example here would be the bankruptcy of the Polish production plant Wagon from the Wielkopolska region. Its liquidation made it possible to start looking for new investors and more effective managers. This approach constitutes a nearly perfect example of the fundaments of the resource based view of the firm put in practice.

Respective case studies and structured interviews have shown that the possibility for a company to survive despite its insolvency encourages entrepreneurs to reveal their economic situation prior to deep crisis. Filing for bankruptcy is related to the (usually higher) level of meeting the claims of the company creditors.

Representatives of companies which were declared bankrupt as well as their owners point out that they expect the bankruptcy process to offer them a greater protection from their creditors – which, as previously shown, constitutes one of the distinguishing features of the American legal system. At the same time even the German legal system (for instance solutions adopted in Poland and many other European countries were based on the German law) contains a number of regulations the application of which results in suspension of execution against property in the course of composition proceedings, which does not only contribute to the fair division of the remaining assets, but also allows for the current business activity to be continued. The wide range of reviews of bankruptcy law and its purposes was presented in 'History of Insolveny and Bankruptcy from an International Perspective' [K. Gratzer, D. Stiefel])

To sum up, if efficient and effective the bankruptcy law gives the owners a chance to:

- close their business activity and get rid of the "burden" in form of an insolvent entity;
- upon liquidation, to release the management and company owners from their obligation to negotiate with creditors and divide the company property.
- save the company and upon the implementation of the recovery plan to reduce some of its liabilities and rebuild its value (if rationally possible and consistent with the creditors' interests).

Effectiveness of exit strategies

The previous reflections and discussion on the significance of legal regulations adopted with respect to bankruptcy may further be supplemented with the role played by the regulations supporting other scenarios for the implementation of exit strategies by entrepreneurs. Possible business failures do not always end in insolvency. In such situation entrepreneurs must consider and evaluate options for their company closing and liquidation. As established in the course of the research, the entrepreneurs paid particular attention to the following:

- duration of formal liquidation proceedings (for example in Poland the minimum liquidation period of limited liability company is longer than six months);
- number of formal actions that need to be taken (respective declarations, announcements, deregistration documents, etc.);
- taxes and administrative costs (e.g. costs of inventory report prepared upon company liquidation);
- other costs (such as redundancy payments or archiving costs).

The Index of Economic Freedom: Business Freedom mentioned at the beginning of the article is built on 10 factors, with all of them equally weighted, based on the data from the World Bank's Doing Business report. Among others they include as follows [from The Heritage Foundation website]:

- closing a business time (years);
- closing a business cost (% of estate); and
- closing a business recovery rate (cents on the dollar).

These factors are to a significant degree compatible with the conclusions of the research. Entrepreneurs are willing to take risk, but at the same time expect support when something goes wrong [compare: I. Hashi, p. 6]. They tend to evaluate the attractiveness of the given market infrastructure through the prism of bankruptcy law as used in practice, its effectiveness not only in protecting their own interests in case when their subcontractors lose their solvency, but also in allowing for their own company restructuring or liquidation in case of failure.

Simultaneously, the research provides material for establishing the goals and objectives of good bankruptcy law. Its procedures should aim at prompt elimination of ineffective entities, whereby the procedure itself should establish a well-balanced relation between:

- maximisation of revenue from the sale of company assets (or income from the continuation of business activity);
- minimisation of costs of proceedings (including administrative costs and costs of the bankruptcy trustee);
- minimisation of the duration of proceedings.

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When referring to goals and objectives of well-functioning organisations, three elements need to be considered, i.e. time, costs and quality [see M. Teale, V. Dispenza, J. Flynn, D. Currie, p. 251]. In case of bankruptcy the quality factor may refer only to the survival of the company declared bankrupt; this is however a more distant goal to pursue.

Conclusion

Due to restricted time and space the ideas presented hereinabove had to be shortened and simplified. Nevertheless the author would like to express his hope that this article will contribute to further research and discussion.

The primary role of the law regulating the company bankruptcy process is to protect social interests through the implementation of such rules and principles on the basis of which creditors may pursue their claims against insolvent debtors, whereby the negative effects of such insolvency may be minimised. Bankruptcy also aims at providing the legal basis for eliminating ineffective businesses from the market [A. Torbus, p. 30], preventing their further indebting and in particular for protecting creditors from dishonest debtors. In case of the debtor, bankruptcy also constitutes a method for reducing their liabilities and releasing themselves from the obligations that they cannot comply with [K. Flaga-Gieruszyńska, p. 2].

Effective bankruptcy law is therefore a fixed element of market infrastructure, which is also reflected in the Index of Economic Freedom. From the point of view of entrepreneurs who start their business activity in the given market, regulations eliminating ineffective entities provide for:

- reduced risk of cooperation with insolvent subcontractors;
- fair division of the company assets, preferably at the stage when they are still considerable in size and value (in proportion to liabilities);
- prompt implementation of liquidation proceedings, which results in reduced costs;
- the debtor's company to be rescued and their debts to be restructured (particularly when the bankruptcy occurred independently of the entrepreneur's actions).

To sum up, it needs to be stated that similarly to simple mechanisms of starting a business, efficient procedures for its closing may also contribute to the development of entrepreneurship, i.e. the willingness to translate one's ideas and concepts into functioning structures. The possibility of their swift liquidation or restructuring reduces general market risk as well as the risk taken by entrepreneurs, releases resources and shifts them towards more effective organisations.

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РЕКРЕАЦІЙНІ РЕСУРСИ ЯК ОСНОВА ВІДТВОРЕННЯ ПРАЦЕЗДАТНОСТІ НАСЕЛЕННЯ

Воробйова В.В., аспірант Донецький національний університет

Актуальність дослідження. В системі людських цінностей сьогодні пріоритетне місце посідає здоров'я. Це не означає, що масштабність і комплексність пов'язаних зі здоров'ям проблем відсуває на другий план інші проблеми. Але саме здоров'я являє собою одну з найважливіших якісних характеристик працездатної сили, від якої безпосередньо залежить здатність людини до трудової діяльності.

За розвиток цивілізації людству доводиться дорого платити. Технічний прогрес створив передумови для поширення хвороб, які виникають від недостатньої фізичної активності, нервового перенапруження, забруднення повітря та інших складових екосередовища. Сучасні умови праці визначають необхідність не тільки більш тривалого відпочинку, але й переходу до активних його форм використання природних ресурсів і умов.

Значна кількість населення проживає в містах, де концентрація шкідливих речовин через посилення урбанізації та інтенсифікації виробництва у 5-10 разів перевищує граничну норму. Умови життя в сучасному місті з високою концентрацією підприємств, забрудненою атмосферою, шумом, інтенсивним пересування транспортних засобів підвищує ризик захворюваності й затрудняє процес відновлення сил людини.

Рекреація відіграє істотну соціально-економічну роль у суспільному житті тим, що саме вона забезпечує відновлення здоров'я і відпочинок людей, їх фізичну і моральну реабілітацію. Людина є найважливішою цінністю в цивілізованому соціумі, а найповніше задоволення її потреб — головна мета будь-якого соціально-орієнтованого суспільства. Турбота про збереження і зміцнення здоров'я населення має бути в центрі уваги соціальної політики держави, становити її основу, оскільки високий потенціал фізичної, духовної, психічної і розумової дієздатності людей служить запорукою їх повноцінного життя і розвитку суспільства в цілому. Тому посилення уваги до здоров'я населення має виключно важливе значення.

Аналіз публікацій. Дослідження авторів В.К. Мамутова, О.І. Амоши, Т.Н. Дементьєвої, М.С. Нудельман, Т.В. Андросова, М.М. Булатової, С.Є. Саржан, Н.І. Соколової, Н.В. Ушенко доводять, що рекреація відіграє істотну соціально-економічну роль у суспільному житті тим, що саме вона забезпечує відновлення здоров'я. Ця проблема потребує постійної уваги та подальшого вивчення, оскільки від здорової нації залежить демографічна ситуація країни, рівень трудової активності населення.

Мета – проаналізувати фактори впливу на відтворення працездатності населення за допомогою рекреаційних ресурсів Донецької області.

В останні десятиліття не спостерігається стала тенденція до зменшення захворюваності в Україні. Слід зазначити, що в 2010 році кількість хворих в України на 1,2% нижче, ніж в 2000 році. В середньому в Україні в період 2000-2010 років кількість щорічно хворих склала 32781 тис. випадків. Найбільш частішими захворюваннями є хвороби органів дихання (більш 40% від загальної кількості), від 5 до 10% приходиться на хвороби кровотворення, кожні, кістково-м'язові тканини та захворювання, що викликані зовнішніми факторами. 1-2% приходиться на хвороби нервової системи та новоутворення. При цьому динаміка структури захворюваності значно не змінюється. Наприклад, проаналізував кількість захворювань в Донецькій області, можна сказати, що в досліджуваному періоді даний показник коливається в діапазоні від 32233 до 33471 тис. випадків (рис. 1).