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INSOLVENCY OF COMPANIES IN POLAND

Introduction

Company insolvency is inherent in the economy based on market principles. In developed market economies, the phenomenon of insolvency have been observed for several decades. In Poland, this problem had not virtually existed until the late eighties. It appeared in the early nineties, accompanied with economic transformations. Since then, the scientists started to analyse the phenomenon of bankruptcies, its symptoms and causes.

The aim of the present paper is to analyse the phenomenon of insolvency in Poland. The paper presents the definition and classification of insolvency and identifies the symptoms of crisis situations and the causes of crises in companies. Analysis of the phenomenon of the insolvency in Polish companies was also carried out. The number of bankruptcy petitions filed in the courts in 2002–2011 (1st quarter) was characterized. The empirical data concerning the bankruptcies in Poland were also presented, with division into voivodeships, sectors and legal status in 2009–2011 (1st quarter).

1. Characteristics of the Phenomenon of Insolvency

In economic practice, insolvency is a term which is frequently regarded as synonymous with bankruptcy. It is interpreted as a permanent state, difficult to be restructured.¹ The definition of the insolvency should emphasize that the ‘insolvency is a status (adjudicated by the court) of an entrepreneur who is, for economic reasons, unable to satisfy all the claims by their creditors’.²

Insolvency (bankruptcy) can be considered from both economic and legal perspectives.

From the economic standpoint, insolvency can be regarded as not only a legal solution, but also as a situation:³

1. Where further business activity is devoid of the economic grounds, since the profits obtained by the owners do not ensure the expected return; in this case, the owners might make a decision on stopping the activity, without the necessity to use insolvency procedures. The liquidation (shutdown) of the business is carried out in this case, with the main goal of the owners being capitalization of the assets, repay debt and obtaining financial means which will remain after satisfying of all liabilities towards creditors and investors.
2. When a company is unable to independently continue activities due to the difficulties with repayment of their short-term and long-term liabilities, with the only opportunity of survival being the outside support, which might consist in: writing off part of debts and/or shifting the repayment deadlines, concluding an agreement with a bank or another organization which credits for the purposes of debt restructuring, capitalization or being taken over by other companies or other business entities.

With legal aspect in view, the fact of the bankruptcy is adjudicated by the courts based on a bankruptcy petition filed by a debtor or by one of the creditors or several creditors (the former is regarded as voluntary bankruptcy, whereas the

¹ A. Zalek, *Wczesna identyfikacja kryzysu finansowego ucieczką od bankructwa*, „Przegląd Organizacji” 2002, No. 2, p. 33.

² M.A. Majewska-Jurys, *Prawo upadłościowe i naprawcze. Vademecum dla przedsiębiorców*. Oficyna Wydawnicza Branta, Bydgoszcz–Koszalin 2004, p. 13.

³ E. Mącznyńska, M. Zawadzki, *Modele i prognostyczne aspekty pomiaru zmian w sytuacji przedsiębiorstw i w restrukturyzacji – analiza dyskryminacyjna*, Zeszyty Naukowe nr 42. Instytut Nauk Ekonomicznych PAN, Warszawa 2000, p. 3.

latter is termed forced bankruptcy).⁴ Hence the concept of bankruptcy, from the standpoint of legal regulations, should be interpreted as legal proceedings involving particular procedures, whereas the company's insolvency occurs as late as after the announcement of bankruptcy by the court. Consequently, 'each insolvency in legal sense means economical bankruptcy, yet not each economic bankruptcy must necessarily mean insolvency in legal terms'.⁵

Besides the actual insolvency of the companies which failed to run business as a consequence of internal and/or external causes, there are also fake bankruptcies, which are mainly aimed at non-payment of the liabilities through drawing out all the financial means from the company (future bankrupt) and then filing the bankruptcy petition in the court.

According to B. Prusak, fake bankruptcies are most frequently observed in construction sector. Big companies, after being granted an order, establish daughter companies, mainly based on the declining company, frequently very credible due to its long market tradition. The daughter company orders the services to be provided by subcontractors, and, after its performance, declares bankruptcy. The company property, after 'pumping' capital to the parent company is so small that it suffices for at least repayment of public liabilities. The subcontractors remain with the contracts, signed but unpaid invoices and debts with respect to other entities. This situation frequently leads to the subcontractor's bankruptcy. This shady business practices are beneficial to the parent company, with the subcontractors who are losing. B. Prusak argues that the process of fake bankruptcy can also take shorter, with omission of the ordering party and subcontractors i.e. daughter company 'pumps out' the property to the parent company and declares insolvency.⁶

The companies, which operate under conditions of turbulent environment, in order to be protected from insolvency, are forced to focus on the fundamental problems of survival and success. According to the study, bad situation in a company, which leads to the bankruptcy, does not appear suddenly and some symp-

⁴ A. Błaszczczyński, *Słownik pojęć ekonomicznych*, Towarzystwo Handlowe „Atlant”, Kraków 1995, p. 72.

⁵ B. Prusak, *Jak rozpoznać potencjalnego bankruta?*, www.zie.pg.gda.pl/~pb/jrpb.pdf, 2.06.2011, p. 3.

⁶ B. Prusak, *Upadłość – mit klęski, czy szansa na odrodzenie*, Prace Naukowe Katedry Ekonomii i Zarządzania Przedsiębiorstwem, t. 1, Wydawnictwo Politechniki Gdańskiej, Gdańsk 2002, p. 48.

toms of difficulties and troubles can be detected in advance.⁷ The problem of the assessment of the effect of the factors of the environment should be investigated by all the managers in order to properly assess the company's standing. These factors cause that many researchers focus on the investigations aimed at determination of the effect of the company's environment on its operation and the effect of the internal aspects.⁸

Table 1 presents one of the most advanced analyses of the symptoms of crisis situation and the causes of crises in companies.

The above symptoms of crisis situations and causes of crises in companies are the possible threats to the companies; the deteriorating economic and financial standing in the company might lead to the crisis, which frequently results from a number of these factors which interact with each other in the course of time and affect the integration of management in any company.

From the microeconomic standpoint, internal causes are essential, since the company has direct influence on them. The managers can control them and, if threats arise, they can prevent the deteriorating situation. On the other hand, external causes are independent of the managers, are formed by the macroeconomic situation in the country. Each company must adapt to the rules in the economic market in order for them to survive and operate properly. However, it is not always possible, especially in the case of small and medium companies, where each smallest change in the company standing might have direct unfavourable effect on further functioning of these companies.

The number of insolvencies in Polish companies in 1st quarters in 2002–2011 is presented in Figure 1.

As results from the analysis of the data contained in Figure 1, an insignificant decline in the number of insolvencies can be observed in Polish companies, i.e. by 3.4% with respect to 2002. The downward tendencies are also observed until 2008. As presented in Chart 1, the highest decline in the insolvencies in the analyzed period took place in 2004, where, compared to 2003, the number of bankrupt companies was lower by 33%. The phenomenon of the decline in bankruptcies since 2004 is the effect of economic revival and Poland's accession to the European Union, which allowed Polish entrepreneurs to develop in

⁷ R. Siedlecki, *Finansowe sygnały ostrzegawcze w cyklu życia przedsiębiorstwa*. C.H. Beck, Warszawa 2007, p. 2.

⁸ R. Kowalak, *Ocena kondycji finansowej przedsiębiorstwa w badaniu zagrożenia upadłością*, Ośrodek Doradztwa i Doskonalenia Kadr, Gdańsk 2008, p. 31.

Table 1

Symptoms and causes of crises in companies

Symptoms of crisis situation	
with respect to banks	with respect to authorities (offices)
<ul style="list-style-type: none"> – extending credit lines – increase in use of promissory notes – increase in debt without sufficient explanation – changing bank – delay in presenting financial data 	<ul style="list-style-type: none"> – increase in applications to defer payment – increase in the interest in subventions – decline in using opportunities of claims
with respect to suppliers	with respect to auditors and tax advisors
<ul style="list-style-type: none"> – more frequent exceeding payment deadlines – higher number of calls for payments – renegotiating conditions of payment – lack of opportunities for discounts – frequent changes of suppliers – reduction in the order size and shortening lead times – disturbances in performance of long-term contracts – increase in the cases of contract annulments 	<ul style="list-style-type: none"> – increase in the value of current assets with the decline in inventory turnover ratio – tendency to inflated level of inventory – neglected creation of the reserves for repayment of liabilities – non-consideration of all the possibilities of depreciation write-offs – even lower contribution margin – neglecting accountancy and reporting issues – annual decline in the equity – increase in prices does not cover the increase in costs – reduction in the investment rate
with respect to customers	
<ul style="list-style-type: none"> – not well-thought offer – increase in the number of sales – softening of previously restrictive pricing – easier negotiating of the prices and discounts – increase in the number of complaints – forced changes in the customer structure – overall decline in customer satisfaction 	<ul style="list-style-type: none"> – reduction in the number of new products – deterioration in the quality of promotional materials – turnover of the staff for customer service – disturbances in offers – decline in the number of orders and difficulties to meet the requirements of the orders – reduced bargaining activity – sporadic public relation activities – reduction in the advertising campaigns
Causes of crisis	
In the area of management	In the area of sales
<ul style="list-style-type: none"> – unclear policy of the company – lack or unclear goals – bad organization of management – sticking with the recipes for success which are deemed to be perfect – fluctuations in managers – lack of strategic approach – improper management style – poor decision – making – delayed rejuvenation of staff – lack of drive among the managers – lack of flexibility and modern management – lack of budgeting – erroneous and insufficient investing – mistakes in use of controlling 	<ul style="list-style-type: none"> – insufficient market assessment – missed range of products – erroneous pricing policies – unclear customer structure – incomplete coordination of distribution channels – poor customer service – obsolete marketing concepts or lack of concepts – unclear system of the terms of sales – poor or lack of orientation towards customers – improper assessment of abilities to compete – unattractive products – decline in bargaining and PR activities

Table 1 sequel

in the area of human resource management	in the area of logistics and supplies
<ul style="list-style-type: none"> – lack or insufficient motivation – insufficient career planning – low motivation and satisfaction among employees – lack of qualifications – low flexibility of payroll system – high staff turnover – obsolete management styles – insufficient opportunities for development and promotion of employees – incomplete or disturbed communication 	<ul style="list-style-type: none"> – disturbances in flow of information and material – lack of opportunities for optimization of lead times – unprofitable sources of supplies – excessive prices – ill-considered strategy of distribution – unfavourable capital relationships in the process of sales and purchase – lack of understanding for modern logistics methods – low product turnover – short payment dates – poor coordination of transport, loading and warehousing – lack of the concept of shipment – inconvenient locations for warehouses
in the area of organization	in the area of investments
<ul style="list-style-type: none"> – poor flow of information – insufficient accountancy – unclear organization patterns – expensive production processes – limitation of the competencies and activities – lack of strategic planning – incomplete concept of IT system 	<ul style="list-style-type: none"> – lack of strategic planning of investments – poorly planned investments – underestimated or overestimated investments – erroneous evaluation of investment profitability
in the area of research and development	in the area of production
<ul style="list-style-type: none"> – low innovativeness of products – long time of product preparation – lack of conditions for innovativeness – inconsideration of product life cycles – lack of patent applications – poor utilization of modern results of scientific research – poor collaboration with universities and institutions 	<ul style="list-style-type: none"> – low quality – insufficient efficiency – obsolete production – poor planning and production management – unused outsourcing opportunities – neglecting production automation – low level of work safety – unused production power
Finance, Controlling and Planning	
<ul style="list-style-type: none"> – mistakes in finance and accountancy – insufficient control and liquidity planning – increase in the costs of capital – decline in equity coverage ratio – erroneous cost account – lack of the system of early warning – lack of the system for financial accountancy – improper calculation bases 	<ul style="list-style-type: none"> – erroneous profit division policies – lack or insufficient creation of reserves for financial and technical risk – lack of hidden reserves – poor controlling and planning – lack of annual budget and medium-term planning – neglecting external economic conditions – poorly prepared acquisition plans

Source: author's own elaboration based on S. Slatter, *Sawing Big Blue: Leadership Lessons and Turnaround Tactics of IBM's Lou Garstner*, McGraw-Hill Companies, Inc., New Jersey 1999, as cited from B. Nogalski, H. Macinkiewicz, *Zarządzanie antykrzysowe przedsiębiorstwem*, Difin, Warsaw 2004, pp. 110–113.

new markets. This high decline in bankruptcies was also possible through the fact that the previous economic decline swept all the weakest companies and left only those which were able to readjust to new conditions⁹ (some companies underwent in-depth restructuring, which prepared them to operate under considerably harder conditions). The increase in the number of insolvencies in Polish companies after the year 2008 is connected with world financial crisis.

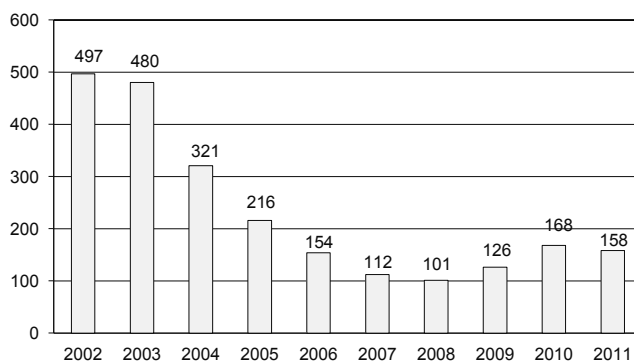


Fig. 1. Number of insolvencies in Polish Companies in 1st Quarters in 2002–2011

Source: Coface Report in Insolvencies of Companies in Poland in 1st Quarter 2011, Press Release as of 4 April 2011, www.coface.pl, 19.01.2007.

The analysis of the bankruptcy petitions reveals that they concern significantly more the insolvencies aimed at liquidation of the property rather than the insolvencies open to composition agreements. The number of bankruptcy petitions and composition agreement petitions in Polish companies in the 1st quarter of 2008–2011 is presented in Table 2.

As results from the analysis of the data contained in Table 2, 80% of the insolvency petitions concerned liquidation proceedings. In the same period of 2009 and 2010, with respect to the total number of insolvencies observed in the companies, the petitions aimed at property liquidation accounted for 81%, and, in 2011, 79%. When analysing the dynamics of filed petitions (see Table 2), one can note that the frequency of filing bankruptcy and composition arrangement petitions was decreasing in 2011 as compared to the previous years included in the analysis.

⁹ Raport Coface Poland na temat upadłości w Polsce w roku 2006. www.coface.pl, 19.01.2007.

Table 2

Number of filed bankruptcy petitions and composition arrangement petitions
in Polish companies in the 1st quarters 2008–2011

Type of judicial proceedings	I–III 2008	I–III 2009	I–III 2010	I–III 2011	Dynamics (%)		
					2008/2009	2009/2010	2010/2011
Property liquidation insolvency	81	102	136	125	26	33	–8
Insolvency open to composition arrangements	20	24	32	33	20	33	3
Total	101	126	168	158	25	33	–6

Source: author's own elaboration, Coface Report in Insolvencies...

The data in the Figure 1 and Table 1 show that the situation of the entrepreneurs has started to stabilize in 2011 (although the risk of insolvency is higher than before the period of world crisis). However, since these data concern the first quarter of 2011, it will take several months to find out whether the downward tendency will be maintained.

The level of the insolvencies in Poland with division into voivodeships in the first quarters of 2010 and 2011 is presented in Table 3.

As results from the analysis of the data contained in Table 3, the distribution in the number of insolvencies throughout the whole country was uneven. Among the voivodeships which were put at higher risk of insolvency, one can note the Masovian, Lower Silesian and Silesian Voivodeships. Analysis of the dynamics of insolvencies in these three voivodeships reveals that it is only the Masovian Voivodeship where the number of bankruptcies showed a decrease in the first quarter 2011 compared to the same period in 2010, i.e. by 25%. In the two latter voivodeships, an increase in bankruptcies was observed (by 42% in the Lower Silesian Voivodeship and by 9% in the Silesian Voivodeship). Analysis of the number of insolvencies also showed that the fewest bankruptcies in the period of the study were observed in Pomeranian and Świętokrzyskie Voivodeship. These considerable discrepancies between individual regions of Poland are predominantly affected by the varied level of economic development in individual voivodeships, which is reflected by the number of companies which operated in a particular region.

The study also demonstrated that, with respect to the legal status of Polish bankrupt companies, the most of the insolvencies can be observed among the

Table 3

Number of bankruptcies in Poland with division into voivodeships
in the first quarters of 2010 and 2011

Voivodeship	I–III 2010	I–III 2011	Dynamics (%)
Masovian Voivodeship	40	30	–25
Lower Silesian Voivodeship	19	27	+42
Silesian Voivodeship	23	25	+9
Great Poland Voivodeship	13	13	b.z.
Lesser Poland Voivodeship	17	13	–24
Western Pomeranian Voivodeship	8	11	+38
Kuyavian-Pomeranian Voivodeship	6	10	+67
Lodz Voivodeship	6	9	+50
Warmian and Masurian	9	8	–11
Subcarpathian Voivodeship	7	3	–57
Podlaskie Voivodeship	3	3	b.z.
Lubuskie Voivodeship	3	2	–33
Opole Voivodeship	3	2	–33
Lublin Voivodeship	6	1	–83
Pomeranian Voivodeship	3	1	–67
Świętokrzyskie Voivodeship	2	0	decrease

Source: author's own elaboration, Coface Report in Insolvencies...

Table 4

Bankruptcies according to the legal status in Poland in the 1st quarter of 2009–2011

Legal Status	I–III 2009	I–III 2010	I–III 2011
	Number of Bankrupt Companies		
Limited companies	78	114	103
Entrepreneur	19	30	29
Joint-stock companies	21	10	15
General partnership	4	7	5
Cooperative	3	2	3
State-owned companies	1	0	0
Other	0	5	3

Source: author's own elaboration, Coface Report in Insolvencies...

limited companies. The characteristics of insolvencies in companies according to the legal status are presented in Table 4.

As results from the analysis of the data contained in Table 4, the limited companies in the studied period of the first quarters in 2009–2011 accounted for 62%, 68% and 65%, respectively, among all the bankruptcies recorded in this period of time in Poland. The second place was taken by private entrepreneurs, followed by joint-stock companies, general partnerships, cooperatives and state-owned companies.

The characteristics of insolvency in Poland with division into sectors in the first quarters of 2009–2011 are presented in Table 5.

Table 5

Bankruptcies according to the sectors in Poland in the 1st quarter of 2009–2011

Sector	Number of Bankrupt Companies			Dynamics (%)	
	I–III 2009	I–III 2010	I–III 2011	2009/2010	2010/2011
Production	55	59	48	+7	–18
Commerce	32	40	39	+25	–3
Transport and Logistics	13	11	5	–15	–55
Construction	12	23	29	+92	+26
Other	14	35	37	+150	+6

Source: author's own elaboration, Coface Report in Insolvencies...

As results from the analysis of the data contained in Table 5, the production sector is characterized by the highest number of insolvencies. The second place is taken by commerce, third by transport and logistics, followed by construction sector. Analysis of the dynamics of insolvencies in the above companies demonstrated that it is construction sector which is characterized by the most dynamic increase in the number of bankruptcies, with 92-percent rise in the first quarter of 2010 compared to the same period in 2009, and 26-percent increase in the following year (2011). 'The main cause can be found in the considerable decline in construction and assembly production. However, the consequences of the crisis are particularly severe among the manufacturers of construction materials. Moreover, the number of granted building permits has decreased in recent months. All these facts translate directly into an increase in building material prices, fiercer competition in the market and unfavourable climate, which effectively inhibited

building works'.¹⁰ In other three sectors (see Table 4), the year 2011 has seen a reduction in the percentage of insolvencies, with the highest decline observed in transport and logistics (55%). The statistics has also demonstrated a substantial rise in insolvencies in companies in all other sectors in Poland in the first quarters of the analysed years.

As results from the analysis of the phenomenon of insolvencies, the number of bankruptcies in Poland until the end of 2011 will be probably closer to the insolvency declared by the courts in 2010 (669 companies). According to D&B Poland, if the downward tendency is maintained, the number of insolvencies announced by the economic courts will oscillate between 600–620.¹¹

Conclusion

The knowledge and observation of the above presented symptoms and causes of crisis situations are a very important aspect for the managers in companies. They might occur in any area of the company's operation as well as in its environment. Therefore, it is essential that the analysis of these factors is carried out not only in the domain of finance and economy, but also in consideration of administration, legal, sociological and political aspects. This approach of the managers to management and analysis of the areas in the company might lead to the enhanced effectiveness of protection against crisis. 'If the need for changes is perceived too late, this situation might be destructive to the company, because each change sparks a chain reaction from the employees, and, the revolutionary changes at the level of strategic management, which take place following a crisis situation, intensify the change and generate a realistic threat to further survival of the company'.¹²

A very important aspect of limitation of the risk of company's insolvency is purposive and continuous assessment of payment capability and determination of the likelihood of losing this capability. In order to achieve this, applications of the methods of insolvency forecast seems to be necessary.

¹⁰ Raport upadłości polskich firm D&B Poland/I kwartał 2011 roku. www.dub.com.pl, 1.04.2011.

¹¹ *Ibidem*.

¹² P. Antonowicz, *Metody oceny i prognoza kondycji ekonomiczno-finansowej przedsiębiorstw*. Ośrodek Doradztwa i Doskonalenia Kadr, Gdańsk 2007, p. 15.

The assessment of the symptoms of financial crises and the risk of insolvency can be supported by application of a system of early warning which would combine the elements of the conventional ratio analysis (the easiest and the most popular method for assessment of company's solvency) with more complex methods and techniques of quantitative analysis (e.g. discriminant analysis, artificial neural networks), which would allow for the unequivocal and objective forecasting of the financial standing in companies.

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ZJAWISKO UPADŁOŚCI PRZEDSIĘBIORSTW W POLSCE**Streszczenie**

Celem artykułu jest analiza zjawiska upadłości w Polsce. Przedstawiono w nich definicję i klasyfikację upadłości, następnie określono symptomy sytuacji kryzysowej i przyczyny kryzysu przedsiębiorstwa. Przeprowadzono również analizę zjawiska upadłości polskich przedsiębiorstw. Scharakteryzowano liczbę składanych wniosków upadłościowych polskich podmiotów gospodarczych w latach 2002–2011 (I kwartał) oraz zaprezentowano dane empiryczne dotyczące bankructw w Polsce w podziale na: województwa, branże i formę prawną w latach 2009–2011 (I kwartał).

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