



THE ROLE OF THE BANKRUPTCY DIRECTOR IN THE REORGANIZATION OF ENTERPRISES IN THE REPUBLIC OF NORTH MACEDONIA

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Abstract

Nowadays we often come across the word bankruptcy, how a firm can go bankrupt or how can we avoid bankruptcy proceedings. There are different opinions about the bankruptcy procedure and the avoidance of bankruptcy through the Reorganization Plan.

A good bankruptcy debtor reorganization plan can have a positive impact so that the bankrupt debtor can continue to exist. Reorganization is a very good opportunity for creditors because through it creditors will achieve maximum payments despite the bankruptcy where they would be extinguished, and thus the bankrupt debtor will continue to exist.

In this paper I will study two case studies, that of the bankruptcy procedure and the reorganization plan as a second option, based on the Law and standards for the bankruptcy procedure in Macedonia

In the Bankruptcy Law, more precisely in article 3 is defined the purpose of the bankruptcy procedure, therefore in the article is:

The bankruptcy procedure aims at the collective settlement of the creditors of the bankrupt debtor (hereinafter: the debtor / debtor), by the transfer of the

debtor's property and the distribution of the realized means (income) of the creditors or by means of a special agreement. to regulate the requirements set out in the reorganization plan, which is driven by the further preservation of the work of the debtor enterprise.

With the reorganization, the settlement of the requests before the opening of the bankruptcy procedure with conditions determined by this law can be performed.

A good bankruptcy system can prevent the bankruptcy or bankruptcy of an enterprise which is not stable in business as well as in the market. The enterprise in which a proper reorganization plan can be compiled so that the debtors can collect their claims at maximum value, depending on the bankruptcy measure, which is done only through the reorganization, reviving the enterprise

Presentation

Bankruptcy law defines both notions, the notion of reorganization and that of reorganization procedure. Reorganization is defined as the process by which the debtor's financial condition can be restored while the debtor continues to work, and this is achieved through means such as debt repayment, debt deferral, debt transformation into parts in the association and the sale of enterprise as a whole or part of it.

The Bankruptcy Law also defines the reorganization procedure as a procedure which includes the debtor's proposal to initiate the reorganization procedure, the debtor's declaration after the proposal, the preparation of the reorganization plan, the creditors' declaration after the reorganization plan and all activities undertaken by the bankruptcy judge, the debtor and the creditor in connection with the reorganization.

The reorganization aims to equalize the claims of creditors in a larger amount. It is also defined as reaching a special agreement for the settlement of claims, in order for the debtor to continue to work successfully.

While the procedure for reorganization of the debtor includes all activities undertaken by the bankruptcy judge, the debtor and the creditor in connection with the reorganization of the debtor, guided by the reorganization plan.

There are several ways to carry out the reorganization, depending on whether the reorganization returns the legal subjectivity to the debtor or not, where the difference is made between the reorganization to continue the legal subjectivity of the debtor enterprise and reorganization by dividing the enterprise income by structure property of the debtor.

The first way of reorganization is realized in the way where the debtor is allowed to continue to manage and dispose of all his property or only a part of it and with it to return the claims of the creditors, so the governing bodies are given a second chance to change the financial condition of the debtor.

Through the reorganization plan can be achieved until the complete change of the debtor's property structure by coming creditors or third parties to their country, all this is done to pay or settle part or all of the obligations to creditors.

The second way of the reorganization plan is achieved by statutory changes of the debtor, ie its union with one or more persons and elimination of the debtor from the payment circulation. Through this type of reorganization, all or part of the debtor's property is transferred to one or more legal entities that exist or will be established. Liabilities to the debtor creditors will be taken over by the new association which is formed at the annexation with the debtor.

These measures should be taken in addition to other reorganization measures; with the independent functioning of these measures, one gets the impression that no reorganization is carried out, but one goes to the claim of the debtor's ownership.

Study review

The content of the reorganization plan is regulated by the legislator, based on article 215b, according to which the plan must contain: the preparatory part, the substantive part in which it will be stated in detail which measures and by what means will implement the implementation of the plan, the list of creditors divided into classes and the criteria for the formation of classes will be mentioned, the amount of money or property which will be used for payment / settlement of creditors, the procedure for payment / settlement of creditors and payment dynamics, description of the procedure for sale of property, deadlines for implementation / realization of the reorganization plan, emphasis that upon acceptance of the reorganization plan all the rights and obligations of creditors from the plan are defined in accordance with the provisions of the plan accepted

for reorganization, the list of members of the governing bodies, their additional tools / salaries, the list of experts who have been engaged and the amount of their salaries, the name of the professional person who has performed supervision, the way in which he will inform the creditors for the implementation of the plan as well as the amount and dynamics of the payment of the reward for his engagement, annual financial report, financial projects, date of commencement of the reorganization plan, deadline for implementation / realization of the plan, changes in deadlines for achievement, interest rate or other conditions of borrowing, loan or other insurance claim or instrument, loan repayment or borrowing period, deadlines for achievement of securities issued by the debtor.

The reorganization plan, in addition to these elements, also contains provisions which stipulate that creditors 'claims which are not included in the provisions of the plan for payment / settlement of creditors' debts, will be paid / settled in the same way and on the same terms. such as claims of creditors from their class, notarized statements by most creditors according to the value of the claims of each class provided by the plan, that they have agreed with the content of the plan, the bankruptcy debtor statement for the reliability of data and information listed in the plan, data on the procedure for preparation of the reorganization plan, data on notifications sent, provision of information to creditors and on the flow of agreements, extraordinary report of auditors on the state of commercial books, auditor's statement that the plan prepared for reorganization is feasible and short report on events / happenings during work.

From this way of treating the content of the reorganization plan, we can conclude that it is drafted / compiled from three parts, the first part is the preparatory part, which contains the same data as the reorganization plan submitted in the procedure for bankruptcy. The second part is the content part with all the necessary data which are related to the measures and means for the realization of the plan and all the other data mentioned above. The third part is the set of data which belongs to whether the plan proposed for reorganization by the debtor / debtor is applicable / feasible. These elements are mandatory for the reorganization plan.

If the bankrupt / debtor with the proposal for initiating the bankruptcy procedure submits a plan for reorganization, in the proposal it must be mentioned that he also proposes the implementation of the reorganization procedure, and thus

clearly expresses his will that he wants to implement it. / carry out the reorganization.

Evidence that the conditions for initiating bankruptcy proceedings have been met must be attached to the annex to the proposal. The bankruptcy judge verifies whether the plan is in accordance with the law and that the plan includes all creditors who by their vote can influence the decision to bring the plan and he appoints the temporary director of bankruptcy.

The bankruptcy judge is obliged to decide within three days from the day of the proposal to initiate the preliminary procedure, to investigate the conditions for opening the bankruptcy procedure and the reorganization procedure after the plan is prepared for reorganization. A hearing is held where all the known creditors of the debtor are called, in which it is decided on the proposal in which the plan is voted. The deadline in which the hearing will be held at the same time represents the deadline in which the previous procedure must end, is 60 days.

The content of the reorganization plan is clear and precise and strictly regulated, and from this, everyone who is authorized to bring, ie to propose a reorganization plan, must be attached.

From the preparatory part of the plan, the creditors must be informed about the debtor's situation, therefore this part of the plan must contain substantive information from which the creditor can get acquainted with the debtor's situation, as well as information about the measures that will be taken. with this plan.

The substantive part of the reorganization plan must include the measures that will be taken after the opening of the bankruptcy procedure. In this part of the plan, special attention should be paid to organizational, managerial, legal, financial, technical and other measures in the manner of implementation of the reorganization plan.

This part of the plan will also assess the extent to which it is possible to repay creditors' claims.

In case the reorganization plan envisages that the creditors will be paid from the income, which will be the result of the successful management of the debtor working enterprise, then in the annex of the reorganization plan will be the registration of the debtor's property / assets . The plan will also determine which income and which expenses are expected and planned in the period provided for the settlement / settlement of liabilities to the creditor.

After the reorganization plan is submitted to the court and the deadline for oversight of the plan expires (which lasts 8 days), the bankruptcy judge within

three days from the last day of oversight convenes the assembly of creditors for discussion and voting. according to the proposed reorganization plan.

The meeting of the assembly of creditors for declaration and voting after the proposed plan has three parts: the first part contains the determination of the voting right of the creditors, the second part is the review of the plan for reorganization by the creditors, and the third part, includes the declaration of creditors after the proposed voting plan.

All creditors whose claim has been accepted by the director of bankruptcy, in the amount of the specified claim, have the right to vote in the assembly of creditors for declaration and voting according to the reorganization plan.

Article 232 of the Bankruptcy Law regulates the majority required for the conduct of the reorganization plan. And, the article states that: "it is considered that the reorganization plan is accepted, if it is accepted by a simple majority of the total amount of claims from creditors present in the assembly, unless the plan does not provide a larger majority or declaration in groups.

The final decision of the bankruptcy judge with which the reorganization plan is allowed acquires the quality of an executive / executive document, after which the reorganization can begin, ie the reorganization continues outside the bankruptcy procedure. Mandatory for all creditors and participants in the procedure become all the provisions of the substantive part of the plan, no matter how the creditors voted for the proposed plan, the legal effect of the permitted reorganization plan belongs to all creditors. Also all statements which are an integral part of the reorganization plan become executive.

Only creditors who have submitted their claims within the time limit set by law for filing claims have the right to pay / settle the claims / debts and gain the status of a party in the bankruptcy procedure. Then, also a very important condition for the plan to produce legal effect is for the bankruptcy director to recognize or challenge these claims.

The obligation to pay the creditors' claims falls on the new person, respectively the debtor or the third person, who has taken the obligations from the reorganization plan. The same right has the creditors whose claims have been challenged, then in the procedure after the lawsuit have been confirmed and have been recognized by the competent court.

The permitted reorganization plan also produces legal effects regarding the rights that the creditor has in the bankruptcy proceedings against the debtor's solidary debtors and the guarantee for the creditors' rights, which they have over

the assets / rights or the rights that they do not have. represent part of the bankruptcy estate.

According to the reorganization plan, the payments or settlement of the claims / debts of the bankruptcy creditor, registered by the bankruptcy director based on the claims previously submitted by the creditors and which are not contested by the debtor, can be realized in the same way as: belongs to the implementation according to the implementing document in accordance with the Law on Implementation.

As for the challenged claims which are later confirmed by the decision of the court which will be final, these claims will have the same legal force as the claims that have not been contested.

There are cases when the subjects in the process of reorganization largely do not fulfill the obligations that have been contacted according to the plan. An obligation may be deemed not to have been fully realized when the subject has not made payment of the claim received even though he has been summoned by the creditor within 15 days to fulfill the obligation. In such a situation it is considered that the subject in reorganization has not fulfilled its obligations and in this case for the creditor, the reduction of the claim and the deadline for payment are without effect.

In such a situation it is considered that the subject in reorganization to a significant extent has not fulfilled the obligations assumed and in this case for the creditor, the reduction of the claim and the deadline for payment are without effect. With the opening / filing of the new bankruptcy procedure and the creation of legal consequences from the new bankruptcy procedure, the permitted reorganization plan does not produce legal effect on the property / assets of the debtor, ie the subject in reorganization, for which the procedure is now conducted. for bankruptcy.

Bankruptcy proceedings will be closed by a special decision of the bankruptcy judge. However, the procedure will be closed when the creditors' claims / debts from the bankruptcy measure will be paid / settled first. The decision closing the bankruptcy proceedings together with the reasons for closing it will be published, while the debtor, the director of bankruptcy and the members of the creditors' council will be notified on which day the closing of the bankruptcy proceedings will start to produce legal effects. . The decision by the bankruptcy judge will be submitted to the appropriate registers for registration to close the bankruptcy procedure.

If the creditors decide that the bankruptcy director should supervise and control the implementation of the plan, then his authorizations continue even after the closure of the bankruptcy procedure. Also, the obligations of the creditors 'council are reduced, the authorizations of the creditors' council are transferred to the control of the body that is foreseen to supervise and control the implementation of the reorganization plan.

There have been criticisms of the Bankruptcy Law regarding the establishment of such supervision and control. Respectively, the importance of these terms is not shared to the end. Therefore, supervision versus control should be understood as a general versus specific notion, that supervision includes the supervision of a wider sphere / circle from control. Thus, it is concluded that the supervisory function is performed without direct / direct involvement of the body that performs supervision in correcting the confused work in the position that according to him should be, but only points to it, without direct intervention. While the control, controls the smaller scope / circle of works, with the possibility for direct intervention of the controller and their behavior in normal condition.

In Article 146, line 1 states that the supervision over the implementation of the reorganization plan after the closure of the bankruptcy procedure may have been entrusted to the bankruptcy director or other persons (controllers).

The authorizations that the director of bankruptcy had with the opening of the bankruptcy procedure, are now oriented to control the implementation of the reorganization plan, the authorizations become more special, which are directed only towards the supervision of the subject in reorganization and its action in realization of the plan. Based on these authorizations, he has the right to request from the subject in reorganization to leave his working space and to provide access to the complete documentation related to the realization of the reorganization plan. With special reports at least once a year, and when required or as needed, with special information on the implementation of the reorganization plan, the financial situation of the entity, etc., must notify the bankruptcy judge, the council of creditors for the way the plan is implemented.

If during the audit the bankruptcy director finds that the claims have not been settled and should have been settled or can not be settled immediately and without delay, he will notify the creditors 'council and the bankruptcy judge, and if the creditors' council is not formed. , will then notify all creditors who have certain rights against the debtor or the newly formed / new association in accordance with Article 247 of the Bankruptcy Law

The persons who can submit a proposal for opening / initiating a new bankruptcy procedure to the subject for reorganization are: persons authorized to perform supervision and each creditor with certain requirements. The proposal must be reasonable and state the reasons why the reopening of the bankruptcy proceedings is required.

The characteristic for opening / setting up this procedure is that it is not necessary for the subject of the reorganization to be insolvent / insolvent. The reasons why the reorganization plan was not realized will be investigated by the bankruptcy judge. However, no previous procedure will be opened / initiated for research of the conditions for opening / raising the bankruptcy procedure; a hearing will be held, as statements will first be received from the proposer and the subject of the reorganization. So, we must conclude that the passive legitimacy in this procedure has the subject in reorganization, and not the debtor against whom a bankruptcy procedure has been opened / initiated.

A study conducted in the Republic of North Macedonia through a proper reorganization plan

Analysis of the financial situation of "Teteks Yarn" – Tetovo

The analysis of the financial situation of this company is made based on the Balance Sheet and the Income Statement. Also based on financial reports, calculating the main financial indicators, in the period from 2007 to 2010 y. Structural and dynamic analysis with financial indicators from the last 4 years of the company's work (2007 - 2010) has been done.

Financial statements represent the blood statements of the functioning of a company, therefore all anomalies of a company should be distinguished through the analysis of financial reports. Financial analysis provides information about financial position, performance, capital changes, liquidity, etc.

The following analysis will include the Balance Sheet and Success Balance Analysis, includes the horizontal balance sheet analysis to see the movement (change of balance sheet items), the vertical balance sheet analysis (to see the inclusion of certain items, in assets and liabilities, which will enable the assessment of the placement of assets and asset resources, respectively to verify if

there are any anomalies in the structure of the balance sheet. Success balance is analyzed through the movement of revenues and the trend of accumulation of financial result (profit / loss) to determine the strength of the company's revenue.

Balance sheet analysis

In the framework of the analysis of the balance sheet, I will make the horizontal and vertical analysis (analysis in structure), of the last 4 years of operation of the company (2007 - 2010 y.).

Horizontal analysis of the balance sheet

	2007	2008	changing	2009	Changing	2010	Changing
Basic tools	40.396	40.971	1,43%	37.939	-7,4%	50.508	33%
Circulating tools	84.079	118.090	40,5%	161.238	36,5%	301.681	87%
Goods	31.916	52.183	63,5%	50.490	-3,3%	118.757	135%
Requirements to buyers	35.182	48.331	37,3%	109.437	126%	182.889	67,1%
Cash end securities	16.981	17.576	3,5%	1.309	-92%	24	-98%
Total Active	124.476	159.061	27,8%	199.177	25,2%	352.189	77%
Capital end reserves	76.785	78.409	2,12%	75.051	-4,3%	54.390	-28%
Short-term liabilities	47.535	80.571	69,5%	123.803	54%	254.741	105%
Total liabilities	124.476	159.061	27,8%	199.177	25,2%	352.189	77%

Based on the tabular data, analyzing the balance sheet asset, we can conclude that in the last 4 years there are no significant changes in fixed assets, significant increases in this position are recorded in 2010, where after the decline in 2009, again mark an increase of 33%. This increase which is understandable, given the fact that the company achieves profit in previous years.

Current assets compared to Fixed Assets, have an upward trend as a result of increased demand for buyers and also goods. Namely, as mentioned above, after successful years, this results in an increase in inventories (goods) of about 118,757,000 denar, which are recognized as less liquid assets, jeopardizing the current liquidity of the company.

In addition to what we said above, the accumulation of high levels of risk in the financial structure, through the gradual increase of leverage growth, the creation of a financial structure, where liabilities have a dominant share, thus creating a negative image for the company and testifying to the reduction of liquidity and financial instability. Where from the table we can see a continuous increase of liabilities, which from 2007 by 47,535,000 denars. They manage in

2010 to reach the value of about 254,741,000 denars. Which means from 38% to 72% share of liabilities.

Vertical analysis of the balance sheet				
	2007	2008	2009	2010
Basic tools	32,5%	25,8%	19%	14%
Circulating tools	67,5%	74,3%	80%	85%
Goods	25,6%	33%	25,3%	33%
Requirements to buyers	28%	30%	55%	52%
Cash end securities	13%	11%	0,66%	0,01%
Total Active	100%	100%	100%	100%
Capital end reserves	61,7%	49%	38%	15%
Short-term liabilities	38,3%	51%	62%	85%
Total liabilities	100%	100%	100%	100%

Based on the vertical analysis (in the structure), we can conclude that the company has anomalies in the composition of liabilities, in the sources of assets from 2008 to 2010 y.

In 2010 the company accumulates a high level of liabilities, creating sources of assets mainly based on liabilities, the company is financed 85% with debt and only 15% with its own resources. Such a financial structure is classified as a high risk structure, where in order to be a stable structure, the sources of funds would have to be calculated around 50%.

If we analyze the assets of the balance sheet, we will notice that it is a manufacturing company, however, the dominant share is the working capital, of which a small part is cash and liquid assets from which we could settle liabilities. accumulated short term. The relationship between illiquid assets and the

accumulation of short-term liabilities, the payment of which has been called into question due to reduced liquidity, which greatly affect the inability of the company to continue the normal activity of the company.

Analysis of the success balance of "Teteks Jarn" - Tetovo

The analysis of the income statement is done in order to benefit the results of the enterprise, even in the last four years (2007 – 2010 y.). To look at the relationship between revenues and expenditures and the movement of financial results.

	2007	2008	2009	2010
Revenues	96.841	274.751	232.648	292.372
Outlay	82.681	268.305	230.579	342.830
Loss/ Profit	12.552	5.359	254	(20.661)

If we look at the Income Statement from 2007 to 2010, we can see that the company has accumulated positive financial results. The profit that accumulates in the last four years has a downward trend, which from year to year the profit is smaller, where in 2010 the company accumulates a negative financial result, the loss reaches the value of 20,661,000.00 denars. In revenues we can find that they are relatively stable, however they can not reflect on the creation of positive financial results, because the enterprise is constantly increasing its costs, the enterprise is non-profit. From the four years analyzed, in 2010 the enterprise accumulates higher revenues and the same compared to the previous year increases by 25.6%, however in the same year the enterprise realizes expenditures almost twice higher compared to revenues , where expenditures increase by 49% compared to last year, this increase is addressed to expenditures on raw materials.

Results obtained from the implementation of the Konan Holder model:

Konan Holder Bankruptcy Model

The well-known model for bankruptcy (reorganization) was developed by the authors Konan and Holder, where and based on them it was named as the

Konan-Holder model (Conan-Holder method). This model was developed in 1978, where as object of analysis there were 190 medium-sized companies.

The model consists of five variables from which they created this mathematical equation:

$$\sum_{i=1}^n z_i = 0.24x_{1i} + 0.22x_{2i} + 0.16x_{3i} + 0.87x_{4i} + 0.1x_{5i}$$

where,

x_{1i} - Gross revenues / gross liabilities

x_{2i} - Registered capital / Total assets

x_{3i} - Current Assets - Current Stocks / Liabilities

x_{4i} - Financing expenditures / Gross revenues

x_{5i} - Gross Wage Expenditures / Gross Revenues

The enterprise is considered in the risk zone depending on the value of the result, including:

Condition of the company	The value of the result	Bankruptcy risk
High	$Z > 0.16$	to 10%
Good	$0.10 < Z < 0.16$	10% - 30%
Not sure	$0.04 < Z < 0.10$	30% - 65%
Not favorable	$-.05 < Z < 0.1$	65% - 90%
Catastrophic	$Z < - 0.05$	on 90%

The Konan and Holder model usually generates significant results in short-term forecasting the development of trading companies. This type of model is correct only when the bankruptcy regulation operates, when the hidden subsidies are canceled and the statistics are adequate.

Based on this model and taking into account the financial data of Teteks Yarn, these values have been calculated starting from 2007 to 2010 years.

Years	0.24	X1	0.22	X2	0.16	X3	0.87	X4	0.1	X5	Z Rez.
2007	0.24	2.0409	0.22	0.5160	0.16	1.0973	0.87	0.8522	0.1	0.1599	1.5363
2008	0.24	3.4269	0.22	0.4038	0.16	1.1416	0.87	0.9766	0.1	0.1444	1.9580
2009	0.24	1.8958	0.22	0.3224	0.16	1.0968	0.87	1.0266	0.1	0.1877	1.6134
2010	0.24	1.0712	0.22	0.1823	0.16	0.6550	0.87	1.1141	0.1	0.1355	1.3849

Source: By the author Agron Arifi - Bankruptcy Director

From the data presented based on the Konan Holder model we can conclude that the company's risks for bankruptcy are lower than 10%, as in all years the value of Z is higher than 0.16 so $Z > 16$. But if we look at the trend from year to year it always becomes lower, this sign that the organization is entering the early stages of bankruptcy and it is necessary to change the development of the company's activities and make proactive decisions in order to avoid anomalies presented.

Conclusion regarding the state of the study

A good bankruptcy debtor reorganization plan has a positive effect so that the debtor in the process of bankruptcy can continue to exist. Reorganization is a very good opportunity for creditors because through it creditors will achieve maximum payments

In addition to the concrete conclusions drawn from the hypotheses confirmed by this paper, some general conclusions emerge:

It is very important that when evaluating a legal entity, in addition to the property value of the entity which is valued on the basis of book values, to consider the level of its further benefit through the reorganization plan, as it is assumed that the legal entity it does not only include what we have in the final balance sheet, but we must also take into account the cash flow that will be realized in the future, which is a very key element in the realization of the reorganization plan.

We also tried to show that based on all three models we used the valuation method based on book value, which is the most preferred and most accurate method.

In this way in the theoretical aspect a modest effort has been made since this paper is one of the first in the field of evaluation of legal entities as well as research done based on the methods used for this purpose. This paper will serve the leaders of enterprises as a resource for finding and using the most appropriate models of valuation of their assets, the causes of risk whether there are elements of bankruptcy of the enterprise and difficulties in payments or present the success of the enterprise in the market.

In any research endeavor there are always issues that require a more in-depth research and analysis. The main purpose of this paper was to analyze the importance of using economic - financial indicators to determine the most important models of enterprise valuation, from the point of view of their performance and to find the most appropriate methods for determining their book value.

Analysis of the assessment of economic and financial indicators based on book values as well as based on projected values for the future are key elements of drafting the reorganization plan, conducting cash collection research, researching safe market demand for planned production products with a proper reorganization plan, we can achieve enterprise revival. In our research as well as in the real situation the legal entity Teteks Yarn through the reorganization plan continues to exist and we can say that it is a competitive company in the Balkan market as well as in the world

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