

Varazdin Development and Entrepreneurship Agency  
in cooperation with  
Russian State Social University  
University North  
Faculty of Management University of Warsaw  
Faculty of Law, Economics and Social Sciences Sale - Mohammed V University in Rabat



# Economic and Social Development

34<sup>th</sup> International Scientific Conference on Economic and Social Development –  
XVIII International Social Congress (ISC-2018)

## Book of Proceedings

Editors:

Aleksander Maloletko, Natasa Rupcic, Zoltan Baracska



ISSN 1849-7535



9 771849 753006 >

Moscow, 18-19 October 2018

**Varazdin Development and Entrepreneurship Agency**  
in cooperation with  
**Russian State Social University**  
**University North**  
**Faculty of Management University of Warsaw**  
**Faculty of Law, Economics and Social Sciences Sale - Mohammed V University in Rabat**

Editors:  
**Aleksander Maloletko, Natasa Rupcic, Zoltan Baracscai**

## **Economic and Social Development**

34<sup>th</sup> International Scientific Conference on Economic and Social Development –  
XVIII International Social Congress (ISC-2018)

## **Book of Proceedings**

Moscow, 18-19 October 2018

**Title** ■ Economic and Social Development (Book of Proceedings), 34<sup>th</sup> International Scientific Conference on Economic and Social Development - XVIII International Social Congress (ISC-2018)

**Editors** ■ Aleksander Maloletko, Natasa Rupcic, Zoltan Baracscai

**Scientific Committee** ■ Marijan Cingula, University of Zagreb, Croatia (President); Aleksander Maloletko, Russian State Social University, Russian Federation (Co-President); Sandra Raquel Alves - University of Aveiro, Portugal; Ayuba A. Aminu, University of Maiduguri, Maiduguri, Nigeria; Anona Armstrong, Victoria University, Australia; Gouri Sankar Bandyopadhyay, The University of Burdwan, Rajbati Bardhaman, India; Haimanti Banerji, Indian Institute of Technology, Kharagpur, India; Elisabeth de Jesus Oliveira Brito - University of Aveiro, Portugal; Alla Bobyleva, The Lomonosov Moscow State University, Russia; Leonid K. Bobrov, State University of Economics and Management, Novosibirsk, Russia; Rado Bohinc, University of Ljubljana, Slovenia; Zeki Atil Bulut, Dokuz Eylul University, Turkey; Adnan Celik, Selcuk University - Konya, Turkey; Angelo Maia Cister, Federal University of Rio de Janeiro, Brasil; Mirela Cristea, University of Craiova, Romania; Sreten Cuzovic, University of Nis, Serbia; Oguz Demir, Istanbul Commerce University, Turkey; T.S. Devaraja, University of Mysore, India; Onur Dogan, Dokuz Eylul University, Turkey; Darko Dukic, University of Osijek, Croatia; Gordana Dukic, University of Osijek, Croatia; Alba Dumi, Vlora University, Vlore, Albania; Ksenija Dumcic, University of Zagreb, Croatia; Galina Pavlovna Gagarinskaya, Samara State University, Russia; Fran Galetic, Zagreb University, Croatia; Mirjana Gligoric, Faculty of Economics, Belgrade University, Serbia; Mehmet Emre Gorgulu, Afyon Kocatepe University, Turkey; Aleksandra Grobelna, Gdynia Maritime University, Poland; Liudmila Guzikova, Peter the Great Saint-Petersburg Polytechnic University, Russia; Anica Hunjet, University North, Koprivnica, Croatia; Oxana Ivanova, Ulyanovsk State University, Ulyanovsk, Russia; Irena Jankovic, Faculty of Economics, Belgrade University, Serbia; Lara Jelenc, University of Rijeka, Croatia; Myrl Jones, Radford University, USA; Gorazd Justinek, Graduate School of Government and European Studies, Slovenia; Hacer Simay Karaalp, Pamukkale University, Turkey; Grzegorz Karasiewicz, University of Warsaw, Poland; Dafna Kariv, The College of Management Academic Studies, Rishon Le Zion, Israel; Salih Katircioglu, Eastern Mediterranean University, Northern Cyprus, Turkey; Olga Kaurova, Russian State Social University, Russian Federation; Hilal Yildirim Keser, Uludag University, Bursa, Turkey; Martina Dragija Kostic; Sophia Khalimova, Institute of Economics and Industrial Engineering of Siberian Branch of Russian Academy of Science, Novosibirsk, Russia; Marina Klacmer Calopa, University of Zagreb, Croatia; Vladimir Kovsca, University of Zagreb, Croatia; Goran Kozina, University North, Koprivnica, Croatia; Dzenan Kulovic, University of Zenica, Bosnia and Herzegovina; Robert Lewis, Les Roches Gruyère University of Applied Sciences, Bulle, Switzerland; Elizaveta Limarova, Russian State Social University, Russia; Ladislav Lukas, Univ. of West Bohemia, Faculty of Economics, Czech Republic; Pascal Marty, University of La Rochelle, France; Lilia Matraeva, Russian State Social University, Russia; Vaidotas Matutis, Vilnius University, Lithuania; Marjana Merkac Skok, GEA College of Entrepreneurship, Ljubljana, Slovenia; Daniel Francois Meyer, North West University, South Africa; Marin Milkovic, Rector, University North, Koprivnica, Croatia; Zlatko Nedelko, University of Maribor, Slovenia; Gratiela Georgiana Noja, West University of Timisoara, Romania; Zsuzsanna Novak, Corvinus University of Budapest, Hungary; Alojzy Z. Nowak, University of Warsaw, Poland; Tomasz Ochowski, University of Warsaw, Poland; Mislav Ante Omazic, University of Zagreb, Croatia; Vera Palea, Università degli Studi di Torino, Italy; Dusko Pavlovic, Libertas International University, Zagreb, Croatia; Igor Pihir – University of Zagreb, Croatia; Dinko Primorac, University North, Koprivnica, Croatia; Zeljka Primorac, University of Split, Croatia; Mirosław Przygoda, University of Warsaw, Poland; Nicholas Recker, Metropolitan State University of Denver, USA; Kerry Redican, Virginia Tech, Blacksburg, USA; Humberto Ribeiro, University of Aveiro, Portugal; Robert Rybnicek, University of Graz, Austria; Aleksei Seselkin, Russian State Social University, Russia; Lubov Sitdikova, Russian State Social University, Russia; Petr Soloducha, Russian State Social University, Russia; Joanna Stawska, University of Lodz, Poland; Igor Stepkin, Russian State Social University, Russia; Elzbieta Szymanska, Bialystok University of Technology, Poland; Katarzyna Szymanska, The State Higher School of Vocational Education in Ciechanow, Poland; Jan Turyna, University of Warsaw, Poland; Iliana Tutore, University of Naples Parthenope, Italy; Claudia Miranda Veloso - University of Aveiro, Portugal; Mikhail Vinichenko, Russian State Social University, Russia; Marina Vinogradova, Russian State Social University, Russia; Rebeka Danijela Vlahov, University of Zagreb; Ilko Vrankic, University of Zagreb, Croatia; Stanislaw Walukiewicz, Bialystok University of Technology, Poland; Thomas Will, Agnes Scott College, USA; Li Yongqiang, Victoria University, Australia; Peter Zabielskis, University of Macau, China; Tao Zeng, Wilfrid Laurier University, Waterloo, Canada; Snezana Zivkovic, University of Nis, Serbia.

**Review Committee** ■ Marina Klacmer Calopa (President); Ana Aleksic; Sandra Raquel Alves; Ayuba Aminu; Mihovil Andjelinovic; Josip Americ; Lidija Bagaric; Tomislav Bakovic; Sanja Blazevic; Leonid Bobrov; Ruzica Brečić; Anita Ceh Casni; Mirela Cristea; Oguz Demir; Jasmina Dvorski; Stjepan Dvorski; Robert Fabac; Ivica Filipovic; Sinisa Franjic; Fran Galetic; Mirjana Gligoric; Tomislav Globan; Anita Goltnik Urnaut; Tomislav Herceg; Irena Jankovic; Emina Jerkovic; Dafna Kariv; Oliver Kesar; Hilal Yildirim Keser; Tatjana Kovac; Vladimir Kovsca; Angelo Maia Cister; Katarina Marosevic; Vaidotas Matutis; Marjana Merkac Skok; Josip Mikulic; Ljubica Milanovic Glavan; Daniel Francois Meyer; Natanya Meyer; Guenter Mueller; Ivana Nacinovic Braje; Zlatko Nedelko; Gratiela Georgiana Noja; Zsuzsanna Novak; Alka Obadic; Claudia Ogrea; Igor Pihir; Najla Podrug; Vojko Potocan; Dinko Primorac; Zeljka Primorac; Sanda Renko; Humberto Ribeiro; Vlasta Roska; Souhaila Said; Armando Javier Sanchez Diaz; Tomislav Sekur; Lorena Skufflic; Mirko Smoljic; Petar Soric; Mario Spremic; Matjaz Stor; Tomasz Studzieniecki; Lejla Tijanic; Daniel Tomic; Boris Tusek; Rebeka Daniela Vlahov; Ilko Vrankic; Thomas Will; Zoran Wittine; Tao Zeng; Grzegorz Zimon; Snezana Zivkovic; Berislav Zmuk.

**Organizing Committee** ■ Aleksander Maloletko (President); Anna Achtyan; Lilia Buzuk; Marina Klacmer Calopa; Vadim Steklov; Domagoj Cingula; Olga Kaurova; Spomenko Kesina; Yulia Steklova; Erlino Koscak; Mirosław Przygoda; Olga Shinkareva; Elena Sokolova; Michael Stefulj; Valery Oganyan; Anna Ermilova; Yulia Sunaeva; Larisa Tararina; Victoria Vishnyakova; Rebeka Danijela Vlahov; Sime Vucetic.

**Publishing Editor** ■ Domagoj Cingula

**Publisher** ■ **Design** ■ **Print** ■ Varazdin Development and Entrepreneurship Agency, Varazdin, Croatia / Russian State Social University, Moscow, Russia / Faculty of Management University of Warsaw, Warsaw, Poland / University North, Koprivnica, Croatia / Faculty of Law, Economics and Social Sciences Sale - Mohammed V University in Rabat, Morocco

**Printing** ■ Online Edition

**ISSN 1849-7535**

The Book is open access and double-blind peer reviewed.

Our past Books are indexed and abstracted by ProQuest, EconBIZ, CPCI (WoS) and EconLit databases and available for download in a PDF format from the Economic and Social Development Conference website: <http://www.esd-conference.com>

© 2018 Varazdin Development and Entrepreneurship Agency, Varazdin, Croatia; Russian State Social University, Moscow, Russia; Faculty of Management University of Warsaw, Warsaw, Poland; University North, Koprivnica, Croatia; Faculty of Law, Economics and Social Sciences Sale - Mohammed V University in Rabat, Morocco. All rights reserved. Authors are responsible for the linguistic and technical accuracy of their contributions. Authors keep their copyrights for further publishing.

## **CONTENTS**

<b>APPLICATION OF ROBOTS IN THE FUNCTION OF IMPROVEMENT OF QUALITY OF MEDICAL SERVICES .....</b>	<b>1</b>
Aleksandar Vujovic, Zdravko Krivokapic, Jelena Jovanovic, Marija Bogdanovic	
<b>A COMPARATIVE STUDY ON EXPLORATIVE OVERSEAS FOREIGN DIRECT INVESTMENT (OFDI) BETWEEN COMPANIES FROM DEVELOPED AND DEVELOPING COUNTRIES .....</b>	<b>11</b>
Alexander Wollenberg, Kevin Chu	
<b>DO R&amp;D SPILLOVERS MATTER IN THE EU REGIONAL CONVERGENCE PROCESS? A SPATIAL ECONOMETRIC APPROACH .....</b>	<b>24</b>
Andrea Furkova	
<b>INSOLVENT BUSINESS RESCUE IN MODERN RUSSIA: LESSONS FOR NEW LEGISLATIVE APPROACHES.....</b>	<b>34</b>
Alla Bobyleva, Olga Lvova	
<b>THE IMPORTANCE OF MARKETING STRATEGY FOR CREATING AND MAINTAINING GOODWILL FOR CONSTRUCTION COMPANIES.....</b>	<b>42</b>
Radek Dohnal, Helena Hanusova, Zuzana Lipovska	
<b>SELECTED ASPECTS OF INFORMATION SECURITY MANAGEMENT IN ENTITIES PERFORMING MEDICAL ACTIVITY .....</b>	<b>51</b>
Dominika Lisiak-Felicka, Pawel Nowak, Maciej Szmit	
<b>ARTIFICIAL INTELLIGENCE IN THE BOOTSTRAP AGE.....</b>	<b>61</b>
Eniko Varga, Jolan Velencei	
<b>PROCESS AND PROJECT MANAGEMENT IN THE PROCESS OF MERGER OF HIGHER EDUCATION INSTITUTIONS .....</b>	<b>69</b>
Lukasz Sulkowski, Andrzej Wozniak, Robert Seliga	
<b>BURNOUT SYNDROME AMONG TEACHERS.....</b>	<b>78</b>
Eva Zivcicova, Monika Gullerova	
<b>THE APPRAISAL IN THE MANAGERIAL DECISION MAKING ON INVESTMENT: EVIDENCE FROM SLOVAK COMPANIES .....</b>	<b>86</b>
Eva Malichova, Maria Durisova, Martin Miciak	
<b>RHETORICAL NATURE OF SPIRITUALITY IN VOCATIONAL TRAINING OF INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) PROFESSIONALS.....</b>	<b>97</b>
Muhammad Kamran	
<b>THE INFLUENCE OF CONDITIONS OF INTERNATIONAL TRADE ON THE SCOPE OF CUSTOMS CONTROL.....</b>	<b>108</b>
Mirosława Laszuk	

## INSOLVENT BUSINESS RESCUE IN MODERN RUSSIA: LESSONS FOR NEW LEGISLATIVE APPROACHES

**Alla Bobyleva**

*Lomonosov Moscow State University, Russia*

*bobyleva@spa.msu.ru*

**Olga Lvova**

*Lomonosov Moscow State University, Russia*

*lvova@spa.msu.ru*

### **ABSTRACT**

*The paper deals with the analysis of existing and perspective business restructuring opportunities in Russia by examining the main features of Russian Insolvency Law, including the conduct of insolvency proceedings, the role and methodology of financial analysis as a basis for choosing strategy and tactics of corporate rescue. Special attention is devoted to the empirical study or effectiveness of insolvency system in Russia based including recent statistical data analysis. The main factors caused prevalence of liquidation procedures over rehabilitation legal mechanisms are determined. As a result of research, the paper presents the main directions of systemic transformation of the Russian insolvency institution through legislation amendments i.e. development of professional standards for financial analysis within procedures, introducing the option for direct commencement of restructuring procedure, measures for insolvency prevention, advanced training and independent certification of business rescue managers, increase motivation of corporate rescue by changing the concept of insolvency administrators remuneration.*

**Keywords:** *Insolvency (Bankruptcy) Regulation in Russia, Business Rescue, Financial Analysis, Rehabilitation and Liquidation Procedures, Efficiency of Insolvency System, Insolvency Administrator*

### **1. INTRODUCTION**

Legal regulation of insolvency system is usually based on certain balance between liquidation and rehabilitation procedures. The concept of enhancing the role of rehabilitation procedures is accepted by the majority of jurisdictions in the world and represents the global look at the goals and possibilities of bankruptcy. “A good insolvency framework” is defined by the World Bank as the one with clear rules, that efficiently rehabilitates viable companies and liquidates non-viable ones by providing entrepreneurs and lenders with tools to evaluate the consequences of a worst-case scenario (Doing business 2018). In Russia the majority of indebted companies within insolvency proceedings are subject to be liquidated. Russian Insolvency Law assumes the possibility of conducting 4 types of proceedings: Supervision (Receivership), Financial Rehabilitation, External Administration, Liquidation (Winding Up). After the first obligatory procedure for all corporate debtors (Supervision) liquidation procedure is usually introduced by the court (Table 1).

*Table following on the next page*

*Table 1. The amount of insolvency proceedings in Russia in 2008-2017 (Unified Federal Register of Bankruptcy Information (UFRBI), Statistical reports of the Russian commercial courts' activity in 2014-2017)*

Type of procedure, number of cases	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Financial Rehabilitation	48	53	91	94	92	67	22	36	41	29
Positive result of Financial Rehabilitation (obligations have been settled)	6	2	6	7	3	4	4	0	1	3
External Administration	579	604	908	986	922	803	381	413	365	334
Positive result of External Administration (solvency has been restored)	40	11	14	13	25	15	18	14	12	15
Liquidation	1391 6	1547 3	1600 9	1279 4	1407 2	1314 4	1509 6	1491 6	1412 7	1414 2
Composition	126	127	255	376	563	585	358	417	497	477

The purpose of the research is to define the reasons of such actual lack of recovered companies and to identify the main drivers and conditions for turning the situation around.

## 2. LITERATURE REVIEW

Insolvency legislative framework and issues of management of insolvent business under bankruptcy proceedings in different jurisdictions has been studied by many national legal specialists (Wessels and Madaus, 2017; Richter, 2011; Finch & Milman, 2017; Lowitzsch (ed), 2007; Giorgini & Vallens (ed), 2015; Karelina & Erlikh, 2012). Economic aspects of insolvency and bankruptcy are described by such researchers as Armour (2001), Onakoya and Olotu (2017), Belcher (1997), while in Russia rescue aspects are examined by crisis management specialists such as Lvova & Bobyleva (2012), Kovan (2017), Lvova (2014), Kozhevina & Miratov (2017). However Russian insolvency legal framework is not fully integrated into the global system though certain European insolvency regulation principles are tend to be implemented (Wood, 2007). It is worldwide recognized that the legislative insolvency system should be amended to better facilitate business restructuring (Omar, 2016).

## 3. REASONS FOR BAD PERFORMANCE OF REORGANIZATION PROCEEDINGS

Nowadays there is a few number of business rescue cases within insolvency proceedings (less than 2.5% of all insolvencies). The considerations below could explain the prevalence of liquidation procedures in Russia:

- The majority of liquidation procedures are initiated in respect of missing debtors or “assetless” companies, which can only be liquidated as a result of bankruptcy proceedings. According to statistical data, in 40% of cases the inventoried debtor’s assets cost zero at the moment of bankruptcy procedure commencement and 60% have zero assets after its value appraisal during the court proceedings (UFRBI, 2017).
- The Insolvency Law is usually enforced when it is already impossible to restore solvency. The insolvency system is still perceived only as liquidation activities. Bankruptcy proceedings are not considered as a possible way of reorganization to get through the crisis. This is why companies try to delay the moment of going under the Insolvency Law, unfortunately they do it when there is no possibility to relaunch business. This conclusion is also confirmed by the empirical study: debtors rarely exercise their right to appeal to the

court: for example, in 2017 54% of petitions were filed by creditors and only 39% by debtors (the rest amount was felid by authorized tax creditors).

- The low outcome of reorganization procedures. In practice a great part of successfully rescued businesses under insolvency proceedings refers to large “strategic companies” which have privileged conditions and usually receive state financial aid during rehabilitation due to their high social impact. The major economic area where rehabilitation procedures are applied more often is cons
- The insolvency proceedings are managed by low qualified administrators and the analytical procedures for conducting financial analysis are underdeveloped.

These factors stipulate the necessity of insolvency system modernization by the directions suggested below.

#### **4. NEW LEGAL FRAMEWORK OF FINANCIAL ANALYSIS CONDUCTING WITHIN INSOLVENCY PROCEDURE**

According to the Russian legislation the first bankruptcy procedure is Supervision (Receivership) oriented towards guaranteeing the safety of debtor’s assets carrying out financial analysis of distressed company which must guarantee adequate decision-making regards the following:

- expediency of winding up of the indebted enterprise or attempt of its rescue;
- strategy and tactics of business rescue;
- absence (or presence) of indicators of suspicious transactions and criminal actions of the debtor.

In practice insolvency administrators often do not perform well during solving these tasks. The following main reasons can be defined:

- low professional qualification of insolvency administrators which is not enough to apply modern methodology of analysis or make appropriate conclusions from financial ratios calculations;
- formal approach to the financial analysis approved by the court when it is not considered as a powerful tool for further decision-making process;
- corruption component in the professional activity of the insolvency administrators when they depend on certain parties within bankruptcy case and make gratuitous conclusions;
- low quality of information for analysis which can be limited or falsified.

Nowadays the Russian Federal Standard Draft “Rules of the debtor’s financial analysis conducting by insolvency administrator” has been developed in Russia. The goal of the Standard is to overcome existing shortcomings in the execution and using the results of the analysis. The active role in the Standard Draft development was played by the authors of this paper (Bobyleva, Lvova et al., 2015). In accordance with the Standard Draft basic financial analysis within the obligatory procedure of Supervision is divided into two stages. The first stage includes the performance of the following goals:

1. identifying external and internal factors that led the debtor to insolvency and the possibility (or impossibility) of their overcoming;
2. analysis of debtor’s assets and liabilities, financial results of its entrepreneurship activity, determination of sufficiency of debtor’s property to cover expenses of the court insolvency proceedings, detection of the fact of performance (or non-performance) of the business activity of the debtor;
3. identification of the presence (or absence) of basis for the debtor's transactions avoidance.

If the fact of failure of the debtor's main activity and (or) the lack of the debtor's intention (expediency) to continue the main activity in future is established at the first stage, the conclusion of impossibility to restore solvency is made, the transition to Winding up procedure is substantiated. The first stage is completed. If the fact of continuation of the debtor's activity or its intention to continue business activities in future is established at the first stage, the conclusion of possibility to restore solvency is made and the second stage of analysis should be conducted. The second stage considers evaluation of possibility (or impossibility) of the debtor's break-even activities and restoration of its solvency. The second stage is completed by choosing of further appropriate bankruptcy procedure. The content of financial analysis in Supervision procedure includes the following elements:

1. The first stage:
  - a) a) the analysis of current operations;
  - b) the analysis of investment activity;
  - c) the analysis of financial activity;
  - d) analysis of debtor's transactions for identification of the existence (or absence) basis for transaction avoidance;
  - e) working out the conclusion about impossibility to restore solvency and necessity for transition to bankruptcy proceedings is substantiated.
2. The second stage:
  - a) the evaluation of possibility or impossibility of debtors' break-even activities;
  - b) the analysis of possibilities to restore of solvency;
  - c) choosing of further appropriate bankruptcy procedure.

According to the results of the analysis in the first bankruptcy procedure, the insolvency administrator should prepare:

1. the report about debtor's financial position;
2. the report about existence or absence basis for challenging the debtor's transactions;
3. the conclusion about evaluation of possibility (or impossibility) of the debtor's break-even activities and restoration of its solvency substantiation and grounds for the next bankruptcy procedure.

Nowadays there is a broad discussion about the necessity of procedure of Supervision. Usually it takes 6 months and causes the delays in bankruptcy proceedings taking into account the low quality of the main tasks performance at this stage. This position is reflected in the Law Draft "On business debt restructuring during insolvency proceedings" which allows to reduce time of carrying out Supervision for the majority of the companies. It is explained by the fact that the number of debtors which are not intended to continue operations is usually higher. In any case, either the Supervision procedure will still be valid or cancelled after the Law Draft adoption, the requirement of financial analysis conduct will remain it any case. Thus, the above mentioned professional Standard should be adopted to establish universal approach, principles and rules of financial analysis.

## **5. SYSTEMIC TRANSFORMATION OF THE INSOLVENCY INSTITUTION**

Nowadays there are the first steps towards systemic modernization of the existing insolvency institution are realized by the authorities. These attempts to transform bankruptcy into debt recovery tool should be appreciated positively but some important drawbacks can be considered during this process. Some extended directions of this reform should also be emphasized.



### **5.1. Changes in legislation: introduction in the Bankruptcy Law the possibility to apply directly for reorganization**

The first steps have already made in this direction: since 2017 the Law Draft “On business debt restructuring during insolvency proceedings” have been considering the Russian State Duma (Restructuring Law Draft, 2017). Similar to U.S. Bankruptcy Code and legislation of some other countries, the Russian Draft Law stipulates that two types of application may be submitted to the court: the one for the restructuring procedure commencement and application for being declared bankrupt and liquidated. In the same time this Law Draft contains many shortcomings. For example, the possibility of reorganization is limited mainly by debt restructuring (this is even reflected in the title of the Law Draft) which indeed is only one kind of business rescue tools. Such approach reduces possibilities of reorganization, does not stimulate the use of a set of administrative, financial and economic technologies of rescue acquired by practice. The Law Draft contains some provisions similar to global practice but does not into account the specifics of Russian economic conditions. Some articles in the Law Draft seem controversial. In particular, the offered duration of Financial Rehabilitation process is up to five years. The main argument for this period is the experience of other countries. For example, in France the period of reorganization plan implementation can last up to ten and even fifteen (for some groups of debtors) years; according to the legislation of the United States, Spain, Belgium the period of business reorganization is also up to five years and can be extended. For Russia such period of business rescue seems extremely long: very few projects have such a long cycle in modern innovative economy while the moratorium on payment creditors’ claims within all period of reorganization plan implementation can seriously undermine a financial position of creditors, lead to depreciation of debts and break balance between interests of creditors and debtors. Probably, such period of rehabilitation in Russia is acceptable for companies-giants, “strategic enterprises” but, in our opinion, it can be rather an exception from the rules, than a universal rule. This point of view is confirmed by the results of empirical study of England and Wales insolvencies conducted by Walton, Umfreville and Jacobs (2018). Companies Voluntary Arrangements (CVAs) is applied for rescue of small business and “should last no longer than 3 years without good reason” (Walton, Umfreville and Jacobs, 2018).

### **5.2. The insolvency prevention**

The current Insolvency Law contains the special chapter called “Bankruptcy Prevention”. Although the idea corresponds to the concept of supporting of distressed companies and avoiding bankruptcy, the content of the chapter is mainly declarative: it only says that all interested parties, including authorities, should take measures for prevention of company’s bankruptcy. The chapter does not show any tools for the insolvency prevention except direct financial help. Other possibilities, such as guarantees of federal or municipal authorities, restructuring of debts, development of financial rehabilitation plan, using of swaps and other financial tools are not considered. Directors duties in the shadow of insolvency should be articulated more clearly and fully to include a requirement to address financial distress early. Nowadays some banks are making attempts to prevent insolvency of their borrowers by participation in management upon the occurrence of the first signs of financial distress. The idea is very perspective because usually banks can suggest debt restructuring, support distressed company with advanced managerial and financial techniques. In the same time banks are in the very beginning of the process: covenants under which the lender can interfere in the borrower’s management process are usually not defined in the credit contract both with the extent of possible participation. Preventive restructuring is aimed at avoiding bankruptcy and can include urgent operative tools to stop crisis (restructuring of assets, liabilities, management system) and strategic measures to increase business sustainability (informal workouts i.e. assignments of

payments delay, changes in the capital structure, mergers and acquisitions, business processes reengineering, etc.).

### **5.3. Training and certification of business rescue administrators**

Professional qualification of insolvency administrators is crucial for the successful implementation of reorganizational procedures. Today the Russian Law determines the following requirements to the potential insolvency administrator without differentiation for reorganization and liquidation: Russian citizenship, higher professional education, experience of executive position work for one year and the internship as the insolvency administrator's assistant in the bankruptcy proceedings for two years, being certified specialist after passing the standard qualification exam. In practice these requirements do not guarantee high professionalism of insolvency administrators. One can see that the particular profile of a high education is not specified, having engaged in practical activity as an intern for the short period is not enough to get the special skills of managing the indebted business, there is no specialization of insolvency administrators on carrying out particular proceedings. The restrictions, which do not allow foreigners to be insolvency administrators in Russia, impede the integration of Russia into world economic and legal system. From our point of view, it is necessary to develop special training program for such "rescue managers" completed by the subsequent certification. In the same time the requirements to the qualification exam should be tightened to make the exam more effective and objective. Similar to insolvency administrators such certified "rescue managers" may form self-regulated professional associations. It will contribute to improving the activities, increasing professional level, strengthening control for such managers within business rescue process. The practice of systemic refresher training exists in Association of the Certified Accountants or Auditors, gives good results and should become an obligatory condition to continue professional activity as an administrator within insolvency proceedings.

### **5.4. Motivation of business rescue activities**

Nowadays the salary of insolvency administrators depends on the type of the bankruptcy procedure and includes fixed minimum (special for each procedure) plus percentage from the book value of the debtor's assets. The highest fixed remuneration per month is supposed for insolvency administrator in External Administration (45 000 Rub (640 Euro)), the lowest – for the Financial Rehabilitation procedure (15 000 Rub, (210 Euro)). Despite the fact that the fixed part is small in both cases, the legislators set the maximum sum for an external administrator to demonstrate the proper priority of reorganization in the bankruptcy system and high level of responsibility. In practice salary of insolvency administrators can be even low: in 2017 average remuneration was 176 000 Rub (2 325 Euro) per one case which lasts no less than 6 months (average length of the first obligatory Supervision procedure) (UFRBI, 2018). Insolvency Law establishes correlation between "the book value of assets as of the last balance sheet date before the procedure commencement date" and insolvency administrators' salary. Such approach has some disadvantages. In particular the book value of assets in distressed companies can be considerably overestimated or underestimated (assets can be "hidden"). So, it does not reflect the real volume of insolvency administrator's work and the remuneration based on this factor will not motivate the administrator to work better but will only stimulate him to choose the most indebted businesses. Moreover, the remuneration in this case depends on the size of distressed company and is not related to the results of work. Foreign experience demonstrates certain achievements in the area of qualification and remuneration of insolvency administrators within general restructuring orientation of the insolvency legislation. For example, in Germany there are no certain requirements to qualification of insolvency administrator but in practice it is a lawyer working with indebted companies and highly appreciated by the court, having specific

experience of dealing with business in the concrete economic industry and similar scale. In Poland insolvency administrator can get up to 5% of assets value after sale of the business and up to 10% of the revenue of restored business (Lowitzsch (ed), 2007). Thus, the system of remuneration and control over insolvency administrators should also be reformed to make their salary dependent on the results, i.e. solvency restoration instead of “the book value of assets”.

## 6. CONCLUSION

In recent years of financial and economic crises in Russia, the understanding has come that bankruptcy of any company gives “the effect of multiplier” for economy, can trigger “default waterfall”. This effect is more significant on emerging markets because of financial instability of many companies. One of the main tasks of this research was to develop recommendations for making business rescue procedures more applicable. A few number of business rescue cases within insolvency proceedings is caused by certain problems in this area: assetless or “letter-box” debtors, deliberate bankruptcies which are practically unprovable, formal approach to financial analysis of the debtor, mistakes in cash flow calculation within restructuring plans, absence of real crisis management skills of insolvency administrators, etc. The necessity of strengthening of the Insolvency Law rehabilitation orientation has been commonly recognized in Russia. The Law Draft “On business debt restructuring during insolvency proceedings” seems as a perspective way to harmonize with foreign practice and to increase restructurings by cancelation of the first “technical” Supervision procedure, change in voting for rehabilitation plan, forming opportunities of preliminary negotiations between creditors and the debtor. Modernization of the insolvency institute in Russia should include adoption of new Federal Standard for debtor’s financial analysis by the insolvency administrator and updated requirements for the insolvency administrator’s profession. Strengthening of the business rescue role within the insolvency process should be achieved by systemic transformation of the insolvency institution through legislation amendment i.e. introducing the possibility for quick start of the restructuring (reorganization) procedure, measures for insolvency prevention, advanced training and independent certification of business rescue managers, motivation of corporate renewal activities.

## ORCID

Olga Lvova ID <http://orcid.org/0000-0001-9835-3418>

Alla Bobyleva ID <http://orcid.org/0000-0002-4383-0608>

## LITERATURE:

1. Armour, J. (2001) *The law and economics of corporate insolvency: A review*. ESRC Centre for Business Research, University of Cambridge.
2. Baird, D. & Rasmussen, R. (2002) *The end of bankruptcy*. *Stanford Law Review*, 751-789.
3. Belcher, C. (1997) *Corporate rescue: a conceptual approach to insolvency law*. Sweet & Maxwell.
4. Bobyleva, A. (2010) ‘Modernizatsiya instituta bankrotstva kak klyuchevoy faktor povysheniya effektivnosti rynochnoy ekonomiki’ [Modernization of insolvency institute as key factor of market economy effectiveness increase], *Vestnik Moskovskogo universiteta* [Bulletin of the Lomonosov Moscow State University], 21, 39-76.
5. Bobyleva, A. (2014) *Analytical Review of Informal Workouts and Non-Insolvency Procedures in Russia: Examples of Failure and Success*. *European Insolvency Law: Current Issues and Prospects for Reform*, 71-76.

6. Bobyleva, A., Lvova, O., Zhavoronkova, E., and Kholina, M. (2015) 'O kontseptsii provedeniya arbitrazhnym upravlyayushchim analiza finansovo-ekonomicheskogo sostoyaniya dolzhnika' [On concept of conducting financial economic analysis of the debtor by insolvency administrator], *Imushchestvennyye otnosheniya v Rossiyskoy Federatsii* [Property relations in the Russian Federation], (10 (169)).
7. Doing business (2018). World Bank.
8. Federal Law №127-FZ at 26.10.2002 'On insolvency (bankruptcy)' (last amendment at 07 March 2018).
9. Finch, V., & Milman, D. (2017) *Corporate insolvency law: perspectives and principles*. Cambridge University Press.
10. Giorgini, G., and Vallens, J. (ed) (2015) *Etude comparative des procédures d'insolvabilité*.
11. Goode, R. (2011) *Principles of corporate insolvency law*. Sweet & Maxwell.
12. Kadens, E. (2010) The Pitkin Affair: A Study of Fraud in Early English Bankruptcy. *Am. Bankr. LJ*, 84, 483.
13. Karelina, S., and Erlikh, M. (2012) 'Rol arbitrazhnogo upravlyayushchego v mekhanizme razresheniya konflikta interesov' [Role of insolvency administrator in conflict of interests resolution], *Pravo i ekonomika* [Law and Economics], (3), 25.
14. Kozhevina, O., and Muratov, A. (2017) 'Mekhanizmy ozdorovleniya i obespecheniya finansovoy ustoychivosti predpriyatiy real'nogo sektora ekonomiki: instrumenty bankrotstva' [Mechanisms of recovery and financial stability of enterprises in the real economy: bankruptcy instruments], *Biznes-obrazovaniye v ekonomike znaniy* [Business education in the knowledge economy], (6), 1.
15. Kovan, S. (2017) 'Grazhdansko-pravovoy institut bankrotstva: nekotoryye ekonomicheskiye i yuridicheskiye aspekty' [Civil-law institute of bankruptcy: some economic and legal aspects], *Zhurnal yuridicheskikh issledovaniy* [Journal of legal research], (1), 25, 104-124.
16. Law Draft № 239932-7 "On business debt restructuring during insolvency proceedings"
17. Lowitzsch, J. (Ed.). (2007), *The Insolvency Law of Central and Eastern Europe. Twelve Country Screenings of the New Member and Candidate Countries of the European Union: A Comparative Analysis*. INSOL Europe, 2.
18. Lvova, O. (2014) *Russian Insolvency Law: The Mechanism For The Creditors' Protection Or The Opportunity To Raid The Company*. *European Insolvency Law: Current Issues and Prospects for Reform*, 15-22.
19. Lvova, O. and Bobyleva, A. (2012) 'Russian Insolvency Law Modernization: Changes That Make Russia Closer to Europe', *Proceedings of the INSOL Europe Academic Forum Annual Insolvency Conference 'Substantive harmonisation and the convergence of laws in Europe'*, 21-22 September 2011, Venice, Italy.
20. Omar, P. (Ed.). (2016) *International insolvency law: Themes and perspectives*. Routledge.
21. Onakoya, A. B., & Olotu, A. E. (2017) *Bankruptcy and Insolvency: An Exploration of Relevant Theories*. *International Journal of Economics and Financial Issues*, 7(3), 706-712.
22. Richter, T. (2011) *Reorganizing Czech Businesses: A Bankruptcy Law Reform under a Recession Stress-Test*. *International Insolvency Review*, 20(3), 245-254.
23. Unified Federal Register of Bankruptcy Information (UFRBI), <https://bankrot.fedresurs.ru/>
24. Walton, P., Umfreville C., & Jacobs L. (2018) *Company Voluntary Arrangements: Evaluating Success and Failure*. Presentation of paper in progress at the Insolvency Lawyers Association (ILA) Academic Forum, London.
25. Wessels, B., & Madaus, S. (2017) *Instrument of the European Law Institute-Rescue of Business in Insolvency Law*.
26. Wood, P. (2007) *Principles of international insolvency*. Sweet & Maxwell.