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DEBT COLLECTION PREVENTION MANAGEMENT OF RECEIVABLES/DEBTS IN A COMPANY

DARIUSZ STACH*

Abstract

The maintenance of financial liquidity, stability, profitability and the value and investment capabilities of a company as well as the avoidance of financial bottlenecks are the most vital objectives of people in charge of a company, especially in times of crisis. This paper presents the receivables/debts management system known as Debt Collection Prevention, which is understood as a method of achieving the above mentioned goals. With the help of analysis and differentiation, the author argues that all individual management activities are short of effectiveness and efficiency unless a systemic approach is applied. To highlight this point, the author has indicated substantial differences in the management of financial risk and in shaping managerial decisions with- and without the application of the Debt Collection Prevention system, which can be characterized as a systemic approach with regard to praxeology.

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INTRODUCTION

The issue of receivables/debts management and the financial risk it involves is a fundamental element of company management. Especially in the wake of the global economic crisis, it is a very interesting and substantial area of academic research since this phenomenon might potentially lead to adverse effects. The objective of this paper is to present the system of Debt Collection Prevention produced by the author, which is to serve as a model of financial risk- and receivables/debts management as well as protection against the adverse effects of a crisis. The paper analyzes the system in the manner proposed by T. Pszczołowski (1978) by presenting a division of its main components, and structure as well as its interdependence, cause and effect relation, and

the system's major functioning mechanisms. The characteristics indicating the formal nature of the system as a method of management consisting of principles, procedures and processes will be described in the course of the paper. It is likely that major distinctions may be determined between financial risk management and managerial decision-making processes in this regard with, and without the application of the Debt Collection Prevention system. To make this possible, one has to highlight the praxeological approach understood as the use of standards and the principles of effective and efficient functioning as well as the systematic approach referred to as a course of casually linked events. Thanks to the above mentioned process, the systematic approach to

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financial risk management in a company will be more effective, efficient and economically advantageous. The results of every activity differ depending on methods and means applied, and the order and circumstances under which a given activity is done. However, organization of activities is vital for their efficiency (Leon & Frąckiewicz, 2001). Its proper application has a tremendously positive impact on a company's value and financial liquidity.

LITERATURE REVIEW

Having made a review of the Polish and foreign literature on debt collection prevention, one jumps to the conclusion that there are many papers on debt collection practices, the ethics involved in debt collection, finance management and enforcement by warrant of execution. Fewer papers on business surveys can be found.

There are also lots of papers on court and enforcement proceedings, however, they touch upon only legal aspects of debt collection. Selected Polish and foreign literature has been indicated below. Nevertheless, it is worth noting that it is outstandingly loosely related to debt collection prevention and thus can be likened to a textbook. Unfortunately, there is a deficiency of writing devoted to research on debt collection prevention as a systematic or model solution, which stresses practical solutions through the transfer of all components and interdependence influencing the efficiency and effectiveness of its functioning.

POLISH LITERATURE

The first book to take a closer look at the topic is 'Poradnik windykacyjny dla początkujących' (Eng. A debt collecting guide for beginners) written by Filip Powroźnik (2011). Very basic information about debt collection with a division into contentious and non-contentious (court enforcement proceedings) methods can be found in this volume. A few basic notions of debt collection were defined and presented by Powroźnik. Although one can stumble across absorbing issues of business models in debt collection, little attention was paid to it in this work. Given the title of this book, it is no wonder it is aimed at complete laymen interested in the subject. Another sample volume to be presented is a three-volume study written in plain language and unquestionably not meeting academic requirements, which is called an anti-crisis package for entrepreneurs, traders and debt collection specialists.

- 1) 'Windykacja. Tom I. Negocjacje z dłużnikami' (Eng. Debt collection. Volume I. Negotiations with debtors) written by Jarosław Holwek (2006). It contains practical and descriptive pieces of advice for creditors in relation to psychological aspects of debt collection. It is full of anecdotes and stories describing real challenges of debt collectors.
- 2) 'Windykacja. Tom II. Prawne aspekty windykacji' (Eng. Debt collection. Volume II. Legal aspects of debt collection) by Anna Osman (2006), lets readers easily get familiar with a very general description of the legal positions of both creditor and debtor in the course of debt collection.
- 3) 'Windykacja. Tom III. Modele windykacji w firmie' (Eng. Debt collection. Volume III. Debt collection models in a company) produced by Przemysław Jankowski (2011), introduces the very basic terms pertaining to debt collection and its organization within a company. All three volumes are aimed at readers superficially interested in the subject or beginning business managers.

It is 'Windykacja wierzytelności w obrocie gospodarczym' (Eng. Debt collection in the course of trade) by Barbara Jasinkiewicz, Ewelina Jokel, Zbigniew Koźma, Artur Lesiak, Mirosława Ożóg (2005), and 'Zabezpieczenie należności pieniężnych' (Eng. Precautionary measures for receivables) by Ewa Ilnicka, Małgorzata Kamińska, Grażyna Manicka – Gołębiewska, Bogusława Niemirka and under the editorship of Romana Troicka – Sosińska (1997) that are among the first, and thus remarkably relevant, books on debt collection, which meet academic criteria.

- 1) The former is a guide for creditors containing descriptions of selected legal actions and it was written by lawyers and judges presiding in commercial departments as well as District Courts and Courts of Appeal. The first edition of this textbook dates back to 1999. One can find a wide variety of useful sample letters and judgments with theses to use while producing procedural documents. It is a weighty book meeting top scholarly requirements and thus written in a language fit only for fellow lawyers which most readers have difficulty fully comprehending. That is why full and accurate information on pre-trial and trial procedures presented here will be of benefit to lawyers rather than others.
- 2) The first edition of the latter dates back to 1997 and this volume is more accessible as it presents the most relevant issues in relation to securing monetary claims arising from pecuniary obligations and it does so in a concise and synthetic manner. It is aimed mainly at bank institution but entrepreneurs concluding a civil-law contract may also consider it a useful subsidiary tool. However, neither of the above-mentioned books

elaborates on debt collection prevention, which results from their limited thematic scope. Nor can we say they use a systemic and model approach.

Legal and therefore difficult language understood mostly by a limited circle of specialists is typical of the following volumes on debt collection, or more precisely, on contentious and non-contentious enforcement proceedings and proceedings to secure claims.

- 1) *Postępowanie zabezpieczające i egzekucyjne* (Eng. Proceedings to secure claims and enforcement proceedings) under the editorship of Jacek Ignaczewski, who is a district judge (2010), is a two-part study that is part of the Judicial Thematic Comments series. This volume focuses on securing claims through civil proceedings, which is written by Marta Romańska, who has a doctorate in law and is a judge of the Court of Appeal. It also elaborates on enforcement proceedings examined by Olga Dumnicka – a legal secretary at a district court who completed articling as a judge and a judicial officer. It is a thorough and accurate study of application of provisions in the course of enforcement proceedings and proceedings to secure claims that are to find appropriate conditions, under which the compulsory settlement of a creditor's claims can occur. The book is addressed to legal counselors serving as authorized, legal representatives of creditors.
- 2) *'Praktyczne aspekty egzekucji i windykacji w Polsce'* (Eng. Practical aspects of enforcement and debt collection in Poland) by Jacek Świeca (2010) can also be likened to a guide containing samples of various letters applied in debt collection. The author completed articling as a judge and is a legal advisor listed on the Polish register of attorneys. Unlike the first two books, it is written in a more accessible way so that any reader, be they a creditor or debtor, can comprehend it. Nevertheless, it is still limited and selective.

At the end of this review of selected literature on debt collection, more attention has to be paid to two enormously absorbing volumes that are distinguished by their complexity and comprehensiveness, which is typical of a systemic approach.

- 1) *'Windykacja należności w praktyce'* (Eng. Debt collection in practice) by Monika Bekas (2013) is a timely book since it was written in 2013. Using plain language, the author helps every entrepreneur familiarize themselves with essential issues enabling them to carry out commercial activities safely, and take proper managerial decisions that refer to sales management, financial risk and receivables/debts. In order to achieve this, issues in management, finance, sociology, psychology and law had to be combined. As a consequence, many pieces of advice concerning running a business ethically and reviewing the credit quality of customers were compiled, which can help

minimize the risk of overdue receivables and the loss of financial liquidity. It can also help a manager to understand why customers and entrepreneurs default on the timely discharge of their obligations and consequently how to negotiate with debtors so as to effectively recover a debt. However, the subjects presented in the book are not linked and the book itself is short of purely legal issues – so relevant in the course of trade, which is something the previous volumes were full of.

- 2) *'Windykacja należności'* (Eng. Debt collection) under the editorship of Katarzyna Kreczmalska - Gigol (2011) is another study that does stand out. It is a compendium of knowledge produced by 25 authors, among whom there are scientists, scholars, practitioners, businessmen, lawyers, financiers and debt collectors. A reader is introduced to the six major parts of the book in a comprehensive and scientific way, which allows him or her to familiarize themselves with credit risk management, merchant credit management, receivables, amicable/compulsory debt collection, enforcement, court and insolvency proceedings as well as tax aspects of debt collection. According to the author of this paper, this book can most closely be compared to a mature, cross-disciplinary, model-like systemic approach to the management of receivables/debts and financial risk in a company. Despite its outstanding advantages, the book does not indicate inner-dependence and the transfer of individual phases, parts of the processes presented in the volume. What is more, more attention should have been paid to legal and practical aspects of business surveys as well as court and enforcement proceedings.

FOREIGN LITERATURE

Issues pertaining to recovery of debt can be found mostly in American literature. Most of them concentrate on a common, and thus significant problem inextricably linked with debt collection – on dishonest debt collection practices. There are hardly any legal rules regulating this issue, a good example of which is the fact that the Federal Trade Commission has dealt with over 300 000 complaints about dishonest debt collection practices in the course of five years. *'Fight Back Against Unfair Debt Collection Practices'* (Williams, 2011) written by financial journalist Fred Williams is a guide aimed at debtors facing problems with debt collectors. The author analyzed the practices of major collecting agencies, which involved him working for a few months in one of the biggest agencies recovering debts/receivables. He denounces unethical and dishonest practices simultaneously calling on debtors to know their

rights and protect themselves against the threats, lies and intimidation of debt collectors.

'An Attorney's Guide to the Collection of Bad Debts' (Lewis & Perlstein, 2013) is a book produced by two New York attorneys specializing in recovering 'tough' debts. They present commonly known practices that are used by other attorneys as well as they themselves as a result of their 30-year legal practice in the state of New York. They reveal procedures and techniques applied to recover debts/receivables that are believed to help creditors familiarize themselves with the forms of the legal investigation of claims and facilitate their discussions on this subject with an attorney prior to a potential legal action for the payment of receivables/debts. This is the third most recent edition of the book published in 2013, revised and enriched with new legal case studies.

Three Canadian handbooks written by reputable lawyer David Franklin are also considered interesting as far as foreign literature is concerned.

- 1) The first of these is 'Commercial Debt Collection in Canada: A Legal Handbook' (Franklin, 2012). Canada consists of 10 provinces and 3 territories, each of them having individual legal rules and procedures. Legal regimes are divided into a common law and the civil law of Quebec. This handbook serves as a review of Canadian jurisdiction providing a practical and up-to-date legal guide not only for a creditor, but also for attorneys, insurers, exporters, and financial institutions as well as those who do business within Canada.
- 2) 'International Commercial Debt Collection' (Franklin, 2007) is another handbook by the same author. It is a general review of judicial systems in 50 developed countries dedicated to creditors collecting their debts/receivables. Each legal system in a selected country was depicted by a lawyer working there and the contact information of their law firm was also included.
- 3) David Franklin's 'International Commercial Debt Recovery: Legal Aspects – Webinar Pre-recorded' (Franklin, 2013) is a unique title since it contains a webinar recording lasting 50 minutes. This time the author concentrated on obligations of a creditor attempting to claim receivables in a foreign country. It also raises the question of the attorney's fee in a given country. The issues of granting them the power of attorney, a choice between arbitration, court proceedings and extension of jurisdiction of a Canadian court abroad are also presented in the book.

As far as the author of this paper is concerned, 'Fair Debt Collection' (Hobbs, Carter, Bragg, Faulkner & Rubin, 2011 - 2013 Supplement) is the most interesting and comprehensive foreign study that is widely valued

by lawyers, bailiffs and debt collectors in the USA. It contains a set of the most recent principles and legal regulations, which results from it being constantly updated (7 editions and an annual supplement) with the help of the federal Fair Debt Collection Practices Act – FDCPA. FDCPA was imposed by the Federal Trade Commission, which is an agency for consumer protection prohibiting unethical debt collection practices, profanity, misleading practices and intimidation against a consumer. The book can serve as a set of regulations pertaining to debt collection that has changed and set forth the procedures and practices applicable to claiming receivables used by agencies and attorneys for 30 years. Written by five practicing American lawyers, the book has repeatedly been quoted by the United States Supreme Court.

REASONS TO APPLY THE DEBT COLLECTION PREVENTION SYSTEM

Nowadays companies are exposed to increasing turbulence as they operate in a changeable and unpredictable environment. Ten years ago, the main priority of companies was to develop, with the help of new investments, increase productivity achieved through expansion, division, specialization, and standardization under the conditions of a producer's market. It was essential to coordinate and supervise the optimization of a company's inner structures while being frequently oblivious to the corporate environment. In the wake of the global economic crisis, which has changed this environment drastically, the main goal is to develop greater flexibility, better effectiveness and higher quality. Continuity and improvement have become the natural and predominant objectives of an organization. It involves the necessity of determining and establishing a specific structure of market, economic, financial and even social objectives. Companies have been forced to reorient their priorities and incorporate them into their strategic action (Kaleta, 2009 [in] Lachiewicz & Matejun, 2009).

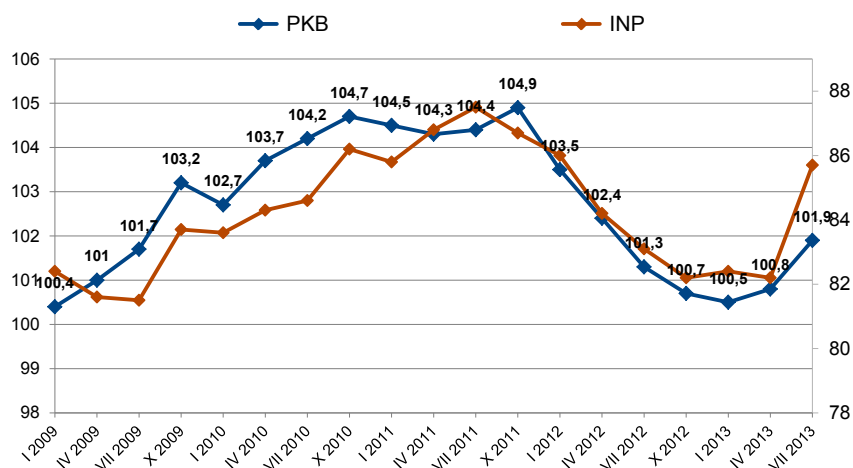
At present it is the main goal of entrepreneurs to weather the crisis and maintain the current value of the company at the same time (Dębski, 2005; Michalski, 2005). The visible effects of such an approach have been observed in Poland.

The Index of Receivables (Pol. Indeks Należności Przedsiębiorstw – INP) is a practical instrument conceived in order to carry out the analysis of Polish companies' financial conditions. It is an indicator

presenting revenues of Polish companies, which takes into account such factors as claiming receivables and its current status and the forecasts and costs related to overdue payment of receivables. It also depicts the levels of overdue receivables in entrepreneurs' portfolios as well as the number of companies that have lost financial liquidity due to *domino effects*.

The index was developed on the basis of 2498 questionnaires filled in by the companies covering all sectors of the economy and based in all regions of Poland. There was a wide range of companies from micro-, small and medium-sized enterprises up to large corporations (www.windykacja.com.pl).

Picture 1: A graph presenting the Index of Receivables and GDP dynamics in Poland from the first quarter of 2009 up to the fourth quarter of 2013



Source: Authoring on the basis of: Białowski, P. (2013). *Portfel Należności Polskich Przedsiębiorstw, Konferencja Przedsiębiorstw Finansowych w Polsce – National Debt Register, Central Statistical Office of Poland data*

Having analyzed the last 5 years on the basis of the quarterly statements of the Index of Receivables and GDP included in the reports of the Central Statistical Office of Poland, one can jump to a very interesting conclusion.

After compiling and comparing the data, the above graph illustrates a strong correlation between the Index of Receivables and GDP growth in Poland. It means that the portfolio of Polish companies has a large and direct impact on the current situation of the national economy and thus a proper management of it is of high priority. As a result, to maintain financial liquidity it is important to be flexible and willing to provide a system of management with innovative methods and instruments managing financial risk, in particular the methods preventing and mitigating it. Should such an attempt be downplayed or not made, it might result in partial or complete loss of abilities to create the value of companies in the current economic conditions. Responsible entrepreneurs will recognize and avoid the mistakes leading to financial meltdown of companies. To accomplish this, it is worth

implementing a rule known in medicine – prevention is better than cure. The costs of prevention are disproportionately low in comparison with the costs of potentially clearing up the negative consequences and there are also positive effects it will bring. What is even worse, however commonly known it is, is that in some particular cases even advanced and costly treatment can prove ineffective against negative, and sometimes irreversible implications.

However, there is one condition to meet to make the management of financial risk effective in the process of managing a company's value. Compliance with this condition will provide constant vigilance of a company as well as its incessant growth, development and the implementation of strategies based on seizing chances and opportunities which are so meaningful in times of crisis. This condition is as follows: the use of a systemic approach in implementing preventive instruments and methods that restrict financial risk. Selective, sporadic and individual application of single instruments attempting to prevent or limit financial risk is not effective in most cases. In

the current economic environment, a company is subject to many changeable conditions. That is why the only effective instrument is a systemic approach. It is advisable to apply an effective system of the management of receivables/debts, which is part of financial risk management in a company.

DEBT COLLECTION PREVENTION

It is a system managing receivables/debts, which shapes managerial decisions in relation to the financial risk in a company. It is dedicated to entrepreneurs selling their goods and services in the system of deferred terms of payment. Thanks to this instrument, financial liquidity can be maintained or restored, which influences the value of a company. It also protects against negative implications of a crisis, which is done through removing or minimizing threats pertaining to the loss of financial liquidity.

The system was created by Dariusz Stach at the turn of 1999/2000. It was first used in the company of Górnośląski Serwis Gospodarczy sp. z o. o., which in turn started to introduce it in other companies. Today *debt collection prevention* is a known term but it is restrictively interpreted as only one of the instruments which is a collecting agency stamp. The term is also understood as prevention of debt collection.

The Debt Collection Prevention system has been successful in serving as a separate system in a company but it might also operate as a subsystem. For instance, it may be a subsystem of the quality management system ISO 9001:2008. The system can be regarded as an upstream/downstream system. It forms an integrated set of reciprocally incorporated elements and it is closely linked to the environment, which makes it difficult to look at the system in separation from it (Woźniak, 1980). Debt collection prevention effectively protects an entrepreneur against negative consequences of bad managerial decisions as it influences the process of taking them on the basis of instruments available in the system. These decisions relate to financial risk and the use of the system substantially reduces or, in some cases, completely eliminates that risk. An individual procedure of establishing and keeping documentation for a defined entrepreneur is conceived within the system and rules/principles of conduct with a contractual partner are set. This procedure is always dependent on the individual parameters of an entrepreneur. However, in order for the system to work properly and effectively a couple of requirements have to

be met. It is of paramount significance to stick to previously set procedures, rules and principles. It is also relevant to use a comprehensive approach and apply the system to all new receivables/debts while introducing the system itself. The existing situation of a company is also subject to the system but the effectiveness of prevention is limited because the acts of mismanagement have already been committed. In such cases a company is affected by another, equally desired part of the system (repair function of the system).

The system is divided into a few parts that relate to an entrepreneur's performance:

INTRODUCTORY AND INFORMAL PART ACCOMPANIED BY SELF-ANALYSIS, ANALYSIS AND TRAINING

This part focuses on companies subject to the system that sell their goods or services, as well as on future receivables/debts, prior to their formal creation. It contains such elements of the system as:

- 1) self-analysis of an entrepreneur as a seller carried out on the basis of company management, type of traded goods or services, possessed assets, financial condition, sources of financing and problems and mistakes following from the management (The implementation of the system or the lack of such a possibility in a specific case might depend on the self-analysis results. A negative decision may occur when there are acts of mismanagement that have to be removed in the first place through introducing repair procedures which will make it possible to introduce the system at a later point. The refusal can also occur when the acts of management may result in submitting a declaration of insolvency to a court, or when there are other premises, upon which the application of the system is out of the question).
- 2) the initial and periodical training of the management staff, trade administration and accounting & office administration, all of which are responsible for specific areas of a company's activity.
- 3) the analysis of potential purchasers from the perspective of different industries and geographical areas.
- 4) the selection of potential purchasers with regard to the size and legal form of the businesses they run.
- 5) the pre-selection of the chosen potential purchasers in relation to the size of their business and a proposal on cooperation on trade or services that has been adjusted individually.
- 6) business survey and an accurate analysis of purchasers responding to a proposal on cooperation on trade or

services with regard to the management regime and legal form of business, type and scope of business, the portfolio of contractual partners, possessed assets, sources of financing as well as financial condition. Potential modification of a proposal and its conversion into a formal offer.

- 7) development and implementation of a special, individual procedure involving compiling and keeping documentation relating to the sale to a selected purchaser with special attention paid to the mode of securing future receivables/debts on the basis of the analysis and business survey.

It has to be stressed that every above mentioned element results in a decision which depends on the result of an element's performance. At this point, the conclusion of an individually prepared contract occurs, which is accompanied by signing other documents forming the security of the future receivables/debts. From this moment on, receivables will have a formal character that involves application of further systemic procedures.

THE FORMAL AND ESSENTIAL CHARACTER

This part requires strict compliance with procedures, rules and principles that are now well established. It consists of such elements of the system as:

- 1) development and implementation of a special, individual procedure of compiling and keeping documentation of the sales in an accounting and actual form with the attention paid to rules and principles presented during the training,
- 2) development and implementation of a special, individual procedure of formal collateral for- and supervision of the repayment of receivables,
- 3) development and implementation of a special, individual procedure of carrying out soft debt collection with the attention paid to rules and principles presented during the training, which are applied with the help of own resources or external competent service outsourced to perform it.

PRE-TRIAL PROCEEDINGS

Pre-trial activities include such elements of the system as:

- 1) re-examination of information and documentation included in the introductory and essential step. Another business survey and comparative analysis with a proper deduction.
- 2) the performance of essential activities preparing for pre-trial debt collection and eventual correction of activities that have previously been done.

- 3) development and implementation of a special, individual procedure of carrying out hard debt collection with attention paid to the rules and principles presented during the training with the help of own resources or external competent service and/or law office outsourced to perform it.

Procedural steps

They include the following activities:

- 1) implementation of preliminary procedural steps on the basis of- and with attention paid to all documentation and information that have been gathered before.
- 2) implementation of procedural steps in a safeguard procedure on the basis of the court's decision and, if it seems to be desirable and effective, with attention paid to all information and documentation that have been gathered before.
- 3) implementation of the essential procedural steps aimed at obtaining an instrument permitting enforcement or an enforcement order with a writ of execution appended.

It is worth noting that even preliminary procedural steps often form the last element of hard debt collection but they also frequently induce a purchaser of goods or services to make a payment on the seller's receivables/debts in an amicable way. However, if they do not do so, procedural steps might lead to obtaining the instrument permitting enforcement/enforcement order with a writ of execution appended or, in extreme cases, it can be necessary to submit claims against another person (entrepreneur) who has declared insolvency. Being in possession of the instrument permitting enforcement or an enforcement order with a writ of execution appended, one can apply the next procedures of the system.

ENFORCEMENT PROCEEDINGS

These include the following elements of the system:

- 1) Implementation of procedural steps in a safeguard procedure on the basis of the instrument permitting enforcement with attention paid to all information and documentation if it proves necessary or desirable.
- 2) Implementation of enforcement proceedings on the basis of an enforcement order with a writ of execution appended with attention paid to all information and documentation.

It has to be stressed that every consecutive activity defined in the elements of individual parts is linked with and dependent on those previously implemented, which influence it.

At institutional level, the Debt Collection system is fully identifiable but its elements, or even internal

parts are mutually complementary. They affect each other and are inextricably linked, which is typical of the systemic approach. The main goal of the systemic approach is to apply regulatory performance and have a discretionary impact on the executive board of a company. Depending on an individual situation and the needs of a company, the systematic approach can have managerial characteristics with delegated decision-making powers, which are typical of the ownership and administrative power in the scope of the management of a company or its selected parts. It is the structure with the attention paid to subject, structural, purpose-bound, functional, and instrumental aspects that are typical of the systemic approach (Stabryła, 2000).

The subject aspect has an impact on the mode of management, rules and conditions of concluding managerial contracts as well as the effectiveness of this management. The system provides a precise indication of the acts of mismanagement and points at an individual responsible for them. It facilitates a quick reaction and adjustment or even implementation of structural changes.

The structural aspect is observed through the impact on the structure of the decision-making system, planning system and supervision of the area included in the system. The system enables us to verify weaknesses and indicates what should be done to repair them.

The purpose-bound aspect reflects the impact on coordination and concentration of activities, the conditions for collaborative interactions, division of tasks and information flow. It is of great actual significance from the perspective of practical and financial issues influencing the current situation of a company.

The functional aspect can be visible owing to management rules, management organizational form, or the functional and decision-making system of management. The system introduces or modifies the above provided that the self-analysis allows us to do so.

The instrumental aspect reflects the specific use of financial and legal instruments, negotiations, analytical and diagnostic methods. The system steers their use in a way that is pivotal for their effectiveness and financial outcome.

The praxeological approach can be detected while analyzing the structure of the system. It was substantial to make the system efficient and interact

effectively with its specific elements which are mutually complementary with each other as well as with the company's entire organization, including its other systems, for example quality management systems if they are implemented. The system is also to work efficiently from the perspective of the effectiveness of the system performance. The construction of the system puts an emphasis on the relationship between planning and realization of initial as well as consecutive assumptions and their effects. It is not restricted to the general rules of effective performance (Bielski, 2002) and addressing the question of 'how to perform as effectively as possible'. Instead, rules, principles and procedures were applied. With the support of all elements and united activities based on the synergy effect, the rules, principles and procedures can achieve better effects than would otherwise be possible. As a consequence, one cannot overlook the economic aspect understood as lower costs, which translates into savings if the system is used and higher efficiency calculated on the basis of money (Kotarbiński, 1982).

WHAT ARE THE EFFECTS AND DIFFERENCES OF SHAPING MANAGERIAL DECISIONS WITH AND WITHOUT THE HELP OF THE DEBT COLLECTION PREVENTION SYSTEM?

The management of receivables is a substantial element of every company's policy as it constitutes a very important part of its financial strategy (Czekaj & Dresler, 2001). The sale of goods and services as a buyer's credit offered to customers is subject to the financial strategy and it does have an impact on the volume of sales and the period of receivables collection. Extended loan tenor will probably lead to an increase in the sales volume. However, it is accompanied by higher rates of at-risk receivables as well as higher counterfactual costs relating to lending to those customers who are in arrears with the payment of receivables (Shim & Siegel, 2006). Under such circumstances and in the wake of the complete lack of a risk management program or an individual approach to the management of receivables/debts in these companies, managerial decisions are subject to higher risks of errors and thus the presence of negative effects linked with them might occur. What is more, management staff is forced to reorient its priorities and take them into account while carrying out strategic activities of the company. Given the

ongoing economic conditions, the application of the systemic approach to the management of a company seems to be such a priority with special attention paid to risk management and receivables/debts management since it is the essence of every economic activity. The main goal of this approach is to minimize such threats as the disturbance or complete loss of financial liquidity which may even lead to a company declaring insolvency.

On the basis of several years' experience of implementing the system, in some companies a comparison can be made, as a result of which one can notice a substantial difference and the effects of shaping managerial decisions with and without the help of the Debt Collection Prevention system.

If the system is not applied, sales policy is accompanied by low awareness of threats connected with buyers themselves. A seller possesses a general knowledge about a buyer and it is not subject to verification to the extent it is with the use of the systemic approach. It turns out too late and frequently that a buyer, either unconsciously or consciously, manages a company and its financial policy in a way which allows receivables/debts for the sold goods and services owed to a seller to be left unpaid or receivables/debts are paid partially or their payment does not meet the deadline. Cases have been reported where an entrepreneur, while making a purchase of goods or services, presupposes that he will not make a payment unless it is totally necessary. In such cases a seller can face severe financial consequences. In some cases a creditor can recover his or her receivables only with the help of criminal proceedings (Art. 286§1 or Art. 300 of the Polish Penal Code) and adoption of the requirement to take remedial measures.

Were the system to be implemented, the managerial decision concerning the sale or its abandonment would be founded on the analysis, management verification, the legal form of business, the type and scope of business, contractual partners' portfolio, the value of a company, and the financing sources as well as financial condition of a seller. This can be observed in the introductory, informal part of the implemented system. Apart from the analysis that helps to verify a seller and take an appropriate decision about the sale, this part of the system includes an element of the special training that is aimed at the management, trade, accounting and office staff.

The lack of this knowledge might result in the conclusion of contracts or signing other documents

that are vitiated by legal or actual defects or the fulfillment of the formal and legal terms that can later constitute a problem subject or not subject to redress (Wolter, Ignatowicz & Stefaniuk, 1996) and used by a buyer against a seller (Lewaszkiwicz - Petrykowska & Grzybowski, 1985). Defective activity or buyer's representation in the conclusion of contracts or signing other documents that shape the legal relationship can serve as an example of a buyer's action against a seller. When concluding the contract, a selling entrepreneur is not familiar with the transaction and therefore there is not an effective, actual or/and documented collateral or there is no collateral whatsoever for the transaction. It might result in the process of receivables/debts management being hindered. In particular, recovery of receivables/debts from debtors might be hindered as well due to the lack of collateral, which means the receivables/debts management has proven ineffective.

Meanwhile the procedure of compiling and keeping documentation is introduced in the introductory and informal part of the system, and it pertains to goods sold to a selected purchaser with special attention paid to the method of collateral for future receivables/debts on the basis of the business survey and analysis that have been carried out previously. It is common that after the conclusion of the contract, a buying entrepreneur becomes more and more aware; especially those who seek legal advice being aware of the significance and possible effects of a safeguarded entrepreneur selling them his or her goods or services and that is why they find obligations to him or her that follow from this activity of very high priority. Undoubtedly it has an impact on the financial liquidity of a company, to which the system has been applied.

Despite the collateral for the preliminary documents, there are many other threats a selling entrepreneur can face at further stages of cooperation. Even though the sales- and other documents can be drawn up correctly from the perspective of one area of law (accounts and taxes), they might well be incomplete with regard to other areas of law (civil law), which can present a financial risk and make the receivables/debts management process much more difficult. This in turn may in specific cases lead to the enforcement being ineffective. The essential part involves development and implementation of a special, individual procedure of compiling and keeping sales legal, accounting and actual documents

with the special attention paid to other areas of law (the civil law and the bankruptcy and reorganization law) as well as to rules and principles presented during the training. The application of the system in the essential part will allow us to eliminate the above mentioned threats. Notwithstanding the use of the system, there might be delayed payments but the reasons of the delay will not be determined unless the procedures of the system are applied. If not, the actual financial condition of an indebted entrepreneur is not disclosed and he or she comes up with new payment declarations, which leads to lengthening debt collection. In the meantime, the financial condition of an indebted entrepreneur can reach the point at which the recovery of receivables/debts will meet with failure.

The system is aimed at combating negative effects through the application of a special, individual procedure of monitoring the payment of receivables and soft debt collection with attention paid to rules and principles presented during the training. It has to be stressed that the system enables us to use either own resources or outside bodies outsourced to perform specific tasks. For example, the implementation of a system monitoring inflow of receivables and the use of debt collection performed by the outsourced body ensure that a wider variety of means of persuasion can be applied by a body not directly linked with the company. It also ensures that reputation, trust and good relations between contractual parties are not badly affected (Kukielka & Poniewierka, 2003). Activities referring to the process of receivables/debts management are characterized by high sensitivity and requires an appropriate, individual approach and intuitive assessment of the situation. Should this part of the process not be successful, court and enforcement proceedings are to be applied. Entrepreneurs often cannot resort to their own legal service and that is why they turn to outside law offices. Regardless, legal procedures that are common in such cases are to be applied. Unfortunately, it frequently involves long legal proceedings. The proceedings before a district court in accordance with the ordinary procedure take an average of 200 days whereas the proceedings before a regional court take more than 300 days (<http://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-jednoroczne/rok-2013/>).

After such a period of time, initiated enforcement proceedings often do not deliver the expected results or they are suspended due to their ineffectiveness.

However, the application of the implemented system in this part involves the performance of preliminary legal proceedings on the basis of- and with attention paid to all information and documentation that have been gathered previously. In particular, these are performance of legal proceedings to secure claims on the basis of a court's judgment. The system allows us to carry out the enforcement procedure that comes after the above, in an effective way. Even if the proceedings to secure claims have not been carried out at the initial stage of legal proceedings, the performance of the essential activities aiming at the instrument permitting enforcement and subsequently the enforcement order with a writ of execution appended are carried out differently – through payment-order proceedings or writ-of-payment proceedings. In these two cases the proceedings are shorter as they take 80 days before a district court and an average of 100 days, instead of 300 days, before a regional court provided that they are in accordance with the ordinary procedure (<http://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-jednoroczne/rok-2013/>). Moreover, after obtaining order for payment in the payment-order proceedings it is possible to immediately launch proceedings to secure claims, which allows for an effective enforcement as already stressed before.

Both court proceedings and enforcement of debts are often deemed necessary in the strategy of receivables/debts management, however undesired those activities seem to be in most cases, which derives from the fact that the system, as its name indicates, attempts to prevent the performance of debt collection, which consists of the above mentioned processes. However, if the enforcement of debts does take place, its effectiveness will be substantially limited unless the systemic approach is applied. When submitting a petition for execution the legal service does not have proper information enabling a debt collector to carry out effective (in a financial-, not legal sense) enforcement activities.

The performance of enforcement proceedings on the basis of the instrument permitting enforcement with attention paid to all information and documentation previously gathered substantially increases the effectiveness of the entire enforcement process.

CONCLUSIONS

The main objective of this paper was to analyze the Debt Collection Prevention system as a method of

financial risk management and protection against negative effects of a crisis. Significant differences in financial risk management as well as in shaping managerial decisions with- and without the use of the Debt Collection Prevention were indicated. Some literature that shows an individual approach to debt collection was presented. Regardless of comprehensiveness, superficiality or other detailed aspects analyzed in the presented books, they cover the issue of debt collection in a partial and selective way except for a few volumes attempting to describe debt collection thoroughly. All management and individual activities that lack the systemic approach are not effective. The effectiveness of the system means that it is able to implement its objectives in all

presented parts in a short period of time since it is the main determinant of its effectiveness. A conclusion can be drawn that the systematic approach in terms of praxeology is bound to succeed because the system's efficiency is reflected in many aspects positively influencing the final desirable outcome (Przybyła, 2001). Having analyzed the paper, one can conclude that the systematic approach has a positive impact on maintaining financial liquidity, especially in the times of economic crisis. It also prevents financial bottlenecks, improves profitability, stability and investment capacity, as a result of which it positively affects financial risk management in the processes of the company's value management.

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