

Time relevance within companies non-bankruptcy insolvency proceedings. Evidences from Eastern Sicilian Courts.

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Abstract

The recent amendments to the Bankruptcy Law have made it even stronger the will of the Italian legislator to preserve, together with the legitimate claims of creditors, the company as living economic entity, encouraging the remaining possibilities to initiate reorganization processes (i.e. non-bankruptcy insolvency proceedings, restructuring plans, etc.).

The greater autonomy granted to the parties (creditors and shareholders) for the definition of mutual satisfactory expectations, in fact, is aimed at allowing, much more than in pre-reform context, the implementation of turnaround processes in the medium to long term.

Faced with this changing scenario, the “time” variable assumes strategic importance from an “endogenous” perspective, linked to the firm's ability to promptly detect signs of the crisis and take appropriate corrective, as well as from an “exogenous” perspective since it is only through strict compliance with the “technical” and “judicial” times it is possible to ensure the sustainability of restructuring plans and recovery of the right conditions to create value for the entity.

Even more so today, faced with a condition of persistent economic and social crisis, the delays in the initiation, definition and conclusion of non-bankruptcy insolvency proceedings cause the failure of any hypothesis of turnaround.

The research highlights the role played by the “time” factor in the process of genesis, determination and consolidation of the crisis that affects enterprises.

According to the great relevance assumed by the “time” factor within the business administration literature, the paper aims at providing an overview of insolvency proceedings (bankruptcy, voluntary arrangements with creditors, restructuring plan, etc.) recorded at the Courts of eastern Sicily from 2009 to 2014, and at developing useful insights on the impact of the time variable within the “judicial” proceeding of business crisis.