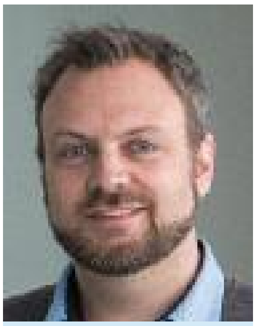
Early warning systems in Denmark and Europe

Morten Møller and Piya Mukherjee provide an overview of the advisory programme in Denmark which is being rolled out in a number of Member States



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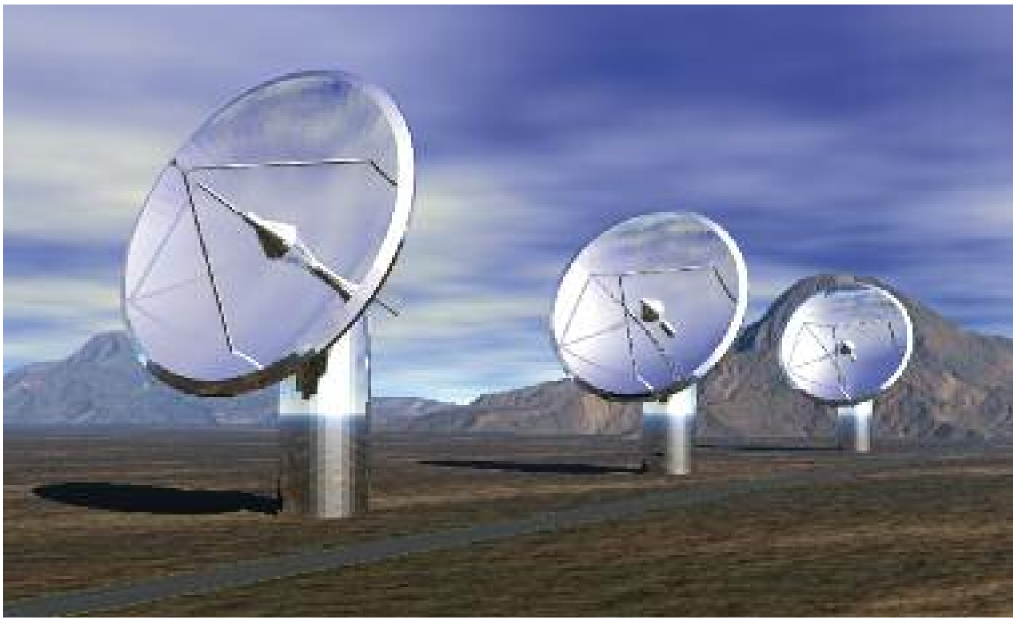

Early Warning Denmark ('EWD') is a system providing impartial and confidential assistance to businesses in distress and heading towards insolvency, at no cost.

The backbone of the system, managed by the regional Business Development Centres, is a group of highly qualified volunteer advisors with a deep understanding of relevant business sectors and a coverage of all relevant disciplines, such as law, accountancy, management, strategic planning, marketing, logistics, etc. A number of leading Danish insolvency law firms contribute to the Early Warning mechanism by providing their specialist advice to businesses heading towards insolvency.

The Early Warning mechanism has been operational in Denmark since 2007 and has assisted close to 6000 businesses in distress. It is a unique opportunity for business owners to get professional assistance at a time in their business' life cycle when they are often unable to pay for-profit consultants to help them get back on track.

Over these 12 years, the implementation team has learned a number of important lessons. Among these is the fact that the number of businesses needing assistance in times of hardship is relatively constant regardless of the economic ups and downs affecting specific sectors or the whole economy.

Despite awareness-raising and visibility campaigning, many business owners approach EWD very late, at a time when problems and debt have become unmanageable and the options for a successful turnaround are limited. Often, business problems also become personal problems, because the owners may lose their perception of the state of the company and their lucidity in decision-making. Recurrent features in this stage include denial of the actual state of the business, blame on others for the problems affecting the business, and a feeling of intense stress or apathy when faced with difficult decisions and the need to make changes. In such circumstances, the advisors from EWD work simultaneously with the hard and soft skills required to turn the business around or – when no other options are available – to bring the business to a quick and orderly closure with limited losses.

Early Warning Europe

Since 2016, the experience gained in EWD has benefitted a number of other European countries through the project 'Early Warning Europe' ('EWE'). Funded by the COSME programme of the EC and led by the Business Development Centre of Central Denmark, the project has now set up fully operational early warning mechanisms in Poland, Italy, Greece and Spain, serving more than 2000 businesses to date. The next wave of countries joining in May 2019 include Finland, Croatia, Lithuania and Slovenia.

In order to make the early warning mechanism successful in new countries, much work has gone into the adaptation to the legislative, cultural and institutional contexts of these countries. Operator models, public-private partnerships and phased rollouts with pilot regions have all been tested, and much peer learning between the first four pilot countries has taken place.

From the beginning, EWE was received with scepticism and a general perception that senior business people would not volunteer to work in the pilot countries. Nevertheless, some 600 Polish, Greek, Italian and Spanish senior managers and specialists are now active and exchanging experience and inspiration from their assistance cases. Three of the four pilot countries have integrated the early warning mechanism into their national policies for employment, entrepreneurship and business support.

Reaching the businesses in distress and their owners has been a challenge, requiring a sustained effort across various communication channels, including traditional media outreach, political championing at all levels, social media campaigns, newsletters, company databases and a long series of local meetings in municipalities and associations where company owners meet. Testimonials from entrepreneurs who have been through distress, bankruptcy and second starts have proven particularly fruitful, possibly due to their identification effect among the viewers and readers. With the four pilot countries having very different business support systems, ranging from the relatively comprehensive to the virtually non-existent, these awareness-raising efforts have been crucial to the success of EWE.

A software model was developed by the Danish Business Authority for the purpose of exploring the potential of big data and artificial intelligence in identifying distress signals in the annual accounts filed digitally by companies. Using the output of the model, senior early warning consultants were able to detect distress signals with relative accuracy and reach out to the relevant company owners who were often not aware of the extent of their problems. There are interesting opportunities for developing and refining the model further.

Early warning and the directive on preventive restructuring frameworks

Art. 3 of the Directive imposes an obligation on the Member States to ensure that "*debtors have access to one or more clear and transparent early warning tools which can detect circumstances that could give rise to a likelihood of insolvency and can signal to them the need to act without delay*".

Such early warning tools may include:

- alert mechanisms when the debtor has not made certain types of payments;
- advisory services provided by public or private organisations;
- incentives under national law for third parties with relevant information about the debtor, such as accountants, tax and social security authorities, to flag to the debtor a negative development.

Thus, the Early Warning mechanism as described above is clearly one of the ways the Member States can fulfil their obligations under Art. 3, in order to provide debtors access to early warning tools, such as advisory services.

EWD has operated in Denmark for the past 12 years and has produced very good results indeed. However, insolvency practitioners in Denmark still encounter a substantial number of owners of insolvent businesses, who would have benefitted greatly from Early Warning, if they had accepted this unique offer in time. Unfortunately, many business owners, lenders, accountants and advisors are not aware of the existence of EWD.

Even though business owners could easily find information on Early Warning, they are reluctant to face reality and seek advice.

You can lead a horse to water, but you can't make him drink.

One of the objectives of the Directive is to save more businesses by offering access to restructuring measures at an early stage. The impartial, confident assistance at no cost that Early Warning schemes offer is paramount to achieving this objective. However, in order to be truly successful, authorities, institutions and advisors with relations to the business owner and insight into the financial status of the business must have an incentive, even duty, to recommend the business owner to reach out to Early Warning for advice.

Some can actually make the horse drink! ■

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