

Enhancing entrepreneurship and the growth of SMEs across Europe

Piya Mukherjee, Rita Gismondi, Ángel Alonso and Bart De Moor report on the meetings of the Early Warning Europe project throughout the year



THE EARLY WARNING MECHANISM RELIES ON THE COLLABORATION OF BUSINESS CONSULTANT TEAMS AND VOLUNTEER GROUPS



Early Warning Europe¹ is a project to enhance entrepreneurship and growth of SMEs across Europe. They work on policies related to insolvency, developing and testing innovative methods and helping companies in difficulty by setting up early warning mechanisms.

The Early Warning mechanism relies on the collaboration of business consultant teams and volunteer groups which advise companies going through difficult economic issues and help them to seek options in order to survive economic difficulties. Thus, several experienced early warning consultants and business people

support and advise companies in order to set an organised plan for their financial situation. INSOL Europe was represented by various members throughout the year at the Expert Network Meetings which have been summarised here.

Setting up the Early Warning Manual in Turin

The Expert Network meeting of Early Warning Europe was held in Turin, Italy, on 25 January 2019, attended by Rita Gismondi. The meeting was mainly focused on the Early Warning Manual (with specific reference to setting up an early warning mechanism), as well as on the relevant success factors and the lessons learned during the mechanism's

implementation in the target countries (i.e., Greece, Italy, Poland and Spain).

In these countries, early warning mechanisms have been tested in order to provide advisory and support services to companies in distress. The results and lessons learned in this first wave will be used to support the preparation and implementation of early warning mechanisms in second- and third-wave countries.

The discussion was also focused on the impact of the Preventive Restructuring Directive on Restructuring and Insolvency (the “**Directive**”) on preventive restructuring frameworks, which is closely linked to early warning mechanisms and will no doubt be a valuable opportunity to increase



PIYA MUKHERJEE
Partner, Horten law firm, Denmark,
and President, INSOL Europe

the setting up of such remedies, as well as to harmonise the domestic legislations. For the purposes of Early Warning Europe, it would be very interesting to monitor the implementation of the Directive in the different Member States and record any practical consequences which may arise.

Mapping best practices in Brussels

Three meetings took place in Brussels on 5 March 2019, 4 April 2019 and 6 June 2019.

The first meeting, attended by Bart De Moor, focused on the mapping of best practices, existing initiatives and measures on early warning by introducing institutions which take care of early restructuring for entrepreneurs across Europe.

The next meeting, attended by Marine Callebaut (associate lawyer, colleague of Bart De Moor at Strelia) aimed at discussing the Directive on business insolvency from the perspective of small and medium-sized enterprises, in particular as regards Article 3 and early warning tools.

The representative of the European Commission and the Romanian Presidency informed the audience of the reference to early warning in the Directive and how it should be interpreted. According to them, the Directive is considered as an achievement by the panel for SME.

Participants also discussed the steps to take at national level and how some Member States will implement early warning to support entrepreneurs in financial trouble waters.

The third meeting focused on the obstacles entrepreneurs can experience along the way and sharing good practices on breaking through the stigma associated with failure and embracing the lessons learned from it.

Extending support in Barcelona

Ángel Alonso attended the Expert Network Meeting in Barcelona on

5 September 2019 where two European regional projects aimed to help SMEs companies in financial and economic difficulty were jointly explained: the DanubeChance 2.0 and the ‘Programa Renace (REBORN)’.

Ms Edina Kálmán explained how the DanubeChance 2.0 project provides assistance to second-chance entrepreneurs in the Danube region. This programme is intended to help:

- (i) failed entrepreneurs to re-start;
- (ii) underperforming entrepreneurs to improve;
- (iii) prevent new entrepreneurs from failing.

In this respect, the programme carries out a wide array of actions including workshops and mentoring for the entrepreneurs and other activities proposed by business support organisations, educational institutions and policymakers.

Ms Almudena Sánchez, representing CEEIM (Centro Europeo de Empresas e Innovación de Murcia), presented the “Reborn Project”, the Spanish regional action plan in re-entrepreneurship developed in Murcia, in partnership with other European areas. The project is within the scope of the Interreg Europe Project’s framework and among its goals, one is to promote the exchange of experiences and good practices in financing second opportunities, as well as the promotion of a positive image of restarters. Ms. Sánchez pointed out that the programme has advised until now SMEs with total liabilities of EUR 27 million euros. A successful restructuring resolution with creditors has been reached in 89% of the situations analysed by the programme.

Professor Mr. Jan Adriaanse of Leiden University brought up several insolvency issues related to human behaviour during his conference entitled ‘Studies on early warning, turnaround and second chance entrepreneurship’. In particular, Prof. Adriaanse explained how and when entrepreneurs react to warning signals, why these signals are often

ignored and the consequences of personal circumstances influencing the process.

Some interesting findings in Prof. Adriaanse’s work are that:

- (i) the bankruptcy experience can be similar to losing a loved one;
- (ii) stigma due to insolvency may not come from social network but institutions;
- (iii) grief caused to entrepreneurs in bankruptcy may imply an extremely stressful situation that may stop them from taking a second chance.

Looking back, moving forward in Brussels

Piya Mukherjee, President of INSOL Europe, attended the final conference in Early Warning Europe, held in Brussels on 14 November 2019. This conference, under the heading ‘Looking back, moving forward’, marked the conclusion of the three-year project financed by EU (COSME) with the objective of rolling out Early Warning mechanisms in other Member States.

Simona Constantin, Member of the Cabinet of Commissioner Vera Jourova, DG Justice, Consumers and Gender Equality, described the Directive on Preventive Restructuring as a positive achievement and that it would help to save businesses.

As of 1 January 2020, Croatia will take over the Presidency of the Council of the European Union. Petra Jurina, JHA Counsellor, Permanent Representative of the Republic of Croatia to the EU, shared that initially Croatia had been against Art. 3 (Early Warning Mechanisms) of the Directive, considering early warning to be a question of corporate governance. However, Croatia has at present embraced the Early Warning concept which is now in the process of being rolled out in Croatia, as part of the second wave of the Early Warning Europe program.

Morten Møller, Coordinator of Early Warning Europe summed up the findings and



RITA GISMONDI
Lawyer, Gianni Origoni Grippo Cappelli & Partners, Italy



ÁNGEL ALONSO
Lawyer and partner,
Uría Menéndez, Spain



BART DE MOOR
Lawyer and partner,
Strelia, Belgium



IT WAS A VERY INTERESTING DAY, MARKING THE CONCLUSION OF THE EWE PROJECT BUT ALSO HERALDING THAT THE WORK WILL CONTINUE



results of the project:

- 3,400 businesses assisted since 2016 across Europe;
- 55% of the businesses assisted are saved;
- 25% go bankrupt;
- 20% close down as solvent or reduce operations to less than 13,000 EUR per year (ie one employee);
- early warning mechanisms are being rolled out in 10 Member States

Going forward, at the permanent network of Early Warning Europe, partners will:

- continue lobbying;
- continue mentoring;
- provide policy recommendations to EASME (The Executive Agency for Small and Medium-sized Enterprises) and DG Grow;
- participate in an ERASMUS project from 2020 to 2022, integrating knowledge of crisis management into advice to start-ups;
- have talks with OECD and the World Bank concerning expanding the Early Warning mechanisms beyond Europe.

A panel of early warning consultants, mentors and entrepreneurs shared their experiences with the audience. A panel discussion followed on the future of Early Warning services in the context of the Directive on preventive restructuring:

- Birgit Weidel, Head of Unit,

DG Grow, explained that it is DG Grow's policy to create a SME-friendly environment and reduce the stigma connected with business failure. The Directive is an important tool in this work.

- Mislav Marcius, Head of Unit, Ministry of Economy, Entrepreneurship and Crafts of Croatia, noted that stakeholders in a business, especially banks, have data that enable them to predict failure. However, Croatia would focus on promoting knowledge of the assistance that is available, rather than imposing alert obligations on third parties.
- Advisor Mia-Maria Kontkanen, Federation of Finnish Enterprises, shared that Finland's tasks in rolling out Early Warning mechanisms primarily involve bringing all the existing players offering advice together in a comprehensive organisation.
- Salvador Marin, President, European Federation of Accountants and Auditors for SMEs, reminded the audience that the members had in-depth understanding of the businesses of SMEs and therefore would be very well qualified to advise on restructurings.
- Piya Mukherjee summarised from the view of an

insolvency practitioner, that in order to achieve results, the assistance offered to businesses has to be impartial, free of cost, confidential and consist in relevant specialist expertise. The Early Warning Europe mechanisms tick all boxes.

- Finally, Ondrej Vondracek, Legislative Officer, DG Just, advised that DG Just would organize transposition seminars in January 2020 in order to explain to the Member States how to transpose Art. 3, as many Member States do not have any experience in Early Warning mechanisms.

In the afternoon, four different workshops were set up in which EWE consultants, mentors and business owners could share their experiences regarding to raising awareness, creating and maintaining a network of mentor-volunteers, cooperation models and identification and initial contact to businesses in distress.

In all, it was a very interesting day, marking the conclusion of the EWE project but also heralding that the work will continue. ■

Footnote:

- 1 <https://www.earlywarningeurope.eu>