Corporate Bankruptcies in Czech Republic, Slovakia, Croatia and Serbia

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Abstract: The corporate bankruptcies legal frameworks and their economic implications are compared for two pairs of post-communist countries (Czech Republic and Slovakia and Croatia and Serbia) originating from common federative republics. Their process of gradual divergence from the common legal and economic framework is shown. All four countries are identified as creditor friendly (Czech Republic, Croatia, Serbia) or neutral countries (Slovakia). The possibilities of further development of bankruptcy proceeding in these countries are outlined.

Keywords: Czech Republic; Slovakia; Croatia; Serbia; Bankruptcy; Insolvency.

JEL codes: K22, G33, P37.

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1. Introduction

The aim of this paper is a unique attempt to compare bankruptcies in the **Czech Republic**, the **Republic of Serbia**, the **Slovak Republic** and the **Republic of Croatia** both from their economic and legal perspectives.

All these four post-communist countries share the history of the centrally planned economy that under which there was no need for any type of bankruptcy or competition law. After the collapse of socialist regimes at the end of 1989 both former Czechoslovakia and Yugoslavia started with creation of their bankruptcy codes, however because of dissolutions of both federations the bankruptcies were treated by separate laws in each country of former federations. Therefore we are able to observe a natural experiment of gradual divergence of bankruptcy laws and related economic environment in countries starting from the same legal culture, the same level of development and without language barriers. The peaceful dissolutions of Czechoslovakia versus the conflicts associated with the dissolution of Yugoslavia, which was reflected in post 1990 contacts among the former parts in each federation, also provides an important source of comparison.

We are interested in how the legislation, addressing the issue of bankruptcy in all these countries, has changed, what current legislations have in common, what are their goals, whether they are based on the same principles and whether the individual laws tended to be different after the collapse of the former Czechoslovakia and Yugoslavia, and if now, in connection with the entry into the EU, the trend is reversed.

Our academic comparative treatment of development of bankruptcy laws of two pairs of countries which originated after the dissolutions of former Czechoslovak and Yugoslav federations constitutes a new contribution to the literature. So far, the bankruptcy codes of each of these countries were analyzed only separately. The bankruptcy laws in the Czech Republic were covered by DEDINA (2012), HOLESINSKY ET AT. (2007), KNOT AND VYCHODIL (2006), LANDA (2009), LOUDA (2011) and RICHTER (2008, 2011). Slovak bankruptcy laws are described by DURICA (2004, 2010) and KINSTELLAR (2010). Serbian bankruptcy procedures are covered by ANDRIC ET AL. (2009), MARJANOVIC (2007), MILANOVIC (2010) and VOJNOVIC ET AT. (2009). A detailed analysis of Croatian bankruptcy laws and their economic aspects is presented by SAJTER (2008a, b), while VUKELIC (2007) provides the perspective from the point of view of Croatian lawyer. FERKL (2008) provides a rare example of comparison of Czech and Slovak bankruptcy law.

Basic source of our analysis are obviously the original texts of the many bankruptcy laws and their amendment in all four considered countries.

Our detailed treatment of these four countries also distinguishes our paper from the approach of DJANKOV ET AL. (2008) or SUCCURRO (2008), who consider the bankruptcies "around the world" which obviously means that they are not able to consider any of the many countries they cover in any detail. Our ability to cover the two decades of the post-communist development also provides important added value to the early article by KIM (1996) who was dealing with bankruptcy laws in post-communist Central and Eastern Europe. Given the institutional and empirical focus of our paper, we complement the wide theoretical literature dealing with bankruptcy issues, like the classical papers by AGHION ET AL. (1994), HART (2000), STIGLITZ (2001) or more recent theoretical papers like for example JANDA (2009).

Our analysis is structured in the following way. We first describe the evolution of insolvency laws in each country. This is followed by an empirical analysis of bankruptcy environment in all four countries. The Conclusions section summarizes our results and provides comparison among analyzed countries.

2. Insolvency Laws– Legal Framework and Its Development

2.1 Czech Republic

Evolution of the insolvency law in the Czech Republic begins in the 17th century and culminates in 1781 when the Josephinian Bankruptcy Order was enacted not only in the Czech lands but in Central Europe at all (ZOULÍK, 2009). Main problem of this first bankruptcy code was that the proceedings, conducted by this order, were lengthy and relatively expensive.

Turning point occurred in 1868 when new standards, regulating the bankruptcy process, were incorporated into Bankruptcy Order. But this new Bankruptcy Order did not bring the expected positive results: Therefore it was replaced by a new treatment which occurred in 1914 and had been applied in Czech lands till 1931. ZOULÍK (2009) notes that it was replaced in 1931 not because of fundamental changes but because of the need of unification of Czech and Slovak law.

Era of a socialist totalitarian state was connected with an extensive socialization of the means of production in order to eliminate private ownership. Companies lost their autonomy and independence – they were established administratively and in the same way they were

liquidated. Due to general subordination to the economic plan, the distinction between creditors and debtors was largely formal and did not reflect the major underlying economic conflicts of interest. Basically there could not be any bankruptcy of the company but only a kind of a "rearrangement" of its asset management. Act of 1931 was canceled by the act from 1950 (No. 142/1950) that established institute of an executory liquidation – simplified and slightly modified version of a bankruptcy (ZOULÍK, 2009).

Until 30th June 1990 only the Civil Procedure (No. 99/1963 Coll.) dealt with the issue of over-indebtedness. This state, however, was not sustainable with the arrival of a market economy and therefore ***Act on Bankruptcy and Settlement*** (No. 328/1991, hereinafter ABS) had been adopted. VENYŠ (1997) in this context refers to the fact that the number of bankruptcy cases coming to court grew rapidly in the period 1992–1996. However, because of the shortcomings of bankruptcy legislation, the vast majority of these cases became stuck in the courts, while settlement of such cases was almost non-existent. All this was caused by relatively unknown environment of bankruptcy law: limited number of eligible officials that would be able to manage bankruptcy cases and their low level of training, weak financial position of many businesses, worries among politicians of the social consequences of widespread business failures, banking system in the midst of a crisis and an untrained court system (VENYŠ, 1997). ABS was amended 26 times till 1st February 2006.

ABS concerned only the bankrupt entrepreneurs (whether individuals or legal entities) and specified only two different ways of solving disputes: straight bankruptcy (realizing the assets of the bankrupt) and settlement procedure, so there were no other alternatives to deal with bankruptcy. This law was also criticized for long-running bankruptcy proceedings, its over-protecting creditors and under-protecting debtors and it is not so long ago when it was abused (media case of so called "bankruptcy mafia"). We should also point out that this law was targeted mainly to the bankruptcy of small and medium-sized enterprises and not to the big ones. In the Czech Republic, ABS had been effective until 2007 when was replaced by a new act, ***Insolvency Act*** (No. 182/2006, hereinafter IA), that came into force on 1st January 2008. ABS is now used only for proceedings commenced before 31st December 2007.

2.2 Slovak Republic

As we already stated, the development of bankruptcy law in the Czech and Slovak Republics had much in common but not only in term of basic legislation (Act on Bankruptcy and Settlement) but also in characteristics of their economies in which insolvency literally

exploded after the disintegration. In Slovakia a new law (No. 122/1993 Coll.), which amended and supplemented the original Act (ABS) and was inspired by the U.S. Bankruptcy Code Chapter 11, was adopted.

Over the entire period of its application the "new" Slovak ABS was amended nineteen times. In many cases the amendment were purpose-built and were not of a large scale. As stated by ĎURICA (2004), it is evident that the brief treatment of ABS, strongly inspired by the Act of 1931, was planted in a different, constantly changing economic and legal environment than it was in the thirties. It was clear that other amendments would not bring substantial changes in the bankruptcy proceedings and it was decided to create a new act. Therefore in 2005 Law on Bankruptcy and Restructuring (hereinafter LBR) was adopted. This Law was better correlated with the Slovak economic and business environment because legislation in the Slovak Republic before the LBR was relatively easily exploitable. Creditors and debtors often skirted the law and bankruptcy proceedings lasted three to seven years on average, which was not effective (FERKL, 2008).

Besides the above mentioned Act, in the same year was also a new ***Act on Trustees*** (*Zákon o správcoch a o zmene a doplneni niektorých zákonov*, No. 8/2005 Coll.) adopted. This act regulates their training, sanctioning and supervision. Activity of trustees in the Czech Republic is regulated by the judge, which is not the case in the Slovak Republic. Trustees are supervised by the Ministry of Justice in Slovakia.

But even in Slovakia year 2005 was not the last year of changes. On 13th September 2011 the National Council of the Slovak Republic decided to amend the LBR. The amendment alters the concept of insolvency, modifies procedure of a bankruptcy on the proposal of a creditor, adjusts the procedure for creditors' logging, application requirements, application shortcomings, the list of registered claims, finding and denying claims and other details of the procedure (Ústredný portál verejnej správy, 2012).

2.3 Republic of Croatia

First bankruptcy law in Croatia was issued in 1857 and during that time has undergone many changes (VUKELIĆ, 2007). In the times of former Yugoslavia and centrally planned economy, companies were dependent on political decisions and businesses with financial problems were regularly sanitized from the resources of the taxpayers. In the 80's of the 20th century an effort to shift responsibility to the individual companies themselves begins to appear.

After the declaration of independence (1991), Croatia took over former Yugoslav laws including the ***Law on Forced Settlement***, ***Bankruptcy and Liquidation*** of 1989 (*Zakon o prisilnoj nagodbi, stečaju i likvidaciji*). With the shift to the market economy and capitalism, the Law was in 1994 slightly modified, but a new conception of the bankruptcy system entered into force in 1997. This new ***Bankruptcy Law*** (*Stečajni zakon*, hereinafter BL) was mostly taken from the German Insolvency Law (*Insolvenzordnung*). The idea to take bankruptcy law from Germany, the country with which Croatia has historical, political and cultural relations, was good, but it also has its drawbacks. The last amendment of the BL was adopted in 2012.

2.4. Republic of Serbia

From 1989 to 2005 the Law on Forced Settlement, Bankruptcy and Liquidation was applied in Serbia. Civil war, collapse of the Milošević regime in 2000 and the beginning of the disintegration of Yugoslavia started the transformation of centrally planned economy to a market driven economy. Yugoslavia was one of transition economies which in 1989 were in a deep crisis and the economic reforms taken had rather opposite than positive effect. Part of this transformation process was also privatization. Like other transition economies, Serbia had to deal with a large number of insolvent companies at that time. Privatization of state enterprises caused appropriation of privatized property also illegally through intentional bankruptcies, which led to rising unemployment and poverty (MILANOVIĆ, 2010). Situation in the country was catastrophic and privatization did not bring expected results.[2] Even here the existing law was not able to adapt to the changing environment and it was clear that it will have to be modified to keep pace with the local economy.

In 2005 a new Law on Bankruptcy Proceedings (hereinafter LBP) came into force and differed a lot from its predecessor. It received high praise at the time of its introduction – European Bank for Reconstruction and Development (EBRD) ranked it, together with the Romanian law, as being superior to those of the other 25 countries whose laws were assessed (USAID Serbia, 2007). Among changes in that new Law could be found for example: formal licensing and regulation of bankruptcy trustees, more active role of creditors in the proceedings and shortened deadlines. Reform of the insolvency law brought

[2] Privatization is a black hole of Serbian transition. If we now look back, it turns out that the privatization was an instrument of individual accumulation of wealth at the expense of the common property. Interests of society were rarely taken into account and a large number of companies was liquidated or sold for peanuts (OBRADOVIĆ, 2012).

about two brand new institutions: opportunity to resolve bankruptcy by the **reorganization** and establishment of so called **Bankruptcy Supervision Agency**[3] (BSA) under the ***Law on Bankruptcy Supervision Agency*** (Official Gazette of the Republic of Serbia, No. 84/04 of 24 July 2004, and No. 104/09), which started to operate on 24th February 2005 primarily for the purpose of supervising the work of licensed insolvency trustees.

But modifications of the act did not end by 2005. Four years later, exactly in December 2009, Serbian parliament enacted a new Law on Bankruptcy (hereinafter LB) – (Official Gazette of the Republic of Serbia, No. 104/09 of 16 December 2009). This Act is in force from 23rd January 2010. Main reason for changes in the law was effort to appease creditors, reduce the duration and costs of insolvency proceedings, as well as to encourage debtors to apply for insolvency as early as possible (VOJNOVIĆ, BABIĆ, BEZAREVIĆ, 2009). Another discussed issue were insolvency administrators themselves. For example, 4 trustees were engaged in a total of ten cases and 120 in only two cases, so here we see a considerable disparity which had to be changed (taking into account the complexity of the case, of course).

3. Empirical Analysis

Bankruptcy is the most crucial indicator of the attitudes of a legal system in its commercial aspects and arguably the most important of all commercial legal disciplines (WOOD, 2007). Although a lot of researches have been done so far in the area of bankruptcy, opinions, about how the optimal bankruptcy law should look like, still differ considerably.

This work focuses on four Slavic countries that are part of the Central and Eastern Europe. These countries have a lot in common, especially many years of shared history, if we speak of the former Czechoslovakia and Yugoslavia. The following subsections will be devoted to the analysis of several major bankruptcy related issues in these countries.

3. 1 Legal Framework

Since the best universal bankruptcy code does not exist because each economy is different in its historical development and current economic situation, insolvency (bankruptcy) law should be tailored to every individual economy separately.

[3] In serbian: *Agencija za Licenciranje Stečajnih Upravnika* – literal translation: Agency for Licencing Insolvency Trustees.

The previous section was devoted to the characteristics of the insolvency (bankruptcy) law of each considered country: ***Insolvency Act*** of the Czech Republic, ***Law on Bankruptcy*** of Serbia, ***Law on Bankruptcy and Restructuring*** of the Slovak Republic and ***Bankruptcy Law*** of Croatia. Even though each of these laws bears a different name, their common feature is they are all based on German Civil Law and for that reason they are a lot alike.

The laws of all these countries are based on several common historical aspects:

1) there was no need for such a legislation in the 80's – no type of insolvency was accepted in the times of centrally planned economies,
2) liquidation was a number one in solving insolvency problems, and
3) there were only two different ways of solving disputes: straight bankruptcy and settlement procedure.

Since that time all these laws have undergone several changes to better reflect the economic development of each country. Recent reforms have contributed to an easier business in all those states and development in the field of insolvency (bankruptcy) law is going clearly forward. All countries discussed generally strive for greater transparency, debtors who want to solve their financial problems before it is too late and faster bankruptcy proceedings.

Czech Republic, Croatia and Serbia belong among so called "creditor-friendly" countries while Slovakia is considered to have a neutral stance. Even if it is assumed that the protection of creditors often leads to unnecessary liquidation, higher number of bankruptcies in "creditor-friendly" countries was not recorded. Claims of creditors are fixed claims and they are entitled to demand repayment of their claims no later than the date of maturity. This gives creditors a strong bargaining position. According to the European Commission (2011), number of insolvencies (for 10 000 firms) reaches the value of **72,8** in "creditor-friendly" countries, **73,3** in neutral countries and **176,2** in "debtor-friendly" countries.

Some countries prefer "creditor-friendly" approach mainly for the reason that in the case of the "debtor-friendly" approach insolvent companies can use the rules to their own benefit. And above all, a financial damage was caused to creditors and that is why they should have the upper hand in this matter. Objectives of selected laws are generally similar, although they are directly specified only in Serbian and Croatian law where the emphasis is primarily put on the best satisfaction of bankruptcy creditors by collectively generated highest possible value of the debtor's assets. "Creditor-friendly" approach is thus confirmed.

"Debtor-friendly" approach is then suitable for businesses that do have financial problems but their salvation is worthy (this explains the higher number of insolvencies). The

driving force of the economy is consumption which ensures the existence of companies on the market. Companies are then forced to develop new products and to be innovative in order to meet increasing customer needs. If the company is able to keep more demanding customers, then it is also able to generate a profit and has no difficulty in paying its obligations. However, on the market there are also companies that are currently insolvent, but their business plan has a strong potential for the future (for such firms the "debtor-friendly" approach is very convenient). On the other hand, on the market we can find companies that are insolvent and neither their business plan does not bear profitable potential. Such companies could hardly be rescued.

As far as impact of legal system on business dynamics is concerned, European Commission (2011) states that the number of insolvencies (for 10 000 firms) is **71,9** in countries of French Civil law, **82,6** in countries of English Common law, **105** in countries of Scandinavian law and **107,4** in countries of German Civil law. The difference between the values may be explained by the fact that while countries with Common law have the strongest protection of outside investors (both shareholders and creditors), French civil law countries have the weakest protection, and German civil law and Scandinavian countries fall in between (La PORTA, LOPEZ-de-SILANES, SHLEIFER, VISHNY, 2000). Strongest or weakest creditor protection is thus more efficient (in relation to the number of insolvencies), than the middle way.

In all discussed laws bankruptcy is usually declared on the basis of the debtor's insolvency or over-indebtedness. Only Czech and Serbian law deals with impending insolvency, which can be considered as a preventive step in trying to solve potential financial problems sooner than later. Each country then works with two basic ways of dealing with bankruptcy: straight bankruptcy and reorganization (restructuring). Despite the fact that the reorganization (restructuring) is considered to be more economically advantageous, straight bankruptcy continues to be more often applied in practice. So called "empty businesses" are undoubtedly main reason of this fact. These are the companies that enter (entered) into bankruptcy proceedings with almost no assets. Such companies do not have a property with positive going concern value and straight bankruptcy is the only solution.

An institute of automatic initiation of insolvency proceeding, that had been applied in Serbia and is still applied in the Czech Republic (even its existence is also going to end soon), has also been introduced into the bankruptcy legal framework. However, this legal institute had worked on a different principle in both Serbia and the Czech Republic and had not succeeded in either state.

3.2. Bankruptcies in Numbers

Generally we can say that the bankruptcy law in every economy usually includes two kinds of procedures: straight bankruptcy or reorganization of a debtor (as in the case of selected countries). While reorganization can be dealt with privately ("out of court" settlement) or through the courts, straight bankruptcy is always managed by the courts. Both "out of court" settlement and judicial reorganization aim to rescue the company and its creditors. Straight bankruptcy, on the other hand, practically guillotines the company. In the Czech law it is strictly stipulated that creditors are obliged to refrain from taking action to satisfy their claims outside the bankruptcy proceedings, unless the law provides otherwise.

According to the European Commission (2011), efficiency of "out of court" settlement in Croatia is very low, in Serbia low and in Slovakia high.[4] Number of insolvencies (for 10 000 companies) is **102,3** in case of low or very low efficiency, and **72,4** in case of high or very high efficiency.

Judicial reorganizations are legally prioritized even though their use is still small in most of the countries. Similarly, in the Czech Republic, Slovak Republic, Serbia and Croatia there is an effort to favor reorganization as a solution of bankruptcy proceedings, but the number of successfully completed reorganizations is very low and simultaneously a lot of reorganizations is often converted to a straight bankruptcy. Straight bankruptcy is thus still the most frequently used solution in all four countries.

Number of "out of court" settlements is not known but it can be assumed that if at all possible, interested persons rather choose this way of settlement to avoid lengthy and costly legal litigations. Main disadvantage of private settlement is the need for unanimity.

The question is which conclusion process is the most convenient for the company. Straight bankruptcy is a last resort and judicial reorganization has both advantages and disadvantages and does not seem to be the "mainstream" in either of the jurisdictions discussed. WOOD (2007) states that sometimes it is said that the best can be achieved by a court-approved private workout, but these merely confirm the trend to favor private negotiations. Simply put, it is recommended that creditors prefer "out of court" settlements, if they are achievable, and do not involve the court.

As pointed out by AGHION, HART and MOORE (1994), in an ideal world there would be no need for the state-run bankruptcy proceedings. Unfortunately, in the real world,

[4] Data for Czech Republic are not available.

contracts between the creditors and the debtor do not specify how the debtor's assets will be distributed among its creditors in the case of its bankruptcy and that is why most parties prefer bankruptcy mechanism provided by the state. JANDA (2009, p. 430) then proves that „renegotiation and debt forgiveness in some cases improve welfare relative to the strict liquidation of a defaulting firm."

Largest share of corporate bankruptcies in Eastern and Central Europe usually occupies "Commerce" sector, in our case specifically "**Wholesale and Retail Trade**". Second place belongs to "**Services**" in the Czech Republic and Croatia, and to "**Manufacturing**" in Slovakia. The number of bankruptcies in "Services" in Croatia is the same as in the Czech Republic. This could be surprising for someone who imagines tourism, when the "Services" sector in Croatia is speaking about. We have to take into account that the tourism is only a part of the tertiary sector and it is generally a seasonal matter. Most vulnerable sector in Serbia, in terms of bankruptcies, is then the industrial sector where in the last twenty years disappeared more than half a million work places. The sector primarily suffers from a lack of skilled work force and a lack of technologies.

3.3. Efficiency and quality of bankruptcy proceedings

Based on the data obtained from the study of the European Commission, we can conclude that the most effective bankruptcy proceedings take place in the Slovak Republic. Since this study was based on questionnaires sent to experts in the field, the question is, how much are these answers objective. However, the Slovak Republic, unlike the other three countries, received very positive evaluation.

Quality of bankruptcy proceedings depends on their costs, duration and recovery rates. The following table shows rank of our four countries according to the values reached by the individual criteria. *Doing Business project* compared these values for **185 economies**.

Table 1: Ranking of countries in the global scale

Country	**Rank**		
	Time	**Costs**	**Recovery rate**
Czech Republic	116.	110.	139.
Slovak Republic	142.	120.	135.
Croatia	112.	89.	76.
Serbia	62.	122.	70.

Data source: Doing Business (2012a)

As regards duration of insolvency proceedings, Serbia has the best result indeed, but this positive result is redeemed by the highest costs and lowest recovery rate. On the second worst place could be put Slovak Republic with the worst result in duration of insolvency proceedings. The best results then obtained Croatia and Czech Republic.

When comparing the efficiency index of EC survey and quality indicators of *Doing Business project*, it is evident that the results are not completely identical.

Position of the Czech Republic has improved significantly over the last few years, according to the international data. Six years ago KNOT and VYCHODIL (2006) emphasized the fact that Czech bankruptcy proceedings had been the fourth lengthiest in the world (lasting 9,2 years) and one of the most expensive. Also Czech recovery rate had been far the lowest within the EU. However, the data has changed and, thanks to the reforms in the area of bankruptcy law, significant changes have occurred also in practice, as can be supposed from the international data below.

Table 2 : Development of indicators in each country (2004 – 2013*)

Year	Time				Costs				Recovery rate			
	Czech Rep.	**Slovak Rep.**	**Serbia**	**Croatia**	**Czech Rep.**	**Slovak Rep.**	**Serbia**	**Croatia**	**Czech Rep.**	**Slovak Rep.**	**Serbia**	**Croatia**
2004	9,2	4,8	2,7	3,1	18	18	23	15	15,4	39,8	20,5	28,8
2005	9,2	4,8	2,7	3,1	18	18	23	15	16,8	39,6	18,6	28,6
2006	9,2	4,8	2,7	3,1	15	18	23	15	17,8	38,6	20,3	28,4
2007	9,2	4	2,7	3,1	15	18	23	15	18,5	48,1	22,6	28,9
2008	6,5	4	2,7	3,1	15	18	23	15	21,3	45,2	23,1	30,2
2009	6,5	4	2,7	3,1	15	18	23	15	20,9	45,9	25,4	30,5
2010	6,5	4	2,7	3,1	15	18	23	15	20,9	45,9	25,4	30,5
2011	3,2	4	2,7	3,1	17	18	23	15	55,9	55,3	29,5	28,7
2012	3,2	4	2,7	3,1	17	18	23	15	56	54,3	24,4	29,7
2013	3,2	4	2	3,1	17	18	20	15	56,3	53,6	29,1	30,1

* estimation

Data source: Doing Business (2012b)

Looking at the table we see significant changes in the data of the Czech Republic. Gradual improvement, as regards the duration of insolvency proceedings, is very considerable

(from 9,2 years to 3,2 years). Recovery rate has also achieved great improvement but costs remained almost unchanged over the years.

As pointed out by SCHÖNFELD and SMRČKA (2012), it can be assumed that the above listed figures are somehow biased because finding of proceeding that was completed so quickly (in 3,2 years), is rather difficult. Such proceedings are usually those that were terminated due to lack of assets. Results of other states within the individual criteria do not differ so much during those years, even so we also cannot consider these data to be completely reliable.

Excessive length of insolvency proceedings is one of the reasons why the bankruptcy system is not effective and sanitation procedures are not used so often and successfully. If we take into account listed international data, duration of proceedings is, in comparison with the OECD average (1,7 years), higher in all presented countries, which means also higher costs for creditors. In the Czech Republic secured creditors usually collect about 80 % of their claims while those unsecured only 3-5 % of their claims (SCHÖNFELD, SMRČKA, 2012). However, the most common result of insolvency proceedings for those unsecured is zero repayment of their debts.

Profitability of insolvency proceedings has increased in recent years in all four cases but has not lead to an increase in the number of reorganizations. The main problem is the lack of the debtor's assets. In connection with the Czech Republic SCHÖNFELD and SMRČKA (2012, p. 71) point out that „if we look at the number of companies that are entering into insolvency proceedings and are rejected due to the inadequacy of their assets, we will see clearly that the problem of "empty businesses" is not unusual but rather quite common."

SUCCURRO (2008) then shows how effectiveness or ineffectiveness of the insolvency system has to do with how much are involved investments in the formation of GDP. According to her empirical research „the investment share of GDP is higher in those countries characterized by highly efficient bankruptcy system" SUCCURRO (2008, p. 1). It means that the more efficient the insolvency proceeding (in terms of time, costs and recovery rate), the more readily available debt and the higher the investment/GDP ratio. Simply put, the more efficient insolvency proceedings (i.e. faster, cheaper and more profitable), the lower the costs for the creditors and the higher the income which they can invest. This certainly is not the case of Serbia, other countries are doing much better.

4. Conclusions

The aim of this paper was to analyze the bankruptcy issue in four pre-selected countries: Czech Republic, Republic of Serbia, Slovak Republic and Republic of Croatia. Working with legal legislation, in the case of bankruptcy issue, is essential as the transparent legal environment, ensuring the enforceability of creditors' claims, is necessary for the healthy development of every economy.

We may conclude that there was a significant positive shift in bankruptcy laws in all states over time. On the basis of international studies it cannot be confirmed that the origin of bankruptcy law (German Civil Law in the case of selected countries) significantly influences the number of bankruptcies, although research of the EC points to the fact that the higher number of insolvencies was recorded in these countries. Likewise, the nature of bankruptcy laws (creditor/debtor friendly) does not significantly affect neither the number of bankruptcies nor the efficiency of bankruptcy proceedings. Lower number of insolvencies is then attributed to the countries with creditor-friendly approach (that prevails in the Czech Republic, Serbia and Croatia) and neutral approach (which is used in the Slovak republic), in comparison with the debtor-friendly approach where the number of insolvencies is much higher.

If we look at the evolution of bankruptcies over the years, a growing number of insolvency petitions and straight bankruptcies in the Czech Republic in 2012 will probably exceed the value of the last year covered in our study (2011), although the increase will not be so pronounced (thanks to the modest dynamics of growth). Next year should bring, according to the expected development of the economy, positive results. All the data obtained give us information about the current economic situation on the Czech market that is significantly burdensome for businesses. Increase in bankruptcies of individuals – entrepreneurs is clearly influenced by direct or indirect impacts of the financial crisis. Entrepreneurs are exposed to an increasing competitive struggle that is often beyond their financial possibilities. A good example could be the supermarket boom, which in the Czech Republic is very noticeable in recent years. People are saving, consumption decreases and small firms quit at the expense of the large ones.

Since the confidence in the Czech economy is falling, improvement of the economic situation is not expected in the future (also with regard to deteriorating business conditions – such as VAT increase). Competition on the Czech market is huge and if the companies would like to succeed in the upcoming period they should try to improve margins of losing trades, optimize costs and focus on working capital.

In the Slovak Republic meant first three quarters of 2012 higher number of bankruptcies in comparison with the same period last year, and even here there is no

indication that the number of bankruptcies would rise significantly in the future. Economic development in the Slovak Republic is also expected to be much more positive in comparison with the Czech Republic, even in bankruptcies. However, firms lose their appetite to invest and entrepreneurship is also not very attractive for the future. According to analysts the reason is negative state on the markets, expanding poor payment discipline and the slump in sales for small and medium-sized enterprises (MUCHOVÁ, 2012). It is also possible to assume that the entrepreneurs are loosing their willingness to undertake the business because of increase in taxes and other charges, and because of tightening of the conditions for obtaining credit from banks.

In the Republic of Serbia number of bankruptcies in the last three years has increased and, as in the previous countries, more vigorous growth cannot be assumed this year, but from all the facts mentioned above is clear that the Serbian economy is not in a good condition currently, in comparison with other states. Nevertheless, further improvement could be brought by a new long-term economic growth plan that was adopted in 2010 with the goal to increase exports (during 10 years) and investments in basic infrastructure. The plan seems to be successful so far – there has been a high increase in exports since its implementation. However, there are other challenges that must be solved: high unemployment rates, high government expenditures for salaries, pensions and unemployment benefits, growing need for new government borrowing, rising public and private foreign debt, attracting foreign direct investment, inefficient judicial system, high levels of corruption and an aging population (Central Intelligence Agency, 2012a). On the other side, there are some facts that are favorable for Serbia as a strategic location, relatively inexpensive and skilled labor force and extensive possibilities for foreign investments.

There has been substantial increase in bankruptcies in the Republic of Croatia in the third quarter of 2012. The results thus suggest that the entrepreneurs are influenced by the deteriorating economic situation. Croatia was struck by the abrupt slowdown in the economy in 2008 and difficult problems still remain. Among the most burning issues belong high unemployment, growing trade deficit, uneven regional development and demanding investment climate. Croatia will probably face significant pressure due to reduced exports and capital inflows. The World Bank expects that the Croatia will enter a recession and has urged the government to cut spending – its high foreign debt, anemic export sector, strained state budget and over-reliance on tourism revenue will probably result in higher risk to economic progress over the medium term (Central Intelligence Agency, 2012b).

As far as efficiency of bankruptcy systems in all individual countries is concerned, we can conclude that the bankruptcy proceeding underwent significant changes and improved the adoption of the new law in all four countries. A significant change is represented by shorter duration of insolvency proceedings. Certainly this change has a positive impact not only on the costs of creditors but also on employees of the corporations with financial distress because protracted bankruptcy proceedings deepen social problems too.

However, a quick end of the business of the enterprise and thus also swift conclusion of bankruptcy proceeding should not be the only goal of the economy because this behavior stems from carelessness and neglect of the social situation of both employees and consumers.

According to international data, bankruptcy proceedings are dealt with the fastest in Serbia and the cheapest in Croatia. Nevertheless, from a general point of view, the best results got Czech and Slovak Republic thanks to the highest recovery rate of procedures and good results of other two criteria.

As was already said, in most countries the legislation concerning bankruptcy law has been changed to become more favorable but its efficiency depends primarily on the way of its implementation. Furthermore, there are factors which cannot be captured by the legislation. It is the corruption and negligence either from the side of individual trustees or from the side of judges themselves. Such conduct of participating parties represents the biggest reason why the bankruptcy proceedings are not evolving as they should.

We have shown in this paper that the legislation on bankruptcy issue have undergone substantial changes in all countries during the existence of separate states. The most important change is the possibility to use reorganization as a way of solving financial difficulties of the debtor. However, despite economically more advantageous impact of this method, all these economies use it very sporadically.

At first glance the individual laws are very similar to each other. They are more or less built on the same bases – German civil law and “creditor-friendly” approach. Division of the former federative republics and creation of independent states also meant more effort to adapt bankruptcy law to their own economies. This effort is then more evident in the relationship Croatia versus Serbia. After all, division of the Czech Republic and Slovakia took place in a friendlier spirit. After separation from Yugoslavia (1991), Croatia took over all legislation (including bankruptcy law). Three years after conducted slight modification of this law (1994) and another three years after adopted a completely new law (1997), which was mostly taken from the German Insolvency Law.

However, these laws converge to each other currently. In the spirit of the European community, all countries seek to appease creditors, reduce duration and costs of insolvency proceedings, as well as to encourage debtors to apply for bankruptcy as early as possible.

As far as economic development is concerned, it is evident that bankruptcies copy economic situation in each country. Poor economic situation is always reflected in an increase in bankruptcies (with some delay), and it is obvious that the economic situation in discussed countries varies considerably. Based on the data obtained it is possible to conclude that the Czech Republic is doing best in terms of bankruptcy issue. On the other hand, the situation is worst in Serbia – really high unemployment, low wages and low consumption represent a vicious circle that keeps bankruptcies alive.

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