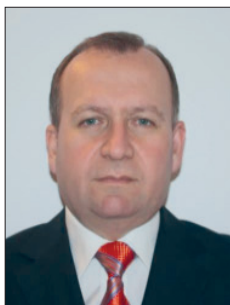


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## FRAUDULENT BANKRUPTCY: CAUSES AND SOLUTIONS TO OVERCOME THIS SITUATION

*Annotation: Fraudulent bankruptcy is a complex phenomenon with profound financial, legal, and social implications. Although often perceived as a failure, it can also represent an opportunity for learning and innovation. Its causes range from poor management and over-indebtedness to global economic crises or legislative changes. The consequences include financial losses, unemployment, reputation damage, and significant macroeconomic effects. Notable examples, such as the bankruptcy of City Insurance and RAFO Onești, highlight the far-reaching impact of this phenomenon. However, the history of companies like Apple and Ford Motors underscores that recovery is possible through strategic planning, restructuring, and effective leadership. Prevention plays a crucial role, involving financial monitoring, adaptation to market changes, and financial education. In Romania, legislation provides mechanisms for managing insolvency, though their efficiency remains a challenge. Fraudulent bankruptcy is not only an economic issue but also a*

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*lesson in resilience and adaptation. Ultimately, the success of an economy is measured by its ability to support recovery and innovation following failures.*

**Keywords:** *Fraudulent bankruptcy, Insolvency, Financial crisis, Reorganization, Fraudulent bankruptcy, Leadership*

## BANCRUTA FRAUDULOASĂ: CAUZE ȘI SOLUȚII PENTRU A DEPĂȘI ACEASTĂ SITUAȚIE

**Adnotare:** *Bancruta este un fenomen complex, cu implicații financiare, juridice și sociale profunde. Deși adesea percepută ca un eșec, poate reprezenta și o oportunitate pentru învățare și inovare. Cauzele sale variază de la gestionarea defectuoasă și supraîndatorare până la crize economice globale sau schimbări legislative. Consecințele includ pierderi financiare, șomaj, deteriorarea reputației și efecte macroeconomice semnificative. Exemple notabile, precum falimentul City Insurance și RAFO Onești, demonstrează impactul extins al acestui fenomen. Totuși, istoria companiilor precum Apple sau Ford Motors subliniază că recuperarea este posibilă prin planificare strategică, restructurare și leadership eficient. Prevenția joacă un rol esențial, implicând monitorizare financiară, adaptare la schimbările pieței și educație financiară. În România, legislația oferă mecanisme pentru gestionarea insolvenței, dar eficiența acestora rămâne o provocare. Bancruta nu este doar o problemă economică, ci și o lecție despre reziliență și adaptare. În cele din urmă, succesul unei economii se măsoară prin capacitatea sa de a sprijini redresarea și inovația după eșecuri.*

**Cuvinte-cheie:** *bancruta frauduloasă, insolvență, criză financiară, reorganizare, faliment fraudulos, leadership.*

### 1. INTRODUCTION

Bankruptcy is a complex economic and legal phenomenon that affects both companies/legal entities and individuals. Essentially, it represents the inability to pay due debts, with heavy implications for businesses, employees, and the economy. Although often perceived negatively, bankruptcy can also be an opportunity to learn from mistakes and rebuild.

According to a World Bank Group (2021) report, “Insolvency is an essential component of a healthy economic system, providing entrepreneurs with a chance to start over and supplying creditors with a path to partial recovery of losses”. Data also indicates that over 25% of small and medium-sized companies (SMEs) worldwide face the risk of bankruptcy during the first five years of operation<sup>1</sup>.

Notable examples include the 2008 failure of *Lehman Brothers*, which triggered one of the most severe global financial crises. In Romania, the case of the *ARO Câmpulung* factory is emblematic: a combination of mismanagement and fierce competition led to the company’s collapse, affecting both thousands of jobs and the local economy<sup>2</sup>.

However, bankruptcy is not always the end. For example, *Apple Inc.* almost went bankrupt in the 1990s, but managed to recover spectacularly through innovation and a well-targeted market strategy<sup>3</sup>.

<sup>1</sup> OECD. (2020). *SMEs and Entrepreneurship: Overcoming the COVID-19 Crisis* (p. 12). OECD Publishing. Available at: <https://www.oecd.org>.

<sup>2</sup> Mărginean, I. (2015). *The Bankruptcy of Romanian Industry after 1990: ARO Campulung Case Study*. Western University Publishing House.

<sup>3</sup> Isaacson, W. (2011). *Steve Jobs*. Simon & Schuster. Available at: <https://dokumen.pub/qdownload/steve-jobs-simon-amp-schuster-paperback-edition-9781501127625-1501127624.html>

This article aims to explore in detail the concept of bankruptcy, its causes, consequences and prevention strategies, providing both a theoretical understanding and practical examples. The analysis is useful not only for entrepreneurs, but also for those who want to successfully navigate financial challenges.

## 2. METHODOLOGY

The analysis of the bankruptcy phenomenon was carried out through an interdisciplinary approach, which combined qualitative and quantitative methods to provide a complex perspective on the causes, consequences and prevention strategies. First, *an extensive review of the specialized literature* was carried out, including academic sources, official reports and relevant legislation, such as Law No. 85/2014 on insolvency proceedings, alongside reports published by international organizations such as the OECD and the World Bank Group. This process allowed the theoretical foundation of the research and the identification of the main directions of analysis.

Subsequently, representative case studies were selected to illustrate the impact of bankruptcy in various contexts. Notable examples, such as the bankruptcies of City Insurance, RAFO Onești and Lehman Brothers, were chosen due to their economic and social relevance, providing a solid basis for understanding the mechanisms and consequences of bankruptcy. The analysis of these cases was based on the examination of financial, legal and public reporting documents, which allowed highlighting the internal and external factors involved.

For a better understanding, *comparative methods* were used that analyzed good prevention and recovery practices from various jurisdictions and industries. International examples, such as the recovery of Apple or Ford Motors, were compared with local cases, such as ARO Câmpulung, to highlight similarities and differences in approach.

*Legislative analysis* also played an important role, focusing on legal frameworks and regulations regarding insolvency. By examining national and international legislation, the limits and opportunities of the current system were identified, providing insights on the way it can be improved.

Empirical data from official reports and published observations by experts, as well as statements by financial supervisory authorities, were also integrated during the research. These have been correlated with relevant statistics to obtain a comprehensive overview.

Finally, the conclusions of each methodological stage were synthesized to provide a holistic perspective on the bankruptcy phenomenon. This rigorous methodology ensured a deep understanding of the subject, reflecting the connections between the causes of bankruptcy, its impact on the parties involved, and the lessons that can be applied to prevent and manage it in the future.

## 3. DISCUSSIONS AND RESULTS.

### 3.1. What is bankruptcy?

Bankruptcy is one of the most difficult situations that an individual or legal entity can face. Essentially, it represents *the inability to pay due debts, having financial, legal and moral implications*. Although many perceive it as a failure, from a broader perspective, bankruptcy can be seen as an inevitable process in a market economy, with the aim of restoring balance and allowing the redistribution of resources to more productive activ-

ities. According to Law No.85/2014, “Insolvency is the state of the debtor’s assets which is characterized by the insufficiency of funds available to pay certain, liquid and due debts.”

In the Romanian Criminal Code, bankruptcy is described in Article 240, which penalizes two distinct types of behavior. Fraudulent bankruptcy involves “concealment of assets, falsification of accounting documents or illegal alienation of assets”, being punished with sentences from one to five years of imprisonment<sup>4</sup>. In return, simple bankruptcy, which results from mismanagement or failure to adapt to economic changes, is treated more leniently from a legal point of view.

Bankruptcy cases are numerous, but some have remained in the collective memory as notable examples of financial collapse. A recent example is the bankruptcy of City Insurance, the leader of the RCA insurance market in Romania. In 2021, the company was declared bankrupt after the discovery of a huge deficit in reserve funds and accusations of false reporting. The Financial Supervisory Authority (ASF) showed that “poor management and fictitious financial reporting led to a deficit of over 400 million euros”<sup>5</sup>. The situation affected not only the local economy, but also hundreds of thousands of policyholders, demonstrating the widespread impact that the bankruptcy of a major company can have.

Another example is the case of RAFO Onești, the refinery that, in the 2000s, accumulated massive debts and was involved in controversies related to fraudulent management. According to a report, “Despite several attempts at reorganization, lack of investment and suspicions of fraud led to the complete liquidation of the company”<sup>6</sup>. Similarly, many companies from the post-communist period, such as the ARO Câmpulung and Tractorul Brașov factories, experienced massive bankruptcies due to failed privatizations and international competition.

In addition to financial and human dramas, bankruptcy plays an essential role in the economic ecosystem. Although it may seem like a disaster, it is a necessary process to eliminate unviable businesses and create opportunities for new beginnings. Joseph Stiglitz points out that “bankruptcy should not be seen just as a failure, but as a recalibration of the market, an opportunity to build better”<sup>7</sup>. A remarkable example of recovery is the Apple company, which in the late 1990s was close to collapse. Through a well-thought-out reorganization and innovative strategies, the company managed to become one of the most valuable in the world<sup>8</sup>.

In Romania, legislation provides clear solutions for managing bankruptcy situations. Insolvency proceedings can be initiated by the debtor or the creditor, and the courts have a crucial role in overseeing the process. According to the law, “the initiation of insolvency proceedings can be requested by the debtor or by the creditors when the value of the outstanding debts exceeds 50.000 lei”<sup>9</sup>. This may include judicial reorganization, which gives companies a chance to recover, or liquidation of assets to cover outstanding debts.

<sup>4</sup> Romanian Criminal Code, reprinted. (2014). In: Official Gazette of the Romania.

<sup>5</sup> ASF. (2022). City Insurance Bankruptcy Report. Financial Supervisory Authority. Available at: <https://www.asfromania.ro>.

<sup>6</sup> Popescu, A. (2016). RAFO Onești: Economic Failure or Fraudulent Bankruptcy? Economic Review, 67(3). Available at: <https://revista-economica.ro>.

<sup>7</sup> Stiglitz, J.E. (2010). Freefall: America, Free Markets and the Sinking of the World Economy. W.W. Norton & Company. Available at: <https://archive.org/details/freefallamericaf0000stig>.

<sup>8</sup> Isaacson, W. (2011). Steve Jobs. Simon & Schuster. Available at: <https://dokumen.pub/qdownload/steve-jobs-simon-amp-schuster-paperback-edition-9781501127625-1501127624.html>.

<sup>9</sup> Law No.85/2014 on Insolvency Prevention and Insolvency Procedures. In: Official Gazette of the Romania.

Bankruptcy is not just a financial or legal problem, but also a valuable lesson about the limits of planning and the risks of the market economy. Although the impact can be devastating in the short term, then, in the long term, these situations contribute to the maturation of the market and provide an opportunity to learn from mistakes. Ultimately, success does not lie in avoiding all failures, but in the ability to be reborn stronger and wiser.

### 3.2. The main causes of bankruptcy

Bankruptcy is not only the result of unfavorable economic circumstances, but also the consequence of internal or external factors that affect the financial stability of an individual or legal entity. In Romania, the causes of bankruptcy are varied and complex, influenced by both managerial decisions and external events. According to the OECD report, “over 50% of SMEs in Central and Eastern Europe fail in the first five years of operation, mainly due to inefficient resource management and lack of strategic planning”<sup>10</sup>.

Internal factors. One of the main internal factors contributing to bankruptcy is *poor financial management*. This includes over-indebtedness, lack of control over cash flow, or risky strategic decisions. For example, in the case of RAFO Onești, the accumulation of debts and the lack of a clear recovery plan inevitably led to bankruptcy<sup>11</sup>. At the individual level, excessive spending or borrowing without a clear repayment strategy are among the most common causes of personal insolvency.

Another internal factor is the *lack of effective management*, which can lead to uninspired decisions, such as expanding too quickly without assessing the company’s financial capacity. In the case of ARO Câmpulung, faulty privatization, combined with a lack of technological investment, was a direct cause of the factory’s collapse, demonstrating how inadequate planning can affect long-term sustainability<sup>12</sup>.

An additional aspect is the failure to adapt to market changes. A relevant example is the bankruptcy of traditional toy retailer Toys “R” Us, which failed to compete with online retail giants such as Amazon, despite a dominant market position for decades<sup>13</sup>.

External factors. External causes of bankruptcy include *economic and social events that are usually outside the direct control of a person or company*. Global economic crises are one of the main factors. For example, the 2008 financial crisis caused the bankruptcy of economic giants such as Lehman Brothers, highlighting how market volatility can destabilize seemingly robust companies<sup>14</sup>.

In Romania, legislative and fiscal changes have affected the stability of many companies. The introduction of strict regulations without sufficient adaptation period can destabilize SMEs. Fierce competition in the market also plays a significant role. In the case of the *Tractorul Brașov* factory, the increase in imports of cheaper agricultural machinery

<sup>10</sup> OECD. (2020). SMEs and Entrepreneurship: Overcoming the COVID-19 Crisis (p.12). OECD Publishing. Available at: <https://www.oecd.org>.

<sup>11</sup> Popescu, A. (2016). RAFO Onești: Economic Failure or Fraudulent Bankruptcy? *Economic Review*, 67(3). Available at: <https://revista-economica.ro>.

<sup>12</sup> Mărginean, I. (2015). The Bankruptcy of Romanian Industry after 1990: ARO Campulung case study. Western University Publishing House.

<sup>13</sup> Thomas, L. (2019). Toys “R” Us: The Fall of an Iconic Retailer. *Financial Times*. Available at: <https://www.ft.com>.

<sup>14</sup> World Bank Group. (2021). The Bankruptcy Dilemma: Understanding Global Insolvency Systems. World Bank Publications. Available at: <https://www.worldbank.org>.

reduced demand for locally manufactured products, thus contributing to the company's bankruptcy.

Another important external factor is *the impact of unforeseen events*, such as pandemics, natural disasters or geopolitical conflicts. The COVID-19 pandemic has led to the closure of many businesses in sectors such as hospitality and retail, as restrictions and falling demand have put pressure on their revenues. According to the report by the World Bank Group, "over 25% of SMEs globally reported that they would not be able to survive more than three months in the event of a drastic reduction in revenue"<sup>15</sup>.

A striking example of the interaction of internal and external factors is the case of *City Insurance*. On the one hand, poor management and false financial reporting have destabilized the company. On the other hand, the general economic context and the lack of strict supervision allowed financial problems to escalate to the point of collapse<sup>16</sup>.

In the same manner, *the Caritas* bankruptcy in the 1990s demonstrated how unrealistic promises and a lack of proper regulation can lead to massive losses for creditors and investors. This case highlights the importance of a robust legislative framework and financial education to prevent such collapses.

In conclusion, the causes of bankruptcy are varied and interconnected, including both internal factors, such as poor management and bad strategic decisions, and external factors, such as economic crises or international competition. Understanding these causes is essential to prevent financial collapse and promote long-term economic sustainability.

### 3.3. The consequences of bankruptcy

Bankruptcy represents a moment of deep crisis, having multiple effects on the people involved, on the companies and on the entire economy. The consequences of bankruptcy can be legal, financial, social and psychological, each of which contributes to the complexity of the phenomenon. As the World Bank Group report highlights, "Bankruptcy, although necessary in the economic ecosystem, produces significant losses for all actors involved, from creditors to employees and investors"<sup>17</sup>.

*Impact on business.* For companies, the immediate consequence of bankruptcy is the loss of operations and, most often, the liquidation of assets. In the case of judicial liquidation proceedings, assets are sold to cover part of the debts, and the company permanently ceases to exist. For example, in the case of *RAFO Onești*, the liquidation of assets led to the closure of the refinery and the loss of thousands of jobs, which deeply affected the local economy<sup>18</sup>.

Another effect on business is reputational damage. A company that has gone through bankruptcy will have difficulty obtaining financing or regaining the trust of business partners. For example, after the bankruptcy of *City Insurance*, the entire insurance sector in Romania was affected by a decline in public confidence, which led to a reassessment of

<sup>15</sup> *Ibidem*.

<sup>16</sup> ASF. (2022). *City Insurance Bankruptcy Report*. Financial Supervisory Authority. Available at: <https://www.asfromania.ro>.

<sup>17</sup> World Bank Group. (2021). *The Bankruptcy Dilemma: Understanding Global Insolvency Systems*. World Bank Publications. Available at: <https://www.worldbank.org>.

<sup>18</sup> Popescu, A. (2016). *RAFO Onești: Economic Failure or Fraudulent Bankruptcy?* *Economic Review*, 67(3). Available at: <https://revista-economica.ro>.

regulations<sup>19</sup>.

Consequences for employees. One of the most visible and direct consequences of bankruptcy is job loss. Employees are often the first to be affected, being forced to find other sources of income in a short time. For example, in the case of ARO Câmpulung, the bankruptcy led to the dismissal of over 2.000 employees, which created an economic and social crisis in the local community<sup>20</sup>.

In addition to the financial impact, mass layoffs can have psychological consequences on employees, such as stress, anxiety and decreased self-esteem. As shown by a study published by the OECD, “the inability to quickly find a new job can lead to social exclusion and deterioration of the health of those affected”<sup>21</sup>.

Consequences for creditors. Creditors suffer direct losses in the event of a bankruptcy, as they are unlikely to fully recover their claims. The liquidation procedure usually only provides partial recovery of debts, depending on the value of the company’s assets. For example, in the case of the Caritas bankruptcy, thousands of individual investors lost significant savings, which created a generalized distrust in the financial system<sup>22</sup>.

For lending banks, the losses can be even more severe, as they depend on loan repayments to maintain financial stability. In the 2008 crisis, banks around the world suffered massive losses as multiple companies failed, including giants like Lehman Brothers<sup>23</sup>.

Consequences on the economy. At the macroeconomic level, major bankruptcies can generate chain effects, affecting entire sectors of the economy. The bankruptcy of a large company can lead to disruption of supply chains, decreased investor confidence and market destabilization. For example, the bankruptcy of City Insurance had a direct impact on the RCA insurance market in Romania, leading to significant increases in insurance premiums and additional pressure on consumers<sup>24</sup>.

Similarly, the bankruptcy of some emblematic companies, such as Tractorul Brașov, contributed to the decline of domestic industry and increased dependence on imports. According to the report published by INS, “Multiple bankruptcies in the Romanian manufacturing industry during 1990–2000 significantly reduced the contribution of this sector to national GDP”<sup>25</sup>.

Social and psychological impact. The consequences of bankruptcy are not just financial. On a social level, massive bankruptcies can generate unemployment, economic migration and instability. In communities dependent on a single industry, such as the mono-industrial cities in Romania, bankruptcies can lead to depopulation and poverty.

On an individual level, bankruptcy can have devastating effects on entrepreneurs and managers, causing chronic stress, depression, or even loss of motivation to start another business. According to the OECD study, “entrepreneurs who go through bankruptcy

<sup>19</sup> ASF, *op. cit.*

<sup>20</sup> Mărginean, I. (2015). The Bankruptcy of Romanian Industry after 1990: ARO Campulung case study. Western University Publishing House.

<sup>21</sup> OECD. (2020). SMEs and Entrepreneurship: Overcoming the COVID-19 Crisis (p.12). OECD Publishing. Available at: <https://www.oecd.org>.

<sup>22</sup> Mărginean, I., *op. cit.*, p.52.

<sup>23</sup> World Bank Group, *op. cit.*, p.39.

<sup>24</sup> ASF. (2022). City Insurance Bankruptcy Report. Financial Supervisory Authority. Available at: <https://www.asfromania.ro> p.17.

<sup>25</sup> INS. (2018). The Impact of Industrial Decline on the Romanian Economy During the Transition Period. National Institute of Statistics, p.20

suffer from social stigma and difficulties in reintegration into the labor market”<sup>26</sup>.

Bankruptcy is a complex phenomenon, the consequences of which are felt on multiple levels: financial, legal, social and psychological. Although it is often perceived negatively, it can also represent an opportunity for learning and change. Effective management of the consequences of bankruptcy requires a solid legislative framework, a resilient economic system and support for affected individuals and communities.

### 3.4. Bankruptcy legal procedure

The legal procedure in case of bankruptcy is a complex process regulated by Law No.85/2014 on insolvency prevention and insolvency procedures and by the provisions of the Criminal Code in the case of crimes associated with fraudulent bankruptcy. This procedure aims both to protect the interests of creditors and to ensure a fair solution for insolvent debtors. As the World Bank Group report points out, “effective insolvency legislation is essential for economic stability maintaining and investment encouraging”<sup>27</sup>.

#### Initiation of the procedure.

According to Law No.85/2014, insolvency proceedings can be initiated by:

Debtor, when he finds that he cannot pay the outstanding debts of over 50.000 lei. The debtor must file an application with the competent court, attaching the relevant financial documents attesting to the insolvency situation (Art. 66).

Creditors, when their receivables exceed the minimum amount of 50.000 lei and are overdue for at least 60 days. Creditors may request the opening of the procedure based on clear evidence of the debtor’s inability to pay (Art. 70).

The court is obliged to analyze the application and decide to open insolvency proceedings, appointing a judicial administrator or a judicial liquidator, depending on the type of procedure. The court’s decision is communicated to the debtor, creditors and other interested parties through the Insolvency Proceedings Bulletin.

#### Stages of the insolvency procedure

The insolvency procedure follows several main stages, each with specific purposes and implications:

Observation period. The judicial administrator analyzes the debtor’s financial situation, identifies available assets and checks whether there are any chances of reorganization during this stage. The administrator prepares a report which is presented to the court and creditors (Art. 92). For example, in the case of *City Insurance*, the observation period revealed a major deficit in the company’s funds and accounting irregularities, which led to the decision to liquidate it<sup>28</sup>.

Judicial reorganization. This is a stage intended to save the company, if there is a viable plan. The reorganization plan must be approved by the court and a majority of creditors and includes measures such as cost reduction, debt restructuring or the sale of assets. For example, in the case of OLTCHIM, a judicial reorganization plan allowed the company to continue its activity and avoid complete liquidation<sup>29</sup>.

<sup>26</sup> OECD. (2020). SMEs and Entrepreneurship: Overcoming the COVID-19 Crisis (p.12). OECD Publishing. Available at: <https://www.oecd.org> p.25.

<sup>27</sup> World Bank Group. (2021). The Bankruptcy Dilemma: Understanding Global Insolvency Systems. World Bank Publications. Available at: <https://www.worldbank.org> p.40.

<sup>28</sup> ASF. (2022). City Insurance Bankruptcy Report. Financial Supervisory Authority. Available at: <https://www.asfromania.ro> p.20.

<sup>29</sup> Popescu, C. (2017). Judicial Reorganization Plans: OLTCHIM case study. Romanian Legal Journal. P.54.

*Judicial liquidation.* If reorganization is not possible, the court orders the liquidation of the company's assets. The assets are sold to cover the debts, and the company ceases to exist legally. The judicial liquidator is responsible for managing the process, and the funds obtained are distributed to creditors in the order provided by law (Art. 161). In the case of RAFO Onești, the liquidation led to the alienation of assets and the definitive cessation of operations<sup>30</sup>.

*Fraudulent bankruptcy.* If there are indications of fraudulent bankruptcy, the legal procedure includes the investigation and criminal sanctioning of the persons involved. According to the Criminal Code, art. 240, the acts considered fraudulent bankruptcy include:

- falsification or destruction of accounting documents.
- concealment of assets or income.
- creating fictitious debts to reduce the amount available to creditors.

Individuals found guilty of such crimes face sentences of up to five years of imprisonment, and civil measures may include confiscation of hidden assets or compensation for injured creditors<sup>31</sup>.

A relevant example is the *Caritas* case, where administrators were accused of fraudulent management and misleading thousands of creditors through unrealistic promises<sup>32</sup>.

*The role of the court and insolvency practitioners.* Courts play a central role in the supervision and management of insolvency proceedings. The syndic judge is responsible for approving important decisions, such as confirming the reorganization plan or starting liquidation. At the same time, administrators and judicial liquidators have the task of ensuring compliance with the law and protecting the interests of creditors.

The legal procedure in case of bankruptcy is essential to ensure a balance between the interests of creditors and the rights of debtors. Through a clear legislative framework and the involvement of well-trained practitioners, the system can prevent abuses and contribute to the recovery of viable companies or the fair management of the assets of those in collapse. Although the process can be difficult and costly, a well-regulated approach can reduce the negative impact of bankruptcy on the economy and society.

### 3.5. How can bankruptcy be prevented?

Bankruptcy prevention is a complex process that requires proactive financial management measures, strategic planning, and adaptation to economic changes. Although not all causes of bankruptcy can be controlled, many of them can be avoided through effective management and early identification of risks. As stated in the OECD report, "*bankruptcy prevention depends heavily on companies' ability to anticipate problems and take action before they become insurmountable*"<sup>33</sup>.

*1. Financial monitoring and control.* A first step in bankruptcy preventing is implementing an effective financial monitoring system. It is essential for businesses to carefully manage their cash flow, reduce unnecessary expenses and diversify their sources of in-

<sup>30</sup> Mărginean, I. (2015). The Bankruptcy of Romanian Industry after 1990: ARO Campulung case study. Western University Publishing House, p.43.

<sup>31</sup> Romanian Criminal Code, reprinted. (2014). In: Official Gazette of the Romania.

<sup>32</sup> Popescu, A. (2016). RAFO Onești: Economic Failure or Fraudulent Bankruptcy? Economic Review, 67(3). Available at: <https://revista-economica.ro> p.50.

<sup>33</sup> OECD. (2020). SMEs and Entrepreneurship: Overcoming the COVID-19 Crisis (p.12). OECD Publishing. Available at: <https://www.oecd.org> p.22.

come. As Stiglitz points out (2010), “*sound financial management involves early identifying of imbalances and steering adjustment before problems escalate*”<sup>34</sup>.

Companies can use digital tools to track cash flows and assess financial performance in real time. For example, software like QuickBooks or Xero can help small businesses identify periods of financial risk and take corrective action.

2. Establishing an emergency fund. Another important aspect is the establishment of an emergency fund for unexpected situations. This fund can cover operational expenses during the periods of revenues’ declining or in the face of economic crises. According to the study by the World Bank Group, “*over 40% of SMEs do not have sufficient financial reserves to last more than three months in the event of a sudden reduction in revenue*”<sup>35</sup>. A reserve equivalent to three to six months of fixed expenses can make the difference between survival and bankruptcy.

3. Strategic planning. Long-term planning is essential for bankruptcy preventing. This includes periodic market assessment, risk identification and adjustment of business strategies. As Mărginean mentions (2015), “*firms that do not adapt to market changes or redefine their priorities risk becoming irrelevant and going into insolvency*”<sup>36</sup>.

An example of effective strategic planning is that of Ford Motors, which, during the 2008 financial crisis, implemented a comprehensive restructuring plan to avoid bankruptcy. By reducing costs and launching new car models, the company has managed to remain competitive<sup>37</sup>.

4. Financial consulting. Another essential element in bankruptcy preventing is the use of financial consultants or independent auditors. They can provide an objective perspective on the company’s financial situation and suggest corrective measures. As the OECD states, “*collaborating with specialists in the field is a key step in early detection of problems and effective solutions’ implementing*”<sup>38</sup>.

5. Financial education and effective leadership. Financial education is vital for entrepreneurs, managers and employees. A better understanding of financial risks, accounting practices, and economic strategy can help companies avoid making bad decisions. As Popescu states (2016), “*a well-informed leader can make the difference between the long-term success of a business and inevitable collapse*”<sup>39</sup>.

Leaders also need to promote an open organizational environment where problems can be discussed and resolved before they escalate. Companies that foster a culture of financial transparency are better equipped to deal with difficulties.

6. Adaptation to economic change. Bankruptcy prevention also involves the ability to respond quickly to economic and technological changes. Companies must invest in innovation and remain competitive in an ever-changing business environment. For exam-

<sup>34</sup> Stiglitz, J.E. (2010). *Freefall: America, Free Markets and the Sinking of the World Economy*. W.W. Norton & Company. Available at: <https://archive.org/details/freefallamericaf0000stig> p.89.

<sup>35</sup> World Bank Group. (2021). *The Bankruptcy Dilemma: Understanding Global Insolvency Systems*. World Bank Publications. Available at: <https://www.worldbank.org> p.18.

<sup>36</sup> Mărginean, I. (2015). *The Bankruptcy of Romanian Industry after 1990: ARO Campulung case study*. Western University Publishing House, p.37.

<sup>37</sup> Isaacson, W. (2011). *Steve Jobs*. Simon & Schuster. Available at: <https://dokumen.pub/qdownload/steve-jobs-simon-amp-schuster-paperback-edition-9781501127625-1501127624.html> p.212.

<sup>38</sup> OECD. (2020). *SMEs and Entrepreneurship: Overcoming the COVID-19 Crisis*. OECD Publishing. Available at: <https://www.oecd.org> p.30.

<sup>39</sup> Popescu, A. (2016). *RAFO Onești: Economic Failure or Fraudulent Bankruptcy?* *Economic Review*, 67(3). Available at: <https://revista-economica.ro> p.53.

ple, retail companies that quickly adopted e-commerce during the pandemic managed to maintain their revenues, thus avoiding bankruptcy<sup>40</sup>.

Bankruptcy preventing requires a combination of strategic planning, effective financial management, and adaptation to economic changes. While not all bankruptcies can be avoided, a proactive approach can significantly reduce the risks. As Stiglitz points out (2010), “a healthy economy is not one that completely avoids failures, but one that allows companies to learn from mistakes and come back stronger”<sup>41</sup>.

### 3.6. How can a business recover after bankruptcy?

Recovering a business after bankruptcy is a difficult process, but not impossible. Although bankruptcy may seem like the end of a company, economic history demonstrates that, through well-thought-out and implemented strategies, many businesses have managed to recover and become stronger. As Stiglitz states (2010), “economic recovery after bankruptcy depends on the company’s ability to learn from mistakes, reconfigure priorities, and adopt an innovative strategy”<sup>42</sup>.

1. *Bankruptcy causes assessing and understanding.* The first step to recovery is a detailed analysis of the factors that led to bankruptcy. This involves evaluating financial decisions, organizational structure, and market situation. “A business cannot move forward without understanding what went wrong and addressing those issues”<sup>43</sup>.

A remarkable example is the case of the company OLTCHIM, which, after entering insolvency, carried out an extensive evaluation of its activity. This led to operational restructuring and the identification of profitable segments, which allowed the resumption of activity<sup>44</sup>.

2. *Creation of a new business plan.* An updated and realistic business plan is essential for recovery. This plan should include:

Setting of clear and achievable goals.

Identification of markets and segments with growth potential.

Cost reduction and operations optimization.

A notable example is the *Apple* company, which, in the 1990s, was close to bankruptcy. Under the leadership of Steve Jobs, *Apple* developed a new business plan that focused on reducing the number of products, launching innovative products, and redefining the brand. The result was one of the most spectacular comebacks in business history<sup>45</sup>.

3. *Obtaining new funding sources.* Bankruptcy recovery often requires access to capital. This may come from:

Private investors: Offering a package of shares or future rights to profits.

Guaranteed loans: Banks are often reluctant to finance companies that have gone through bankruptcy, but a solid strategy and a positive track record can convince lenders to grant new loans.

<sup>40</sup> World Bank Group. *Op. cit.*, p.22.

<sup>41</sup> Stiglitz, J.E. (2010). *Freefall: America, Free Markets and the Sinking of the World Economy*. W.W. Norton & Company. Available at: <https://archive.org/details/freefallamericaf0000stig> p.110.

<sup>42</sup> *Op. cit.*, p.125.

<sup>43</sup> World Bank Group. (2021). *The Bankruptcy Dilemma: Understanding Global Insolvency Systems*. World Bank Publications. Available at: <https://www.worldbank.org> p.42.

<sup>44</sup> Popescu, C. (2017). *Judicial Reorganization Plans: OLTCHIM Case Study*. Romanian Legal Journal, p.56.

<sup>45</sup> Isaacson, W. (2011). *Steve Jobs*. Simon & Schuster. Available at: <https://dokumen.pub/qdownload/steve-jobs-simon-amp-schuster-paperback-edition-9781501127625-1501127624.html> p.230.

Public funds or grants: Governments offer support programs for companies in difficulty, in some cases.

A local example is the support provided by the Romanian state for certain strategic companies, such as TAROM, which benefited from state aid to continue its activity and recover<sup>46</sup>.

4. Operational restructuring. Another important step is to restructure the activity to eliminate inefficiencies. This process may include:

Staff reduction or resource reallocation.

Review of contracts with suppliers.

Improving internal processes by adopting new technologies.

As mentioned by the OECD, “Companies that focus on streamlining processes after a bankruptcy are better positioned to recover lost ground”<sup>47</sup>.

5. Reputation rebuilding. Another crucial aspect in recovery is regaining the trust of customers, creditors and business partners. Transparent communication, fulfilled commitments, and quality products or services are essential for reputation rebuilding. “Lost reputation can be rebuilt through consistency and positive results”<sup>48</sup>.

An essential example is Ford Motors, which, after almost a decade of financial difficulties, managed to regain market confidence by launching innovative products and a strong commitment to sustainability<sup>49</sup>.

6. Diversification and adaptation. Companies recovering from bankruptcy must diversify their products and services to reduce their exposure to market risks. In addition, adaptation to new technological and economic requirements is essential. As stated by the World Bank Group, “firms that adjust their business model to new economic realities are more likely to return to profitability”<sup>50</sup>.

Recovering a business from bankruptcy is a difficult but achievable process, provided the organization learns from past mistakes and implements solid strategies for the future. Success depends on a realistic assessment of the situation, a well-thought-out plan, access to financing and a proactive approach. As Stiglitz points out (2010), “It is not bankruptcy that defines the future of a business, but the way it responds to the challenge”<sup>51</sup>.

### 3.7. Lessons to learn from the bankruptcy experience

Bankruptcy should not be viewed only as a failure, but also as an opportunity for learning and reinvention. As Stiglitz states (2010), “lessons learned from bankruptcy can become the foundation for future success as long as they are recognized and integrated into the decision-making process”<sup>52</sup>. Understanding mistakes and applying adapted solutions are essential to turning a negative experience into a new promising beginning.

<sup>46</sup> INS. (2018). The Impact of Industrial Decline on the Romanian Economy During the Transition Period. National Institute of Statistics, p.28.

<sup>47</sup> OECD. (2020). SMEs and Entrepreneurship: Overcoming the COVID-19 Crisis (p.12). OECD Publishing. Available at: <https://www.oecd.org> p.32.

<sup>48</sup> Stiglitz, J.E. (2010). Freefall: America, Free Markets and the Sinking of the World Economy. W.W. Norton & Company. Available at: <https://archive.org/details/freefallamericaf0000stig> p.127.

<sup>49</sup> Isaacson, W. (2011). Steve Jobs. Simon & Schuster. Available at: <https://dokumen.pub/qdownload/steve-jobs-simon-amp-schuster-paperback-edition-9781501127625-1501127624.html> p.240.

<sup>50</sup> World Bank Group. (2021). The Bankruptcy Dilemma: Understanding Global Insolvency Systems. World Bank Publications. Available at: <https://www.worldbank.org> p.46.

<sup>51</sup> Stiglitz, J.E., *op. cit.*, p. 130.

<sup>52</sup> *Ibidem*, p.145.

1. *The importance of financial planning.* One of the most important aspects that bankruptcy highlights is the need for rigorous financial control. Lack of solid financial management is a frequent cause of bankruptcy. As the OECD report points out, “companies that do not adopt a cash flow and expense monitoring system risk facing economic collapse”<sup>53</sup>.

An illustrative example is the case of Toys “R” Us, which, although was a global leader in the toy industry, failed to effectively manage its debts and adapt to market demands. This case demonstrates that sound financial planning and constant monitoring are essential for long-term success<sup>54</sup>.

2. *Flexibility and adaptation to changes.* One of the important lessons from the bankruptcy experience is the importance of adapting to economic and technological changes. As stated by the World Bank Group, “companies that quickly adapt to new market conditions are the ones that manage to survive and thrive”<sup>55</sup>.

Companies that ignore innovation and new trends risk becoming irrelevant. For example, Blockbuster, being once a giant in the movie rental industry, has failed to compete with digital platforms like Netflix, which have revolutionized the way consumers access content<sup>56</sup>.

3. *Resilience and risk management.* Bankruptcy highlights the need to develop resilience and effective risk management strategies. This involves not only preparing for unforeseen situations, but also diversifying income sources and product portfolio. As Popescu states (2016), “resilience is not about avoiding risks, but about being prepared to handle them when they occur”<sup>57</sup>.

A successful example is Ford Motors, which, during the 2008 financial crisis, implemented a strategy of cost reduction, innovation and diversification, thus avoiding the bankruptcy that affected other major automakers<sup>58</sup>.

4. *The importance of visionary leaders.* Leaders play a crucial role in a company’s recovery after bankruptcy. A visionary leader can instill confidence and mobilize the team to implement the necessary changes. As mentioned by Mărginean (2015), “leaders capable of inspiring and innovating are the ones who transform crises into opportunities for growth”<sup>59</sup>.

A notable example is Steve Jobs, who came to lead Apple at a time of deep crisis and transformed the company into a symbol of innovation and global success<sup>60</sup>.

5. *Lessons from past failures.* Bankruptcy offers a unique opportunity to reflect on mistakes made. These lessons are valuable not only for the affected company, but also for other entrepreneurs. As the OECD states, “a healthy economy allows companies to fail, but

<sup>53</sup> OECD. (2020). SMEs and Entrepreneurship: Overcoming the COVID-19 Crisis (p.12). OECD Publishing. Available at: <https://www.oecd.org> p.28.

<sup>54</sup> Thomas, L. (2019). Toys “R” Us: The Fall of an Iconic Retailer. Financial Times. Available at: <https://www.ft.com> p.10.

<sup>55</sup> World Bank Group, *op. cit.*, p.50.

<sup>56</sup> Isaacson, W., *op. cit.*, p.245.

<sup>57</sup> Popescu, A. (2016). RAFO Onești: Economic Failure or Fraudulent Bankruptcy? Economic Review, 67(3). Available at: <https://revista-economica.ro> p.61.

<sup>58</sup> INS. (2018). The Impact of Industrial Decline on the Romanian Economy During the Transition Period. National Institute of Statistics, p.30.

<sup>59</sup> Mărginean, I. (2015). The Bankruptcy of Romanian Industry after 1990: ARO Campulung case study. Western University Publishing House, p.45.

<sup>60</sup> Isaacson, W. (2011). Steve Jobs. Simon & Schuster. Available at: <https://dokumen.pub/qdownload/steve-jobs-simon-amp-schuster-paperback-edition-9781501127625-1501127624.html> p.300.

also provides mechanisms to learn from these failures and bounce back”<sup>61</sup>.

A local example is the case of OLTCHIM, where lessons learned from the first insolvency led to the development of more effective recovery solutions, demonstrating how past experiences can shape future decisions<sup>62</sup>.

Bankruptcy is undoubtedly a difficult experience, but it can also be an opportunity for growth and learning. The lessons it offers – from the importance of financial planning and adapting to change, to the role of visionary leaders and risk management – can turn an apparent failure into a future success. As Stiglitz points out (2010), “the true test of a company is not whether it has failed, but whether it has managed to learn from failure and reinvent itself”<sup>63</sup>.

#### 4. CONCLUSIONS

Bankruptcy is more than a simple financial failure; it is a complex phenomenon involving legal, economic, social and psychological elements. Although the consequences can be devastating, both for companies and individuals, this should not be perceived as the end of the road, but as an opportunity for learning and reinvention. As Stiglitz states (2010), “a healthy economy is one that allows businesses to make mistakes, but also provides the tools necessary for recovery and progress”<sup>64</sup>.

Bankruptcy can be the result of internal factors, such as mismanagement, or external factors, such as global economic crises. As mentioned by the OECD, “Understanding the causes is the first step to avoiding economic collapse”<sup>65</sup>.

The consequences of bankruptcy are not limited to financial losses; they affect employees, creditors, and communities. Major bankruptcies, such as those of RAFO Onești or City Insurance, have demonstrated how a local crisis can generate chain effects, destabilizing entire economic sectors<sup>66</sup>.

Through rigorous financial management, strategic planning, and adaptation, many companies can avoid bankruptcy or recover from it. The example of Ford Motors or OLTCHIM shows that success is possible even in conditions of deep crisis<sup>67</sup>.

The bankruptcy experience offers important lessons for all parties involved. For companies, this highlights *the need for financial education, transparency and effective leadership*. For legislators and authorities, it highlights the importance of a robust legal framework that protects both creditors and debtors. As stated by the World Bank Group, “a well-designed insolvency system not only manages bankruptcies, but also promotes a culture of financial responsibility”<sup>68</sup>.

Although bankruptcy is often stigmatized, it can become an opportunity for innovation and growth. The history of companies like Apple demonstrates that recovering from

<sup>61</sup> OECD. (2020). SMEs and Entrepreneurship: Overcoming the COVID-19 Crisis (p.12). OECD Publishing. Available at: <https://www.oecd.org> p.35.

<sup>62</sup> Popescu, C. (2017). Judicial Reorganization Plans: OLTCHIM case study. Romanian Legal Journal, p.58.

<sup>63</sup> Stiglitz, J.E. (2010). Freefall: America, Free Markets and the Sinking of the World Economy. W.W. Norton & Company. Available at: <https://archive.org/details/freefallamericaf0000stig> p.150.

<sup>64</sup> *Ibidem*, p.160.

<sup>65</sup> OECD, *op. cit.*, p.40.

<sup>66</sup> Popescu, A., *op. cit.*, p.59.

<sup>67</sup> INS. (2018). The Impact of Industrial Decline on the Romanian Economy During the Transition Period. National Institute of Statistics, p.34.

<sup>68</sup> World Bank Group. (2021). The Bankruptcy Dilemma: Understanding Global Insolvency Systems. World Bank Publications. Available at: <https://www.worldbank.org> p.60.

failure is possible, provided a clear and well-founded strategy is adopted. As Mărginean points out (2015), “the essence of success is not the avoidance of mistakes, but the ability to learn and evolve from them”<sup>69</sup>.

In Romania, current legislation provides a solid framework for insolvency managing, but challenges still exist, especially regarding the length of processes and the sanctioning of fraudulent bankruptcy. It is crucial that the business environment benefits from educational and financial support to prevent bankruptcies and encourage economic recovery.

In conclusion, bankruptcy is not the end of the road, but a chapter in a larger story of economic progress. As Stiglitz states (2010), “the true success of an economy is not measured by the absence of bankruptcies, but by its ability to support the successes that follow failure”<sup>70</sup>. Through a combination of responsibility, education, and innovation, companies can not only survive, but thrive.

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<sup>69</sup> Mărginean, I. (2015). The Bankruptcy of Romanian Industry after 1990: ARO Campulung case study. Western University Publishing House, p.48.

<sup>70</sup> Stiglitz, J.E. (2010). Freefall: America, Free Markets and the Sinking of the World Economy. W.W. Norton & Company. Available at: <https://archive.org/details/freefallamerica0000stig> p.170.