

Bankruptcy and second chance for honest failed entrepreneurs - European Commission's policy

**Entrepreneur's Day
Luxemburg**

November 12, 2015



Why a Bankruptcy and Second Chance Policy ?

- **200,000 EU businesses facing insolvency every year, 1.7 million jobs are lost in the EU due to bankruptcy.**
- **50% of new businesses close in the first 5 years of operation. 40% close in the first three years.**
- **Companies founded by re-starters have higher turnover and employment growth.**
- **Risk of bankruptcy is what Europeans fear most about setting up a new business. 43% of Europeans would not start a business if it might fail compared with just 19% in the United States.**

What are the main issues?

Only 4-6% of bankruptcies are fraudulent, yet...

...lengthy court procedures, social and financial stigma, lack of support, discrimination...

... thus a lot of entrepreneurship potential is being lost.

What has been done in this policy area?

• European Commission Initiatives

- *2007 - Commission Communication "Overcoming the stigma of business failure – for a second chance policy"*
- *2008 - Commission Communication "A Small Business Act for Europe- Principle II"*
- *2011 - Report of the Expert Group on Bankruptcy and Second Chance*
- *2013 - ENTREPRENEURSHIP 2020 ACTION PLAN*
- *2014 - Commission Recommendation "on a new approach to business failure and insolvency" - 3 year limit for discharge*
- *2014 - Study - Bankruptcy and Second Chance for honest entrepreneurs*
- *2015 - Conference on "Learning from Failure – Bankruptcy and Second chance for honest Bankrupt Entrepreneurs" Brussels, 18th of June 2015.*

SBA Principle II

The Member States should ensure that honest entrepreneurs who have faced bankruptcy quickly get a second chance.

To translate this principle into practice:

1. The Commission:

Will promote a second chance policy by facilitating exchanges of best practice among Member States.

2. the Member States are invited to:

- **Promote a positive attitude in society towards giving entrepreneurs a fresh start.**
- **Aim to complete all legal procedures to wind up the business in the case of non-fraudulent bankruptcy**
- **Ensure that re-starters are treated on an equal footing with new start-ups.**

Recommandation "on a new approach to business failure and insolvency" published in March 2014,

the Commission will carry out the evaluation of the implementation and it will propose further measures, if necessary.

Action Plan on Building a Capital Markets Union

Convergence of insolvency and restructuring proceedings, greater legal certainty for cross-border investors and encouragement of restructuring of viable companies in financial distress.

Inefficiency and divergence of insolvency laws make it harder for investors to assess credit risk, particularly in cross-border investments

A new Single Market Strategy based on:

- **Creating opportunities for consumers, professionals and job creators.**
- **Encouraging modernisation and innovation.**
- **Ensuring practical delivery.**

SINGLE MARKET STRATEGY



Helping SMEs and start-ups to grow.

"The fear of punitive Bankruptcy laws"

The effects of bankruptcy :

- deter people from entrepreneurial activity, disincentive to start up a business.
- fear of the social stigma.
- the Commission will support *bona fide* entrepreneurs. Legislative proposal on business insolvency, including early restructuring and second chance.

Conference on *"Learning from Failure – Bankruptcy and Second chance for honest Bankrupt Entrepreneurs"*



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SIX WORKSHOPS – a holistic approach on Bankruptcy

- LEGAL FRAMEWORK OF RESCUE CULTURE IN EUROPE.**
- ENTREPRENEURSHIP EDUCATION – PREPARATION FOR FAILURE.**
- ACCESS TO FINANCE FOR A SECOND CHANCE.**
- HOW TO LEARN FROM DEALING WITH FAILURE IN OTHER AREAS (Aviation-Nuclear-Health) .**
- SUPPORT /ADVISORY SERVICES FOR FAILED ENTREPRENEURS**
- LESSONS LEARNED FROM FAILURE AND SECOND START – TESTIMONIALS FROM ENTREPRENEURS**

Non-Legislative Action

"European Network for Early Warning and for Support to Enterprises and Second Starters"

The aim is to develop advisory and support services to

- (1) still viable businesses for restructuring and advice to survive,**
- (2) help honest bankrupt entrepreneurs to go for a second start in business, inter alia to manage and restructure their debt, to facilitate their economic and social inclusion and advise them in a 'second start'.**

In 4 EU Member States - we will support the creation of services for companies and company-owners in distress.

The Network will be built on existing experiences and good practices, i.e :

- **Danish Early Warning Scheme,**
- **Support services of BECI in Brussels,**
- **Tussenstap in Flanders,**
- **FADE in Asturias/Spain**
- **Anonyme Insolvenzler in Germany**
- **60.000 Rebounds in France**

Expected results

- **The creation of a pilot project in 4 countries as a pilot of a Europe-wide system of support services - disseminate impactful support methods across Europe.**
- **Increase of the rate of companies in distress that will be saved and increase the rate of honest failed entrepreneurs that go for a second chance in entrepreneurship.**
- **Shorten the time and simplify the procedures needed for restructuring, winding down and re-starting**
- **Include into business education / the preparation for dealing with distress, failure and second chance**

Thanks for your attention

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