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The Issue of the Optimal Solution for Insolvent Cooperative Savings and Credit Unions in light of the Effectiveness of Past Bankruptcy Proceedings

Abstract

This study addresses the problem of the optimal strategy for protecting (a) private interest and (b) public interest in the event of insolvency of a cooperative savings and credit union. According to available data, the collection of credit claims by trustees of bankrupt credit unions is relatively high. Therefore, the economic effectiveness of bankruptcy proceedings conducted against credit unions in Poland may indicate that it is premature to choose the bankruptcy path. This study addresses the problem of the optimal strategy for protecting (a) private interest and (b) public interest in the event of insolvency of a cooperative savings and credit union. According to available data, the collection of credit claims by trustees of bankrupt credit unions is relatively high. Therefore, the economic effectiveness of bankruptcy proceedings conducted against credit unions in Poland may indicate that it is premature to choose the bankruptcy path.

KEYWORDS: cooperative savings and credit union bankruptcy, trustee, bankruptcy, dividend

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1 Introduction

This study addresses the problem of the optimal strategy for protecting (a) the private interest and (b) the public interest in the event of insolvency of a cooperative savings and credit unions. According to the available data, the collection of loan claims by the receivers of insolvent credit unions is relatively high. Thus, the economic efficiency of bankruptcy proceedings conducted against credit unions in Poland may indicate the premature choice of the bankruptcy path[1].

Private interest is the individual interest of each creditor of an insolvent cooperative savings and loan association participating in the bankruptcy proceedings of the association. In fact, the private interest of creditors has been largely secured by the protection of deposits in credit unions through the statutory guarantee of the Bank Guarantee Fund (BGF). The interest of the BGF, expressed in the assertion of recourse from the bankruptcy estate, should be considered a form of public interest. Consequently, the public interest (general interest) will be of central importance. The public interest is expressed, inter alia, in the undisturbed functioning of that part of the banking system which is the credit union. In this paper, the question will be raised whether, in the case of financial problems of credit unions (solvency problems), the choice of the bankruptcy path in a particular case is really the optimal solution and not a premature one. In other words, it would be appropriate to consider whether the threshold for a credit union's „entry" into bankruptcy proceedings should be further raised in favor of other legal remedies.

The problem of threatened bank insolvency is the subject of careful analysis by legal scholars[2]. There are no such studies with respect to cooperative savings and credit unions.

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1 The present study was prepared, firstly, by inspiration and, secondly, thanks to analytical materials provided by Ms. Małgorzata Gatz, Deputy Chairman of the Board of the National Cooperative Savings and Credit Union.

2 In this regard, we should recommend the monograph by Chybiński Rafał, *Bank zagrożony upadłością. Regulacje procedury i instytucje w polskim prawie* (Opole: Wydawnictwo Uniwersytetu Opolskiego, 2024), passim.

2 Credit unions as part of the banking system

Credit unions are part of the broader banking system in Poland[3]. The market of banking services in Poland is diversified. According to the report of the Bank Guarantee Fund, at the end of 2019, guarantee protection covered deposits held in all domestic banks, with the exception of National Development Bank and mortgage banks, and in all savings and credit unions, including: 29 commercial banks, 538 cooperative banks, and 25 cooperative savings and credit unions (of course, what is different is the number of individual categories of banking institutions and what is different is their actual share in the market for banking services). The proper functioning of the banking system is in the public interest. At the same time, unlike commercial banks, credit unions are based on the axiologically important value created by the community of credit union members[4]. The legislator introduces a kind of „censorship" for membership in a credit union (Articles 10-13 of the Law of November 5, 2009 on Cooperative Savings and Credit Unions; SKOK Act [5]). Credit unions carry out deposit and lending activities exclusively for the benefit of their members. In order to ensure their economic security, the cooperatives are required to have own funds commensurate with the size of their activities (Article 24 of the SKOK Act).

3 The systemic basis for supporting credit unions

In principle, the prevention of bank failures is cost-effective in terms of the negative consequences of inefficiency or even collapse of the banking system. The 1929 crisis had long-lasting negative consequences because,

3 Adam Strzelecki, „Spółdzielcze Kasy Oszczędnościowo-Kredytowe w polskim systemie bankowym" *Studia z Zakresu Prawa, Administracji i Zarządzania*, Vol. III (2013): *passim.*

4 Joanna Olkowicz, „Spółdzielcza Kasa Oszczędnościowo-Kredytowa jako organizacja ucząca się na przykładzie Kasa Stefczyka – cechy i rozwiązania" *Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu*, No. 310 (2013): 411; Filip Czuchwicki, „Spółdzielcza Kasa Oszczędnościowo Kredytowa jako przedsiębiorca prowadzący niezarobkową działalność gospodarczą. Glosa do wyroku SN z dnia 21 stycznia 2011 r., III CZP 125/10" *Gdańskie Studia Prawnicze-Przrzecznictwa*, No. 2 (2012).

5 Consolidated text OJ 2023, item 1278, 1394, 1407, 1723, 1843.

as we will see, the banking system was not rescued quickly enough or intensively enough[6]. The 2008 financial crisis also required substantial government support for the banking sector[7]. In the case of the problems of large commercial banks in various countries, these banks were the recipients of government aid[8]. The case of Lehman Brothers debunked the myth that some banks are so big that they cannot fail. What is more, bank failures can happen to credit unions, whose own funds are incomparably smaller than those of the bank. The recent crises of banks such as Silicon Valley Bank in the US and Credit Swiss in Switzerland have shown that resolving bank failures is an obvious priority

In the legal system, the legislator has provided for certain legal mechanisms of support for credit unions. First of all, it is necessary to mention the role of the National Cooperative Savings and Credit Union in Poland (Krajowa Kasa Spółdzielcza Oszczędnościowo-Kredytowa). Pursuant to Article 24 and Article 55a(1) of the SKOK Act, the purpose of the National Fund of Cooperative Savings and Credit Unions is, inter alia, to ensure the financial stability of the Fund and, in particular, to provide financial support to the Fund from the Stabilization Fund. However, the size of the Stabilization Fund at the disposal of the National Fund is limited. It is created, among other things, from the contributions of credit unions. However, the Stabilization Fund is economically limited.

In addition, it is necessary to point out the formal instruments of support resulting from the Law of February 12, 2009 on granting support to

6 Rafał Adamus, *Dług i niewypłacalność. Analiza na czas kryzysu* (Warsaw: C.H. Beck, 2024).

7 Rafał Adamus, *Toksyczny dług XXI wieku* (Warszawa: Difin, 2020).

8 Danny Busch, Mirik van Rijn, „Towards Single Supervision and Resolution of Systemically Important Non-Bank Financial Institutions in the European Union" *European Business Organization Law Review*, No. (2018): 301-363; Christos V. Gortsos, *The Evolution of European (EU) Banking Law Under the Influence of (Public) International Banking Law: A Comprehensive Overview* (Prague: Charles University, 2019), 217-244; Matthias Haentjens, „The Changing Role of the Judiciary in Insolvency: The Case of Bank Resolution", [in:] *Banking and Financial Insolvencies: The European Regulatory Framework* (Nottingham-Paris: INSOL Europe, 2016), 13-32; Robby Houben, Werner Vandenbruwaene, „The Single Resolution Mechanism", [in:] *Judicial Protection in the Single Resolution Mechanism* (Cambridge: Cambridge University Press, 2017), 77-120; Matthias Lehmann, „Bail-in and Private International Law: How to Make Bank Resolution Measures Effective Across Borders" *International and Comparative Law Quarterly*, No. 1 (2017): 107-142; Wolf-Georg Ringe, „Bank Bail-In between Liquidity and Solvency" *American Bankruptcy Law Journal* (2018): 299-334.

financial institutions by State treasury[9]. Thus, there is an institutional framework for the purpose of providing support to credit unions from public funds. The aforementioned law specifies in detail the forms, conditions and manner of granting by the Treasury of the State support to financial institutions intended for ventures aimed at maintaining payment liquidity.

4 The importance of bankruptcy proceedings in the legal system and empirical research on their effectiveness

4.1 Bankruptcy proceedings as one of the legal remedies for credit union insolvency

At the outset, it should be noted that the problem of bankruptcy of credit unions is subject to different detailed regulation than the problem of bankruptcy of an „ordinary" entrepreneur with bankruptcy capacity. Bankruptcy proceedings, which are conducted for the purpose of realizing the interests of a large number of creditors, are an obligatory procedure in the legal system. However, it is treated as an ultima refugium (last resort). UNCITRAL, recognizing the importance of bankruptcy law, has developed legislative recommendations on bankruptcy law[10]. UNCITRAL stresses the importance of maximizing the value of a debtor's assets and maintaining a balance between liquidation and restructuring.

In the Polish legal system, the bankruptcy of a credit union is one of many legal instruments provided for in the event of its – specifically understood – bankruptcy. The following should be mentioned:

9 Consolidated text: the Journal of Laws. 2023, item 776.

10 They are located in the following documents: UNCITRAL Legislative Guide on Insolvency Law (New York 2005), consisting of two substantive parts: Part One. Designing the Key Objectives and Structure of an Effective and Efficient Insolvency Law (pp. 9-37) and Part Two. Core Provisions for an Effective and Efficient Insolvency Law (pp. 38-286), and UNCITRAL Legislative Guide on Insolvency Law. Part Three: Treatment of enterprise groups in insolvency (New York 2012).

- (internal) resolution proceedings, initiated in the event of a balance sheet loss of the credit union or the threat thereof, or the risk of insolvency or the threat of loss of payment liquidity (Article 72a of the SKOK Act)
- a curator appointed by the Polish Financial Supervision Authority (FSA) to supervise the implementation of the recovery program (Article 72c of the SKOK Act)
- receivership, to be established by the FSC in the event of a threat of insolvency of the fund, or if the management of the fund fails to submit a recovery program, or if the implementation of the program proves ineffective (Article 73 of the SKOK Act).
- decision of the National Credit Union on assistance from the Stabilization Fund to the credit union if the balance sheet loss of the credit union will cause the ratio of own funds to assets, expressed as a percentage, to fall below 1% (Article 74c of the SKOK Act)
- FSA decision on takeover of the credit union or on takeover of selected property rights or selected liabilities of the credit union by another credit union, with the consent of the acquiring credit union, if the National Credit Union refuses to provide assistance from the Stabilization Fund (Article 74c of the SKOK Act)
- the decision of the FSA on the takeover of the credit union or on the takeover of selected property rights or selected liabilities of the credit union by a national bank or a credit institution, with its consent, in the absence of consent of another credit union to the takeover or the impossibility of another credit union to take over the credit union. (Article 74c of the SKOK Act)
- the FSA's decision to liquidate the credit union if no other credit union agrees to take over the credit union or if no other credit union is able to take over the credit union. (Article 74c of the SKOK Act)
- the FSA's decision to appoint a receiver, if not appointed earlier, if the credit union's assets are insufficient to meet its liabilities at the reporting date (Article 74k of the SKOK Act)
- the FSA's decision to suspend the credit union's activities if the credit union's assets are insufficient to meet its liabilities at the reporting date (Article 74k of the SKOK Act)
- the decision of the Bank Guarantee Fund (BGF) on the initiation of forced restructuring of the credit union.

Finally, the FSA may apply to the competent court to declare a credit union bankrupt if the following conditions are met:

- if the assets of the credit union are insufficient to cover its liabilities as of the reporting date (Article 74k (1) of the SKOK Act)
- if, for reasons directly related to the financial situation of the credit union, it fails to meet its obligations to pay out guaranteed funds (Article 74k(2) of the SKOK Act)

At this stage, the following conclusions can be drawn about the analyzed legal status in relation to the problem of insolvency of credit unions:

- the legislature has provided a number of different legal remedies in the event of a credit union's insolvency, which allows for a reasonably flexible response;
- the provisions of the SKOK Act are the special provisions (lex specialis) with respect to the bankruptcy law, and therefore the provisions of the bankruptcy law concerning the prerequisites for bankruptcy and the persons entitled to file a bankruptcy petition do not apply;
- legal remedies are applied to the existence of different substantive premises that situate the position of the credit union at different levels of the state of insolvency;
- some legal remedies may be applied one after the other;
- some of the measures in this list are not stand alone measures;
- the legislature has provided for different bodies authorized to apply for legal remedies;
- according to general rules of law, where there are several competing remedies, they should be applied proportionately;
- the application of legal remedies, except in the case of a resolution proceeding, is left to a factor external to the credit union;
- filing for bankruptcy is certainly not the „first" remedy that should be used in the event of a credit union's insolvency
- at the level of eligibility to file for bankruptcy, there are competing remedies.

While the actual requirements for declaring a credit union bankrupt and the nature of bankruptcy proceedings differ in some respects from the general model, the model of post-bankruptcy court proceedings under the general rules and the specific rules designed for credit unions does

not involve significant differences. The trustee's task is to prepare a list of claims, liquidate the bankrupt's assets and distribute the bankruptcy estate among creditors. Thus, certain general dysfunctions of bankruptcy proceedings, which are the subject of research in the case of bankruptcy of „ordinary" entrepreneurs, are relevant to bankruptcy proceedings for credit unions.

4.2. Assessing the efficiency of bankruptcy proceedings as regulated before January 1, 2016

How is the vindication function of bankruptcy proceedings implemented in practice? P. Staszkiewicz, S. Morawska (the study concerned cases initiated before the reform which came into force on January 1, 2016, they refer to bankruptcy proceedings conducted under the general rules) indicate that

> the analysis of the results of empirical research has shown that the bankruptcy proceedings model operating in Poland does not realize its basic recovery function. The level of creditors' satisfaction as a result of bankruptcy proceedings involving the liquidation of the debtor's assets is negligible and in the surveyed courts averaged 17%. The cost of bankruptcy proceedings exceeds 40% of the bankrupt's assets, and the average duration of the proceedings, counted from the filing of the bankruptcy petition, is 2 years on average; debtors, despite their legal obligation, do not file bankruptcy petitions, and sanctions against them are not enforced; creditors are not interested in filing bankruptcy petitions against the debtor – they calculate the time, cost of the proceedings and the possibility of recovery; interest groups pursue their own interests at the expense of economic goals and the declared legal objectives of the bankruptcy institution. This is due to the internal and intrinsic dysfunctions of bankruptcy institutions; the result of adopting a restrictive model of bankruptcy institutions is a definition of bankruptcy that is not adapted to the realities of economic life, constituting a "narrow throat", as well as an extensive system of sanctions, including criminal ones[11].

11 Piotr Staszkiewicz, Sylwia Morawska, „Ocena poziomu rzeczywistej ochrony praw wierzycieli w Polsce w latach 2004 – 2012 – koszty transakcyjne dochodzenia praw z umów" *Biuletyn PTE*, No. 2 (2017): 20. See also Jarosław Horobiowski,

The duration of bankruptcy proceedings should be considered as one of the determinants of the vindication function. It is necessary to put forward the thesis that the duration of bankruptcy proceedings is an immanent feature of the vindication function. Empirical studies show that the degree of creditor satisfaction is significantly influenced by the duration of bankruptcy proceedings[12]. he literature aptly emphasizes that "one of the most important factors in the collection process is time. The sooner the claim is recovered, the lower the cost of recovery, with benefits on many levels, both from the creditor's and the debtor's perspective. From the creditor's point of view, it is primarily a lower cost of recovery (less costly collection tools are used in the early stages of delay), but also a lower burden on the financial result in the form of reserve and risk costs"[13]. Therefore, the prolonged conduct of bankruptcy proceedings is a violation of the vindication function.

4.3. Examination of the efficiency of bankruptcy proceedings in the legislation in force after January 1, 2016

4.3.1. ACURIA project

It is worth mentioning the research conducted within the ACURIA project (Assessing Court's Undertaking of Restructuring and Bankruptcy Actions – best practices, blockages and ways of improvement) by researchers from the University of Gdansk, consisting of Prof. Joanna Kruczalak – Jankowska, PhD, Anna Machnikowska, PhD, Monika Maśnicka[14] (the research was conducted on cases initiated after the reform of the law that came into force on January 1, 2016).

„Praktyka upadłościowa w Polsce w latach 2002-2012 na przykładzie sądu upadłościowego we Wrocławiu" *Biuletyn PTE*, No. 2 (2017): 25 et seq.; Paulina Kupis, „Dysfunkcje postępowań upadłościowych" *PTE Bulletin*, No. 2 (2017): 35 et seq.

12 Kupis, „Dysfunkcje postępowań upadłościowych", 35 et seq.

13 Tomasz Weitz, Jakub Franczak, „Ochrona praw podmiotowych dłużnika a prawa wierzyciela" *PTE Bulletin*, No. 2 (2017): 59.

14 The results of this research were announced in a publication titled *Działalność sądów w postępowaniach restrukturyzacyjnych i upadłościowych. Bariery funkcjonowania instrumentu poprawy systemu upadłościowego w Polsce* (Gdańsk: Wydawnictwo Uniwersytetu Gdańskiego, 2019).

Within the framework of this research, the bankruptcy files of 31 cases filed with the District Court for Gdańsk North in Gdańsk and 76 cases filed with the District Court for the Capital City of Warszawa in Warszawa were analyzed. As regards the level of creditors' satisfaction with the recognition of their claims, the following conclusions can be drawn. Satisfaction of creditors at the level of 1% and less affected 16.13% of cases conducted in Gdańsk, 25% of cases conducted in Warszawa. Satisfaction of creditors at the level of 1% – 5% concerned 19.35% of cases conducted in Gdańsk 25% of cases conducted in Warszawa. Creditors' satisfaction at the level of 5% – 10% concerned 16.13% of cases conducted in Gdańsk 10.53% of cases conducted in Warszawa. Taking into account the statistics of the cases conducted in Warsaw, the bankruptcy dividend in half of the bankruptcy cases did not exceed 5% of the claims. On the other hand, only 3.23% of cases conducted in Gdańsk and 5.26% of cases conducted in Warszawa satisfied creditors by 50% or more.

4.3.2. Institute of Justice research

At the request of the Institute of Justice in Warsaw, Prof. Anna Hrycaj, Ph.D., Patryk Filipiak, Ph.D., and Bartosz Sierakowski, Ph.D., conducted a comprehensive study of court records of completed bankruptcy proceedings conducted by certain bankruptcy courts in the period from January 1, 2016 to July 31, 2020[15].

The following conclusions were drawn from the research:

> The research showed that proceedings take a very long time. Bankruptcy proceedings took an average of 191 days, counting from the date of the filing of the petition to the date of the decision to hear the petition. The median was 135 days. The shortest case lasted 17 days and the longest 883 days. It should be noted, however, that the statistics are distorted by the practice of withholding consideration of the bankruptcy petition not only for the duration of consideration of the petition to initiate reorganization proceedings, but also for the duration of the entire reorganization proceedings. As a result, the bankruptcy proceedings may last almost three years, but this is the

15 Anna Hrycaj, Patryk Filipiak, Bartosz Sierakowski Jakub Rak, *Postępowanie upadłościowe w praktyce sądów powszechnych* (Warsaw: Instytut Wymiaru Sprawiedliwości, 2022). https://iws.gov.pl/wp-content/uploads/2023/01/IWS_Hrycaj-A-i-in._Postepowanie-upadlosciowe-w-praktyce-sadow-powszechnych.pdf.

period during which the acceptance of the application is withheld due to the pending proceedings[16].

The conclusions regarding the bankruptcy dividend are important.

The analysis of the file, including the statistical data, allows us to formulate the following partial conclusions [...]. Thus: 1) The level of creditor satisfaction is negatively affected by the length of bankruptcy proceedings. The reasons for this state of affairs are basically two: a) the process of liquidation of the bankruptcy estate carried out by receivers is not carried out correctly, in particular, the method of liquidation of receivables and movables, which are difficult to dispose of, is inappropriate to the nature of the components of the estate; b) the judges-commissioners are late in recognizing the distribution plans submitted to the file and do not promptly execute orders, the execution of which allows for the proper service of court decisions; 2) the level of satisfaction of unsecured creditors in property in bankruptcy proceedings is low. This most likely means (although it is not an absolute rule) that bankruptcy petitions are filed too late, at a time when the debtor's assets are already defragmented (many cases have been observed in which the bankruptcy estate already included only components of former companies)[17].

4.3.3. The negative evaluation of the construction of the forced liquidation – the individual doctoral thesis

Dr. Agnieszka Cybulska-Bienioszek's doctoral thesis entitled *Pre-pack liquidation in bankruptcy proceedings* (Katowice 2023), prepared at the University of Silesia under the supervision of Prof. Aleksander Jerzy Witosz, based on the research of all cases of pre-pack liquidation pending in Poland between January 1, 2016 and June 1, 2018, came to the following conclusion. From a creditor's point of view, the benefits obtained in a forced liquidation are not significant in relation to the satisfaction of general principles, which results in an excessive profit for the investor.

16 Ibidem, 129.
17 Ibidem, 112.

4.3.4. Doing Business 2020 report

According to the World Bank, the efficiency of bankruptcy proceedings in Poland is very poor. According to the World Bank, bankruptcy proceedings in Poland take on average much longer than in other member states of the European Union. In EU member states, bankruptcy proceedings take an average of 2 years. In Poland, on the other hand, according to the results of this study, the average duration of bankruptcy proceedings is 3 years. Poland is surpassed only by Slovakia, where the average duration is 4 years, and Greece, where the average duration is 3.5 years. In Bulgaria, Romania, Croatia, Switzerland and Estonia, bankruptcy proceedings take no less than 3 years. In Ireland, on the other hand, bankruptcy proceedings take no more than six months on average.

The situation is even worse when it comes to costs. Of course, there is a connection between the length of the proceedings and their costs. In Poland, the cost of bankruptcy proceedings is usually 15% of the bankruptcy estate. By comparison, the cost of bankruptcy proceedings in Norway is 1% of the bankruptcy estate.

4.3.5. INSO conclusions of the Bankruptcy and Restructuring Law Section of the Allerhand Institute

The dysfunction of the bankruptcy judiciary in Poland is illustrated by the report prepared by the Allerhand Institute in Krakow, Bankruptcy and Restructuring Law Section, entitled: Recommendations for the Reform of the Bankruptcy and Restructuring Judiciary, Krakow 2024. As stated in the diagnosis, there has been a sharp increase in restructuring and bankruptcy cases of entrepreneurs, as well as a surge in consumer bankruptcy cases, behind which the organization of the bankruptcy judiciary has not kept pace.

4.4. Possible reasons for low efficiency of bankruptcy proceedings

Bankruptcy proceedings are generally associated with low creditor satisfaction efficiency. This is due to a number of reasons, including the following:

- Sale by the trustee of assets included in the bankruptcy estate at liquidation value.
- High costs of liquidation, including the costs of layoffs (severance pay).
- Inefficiency of property management during the transition period.
- Sudden loss of revenue sources (freezing and liquidation of operations). Financial consequences of non-performance of contracts.
- High costs of case administration by the bankruptcy trustee.
- Low efficiency of expenditure control.

4.7. Summary of comments to date

As can be seen from the discussion so far, credit unions are part of the banking system in Poland. They have bankruptcy capacity. However, the legal system in case of insolvency of credit unions provides for various legal remedies, including bankruptcy petition. The bankruptcy petition is filed by the FSA. Previous studies based on data from court records indicate that the efficiency of bankruptcy proceedings is low, as measured both by the amount of the bankruptcy dividend and the time it takes for the creditor to receive it.

5 Effectiveness of bankruptcy proceedings involving credit unions

The following analytical data were prepared by the National Cooperative Savings and Credit Fund. They were prepared on the basis of the accounting report of the bankruptcy trustees. The data refer to 10 bankruptcy proceedings of credit unions in bankruptcy and one credit union whose bankruptcy proceedings were terminated (SKOK Wspólnota). The reporting period – with regard to ongoing bankruptcy proceedings of credit unions – refers to the period from December 31, 2022 to September 30, 2023.

Name of bankrupt bank	Liabilities of credit unions to depositors in million zloty based on BFG Annual Report 2019	The state of funds at the end of the reporting period PLN million	Receipts to the bankruptcy fund cumulatively in PLN million	Implementation of division plans cumulatively PLN million	% collection
SKOK Jupiter	81,9	10	71,4	57,0	81,83%
Wielkopolska SKOK	248,2	7,7	219,5	214,4	78,14%
Twoja SKOK	165,8	1,4	147,7	124,8	76,08%
SKOK Arka	93,1	7,3	54,9	59,7	71,91%
SKOK Wybrzeże	120,8	5,2	54,8	56,5	51,09%
SKOK Nike	114,4	4,5	74,6	53,5	50,66%
SKOK Polska	170,2	3,0	97,2	73,8	45,13%
SKOK Skarbiec	88,0	6,5	42,1	30,0	41,51%
SKOK Kujawiak	183,90	3,0	69,2	61,0	34,79%
SKOK Wołomin	2 246,50	317,2	371,1	—	14,12%
SKOK WSPÓLNOTA (proceedings terminated)	817,50	—	367,3	400,1	48,98%

Source: Based on data made available by the National Cooperative Savings and Credit Fund.

Based on the data presented, the following conclusions can be drawn.

- First of all, the total amount of liabilities of failed credit unions to depositors is not small. It ranges from PLN 81.9 million to PLN 2,246.5 million. Taking into account the fact that depositors are, as a rule, natural persons, these data lead to the conclusion that the bankruptcy cases of credit unions belong to the „large" and organizationally complex cases.
- Second, the bankruptcy of a credit union is not free of so-called „liquidation costs".
- Third, the costs of administering the bankruptcy case by the trustee and his team are high, and there is no basis for claiming that they are particularly lower in the case of credit union bankruptcy.
- Fourth, when analyzing the data on the status of credit unions' liabilities to depositors and the amounts allocated to satisfy creditors under the distribution plan, it should be noted that the level of satisfaction is very high.

6 Final conclusions

The accumulated data show that the level of satisfaction of depositor-creditors in the case of bankruptcy of a credit union is relatively very high compared to the data on bankruptcy proceedings against companies in general. Thus, the relatively expensive (cost-intensive) bankruptcy proceedings conducted against the credit union are capable of producing an effective bankruptcy dividend. A reasonable doubt arises as to whether the bankruptcy of credit unions is the optimal solution if, despite the liquidation of their operations, the level of collections is very high and the implementation of distribution plans yields above-average results.

It is recommended that the above circumstances be taken into account in the decision-making process of the FSA when considering the legitimacy of filing for bankruptcy of a credit union.

It would seem appropriate *de lege ferenda* to strengthen the importance of procedures competing with bankruptcy proceedings. This could be done, in particular, by indicating that a bankruptcy petition should only be filed in situations where it is obvious that other legal remedies will not be sufficiently effective.

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