

Accompanying companies in difficulty

Preface

Roland Lescure, Minister Delegate in charge of Industry

Introduction – Preventing and dealing with business difficulties

Guillaume Cadiou, Interministerial delegate for company restructuring, **Serge Catoire**, General Council for the Economy, and **Olivier Remy**, Advisor to the Cabinet of the Minister for Industry

Detection and prevention of business difficulties

"Weak signals": public innovation and data expertise at the service of weakened companies

Élodie Quézel, Public intrapreneur and operational director of "Signaux faibles"

"Weak Signals" makes the most of company data held by the administration to identify and support, before it is too late, the companies that are in the most difficulty or in a fragile state. The strength of this tool lies in the interministerial partnership that brings together the DGE and the DGFIP (within the Ministry of the Economy), the DGEFP (within the Ministry of Labor), as well as the Banque de France and the URSSAF Caisse Nationale, with the methodological support of the DINUM (with the beta.gouv.fr incubator within it). In this article, we look back at the uniqueness of this approach, which, inspired by the methodologies of Agile Products (or lean management), known as State start-ups, has enabled the construction of a digital tool to safeguard our companies.

The role of the Banque de France and its network of departmental branches in preventing business difficulties

Frédéric Visnovsky, National Credit Mediator at the Banque de France

Through a network of branches across departments, the Banque de France has, over the years, expanded its interventions to deal with and prevent difficulties experienced by companies.

Since 2008, credit mediation has been helping businesses of all sizes with difficulty in obtaining cash or accessing credit. Widely mobilized during the Covid crisis, credit mediation also plays an active role in demands for the restructuring of the state-guaranteed loan.

The Banque de France has stepped up its monitoring of payment deadlines and continued to support companies, through its TPE-SME correspondents, in order to

identify the needs of companies and to channel them towards the professional networks most capable of meeting their problems.

The Banque de France has also developed a set of service offerings that allow companies to operate in their environment, measure their potential, identify their risks and project themselves according to their management choices.

Finally, the Banque de France is involved in the action plan for supporting post-crisis enterprises and uses the different information it has on the firms to help diagnose the firms and identify those that may be affected by fragilities.

Cyclical and structural difficulties: what can be done to help the automotive sector build a future?

Didier Sepulchre de Condé, Mechanical industry

European Automotive industry is in a huge turmoil, Electrification, in a context of declining volumes.

China, already involved in the process of électrification with massive volumes, is ready to serve E-Power european market from now.

European suppliers still need time for R&D and for production investments.

So far, thanks to government support sincere 2010, french automotiv supply chain has gone through the successive crisis.

Surviving to electrification challenge should be the common target of all stakeholders of french Automotive industry.

The national plan to help companies emerge from the crisis: supporting each company

Gérard Pfauwadel, National advisor for the end of the crisis

The national plan to assist companies in recovering from the crisis has made it possible to offer a solution adapted to the situation of each company weakened by the health crisis. It has demonstrated the capacity of the administrations to build an innovative partnership in the service of an ambitious public policy of support to companies.

Role and place of the Mediator of companies and observations made in terms of prevention of company difficulties

Pierre Pelouzet, Company Mediator

The Business relations Mediation was about to celebrate its 10 years anniversary in 2020. The crisis caused by COVID-19 changed the agenda of the organization going from the assessment of the achievements to managing an unprecedented crisis. All the more ironic, the Business relations Mediation was created in 2010

in the aftermath of the financial crisis of 2008. However, beyond the astonishment of the entire world, this crisis, originally allowed the Mediation to use its experience and knowledge of the challenges that businesses deal with everyday.

For 12 years now, the Business relations Mediation has been working to allow economic players to find quick solutions to their disputes but with the wish to maintain the relationship of trust. In order to prevent these disputes, we have been promoting all along, the good purchasing practices and the tools that make their life easier.

These actions and this experience made it possible, during the COVID crisis and ever since, to maintain the support of the struggling businesses and sectors on a daily basis.

French aerospace companies show resilience

Philippe Berna, Mediator of the French Aerospace Industry Group (GIFAS)

With the Covid-19 pandemic, the French aerospace industry has experienced an unprecedented crisis, with unanticipated repercussions, including a sudden end to decades of uninterrupted growth.

And yet, the industry has been able to resist and even rebound by preserving the technological excellence that characterizes it, by strengthening the quality of relationships between companies, and above all, by preserving the men and women who make up the industry. While the industry's overall sales have fallen by more than 30% in 2020, only 3% of jobs have been affected. And, as of 2022, the sector has been creating jobs again and 15,000 new hires are planned!

And, beyond all this, a new expertise has developed in the art of managing successive crises...

The objective of this article is to explain the factors that have enabled the industry to overcome this (these) crisis(es) under controlled conditions, in particular thanks to the articulation between the steering bodies, the task force set up at GIFAS level and the industry mediation, so that aviation can continue to play its societal role, which is essential for responsible progress, while ensuring that France can maintain its position as world leader.

Treatment and support of restructurings

The commissioners for restructuring and prevention of business difficulties

Arnaud Laguzet, Commissioner for Restructuring and the Prevention of Difficulties (CRP) for the Prefect of the New Aquitaine Region

The principle of the creation of the commissioners for restructuring and prevention of difficulties of companies (CRP) was born from the economic crisis of 2008, period during which the Minister of Economy considered that it was necessary to appoint territorial correspon-

dents having a facilitated link with his cabinet, to follow, identify and treat the difficulties of industrial companies. The CRPs work in conjunction with all government departments, public operators and local authorities in all phases of their work with companies, from alert, including preventive action, to operational support for company restructuring or support for companies undergoing proceedings (amicable or collective) before the commercial court. The CRP thus plays a decisive role in the follow-up and support of companies in the field, which constitute an essential local economic fabric. The successive crises that we have experienced in recent years show the importance of having a local contact person ad hoc to understand and manage the difficulties of industrial companies with between 50 and 400 employees.

The Interministerial Committee for Industrial Restructuring

Cédric Garcin, Former Secretary General of CIRI (2021-2022) and Head of the Economic Service in New York

The CIRI celebrated its 40th anniversary in 2022, in full transition between the Covid crisis and the energy crisis and the return of inflation affecting France and the world. A light structure created within the General Directorate of the Treasury to support business restructuring, the CIRI is the heir of the CIASI, which transmitted to it the fundamental principles of its action. Although the French economy has changed profoundly since 1982, financial restructuring has become more complex and the sector has become more professional, the CIRI remains a place organization called upon by restructuring players for its ability to align interests and promote the preservation of sustainable jobs and respect for the rules of negotiation. Highly solicited during the Covid crisis, the CIRI is now intervening in support of companies affected by the explosion in energy prices.

Company restructuring, the mechanism implemented within the State

Guillaume Cadiou, Interministerial delegate for company restructuring, and **Olivier Remy**, Advisor to Roland Lescure, Minister Delegate for Industry, in charge of restructuring and the aeronautical and naval industries

The turnaround of a company is a complex matter, that requires various law, finance and management skills. Public authorities intervene in business restructuring situations through a wide variety of actions, from prevention and treatment of financial difficulties to the management of social and local consequences. This is an unusual mission for public agents, who deal with individual situations with a strong culture of results. It is also a system that has successfully proven its efficiency during recent crises, with an unprecedented intervention by the Government. In the coming months, the challenge will be to maintain intense and targeted support for businesses while preserving the State's financial interests.

Policy of treatment of the difficulties of the companies in Occitania region

Carole Delga, Former Minister, President of the Occitanie-Pyrénées-Méditerranée Region, President of the Ad'Occ economic development agency and President of Régions de France

The treatment of business difficulties is carried out within the regional multidisciplinary monitoring and early warning unit led by the two commissioners for productive recovery present on the Occitanie territory. The partners' intervention resources are thus mobilized in coordination to preserve employment in the territories. This covers:

- the exchange of confidential information on companies in difficulty in order to quickly establish a shared diagnosis;
- the search for solutions to facilitate the continuation of the activity of these companies: URSSAF payment plan in case of tax or social debts; implementation of bank mediation in the absence of a possibility of access to financing; launching of performance analysis services through Expertise GEODE of the Bank of France if the problem is structural; prescription of one of the devices deployed by the Occitanie region, namely: "Garantie Relance Foster", "Prêt Relance" or "Aide au conseil stratégique" to prevent a delicate situation, and "Contrat Entreprise en Difficulté" or "Contrat Crise de Trésorerie Covid", if a need for financing is identified to complete the round of financing; and, if necessary, search for buyers with the help of the Ad'Occ agency.

Turnaround funds

Nicolas de Germay, Founding partner of Alandia Industries

Turnaround investors finance companies whose difficulties can no longer be met by traditional players.

There are 3 types of situations, ranked from the least to the most risky: financial restructuring dealing with balance sheet imbalances, the treatment of the P&L following an accident or a cyclical problem, and the overhaul of the business model and the P&L.

These issues are dealt with by two types of investors:

- Private Equity funds, which invest the money of institutional investors, which are more passive and less operationally involved and which focus on less severe situations,
- Holding companies which invest their partners' money, which are very operational and involved and which invest in the other cases.

Turnaround investing is risky: over the last ten years in France, around 10% of these have been successful. Therefore we believe that average IRR and its regularity are less acceptable for "LPs" expectations on the long run.

Alandia seeks to take majority control of companies with know-how and whose turnaround levers are in the hands of managers (not exogenous), to reposition them in the markets of the future and ensure their sustainability through the generation of free cash flows.

Commercial courts and judicial administrators

Hélène Bourbouloux, Judicial administrator, partner at FHBX, and **Henri Locqueville**, Trainee judicial administrator and associate at FHBX

In the French restructuring ecosystem, commercial courts and judicial administrators are specialised and independent players who work collectively to solve companies' difficulties. Their scope is defined in Book VI of the Commercial Code, which offers a variety of tools adapted to each situation encountered by a company in crisis. Amicable and confidential proceedings (mandate ad hoc, conciliation) are effective to reach negotiated agreements. Those agreements are monitored to ensure they are balanced and that they provide for the conditions of the long-term viability of the firm. Judicial proceedings (safeguard, accelerated safeguard, judicial rehabilitation) are effective in dealing with the company's deeper difficulties. The judicial administrator supports the company manager in elaborating and implementing a solution to overcome the crisis. During this time, the professional is in permanent contact with the court, to which he or she reports on the progress of his or her mission.

The role of the lawyer in the restructuring of companies in difficulty

Philippe Druon and Alexandre Heyte, Hogan Lovells

The missions of the restructuring lawyer are diverse. When he advises the debtor, his role is that of an emergency doctor at the bedside of a sick company. He provides a diagnosis and guides the company director towards the appropriate procedural way, taking care to avoid that a too brutal shock treatment leads to kill the patient.

The strategy developed by the lawyer has one main objective: the survival of the company. To this end, the lawyer assists the debtor in the negotiation and implementation of either an amicable agreement accepted by all the stakeholders within the framework of an ad hoc mandate or a conciliation, or, if no unanimous agreement is reached on the terms of the restructuring, of a safeguard or reorganization plan that may be imposed on certain dissenting creditors.

The lawyer can also advise the purchaser of a distressed company. As a promoter of a takeover project guaranteeing the company's survival, the lawyer uses all the existing legal tools to enable his client to take control of a distressed target, by acquiring a stake in the debtor company or by acquiring its assets and its business under a sale plan.

As a technician, strategist and leader of the restructuring process, the lawyer plays a central role that is likely to become even more important in light of recent changes in the French law applicable to distressed companies.

The role of investment banks in restructuring

Jacques Le Pape, Partner Ceres Partners

In complex restructuring situations M&A advisors bring frequently their expertise to the negotiations. This is justified by the financial amounts at stake, the crucial

time constraints and the technicity needed. Another rationale is that restructuring negotiations are mainly about the conditions for bringing new money to the existing business: what is the return on equity expected by new money providers? What are their governance rights? What is the value to be returned to existing shareholders? What are the different lenders' views – Getting part of their cash back or swapping the debt to equity? This makes the financial discussions quite similar to M&A negotiations.

Inflation, rising interest rates, recruitment difficulties...: a necessary mobilization of skills to face these issues

Cédric Colaert, Shafik Hosni, Édouard Dutheil and Antoine Leboucher, Partners and Senior Manager of Eight Advisory

How to face the crisis as a company manager? France has developed a real practice to support companies in difficulty and their managers. In order to deal with such critical situations, it is crucial to know how to make the right diagnosis, thanks to the rapid detection of symptoms. Once this stage is over, it is necessary to identify the axes of turnaround and negotiations with all stakeholders (company, creditors, State, employees, etc.). The current context requires a good understanding of this process of dealing with difficulties, which has now been proven on many cases of companies of all sizes, from very small businesses to listed groups.

Company restructuring: how to prevent layoffs and support job protection plans?

Valérie Guern, Ministry of Labor, Full Employment and Integration – General Delegation for Employment and Professional Training (DGEFP)

The prevention of economic layoffs is a fundamental issue in the employment policies implemented by the General Delegation for Employment and Professional Training within the Ministry of Labor, Full Employment and Integration. Anticipating and supporting economic change is necessary to keep employees in employment and preserve skills. Several tools are available for this purpose: partial activity, long-term partial activity (APLD) and the FNE Formation.

When restructuring is unavoidable, the State guarantees that social dialogue will be respected within companies that carry out reorganizations and ensures that the means implemented by these companies promote the redeployment of employees.

In the most difficult situations, it mobilizes specific measures for employees whose layoffs cannot be avoided (professional security contract, major layoff benefits, European globalization adjustment fund and various sectoral measures, such as the automobile fund.

The approved prevention group (GPA), a player oriented towards very small businesses

Emmanuel Lemaux, Deputy Head of the Corporate Restructuring Mission at the Directorate General for Enterprise (DGE), **and Patrice Duceau**, Regional President of the GPA network for the Centre-Val de Loire

The approved prevention group (APG) is an emerging player in the world of restructuring, perfectly complementary to the presidents of commercial courts as well as commissioners for restructuring and the prevention of business difficulties (CRP). As close as possible to the field, it is aimed primarily at VSEs in a dual approach of early detection of business difficulties as well as remediation of these. As such, its members – mainly former business leaders – are intended to support business leaders, in complete confidentiality, including when the company's turnaround is no longer possible and the only credible outcome is a judicial liquidation. Like a family doctor, the APG monitors his patients over time. The approval granted to it by the State calls on its part to carry out collaborative work on a daily basis with the CRP.

Rebound and revitalization

Understanding the functioning of territorial economic ecosystems and fitting into them: an essential dimension of the role of CRPs

Sandrine Anstett, Commissioner for the economic conversion of the Fessenheim area, **and Pascal Theveniaud**, Commissioner for Restructuring and the Prevention of Difficulties (CRP) and Unique Investment Referent (RUI) to the Prefect of the Occitania Region

Although successive circulars have prioritized the action of the CRPs on industrial companies with more than 50 employees, their mobilization has quickly been adapted to the challenges and specificities of each territory. Concrete solutions to support fragile or struggling companies have often been the result of collaborative work between the public and private players making up the local ecosystem. Each case of a company dealt with has helped to strengthen the trust and partnership between the various stakeholders for the benefit of the local industrial fabric and the region.

Twenty years of revitalization: increased responsibility at the local level to develop sustainable employment in the territories

Maeva Lamand, Ministry of Labor, Full Employment and Integration/DGEFP

The purpose of the employment area revitalisation regulation, created in 2002, is to ensure that companies that have made economic redundancies contribute to the creation of new jobs or activities in the areas affected by the job losses. The flexibility of the rules and the diversity of actions that can be mobilised make it a tool at the service of the territories, adapted to the specificities of each company.

The obligation to revitalise employment areas in the current economic context is still very useful. The health crisis has accelerated changes in the economy and has led, particularly in certain sectors of activity, to the implementation of high-impact restructurings in the territories involved. The revitalisation obligation therefore fully plays its remedial role and makes it possible to prioritise the financing of actions aimed at recreating sustainable jobs. The agreements signed between the State and the companies subject to the law target a growing number of actions related to the ecological transition, thus demonstrating that this system adapts to the challenges of its time.

Stimulating the local ecosystem to overcome or anticipate an economic shock: the "Industrial Rebound" method

Jean-Baptiste Gueusquin and Alice Provendier, "Territories of Industry" program

Inspired by the means of action and the functioning of the "Territoires d'industrie" program, the "Industrial Rebound" method promotes the proactive approaches of communities involved in an industrial development strategy. It is intended to serve the field, providing a "boost" in terms of territorial engineering and funding for projects that implement the priorities of local players. The opening up of this type of support to some 40 new territories as part of the France 2030 call for expressions of interest is intended to continue the operational support of inter-municipalities that are experiencing or anticipating difficulties due to their exposure to changes in the transport sector. This support is provided using a method that has proven its worth since 2020.

Making the raison d'être a resilience factor: the case of GRTgaz

Jérémy Lévêque, Kevin Levillain and Blanche Segrestin, Mines Paris – PSL, and **Christophe Delfeld,** GRTgaz

Companies are facing increasing tensions between economic imperatives and ecological transition issues. These sustainability crises are likely to multiply.

The case of GRTgaz provides a good illustration. Paradoxically, its public service mission, which is to ensure an accessible supply of gas, is now running counter to the common interest of the energy transition.

In this article, we show, based on recent research conducted jointly with GRTgaz, how reflection on the company's raison d'être can be a novel lever of resilience.

We show that reflection on the raison d'être, rather than reasoning by issue, leads to the identification of interdependencies between issues and, thus, to highlight the design efforts that the company should undertake to strengthen its resilience in the face of sustainability crises.

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