

Unravelling the ins and outs of restructurings

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Introduction and Agenda

After 9 ½ years with Alvarez & Marsal in Paris and a stint as Operating Partner with Madrid-based special situations investor Springwater Capital, Benoit launched Ranelagh Partners, his own advisory boutique, focusing on performance improvement and business transformation matters with a hands-on approach.

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His restructuring experience includes:

- CRO of a French €80m revenue plastics injection business based North of Lyon
- Interim CEO of a distressed out-of-home communication business
- Financial advisor to a stressed, pan-European vending company

Benoît also advised his clients on the preparation of Operational Due Diligence reports (ODD) in M&A transactions as well as post-merger integration support, including headcount synergies.

« The ins and outs of restructurings » - Session agenda:

- Who are the advisors in restructurings? What is expected from them?
- The business/investor standpoint – case studies
- Dos and Don'ts

Restructurings and legal advisors

Typically 2 lawyer categories are involved in restructurings

Restructurings typically involve two types of lawyers:

- Employment and labor lawyers:

- In operational restructurings and reorganizations: when headcount adjustments are needed
- In M&A transactions and build-up/growth operations: when synergies must be planned and realized

Their duties would include:

- Establish planning and deadlines for the process
- Review the associated restructuring costs and payment calendar
- Identify risks and provide mitigation strategies (risks pertaining to employees' representatives, or insufficient managerial experience, or political context, etc.)

- Corporate and bankruptcy lawyers:

- when business liquidity is at risk,
- when bankruptcy prevention must be strategized,
- when it's too late to strategize... and bankruptcy is the way out

Their duties would include (on the debtor side):

- Understand New Money requirements and advise on New Money ranking and associated privileges (if any)
- Understand potential creditors' current situation and immediate value creation levers (debtor side)
- Identify risks and provide value-preservation strategies
- Understand potential misalignment between shareholders (debtor side)

The business standpoint – Employment lawyers

In practice, restructurings imply that lawyers take on various roles in a given situation

Employment and labor Law advisors – what does your client really want ? (in most cases...)

- Case study n°1 (the do): employment lawyer advising PE Fund and Portfolio Company on an external growth M&A transaction (French target is a profitable entity)
 - Communicates early views on deal and anticipated difficulties – the strategist
 - Provides deal roadmap and associated deadlines (in particular workers’ councils consultations, etc.) – the policeman
 - Does not hesitate to participate in preparation meetings to secure “unexperienced” HR Director – the babysitter
- Case study n°2 (the do – again): employment lawyer advising French PE-owned stressed business on the preparation and implementation of a social plan
 - Understands the adequate level of emergency with its aggressive client /shareholder (US-based PE fund...) – the psychologist
 - Educates client on invoking the “economic motive” while mother company is highly profitable, triggering higher risks and much increased Social Plan budget – both the teacher and bad news messenger
 - Participates in Workers Council information/consultation meetings alongside German, interim CEO – the bodyguard
- Case study n°3 (the don’t – seriously please don’t !!!): the employment lawyer advising large US Corporation on a pan-European headcount reduction and reorganization plan
 - Applies “One size fits all” strategy across multiple jurisdictions (UK, Belgium, NL, Germany, Spain... and France – no kidding) – the “head of marketing”
 - As a consequence, plannings and budgets are developed under flawed assumptions...
 - ... and implementation becomes a nightmare for local managers

The business standpoint – Bankruptcy lawyers

In practice, restructurings imply that lawyers take on various roles in a given situation

Corporate bankruptcy lawyers – what does your client really want ? (in most cases...)

- Case study n°1 (the do): bankruptcy lawyer advising highly-distressed business on its sale to its management and simultaneous debt-for-equity swap under innovative bankruptcy procedure (French Safeguard)
 - Understands the conflicting forces bw. Managers and Shareholders – the psychologist
 - Devises and delivers a creative takeover scheme for managers, avoiding debtor Company to declare bankruptcy – the creative director
 - Convinces arbitrator (receiver) to implement suggested solution – the head of marketing
- Case study n°2 (the do – again): bankruptcy lawyer advising stressed French subsidiary of a US-corporation in its spin-off
 - Uses available toolkit to protect mother Company of potential future claims from acquirer – the architect
 - Navigates the local Court of Commerce politics and identifies the most appropriate receiver with local reputation – the politician
- Case study n°3 (the do): bankruptcy lawyer advising illiquid-then-bankrupt French midsize Telecom business
 - Requests a clear fact base on the business situation before putting together a strategy – the fact checker
 - Drives his UK-based hedge fund client into admitting that their business is worthless – the bad news messenger
 - Understands the need to remove managers and replace them with bankruptcy experts to steer the business and form an experienced, effective team – the coach

THE lawyer (from a business standpoint)

- Strategist
- Policeman
- Babysitter
- Psychologist
- Teacher
- Bad news messenger
- Bodyguard
- Creative director
- Head of marketing
- Architect
- Politician
- Fact checker
- Coach