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**SUCCESS FACTORS AND BARRIERS
TO THE EFFECTIVE DEBT COLLECTION PROCESS**

**CZYNNIKI SUKCESU I BARIERY
SKUTECZNEJ WINDYKACJI NALEŻNOŚCI**

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Summary: The paper analyses the problem of a debt collection process perceived from legal, economic and psychosociological perspective. The aim of this article is to present the key success factors and barriers to the effective debt collection process. The list of these factors is based on a conducted research among the companies operating on Polish market in business-to-business sector. According to the findings from the survey, it turned out that the most important changes are to be made especially in legal sphere but economic and psychosociological issues also need to be considered.

Keywords: debt collection, effectiveness, process, success factors, barriers

Streszczenie: Artykuł analizuje problematykę procesu windykacji z perspektywy prawnej, ekonomicznej i psychospołecznej. Celem artykułu jest przedstawienie kluczowych czynników sukcesu i barier skutecznej windykacji należności. Wyniki są efektem przeprowadzonych badań ankietowych wśród firm działających na polskim rynku w sektorze business-to-business. Analizując wyniki badań, należy stwierdzić, że najważniejsze czynniki dotyczą w szczególności sfery prawnej, choć kwestie ekonomiczne i psychospołeczne również nie mogą zostać pominięte.

Słowa kluczowe: windykacja należności, proces, skuteczność, czynniki sukcesu, bariery.

1. Introduction

A debt collection process is a set of procedures used in order to recover overdue claims from the debtor. The problem of debt collection exists in all businesses and has a remarkable effect on a businesses' economic situation. According to *European Payment Report* [Intrum Justitia 2016, p. 37] about 36% of the companies operating in Poland in business-to-business transactions (B2B) agreed that late payments have

medium to high consequences to the survival of the business. In essence, the overdue payments in B2B is a common and current problem. In this situation specifying the most important success factors as well as the obstacles to the effective debt collection is of a paramount importance since the uncollected claims have a tremendous effect on the overall functioning of every business.

The aim of this paper is to present the factors that lead to or prevent from the effective debt collection process perceived from the creditor's point of view. These factors are the result of a conducted research among companies operating on Polish market and doing the business-to-business transactions solely. All arguments presented in the paper are oriented towards the confirmation of the main thesis that the debt collection process is multidimensional phenomenon.

The paper is organized as follows. Section 2 refers to the contingencies of debt collection perceived from legal, economic and psychosociological perspective. Sections 3 and 4 include the lists of success factors and barriers to an effective debt collection process resulting from the survey. The success factors and the barriers describe the legal, economic and psychosociological approach to a debt collection process. Section 5 includes the discussion of the obtained results juxtaposed with the findings from the literature. Additionally, it specifies the directions for further research of this issue.

2. Debt collection as a multidimensional phenomenon

Debt collection traces its beginnings to the times of the Roman Empire when *rei vindication* was first introduced [Meyer-Spasche 2002, p. 2]. *Rei vindicatio* originally described a claim in the law of property under which the owner of a certain thing was entitled to demand the thing from any possessor who did not have the right of retention over it. A debt collection process in its generic conception did not arouse great interest as a subject of research in Polish literature until 1990 when the economic transformation took place. Since then, increasing attention to a debt collection process has been paid because many private companies faced difficulties in collecting the money. At present, debt collection is a process that is introduced in a company when the receivables are overdue [Patterson, Wejer-Kudelko 2018, p. 212]. Since debt collection is a multidimensional phenomenon, the existing definitions need to be presented from the legal, economic and psychosociological perspectives.

The term "debt collection" can be understood as a legal investigation of a creditor's ownership [Gęsicki 1997, p. 328]. For W. Podel [2014, p. 25], debt collection is a process in which the debtor fulfills the contract's requirements with respect to the person entitled (a creditor). Debt collection also means enforcing a claim under common law. The legal factor embraces the procedures and consequences for the company when filing an enforcement case with the court [Świeca 2010, p. 4]. Legal proceedings include extra costs that are to be covered by the creditor in order to

collect the overdue debts. M. Bekas [2011, p. 141] highlights a heavy demand for the knowledge of legal acts when collecting the debts, whereas M. Liberadzki [2011, p. 240] defines the term “obligation” in the context of debt collection which is a legal relationship between the creditor and the debtor. Furthermore, the creditor may request performance from the debtor and the debtor had a duty to provide this performance.

Considering the term debt collection from an **economic** perspective the following definitions can be quoted. A. Celczyńska [2012, p. 6] puts forward a statement that a goal of debt collection is to recover overdue receivables at the earliest opportunity. P. Jankowski [2006, p. 26] argues that debt collection is a way of getting back part of the creditor’s financial result that he has already lost faith in achieving. Moreover, H. Mei [2008, p. 99] presents a strong proof for the relationship between the collection policy and the effectiveness of recovered receivables. From an economic point of view, in a short term perspective, debt collection has a great impact on the level of accounts receivable and payable, i.e. cash flow [Sierpińska, Wędzki 1997, p. 128], whereas in the long term perspective the uncollectible debts influence the overall economic situation of a company [Celczyńska 2012, p. 6; Filipoviča 2009, p. 78]. In the literature, much has been written on this, mainly from the financial perspective, putting emphasis on economic ratios and negative consequences for a company’s cash flow [Grabowska 2012, p. 95; Sierpińska, Wędzki 1997, p. 129]. From the financial point of view, debt collection affects the level of accounts receivable and payables, thus cash flow [Czekaj, Dresler 2005, p. 151].

Ultimately, a psychosociological approach to a debt collection process is reviewed on the basis of the conducted literature review. Psychosociological aspects in a debt collection process encompass the perception, verbal and non-verbal communication as well as negotiations. Moreover, this aspect also refers to business relationships with other market players which have a great impact on an overall functioning of the company [Mei 2008, p. 99]. Debt collection is a process in which verbal and non-verbal communication between the debtor and the creditor plays an important role [Matela 2011, p. 183]. Moreover, the same researcher states that debt collection process is based on negotiations whose aim is to build mutual relationships. From the psychosociological perspective, a debt collection process struggles with the problem of a stereotype which slows down the recovery [Hendley 2004, p. 306]. In particular, it has been stated that the perception of a debt collector affects debt collection run on the Polish market where law and public opinion support the debtor [Holwek 2005, p. 42]. For this reason, a code of good debt collection practices has been established where the principles of ethical side have been outlined and explained [Świeca 2010, p. 47].

The goal of conducted literature review was to outline the success factors and barriers to the effective debt collection process according to legal, economic and psychosociological perspectives. Thus, within the legal success factors there are: the bailiff’s remuneration after successful collection, e-case management, defined criteria for judgements, the bailiff’s success indicator available for everyone, e-dispute resolution, court judgements valid for 6 years, e-auctions for the executions, promotion

of alternative dispute resolution, the advantages of mediation included in the court proceedings, court cases management by judges and transcription of audio recordings. With reference to economic success factors the authors include: collection scoring and reliable cost-benefit analysis. Psychosociological success factors comprise positive business relationships and outsourcing that helps to improve business relationships. The legal barriers to the effective debt collection process include long period of time for court and execution collection, great number of court and execution procedures, imprecise legal provisions, the need for professional legal support, electronic documentation not respected by court, lack of conviction to alternative dispute resolution, poor skills of mediators and low awareness of effectiveness of mediation. Regarding the economic barriers there are high debt collection costs and lack of active cooperation between a creditor and a bailiff. Finally, within the psychosociological barriers the following are outlined: deliberate delaying of collection steps due to the fear of losing a customer and negative perception of a debt collector.

3. Key success factors – research results

The aim of the empirical study is to verify the significance of different factors for effectiveness of debt collection process in Polish companies. As a main technique of raw data collection, a questionnaire was used. The respondents were asked to select five success factors and five barriers to an effective debt collection process. The list of factors include legal, economic and psychological aspects of debt collection. The questionnaires were distributed via Survey Monkey that is a provider of web-based survey solutions. The questionnaires were sent directly to one group of respondents: Polish Corporate Treasurers Association's members (PCTA). This association includes 148 professionals responsible within their companies for cash management, financial liquidity and collection the debts. This selection ensures that the right persons have answered the survey. Therefore, the likelihood of contamination or distortion of respondent's answers was very low. Finally, 83 responds were received within two weeks (3 April – 14 April 2017). The success factors and the barriers to an effective debt collection process were listed by the frequency selection. The choice of these factors was based on the literature review and the guidelines from different reports such as *Doing Business w Polsce 2015* and *Doing Business 2016* prepared by the World Bank [2015, 2016].

Having conducted the research, the results were analyzed with a division to legal, economic and psychosociological factors. The presented findings are highlighted by using different shades which represent each perspective, i.e. black is for legal, dark grey for economic and light grey for psycho-sociological (Figure 1).

From Figure 1 it can be observed that the greatest value (76.1%) is given to the bailiff's salary paid after the successful recovery. Even though this factor relates to the enforcement stage, it does influence the effectiveness of the whole debt collection process. The other most frequently selected factor is electronic case management

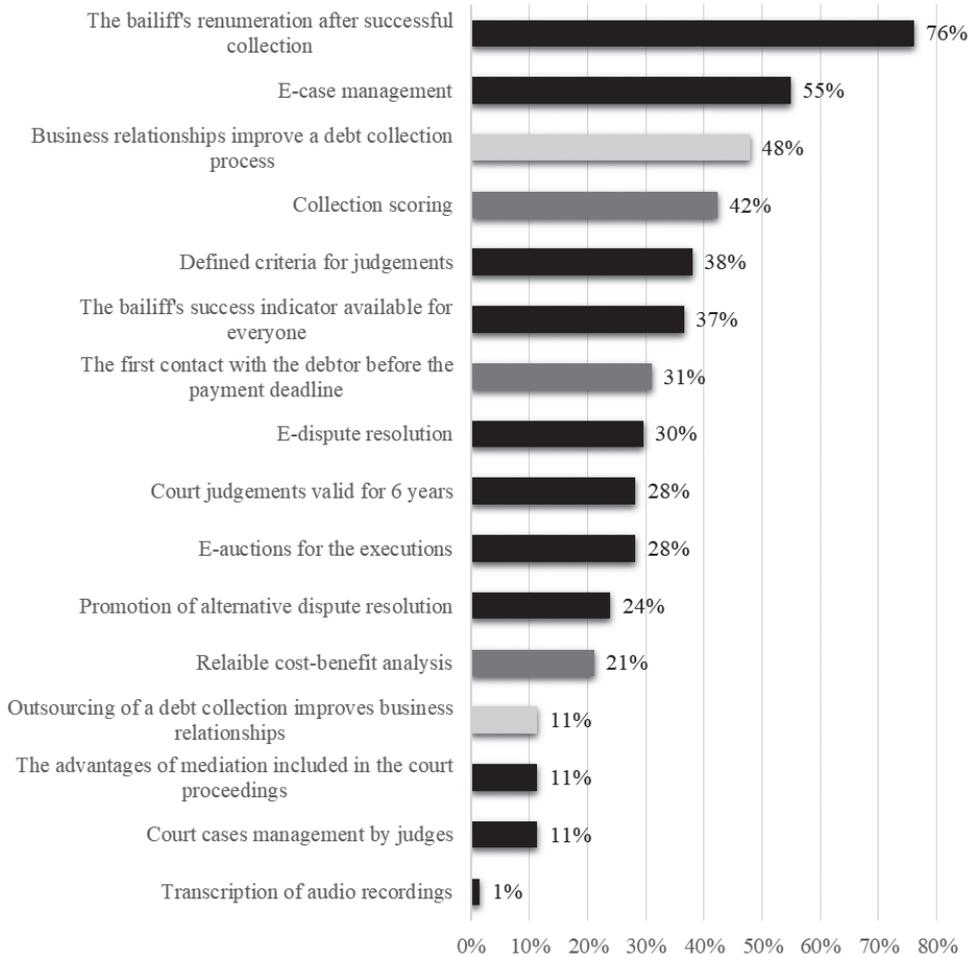


Figure 1. Success factors for a debt collection process

Source: own study.

(54.9%). This issue relates to court cases which at present are considered in the hard copy solely. The digitalization of cases would definitely increase the pace of resolving the disputes concerning payments. The respondents then indicate business relationships which help to avoid two further stages of debt collection (47.9%). Moreover, the respondents who selected this factor agree that this element contributes to easier debt collection. Another factor accounts for collection scoring and results in 42.3% respondents. “Collection scoring” is a payment category that is explicit and available to everyone. This kind of successful element would help in omitting the most risky businesses. The higher the collection score the more secure the transactions. The respondents choose also clear procedures for issuing judgements

by the courts (38.0%). From the creditors' point of view, easy and understandable workflow in courts would increase the effectiveness of the debt collection process.

The next issue concerns the available success rate for debt recovery presented officially at the bailiffs' web pages (36.6%). This kind of information would help the creditors to select the most effective bailiff and to motivate the bailiffs to work with a greater commitment. As far as electronic dispute resolution is concerned, 29.6% of respondents mark it as a success factor that contributes to an effective debt collection process. Again, introducing the IT systems in courts would decrease the time for issuing judgements or setting hearings. For 28.2% of the respondents, the introduction of e-auctions and the validity of court judgments would improve the debt collection process. Furthermore, the respondents suggest putting the information about the court judgement on the debtor's file.

As far as the alternative conflict resolutions are concerned, 23.9% of the respondents decide to select it. Even though in western countries these procedures are more popular due to the ease and low costs, in Poland it is still underestimated. For 21.2% of the respondents the cost-benefit analysis before submitting the documents to the court is crucial. Getting the information about the real costs to be incurred in the process of recovery would help the creditor to make a decision if the court and enforcement are still profitable. The respondents then select three elements with the same level of importance including: outsourcing the collection process, promoting mediation and the management of court cases run directly by judges (11.3% each). In the case of outsourcing collection actions, only 11% of the respondents decide that this factor would improve the success of the recovery. The same relates to encouraging creditors to select mediation by introducing special provisions in legal acts. Next, managing actively court cases by judges and not by assessors as it functions nowadays. Finally, only one person suggests that transcription of audio recording would significantly speed up the debt collection process.

It can be concluded from the information provided in the questionnaire that the majority of success factors are characterized by the legal aspect, which proves that some changes in legislation need to be made. Then the economic success factors are indicated which relates to the organizational and financial issues. The psychosociological aspect is mainly about maintaining positive business relationships.

4. Key barriers – research results

As in the case of success factors the barriers were selected by the respondents in the same manner. Again, the barriers to the effective debt collection process are categorized according to legal (in black), economic (in dark grey) and psychosociological (in light grey) aspects. In Figure 2, the items are put from the most to the least frequently selected responses.

The most often indicated barrier is the time needed for court and execution proceedings (85.9%). Then, the respondents select a great number of court and

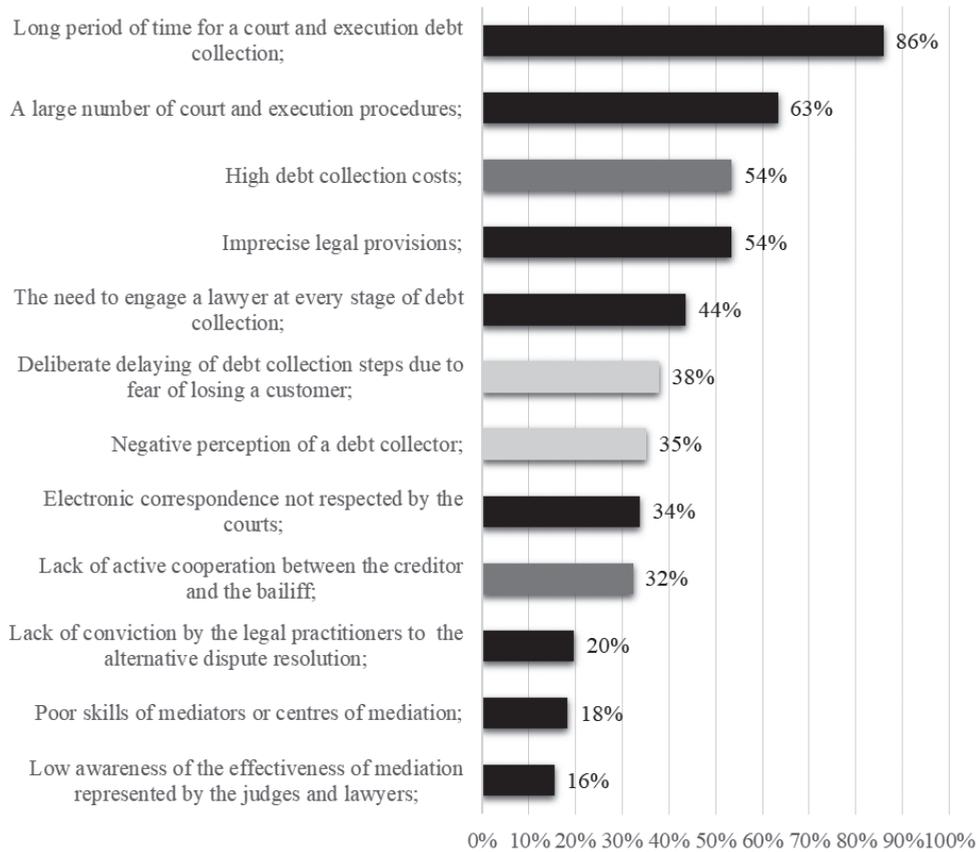


Figure 2. Barriers to the effective debt collection process

Source: own study.

execution procedures that need to be fulfilled by the creditor (63.4%). These two factors discourage and cause the creditors to lose their faith in recovering the debts. Another two legal factors which constitute obstacles for successful debt collection are imprecise legal provisions and high collection costs (53.5% each). Furthermore, the respondents also notice the need for hiring a legal advisor which again incurs extra costs (43,7%). The next factor characterizes more the psychosociological approach: is not imposing interest on payment delays due to the fear of losing the customer (38.0%). For 35.2% of the respondents, the negative perception of a debt collector is a barrier to a successful debt recovery. Furthermore, 33.8% of all the persons asked perceive not respecting electronic documentation by the court as an obstacle to an effective debt collection. Then, the respondents declare that without regular and dynamic communication between the creditor and the bailiff, the process of recovery is not going to be successful (32.4%). For 19.7% of the respondents, the lack of

conviction towards the alternative methods of conflict resolution represented by legal experts is crucial. Then, few respondents (18.3%) select poor mediation skills as a negative factor to an effective debt collection. Continuing, 15.5% emphasize the lack of belief that mediation can be a good alternative to a tradition court procedure in the case of collecting the debt.

The vast majority of responses relate to the legal aspects which suggests that the Polish system of provisions is not perceived positively by the experts. The economic aspects describe mainly the organizational and costs' issues that the creditor must bear. The psychosociological aspect is about the negative perception of a debt collector and the fear of losing a customer.

To conclude, on the basis of the results from the conducted research, the experienced managers dealing with the process of debt collection have chosen success factors and barriers to effective collection. Consequently, among all the outlined suggestions the respondents marked five the most important success factors in the following order: the bailiff's remuneration only after successful enforcement, electronic case management, business relationships based on mutual trust facilitate debt collection and help avoid court and enforcement proceedings, introduction of the "collection scoring" system (each business has a payment category assigned, this information is public for all) and issuing judgments of payment by judges on the basis of strictly defined criteria. These are the factors that do not exist in the Polish business environment but the respondents suggest the need for implementing them. The final question relates to the barriers to an effective debt collection process. The five most frequently chosen answers are: long period of time for court and enforcement debt collection, large number of court and enforcement procedures, high debt collection costs, imprecise legal provisions and the need to engage a lawyer at every stage of debt collection. It may be assumed that if these barriers are once eliminated, the debt collection process will become more effective.

5. Discussion and conclusions

To bring this paper to a close, the main points need to be summarized here. Within success factors and barriers to the effective debt collection process the three aspects were selected. However, the majority of the presented success factors relate to legal issues due to the fact that the respect for laws is the basis for every economic development. Moreover, according to *Doing Business 2016* [World Bank 2016, p. 91] "enhancing the efficiency of the judicial system can improve the business climate, foster innovation, attract foreign direct investment and secure tax revenues". For the respondents, the most important success factor is the bailiff's remuneration after the fully recovered claim. At present, according to the legal provisions, the bailiff deducts the remuneration from each amount recovered. Thus, the bailiff is not motivated to collect the total amount of money. The respondents also approved the idea of "collection scoring" which has been introduced in Latvia [Filipoviča 2009, p. 82]. This system would lower the risk of doing business with unreliable

companies or adjust the model of debt collection to the individual business. Another highly ranked success factor that was selected by the respondents was business relationships based on mutual trust. Building positive commercial bonds is the basis for an effective debt collection process at the pre-court stage [Matela 2011, p. 205; Mei 2008, p. 99; Hendley 2004, p. 304].

When analyzing the barriers to an effective debt collection process the following conclusions can be made. The most frequently chosen responses relate to time, costs and the number of procedures that the creditor needs to fulfill during the court and execution stage. According to the *Doing Business 2016* [World Bank 2016, p. 227], the time needed for the contract enforcement is on average 685 days, costs 19.4% of the claim and requires 33 procedures. Even though in comparison to year 2005 the time has shrunk, there is still place for improvement. For example, in countries like New Zealand or Norway it takes up to 10 months to enforce a contract [World Bank 2016, p. 91]. Moreover, for S. Morawska and P. Banasik [2014, p. 30], the time and the high costs of court debt collection and enforcement scare away the creditors. M. Wejer and R. Patterson [2015, p. 219] underline that in Poland court and enforcement fees constitute on average 30% of the claim under the enforcement procedure. Within the psychosociological aspects, the respondents chose deliberately delaying debt collection steps and the negative perception of a debt collector. Polish creditors do not implement debt collection actions promptly because of the fear of losing the customer. That is why they give up on the right to charge interest on payments which are overdue [Grabowska 2012, p. 99].

Discussion presented in the paper confirms that the debt collection is multidimensional phenomenon and research on that topic requires more multidisciplinary approach. Empirical study shows that the factors determining effectiveness of the process links to variety of legal, economic as well as psycho-sociological issues.

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