

MANAGING SITUATIONS OF CRISIS USING NEGOTIATION OR MEDIATION

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From December, 22nd, 1989, Romania experienced major changes in all fields, but the most important ones are the changes from the political and economical field. In the economical field, our country changed from the centralized economy to the market economy, this having as a result different crisis situation in the last 20 years. Yet, it is the first time after Revolution when Romania is affected by such a powerful international crisis.

This paper tries to explain a few aspects (more theoretical), related to the appearance and managing the crisis situations, what do we have to take into consideration when we negotiate in this kind of situations and the importance of mediation when the negociation fails.

Keywords: crisis, negotiation, mediation, seller, buyer

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WHAT CAN WE SAY ABOUT THIS CRISIS?

The situation started in USA in 2008. In the beginning there were discussions about a major crisis over the ocean, but it was difficult to forecast its consequences all over the world. The economic crisis in USA was first generated by the massive crediting of the real estate and the impossibility of repaying these credits, having as an immediated result the lack of cash in the American banking system due to the fact that the goods that were considered the guarantee for the crediting could not be transformed into liquidities. Thus, in a very short time, the offer of goods on the market was much bigger then the demand, due to the lack of liquidities available on the banking market. The fall of the consumption of the products generated by the psychologycal effect of the world crisis, has as result the unemployment. The bank institutions subsidized by the State by means of the external loans is a short term solution, that on long term can increase the gravity of the crisis when the unemployment goes high and the production goes down the result will be the impossibility of collecting the taxes owed to the state and the incapacity of respecting the terms and conditions of the external loans contracts. In the same time, the subsidizing by the state of the major American companies is not the most favorable situation when these companies will not have a good marketing strategy so as to transform their products into liquidities. In time, the effects of the crisis spread all over the world and now they have reached the highest peak, being obvious also in Romania, where 2009 becomes a year very much affected by the world crisis. The fact that the entire world is affected by the crisis can be observed if we start form the theoretical definition of crisis (that state of an economical, tecnologycal, social and political process in which this presents, in immediate perspective, impending impossibilities to develop and continue effeciently) and we consider the present situation. The crisis represents a period in the dynamics of a system characterized by gathering more and more difficulties, conflictual bursting of tensions, fact which makes difficult its normal functioning, starting strong pressions to changing. The actors, characters involved in the crisis, are suddenly without any reference point, without their usual basis of decision, information, criteria and references, will not be able to masure and analyse the amount of elements created by the crisis. Against the background of the complexity of the socio-economical and interhuman relations and of the diversity of the common or individual interests that the members of the modern socity have nowadays, against the background of the world crisis it was observed that the classical ways of solving the

differences were not useful anymore and many times they cease to achieve their own interests. Thus, during conflict situations in the crisis, people started evaluate their interests more attentively, reaching to conclusion in the end that what is more important in solving their differences is, first of all, not to lose the position they have in that moment. In this way appeared the idea of accepting compromises as a solution win-win type, having advantages for both parts, instead of that one in which the right is unproportionally shared and in many situations, with unfavourable consequences for the parts involved.

The first signs that anticipate a crisis request an immediate analysis regarding the following aspects: the causes that led to the crisis or its initiation, the immediate actions that must be taken in order to remove the causes that generated it and to identify the resources (human, material, financial, political) necessary to create the actions which lead to the removal of the generated causes of the crisis.

By finding and foreseeing the immediate effects of the crisis on short, medium and long term, it must be foreseen also the period of coming back to normal and of the level of efficiency of this period. A very important moment in preventing the aggravating effects of the crisis is the moment when the potential or existing situation is identified. To ignore the information or forces that announce a possible or imminent crisis means in all cases to aggravate the crisis and to increase its negative effects.

Crisis can be determined by two groups of factors:

- objective factors;
- subjective factors.

The objective factors are :

- calamities and natural phenomena that can not be prevented and that due to their effects can generate a crisis;
- the market situation indirectly created at a certain moment;
- wars, international conflicts, revolutions, coup;
- technical or environmental accidents.

The subjective factors are:

- to take unfounded decisions
- subordinate the common objectives to the personal ones;
- lack of managerial skills;
- the requests of the job position;
- political errors;
- governmental errors.

HOW CAN THE NEGOTIATIONS BE HANDLED DURING CRISIS ?

The main tool of crisis negotiations can be defined as Robert C. Bordone said - Law School, Harvard University "*The active listening is the main weapon of any efficient negotiation*". In praxis, when we have a negotiation in a crisis situation, the main part has the personality of the negotiator, his background, and the personal skills that he has, the language used in negotiation, based on the psychology of persuasion during certain moments of the situation. In economy, the crisis can be considered that started in the moment in which the efficiency of the economic activity goes down constantly in a certain period of time, depending on the complexity of the economic process. We can conclude that any economic institution or agent can be at a certain moment in a crisis. In order to lower the effects of the crisis in the economy, a very important part have the commercial negotiations. The competence of the negotiator can be translated by his ability to fulfill his duties at a high standard bringing together the necessary skills, attitudes and behaviours. The negotiator must ignore the fact that the negotiations take place during an economical crisis and behave professional. There are many styles of negotiation, as a natural tendency to adopt different kinds of behaviour. The negotiation style is influenced also by the

national culture of the negotiator, so as different negotiators can be described according to the geographical area or the country they come from.

As Souni Hassan wrote in *Manipulation in negotiations*, Antet Printhouse, Bucharest, 1998, the negotiation is in the same time an art and a science because is an art that allows those that put it into practice different strategies, technics and tactics that helps having better results and in the same time a science that a lot of people use every day without really studying it.

From the point of view of the human interaction, the negotiation is the communication process that has as a purpose to come to an agreement between two or more parts that do not share the same opinions. Disputes, conflicts are permanently ended by getting a satisfactory mutual agreement by means of negotiations, mediation or a third part arbitration that decides whether a part was right and the other part was wrong.

The negotiation can be defined as the main communication way, different activities such as contracts, meetings, consultations, talks between two or more partners in order to get an agreement (Mecu, Ghe. – *Tehnica negocierii în afaceri*, Editura Genicod, Bucuresti, 2001). During this discussion are brought arguments, claims and objections, the concessions and compromises are made in order to avoid to brake the relations. The negotiation allows to create, maintain and develop a interhuman or social relation, in general as well as a business, working relation. There is no condition that the negotiation leads to an agreement. Often the negotiation take place for their side effects such as: keeping the contract, getting some more time, try to prevent the situation to become a conflict. Except all these, the meeting of the negotiators can be a potential channel of urgent communications in crisis situations.

The negotiation has a main target getting a willing agreement, of a conses and not a victory. We have partners in negotiation and not oponents. Both partners should finish the negotiation with the feeling that the achieved the maximum that they intended. That is why the negotiation should be defined as a wide cooperating process. Because this process is made by people and the people are those who have their own individual and emotional factors. The human behavior had an impact on the negotiation as this process is really made by people. The main characters in an economic negotiation are the seller and the buyer. The seller is associated by the buyer with different negative features: manipulative, exaggerated, promises without keeping his word, cheats etc. On the other side, the seller considers that the buyer has also different negative features such as: puts him to tests, makes pressures, blackmails etc. Both parts creates an interface between their company and the outside world, acting as its representatives.

If the negotiation does not solve the conflict, the mediation will be used.

WHEN THE MEDIATION IS USED?

The parts that are in conflict usually tend to evaluate their interests as being completely different. In the crisis situations, apart of the nature of crisis, the negotiation can come to a deadlock. As long as the parts succeed to solve their disputes directly, constructively, is not necessary that someone else to interfere. When the dispute comes to a major deadlock, and the communication is blocked, usually the only solution is a third part to interfere. The intervention of the third parts can be imposed from outside by rules, laws, habits settled inside an organisation, etc. But we should not forget that the interventions that are not accepted by one or both parts, or they are not supported by the experience, friendship or authority of the third part, can determine hostility and even enmity, apart of the motivations or the intentions of the third part. The mediation is a way to interfere in which are promoted the reconciliation or to explain, to make clear the point of view, in order to be correctly understood by both parts. Is in fact, the negotiation of a compromise between point of view, hostile or incompatible needs or attitudes. As a rule, it implies a third part, neutral, that has the role to ease the reaching of an agreement. The mediator in this kind of situation has a very difficult job because he has to be in the middle of the demands of the parts. Nevertheless, the power of a mediator is quite limited because he can not give solutions but can emphasis the common points of view of the parts, helping them to come to an agreement.

The mediation is an optional way of solving the conflicts amiably, by means of a third part specialized as a mediator, neutral, impartial and confidential. The mediation is based on the trust that the parts have in the mediator, as a person able to ease the negotiations between the parts and to support them in order to solve the conflict, by obtaining a mutual, convenient, efficient and long lasting solution.

The mediation helps to keep an important feature of the negotiation: the parts have the control of the solution, which will be very helpful when they want to apply the results.

If the mediation does not solve the conflict, the arbitration will be used. The arbitration represents the examination and clarifying the conflictual problem by a specialized person or a person named by an authority. The arbitrator acts as a judge and has complete power of decision. It is the most drastic way of intervention as at this level, the parts act according to the *all or nothing* policy. In this situation the arbitrator of the conflict has all the power, his decisions being irrevocable. As a result, a part can get everything and the other part can lose everything, so as the parts that are in conflict find other ways of solving the problems. The main difference between them is that in mediation they try to get an agreement involving both parts that will state the solution.

CONCLUSIONS

Managing successfully a crisis situation implies a good organisation and coordination of all those involved, to settle the objectives and the limits that will be followed by the permanent monitoring and control together with the evaluation of the results compared to the established limits and objectives. Assuring the human, financial and material resources that are needed in order to take measures to lower or eliminate the crisis and to evaluate periodically its evolution and effects. In these cases, it is necessary to create a very complex structured entity (specialists in technics, economics, law, sociology, architecture, politics) depends on the crisis. The heterogeneity of the crisis entity is required by the complexity of the taken decisions that inevitably involve material, financial and human resources. Trying to leave the crisis management in the hands of two people only is not recommended because it is not possible to gather and to ground all the necessary information and in the same time is not possible to have an efficient control and a correct evaluation of the potential effects of the crisis.

The mechanism of negotiation is based on risk and uncertainty, that can not be completely reduced, because the behaviour of the parts involved interact among them, creating different consequences. When the behaviours are planned and settled as strategies, objectives or positions of negotiation are never made available to the opposite parts. They are hidden and sometimes changeable. The dynamics of negotiation determines new elements to show up, capable to provoke in any moment, a new aspect of the cause. A more favourable alternative for one of the parts is good enough to stop the negotiation. To negotiate means to accept the risk in order to improve the position. Yet, from different reasons, the crisis development can lead to major changes such as the reorganization or bankruptcy of an economic agent, the changing of the legislation, changing political power or the institutional reorganization. The analysis of solving the conflicts show that there are much more possible common results than those estimated by the parts. Sometimes it is too late when the parts realize that it is their own interest to choose other alternatives and to lead the negotiations towards compromise or win-win strategies, using mediation or arbitration.

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