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# Money Matters

No **3**/00

The Consumer Debt Net Newsletter ♦ December 2000

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## **Delegates to the Bundoran Cross Border Seminar, Ireland**

*From the left:*

*Liam Edwards, National Organiser, MABS,  
Ann McKiernan, Money Advisor, Cavan,  
Maria McCaul, Money advisor, North Donegal,  
Helen McKenna, Money Advisor, North Galway,  
Michael Daughen, Office of the Director of Consumer Affairs,  
Annabel Welden, Money Advisor, Belfast,  
Jimmy Hughes, Area Inspector, Trading Standards Service.*

**Contributions from**  
**Finland ★ Germany ★ Italy**  
**Ireland ★ Sweden**



# Message from the Editor

## Hello again!

and welcome to this the third and last issue of Money Matters for the year 2000. You will see from the contents page that this issue includes articles covering different aspects debt advice and household economics from a variety of countries.

We have some thought provoking material and questions posed by Dieter Korczak and Ulf Groth "Debtors freed from debt – are they excluded tomorrow?"

Ireland sends us view of 'cross border' issues, that we in the UK may forget exists. From Sweden we have information on their Debt Settlement legislation and how that is working. We also have a brief report from two Swedish debt consultants on their interesting trip to learn how the task is undertaken in Scotland. Last but definitely not least is an article from the South Tirol in Northern Italy, our first article on how the task of debt counselling is carried out in that area but it gave me a warm glow to know that we are all dealing with the same things and facing the same old problems and more importantly we are all committed to helping those consumers who are frequently unable to help themselves.

This all adds up to an interesting issue but we cannot stop there, and those of you who read this newsletter on a regular basis, will know what is coming next, yes! You are correct! The ever-present plea for articles.

Please, please respond, even if you think what you are experiencing or doing is commonplace it is important to let others know about it, otherwise how will we learn from each other. You just need to write the article and the team at Money Matters will do the rest.

To all of our readers, a Merry Christmas and a Happy New Year, to the team at Konsumentverket, Sweden, the Board of CDN, European Commission and the Nordic Council of Ministers, many thanks for your support and dedication.

*Joan Conlin-Ramsay*



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## Finland

# Voluntary debt settlement and loan consolidation – A way to help people with financial difficulties

In Finland 1990 – 1996 were years of great recession, unemployment grew to the level of almost 500.000 people, representing 15% of the population who were of working age. The Finnish banking system was about to collapse and the government had to provide financial support to the banks.

Despite the existence of legislation relating to debt settlement many debtors could not get help to deal with their loan payment problems. Unlike other parts of Europe, typical security for a loan in Finland is often a personal guarantee for payment. It was this factor that stopped debtors asking for help. The people who stood as guarantors were often relatives or close friends and if a debtor obtained a debt settlement, the people with the responsibility for payment, i.e. the guarantors had to pay the loan. To make your relatives or friends pay your debt because they stood as guarantor was thought to be a catastrophe and unacceptable.

The Guarantee Foundation has been in existence since the 1990. Our main function is to help people with debt problems by providing guarantees. It became obvious that our Debt Settlement Act could not help all the people needing help and in 1995, in order to ensure that our opportunity to help debtors became much greater, the Finnish Slot Machine Association decided to give financial support to The Guarantee Foundation. We can say now that voluntary settlement of debts, with the help of guarantees from the Guarantee Foundation, has reduced the number of debt settlement applications made to the courts.

It is also made it easier for people to settle debts voluntarily because there is no effect on the guarantors (i.e. they don't have to pay) and it is much easier



Leena Veikkola, Executive Director,  
The Guarantee Foundation.

to make changes in the payment program (e.g. if you become unemployed or sick).

The Guarantee Foundation has had good experiences with the debtors it has helped. Almost 4.000 guarantees have been provided, amounting to Euros 43.000.000, out of these only 4% have resulted in The Guarantee Foundation having to pay the full amount. The main reasons for these failures are:

- ❖ Sickness
- ❖ Changes in family situation
- ❖ Being unemployed.

However, we should also say that in these 4% of cases the debtors are voluntarily willing to pay back to the Guarantee Foundation the sum that has been paid.

The good news is we now have a new project and The Guarantee Foundation is now able to provide guarantees for

new loans. In reality if a debtor has paid everything they can to debt collectors for many years then they need something for themselves.

In Finland it is seldom possible to get a new loan using the normal banks if you have payment problems. Typical purchases funded by our social loan guarantees are spectacles or new furniture, and we often find the debtor also needs money for the dentist or medical treatments.

With the help of guarantees provided by The Guarantee Foundation it has been possible to provide assistance with debt problems to over 14.000 Finnish people including: debtors, guarantors and family members

In conclusion, we are proud to say that The Guarantee Foundation has found and really deserves its place as a part of the Finnish social security system.

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## Germany

# Overindebtedness in Germany on the edge of the 21th century

Statistics show that 7% of all households in the EU were living on persisting low incomes in 1996<sup>1</sup>. This figure is less for Denmark and the Netherlands and more, up to 10% of households in Greece and Portugal.

Equivalent data for the distribution of overindebted households in the EU is not available. But it can be suggested that the overindebted households make up part of the above 7%.

However, in Germany, the situation is a little bit different. Since 1989, we have conducted several quantitative research projects to estimate the number of overindebted households and to describe their living conditions<sup>2</sup>. We have just completed a new survey of the German situation and I am able to present the most recent results.

## The number of overindebted households in Germany

Our data went back to 1988. In 1988, 4.2% of the West-German households were overindebted. This number increased, from 5.1% (1994) to 7.2% in 1997.

The East-Germans had a communist economic system before 1990. It took them hard lessons to become adapted to the social market economy of the

West-German style. One of the results of this learning process was the immediate increase of credit taking and the use of hire purchase. But, sadly enough, at the same time, the economic infrastructure of East Germany broke down. The East-Germans learnt that full employment was history, with each third household experiencing the bitter taste of unemployment. There are still areas in East-Germany where up to 40% of the people are unemployed. No wonder, that the rate of overindebted households soon exceeded the West-German rate. In 1994, East-Germany had already 7%.

We have for 1999 a new estimation of the figures and on the edge of the 21th century, Germany has, in total, roughly 2.7 Mio. households (7.1%) that are overindebted. The West-German rate went slightly down to 6.2%, whereas the East-German rate is still climbing and reached now 11.5%.

## Looking for reasons

There are three main reasons why even rich and successful Germany experiences an undoubtable overindebtedness problem. It is a failure of

- ❖ society,
- ❖ economic forces, and
- ❖ family as an institution.

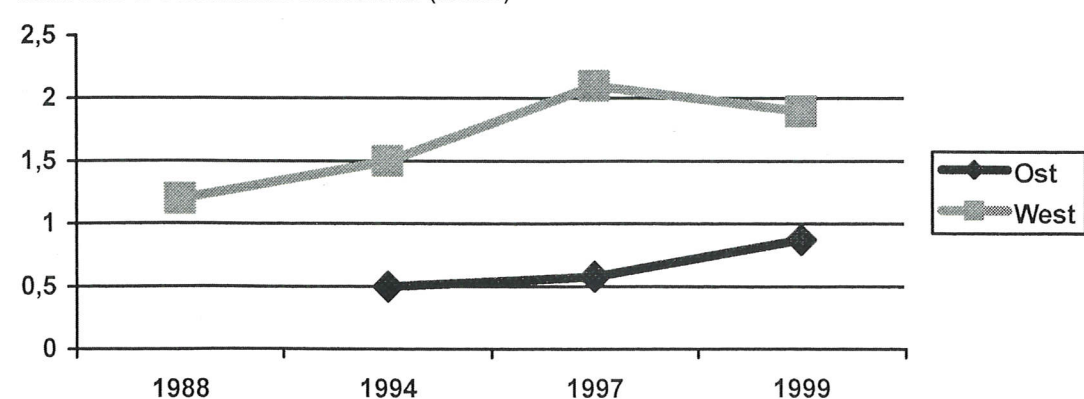
Society, its democratic representations, rules and regulations, have not been able to prevent the upsurge of overindebtedness. The different systems, e.g. of public transfer payments, of social security, of infrastructure and of the educational system, did not develop appropriate measures and skills to prevent the financial ruin of numerous people and families.

The main interest of the economic forces is making a profit, this is understandable because they are not welfare institutions. However, while dealing with globalization and shareholder-value-orientation, internet fitness and e-commerce, trying to become bigger, more successful and more effective, they forgot their social responsibility.

There is a saying in Germany that you should not kill the cow which provides you with the milk. The, "cow" is the European model of social market economy, this has been very successful in the past, far more successful than the US approach of deregulation and free markets. The consensus model provided two, post war, generations in Germany with prosperity. There were no strikes, no right wing movement, no poverty for a long time, with 75% of German households owning at least one car.

But with the upswing of the so-called new liberals and the revival of casino-

Abb.: Rate of Overindebted Households (in Mio.)





capitalism on one hand and the difficult process of the unification of West & East Germany on the other hand, the wind started to blow sharper even in Germany. However, we don't have that level of exclusion from financial services that is reported from England (9%). It is said that around 160.000 people do not have a bank account, this would represent 0.25% of the adult population. This is still a marginal share. There are far more people, some 1.1 million, who have a bank account with positive credit.

However, our unemployment level stand at around 4 million people registered, with high local and regional differences. There are areas in Germany, most of them in North and East Germany that have a structural problem. The "new entrepreneur" movement is said to be an answer to that problem but causes ambivalent results. We estimate that the annual number of ruined "new entrepreneurs" is between 40.000 and 90.000 people.

Finally, the family as the institution which keeps society together seems to be dissolving. It is not only the increasing number of separations, divorces and single households but also the increasing number of (alcohol) addiction, violence and sexual assaults within the families. Behind that you can see the individualization of life style (which means in many cases egoism), the loss of privacy and



Dr. Dieter Korczak, Forschungsgruppe, Germany



Like the 10 commandments you can identify ten major ways which lead into overindebtedness:

1. separation/divorce
2. unemployment
3. starting your own household
4. low income
5. credit taking
6. addiction
7. low education and qualification level
8. bad financial management
9. bad health, disease
10. seduction by the consumer goods, advertising and media industry

## Separation and divorce

Annually around 200.000 couples get divorced in Germany. In 8% of the West German and 10.7% of the East German households you will find a divorced person. Looking at the head of the households some 3% are separated (altogether roughly 4 million). While 48% of the divorced/separated people have a net household income below 2,500 DM. There is only one research project which has analyzed the prevalence of debts in the case of divorce. This study from 1984 comes to the conclusion that 25% of the divorced couples have debts.

## Unemployment

In 1999, there are 2,755 million people unemployed in West Germany and 1.343 million people in East Germany. 6.3% of West German unemployed people are overindebted, unfortunately we do not have the statistical figures for East Germany. However, we know how many of the clients of debt counselling agencies receive unemployment money from the government: i.e. 21% in West Germany and 47% (!) in East Germany.

## Starting their own household

In 1998, there were 417.000 marriages in Germany and 782.000 new born children. The average age for men marrying is 30 years old and the average age at which a woman has her first child is 28 years old. We know that young people are living together without being married and having a lot of fun for a while, let's say, until the men reach 30 years and the

women 28 years. During that time most of them are double income couples. If they don't spend all the money they have time to save some money for when they become parents and need a bigger home. We know that you need on average 20.000 DM in Germany to furnish your first home (in a very simple way). At least 13% of the adult population take credit for the furniture for their first home.

## Low income

According to the Eurostat data, 7% of German households have a low income and 17% of the clients of debt counselling agencies in both parts of Germany receive social security.

## Credit taking

The different representative studies show that around 20% of German households are repaying credit. Annually, 3.5 million people take new instalment-credits which add up to 60 billion DM. The German Bundesbank calculates that all credit for consumption purposes (including overdraft provisions) come to 422 billion

DM at the end of 1999. Including the overdraft provisions, 30-40% of the households are in debt at present.

Credit repayments are maintained. In most cases only 3% of all credit are foreclosed by the bank. However, within the group of those receiving debt counselling some 3/4 are victims of cancelled credit and executions by the banks.

## Outlook

Things won't get better! I don't see a silver horizon. In Germany, the debt relating to telecommunication and handy companies are increasing. If one takes into consideration that e-commerce can be carried out by a handy click and that the financial institutes strongly promote the use of cash cards there are new fields and possibilities to fall into the pit of overindebtedness.

What is needed?: Combined action!

- ❖ There must be educational programmes in the schools, showing how to cope with the sweets of money society.
- ❖ There should be agreements made with the financial services and

institutes on how to organize responsible help for credit users and people in financially difficult situations.

- ❖ There should be campaigns for cautious use of credit.
- ❖ There should be more support for debt counselling.
- ❖ And finally, there should be a European research on the number of overindebted people in Europe.

Until now, many countries have no figures at all and the statistics of the others are not really comparable.

So, if you are asked how many overindebted people there are in Europe, the only serious answer has to be: I don't know!

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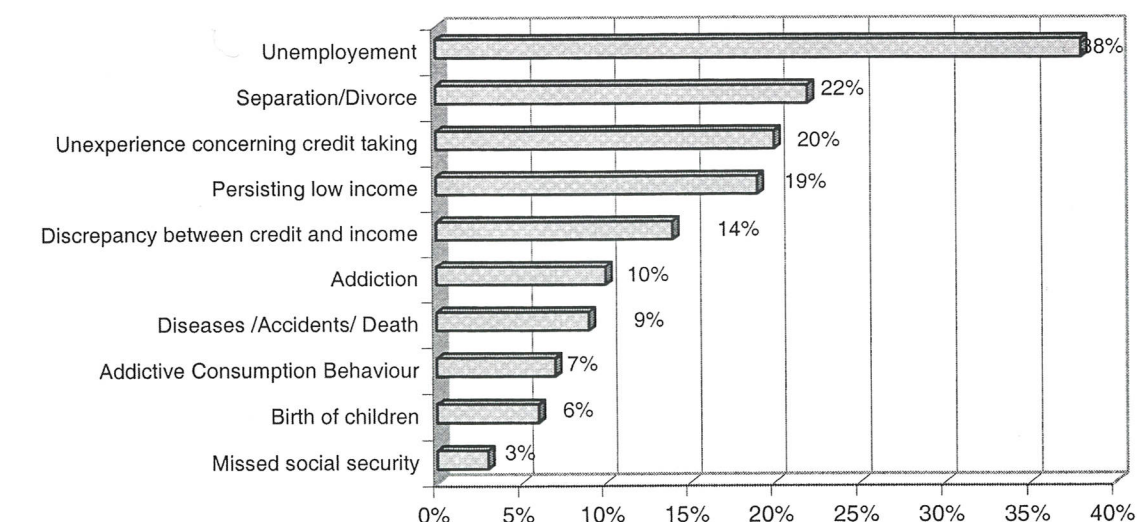
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Abb.: Causes of Overindebtedness in Germany (N = 29.800 Cases) – Multiple responses possible



Source: Survey with German debt counselling agencies 2000

## Footnotes

<sup>1</sup> Based on the data of Eurostat

<sup>2</sup> The main studies are: Dieter Korczak/Gabriela Pfefferkorn (1992): The Situation of Overindebted Households and of Debt Counselling in Germany; Dieter Korczak (1997): Consumption Behaviour, Credit Taking and Overindebtedness of Households in East Germany



# Consumer Insolvency procedures in Germany – Hurdles for Debtors

Ulf Groth from FSB-Bremen and Speaker of Bremen Money Advice Support Association provides an insight on the situation in Germany, raising issues designed to stimulate discussion and outcomes for debtors that we should be thinking about for the future.

**“Debtors, freed from debt, – excluded tomorrow?”**

## Taking re-integration seriously

When we discuss re-integration we must look at fundamental issues that remain:

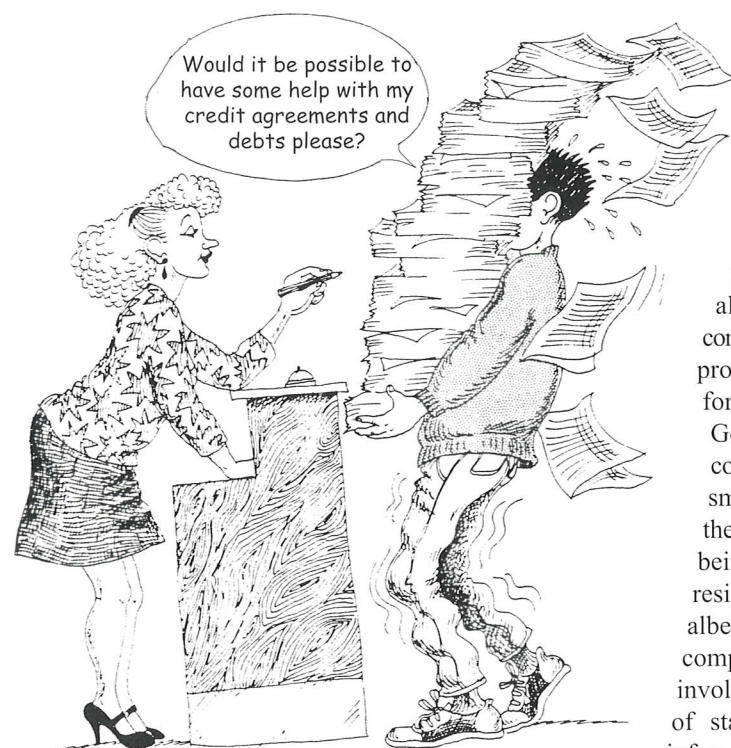
- ❖ What are the prospects of re-integration into the financial services system once the insolvency procedures have run their course?
- ❖ What stigma will remain with the debtor?
- ❖ Will a former debtor who has had all debts purged be branded or will s/he be able again to take advantage of financial services available in the marketplace?

There is considerable room for doubt whether this necessary re-integration is possible or indeed wanted.

In Germany there are an estimated 500,000 households with no access to a current account. This is very often due to debt problems. In Germany a current account can also be garnished or arrested by creditors, this is a considerable expense for the bank, and in those circumstances current accounts are terminated. In this context, the phrase “cash desk hygiene” is used.

Within the big electronic systems operated by creditors, “insolvency” and “debtors” are kept on record within the systems. Will these people become the new outlaws of our financial services society?

Actual default on loans is reduced to a minimum by modern, tried and tested credit reference systems. The relevant empirical studies of the origins of overindebtedness in Western Europe are generally in agreement that critical life events are decisive in the slide into overindebtedness. It is not deliberate behaviour!



provisions). This law is particularly tailored to company insolvency. However, a component of the legislation is also individual consumer insolvency procedures, which for the first time in German law offers consumers and small businesses the opportunity of being freed from residual liabilities, albeit after a complicated procedure involving a number of stages (for more information see MM 2/2000 Günter Purlein)

Even someone who causes a road accident, for example, has their driving licence restored after a specified period and can then, once again, join the general flow of traffic without restriction. Why should a person involved in a “credit accident” be treated differently?

## Consumer Insolvency Procedures in Germany – Hurdles for Debtors

After 16 years of legislative proceedings, the longest in the history of the Federal Republic of Germany, parliament finally passed an Insolvency Act in October 1994, which eventually came into force on 1<sup>st</sup> January 1999 (the intention was to allow enough time for implementation, so that the courts and money advice organisations, as well as creditors, could adapt to the new

At the end of these stages, the debtor receives a discharge from the Court in respect of any residual liabilities.

In practice, one problem of access has presented as particularly serious, namely that of the costs barrier. In order to commence Court proceedings, the debtor must pay an application fee of Euros 1,000–3000.

This renders access to this procedure impossible for many debtors. As a result, the law fails in its social and political objective of enabling debt-free reintegration into society, through a set procedure. Obviously, legislators are concerned with “political considerations”. The aim is to set an adequate deterrent for debtors through a complex procedure, which is extremely difficult to complete.

The procedure itself is so complex that a debtor usually is only able to deal with it with the assistance of an advice centre or lawyer. Shortage of

finance means that the number of advice agencies is limited and this in turn can present further obstacles to access.

It would be in the interest of quality assurance to investigate what model of advice and assistance would be the most effective for debtors. The American model (credit counselling as a business) or the European (debt advice as social work) are possibilities.

## Consumer Bankruptcy Models: an attempt at classification

Overall, the following 4 models of consumer insolvency can be identified:

- ❖ The liberal economic model (fresh start).
- ❖ The conservative social model (freedom from debts for a probationary period).
- ❖ The French model (state regulation of indebtedness).
- ❖ The liberal social model (enabling the debtor to manage his/her own affairs).

The “fresh start” model sees individual consumers as entrepreneurs who have come to grief in their attempts to apply their labour power and assets to the quest for turnover and profit. Bankruptcy is accordingly seen as the side effect of a desirable willingness to take risks.<sup>1</sup>

A disadvantage of this model is without doubt that it fails variously to grasp and address the causes of over-indebtedness.

The “conservative social model” sees over-indebtedness principally as deviant behaviour, which should be censured. Whereas in this model the creditor is seen as being in the right the debtor appears as a delinquent, who must be supervised by the state in an extraordinary long repayment period of 7 years, over which debtors must prove themselves worthy

of the hopes vested in them.<sup>2</sup>

Moral considerations characterise the spirit of these provisions.

In the case of the French model of state regulation of indebtedness, there is an identifiable advantage in that ‘the available procedures are primarily off-putting and bureaucratic for creditors. There is therefore an advantage to creditors in reaching an agreement with the debtor without having recourse to the procedures.’<sup>3</sup>

A significant shortcoming of this model is that there is no debt release. Moreover, insolvency judges have little power within the procedure. “Administration of debts without a judicial counter-balance and protection for the debtor amounts to nothing more than (private) money advice, which is widely available in most countries”.<sup>4</sup>

The “empowerment to self-help models” (e.g. Scandinavia and Holland) are primarily characterised by:

- ❖ Their objective; it is concerned with adapting debtors’ finances to their altered circumstances. This takes into account debtors, creditors and the public interest. Procedures leading to debt release are not insolvency proceedings.
- ❖ Its understanding of the result; (Court) insolvency procedures are seen only as a last resort and the preceding procedural stages are effectively constructed or envisaged. They include assistance with contractual breaches, prevention at the time of credit take-up (pre-sale), assistance through money advice.

What is also important, however, is that incentives are created for achieving successful agreements at the initial procedural stages. For the debtor, the certainty that, after a specified period, s/he and his/her family will be free of

debt is an important incentive. With regard to greater harmonisation of consumer insolvency procedures within the European Union it would be important to research in greater detail which of these models are appropriate, adequate and effective today. The questions of access to the proceedings and reintegration into the financial services market at the end of the procedures in particular must be researched and evaluated.

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## Footnotes

<sup>1</sup> Consumer overindebtedness in Europe are extra-judicial insolvency procedures the answer? Study carried out by IFF, the Hamburg Consumer Centre (Verbraucherzentrale Hamburg), the Vienna Money Advice Centre (Schuldnerberatung Wien) and the Money Advice Trust (UK) Hamburg 2000 P19.

<sup>2</sup> Ibid., P20

<sup>3</sup> Ibid., P21

<sup>4</sup> Ibid., P21



## Italy

### First steps to debt advice

The small province of South Tirol, in the northern part of Italy, has approximately half a million inhabitants. The people, living here belonging to the German, Italian and Ladinian language groups live together, with German and Italian languages being equally used in all public areas. In order to acknowledge the multilingual aspects autonomous rights can be found in all legal levels including social work.

The South Tirolian Caritas Organisation works in several social fields and has been helping people with social problems for decades. Ten years ago most financial problems were caused by fire catastrophes, deaths or diseases and financial help was given in the form of donations.

During the past ten years however the nature of the problems has changed. An increasing number of people have applied for financial support from the Caritas Organisation, however, the problems have more and more been due to debts. In order to meet this new challenge a counselling service using a new concept and new methods has slowly been established.

#### Debt Advice Centre, South Tirol

The concept of the debt advice organisations in the German speaking countries was adapted to suit the requirements of South Tirol. Autumn 1998 saw a new branch of Caritas with the opening of the Debt Advice Centre, South Tirol, in newly established offices.

Three advisers currently work at

the centre providing the main service of social counselling including legal and economic advice. Counselling is also offered in all larger towns of the province.



The counselling is free and is aimed at individuals who have personal financial difficulties. The Debt Advice Centre South Tirol offers the following:

- competent counselling and assistance
- confidential handling of problems
- restoring of sound financial conditions
- budgeting
- regrouping and/or reduction of debts
- helping in finding possibilities of extra income as well as possibilities of financial help etc.
- negotiation and coordination

#### Debt Advice Centre, Bozen

The aim of the Debt Advice Centre Bozen is to ensure a stable long term social and financial situation as well as providing future perspectives and ensure that individuals and families have at least

the basic means of livelihood.

The minimum income threshold in South Tirol is legally ensured and consists of a basic sum (Euro 379,00 per person) plus rent and heating costs.

This amount of money forms the basis for regulation of the individual's debts.

#### The Advisers

All advisers of the Debt Advice Centre have a social and pedagogical university education with the essential and special skills for their work acquired through additional training.

To a large extent they have attended special training courses offered by the ASB in Austria, who kindly made participation possible. Attending the training courses in Austria has proved especially important for the counselling techniques as the legal situation in Italy is different from that in Austria.

Legal problems are solved in co-operation with a lawyer who the advisers can contact by telephone and who attends the team meetings. The lawyer also provides expert opinions and provides information about relevant changes in legal matters.

Every three months the team attends a supervision meeting with Dr. Herta Trummer, who has been working as a debt adviser in Tirol in Austria for ten years. Counselling and work methods are discussed and constantly improved, organisational issues are analysed and interpreted and general trends are discussed and illustrated by describing actual cases.

Once a week the team of advisers meet for half a day to discuss current cases.

By doing this problems can be analysed and each adviser has the possibility to learn from the experience of the

others and to acquire new insights. This provides great support to each adviser. General information is also exchanged at these meetings. Each adviser has the option to attend a personal supervision once a month, this assists them to cope with psycho-social problems.

The advisers must keep records of the counselling situations, along with a questionnaire concerning statistical information that must be completed. Copies of relevant documents and other written material are kept in the file (originals are not accepted). Statistically relevant information is computer filed and at the end of the year analysed and

published in a written report.

In the course of the counselling other people, institutions or creditors are contacted, this happens with the agreement of the clients who sign a written authorisation.

In order to ascertain the regular expenses household lists are filled in by the clients so that budgeting can be planned. Additionally, information sheets concerning guarantors, attachment proceedings, rent and energy debts, budgeting, building a house, buying a flat as well as the cost of court actions are worked out.

#### Funding

The Debt Advice Centre is jointly financed by public funds (75%) and by the Caritas itself (25%).

Cooperation with other social institutions is very important and a number of meetings have taken place in order to present the work style and the aims of the Debt Advice Centre thus ensuring a fixed place in the social network of South Tirol.

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## Ireland

### Debt Knows No Borders

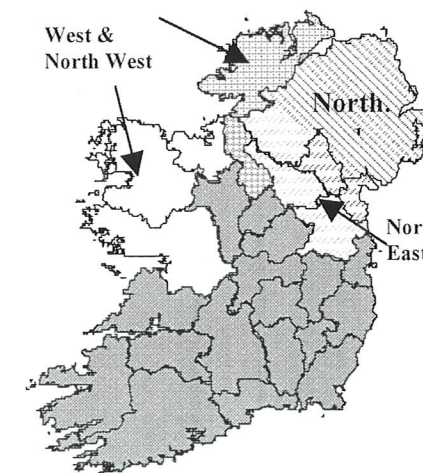
Debt might not know borders, but Money Advice workers certainly do! Which was why we decided to hold a conference on the subject.

Money Advice in Southern Ireland is fully funded by the Government Department of Social Community and Family Affairs. The service is delivered locally via over 50 independently managed centres. Money Advisers and in some cases Management Committee representatives, meet on a regional basis to develop services, further social policy issues, network etc.

The West and North West regions have been meeting together regularly for quite some time, and in discussing our casework we became aware that each of our services had a number of clients who had moved or returned from Northern Ireland and some were cross border workers. We found that dealing with cross border debts required access to information on a range of topics. The kind of questions we were asking were:

- What consumer protection legislation applies when a transaction takes place across the border?
- Is the Northern/UK Consumer Credit Act the same as ours?
- How does a Northern creditor pursue a Southern resident for a debt?
- Where is a person likely to be sued?
- How does the legal system for debt work?
- What Welfare Benefits can a person carry across the border?
- How does dual taxation work?
- What repayment options are available when currency conversion costs so much and the Irish punt is worth so little compared to sterling?

We found that locating accurate information was both difficult and time consuming. Consequently, we decided to apply to our funders for a networking grant to organise a seminar to network



with our Northern counterparts. Once approved we included our colleagues from the North East Region as they too faced the same issue.

In order to ensure the event remained focused and met the requirements of all concerned, we put together an organising committee comprising a representative from each of the four regions (management and staff).



Then the project turned into a monster!! What was to be a one-day get together rapidly turned into a two-day conference with a life of its own; 20 contributors, 9 workshops, overnight accommodation and meals for 70 in a hotel by the sea.

We found the "jungle telegraph" to be alive and well in all four regions and we fought bravely to keep attendance numbers within budget. It was also a challenge to ensure participants were predominately money advice practitioners or management. Who'd have thought cross border debt issues could attract such interest outside money advice circles!!

From what we saw and heard, we think the event was a great success. Of course, most of the real work took place in the bar [between songs]. With so much happening at the same time it was difficult to capture it all – but we hope to talk to people about their experiences and get a report together in the coming months.

Some issues of interest that came out of the conference through the plenary sessions include:

- Money advice provision varies greatly from North to South in terms of structure and funding, but we all seem to be a busy and committed lot.
- Both North and South have room for improvement in terms of:
- Holistic development strategies
- Communication structures cross-border
- Policy work [in particular debt settlement options]
- Standardisation of services [need regional development workers to achieve this]
- The relationship between Money Advice and Credit Unions in the South, in terms of administering repayment plans, is a valuable but ad hoc one, and a code of practice for both parties was recommended.

- Our Northern colleagues expressed a wish to develop links with Credit Unions.
  - We identified a number of problems with marketing and selling of payment protection policies and hope to learn from the UK code of practice on this.
  - We found that neither Information Technology systems were perfect, but could learn from the good points in each.
  - It was recommended that training be accessed in the area of portable entitlements and suggested that the cross-border generalist information service 'Trasna' develop this.
  - Money-lending seems to be a problem on both sides of the border and a joint initiative to tackle this problem and look at models of social lending is necessary
  - There is currently an advertising campaign for secured consolidation loans in the North, which we in the South will be watching out for.
  - A joint effort is also needed to educate the public about car finance – a particular problem being balloon payments
  - The legal systems for debt recovery are worlds apart and Southern debtors have a very raw deal. Indeed, it is possible for them to end up in prison without ever having access to free advice or representation.
  - The conference recommended that the time order process be looked into.
  - It was felt that solicitors do not understand debt issues from the debtors perspective and training should be offered to new solicitors via the law society
- I think we all learned a lot from the two days [and the months of organisation] and I hope we can learn a lot from each other in the future. And on that note, I for one have lifted the phone on more than one occasion to my new found contacts, and said those immortal words "I have a case...."

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## Sweden

# Reconsideration of debt settlement

After struggling for years to deal with debts, the debtor feels a great relief when they receive a positive outcome of their application for debt settlement according to The Swedish Debt Settlement Act. However, this relief may not last for long because new problems may soon arise.

The greatest problem is whether the debtor will be able to meet the stipulations of the debt settlement. The judicial decision states how much the debtor has to pay, on a monthly basis, to the creditors for the following five years.

Five years is a considerable period of time and a lot of unexpected changes may occur in an individuals personal finances.

If the debtor fails in his attempt to pay or his financial situation improves The Debt Settlement Act gives both the debtors and the creditors the opportunity to apply to the District Court for reconsideration.

## Study of reconsiderations

In 1999 The Swedish Consumer Agency made a study of reconsideration of debt settlements, Rapport 2000:14 Omprövningar av skuldsaneringsbeslut.

The study is only published in Swedish but the following is a short summary of the most interesting findings.

From 1995–1999 (the law was instituted in 1994) 180 applications for reconsideration were made to the District Courts with 150 of the applications were made in the first or the second year of debt settlement.

## Applications made by debtors

Debtors made most of the applications (120). They requested reductions in the amount to be paid via the payment plan or to be released from repayment. The main reasons for these requests were that circumstances had occurred that could

not have been anticipated.

- ❖ Unemployment
- ❖ Health problems
- ❖ Increased housing costs

Approximately two thirds of the 120 applications made were approved by the District Courts.

## Applications made by creditors

Creditors made 60 applications. In the majority of these cases (50) the creditors wanted the District Courts to revoke the debt settlement because the debtors hadn't paid in time or had stopped the payments. This resulted in 43 debtors having their debt settlements revoked, a very serious setback for the debtors because for them the door to debt settlement by law is practically closed.

Some creditors wanted to change the payment plan because the debtor's personal finance had improved. The majority of these claims got a positive response from the District Courts.

## Some special problems

Some serious issues came to light as a result of the study, it was discovered that:

- ❖ Quite a few debtors suffering from mental illness didn't pay in time and therefore jeopardized their debt settlement
- ❖ Some debtors had difficulty paying because they didn't have access to a bank account with giro. Instead they had to go to the bank and pay and that's much more expensive than to pay by giro.

## Comments on the study.

The total number of only 180 applications during five years may appear low. During these five years about 4,800 debtors received debt settlements by law. We will only be able to find the total number of applications for reconsiderations when

the debt settlement period is completed for these 4,800 debtor. The first opportunity for this will be in 2004.

Reconsideration of debt settlement gives the debtor a fair chance to carry through a debt settlement if their financial circumstances change. In the study we found that the Courts gave a positive response to applications from debtors, if they could show acceptable reasons. What surprised us was that the payment plans failed less than two years after the decision for debt settlement. This raised the questions: Had the debtor been aware of his or her own finances? Had they really understood the consequences of a debt settlement?

## What can be done to help debtors to fulfill the debt settlement procedure?

Many debtors in the study asked for help, and they said that they did not know where to get advice. Here are some possible solutions:

- ❖ Help from budget counsellors in the municipalities
- ❖ Budget counsellors could give budget advice and assist the debtor in providing the right reasons to the Court.
- ❖ Debtors suffering from mental illness need special arrangements or help from administrators.
- ❖ All debtors ought to have access to a bank account in order to simplify and lessen the costs of their bank transactions.

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# A visit to Scotland

During the last week in October my colleague Gunhild Wasstorp Villarreal and myself visited money advice colleagues in several places in Scotland. The purpose of our visit was mainly to learn more about the Scottish education-system for money advisors, but of course we also wanted to meet as many colleagues as possible.

A study tour was arranged by Joan Conlin-Ramsay, beginning in Dundee in her own office, continuing on to the office of the national organisation for money advisors in Scotland "Money Advice Scotland" in Glasgow, then on to the Trading Standard Service of Fife Council in Glenrothes, and finishing with a visit to Edinburgh City Council's Advice Shop in Edinburgh.

## Yellow Route

In Sweden we have, for a long time now, been talking about the need for a common approach to a structured highly qualified education for Money Advisors. In Money-Matters 2/2000 Larry Brown, Money Advice Scotland, wrote an article

about "The Yellow Brick Road" which interested us a lot.

The Yellow Route-system also exists in England and Wales, where they have three different roads: Yellow, Red and Blue. In Scotland the education system includes two roads, the Yellow and the Blue. Within these "Route-systems" there are education-levels both for generalists and specialists. The Blue Level is mainly a correspondence or distant learning package.

Not only the Scottish education-program interested us, but also the qualification standards they use. To become a specialist in Money Advice, you can apply for a Scottish Vocational Qualification (SVQ). This is done by Money Advice Scotland, based in Glasgow, who has produced all the necessary material and who decide whether you have the knowledge and skill that warrants the certificate being awarded to you. During the examination the Money Advisor is observed working and interviewing clients and their practices and procedures are closely monitored.

Money Advisors in Scotland come from many different types of professional background. Many of them work within NGO's and charitable organisations, as well as local municipalities. This is one of the main reasons why Money Advisors strive to get an equal "base" for quality and defined common standards.

## "Same, same but different"

In the three different Money Advice offices we visited during our tour, we learned that the working methods, in many ways, were almost exactly the same as the ones we use i.e the attitude towards the client, the need for patience, the need to give the client lots of time, especially for the first meeting. The formulas for collecting necessary information, the system for dealing with the creditors, using "pro rata" calculations, the amount of money offered to the creditors based on realistic costs of living, checking out properly if the client have all the benefits they are entitled to, these all looked almost the same.

*From the left:*

*Joan Conlin-Ramsay, Marie Råby, Sweden, Jacquie Roberts, Director of Social Work, Dundee City Council, Elaine Small, Welfare Rights Officer Dundee, Gunhild Villarreal, Sweden.*

*Front:*

*Kim Eberst, Welfare Rights Officer, Dundee, and Cllr De. Gernier, Dundee City Council.*



But we also noted differences, for example that some Money Advisors mainly visit clients in the clients home. That very seldom happens here, it is more of an exception rather than the rule

The credit available from "doorstep" moneylenders seems to create lots of problems, especially when the creditor wants the client to pay when there is no money to pay with. This "doorstep lending" is something we fortunately do not see in Sweden, at least not yet! But creditors who want money from even the poorest, well we certainly do have that in Sweden.

We also learnt about The Paylink Trust, an absolute "dream" it seems!

"Paylink" is a payment processing

facility, which allows clients with multiple debts to make a single payment, which is then distributed to their creditors. We asked for something like that, especially after 1994 when the Debt Settlement Act was introduced. A Swedish "Paylink" is something we really would like to develop!

Of course there are lots of differences in the legislation. In Sweden we have our Debt Settlement Act, with a possible final solution for the debtor after five years on a very low level of living. There is no such Act in Scotland, but the "Bankruptcy Legislation" is in many ways comparable, with a final solution "round the corner".

To be able to meet colleagues in other countries, to be able to discuss difficulties

and moments of happiness (that happens for example when everything goes the way you want), to share experiences and wishes – that is really wonderful, and something I would like to do frequently!

The real "big thing" was to experience the pride we all seem to share – the pride of being a Money Advisor.

Thank you Joan, Kim, Elaine, Martin, Larry, Margaret, Linda and Pauline!!!

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## CDN Website

→ Check out the CDN website on <http://www.consumerdebt.net>. ←

You will be able to check out our conference reports, CollectionWatch, and previous issues of Money Matters. We have started a links page but are constantly looking for new links to debt related websites, so if your agency has a website then let me know at [joascot@aol.com](mailto:joascot@aol.com) and I will create a link.



## Next Issue

Information from Poland on an exciting venture and hopefully comments on the Council Regulation (EC) No 1346/2000 of the 29th May on Insolvency Proceedings.

Update on funding issues for CDN.





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# Consumer Debt Net Aims and Objectives

**“The network shall deal with debt and budget advice, budget standards, household economic analysis, consumer and social problems due to overindebtedness.”**

The main objective of the network is to encourage member organisations to provide practical action to prevent consumer overindebtedness and to facilitate consumer assistance by the provision of budget and debt advice. The network will also strive to achieve exchanges of information and research results which may provide more general knowledge of such practices and the way in which they are handled in various countries.

Consumer Debt Net will:

- establish and maintain an up to date list of contacts in each participating country,
- maintain regular contacts in particular by means of an annual conference and exchanges of view on matters of topical interest through multilateral contacts of all kinds,
- mutually exchange information to enable members to gain an overview of each other methods, legal and administrative arrangements,
- to work towards better and commonly accepted methodology and definitions relation to debt advice, budget standards and debt prevention throughout Europe,
- collect information on creditors practice and procedures in relation to consumers and to co-operate informally at an operating level in preventing marketing malpractice's as they arise. Participants should use their best endeavours to assist each other, subject to national law and practice and availability of resources,
- organisation of special training for advisers,
- planning and realisation of collective actions in European countries,
- intervention on European legislation, for example in relation to debt settlement, credit rules and bankruptcy laws.

Participation is open to organisations from each European country, who would normally be involved with budget advice, debt settlement, debt counselling or budget standards, though for certain countries other arrangements may be necessary.



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## THE EUROPEAN CONSUMER DEBT NETWORK

A project supported by the Nordic Council of Ministers

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