

Money *Matters*

The Consumer Debt Net Newsletter

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Contributions from
Iceland ★ Sweden ★ Austria ★ Iceland ★ Spain
Finland ★ Norway ★ Luxembourg

Message from the Editor



Well, here we are again, another year and more information on the situation in relation to Overindebtedness in Europe and related issues will be coming to you through the pages of Money Matters.

I hope you enjoy reading this issue, it is full of interesting articles, including a summary of a piece of research completed in Austria on their Bankruptcy legislation and more information about the new debt legislation in Finland. Norway have several contributions including exciting and interesting news on the next European Conference 'Household Economics in an Unpredictable Market'. CDN are partners in the conference which is being hosted by the Norwegian Consumer Council and supported by DGXXIV Consumer Policy Unit and the Royal Norwegian Ministry for Children and Family Affairs. The format of the conference differs from the usual and will allow for different groups to focus on various issues. The Board of CDN look forward to see you there.

Joan Conlin Ramsay

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Iceland

A briefing on the current situation

The special counselling service to assist people experiencing serious difficulties in repaying debt has been in operation for four years in Iceland. The service was originally established as two-year experimental project, but there are now efforts to give this organization permanent status.

The advisory service is a co-operative project, which works independently to provide general counselling in co-operation with the 16 agencies that support it, all of whom are involved with the credit problems of Icelandic households in various ways. The parties to the project are:

- The Ministry of Social Affairs
- The Government mortgage credit agency (Íbúðalánasjóður)
- All banks and credit associations
- Pension funds
- The City of Reykjavik
- Municipalities
- Labour unions
- The Church of Iceland
- Consumers' organizations

All of these parties agree on the importance of working and co-operating in the area of debt repayment problems. The problems we deal with are often complicated and involve many inter-related factors. It is therefore beneficial and essential that as many organizations connected with debt problems as possible work together to find common solutions. This applies both to individual cases and to preventive measures in general.

The Advisory Service does not control the granting of loans or authorization to consolidate overdue debts. The service bases its work on co-operation between the parties who can provide the solutions.

The participants in the project provide the funds to meet the salary and operating costs of the service, which employs six staff members. Four are counsellors with degrees in business administration, the director is a lawyer,

and one staff member works in reception and general office duties.

The primary concern of the Service is:

- To assist people who are experiencing serious credit difficulties and who see no way out of their financial problems.
- To assist people who need guidance in gaining an overall view of their credit situation.
- To provide assistance in making repayment plans.
- Help in choosing from the options available.
- To provide assistance in negotiating with creditors.

Counselling is provided free of charge and is open to everyone in Iceland, regardless of where they live in the country. The Service also promotes knowledge of household financial matters by publishing information.

Evaluation of the Service

Last year, the Advisory Service commissioned the Social Sciences Institute of the University of Iceland to evaluate the effectiveness of the service. This work was undertaken by carrying out a survey, which involved 400 of the 1200 households who had requested assistance.

The poll showed that the experiment has been successful. The results revealed:

- More than 70% of those who replied believed that the Service had helped them.
- 80% had followed the Service's advice.
- Over 90% of those who replied were



Elin Jónsdóttir, Iceland.

satisfied with the major aspects of the service the organization provided. Many things have changed in relation to the financial position of Icelandic households since the Advisory Service was established, including the patterns of consumption, and household access to credit in particular.

When the Advisory Service was first established, many people's difficulties could be traced to unemployment and/or a reduction in income due to economic recession. The real estate market was very slow and if people wanted to buy a smaller home due to a reduction in income they found that it took many months or even years to sell an apartment in the capital city area. People paying child support were experiencing major problems because it was very difficult to reach

agreement with the agency responsible for collection.

These reasons are no longer given as the cause of repayment difficulties. There has been a major and positive development in recent years in relation to those obliged to pay child support and the possibility to negotiate an agreement based on their ability to pay.

Main factors today

At the present time there are three main factors that stand out in relation to the repayment problems of Icelandic households. These are:

1. Many people's incomes are not equal to their household expenses.
2. Change in employment or marital status
3. Purchases that are not in line with repayment ability.

Changes in the credit market have revolutionised the opportunities to increase household debt. It is now easy to take loans; lenders advertise to attract borrowers. Consumer loans, which were limited to a maximum of two or four years, now generally have a term of 10-

15 years. People who have consolidated consumer loans in recent years now have long-term debts of up to 25 years. It is possible to borrow as much as 100% of the price of a dream car. However, repaying these easily obtained loans proves to be a heavy burden for many people.

There has been a lot of satisfaction in being able to participate in the co-operation between agencies in connection with the Advisory Service, to experience the power of concerted effort, and the determination of all those involved in this project to work together and achieve something positive. However, experience has shown us that credit problems cannot be resolved with a two-year initiative.

The population of Iceland is about 280,000 and by the end of the 1999, the Advisory Service had been involved in the financial matters of more than 2000 households. We have little knowledge of how many people are experiencing difficulties, but there is great demand for the services of this organization – four times as much as it can handle.

Large or small is a relative term when

speaking of 2000 applications. However, it is obvious that the multiplier effect of these difficulties is great with many people suffering due to the debt problems of each and every individual. In the same way, assistance to an individual is important not only to him, but to his entire family, and those who are concerned about his health and well-being.

Looking at the statistical information on the position of the Advisory Service's clients, it is obvious that the people who seek its assistance are in great difficulty. Their incomes are low, the cost of living is high, and the burden of debt is great. Bankruptcy is often imminent. It is clear that the Advisory Service has work to do. Not only in assisting individual families in difficulty, but also in cooperation with its partners in the area of preventive measures.

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Sweden

New project administrator for Money Matters

Hello, to all readers of MoneyMatters. My name is Anders Gunnarsson. I am responsible for the administration of the Money Matters project on behalf of The Swedish Consumer Agency (Konsumentverket).

I am 32 years old and I started working for Konsumentverket in May 1999 after studying political science and economics at the University of Uppsala. Although I lack front-line workexperience in the provision of budget and debt-counselling I am extremely eager to learn. I am lucky

to have access to good mentors including Ann-Mari Rydell, Göran Andersson and Elisabeth von Sivers.

At present, my main area of work includes MoneyMatters and the CDN website currently under construction. MoneyMatters will of course have a central place on the website. The opportunity to search for older articles will be important for new members of the network (like myself).

The site will be a meeting place for us, lessening the physical distance and



Anders Gunnarsson, Swedish Consumer Agency

enabling us to discuss issues, exchange ideas and develop solutions because of our common concern for the plight of the consumer.

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Austria

Excluded from bankruptcy proceedings

The outcomes of a Survey by ARGE Schuldnerberatungen (Hans W. Grohs) / Bundesarbeitskammer (Margit Handschmann) published Jan. 2000. The following article is a brief summary of a survey recently carried out with clients who used Austria's debt counselling services.

Results of the survey

A total of 716 clients were selected from service users of Austria's debt counselling offices to participate in a survey of cases during the period from Jan. 1st 1998 to June 30th 1998. They were selected by applying a random sampling method.

Of the 716 samples it was found that in 474 cases (66% of the clients) the debt problems could be solved by beginning bankruptcy proceedings in court (debt settlement court action) regardless of whether or not proceedings were in fact instituted.

- In 248 cases (52%) bankruptcy proceedings turned out to be the best possible solution and were in fact possible.
- In 226 cases (48%) court action was not possible.

If all the personal and normalizing restrictions observed in the survey were to be abandoned it would be possible to increase the number of bankruptcy proceedings in court by approximately 60% to 92% at the most.

This would result in 4160 to 4992 proceedings per year in comparison to 2600 proceedings at the present time (1999).

Currently disadvantaged groups

- Debt settlement court action is more difficult for women to institute and even more difficult for married women.
- The possibility of instituting bankruptcy proceedings becomes less likely the younger the client. This applies both to single and married people and is influenced by

the number of children in the household, the more children the more difficult it is to institute proceedings.

- Single mothers appear to have less possibility of bankruptcy proceedings than mothers with partners.
- The clients using debt counselling offices generally have below average incomes and unfortunately people who belong to low-income-groups seem to be in an even worse starting position. The lower the income the lower the chance of debt settlement through court action.
- People who do not have an income of their own find that instituting bankruptcy proceedings is almost twice as difficult as it is for working people.

Bankruptcy proceedings are only possible where heavy indebtedness has been caused by

- Housing
- Reduction of income or unemployment
- Bad budgeting
- Addiction or health problems.

Two thirds of people whose debts do not exceed ATS 500.000 / EURO 36.336 are not able to institute bankruptcy proceedings and the greater the debts the less probable is the chance of court settlement.

Why bankruptcy court proceedings are not possible

The 3 most common reasons (each of which is never the sole reason) why proceedings at court are not possible are:



Hans W. Grohs, Austria

An unstable personal situation - (61%)

The opening of bankruptcy proceedings is not possible because the debtor is not sufficiently "mature" or "able" to attend negotiations and proceedings in court successfully.

- Twenty nine percent of all bankruptcy cases do not lead to proceedings in court due to an unstable personal situation
- In almost half of the cases (47%) the unstable personal situation is combined with an insecure work situation, in 22% with an unclear financial and debt situation, whilst in 18% it is combined with the inability to finance the minimum quota of 10%.

The majority of these clients (63%) are below 40 years of age. The percentage of people in this age group is consequently

higher than in the group of those who are able to institute bankruptcy proceedings.

The percentage of unemployed people who do not make it to court is very high (11% above average).

Forty one percent earn less than ATS 10.000 / Euro 727 per month (that is 7% more than in bankruptcy cases).

The percentage of clients who previously had their own businesses or were self-employed is comparatively low at 18%. Debts due to bad budgeting, unemployment/reduction of income or addiction are found to be above average.

The average amount of indebtedness is ATS 750.000 / Euro 54.504 (n=130) which is considerably lower than the average amount in bankruptcy cases.

An unstable personal situation is the most common reason for not using debt settlement proceedings in court. This is demonstrated in 29% of all bankruptcy cases and in 61% of the cases in which settlement in court is not possible.

The present requirements for bankruptcy proceedings are of no help to this group of clients. On the contrary it is expected that the debtor shows responsibility in personal and financial matters and is able to understand his own complex situation.

It would, therefore be necessary to introduce measures that would make it possible for these clients to stabilize their situation within a framework of protection thus making court proceedings for bankruptcy possible in due course.

The result of this would be, between 962 to 1456 additional proceedings, equivalent to an increase of 37% to 56%

as compared to the current number of 2.600 court cases per year (1999).

A precarious work situation - (42%)

It is not possible to institute court proceedings in 20% of bankruptcy cases because the debtor has no secure long-range job and is either repeatedly out of work, working part time or doing seasonal work.

The problem applies equally to all age groups. Half of the people experiencing an insecure work situation are under 40 years of age, the same pattern is repeated in the 40-60 yrs age group.

Fifty-nine percent do not work and twenty five percent are unemployed which means that unemployment is 13% higher than all bankruptcy cases. The number of people receiving special payments through the unemployment office is also 13% higher than all bankruptcy cases. Only a minority are actually an active part of the work force (41%) with 5% of this group white-collar workers, whilst 58% are earning less than ATS 10.000 / Euro 727.

The most prevalent reasons for indebtedness are, on the one hand former self-employment and on the other hand poor budgeting (26% each).

Just less than half of the clients have debts up to ATS 500.000 / Euro 36.336. Although this seems to be uncommonly low in comparison to bankruptcy cases.

Bankruptcy proceedings at court require the bankrupts to have a secure job as this ensures success for settlement in

court. The regulations concerning "compulsory settlement" and an "instalment plan" require a secure work situation in order for the debtor to meet the agreements for payment, which are settled by majority vote by the creditors. These standards fail to be met in 20% of bankruptcy cases.

This clearly demonstrates that measures must be taken that will enable the debtor to stabilize his/her situation. Furthermore, measures must be taken which secure the employment in order for the debtor to make use of debt settlement in court.

This could result in 650 to 1014 additional court bankruptcy proceedings, a rise of 25% to 39% compared to the present 2600 court cases per year (1999).

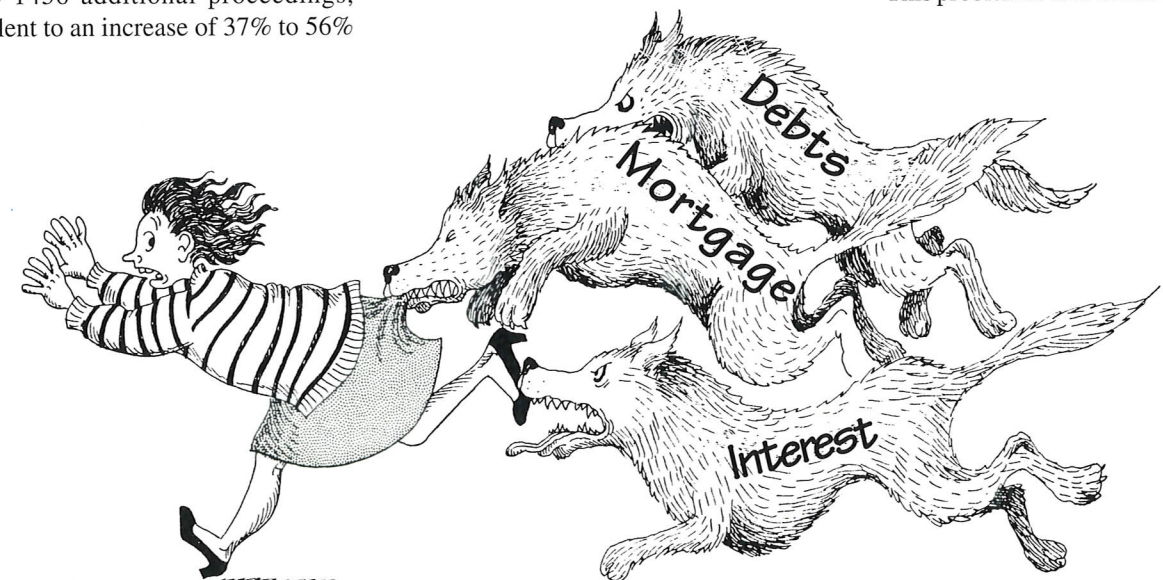
Where financing the minimum quota of

10% is not possible - (28%)

Article 183/1 of the debt settlement act (Konkursordnung) states the debtor has, amongst other things, to certify that where he has no assets with which to cover the costs of the court proceedings he, never the less, expects to be freed from his debts in due course.

More women than men fail because of the compulsory minimum quota and married clients fail more often than single people. One reason is that in non-single households usually one person has an income below average or has alimony obligations to his/her children, which means that assignment of wages releases an insufficient amount of money.

This problem is also found with clients



receiving unemployment benefit (+ 14%) and people on maternity leave (+ 4%). The monthly income of these groups averages ATS 9.560/695 Euro thus being ATS 2.480/ Euro180 below the average income of all bankruptcy cases.

More than half of the affected people have a net income of less than ATS 10.000/727 Euro per month as compared to 34% of all bankruptcy cases. Only one in every 10 clients in this group have an income above ATS 15.000/Euro 1090.

The average amount of indebtedness stands at ATS 1.414.000/Euro 102.759 (n = 58) that is ATS 260.000/Euro 18.895 more than the average in all bankruptcy cases. This high average is caused by those who have debts above ATS 3.000.000/Euro 218.018. This shows that not only low incomes but also high indebtedness is a reason for failure to reach the minimum quota and thus court settlement.

Abolishing the minimum quota requirements would provide a solution for 28% of those clients who at present are not able to institute court settlement and result in 17%–26 % more court cases, with between 442 and 676 additional bankruptcy proceedings to be expected.

The 10% minimum quota may also become a problem for those who have already come to a settlement in court and repaying by assignment of wages. Statistics based on 179 bankruptcy cases

in 1998 which resulted in payments by assignment of wages show that 82 persons (46%) will stay below a quota of 10 % and 47 persons (26%) below 20%. Of the 1996/97 bankruptcy cases which resulted in payments by assignment of wages approximately 30% are not expected to have repaid the 10% quota after 7 years. Although grounds of equity can be applied it is to be expected that every 4th or 5th client paying by assignment of wages for 7 years will fail. The most common combinations of reasons for failure are:

- An unstable personal situation and a precarious work situation
- An unstable personal situation and no possibility of financing the minimum quota
- A precarious work situation and inability to finance the minimum quota

Debt settlement court action

In order to be eligible to apply for a debt settlement through court action the debtor must meet three criteria:

- Insolvency
- Ability to finance a minimum quota of 10% plus court expenses
- Failure of attempted settlement out of court

Possibilities in court:

There are three possibilities for debt settlement in court:

a) Compulsory settlement

Minimum quota of 20% in 2 years at the most **or**

Minimum quota of 30% in 5 years at the most.

Majority vote by creditors required.

b) Instalment plan

Flexible settlement: quota depends on expected income over the next 5 years. Maximum length of time: 7 years.

Majority vote by creditors required.

c) Probationary period (settlement by assignment of wages)

Only possible after failure of instalment plan (majority vote by creditors failed). Assignment of wages for 7 years.

Free from debts when

- At least 10% have been paid after 7 years **or**
- At least 50% have been paid after 3 years.

If less than 10% have been paid after 7 years

- Grounds of equity **and / or**
- Extension to 10 years

No approval by creditors required.

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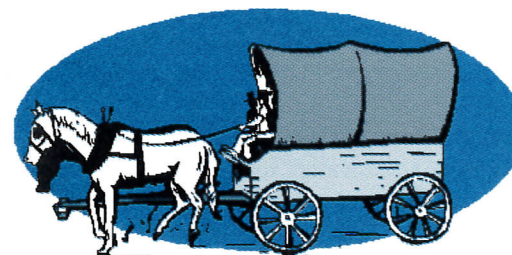
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Ireland

Money Advice for the Travelling Community

Exchange House Money Advice and Budgeting Service was set up in November 1999 in response to the report compiled by Paul Quinn and Thomas McCann entitled "Access to Credit Facilities for the Traveller Communities in the Greater Dublin Areas" The report highlighted the lack of access for the Travelling Community to affordable and legal credit.

The Travelling Community in Ireland is a nomadic indigenous minority. They have a shared culture and language separate to the settled Irish majority. They constitute approximately 0.5% of the population of Ireland, of this figure, around 25% or 7,000 individuals live in Dublin.



have for too long been victims of discrimination and racism in Irish Society, this is evident from their lack of basic human rights such as shelter, water and heat. A refusal by successive Irish Governments and society in general to recognise Travellers as a separate ethnic group, with cultural differences, has led to Traveller's needs being ignored. A fundamental difference is the strong oral culture within the community. For this reason, a high percentage of Travellers have difficulty reading and writing, this has excluded them from access to written information on service provisions relating to all areas of life. As our service focuses particularly on money we find that this impinges on access to both legal and affordable savings and credit.

Recent government legislation to tackle money laundering has escalated

this problem by negatively affecting marginalized groups, not least the Travelling Community. Financial institutions and credit unions now require 2 forms of identification in order to open an account. The first, proof of residence, excludes many Travellers living on the side of the road. The second, recognised picture ID, such as a passport or drivers licence, excludes many more.

Exchange House Money Advice and Budgeting Service aims to address this problem of debt and access to affordable credit among members of the Travelling Community. To do this we work with the following joint parallel approach.

1. Promotion of Traveller issues among

credit institutions; this involves meeting with local credit unions and banks to:

- ◆ Raise awareness of the difficulty Travellers face in opening accounts due to the requirements of a permanent address and identification in the form of bills to the said address in the applicants name.
- ◆ Encourage a more understanding approach to Travellers and their way of life.
- ◆ Support Travellers when requested in opening accounts.

2. Working within the Travelling

Community to raise awareness of the role of

- ◆ the Money Advice and Budgeting Services (MABS) and possibilities regarding affordable credit. Our work in this area comprises of working with both groups and individuals.
- ◆ Our work with groups focuses mainly on the dissemination of information through community education. We hold talks, organise workshops and take part in discussions on money

matters relating to the group in question. This can be in relation to the role of the local MABS, social welfare entitlements, credit unions and other credit providers, family budgeting and the introduction of the Euro, to name but a few.

- ◆ Our work with individuals is also concerned with the issues identified above but our initial contact takes place on a one to one basis. Once trust is established we support and encourage the client towards working with their local MABS and credit union. Our input continues in a support role for all concerned. This allows a core group of support services to work together with the client in addressing their debt problem. It also allows for a more long term and sustainable solution.

3. Supporting both Travellers and their local MABS in finding solutions to individual clients problems

Exchange House Money Advice and Budgeting Service acts as a link and support to both Travellers and their local MABS. This is being achieved with the development of the above and the continuous process of action and reflection.

We believe that in the long term it is only by moving people towards more affordable credit, promoting a better understanding among the Travelling Community of credit unions and promoting better budgeting through community education that the present crisis can be tackled.

For more information contact:

Nuala Ni Ghabhann

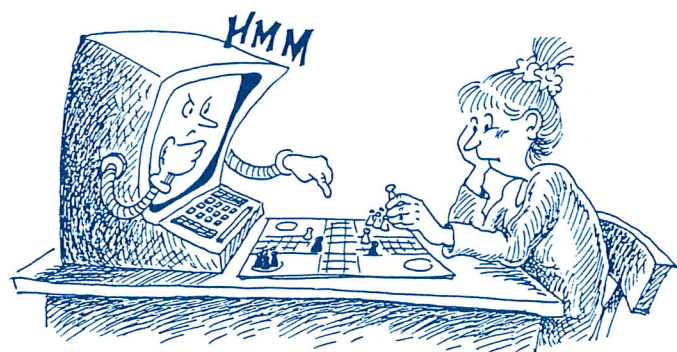
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The CDN homepage



We are pleased to announce that CDN will be launching it's own web-site in early May. Our homepage will be found at

www.consumerdebt.net

The construction of this web-site has just begun but we now know the internet address. Remember this address so that we can meet there.

Money Matters will then be published on the CDN homepage as well as in a hard copy.

Spain

The Spanish Legal System in relation to Indebtedness

The Consumer's Association of the Basque Region provides the following article on indebtedness and the Spanish Legal System.



Blanca Ibáñez Moya

There are few national legal procedures related to indebtedness in Spain and those that do exist do not offer global protection to consumers. The consumer who uses credit or a loan to finance the purchase of goods or services which, in reality are essential household items and, are normally seen as indispensable is in a particularly vulnerable position.

An analysis of the Spanish legislation clearly shows the fragile defence the consumer has in those cases where the debtor fails to repay the debt in the manner detailed in the terms of the agreement.

As a general rule, in cases of non-payment, creditors are not prepared to grant deferments or to renegotiate the loan because of changes to the economic or family circumstances of the consumer. The finance companies tend to demand the full repayment in the Courts of Justice.

Financial agencies have a clear advantage over the consumer at the Courts of Justice because the documents in which unpaid credits and loans are recorded are, according to the Spanish Law of Civil Judicial Procedures, executive titles. This effectively means that once legal action has been taken in Court and the conditions of the loan are analysed (but not so the personal economic or financial circumstances of the consumer) the indebted consumer is required to pay. If the consumer does not pay when required to, a procedure to arrest his or her property is then begun. This in turn only serves to aggravate the initial problem and the domestic crises even more. It causes the consumer serious problems and the resolving these problems can often be extremely difficult.

There is no legislation or policy that provides a solution to those experiencing over-indebtedness.

Spanish legislation does neither adequately nor globally attempt to deal with the consequences for the consumer who is unable to meet the repayments laid down in the contract. These consequences often involve surcharges or supplementary payments, penalties for late or non-payment or in some cases loss of secured property.

However, some legal instruments have been passed in which the consumer is mentioned in relation to this matter. These procedures are:

- a) Law 2/1994 dated 30th March, on the Subrogation and Modification of Mortgage Loans.
- b) Law 7/1995 dated 23rd March, on Consumer Credit.
- c) Law 28/1998 dated 13th July, on sales by Instalments of Personal Property.

Law 2/1994 – Subrogation and Modification of Mortgage Loans

The purpose of this law is to make it possible for consumers to subrogate their mortgage loans to another financial agency. Until this law came into force it was simply not convenient for the consumer to change a mortgage due to the heavy commission fees payable for the anticipated amortisation. These commission fees were charged by the

credit agencies at the time of contracting the loan and duplicated the expenses incurred by the cancellation of a mortgage loan and establishing a new one.

The law limits the amounts that can be claimed, on loans with variable interest rates, by a financial agency as commission fees for an anticipated amortisation of the debt. It also introduces an important reduction in the fiscal costs of subrogation and modification of loans as well as a reduction in the costs derived from the mandatory intervention of the Notary and the registrar.

Law 7/1995 – Consumer Credit

The Law on Consumer Credit incorporates Guidelines 87/102/EEC of the Council of the European Communities, 22nd December 1986 into the Spanish legislation on consumer credit and the subsequent modification of this by Guideline 90/88/EEC dated 22nd February 1990.

Particular attention should be paid to the execution of credit contracts granted for personal needs. The law protects the consumer in that it allows him/her to oppose certain parts of the contract not only against the contracting agency but also against other agencies which may have relinquished their rights or which may have been involved in financing the

contract by granting consumer credit. This does not happen in mortgage loans.

Law 28/1998 – Sales by Instalments of Personal Property

This law came about as a result of the instructions contained in Law 7/1995, on Consumer Credit. It introduces, for the benefit of the consumer, a limitation to the amount that may be claimed by way of deductions to the benefit of the seller or lender who opts for cancelling the contract because of non-fulfilment by the consumer. It empowers the Judges and the Courts to establish new payment deadlines, to alter the agreement and to moderate the penalty clauses agreed upon in the contract, after considering the personal circumstances of the

consumer. This constitutes an important innovation.

Finally, it is necessary to indicate that, apart from the regulations previously detailed, the Basque Autonomous Community has passed Law 12/1998, dated 22nd May, relating to Social Exclusion. This law establishes a wide range of measures to deal with the problem of social exclusion, which is not only identified as poverty. Poverty is defined not only as the difficulty or impossibility to attain the goods and services which are characteristic of an average level in a given society, but also, in very wide terms, as the inability to exercise social rights, fundamentally the right to work. It also includes the right to education, culture, health, housing and social protection.

In relation to over-indebtedness, the law establishes certain social emergency grants, which are non-periodical economic relief. This is intended for people who have insufficient resources to meet essential specific expenses. The purpose of this law is to prevent, avoid or ease situations of social marginalisation, and it includes the payment of such specific expenses as previous debts originating from rent expenses, expenses resulting from interest and credit amortisation and expenses for basic housing equipment.

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Finland

A New Act on Debt Collection in Finland

The 1st September 1999 saw a new act on execution and debt collection coming into force in Finland, previously there were a limited number of actions prohibiting inappropriate debt collection practises but no legislation dealing specifically with this particular topic.

The new act applies to all kinds of debt collection practises except for the official execution procedure and it prohibits unreasonable and inappropriate means of debt collection. For example, the debt collector may not give misleading information about the consequences of non-payment. The debt collector must also avoid unnecessary costs to the debtor and keep the procedure confidential.

A new procedure

The act introduces a new procedure for debt collection. Before official

enforcement the debt collector must send a reminder to the debtor that informs the debtor of his/her options for court proceedings. According to the new act the debtor must pay the reasonable costs of debt collection, however, this obligation does not exist if the debt collector has used inappropriate means of debt collection.

Although the new act prohibits professional debt collection without a licence if the debt collector does not advertise his services, then a license is not required. An attorney-at-law may also practise debt collection without permission. A license for professional

debt collection may be granted if the debt collector proves to be reliable and of good financial standing and must name the person responsible for supervising the collection practice.

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Norway

The Norwegian Act

The Norwegian Act relating to financial agreements and transaction orders – a new and important Act for consumers and finance institutions

The Norwegian Act relating to financial agreements and transaction orders (Act 25 June 1999 no. 46) will come into force 1st July 2000. The Act will be of great importance to banks and other finance institutions, and consumers using financial services as it regulates the main types of contracts offered to the public by financial institutions and certain other enterprises, including state banks. The Act is generally applicable, but some of its provisions are only applicable to consumer contracts. The provisions are mandatory in consumer contracts and on the whole non-mandatory in relation to business enterprises. The Act is in accord with EEA provisions.

The Act contains provisions relating to deposit accounts, payment orders and credit contracts (for instance loan and surety agreements). The types of contracts that the Act will regulate, are not subject to regulation at the moment. In this area, the institutions' standard contracts have prevailed. The purpose of

the Act is to make the contractual relationship between the institutions and their customers clearer, better balanced and fairer.

According to the Act, the institutions must provide the customer with written information about the

essential terms of the agreement in all types of contracts. The agreements themselves are required to contain specific information. The purpose of these provisions is to give the customers greater insight into what an agreement will involve, before they are bound by it. All agreements must be in writing and in the case of surety the agreement must be in writing in order for it to be valid.

A borrower will always be entitled to repay a loan before the due date and in the event of early repayment, the borrower shall only be charged the costs incurred during the actual period of credit (this does not apply for fixed-rate loans).

In terms of the consumer relationship, principal liability on the part of a surety in case of default will be abolished. Such sureties will no longer be directly enforceable. The lender must first take certain legal steps against the borrower. Furthermore, the Act contains important provisions concerning the institutions' obligation to give notification of crucial events concerning the principal relationship. The surety shall be notified of the borrower's default, any agreement concerning deferment of payment, the borrower's death or insolvency proceedings. Finally, for an instalment loan the surety's liability shall be reduced in step with the original repayment plan. The lender however, must himself bear the risk for any



Egil Rokhaug

deferment of payment to which he has agreed. If the lender releases any collateral security that may effect the surety's liability, this will normally require that the surety be released.

Provisions concerning the calculation of interest on crediting and debiting accounts have been formulated to eliminate the institutions' opportunities to benefit from float income. Furthermore, agreed cut-off clauses (i.e. any terms that preclude the right to raise objections or counterclaims) will not have any effect in consumer contracts.

There are provisions in this totally new legislation that provide that the lender is obliged to dissuade the borrower, where the person concerned should seriously consider they should be taking the loan. This applies also to surety; the lender must inform the surety where the borrower has been dissuaded from taking the loan, and the surety must be dissuaded from providing security if his own financial position appears to be too weak to handle the possible obligation of paying the borrower's debt. In fact, these provisions establish a legally enforced obligation for the finance institutions to consider the credit-worthiness of both the borrowers and the sureties.

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Luxembourg

Debt counselling in Luxembourg

This report is provided Christian Schumaker from the Service National de Lutte contre le Surendettement of Luxembourg

The first step

Debt advice has been available in Luxembourg since 1991 and at the end of 1996 the two organisations providing those services, the Service National de Lutte contre le Surendettement and Inter-Actions agreed to co-ordinate their future activities more closely.

Co-operation agreement

The first achievement was, in order to avoid redundancies and to ensure efficient national coverage in the provision of debt advice, to agree on territorial competencies. This agreement took effect on 1st July 1997.

The outcome of this agreement was:

- ▼ Inter-Actions have one counsellor providing a service for the south of the country with a population of 125.000 inhabitants.

- ▼ The Service National de Lutte contre le Surendettement has two counsellors and provides the service for the northern and the central parts of the country with a total population of 290.000 inhabitants.

Statistics

During the last 9 years, the agencies have provided advice to about 2.000 people.

In 1999, a total of 301 new clients and 413 former ones have received assistance from either one or other of the two agencies.

Statistics gathered on the 1st January 2000 show that from a total of 714 files handled in 1999, 191 of these have been carried over for further work in the new millennium. The number of cases resolved was 470 whilst 53 have been closed without follow up.

Specific legislation to fight overindebtedness

The proposed legislation as laid down in the Parliament on the 12th February 1998, includes four instruments that will assist prevention and help combat overindebtedness:

- ▼ The establishment of a national debt counselling network managed by Inter-Actions and the Service National de Lutte contre le Surendettement
- ▼ A debt regulation procedure including both, a conventional and a jurisdictional phase
- ▼ The creation of a specific fund
- ▼ The nomination of a board of experts in the field

So far, the proposal has not been voted on by the Parliament.

International co-operation

Both agencies are very active in the international field and they have regular contacts with their French, Belgian and German neighbour agencies and institutions.

In relation to CDN, the representation of the Grand Duchy has been split between both agencies. So, the Service National de Lutte contre le Surendettement represents Luxembourg on the CDN Board while Inter-Actions is the member for the Collection Watch group.

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Stop Press

The Lillehammer Conference – "Household Economy In Unpredictable Markets"

As announced in the previous number of MM, the next European Conference on Household Economy will take place in Lillehammer, Norway on 5th – 7th June 2000. The planning of the conference has been underway for some time and we are pleased to provide more information on this exciting event.

Opening Day

The conference will start Monday 5 June with lunch (11:30) and an address by the Norwegian Minister for Justice, Odd Einar Dørum, who has kindly accepted our invitation to open the conference. The afternoon will be devoted to plenary sessions.

Day Two

On Tuesday there will be parallel mini-seminars before lunch and corresponding workshops after lunch.

Day Three

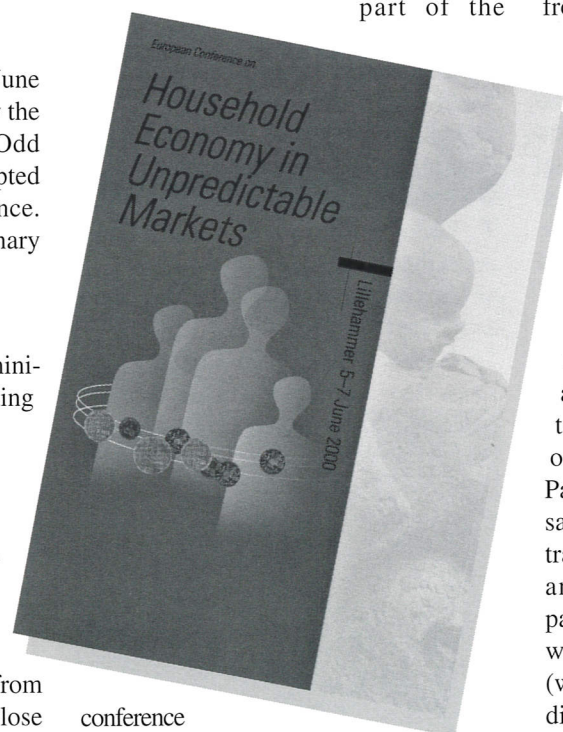
On Wednesday, the final day of the conference, The first hour, from 9-10am, will be reserved for the CDN general meeting, the plenary and summing up sessions will take place from 10:00 – 12:00. The conference will close after lunch (13:00) on Wednesday 7th.

Social Events

In the evenings of Monday and Tuesday, delegates will be offered the opportunity to participate in excursions and guided visits to local attractions, and of course the obligatory conference dinner. The Conference programme focuses on three main areas of household economy,

which will be dealt with during the three mini-seminars and follow-up workshops. These are:

- ★ The market environment for consumers (seminar A),
- ★ Consumer education (seminar B)
- ★ Consumer debt problems (seminar C). Seminar C and the corresponding workshops should be the most interesting part of the



conference for those working with debt problems and related issues. The main topics in seminar C will be:

- ★ Overindebtedness and its costs to the society (Richard Ahlström, Sweden),
- ★ The consumer credit directive (Melina Mousouraki, Greece)
- ★ Debt settlement legislation throughout Europe (Egil Rokhaug, Norway).

In addition to the above a large number

of highly qualified workshop leaders from many different European countries will deal with various topics related to overindebtedness and money advice.

Dr. Ulf Groth, Germany, will conclude seminar C on Wednesday 7 June, with a contribution on "How to prevent and solve financial problems among households - summing up and reflections from seminar C".

The conference fee will be NOK 3000, – (approximately 375). This includes accommodation and daytime meals.

Evening programmes are additional. Free places will be available, on application, to a number of participants (approx. 15) from the non-EU/EEA countries (category one). There will also be a number of subsidized places (approx. 30) applicable for CDN/ECEN affiliates, front-line workers, representatives from NGOs, low budget organizations etc. (category two). Participants in this category will have the same benefits as category one, except for travel expenses between their domicile and Oslo Airport Gardermoen. All participants will be entitled to a SAS-fare with 45% discount on ordinary price (with no APEX-restrictions). Use of this discount offer is a condition for category one participants to have their flight expenses covered.

At present, invitations to approximately 2000 individuals, authorities, organizations etc, with assumed interest in household economy and related areas have been sent out.

For further information on the conference check the Consumer Council web site: www.forbrukerradet.no.

Sweden

The Debt Settlement Act – 5 years

The Swedish Debt Settlement Act came into force in 1994, after years of lobbying from Konsumentverket and budget and debt counsellors in the field. After almost six years, the law has matured and in this article we highlight observations made at the five year check-point.

The Act has three procedural steps. Firstly the debtor has to try to get a voluntary agreement with his creditors. This is generally done with aid from budget and debt counsellors in the municipalities. If this is unsuccessful, i.e. the creditors turn the proposal down, the debtor can apply for the second step. In the second step the Kronofogdemyndighet (enforcement service) carries out a new examination of the debtor's financial situation and tries to get a voluntary agreement with the creditors. If this fails, then the court in the third step may decide on debt settlement, even if a creditor opposes it.

The second and third steps are administered by state agencies, the enforcement service and the courts, and therefore there is comprehensive national statistical material for comparison over a period of time.

The statistics below show that the number of cases submitted to the enforcement service reduced after 1996. However, on the other hand the number of positive decisions for the debtor increased. These two statistics signify that the number of debt settlement cases out of court is increasing, therefore

lessening the administrative costs of the act. Five years on and the application of the law has matured to the extent that the creditors don't tend to automatically take matters to court.

We are now able to identify the most common type of debtor who achieved settlement at the second or third step. The average person was a single woman, 40-49 years old with income between 10,000 and 20,000 sek (approx. 1,200 and 2,300 eur). Her creditors received between 0 and 5% of their claim for 500 000 sek (60 000 eur). Nearly 7,000 individuals got a debt settlement in the first 5 years. This is far less than was anticipated. It was expected that there would be 20,000 settlements at the second or third step, however only one third of this number actually materialised and no comprehensive explanation for this can be found. One explanation that has been delivered is that the media described the law as complex and difficult and this deterred many over-indebted people.

The first step statistics

There are no comprehensive national statistics that demonstrate the invaluable

work carried out by budget and debt counsellors in the municipalities, although some individual municipalities have presented some statistical information.

These reports have provided some information. We can see from an excellent report presented by six municipalities, who have worked together, that there are similarities in all three steps between the most common type of debtor. This point would be more definitely defined if there was geographical information that would allow for national conclusions to be drawn.

Both the municipalities and the government recognise the need for information about the first step of the Act and The Swedish Consumer Agency have developed and released a computer program to assist the municipalities to gather statistics.

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Compilation of debt relief statistics 1994-1999 in the second and third step

Year	Matters submitted enforcement service	Rejection, etc. enforcement service	Matters commenced enforcement service	Decision enforcement service	Transferred to district court	Decision district court	Total decisions enforcement service and district court
1994	2 801	1 490	424	12	21		12
1995	4 377	2 580	1 510	268	695	601	869
1996	5 264	2 592	1 660	578	965	818	1 396
1997	3 590	3 071	1 630	671	1 108	946	1 617
1998	3 410	1 845	1 701	828	1 022	651	1 479
1999	3 196	1 668	1 864	1 024	933	599	1 623
Total	22 638	13 246	8 789	3 381	4 744	3 615	6 996

Source: Riksskatteverket (National Tax Board)

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 others 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.



THE EUROPEAN CONSUMER DEBT NETWORK

A project supported by the Nordic Council of Ministers

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