

**Amnesty of debts:  
Amicable Agreement and Statutory Solution**  
Synthesis Report

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## 0 Abstract

### The context

The Peer Review took place in Rotterdam on 6-7th November 2006 to examine another model to fight over-indebtedness: the Dutch model of amicable and statutory debt rehabilitation.

The meeting was hosted by the Dutch Ministry of Justice, the association of municipal social banks (NVVK) and the municipal social bank of Rotterdam and attended by representatives from five peer countries: Denmark, France, Luxembourg, Latvia and Sweden, with stakeholder participation by the European Anti-Poverty Network.

### Good practice

The Dutch model of voluntary and statutory debt regulation is more or less unique within the EU, as it includes a procedure permitting the achievement of a debt-free status after three years. This “clean slate” approach aims to achieve social inclusion and to encourage a full participation in the labour market by allowing over-indebted people to make a fresh start in life.

The amicable process is run by municipalities. They control and finance the various independent local organisations helping with debt problems, e.g. municipal social banks, social work organisations and municipal social services. The municipal social banks (founded in 1932) play a specific role. They have a range of products for over-indebted people and poor people, designed both to prevent over-indebtedness from happening in the first place and to help resolve it when it occurs.

The Law on Debt rehabilitation for natural Persons (WSNP) exists since 1992 alongside the Dutch Bankruptcy Law. As its name implies, the WSNP process is available to individual debtors, if they are actively seeking work (except if medically unfit) or in work, and are willing and able to meet the requirements of the procedure. Self-employed people, former entrepreneurs and small business can be included as well in the procedure. Provided that the debtors fulfil all their obligations under a debt rescheduling plan, debtors accepted into the WSNP process will usually be declared to have a “clean slate” after three years, even if the debts have not been paid off which is normally the case. On average, only around 10% of the total debt sum is paid back.

### Key learning elements

- The possibility that over-indebted and poor people and people with negative registration criteria have access to normal bank services was highly appreciated and regarded as good tool to avoid social exclusion.
- The systematic approach of the municipal social banks was praised, including the data processing programs.

- The integrated range of services provided was another positive point.
- The possibility of a “clean slate” after three years under the Dutch WSNP procedure rather than five or seven years as in some other countries impressed the peer reviewers.
- The availability of skilled, licensed and verified trustees, who accompany the debtors throughout the process, was taken as an important guarantee of quality within the Dutch scheme.

### **Transferability**

- It seemed to be difficult to create municipal social banking systems in the EU-15 states if they were not already in existence. But it is a chance for the new member states with banking services which are still developing.
- Elements of the integrated service approach may be more easily transferable to all EU member states.
- The effective use of databases in the Dutch process was noted with great interest. But the public accessibility of these databases might be difficult to reproduce in some countries, due to concerns about privacy and commercial abuse.
- Privacy concerns were also expressed about the postal blockade under which the Dutch trustees intercept and monitor debtors’ mail.
- It was recommended that for the WSNP court procedure the Dutch system should take over the way by which debtors in other countries are prepared for the court proceedings.
- Generally the Dutch system seemed to be good transferable to countries with a non-developed or under-developed debt rehabilitation procedure. Even countries with high standard debt rehabilitation, e.g. France, Germany, could take over elements of the Dutch procedure.
- It should be noted that besides the Dutch approach of debtors’ education there are other debt regulation philosophies already in existence in Europe: the fresh start model, the welfare idea and the debt administration approach.
- Debt management is not only a moral obligation of societies but spending on debt management is cost-effective as well. For each euro spent on debt counselling and management, two euros are saved in other parts of society. Debt rehabilitation can reverse the descent into poverty and homelessness, and so promote social inclusion.
- Additionally, all the experiences of debt rehabilitation in Europe question the responsibility of the creditors. It may be necessary to distinguish not only ‘good faith debtors’, but ‘good faith creditors’ as well.

## Part A: Description of the main elements of the Dutch policy

Help with problem debts in the Netherlands distinguishes between an amicable and a statutory process. The Dutch model is insofar unique in the EU because it enables over-indebted people to be debt-free after a period of three years by a systematic and structured procedure. This aim follows the idea of a “fresh start” from the US approach. Debtors should have the possibilities to begin a new life, in Dutch named the “*schone-lei-doctrine*” (clean-slate-doctrine). This model is regarded as a good instrument to fight over-indebtedness and to reintegrate people from social exclusion to social inclusion.

### A.1 The problem

In November 2004, the Netherlands had 16,294,072 inhabitants, divided over 7,052,458 households. The total economically active population, aged between 15 and 64 years, comprises almost 11 mill. people.

Roughly 750,000 households have an increased risk of payment problems. Some 500,000 households may at any moment find themselves in a situation of over-indebtedness. Around 250,000 households have serious financial problems.<sup>1</sup> A survey from September 2004 indicated that in 2003, 40,000 to 93,000 households with an income up to 150% of the net social minimum wage are involved in problem debts.

In 2004, some 150,000 people asked for help in solving their financial problems at a debt advice institution.<sup>2</sup>

### A.2 The amicable process

The amicable process is run by municipalities. They control the various independent local organisations helping with debt problems, e.g. municipal social banks, social work organisations and municipal social services. There are about 75 different organisations active in the field of debt solving in the Netherlands. Half of them are social security organisations, the other half are municipal social banks.

The municipal social banks, the *Gemeentelijke Kredietbanken* (GKB), play a specific role. Since their foundation in 1932, they have been a common phenomenon in the Netherlands. Established and financed by local authorities, these banks offer bank services to low income people and supply credit to people who would normally not qualify for a loan. During the 1970s, these institutions were confronted with an increasing number of cases in which people were no longer able to repay their debts.

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<sup>1</sup> Janssen et al. „Problematische schulden, zicht op het onzichtbare“, The Hague 1999

<sup>2</sup> Benchmark „Schuldhelpverlening“ (debt relief), SGB0 2003

As a result of this situation, the umbrella organisation of the municipal social banks, the *Nederlands Vereniging voor Volkskrediet* (NVVK), developed the “Code of Conduct NVVK”. This Code basically means that for a period of no more than three years people with debts have to live on up to 95% of the applicable national assistance level, while all their other income and capital assets are used to repay their creditors. All creditors have equal rights, while creditors with a preferential right under the law receive a double percentage. At the end of the period the creditors give up the remaining part of their claims. The procedure depends on the voluntary willingness of debtors and creditors to find an amicable agreement and is therefore called “amicable settlement”.

The municipal social banks cover the following products:

- Debt preventing activities
- Coaching of clients
- Income, expenditure and debt analysis of clients (‘Intake’)
- Budget management (“*Budgetbeheer*”)
- Debt regulation (“*Schuldregeling*”)
- Responsible credit (“*Kredietverstrekking*”)
- WSNP

The *debt preventing activities* cover educational lessons at schools or to companies and individuals. Materials (e.g. booklets, brochures) have been developed for people how to deal with money.

*Coaching* of clients includes individual instructions about insurances, financial housekeeping, credit taking, contracting etc.

The concrete process of debt rescheduling follows a structured process.

The *intake phase* is a structured analysis of the budget of clients, their budget use and their resources as well as the analysis of possibilities to increase the income and to reduce the expenditures. After this verbal information exchange between debtor and bank the client has to sign a contract that he will obey the strict rules of the bank without any exception. If the client neglects his/her obligations he/she will not be accepted once again.

The next step concentrates on *budget management* which means the control of the income by the bank. This happens by an agreement between client and municipal bank. Part of the banks’ role is to train clients to handle their income correctly. The banks’ consultants have a very close relationship with the customer. Contacts take place virtually every week, and the clients are asked how they have spent the money allocated to them for that week.

After that follows the procedure of *solving the debts* with a strictly formalised method, based on the amicable agreement between debtor and creditor.

Clients of a municipal bank get loans and credit as well but in a responsible way. These credits cover small loans at low interest rates (e.g. for buying a washing machine). Even a Bank Card is

given to the clients which can be used for a defined and restricted amount of money like a common electronic cash card.

Good cooperation with the social services is another important element – for example, in the many cases where over-indebtedness is related to drug or alcohol addiction. If it is seen that the client is troubled by difficult life arrangements or situations he/she will receive additional advice and counselling from psycho-social advice bureaus.

Integrated management and advanced computer technology are crucial to the municipal credit banks' role in preventing and resolving debt. The central elements of this process are ISO-certified. The banks are part of a national network which covers virtually all of the country.

In sum, the **strong points of the system** are:

- **Good local organisation.**
- **A successful and effective approach.** For example, in Appingedam, intermediation by the municipal credit banks has reduced the number of evictions each year from about 1,200 to around 100. Landlords have an interest in cooperating with the banks on this, as the cost of carrying out an eviction is €5,000-7,000.
- **Neutral position.** As the municipal credit banks do not have a financial stake in the clients, they can act in their best social interests.
- The municipal credit banks are **embedded in their local situation.**
- They use **hi-tech solutions.**

### A.3 The statutory process (WSNP)

By law, if the bank cannot resolve the debt problem, or if an amicable solution cannot be reached with the creditors, the matter is brought to the attention of the courts. This is the end of the extrajudicial process and the beginning of a judicial one.

The year 1992 was crucial for a change in the way over-indebted people were treated in the Netherlands. In 1992 it was proposed to complement the Dutch Bankruptcy Act, the *Faillissementswet*, by a "Debt Rescheduling Law", the *Wet Schuldsanering Natuurlijke Personen* (WSNP). As amendment to the bankruptcy Act, the WSNP was finally put into force on December 1<sup>st</sup>, 1998. The WSNP basically means that private and self-employed persons who have unsuccessfully tried to come to an amicable arrangement, can ask the Court to impose a settlement. The Court opens the procedure only for honest debtors ("*geode trouw doctrine*").

Per definition, the WSNP is a *structured debt amnesty system which avoids the social exclusion of good faith debtors who have been unable to reach an amicable agreement with their creditors.*

The WSNP is executed by trustees, the *bewindvoerder*, and overlooked by supervisory judges, the *rechter-commissarissen*. The involved organisations are lawyers offices ("*advocatenkantoor*"),

the GKBs, offices for legal help (“Bureau Rechtshulp”) and debt advice services (“schuldhulpverlening/ Maatschappelijk werk”).

The trustees register distinguishes two types of trustee: lawyers and non-lawyers. Non-lawyers include employees of the municipalities, the municipal credit institutions, lawyers’ offices, or private trustee organisations. In order to qualify for registration as a trustee, a non-lawyer:

- must be employed by a recognised trustee organisation or a lawyers’ office currently practising on insolvency cases
- must have successfully completed the basic WSNP trustee training for non-lawyers.

Lawyers, on the other hand:

- must be employed by a lawyers’ office with a current insolvency practice.
- must demonstrate that they have sufficient experience with the insolvency practice or have followed special training for that purpose.

Three further conditions apply to lawyers and non-lawyers alike:

- They must have taken out liability insurance covering at least two potential incidents per year, to the value of at least €450 000 per incident.
- They must have a personal, operational e-mail address.
- They must not, in the ten years prior to applying for registration, have been subject to bankruptcy, suspension of payments or statutory debt rehabilitation, nor have had other problematic debts during this period.

Only when trustees are listed in the WSNP trustees register and their financial information has been audited, the Legal Aid Council can make payments to them. When the Court assigns cases to the trustee, the Council is informed accordingly. There are four case types: single private person, double private person, single entrepreneur, and double entrepreneur.

Single: a private person, not married in community of property, no registered partnership in community of property

Double: two private persons, married in community of property or a registered partnership in community of property

Private person: not currently or formerly an entrepreneur

Current or former entrepreneur: a person who has been active as an independent professional or has had an enterprise during five years previous to the request for statutory debt rehabilitation. In addition, at least 20% of the debts can be attributed to the enterprise.



Different levels of subsidy (VAT included) apply for the various case types:

Case type	Subsidy	Postage and other costs	T o t a l subsidy	Advanc e	S e c o n d payment	F i n a l payment
Single private person	€ 910	€ 187	€ 1097	€ 641	€ 228	€ 228
Double private person	€ 1092	€ 216	€ 1308	€ 762	€ 273	€ 273
Single entrepreneur	€ 2019	€ 187	€ 2206	€ 1196	€ 505	€ 505
Double entrepreneur	€ 2421	€ 216	€ 2599	€ 1407	€ 596	€ 596

In addition to the subsidies from the Legal Aid Council, they are entitled to payments from the debtors themselves: €45 per month in the case of a single debtor and €55 in the case of a couple. This is because the legislator had felt that debtors themselves ought to make a contribution.

Most debt rehabilitation processes last three years. The subsidy is paid in three instalments: an advance as soon as possible after the appointment of the trustee, a second payment eighteen months later, and a final payment when the trustee has completed a case. If there are many complaints about a specific trustee, the Council may decide to reduce the subsidy paid, until the trustee has solved the problems. The Council has had this power since late 2004, but has not yet seen the need to use it.

The Legal Aid Council controls whether an organisation is capable of providing suitable trustees. Another important task is improving the quality of individual trustees by offering them basic train courses and one-day refresher courses. To the quality control belongs a limitation of the number of handled cases by one trustee. A full-time trustee may at any time be handling cases totalling a maximum of 250 points (a case involving a single private person counts for 5 points; a “double private person”, 3 points per person = 6 points; a single entrepreneur, 10 points; a “double entrepreneur, 6 points per person = 12 points). The Council monitors compliance. If a trustee or organisation exceeds, or is about to exceed, the maximum, they are given the opportunity to explain why they should be permitted to do so. At the same time, the Council asks the courts if there are any quality problems which may be due to case overload. Any measures are decided by mutual consultation. It is ultimately up to the courts to decide if the trustee or organisation in question will continue to be appointed.

It has to be considered, that the WSNP is regarded as last resort rather than a safe haven of first refuge.

Starting the WSNP the Court assesses, mainly on the basis of a mandatory declaration in which the municipality submits information on the debt situation and the amicable settlement, whether the case satisfies the statutory criteria.

For example, the Rotterdam court's judges hear between 30 and 40 applications per week for admission to the WSNP procedure. Each hearing takes approximately 10 minutes. An applicant may be turned down if the judge believes that there has been no attempt to pay off the debts in good faith, or if there are grounds for fearing that the debtor will not meet the requirements of the process and will act negatively towards the creditor. Debtors with an addiction or psychological problems are also scrutinised carefully. Addicts must have been "clean" for at least one year before the judge will admit them to the WSNP process. For debtors with psychological problems, the judge must be satisfied that help is available.

The court will impose an obligation to seek work on the debtor (except in medical cases), as a condition of continued participation in the process. The obligation is to *try* to find a job, and to show that an effort is being made. That is why job applications have to be shown to the trustee. WSNP participants are expected to write at least one job application per week. By the way, the same obligation is placed on those receiving social benefits. This is not a penalty for being in debt.

Under the "postal blockade", all mail addressed to the debtor is redirected to the trustee, who checks it before passing it on. In principle, the blockade is lifted at the end of the WSNP process, but this sometimes happens sooner.

If there is no reason to deny the request, the Court declares the debt rescheduling regulations applicable and appoints an trustee, the *Bewindvoerder*, who supervises the process. For a period of three years the debtor keeps 95% of his/her income and makes the rest available to the creditors. The rules regarding distribution are identical with the amicable settlement.

If the debtor has lived by the rules and fulfilled all his/her duties, regulated in the debt rescheduling plan, the court issues a document which declares the debtor as debt- clean ("*verlening van de schone lei*"). This happens normally after three years. If and how much has been repaid is irrelevant in this connection.

In about 20% of the cases, the granting of the clean slate is not automatic. In most of the cases, less than 10% of the debt will have been paid off by the time the debtor is given a clean slate.

If the debtor does not perform his/her obligations (e.g. taking new credits, new debts, dishonourable behaviour), he/she is usually declared officially bankrupt and will be subject to the bankruptcy procedure.

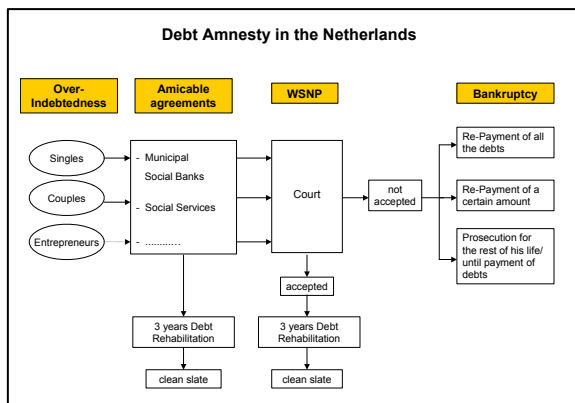
The introduction of a nationwide automated debtors register is regarded as another important innovation by the WSNP ("*Centraal Insolventie Register*"). The debtors are under an obligation to provide all the information and documentation needed, and this can be checked against a register

of creditors. Withholding information can lead to exclusion from the process. However, it has to be proved that the debtor withheld the information on purpose. Announcements are made in the official journal, the *Staatscourant*, and there is also a publicly accessible database online, where creditors can check if a debtor has applied for the WSNP process. If so, the creditor can of course contribute any relevant information. The WSNP leaves plenty of time for this, but there is an obligation on the creditor to seek information as to whether the debtor has applied for the WSNP. The fact that somebody is going through the WSNP becomes thus public knowledge.

#### A.4 Main differences between amicable and statutory regulations

The main differences between the amicable and statutory regulations are:

- in the amicable settlement it is difficult to control the compliance of debtors and creditors with the arrangement whereas in the statutory process the trustee (*Bewindvoerder*) and the Court (*rechter-commissarissen*) supervise compliance
- in the WSNP the costs for the trustee and legal publications are partly paid from the saved amount. Purpose of this is on the one hand to limit the costs for the authorities, on the other hand to promote that creditors are more inclined to agree to an amicable settlement because in the latter case they get more paid.



Graph: GP Forschungsgruppe 2006



## Part B: The results so far

### B.1 The quantitative results of the policy so far

There are two main information sources concerning quantitative aspects of debt regulation in the Netherlands: The Central Database Debt Regulations, run by the Council for Legal Advice (*Raad voor Rechtsbijstand*), and the annual statistics of the NVVK.

The Raad voor Rechtsbijstand has just recently published a baseline measurement of all cases in the WSNP from 1998-2004.<sup>3</sup>

The central results are:

- From 1998 until April 1<sup>st</sup>, 2005 the total number of finalized debt regulations climbed up to 61,689 persons (53,788 households).
- In 2004, there were 21,527 cases which asked for entry into the WSNP procedure. 88,4% were accepted (19,031 persons).
- In the same year 14,160 new cases started the WSNP procedure.
- 6,200 persons finished the WSNP successfully with a clear state declaration.
- The average success rate is 71% (clean slate). 16% are declared bankrupt, 5% reach an amicable settlement.
- The average household income is 1,200 € in 2004.
- The average debtor has 11-17 different debts
- The average debt is 32,000 € for private households and 100,000 for ex-entrepreneurs.
- 1,300 administrators/trustees are involved in the process.

In 2004, the member institutions of the NVVK received 39,000 requests for debt regulations and took care of 27,000 budgets ("budgetbeheer").

Actually, there is no further explanation known of the gender distribution differences between male and female in the amicable agreement of the NVVK and the WSNP. The rate of 14% or 23% of divorced clients reflects the specific financial problems of divorced persons and single-parent families.

### B.2 An evaluation of the delivery system of the policy

The 2006 monitoring exercise, almost complete at the time of the Peer Review, includes an analysis of the experience of debtors who have successfully completed the WSNP procedure and received the "clean slate". How do they look back on their debt rehabilitation and what points for improvements have they identified? A survey due for completion in 2007 examines which is the best model for escrow accounts from the statutory, fiscal and practical points of view. University research is also sponsored, including a current evaluation of the refresher courses for trustees.

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<sup>3</sup> Raad voor Rechtsbijstand, „Monitor WSNP. Nulmeting“, Tilburg 2005

On the policy side, the Council helps to develop new ideas for the design of the WSNP and contributes to proposals for amendments to the legislation.

### B.3 An assessment of the obstacles and constraints

Whereas the court-based system is based on national law and finance, amicable solutions depend on municipal finance which vary widely.

Furthermore, their local nature and their dependency on the municipalities do imply that the service provided can vary from place to place. This can sometimes pose problems, but it also means that provisions can be adjusted to meet the needs of a particular locality.

**Weak points** are:

- **Competition between the amicable process and the judicial one.** This competition is seldom discussed, but it does exist.
- **The amicable approach does not have any legal back-up.** If a client chooses to walk away from the process, the municipal credit banks cannot do anything about it. This raises the issue of whether it is socially acceptable for the banks to exercise strong control over their clients.
- **Different regional approaches.**
- **No national structure.** Municipalities can simply decide not to take part. This can be a problem.
- **Full dependency on local finance.** The level of funds available for the scheme ultimately depends on budget priorities set by local politicians. If a new fire engine needs to be bought, less money may be available for debt prevention and amicable resolution.

Three issues that need closer examination with regard to the Dutch model are:

- **The “voluntary” nature of the involvement of municipalities.** This can create inequalities, depending on where people live. A coordinated national approach needs to be explored. This is important in terms of influencing overall policy.
- **The extent to which the Dutch model is linked with social and labour market policies in a more structured way.** Over-indebtedness is often closely bound up with unemployment, so it is important to look at such linkages when examining ways of improving the effectiveness of the measures adopted.
- **Which target groups benefit most?** Usually, in programmes on indebtedness, one or another group is left out. In Austria, for example, migrant populations are scarcely reached at all by such programmes. There is also often a “skimming” process, by which the lower middle classes benefit most from debt rehabilitation programmes, while those suffering most from poverty and social exclusion are once again excluded. It was felt by the Peer Review participants that migrants are over-represented in the WSNP procedure.

There is great variation, across the country but also within districts, in the way the cases are prepared. All the applicants seen by the reviewers had in some way been in contact with the

amicable settlement system, and they had all been told what was going to happen. But clearly, they do not always understand. It also has to be borne in mind that people arrive in the WSNP process for various reasons. One applicant had been in contact with the amicable settlement system, but his income had been simply too low to make any amicable settlement possible. On the case of a man with psychosocial problems, the judge had very little documentary evidence to work on. They will therefore give people the benefit of the doubt, knowing that the trustee will inform the court if real problems arise later.

Since the introduction of the WSNP the amicable process loses importance if a statutory process is possible. The success percentage of the amicable settlement has dropped dramatically.

In 1992, the rate of success of the amicable settlement by local debt counselling organizations was over 50%, in 1997 it had already dropped to 38%, in 2000 to 25% and in 2005 to 9%.<sup>4</sup>

Critics of the WSNP (e.g. Jungmann, 2006) mention that the legislator incorrectly assumed that judicial debt settlements would be less attractive to creditors than voluntary debt settlements. Mainly the financial incentive the legislator wanted to create proved to be too insignificant for the creditors.

Secondly, many municipalities took the advantage of the introduction of the WSNP to cut back on debt regulation spending. Furthermore, they changed their policy insofar that debt counselling organizations were informed not to negotiate with creditors any longer. Supposing that the WSNP would be very unattractive for creditors they offered only debt regulation proposals which the creditors could only accept or reject. Due to the above mentioned effect that the WSNP is not unattractive for creditors this policy proved to be a boomerang.

Third, the average amount of debt per debtor increased as well as the number of creditors per debtor. This development led on average to a lower debt repayment saturation offer to the creditors which made the acceptance for creditors of the voluntary process less attractive. Furthermore, within the voluntary process each creditor has to agree to the amicable settlement which is harder to reach with an increasing number of creditors.

Due to the success of the WSNP another concern was that the judicial authorities were becoming overburdened.

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<sup>4</sup> Nadja Jungmann, „De WSNP: bedoelde en onbedoelde effecten op het minnelijk traject“, Leiden University Press, 2006

## Part C: The policy debate in the host country

### C.1 Main questions and areas of debate on the policy within the country

Currently under discussion in the Dutch parliament are proposed changes to the WSNP which seek to restrict access to the WSNP to those debtors who are actually ready for it and to reduce the workload facing the judiciary and the administrators. In particular, the legislative changes would introduce what is termed a *mandatory debt repayment arrangement*, which would oblige uncooperative creditors to take part in reaching a settlement out of court. Higher requirements would also be set for the debtor, and for debt rescheduling applications under the WSNP.

The draft act that constitutes changes to the existing WSNP is known as proposal number 29942. It has a provision saying that the judge can impose a debt settlement, thus preventing that a three year debt adjustment court procedure is opened, if a creditor opposes to an amicable agreement in an unreasonable way.

A debt problem situation is usually related to problems in other areas of life: work/income, relationships, structure, education, spending patterns, health. That is why the Dutch amicable process of help with debt problems works comprehensively. To this end different organisations work together: GKBs, social workers and social services (e.g. housing corporations, rehabilitation services, reintegration bureaus, shelters for the homeless). It remains an open question how far this comprehensive cooperation should go. By the decentralised municipal structure in the Netherlands, there is great diversity within the Netherlands concerning the execution of the comprehensive approach.

Subjects for national synchronisation could be: professionalisation, co-operation, methodology, research, prevention, development of indicators, exchange, the cooperation of the four involved Ministries of Finance, Social Affairs, Economy and Justice.

Though the relation is recognised between paid work and developing and solving over-indebtedness, there are hardly any *institutional relations* between the reintegration of the unemployed and debt relief. The scope of the statutory arrangements is mainly limited to rescheduling debts. There is no integrated debt relief approach which tries to remove the underlying causes of over-indebtedness. Integrated debt relief approach means that people get help in managing their budget, get psychological guidance and drug addict care, but also help in finding paid work.

## Part D: The policy debate at European level

### D.1 The policy framework at European level

At the Lisbon European Council in March 2000 the Union set itself a new strategic goal for the next decade: to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth, with more and better jobs and greater social



cohesion. Included in this general strategic goal was the decision to take a major initiative by making the fight against poverty and social exclusion one of the central elements in the modernization of the European social model. The European Council agreed to base social inclusion policies on an open method of coordination combining national action plans and a Commission initiative for cooperation.

Among the common objectives for combating poverty and social exclusion adopted by the Nice European Council in December 2000, preventing and dealing with over-indebtedness feature high on the agenda: *to put in place policies which seek to prevent life crises which can lead to situations of social exclusion, such as indebtedness, exclusion from school and becoming homeless.*

In the reports on the implementation of the National Action Plans for Social Inclusion (NAPincl 2001-2003, 2004-2006), several Member States (AT,BE,DE,FR,HU,LT,UK) emphasized the growth of and its impact on poverty and the social exclusion of individuals and families.

As regards thematic studies, the Community Action Programme to Combat Social Exclusion (2002-2006) concentrated on policy-oriented research.

The synthesis report on a Peer Review conducted in Ireland, on the basis of the good practice of the Irish Money Advice and Budgeting Service<sup>5</sup>, showed that the scourge of over-indebtedness affects human capabilities and individual resources, including physical and mental health, social capital (contacts and participation) and human capital (education and experience). It also badly affects the living conditions of the families involved and their children.

In March 2006, the European Council set new objectives and working methods for social protection and social inclusion. In order to achieve “a decisive impact on the eradication of poverty and social exclusion”, it emphasised the need to ensure “access for all to the resources, rights and services needed for participation in society, preventing and addressing exclusion ...” It must also be ensured that “social inclusion policies are well-coordinated and involve all levels of government and relevant actors, including people experiencing poverty, that they are efficient and effective and mainstreamed into all relevant public policies, including economic, budgetary, education and training policies and structural fund (notably ESF) programmes.” Organisation for solving problems of over-indebtedness is a key issue in the implementation of these EU objectives and working methods.

Financial support was given by the Commission to the project “FES – Financial Education And Better Access To Adequate Financial Services” which is conducted by ASB Schuldnerberatungen (AT), GP Forschungsgruppe (DE), Observatoire du Crédit et de l’Endettement (BE) and SKEF-Society for promotion of Financial Education (PL) from 2005-2007. As access to financial services and better financial education have been identified as key strategies to prevent over-indebtedness and thereby poverty and social exclusion, the project aims to gather information on different levels of supply, both of access to financial services and financial education in Europe.

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<sup>5</sup> Dieter Korczak (2004): Money Advice and Budgeting Service, a service to help people with financial problems and tackle over-indebtedness. Synthesis report. [www.peer-review-social-inclusion.net](http://www.peer-review-social-inclusion.net)

Furthermore, best practice models and new strategies are exchanged and lobbying strategies are developed, targeted at the major players (e.g. financial service providers, banks, consumer protection, educational institutions). The final report will be available at the end of 2007.

In 2007, there will be two new projects, launched and supported by the European Commission. One project will try to develop a common European definition of over-indebtedness, conducted by the Observatoire Européen des Etudes (F). The second project will establish a European Consumer Debt Network (ECDN) which aims to bring together a broad range of actors in the fight against over-indebtedness and financial exclusion.

The resolution on over-indebtedness adopted by the European Council calls for a recommendation on legal solutions to debt problems by the beginning of 2007. Thus, the Peer Review of the Dutch model of amicable and statutory debt amnesty is fully in line with the overall European activities to fight over-indebtedness.

## **D.2 A theoretical model of over-indebtedness in Europe**

Recent research on over-indebtedness in Europe shows clearly common features. Financially excluded people are mainly: over-indebted persons, persons with low income, unemployed persons, social welfare recipients, persons with mental/physical disabilities, homeless persons and persons with negative criteria in registration offices.

The exclusion of over-indebted people from financial and social participation is obvious. To allocate political action in the best way, not only empirical data but as well a theoretical approach is needed. Therefore we want to present a theoretical systematic framework for a better understanding of the pathways into over-indebtedness.

Risk *awareness*, risk *management*, risk *production* and risk *prevention* belong to the process of modernization and play an important role in the emergence of and the protection against over-indebtedness. The socio-economical destabilisation of households and families

- is the result of risk behaviour of the personality,
- depends on risk situations in the working conditions and labour market
- is caused by risks within the household and family organisation
- is influenced by the supply power of the market.

Four major dimensions have to be taken into account concerning the psychology at the beginning of over-indebtedness: the economic, cultural and educational resources, the individual motivation, the perceived or objective needs for every day living and the creation of demand.

### Resources

In any society there is a distribution from low to high resources. This is relevant for education, for income, for job positions, for status and prestige, for networks, for access to services, positions and information sources, for family background. Resources are to a certain degree inherited. This

is even true for attitudes and behaviour. Low household income and low financial resources increase the risk for divorce in early family phases and the risk for becoming over-indebted.

#### Motivations

The motivational research describes different relevant primary emotions, e.g. greed, lust, envy. Consumption and investments are activities which are oriented on the satisfaction of the primary emotions. Satisfaction can be received by individualisation, diversification, status and prestige or compensatory consumption. Hedonistic behaviour which can lead into over-indebtedness is only relevant for a very small population group. Especially for low income families it is hard to cover their emotions by consumption goods without becoming at least indebted.

#### Needs

Different life situations request different amounts of money for the needs of the every-day-life. The financial needs are higher for young adults leaving the parents home, for young families, for lone parents, for families with many children and for migrants.

#### Creation of demand

It is undoubted that advertising has a suggestive and manipulating power. Because of this power it is widely used to help to sell products. Furthermore it is proven that advertising motivates people to buy products and goods which they do not need under cost-benefit aspects. An informed choice of consumers is difficult to reach because advertising sails around the rational-cognitive understanding of consumers and tries to influence his emotions. Each year there is a huge amount of money spent by the advertising industry to promote financial services and credit taking. Advertisements evoke the impression that credit-taking is fast, simple and easy without risks and consequences.

#### Market supply

The above mentioned dimensions meet a market supply which is provided by private banks, saving banks and other banks, insurances, trade, mail order and other financial services. A subsistence life style which is oriented on using own means and does not take loans or credits for financing consumption and investments guarantees a life without debts.

But the growing consumer credit market demonstrates that there is a widely use of credit offers, especially within the age group between 25 years and 45 years. Information by Dutch and German credit registration offices indicate that most of the taken credits are paid back without major problems. Credit taking is insofar for most of the people a normal and accepted market behaviour.

Irresponsible lending is, however, increasing the risk for over-indebtedness. Irresponsible lending is pushed forward by risk-based pricing and by underestimating the amount of money needed for the financing of the living costs. If 20% of the monthly available income are needed for the repayment of debts, the responsibility of the creditor can be doubted.

### Imbalance of income and expenditure

In an increasing number of cases occurs an imbalance between the amount of money available by income and the height of expenditures. There are three main possibilities to restore the balance again:

- to increase one's income which in reality is very difficult
- to reduce one's expenditure – rather easier than increasing income, but still difficult, even when people want to do it because spending is an expression of hope in the future, and also because some spending is contractual and cannot be immediately reduced
- to reduce one's assets, by selling off a house or shares, but the value of such assets can fluctuate.

If the balance could not be restored, then creditors have the tendency to regard their customers as “active debtor”, as high-risk taking personality which is irresponsible and unreliable.

### Over-indebtedness

90% of those who become over-indebted do so through either the intensification of precarious life situations, e.g. by unemployment, or extraordinary financial burdens, e.g. by divorce.

As for the ranking of various types of debt, roughly 40% of over-indebted clients in Germany have public debts. Most private debts (60%) are for credit and loans<sup>6</sup>. Then follow debts to utilities, mortgages, trade debts, insurance debts and debts to mobile phone companies. The total monetary amount behind private debts is at least 5-times higher than behind public debts.

### Solutions

Over-indebtedness can result in social exclusion, homelessness, vagrancy and suicide. Very often it is only possible for the over-indebted to arrange a life below the seizure limits being continuously dependent on social welfare.

Amicable or statutory debt settlements are therefore the best way to find a way out of over-indebtedness and to facilitate a fresh start

The purposes of debt management are threefold:

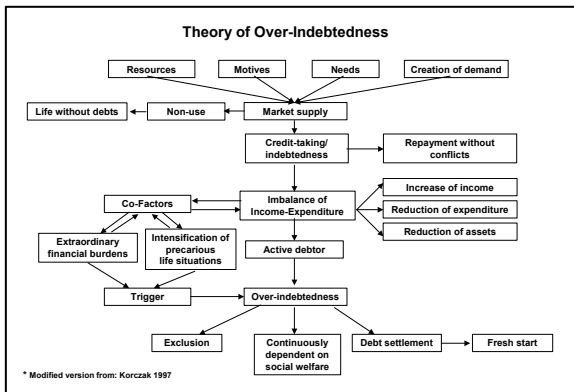
- economic: to maintain or reintegrate people in normal economic channels and employment, including by giving them a fresh start where necessary
- social: to avoid exclusion (for all members of a family – money problems are one of the main causes of marital breakdown)
- regulative: to encourage mediation between debtors and creditors, without having to go to court all the time.

What constitutes “success” in this context? Is it when the debtor can start with a clean slate at the end of a probability period? Or is it when a problematic situation is no longer that problematic, even though no clean slate has been given? Or is success achieved only when it is clear that no new debts have been contracted for several years after the clean slate has been received? Maybe it is useful to define success for those cases where an appropriate participation at social, cultural and financial life is given again.

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<sup>6</sup> see Dieter Korczak (2006): Überschuldung im Kontext der Modernisierung (Over-indebtedness as element of modernisation). In: Dieter Korczak (Hg.): Geld und andere Leidenschaften. Macht, Eitelkeit und Glück. Asanger-Verlag





Graph: GP Forschungsgruppe 2006

### D.3 European and transnational comparative aspects

Laws which enable private persons to get free of debt have been introduced in Europe with the beginning of the 80ies: Denmark (1984), England/Wales (1986, rev. 2002), France (1989, rev. 1998), Norway (1992), Finland (1993), Austria (1994), Sweden (1994), the Netherlands (1998), Belgium (1998) and Germany (1999). The present law in Luxembourg does not allow over-indebted people a fresh start.

The different laws reflect different approaches and philosophies to debt regulation.

England and Wales follow the idea of a **fresh start**. For proceedings which have been opened since April 1<sup>st</sup>, 2004, the cleaning of debts has to be done within 12 months after the personal declaration of bankruptcy.<sup>7</sup>

The Debt Regulation Acts in the Scandinavian countries are shaped by the **welfare idea**. The debt enforcement agents's office has to analyse the causes of the overindebtedness before opening the debt regulation procedure. The main aim is the rehabilitation of the debtor. Sweden has a three-step procedure. The first step is completely unregulated. Under the previous legislation, the debtor was supposed to seek an amicable solution, assisted as far as possible by

<sup>7</sup> This is a new regulation of the Enterprise Act 2002

the municipal advice services. This did not work in a uniform way throughout the country, and was often ineffective, so the new law no longer requires that the debtor first attempt to reach an amicable settlement. So one of the main changes in the new legislation is that the enforcement service has been given the power to conduct a debt relief scheme, even against the will of one or more creditors.

The French approach can be characterized as **debt administration**. By the law n°98-657, July 29, 1998 concerning the fight against exclusion, debtors had the possibility to be partly or totally released from their debts after a moratorium of maximum three years.

Within the Scandinavian and French approaches the **creditors responsibility** is taken into consideration as well. He/she has to lend his/her financial products in a responsible way. The creditors' responsibility is unconsidered in the Austrian, Dutch and German Debt Regulation Laws. In these countries, the major principle behind the law is the **Debt education**. The debtor has to behave appropriate and honest; he/she has to be a *good faith debtor*. To guarantee his/her cooperation and his/her well-behaviour the debtor has to follow strict behaviour patterns and is under control for a specific time period (e.g. the Netherlands 3 years, Germany 6 years). In Germany this time period is even named as well-behaviour period ("Wohlverhaltensperiode").

Country	Amicable Agreement	Statutory Debt Regulation
<b>Finland</b>	Negotiations between debt adviser, debtor and creditor/s	If one debtor does not agree a judicial procedure can be opened
<b>Sweden</b>	The debt enforcement agent's office develops a debt regulation plan. Even if creditors refuse the plan it can be set into action by the office.	The office can hand over the plan to the court which can develop a new plan.
<b>Denmark</b>	none	Debt rescheduling within the bankruptcy Act, 5 year repayment scheme.
<b>France</b>	A commission negotiates between debtor and creditor a regulation plan. If this remains without success, the commission defines a plan with legal regulation measurements.	The commission brings the plan to court to get an executory deed.
<b>Luxembourg</b>	The over-Indebtedness Information And Advice Service (SICS) is preparing Debt recovery plans.	The Mediation Commission (CM) is responsible for approving or rejecting the recovery plans.
<b>Belgium</b>	A mediator appointed by court develops a payment plan and negotiates this plan with both parties.	The court can carry through the plan against the will of the creditors.

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<b>Germany</b>	An accepted debt advice service develops in cooperation with the debtor a regulation plan. If 1 creditor does not accept the plan it is failed.	The court decides either to run judicial debt regulation or to open the insolvency procedure.
<b>Latvia</b>	Three-part-agreement on terms of debt repayment between service provider, debtor and local authority.	Court procedure



#### **D.4 An assessment of the contribution of the good practice to the European policy debate**

European society has to strike a just balance between being open to finance and credit on the one hand and, on the other, protecting the social and economic interests of households.

The Dutch system tackles over-indebtedness both preventively, through advice at an early stage, and through court intervention later if necessary. The most important thing seen by the reviewers in the Netherlands had been all the different methods that are used to give the right assistance at the right moment to the right person.

The innovative factors of the Dutch model which could contribute to a good practice in Europe, are:

- the close and administrative link between amicable and statutory debt settlement
- the existence of municipal social banks and their function as debt rehabilitation agencies
- the professional approach to debt prevention, budget management and debt rehabilitation, supported by standardized computer programmes by the municipal social banks
- the wide range of debt prevention and debt resolution products
- the quantitatively and qualitatively adequate supply of trustees
- the quality control of the trustees work by the Legal Aid Board and the supervisory judge
- the debt rehabilitation within three years
- the high percentage of debtors (80%) who receive a debt amnesty at the end of the court procedure, opening up fresh financial and social prospects

#### **A.5 An assessment of its transferability to and learning value for other Member States**

Discussing the transferability of the Dutch model, the differences in the legal approaches and the organisation of money counselling and debt advice in the various European countries have to be taken into account: centralised versus decentralised; amicable versus statutory advice processes; open or limited access for people with debt problems; no governmental funding versus total government funding.

Some countries (Ireland, Luxembourg, France) have centralised debt rehabilitation structures, while in others (UK, Germany, The Netherlands, Austria, Hungary), they are decentralised. The financing of debt rehabilitation varies greatly, from 100% government financing in Ireland and Luxembourg to voluntary financing in the UK.

In terms of transferability, the participants have been very impressed by the comprehensiveness of the services offered by the municipal credit bank, and by its systematic, professional approach. In some countries (F, FIN, IS), social banking has a similar long history like in the Netherlands. In countries where it does not exist, it is difficult to imagine its creation in the present circumstances. At the same time, commercial banks in some countries are unlikely to be cooperative on debt-solving issues.

The importance of good databases and sufficient information was emphasised. European regulation might also be required here. In the case of Luxembourg, for instance, people can easily build up debts in several neighbouring countries, without there being any overview of the total. On the transferability of the database idea, some countries had expressed fears about the impact on privacy but also about the risk of commercial misuse. Credit providers could use these databases to check who is not too over credited and is therefore worth targeting.

It was noted that people with low incomes and education are often expected to be much more managerial than those with high incomes and education. The importance of making links between the work against over-indebtedness and other parts of the social security system was emphasised.

The remission of debts after three years was an eye-opener for several peer countries. There was general agreement on the need to give people a fresh start after a reasonably short time, rather than after seven years or more as in some countries. Some aspects of the new Danish system for dealing with “public debt” might also be transferable to other countries. (See p. 24)

The better balance between the rights and duties of debtors and creditors was also discussed. It was argued that the concept of “good faith” should apply to creditors as well as debtors. Better regulation of the market might be needed. Especially in the private sector, creditors should be made to face the consequences of knowingly pushing people to take on debts that they cannot service. A system of giving priority to “good faith” creditors might be established.

A number of elements in the Dutch model could be relevant to the current discussion in **Luxembourg**:

- Identical procedures for amicable and statutory settlement
- Increasing creditors’ confidence in the procedures, by means of strong supervision and the creation of a national debtors’ database
- A signed contract committing the debtor to observe the rules of the procedure, on pain of not being admitted to it a second time
- A guaranteed income, for the debtor, of 95% of the national assistance level
- A fresh start after three years.

However, account must be taken of the differences in social organization and in population size between Luxembourg and the Netherlands. At present, no part of the minimum income in Luxembourg can be seized in order to repay debts.

**Sweden** has recently adopted a new Debt Relief Act which takes effect on 1 January 2007. The material requirements are unchanged by this new law. What has changed is the procedure. As this legislation has just been brought in, this is not the appropriate time to ponder further amendments. But in the longer term, the topics examined in this Peer Review will be highly relevant. One striking difference between the Dutch and Swedish models is that the Swedish system has not engaged the banks in any organised way. Sweden does not have a municipal

banking sector. The Banking Association of Sweden had been represented on the government commission that drafted the original proposal for a debt relief system, but they had been very negative towards the whole idea, and certainly towards any suggestion that they should be involved in administering the system.

**Denmark** thinks that debt remission is the best solution. The idea is that once the creditors received this remission, they will themselves no longer owe anything to creditors. The debts will be paid out of the State budget over a period of five years. Legislation to that effect was passed by the Danish parliament in June 2006, but has not yet come into force, so it is not yet known how it will work out in practice. One aspect of the law is that the creditors will have little say in the matter. They will receive 10% of the money owed, and then the case will be closed. This scheme will be administrative rather than judicial, making it easy to implement. It will apply only to the cases of the worst-off debtors. The normal bankruptcy procedure will also continue to operate in other cases. The new procedure will apply only to debts towards public bodies (e.g. taxes, VAT, TV license fees, fines, student loans).

Due to the recent changes in their procedures and regulations, Sweden and Denmark felt, from a political point of view, that the time was not yet right, to put forward similar proposals in their own countries. But the ideas taken from the Peer Review will be stored for later.

**France** saw a major benefit in the different methods that are used to give the right assistance at the right moment to the right person. France's system has been operating for many years, but some people who go through it come back again a few years later. This shows that there is a problem of assistance because people are not completely "cured" of indebtedness. The aspect of success needs to be tackled, and France will be able to draw on the Dutch experience.

**Latvia** will present the Dutch experience and those of other peer countries to the Latvian Social Committee.

Two topics were especially discussed: the **postal blockade** and the **need for assistance** during the court procedure.

The Luxembourg's, Danish, Swedish, German, Austrian and French participants said that it would be impossible to transfer the postal blockade as a measure within the WSNP into their countries. The argument was that it would be regarded as a serious breach of constitutional rights on the one hand, and would be, furthermore, ineffective because of the many possibilities to avoid the intended control by the postal blockade. In contrast to that position, the Dutch participants felt that, in case of bankruptcy, some small exceptions in human right terms might be permissible in order to ensure good faith and effort. They were supported by the Latvian peers who mentioned that people who decide to go into a debt rehabilitation procedure should recognise that they must cooperate with those appointed to help them, and should not be oversensitive about their privacy.

Concerning the assistance, participants felt strongly that when poor people have to face a judge, they should have legal support. It was suggested that the Dutch system might learn from the Luxembourg's, Austrian and German approaches to the preparation and accompaniment of

debtors appearing in court. It was agreed by Dutch participants that this might be helpful, as there is no entitlement to legal aid for civil cases, including WSNP cases.

Is a three-year or a five-year probationary period more effective? This could be further analysed between countries. The role of trustees and debt mediators could also be discussed – what balance should they strike between the capacity to listen to people’s problems and the need for strictness? Which skills are needed for these tasks, and is a new qualification, either at national or European level, needed? The efficiency of credit registration has seldom been evaluated, and this would be a useful exercise in most countries. Last but not least, comparative results from different countries could permit conclusions to be drawn about the need for control measures such as the postal blockade. Coming back to the Dutch example, greater security of continuity is perhaps also needed.

## Part E: Conclusion and lessons learnt

Over-indebtedness and the need to rehabilitate debtors are of great concern to all EU Member States. Due to the fact that over-indebtedness excludes people from economic, social and cultural participation a re-integration of over-indebted persons is a moral obligation of civilized states as well as an economic need for functioning markets.

The European Union has recognized these necessities and made the fight against over-indebtedness to one of its major objectives. There are quite a lot activities on their way to develop a common definition of over-indebtedness, to supply each citizen of the EU with appropriate access to financial services, to improve the individuals' resources by providing everybody with a better financial education and by searching the best examples of services for debt rehabilitation and debt settlement.

In most of the cases of over-indebtedness a permanent low household income is one of the major risk factors to become over-indebted. An often sudden, unforeseeable and not influenceable unemployment is also a driver into over-indebtedness. Divorce as a risk with a high probability for each marriage is another important catalyst for over-indebtedness. It should not be forgotten that over-lending and over-crediting by banks and other creditors in an irresponsible way is the fourth important dimension which causes over-indebtedness.

Without help, many of the over-indebted people would creep around for the rest of their life at the bottom of society for the rest of their life, causing a lot of social welfare costs with nearly no return for this societal investment. To avoid this loose-loose-situation many western capitalist societies have developed debt advice and debt rehabilitation structures and services which enable over-indebted persons to make a fresh start into society and into economic participation. Due to historical reasons and different ideas about the ideal state and the political and economic systems the debt rehabilitation strategies and solutions differ within the European landscape. There seem to be six different categories of solutions:

- The Anglo-Saxon approach of a fresh start without relevant restrictions
- The Scandinavian welfare approach
- The French way of debt administration
- The central European way of debt education
- The Southern-Mediterranean way of family network solutions
- The Eastern-European way which is still open to one of the above solutions

The Dutch way of debt amnesty belongs clearly to the debt educational approaches. It is an intrigue systems which counts very much on the co-operation, openness and transparency and willingness of over-indebted persons who enter either an amicable procedure or, if the creditors deny their participation, the statutory solution, following the Debt Rehabilitation Law for Natural Persons (WSNP).

There are two unique messages of the Dutch approach, whether the solution is amicable or statutory:

- **Debt rehabilitation is possible within three years**
- **Debt rehabilitation can be done in cooperation with a bank** – though the municipal social banks are a special kind of bank which offers no saving products

Besides this, there are still more lessons to learn from the Dutch approach:

- The peer reviewers were impressed by the **systematic approach of the Municipal Social Banks**. This blending of social care with banking professionalism could usefully be transferred to other countries. Yet it might be hard to implement a municipal social banking system in countries where they do not already exist.
- Of particular interest for the peer reviewers was also the **integrated range of services** provided, e.g. prevention, intake analysis, budget management, debt regulation etc., which might be more easily transferable to other countries.
- It was as well impressive that the local governments and municipalities decided to take over the **financing of municipal social banks** and insofar the responsibility for their local inhabitants. Though each municipality is still free to take their own decisions on the priority they attach to services with regard to over-indebtedness and on the amount of money they want to invest, the municipal social bank system is wide-spread in the Netherlands. There exists even the possibility that several municipalities ally to one common municipal social bank.
- The **availability of good paid, skilled, verified trustees in sufficient numbers** is an important guarantee of quality within the Dutch scheme, as is the **judicial supervision** of the WSNP process.
- The **Legal Aid Council** which is a support and quality control agency of the Ministry of Justice, and the court procedure are **fully financed by the Dutch government**. Thus, the whole debt amnesty process (amicable and statutory) in the Netherlands is financed locally as well as nationally.
- The peer reviewers particularly stressed the importance of making **links** between the work against over-indebtedness and **other parts of the social security system** which is given by the construction of the municipal social banks in the Netherlands.
- One central element for the acceptance to introduce the WSNP is a **high motivation for getting jobs or employment**. This needle ear can be regarded as an attempt to re-integrate over-indebted people into work but it was doubted by peer reviewers that this is a real possibility in a society with high unemployment rates.
- The effective use of **databases** in the Dutch process was noted with great interest. But the public accessibility of these databases was a matter of concern, especially because of privacy and commercial abuse.
- **Privacy** concerns were also expressed about the postal blockade under which the Dutch trustees intercept and monitor debtors' mail.
- Some reviewers felt that **better preparation and support of debtors** during the WSNP court proceedings would be helpful and might save the courts' time. Candidates for the WSNP process are not legally represented at the court hearings, unless they pay for a lawyer themselves, and some did not appear to be well informed about the papers

needed by the court. It was also wondered if the provision of information in languages other than Dutch might assist this process. On the other hand, it was emphasised that **80% of WSNP applicants are admitted to the procedure, and 80% of those complete it successfully.**

- The peer reviewers emphasis that in all countries, there is a need to strike a **balance between the interests of debtors and those of creditors.** If debtors must act in good faith, credit suppliers should do the same. Tighter regulation of the credit market may be needed, perhaps at the European level, in order to prevent credit providers from knowingly pushing people into debts that they cannot service.
- A special problem is the growing use of **risk-based pricing** for credit lending. By this method, borrowers are defined by scoring systems in different categories, reaching from low-risk borrower until high-risk borrower. This further increases the risk of over-indebtedness. One suggestion was that, if so-called high-risk borrowers prove to be reliable payers, the lenders should **reimburse the risk premium** to them.
- Some aspects of the **Danish debt remission system** might also be transferable to peer countries. The idea behind this system is that debt to the public sector can be a barrier to employment for the most disadvantaged benefit claimants. If a very specified group of social assistance receivers stays employed over a five year period they get release of their public debts.
- The Latvian official welcomed the Peer Review as an opportunity to learn how other countries are tackling the problem. There might be a **rare window of opportunity** for Latvia and other new member states in a similar situation as it can be assumed that for services that have yet to be build up there is even more room for mutual learning and implementing good practices.
- **Society's spending on debt management is cost-effective.** For each euro spent on debt counselling and management, two euros are saved in other parts of society. Debt rehabilitation can reverse the descent into poverty and homelessness, and so promote social inclusion.

## References:

Janssen et al. (1999). **Problematische schulden, zicht op het onzichtbare.** The Hague

Jungmann, N. (2006). **De WSNP: bedoelde en onbedoelde effecten op het minnelijk traject.** Leiden University Press

Korczak, D. (Hg.) (2006). **Geld und andere Leidenschaften. Macht, Eitelkeit und Glück.** Asanger-Verlag. Kröning

Korczak, D. (2005). **Schuldsanering in Europees perspectief.** In: Schuldsanering. Tijdschrift voor Schuldhulpverlening en wettelijke Schuldsanering. Oktober 2005, nummer 5

Korczak, D. (2004). **The Money Advice and Budgeting Service Ireland. A service to help people with financial problems and to tackle over-indebtedness.** (= Synthesis Report).

Brussels. EC DG for Employment, Social Affairs and Equal Opportunities ([www.peer-review-social-inclusion.net](http://www.peer-review-social-inclusion.net))

Norder, H. (2005). **Debt solving activities**. Define the optimal organizational structure for being effective and realizing continuity for the next five to ten years.. Hanzehogeschool Groningen  
Raad voor Rechtsbijstand (2005). **Monitor WSNP.Nulmeting**. Tilburg