



# **Provision of an European Platform for the Prevention of Over-indebtedness by the Increase Accessibility and the Improvement of effectiveness of Debt Advice for Citizens (PEPPI)**



Co-Financed by the European Union





## WEBINAR 3

### ADR in consumer over-indebtedness resolutions in Croatia

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Co-Financed by the European Union

UPH  
Unija Potrošača Hrvatske  
Croatian Alliance of Consumers

 ecdn  
european consumer debt network

# Agenda

1. Croatia - facts and figures !
2. Legal framework:
  - resolving over-indebtedness
  - consumer protection and CADR
3. Institutional capacities for ADR .
4. Mediation as ADR for debtor-creditor disputes .
5. Debt counselling vs. debt mediation !
6. Solving the over-indebtedness of Croatian consumers - possible future steps!



**What do have a mouse &  
over-indebtedness in common?**

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**What do have a mouse &  
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# Croatia : Fact and Figures I

Population: 3.871.833 ( 2022)

Area: 56.594 km<sup>2</sup>

Capitol city: Zagreb

Municipalities: 428

Towns: 127

Counties : 20



# Croatia : Fact and Figures II

December, 2022

Population: 3.871.833

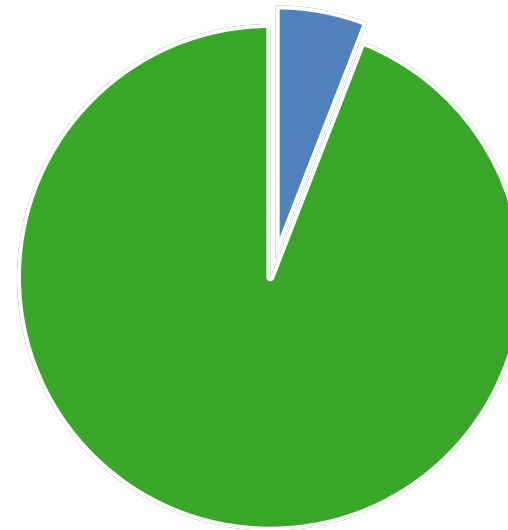
Blocked consumers : 228.722

Principal: 2,390 billion EUR

Interest: 863 milion EUR

Sum : 3,250 billion EUR

5,9 % blokirani 94,1% ostali



# Legal framework for resolving late payment and overdebttness problems of consumers I

## II National strategic framework for financial literacy 2021-2026 OG 68/16 GoC

All relevant stakeholder involved.

Good legal base for many activities in the field of consumers over-indebtedness.

Main stakeholder is Ministry of Finance and other relevant stakeholder come from field of judiciary, science and education, entrepreneurship, social care, Croatian National Bank, Croatian Financial Services Supervisory Agency, chambers ,trade unions, etc

## The revision of the consumer credit directive ..

The framework should be specified and supplemented with :

- An early indicator of over-indebtedness
- Clearly defined places for help and advice
- Clarified possibility of using ADR in case of insolvency and over-indebtedness



Horace, the leading  
Roman lyric poet  
saying:

*Parturient montes, nascetur ridiculus mus.*

Signified a heroic venture resulting in poor  
outcomes.

The mountains will give birth, a funny mouse will  
be born.

Consumer Bankruptcy Act ,OG 100/15, 67/18,  
36/22 and 11 Bylaws (intermediaries, Financial  
Agency-FINA employees, trustees, court)

Out of court settlement – art. 8 - 20 between  
creditor(s) and debtor- FINA

2018 New insitute 2018 – Simple Consumer  
Insolvency Procedure art.79 a -79 v

„Administrative- mathematical approach ”  
Inventory of Asset + Plan of fulfillment of obligation

Most commonly- the Court decide.

Some results have been  
achieved but the mouse  
is still small.





# Legal framework for resolving consumer late payment and over indebtedness problems by using ADR I

[Credit Institutions Act](#) (OG from 159/2013 to 146/2020)  
ADR for consumer disputes Article 310

[Consumer Credit Act](#) (OG from 75/2009 to 128/2022 )

Chapter VIII Consumer rights protection  
Out-of-court resolution of disputes Article 24 (1)

[Act on Consumer Housing Loan](#) (OG 101/2017 , 128/222)  
Recourse to out-of-court or CADR Article 14 (11) 18)

[Guidelines on complaints-handling](#) for the securities (ESMA) and banking (EBA) sectors  
Purpose 1. In order to ensure the adequate protection of consumers

**Financial legislation !**

Good practice in debt advice  
of some NGO : CAC-UPH  
and Padobran Association  
for financial inclusion.

# Legal framework for resolving consumer late payment and over indebtedness problems by using ADR II

## Guidelines on complaints-handling....

6. Competent authorities should ensure that firms:

c) Provide clear, accurate and **up-to-date information about** the complaints-handling process, which includes:

(ii) the process that will be followed when handling a complaint..... e.g. **alternative dispute resolution (ADR) mechanism...**

7. Procedures for responding to complaints - Competent authorities should ensure that firms:

d) When providing a final decision that does not fully satisfy the complainant's demand..... **include a thorough explanation e.g. the availability of .... ADR mechanism ...in written form.**

# Legal framework for consumer protection , CADR and ADR in debt - creditor relations

**Consumer Protection Act** OG 19/22 –provisions on contract for distance sale of financial services

**Mediation Act** OG 18/2011 (first law 2003 )

Settlement is enforceable document

New Mediation Act is already drafted.

**Alternative resolutions of consumer disputes Act**

OG 121/16, 32/19

Craft Act , CCE Act , Enforcement Act  
and other legislation – provisions on ADR

EU legislation - **EU ODR platform** (notified ADR bodies )

Provisions about **ADR in financial laws** and guidelines (slide nr.8 -9)



## Institutional capacity for ADR in insolvency and over-indebtedness

**Court of Honor** of CCTC, CBA and some other chambers (potential creditors)

**Mediation Centers** of CCTC, CCE, CAM, CBA, Croatian Insurance Bureau  
(Important - restarting Mediation Center of CBA- Croatian Banking Association and CEA)

**Insurance Ombudsman**

**Court Mediation** –also possible during the procedure of consumers bankruptcy

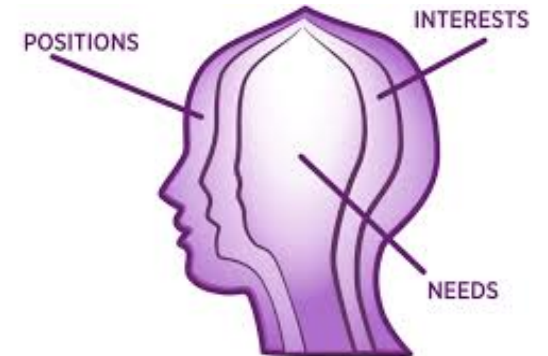
**EU ODR platform** for crossborder disputes : list of notified national ADR bodies of MS

**Good practice of some ADR bodies** in debt creditor dispute resolution  
with enforceable settlement as a result based on Mediatin Act.

**Debt mediation** is an alternative to bankruptcy or debt consolidation or could be additional tool.

**Facilitative mediation** continues to grow as a preferred method to resolve disputes, especially in bankruptcy proceedings( could be binding or not).

One of the mediation technique. **Peeling the onion.**  
To investigate a matter more deeply, usually step by step, each step leading to a new discovery.



The mediation process is **more flexible and less costly than formal court proceedings**. It allows the people who are affected by the bankruptcy to be directly involved in deciding how their disagreement will be settled

Many **bankruptcy judges order**, or at least, **strongly encourage**, parties to go to **mediation** in contested matters.

## More about Mediation- rules and benefit

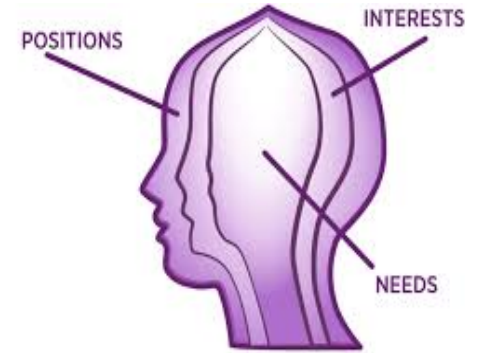
The European Union actively promotes methods of alternative dispute resolution (“ADR”), such as mediation. The Mediation Directive applies in all EU countries. The Directive concerns mediation in civil and commercial matters. [European e-Justice Portal - EU rules on mediation \(europa.eu\)](https://european-courts.eu/en/e-justice-portal/eu-rules-on-mediation)

Mediation is a voluntary and confidential procedure in which an impartial third person (mediator) helps the parties to find a mutually acceptable solution.

The mediator uses concrete, but very sophisticated techniques and skills in a structured, unobservable procedure for the parties in order to help their communication through which a solution will be reached.

**The success of mediation** depends on several factors, but here we would highlight three, in our opinion, the most important:

1. Expertise and experience of the mediator.
2. The real will of the parties to solve the problem
3. The debtor's real possibility "to return" all or part of the debt to the creditor in all legally permitted ways. („ Make a pie bigger”)





# Some mediation techniques and skills

**Make the pie bigger** : could be very usefull in debt creditor relation !

It means - the debtor can offer the creditor some way of returning the debt that was discovered in the mediation process and is acceptable to both parties.

**Example 1.:** The debtor has a large debt to the bank and has no valuable assets, except for an old abandoned house on the sea that he does not want to sell because it has been his family's property for generations. In the process, the mediator discovers the possibility that the creditor will grant a new loan to the debtor, with which he will renovate the run-down house and start a family business in a very profitable tourism industry.

**Example2. :** The debtor has no income or assets to pay the debt, but it was discovered in the mediation that his sister does, but the problem is that they have not spoken for 10 years. The task of the mediator is to try to include the sister in the mediation process, only with her brother, the debtor, and first to resolve their situation, so that the sister agrees to help her brother in repaying the debt, of course under agreed conditions.

[Other possibilities: 28 Best Meditation Techniques for Beginners to Learn \(positivepsychology.com\)](https://www.positivepsychology.com/28-best-meditation-techniques-for-beginners-to-learn/)

Review the bankruptcy court filings: In many mediations, the financial wherewithal, or collectability, of a company or individual is a key issue.

Mediation can be useful to prevent / manage insolvency disputes

### Mediation as a prevention.

International mediation was gaining momentum, a trend perceived by the **European Union**.  
**Directive** on restructuring and insolvency 2019/1023, "preventive solutions are a growing trend in insolvency law".

**Singapore Convention on mediation (2019)**  
enforcability of mediation settlement.

### Right mediator and right time is essential.



World bank, European Central Bank and other international institutions use mediation.



# Debt mediation vs. debt counselling

There is no need to pit debt mediation and debt counselling against each other.

Both ways of helping to solve over-indebtedness have their specificities.

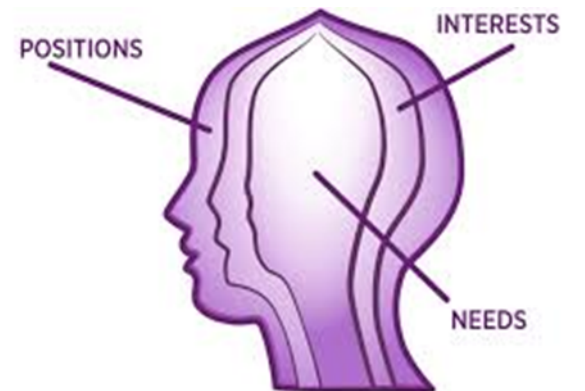
Debtor and creditor will decide when to use debt mediation, and when to debt counselling, based on the opinion of the experts.

The use of both methods in different stages of the process of solving consumer over-indebtedness when it is carried out by well-educated persons or the simultaneous use of both methods can be a win- win combination for the parties.



**Debt mediation and debt counselling  
Is win win combination**

**BECAUSE OF THE ONION.**



### What Croatia can /need to do:

We have quite good legislation, own good practice, knowledge about the best practices of the MS.

1. Adopt the **National Program for Solving Over-Indebtedness** (Slovakia)
2. **The main stakeholder - the Ministry of Labor and Social Welfare of the Republic of Croatia** (Not the Ministry of Finance!) Over-indebted citizens and their families often become or already are beneficiaries of social welfare services and benefits. Thus, this program can and should contain clear and concrete preventive measures and activities.
3. It is important to have a **holistic approach with the participation of other relevant stakeholders** (Ministry of Finance, Croatian National Bank and many others ). (MABS- Ireland )

## Solving the over-indebtedness of Croatian consumers - possible future steps!

Important is also participation of:

- 3.1. **NGOs such as UPH (CAC- Croatian Alliance of Consumers) and Padobran (Parachute)** - an association for financial inclusion - experience in debt counseling and helping over-indebted consumers to resolve their situation
- 3.2. **FINA (Financial Agency)** - experience in advising on debt, collecting and processing data on debtors, and managing out-of-court procedures prescribed by the Bankruptcy Act law.
- 3.3. **Bankruptcy judges of municipal courts** with extensive experience in conducting court proceedings
- 3.4. **Mediators with experience in debt mediation.** (CRESUS)
- 3.5. **Representatives of municipalities, cities and counties.**

## Solving the over-indebtedness of Croatian consumers - possible future steps!

4. **Initial financing** from EU funds - then the state budget
5. **The organizational scheme** should include the future offices and services of the newly established Croatian Institute for Social Work and/or the offices of municipalities, cities and counties
6. **Quality education** of professional staff in future competent offices as well as other debt counselors is extremely important.
7. **The basis of education** can/should be the criteria and program established within the PEPPI project and the best EU practices. Ethical Codex of debt councillors.

## Solving the over-indebtedness of Croatian consumers - possible future steps!

The initiators of the National Program for solving over-indebtedness

in contact with the representatives of public policy makers  
**COULD BE**

the **aforementioned NGOs in cooperation with the relevant ministries** and if possible, with the support of the relevant **EU institutions** .

Thank you for you time.

Any questions ?

