

# Finance Watch

*Making finance serve society*

## **How should Member States regulate consumer discharges**

MAIN CHALLENGES AND TRENDS IN INSOLVENCY  
PROCEEDINGS, RESTRUCTURING AND DISCHARGE OF  
DEBT

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# What is Finance Watch?



Brussels-based **public interest group**



Activities in **research, advocacy, campaigning**



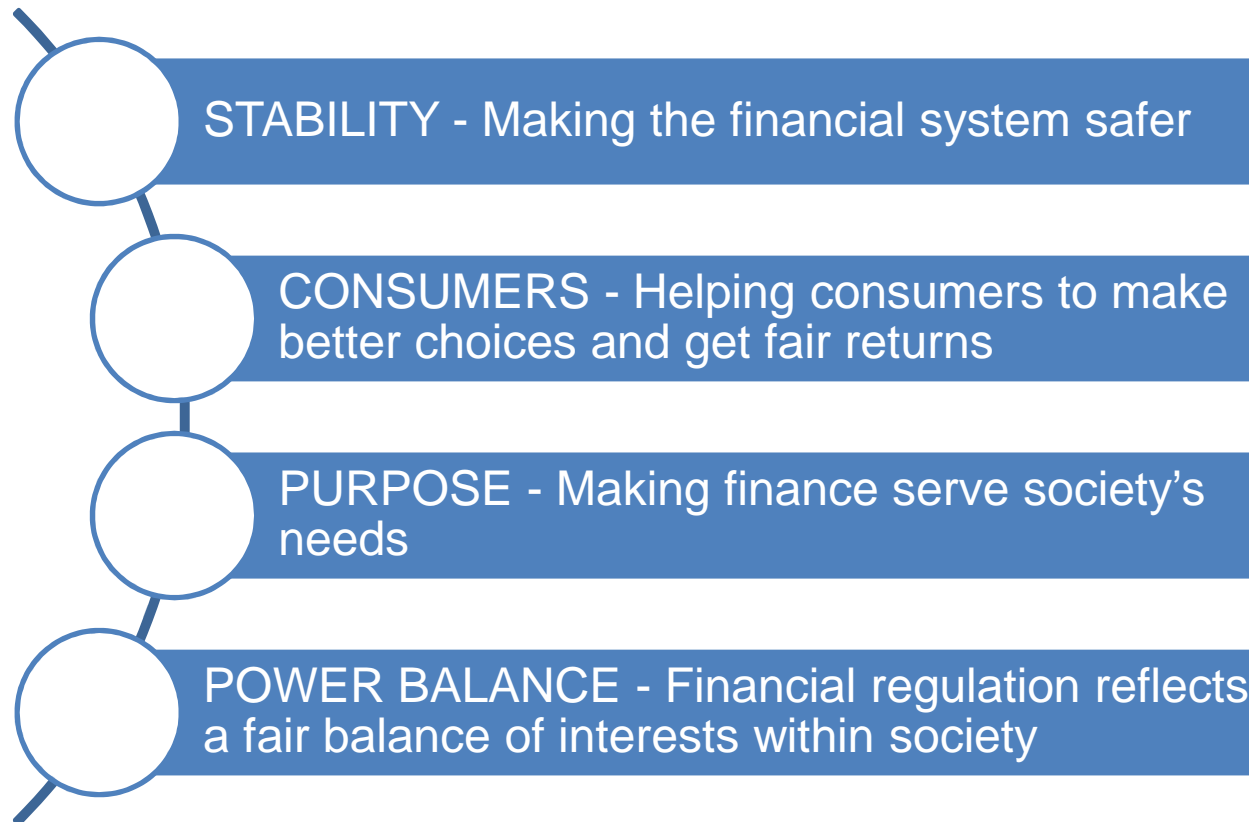
71 members from 12 EU countries



**Members:** CSOs, Trade Unions, Consumer Groups & individual experts

*Making finance serve society*

# Mission



# Olivier Jérusalmy

Senior Research & Advocacy Advisor at Finance Watch



- Director of European Financial Inclusion Network (EFIN)
- Specialist in financial inclusion & over-indebtedness issues
  - Former alternative credit adviser
  - Former pioneer in personal micro credit



# Fighting the over-indebtedness of households



## **STEP ONE - PREVENTION**

- A good over-indebtedness situation is one that has been avoided
- Not all causes can be easily tackled by policy measures
  - Poverty;
  - Social allowances / protection when life accidents occur
- Some of them have proven efficiency...

# Fighting the over-indebtedness of households



## Market regulation

- A safe credit market
  - Consumer and mortgage credit regulation
  - Safe products
  - Responsible lending practices
- Good practices for non credit debt: post paid consumption
  - Early detection
  - Supportive / rehabilitation approach
- Non exploitative debt collection practices
  - Eradicate over-indebtedness due to extra-costs and penalties because of arrears...

# Fighting the over-indebtedness of households



## **FOCUS on Early detection practice... FRANCE**

- By companies
- Consumer friendly
- Before big financial issues occur
- Quick diagnostic... which leads to
  - Ad hoc internal rehabilitative measures (credit / payment adjustment)
  - External follow-up by a non-profit debt adviser
- Annual reporting to National bank

# Fighting the over-indebtedness of households



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# Fighting the over-indebtedness of households



## **FOCUS on regulation of debt collection practices**

- A 360° revolution needed, to replace a punishment morality by a mind set only focused on resolution and rehabilitation
- All stakeholders are loosing money and time...
  - Companies;
  - Public authorities;
  - People;

BUT

  - Exploitative creditors and debt collection companies
- How? a fair ratio should be fixed between the original debt and a maximum charged amount...

# Fighting the over-indebtedness of households



## **STEP TWO: Diagnostic**

- A role for debt adviser
- Good practices from the field:
  - Free for the households;
  - Neutral and independent from companies;
  - Professionals;
  - Sharing national references;
  - Fair for creditors rights AND
  - Protecting the human dignity of the debtors;
  - Efficient: improve rehabilitation, improve the amount collected, reduce cost...
  - Funded by... all creditors

# Fighting the over-indebtedness of households



## **STEP THREE: TREATMENT**

- Situation A:

No financial capacity (no sufficient income/ no assets)

No expected future improvement

FULL DISCHARGE...

*Maybe to be renewed every X years...*

# Fighting the over-indebtedness of households



## **STEP THREE: TREATMENT**

- Situation B:

Limited income capacity (no assets available), which allows a partial repayment in a reasonable period of time

No significant assets can be sold to bring effective relief.

**Debt settlement plan with partial discharge**, if necessary, to fit a 3 years maximum duration

# Fighting the over-indebtedness of households



- Situation B:

## Key takeaways from the field:

Here, trivial, frivolous, vexatious or made in bad faith foreclosure or forced sales should be banned if it leads to non significant amounts recovery;

The total of all debts should be frozen, and the amounts related to “debt collection practices” should be strictly limited and regulated.

Secured or senior debts remain, in the field, a major issue...

“A solution oriented” mind set would lead to an equal ranking of creditors

The maximum duration should apply equally

From the ground

Where amicable discharge exists for years, the maximum duration is progressively diminishing (BE, FI, NL,...)... tends to be 3 years

# Fighting the over-indebtedness of households



- Situation C:  
Limited income capacity WITH assets

**Direct and full discharge** if significant assets are sold;  
**OR Debts settlement plan** for... a limited duration to “save” the assets

# Fighting the over-indebtedness of households



- Situation C:

- 1. Significant assets can be sold to bring an effective relief**

Because such a decision can be extremely painful, it is not often chosen by debtors, who prefer long term plans, BUT, from the field

- in many cases, it leads to the best and least costly solution for creditors
- It can make sense to bind this decision with a full discharge

- 2. Debts settlement plan with delayed discharge to “save” the assets (main dwelling?)**

The total of debts should be frozen, and the amounts related to “debt collection practices” should be strictly limited and regulated.

If a longer duration of the debt settlement plan is authorized, it should be assessed on a regular base to avoid indefinite repayment. A maximum duration should be fixed, which will imply in many situations a partial discharge.



**Thank you for your attention**

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