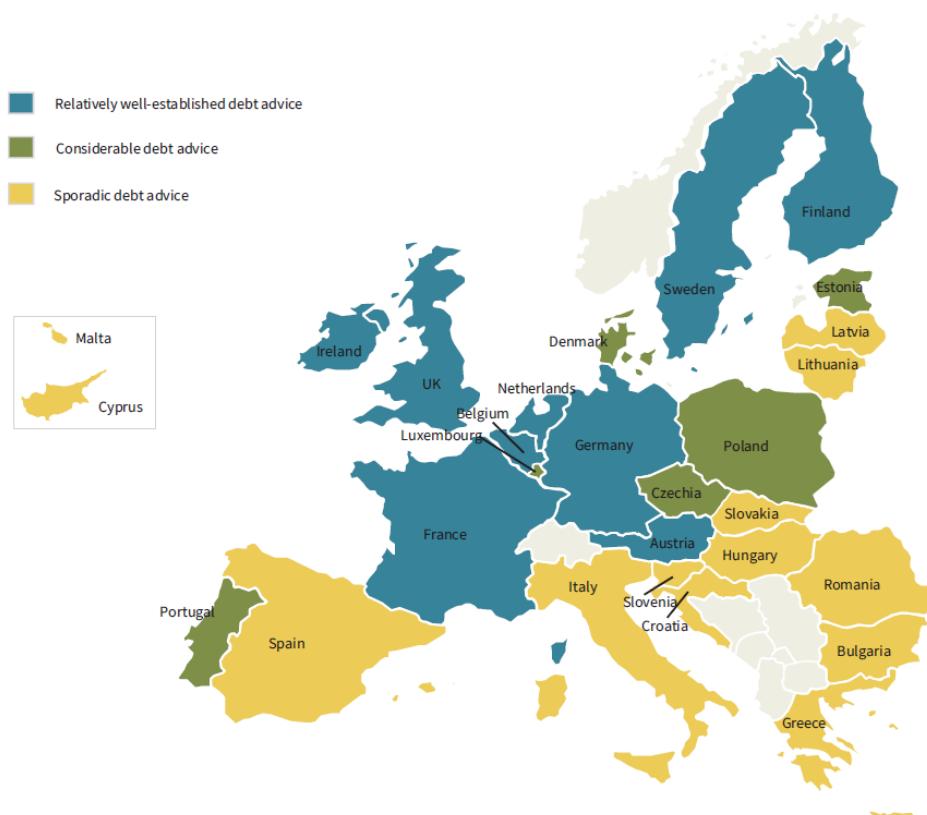


FSUG Position Paper on Debt Advice

A. The Consumer Credit Directive II (CCD II)

The new CCD II represents a major breakthrough in taking into account the concerns and needs of over-indebted people by article 3 (22), 36 and recital 81.¹



Source: Eurofound (2020), *Addressing household over-indebtedness* – compiled by Eurofound from the contributions of the Network of Eurofound Correspondents, Eurofound's own investigation and feedback by experts

It is an important first step but it could have gone much further but didn't (e.g. it does not specify that core services should be free or what the minimum criteria

¹Directive (EU) 2023/2225 of the European Parliament and of the Council of October 2023 on credit agreements for consumers.

should be to ensure that debt advice services offered are appropriate/ of adequate quality).

It would have been preferable to have regulated those important points in the actual level 1 text explicitly (to ensure harmonisation, an equal level of protection, etc.) but this was not taken onboard during the trilogues.

B. What is the problem?

The problem is the high number of over-indebted persons in the EU member states. Over-indebtedness affects about 18 million households in the EU27 and UK (representing about 8% of the total households) (EC 2022).² This figure worsened in the last years, because of the rise of inflation hindering people's ability to repay their loans, the rise of interest rates, increasing borrowing costs and the housing crisis,³ which especially affected vulnerable families.

Over-indebtedness exposes people to the risk of social and financial exclusion. Over-indebtedness is not just a financial problem, but also a social problem with an important and relevant psycho-social dimension. Over-indebted consumers often suffer significant physical and mental health effects, which impair their ability to engage in the economy, thereby negatively impacting GDP and contributing to a deeper economic downturn.⁴

C. Definition of over-indebtedness

There is no generally accepted and used definition of over-indebtedness, but by a pragmatic and operational definition, over-indebtedness is the impossibility to fulfil financial obligations such as credits, rents, facilities and other regular payments on time due to insufficient financial resources, even if the assets are used.

Over-indebtedness is a situation in which households are persistently struggling to fulfil their commitments,⁵ going beyond credit obligations. In contrast to the European Banking Authority's (EBA) definition of Non-Performing Loans, over-indebtedness considers the borrower's perspective and encompasses the inability to meet ongoing expenses without a decrease in their standard of living. Additionally, it highlights the

²European Commission (2022). Provision of actions to extend the availability and improve the quality of debt-advice services for European households. p. 9; See also ECB(2021), 'Household finance and consumption survey (HFCS)', available at: www.ecb.europa.eu/stats/ecb_surveys/hfcs/html/index.en.html.

³Patrick Jenkins, 'Banks cannot escape a gloomy economic outlook' *Financial Times* (4/7/2022).

⁴Commission, 'Study on European consumers' over-indebtedness and its implications' (September 2023); Finance Watch, 'From debtor prisons to being prisoners of debt Making the case for harmonised EU consumer insolvency rules' (A Finance Watch report, 2022).

⁵CIVIC Consulting, 'The over-indebtedness of European Households: Updated Mapping of the Situation, Nature and Causes, Effects and Initiatives for Alleviation its Impacts' (2013) Final Report. Part 1: Synthesis of findings, 22 ff.

social impact of debt, including the risks of financial and social exclusion and psychological stress.

D. Causes and triggers of over-indebtedness

The causes and triggers of over-indebtedness of a person or a household are multifold:

- the loss of employment,
- the occurrence of a disease,
- a separation or divorce,
- the death of the main breadwinner,
- the result of a non-substance or substance addiction,
- a failed self-employment,
- the foundation of an own household,
- a low-income situation confronted with unexpected or increasing costs of living,
- the substantial increase of interest rates,
- financial products that increase the risk of over-indebtedness,⁶
- the use of unfair terms,
- the systematic increase of costs and fees by financial institutions and debt collection agencies,
- the effects of usury or irresponsible lending (aggressive and/or unfair advertising and promotion of financial products and services)
- a low knowledge about financial products and lacking financial skills or competence.
- the result of court or tax debts
- the result of governmental activities and regulations (as in the case of the COVID-19 pandemic)

E. Debt advice as a remedy for over-indebtedness

Debt advisory services are a very effective tool to remedy over-indebtedness. Several main impact areas of debt advice have been academically identified (Clifford et al 2014):⁷

- 1) improved mental and physical health,
- 1) improved productivity,
- 2) impact on creditor recovery,
- 3) impact on risk of further debt cycles,

⁶Iff, 'Evaluierung der Entwicklungen im Bereich der Kreditwürdigkeitsprüfung bei Immobilien-Verbraucherdarlehensverträgen' (2021)

<https://www.bmj.de/SharedDocs/Downloads/DE/Fachpublikationen/Abschlussbericht.pdf?blob=publicationFile&v=1>.

⁷Clifford et al (2014). Proposed Approaches to Social Impact Measurement in European Commission Legislation and in Practice Relating to: EuSEFs and the EaSI. European Commission Report. p. 11

- 4) benefits for small business,
- 5) improvements in family relationships,
- 7) impacts on experiences of homelessness,
- 7) impact on credit access

The European Commission assesses the economic impact of debt advice, indicating that measures aimed at providing debt advisory services, among other measures aiming to combat over-indebtedness, could generate benefits ranging from €1.4 to €5.3 for every €1 spent on debt advice.⁸ These benefits arise from reducing the social costs associated with over-indebtedness.

F. Definition of Debt Advice

Debt advice and debt counselling has officially been defined by the EU for the first time in Article 3(22) CCD II as follows:

‘debt advisory services’ means **personalised assistance** of a **technical, legal or psychological** nature, provided by **independent professional** operators which are not, in particular, creditors or credit intermediaries as defined in this Directive, or credit purchasers or credit servicers as defined in Article 3, points (6) and (8), of Directive (EU) 2021/2167 of the European Parliament and of the Council, **in favor** of consumers who experience or might experience difficulties in meeting their financial commitments’.

Redirecting consumers to debt advice services is not a new concept at the EU level. It was first introduced in the EBA Guidelines in 2015, which stipulated that financial institutions should inform consumers of the existence of public schemes or support.⁹ The 2020 Guidelines have further reinforced this by recommending early arrears management strategies that involve independent debt-counselling and debt advice services.¹⁰ But for the first time now, EU Member States are **obliged** to provide independent debt counseling services (after November 20, 2026 at the latest). The services should be **free** of charge or be available for a **small fee**.

G. Current situation at Member States

Debt advice is a relatively well-established service in only a few Member States, including Austria, Belgium, France, Germany, Ireland, the Netherlands and Sweden. In these countries, the services are comprehensive and cater to a significant portion of the population, often built on years of experience. For instance, already in the

⁸EU Commission (2021), ‘Commission Staff working document. Executive summary of the impact assessment report accompanying the Proposal for a Directive of the European Parliament and of the Council on consumer credits’ SWD (2021) 171 final.

⁹‘Guidelines on Arrears and Foreclosures’ (n102), 3.3.

¹⁰EBA, 2020 Guidelines on loan origination (n222), 31.

1970ties the first debt advice services were set up in Germany,¹¹ ASB Schuldnerberatungen in Austria was founded in 1995, Cresus in France began in 1992 in the Alsace region and later expanded nationwide, and MABS in Ireland started as a pilot program in 1992 in response to illegal money-lending practices, achieving national coverage three years later. Despite these advancements, there is still room for improvement in both access to and quality of debt advice services, as they need to adapt to changing circumstances.

In countries where debt advice is underdeveloped or non-existent, individuals struggling with over-indebtedness often seek help from private lawyers, unregulated financial counsellors, relief organisations, social workers, or consumer groups or organisations that lack well-structured debt advice services. Research indicates that the countries with particularly weak traditions of debt advice include Bulgaria, Croatia, Cyprus, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Romania, Slovenia, and Spain.¹² Figure 1 presents a rough mapping exercise performed by Eurofound in 2020.

H. Open questions and challenges

- 1) What is concretely meant by the term that debt counselling should be provided „**in favor of the over-indebted person**“?

In order for debt counselling to be in favor of the over-indebted person, it is necessary to be initiated after an assessment of the person's legal, economic and psychosocial situation. This involves at least an analysis of debts, income, monthly/annual expenses and available assets. Debt counselling usually starts with a review of all debt-related contracts, payment obligations and invoices of a client. It is in the next step, followed by out-of-court negotiations between debtors, creditors and debt counsellors as mediators. In this phase, debt counsellors try to reduce their clients' payment obligations as much as possible through negotiation. This is often very difficult, even more so when the number of creditors is high. „In favor“ is a very general formulation and does not set standards for advice.

The FSUG recommends that the general aim should be to reach a decent living standard of physical and social well-being for the over-indebted persons. This means to specify a universal set of material satisfiers of basic human needs. (see Rao & Min 2017)¹³

¹¹Dieter Korczak, Gabriela Pfefferkorn (1992): Überschuldungssituation und Schuldnerberatung in der Bundesrepublik Deutschland. Kohlhammer: Stuttgart, Berlin, Köln

¹²Money Matters (2023) The PEPPi Project. First Results. No. 13/ 2023, https://usercontent.one/wp/ecd़.eu/wp-content/uploads/2023/07/moneyMatters_2023_July_n9-19.pdf?media=1673368772 ; See also Alessandra Tanda and Daniela Vadone, 'Debt advice in Europe: a search of the good practices to fight over-indebtedness' (2025) 17(3) Qualitative Research in Financial Markets 604.

¹³Rao, N.D., Min, J. Decent Living Standards: Material Prerequisites for Human Wellbeing. *Soc Indic Res* **138**, 225–244 (2018). <https://doi.org/10.1007/s11205-017-1650-0>

2) How should easy access to debt advisory services be organised?

At present, the range of debt counselling services in many EU member states is very inadequate. Even in countries with good area coverage, waiting times for many debtors are very long. Innovative new forms of access are hardly available.

A nationwide roll-out of debt counselling centres, as has taken place in Slovakia in the last two years, is urgently needed.

FSUG considers that it is therefore recommended:

- **Physical presence** – establishing regional centers and mobile offices (e.g. electro microbuses visiting villages)
- **Digital platform** – offering online tools such as budget calculators, risk profiling and educational games
- **Reduction of waiting times** - first advice should be provided within 14 days after initial contact
- **One-stop service** – combining legal, financial and phychological support in one place
- **Integration with local institutions** – collaborating with unemployment offices, municipal social services, the social assistance system, consumer organisations and other NGOs
- Legal free advice for **insolvent** persons

3) Which persons or organisations are regarded as „independent operators“?

Trying to define “independence” of advisors is a challenge. (comp. Art. 16 CCD II) At present, social debt counselling is (financially) supported by state, regional or local institutions, welfare associations, foundations or church institutions. In addition, debt counselling is offered by lawyers and financial advisors on a private-sector basis.

In order to guarantee independence, a negative demarcation should be made (excluding creditors and providers of services, and also those in some manner linked to them). Perhaps supervision, standards creation and certification should be the best managed by an entity operating intersectoral, whose members would be representatives of the government/local governments, businesses and civil society organisations. This could also be evaluated by a non-profit organisation like the European Consumer Debt Network (ECDN).

An important question is how to deal with independent entities that are indirectly financed by financial institutions.

Criteria for independence can be:

- **Non-profit organisations** providing free financial coaching
- **Municipal and governmental initiatives** that are not tied to financial institutions
- **Legal professionals, financial advisors, and psychologists** who offer pro bono services
- **European models** such as MABS (Ireland), BAG-Schuldnerberatung (Germany), the network of Expert Counselling (Slovakia) or CRÈSUS (France) serve as benchmarks for independent debt advisory networks.

A consumer organization should be considered by default as an independent operator

- 4) In which way the specific situation ("personalised assistance") of over-indebted people can or has to be taken into account?

Ideally, debt counsellors with economic, psychological and legal training and knowledge should be available for „personalised assistance“. In many cases of existing debt counselling services, this is currently not the case. Therefore, counselling centers should be better connected with other organisations.

Furthermore, the FSUG considers that it is recommended:

- **Individual risk assessment** based on income, debt level, and personal circumstances
- **Customised action plans**, including legal mediation, debt restructuring, and psychological support
- **Follow-up** and monitoring for 3-12 months to ensure stability
- **Targeted support** for vulnerable groups (single parents, low-income workers, elderly, unemployed, disabled etc.)
- **Use of validated / evidence-based techniques** to encourage responsible financial habits

- 5) How can the „professionalism“ of debt advisors and debt counsellors be guaranteed?

Which fields cover professionalism? As the definition of advice is very broad and also the needs of the over-indebted are diversified, it can be requirements of legal, financial and psycho-social professionalism. But often other professions should be required, like educational needs and problems with children. Or technical standards of the place for living (humidity, presence of insects, other noxious situations).

Professionalism can be achieved through a standardised training curriculum. Actually, this is not existing in the majority of the EU member states. But there are some proposals for that (see <https://ecdn.eu/the-academy/>) or prototypes like training by debt

relief experts in Sicily, the Network of Expert Counselling (Slovakia), MABS (Ireland) and Maltese courses for debt advisory by GEMMA.

In general, is the FSUG recommends:

- **Training and certification** – ensuring advisors have expertise in psychology, law and finance
- **Quality control** – through a national or European coordination centre, ensuring best practices
- **Ethical guidelines** to prevent exploitation by private financial consultants
- Development of a **code of conduct** for debt counsellors
- **Recruiting retired professionals** (bankers, accountants, lawyers, social workers) to provide guidance

6) In which way and by which means can and will the psycho-social impact of financial problems be taken into account in its full extent?

This is obviously very difficult, as the examples mentioned in the publication „The Psychosocial Dimension of Debt Problems“ demonstrate. (see <https://ecdn.eu/2024/11/02/new-issue-of-money-matters-no-20-is-out-now/>)

Therefore it is recommended:

- **Integration of psychologists** into debt advisory teams
- **Collaboration with psychological associations**
- **Addressing debt-related stress**, anxiety and social exclusion through psychosocial counselling
- **Public awareness campaigns** to reduce stigma around debt issues
- **Collaboration with social services** to offer broader support (housing, employment, etc)

7) What does it concretely mean that the advisory services should be free of charge or be available for a small fee?

In case of a small fee, how is small be defined and calculated? Should it be related to the minimum salary in a given country?

In the normal case, over-indebted persons cannot afford to pay fees for counselling without getting into further debt. Fees also increase the barriers to visiting a debt counselling center. Any fee creates new problems.

Therefore, the FSUG recommendations are as follows:

- **Core services** (financial coaching, debt restructuring advice, legal guidance) should be completely free for over-indebted individuals

- **Small fees** may apply for additional services (e.g. court representation in bankruptcy cases)
- The **exploitation** of debtors by private consultants who currently charge high fees should be prevented by legal means

It should be decided on a case-by-case basis whether preventive debt counselling is free of charge. The question arises as to whether preventive debt counselling takes the form of universal or specific financial education. (comp. Art. 32 CCDII)

- 8) Who will fund debt advisory services in a sustainable, ongoing way (governments, ministries, municipalities, welfare organisations)?

It can be assumed that each EU MS will finance according to its own criteria, taking into account the local particularities. A sustainable funding is key.

There already exist different ways for the funding of debt counselling services. In Ireland and Slovakia, they are fully paid by the government. In Scandinavia and the Netherlands, they are financed by the municipalities. In Germany, they are financed according to the subsidiary principle and by case management. Recently, the idea was proposed to co-finance it through a fund of the credit industry.¹⁴

To integrate the existing formats in a European-wide approach, it is recommended:

- **Consolidation** of existing forms of financing
- **Independence** of the financing of electoral periods
- **Public funding** by Governments, EU programs and municipalities
- **Private donations** and sponsorship from ethical financial institutions and NGOs
- **Corporate social responsibility** (CSR) programs encouraging businesses to support financial education initiatives and debt-advice services
- **NPL (Non-performing Loan) savings** using part of recovered funds from bad lending activities by the activities of debt advisory services for the funding of debt advisory services

In conclusion, the FSUG is aware that the provision of debt advice services is very unevenly distributed in the EU MS. Some countries have already a good provision by state social services, municipality services or welfare organisations. Many other states are still in the process of the transposition phase of CCD II looking for the debt advice service which best covers the needs of the citizens.

¹⁴ECDN POLICY BRIEF no 1/2024 – The involvement of the financial sector in the funding of debt advisory
<https://ecdn.eu/2024/04/23/ecdn-policy-brief-no-1-2024-the-involvement-of-the-financial-sector-in-the-funding-of-debt-advisory/>.

The FSUG recommends to consider also consumer organisations to offer those services to consumers, because consumers are trusting them, on one hand and they have the experience and the expertise to offer best advice to consumers, on the other hand.

In cases in which Member States are supporting consumer organisations for providing those services to consumers, including providing the adequate financial resources, the debt advice service for consumers should be offered for free or, in the worst case scenario, the fee for debt advice services should be very low.