

Amnesty of debts: Amicable agreement and statutory solution

Mudite Priede

Latvian Association of Local and Regional Governments

Anda Masejeva

Ministry of Welfare

Introducing with both papers we state the following commentaries:

The Netherlands' **Amnesty of debts** program represents quite recent enterprise to tackle over-indebtedness in Dutch society. A principal goal of **Amnesty of debts** program is to make available debt-solving in a most appropriate way for inhabitants. We find significant that in different stages different tools for dealing with financial problems are used in Dutch model:

- Prevention activities;
- Coaching of clients;
- Intake (income, expenditure and debt analysis);
- Debt solving by income and expenditure balancing;
- WNSP (structured debt amnesty system).

1. Situation in Latvia

In case of Latvia there are two main areas of forming inhabitants' over-indebtedness as the result of transition processes: 1) inhabitants' debts to local municipality (real estate tax debts to local municipality and housing and utility debts); 2) credit debts of inhabitants.

Credits

Latvia has a strict separation of the welfare sector and credit industry. Welfare sector deals very little with inhabitant's credit debts until now, including budgeting and debt-advisory.

Credit industry is developing very rapidly during the last 5 years. Due to competition of credit companies' credit conditions are becoming more attractive to private persons. It leads to borrowing booming. Bank of Latvia and government of Latvia start alarm about problems of expectable over-indebtedness of inhabitants in the nearest future. It will lead to poverty and possible social exclusion of over-indebted persons.

The Law on Credit Institutions of year 1995 restricts the types of companies dealing with money. There is a certain quality level being a credit institution. In the same time there is no direct legislation set in Latvia in order to protect borrower. Credit conditions are regulated by market.

In respect to credit debts, debtors have the right to agree on prolongation of credit repayment term as well as on other conditions, they also have a possibility to re-credit the credit/ the loan to other credit institution.

The Law on Credit Institutions state that attachment of the monetary funds and other valuables of natural persons, which are placed at a bank, or imposition of arrest on them may only occur on the basis of a court issued execution document, a bailiff's order or by the sanction of a prosecutor.

Collection of the deposits and other valuables of natural persons may be exercised on the basis of a court issued execution document, a bailiff's order or a decision of the taxation administration regarding the collection of late tax payments in accordance with the Law on Taxes and Fees.

Debts to local municipality

There is another area in Latvia, where the debts of inhabitants are forming: real estate tax debts to local authority and housing and utility debts to local authority. These debts are forming mainly due to very low income of inhabitants in comparison with amount of these payments.

Regarding the inhabitant's debts to local authority, it is responsibility of each authority to set measures for dealing with inhabitants' debts.

In the case of housing and utility debts the debtor usually is household not person. This type of debts leads to social exclusion risk.

There are mostly 3 types of measures used by municipalities in pre-law stage:

1. To prevent forming of housing and utility payments debts for households with low income, the municipal social assistance benefits are provided. Local authorities allocated for municipal housing benefits about 30% of total municipal budget social assistance spending in 2005. In comparison Guaranteed Minimum income (GMI) benefit is 17% of total municipal budget social assistance spending in 2005.
2. Three-part-agreement on terms of debt repayment between service provider, debtor and local authority. If debtor is recognized as a person with low income, local authority covers part of debt. Usually strict repayment schedule is set. Amount of payment from debtor is set according to debtor's household income. The rest part of debt is covered by local authority. In this process an important role is played by municipal social workers, who are first ones receiving informational about expectable financial problems of household.
3. In case there the three-part agreement is not sufficient and debtor never will be able to pay fully for housing, local authority should provide social housing which is cheaper.

In case debtor does not perform his/her obligations local authority submit debt claim to the court.

In the case of real estate tax debts to local municipality agreement on terms of tax debt repayment between, debtor and local authority is set. Amount of payment from debtor and schedule are set according to debtor's income.

In case debtor does not perform his/her obligations local authority submit debt claim to the court.

To prevent over-indebtedness of socially sensitive inhabitant groups due to tax debts the legislation provides protection for certain categories of inhabitants reducing real estate tax rate by 50%. In addition, according to the law local authority has right to reduce tax amount for some categories of inhabitants, too.

Latvian National Action Plan for Inclusion has identified to income poverty as main aspect leading to social exclusion. The objectives defined in NAP/incl set income increasing and homelessness preventing as challenges.

2. Relevance of Dutch model for Latvia

As was already mentioned in part 1, a credit debt of inhabitants as problem is very new for Latvia and Latvia has no well developed model for solving this problem in state or municipal level. So the Dutch model **Amnesty of debts** could be a good experience for debt solving mechanism.

In our opinion this model is a good instrument to fight over-indebtedness and to prevent social exclusion of over-indebted people. Indeed this model is unique because it enables over-indebted people to be debt-free after a period of three years. Another relevant aspect of Dutch approach for Latvia is education and consulting activities which are available for people with low income.

3. Similarities and differences

Latvia, like the Netherlands mentioned in its National Action Plan for Inclusion poverty as main aspect leading to social exclusion. The objectives defined in Latvian NAP/incl set as main challenge income increasing. At the same time Latvian NAP/incl points the problem adequate housing and homelessness as aspects of social exclusion and sets costly available housing for inhabitants and homelessness preventing as challenges.

In Latvia like in the Netherlands local authorities are involved in helping debtors in different ways.

Main differences between Netherlands and Latvia are in historical background of both countries and as follows – in thinking and behaviour of people. Latvians were very aloof to take credits for long time. As result of this we see rapidly developing of credit industry only during the last 5 years and credit debts as problem is rising only now.

Another significant difference between our countries is in overall people welfare level. This can affect future Latvian debt-solving model design and possibilities for successful transference of Dutch model to Latvia situation.

In order to better understand potential transferability of Dutch model to Latvia situation, it would be very essential to get more detailed information about WSNP. Considering this aspect we have to take into account that overall welfare level in Latvia is significantly low comparing with the Netherlands.

Important questions in Latvia

As it was mentioned before credit conditions are becoming more attractive to private persons and it leads to borrowing booming in Latvia. There are worries about expectable over- indebtedness of inhabitants in the nearest future. The political debate is rising about the possible ways and mechanisms of solving credit debts problem. It would be very essential to develop a structured debt amnesty system in Latvia.

We have to start with deep analysis of situation and developing of legislation, as well as coordination mechanism among different private institutions and public institutions (central and local governments`).

Key issues and main questions proposed to debate

- 6.1. The establishing of social bank system - experience of Netherlands and recommendations for other countries.
- 6.2. How the social banks' responsibility and possibilities to fulfil their obligation in WSNP process are influenced by fact they are established by municipalities?
- 6.3. It would be useful to understand what happens with part of debt which is not fully repaid by person after 3 years in WSNP process? How it influence the interest of creditor to use WSNP? How it influence the borrowing behavior of inhabitants?
- 6.4. Was the Dutch model (institutional and legislative) influenced by overall inhabitants' welfare level? What another factors influence design of WSNP process? How fare the Dutch model may be successful in states, where welfare level is significantly lower?