

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 279 (2009)¹ Overindebtedness of households: the responsibility of regions

1. Credit has greatly expanded in a number of European countries over the last few decades, sometimes without sufficient monitoring and regulation, to the detriment of consumers' rights. Certain improper commercial practices are used to entice families to misuse consumer credit and some of these families who live on the fringes of a system inappropriately distributing credit have recourse to such illegal practices as usury.

2. Specialised public agencies and credit and debt observatories have noted a resurgence of predatory lending practices driven by the current economic and financial crisis. Furthermore, the procedures for dealing with overindebtedness which a number of member states have introduced are often complex and tend to penalise debtors by isolating them and their families, thus making them dependent on the community.

3. The local and regional authorities are directly confronted with the social consequences of these developments, such as ever-longer waiting lists for social housing, increasing numbers of people with no fixed abode, and deteriorating health. The Congress welcomes the efforts of some local and regional authorities to adjust their social policies in this field.

4. With reference to its previous work on responsible consumption and solidarity-based finance,² the Congress appeals to the responsibility of the public authorities at all levels with a view to adopting a coherent set of measures to reinforce borrower protection and facilitate the financial integration of the most vulnerable households.

5. To this end, the Congress invites the Committee of Ministers to request member states to:

a. revise all their mechanisms for dealing with insolvency in consultation with consumers' associations, concentrating on the preventive aspect;

b. link up the maximum credit rates to reference rates rather than to those used by the credit institutions;

c. make all the players in the credit chain aware of their responsibilities by:

i. setting up a national databank recording all financial commitments entered into by individuals³ and requiring lenders and credit intermediaries to consult this data facility, to secure all the requisite information from loan applicants in order to evaluate their financial situation and refunding capacity, and to pinpoint the most suitable type and amount

of credit to grant them. Such databanks should be supervised so that the requirements of data protection and privacy are met, to prevent their misuse (for example, a scoring system that would allow higher interest rates to be extracted from poor consumers);

ii. establishing rules on the promotion, administration and implementation of credit contracts, accompanied by civil and criminal law sanctions against banks and credit organisations, such as forfeiture of interests, and mandating national bodies to verify their practices;

d. set up, as an alternative to judicial proceedings, a nationwide network of debt mediation services (public or private) responsible for informing overindebted persons of their legal rights and obligations and helping them propose debt clearance plans to their creditors or identify other legitimate strategies for dealing with their overindebtedness;

e. promote education in financial matters for consumers and education on social matters for suppliers in a process of mutual learning;

f. encourage development and provision of responsible credit products in the private, co-operative and public sectors which can meet the credit needs of those individuals hitherto excluded from the traditional economic and financial system;

g. co-operate with local and regional authorities to launch action on the ground against usury by establishing clear legal definitions of usury and providing human and budgetary resources for the setting up of teams with specific powers to conduct investigations and prosecute illegal lenders;

h. evaluate periodically activities geared to preventing and tackling household overindebtedness and promoting financial inclusion.

6. The Congress invites member states to disseminate the approach developed by the European Committee for Social Cohesion (CDCS) in the Multipartite Social Contract, encouraging local and regional authorities and civil society organisations to co-ordinate their efforts to assist and provide services to overindebted people, setting up a dialogue with them and allowing them in particular to exercise their solidarity and civic responsibility. Moreover the Congress asks the Committee of Ministers to reinforce the activities of the CDCS concerning shared social responsibility involving citizens in the fight against exclusion.

7. Furthermore, the Congress recalls Recommendation CM/Rec(2007)8 of the Committee of Ministers to member states on legal solutions to debt problems, which recommends alleviating the effects of the recovery of debt and respecting the human dignity of overindebted persons and families. In order to ensure its effective implementation, the Congress requests that the Committee of Ministers:

a. ensure the promotion of the recommendation in member states vis-à-vis all stakeholders;

b. take practical action to assess its implementation, including gathering information from member states and exchanging good practices at national and regional level;

c. work on introducing the concepts of ethics and social responsibility into credit practices by mandating the appropriate Council of Europe bodies to devise a European model of good conduct and a responsible lending policy for banks and credit institutions, in close co-operation with the relevant professionals and consumer non-governmental organisations, and associate the Congress with its drafting and dissemination.

8. Lastly, the Congress requests the Committee of Ministers to invite the member states which are also members of the European Union to take account of Recommendation CM/Rec(2007)8 of the Committee of Ministers to member states on legal solutions to debt problems when implementing European Union Directive 2008/48/EC on credit

agreements for consumers, which focuses on information for the future borrower.

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1. Debated and approved by the Chamber of Regions on 14 October 2009 and adopted by the Congress on 15 October 2009, 3rd Sitting (see Document CPR(17)3, explanatory memorandum presented by C. P. Muratore, Italy (R, ILDG), rapporteur).
 2. Recommendation 244 (2008) on responsible consumption and solidarity-based finance.
 3. Such as the Centrale des Crédits aux Particuliers managed by the Belgian National Bank.