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The Role of Government Ministries

Dear participants of the conference

First of all, I wish to express my gratitude for the kind invitation to contribute to this important conference.

My issue today – as the title suggests – will be the role of the Government Ministries in combating debt problems among private households. My presentation will be based upon the experiences we gathered during the early nineties in Norway, when we faced severe debt crises in the country. I will start with a little background information about that situation.

Borrowing by private households increased dramatically in Norway during the latter part of the 80s. A few years later an increasing number of households were unable to meet their credit obligations. Property prices slumped and people had to sell at prices – sometimes far – below the sum borrowed.

The authorities had to deal with this problem – and it had to be dealt with without delay. One major problem was that the different problem areas was the responsibility of different ministries. Solving the debt problems among private households therefore would not be possible without co-operation between the different ministries. So this was the first step that had to be taken- to recognise indebtedness as a national problem, and to put in place a National Plan involving various ministries.

The most important measure that had to be adopted was a legal system for compulsory debt reduction or debt settlement. As the consumer protection legislation in general already was the responsibility of the Ministry of Children and Family Affairs, a debt settlement legislation was established under this Ministry.

Furthermore, there was a need for debt counselling services in the municipalities. This was the responsibility of the Ministry of Social Affairs. It was also necessary to establish a system with social lending and refinancing, which had to be adopted through the National Housing Bank which was the responsibility of the Ministry of Local Government and Regional Development.

We also had to involve other ministries, in particular the Ministry of Finance because of the problems connected with payment of taxes, fines, education loans, state housing loans and other debts for which the state was the creditor.

This situation required, as you will understand, a close co-operation between four or five different ministries. I will not go into details concerning this, but our efforts resulted in a well functioning multi levelled system for solving debt problems in the country. All together, more than 100 000 persons, have been users of the measures that were adopted to combat indebtedness and the social problems that are connected to it.

Due to the limited time for this presentation, I will only comment on the most powerful measure we established – the legal system for compulsory reduction or full cancellation of debts - The Debt Settlement Act, or The "Act of Voluntary and Compulsory Debt Settlement for private Individuals».

The Act, which came into force on January 1st 1993, has shown to be a very effective method of dealing with overindebtedness among private households. And, maybe more important than the Act itself, is the sideeffects – which was intended – it has had: to be a contribution to debt proceedings and settlements outside the court-system. The Act has made it a lot easier to reach voluntary debt settlements and arrangements for debt counsellors, for instance in the municipalities.

The purpose of the Act is described in section 1; It shall give persons with serious debt-problems an opportunity to regain control of their financial affairs, and in the same time ensure that the debtor fulfils his obligations as far as possible. It suggests two kinds of solutions, which can be obtained by bringing the case to the Court; a voluntary solution, and a compulsory one.

The most important conditions for a debt settlement is that the debtor must be permanently (but not necessarily life-long) incapable of meeting his obligations and that a settlement must not be offensive (in the meaning unfair, unreasonable) to other debtors or the society in general. The debtor must also have - to the best of his ability - sought on his own to reach a debt settlement with his creditors before he can apply for voluntary or compulsory debt settlement according to the Debt Settlement Act.

The first step for the debtor, is to make an application to the enforcement officer, which will check the application and ensure that the necessary facts in the case are brought out.

The enforcement officer can appoint an assistant, which will be paid by the state. After the necessary checking and fact-finding has been made, the enforcement officer decides whether to refuse the application or to submit it to the court of enforcement. A refusal can be appealed.

The next step is that the court will decide if debt settlement proceedings shall be instituted. If so happens, the debtor shall within three months try to reach a voluntary settlement with his creditors. If proceedings are instituted, the debtor's assets and wages will be secured for the creditors - the debtor will only be allowed to keep necessities as described in the Creditors Security Act. Payment of debts will temporarily be stopped - normally for 3 months.

If the debtor is not able to reach a voluntary settlement with his creditors, the debtor can petition for a compulsory one. A compulsory settlement is normally very much like a voluntary one. The court of enforcement must confirm a compulsory settlement but not a voluntary one.

Normally, a debt settlement will lead to a payment-program that will last for 5 years. In these five years, the debtor shall pay as much as possible to his creditors. When the program is fulfilled, the debtor normally will be free from his debts. A cheap car can be kept if it is necessary. Approximately €1 300 pr month can be kept for housing and living costs.

There is a certain protection of the dwelling in the Debt Settlement Act, which is very important. The debtor is only obliged to sell his dwelling if a sale provides the best settlement for the creditors, and, at the same time, the dwelling exceeds the reasonable needs for the debtor and his household. This rule, has led to the result that close up to 90 % of the applicants are allowed to keep their dwellings.

By certain regulations in the Debt settlement Act, an established debt settlement can be changed, cancelled, reversed or set aside as a result of events arisen in the debt settlement period.

Since the Act came into force in 1993, more than 20 000 persons have had their application for debt settlement accepted in the court of enforcement, and about 7 000 settlements are so far established. Unfortunately, at least until recently, most of the settlements are compulsory, but there is now a remarkable increase of voluntary ones.

Mainly, the experiences with the Act - so far - are good. A considerable number of people have found a solution to their debt problems by using the Act and, we have reason to believe, that the Act also have contributed to a large number of solutions outside the court system.

We are however, concerned about the considerable variation in the judgements between the courts in these cases. So, what we are considering now, is to «tighten», or clarify some of the regulations in the Act, and leave a little less to the discretion and judgement of the courts. As an example, a considerable number of settlements with payment programs that lasts more than 5 years are established, especially in some parts of the country. We are therefore also discussing if it will be adequate with stricter conditions to decide a different period than 5 years

Debt reduction or settlement legislation is now part of the legal system in all the Nordic countries except Island, and also in many other countries in the EU. I understand however, that this is not the case in Ireland. Based upon the positive experiences we have had in Norway, and I believe also in the other Nordic countries, I will warmly recommend you to adopt such legislation. And those of you who might be interested in studying the Norwegian Act, and our experiences, are warmly welcome to visit our Ministry in Oslo.

Thank you for your attention.

