HARMONISING PERSONAL INSOLVENCY LAWS: SUPPORTING OVER-INDEBTED FAMILIES ACROSS THE EU

COFACE POSITION PAPER OCTOBER 2025

For more information please contact:

Martin Schmalzried
Senior Policy and Advocacy Manager
mschmalzried@coface-eu.org

Co-funded by the European Union

Co-funded by the EaSI strand of the ESF+ programme. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Commission. Neither the European Union nor the granting authority can be held responsible for them.

INTRODUCTION

COFACE-Families Europe recognises the profound impact that personal insolvency laws have on families, particularly those in vulnerable situations, including families with children, families with disabilities, and low-income households. While business insolvency has been partially harmonized at the EU level[1], personal insolvency remains fragmented across member states. This fragmentation leads to inconsistent outcomes, exacerbating the financial difficulties of over-indebted families and undermining social cohesion.

THE NEED FOR EU ACTION ON PERSONAL INSOLVENCY

Personal insolvency laws play a critical role in determining how individuals can recover from financial difficulties such as over-indebtedness. Poorly designed insolvency laws result in significant social consequences, including increased stress, mental health issues, and even suicide among over-indebted individuals. For families, these challenges can lead to severe hardships, affecting children's well-being, exacerbating disabilities, and deepening vulnerability.

In 2020, 8.8 % of all EU households - around 17.2 million households or roughly 40 million people - were behind on at least one essential payment such as rent, a mortgage, utility bills or loan instalments. Over-indebtedness is highly skewed toward vulnerable groups: 76 % of indebted households live on less than 60 % of median income, 49 % have only basic schooling, 50 % are unemployed, 41 % are single-parent families, 57 % are in urban areas and 34 % are headed by someone under 35. Country evidence mirrors this pattern. In France, more than half of applicants for debt relief live below the poverty line and about a quarter are unemployed. In Germany, unemployment (19.7 %), serious illness or addiction (16.5 %) and family break-up (12 %) were the three leading triggers of over-indebtedness in 2020, together explaining over half of new cases, and single-parent households remain markedly over-represented among those seeking advice. Overall, the statistics show that over-indebtedness in the EU is chiefly a problem of low-income working families and the unemployed, often exacerbated by job loss, health shocks or family breakdown. Around 17.2 million households or roughly 40 million people – were in arrears with at least one key payment in 2020.[2]

Research indicates that over-indebted people are much more likely to suffer from severe health conditions like depression and heart disease[3]. This not only strains social welfare systems but also reduces economic productivity and weighs heavily on families' well-being. Children in over-indebted families may face increased poverty, social exclusion, and reduced educational opportunities, perpetuating a cycle of disadvantage.

The economic and societal costs of ineffective personal insolvency frameworks are substantial. Prolonged insolvency procedures can lead to low recovery rates for creditors and extended financial distress for debtors. This hinders economic growth by preventing over-indebted individuals from re-entering society and the workforce. It also damages the social fabric by increasing strain on interpersonal relationships and community cohesion.

Moreover, the lack of harmonization across the EU encourages "forum shopping," where debtors relocate to jurisdictions with more favorable insolvency laws, undermining the fairness and effectiveness of the system. This legal fragmentation creates uncertainty and inequality among EU citizens, impacting families who may not have the means or ability to relocate. Such a call for harmonisation has already been stressed by the FSUG[4] (Financial Services Users' Group) and Finance Watch[5], of which COFACE-Families Europe is a member.

IMPACT ON VULNERABLE FAMILIES

Personal insolvency disproportionately affects vulnerable families, including those with low incomes, single-parent households, families with disabilities, and those facing unemployment or health issues. Over-indebtedness can lead to housing insecurity, inability to afford essential services, and social exclusion.

For families with disabilities, financial difficulties may limit access to necessary care and support services, exacerbating their challenges. Children in over-indebted families may experience stress, stigma, and reduced opportunities, affecting their long-term development and prospects.

A harmonized EU approach to personal insolvency would help mitigate these impacts by providing consistent protections and support mechanisms across member states. It would facilitate the reintegration of over-indebted individuals into the economy and society, reducing the intergenerational transmission of poverty and social exclusion.

The European Pillar of Social Rights emphasizes the right to social protection and inclusion for all citizens. Addressing personal insolvency at the EU level aligns with these principles, promoting social justice and economic stability. Harmonizing personal insolvency laws would ensure that families, especially the most vulnerable, have access to fair and supportive mechanisms to overcome financial difficulties.

By upholding the Pillar's commitments, the EU can strengthen social cohesion, reduce inequalities, and support the well-being of families across member states. This alignment reinforces the EU's dedication to fostering inclusive growth and protecting citizens from adverse economic circumstances.

CONCLUSION AND RECOMMENDATIONS

In the context of ongoing discussions at the EU level regarding financial legislation and social policy, COFACE Families Europe is positioning itself on personal insolvency to advocate for policies that protect families. As the current European Commission continues to advance its policy agenda,, it is crucial to address personal insolvency comprehensively.

This focus aligns with the EU's broader objectives of social inclusion, economic resilience, and the promotion of the European Pillar of Social Rights. By engaging in this dialogue now, COFACE-Families Europe, alongside many other organisations such as Finance Watch, aims to contribute to the development of a framework that supports families in overcoming financial hardships.

KEY PRINCIPLES FOR AN EFFECTIVE PERSONAL INSOLVENCY FRAMEWORK

1. **Preserving human dignity and family well-being:**

   → Any effective insolvency framework must prioritize the preservation of human dignity, ensuring families maintain a guaranteed minimum income that provides for decent living conditions. Essential family needs such as housing, healthcare, education and childcare should be specifically safeguarded throughout the insolvency process.

2. **Presumption of good faith:**

   → Insolvency laws should operate on the presumption that debtors act in good faith unless proven otherwise. This principle ensures that debtors are not unfairly penalized and that the process is fair and just across all member states.

3. **Family-sensitive insolvency procedures:**

   → Insolvency frameworks must specifically account for family dynamics, including divorce or separation, where debts may be shared equally but income disparities often persist. Insolvency laws should allow for equitable adjustments or alternative repayment schemes that recognise unequal income distribution between former partners, to prevent disproportionate hardship on the economically weaker spouse.

4. **Clear and flexible criteria for personal insolvency:**

   → The criteria to access personal insolvency should distinguish clearly between debts arising from unforeseen emergencies (such as natural disasters like fires, floods, or storms) and debts stemming from economic difficulties linked to personal or family related problems (health, divorce, loss of employment). Given the growing frequency of climate-related emergencies and associated financial distress, insolvency frameworks should explicitly address emergency-driven indebtedness, ensuring affected individuals receive swift access to insolvency procedures without overly burdensome criteria.

5. **Reference to FSUG and Finance Watch recommendations:**

   → Insolvency laws should take into account the prior work done by the FSUG and Finance Watch to determine essential criteria for an effective insolvency framework such as affordability, accessibility, timeliness, and independence.

RECOMMENDED MINIMUM STANDARDS

To create a fair and effective insolvency framework, the following minimum standards should be adopted:

1. **Flexible and timely procedures:**

   → Insolvency procedures should ideally aim for repayment plans lasting a maximum of three years, with the possibility of discharge after one year for debtors in severe financial distress, thus preventing prolonged financial hardship and allowing for a fresh start. The exact duration should remain adaptable to specific circumstances, such as retaining essential housing, where the plan might reasonably extend beyond three years, left at the discretion of a judicial decision.

2. **Combination of administrative and judicial processes**

   → Implementing insolvency procedures through administrative bodies can enhance accessibility, efficiency, and reduce stigma, particularly for vulnerable families. However, judicial oversight must remain an option, especially for complex or contested cases, as courts can provide impartiality and protect debtors against potential biases in administrative decisions. Administrative processes could handle standard, fixed-duration plans, with courts able to personalise solutions, including extending repayment periods when justified.

3. **Enhanced role for independent debt counselors**

   → Independent debt counselors should play a key role in assessing financial situations, negotiating with creditors, and proposing fair repayment plans. This ensures that debtors receive impartial and professional support, but requires the setup of quality, accessible and independent debt counselor services across the EU.

4. **Prevention and education:**

   → Insolvency frameworks should incorporate preventive measures aimed at reducing over-indebtedness. Emphasis should be placed on early intervention and financial literacy, promoting proactive support and guidance on budget management in an inclusive and accessible way, acknowledging also the realities of persons with disabilities. Good practices include the French "Points Conseils Budgets" by UNAF, and financial education programmes like "Gestion Familiar" run by Isadora Duncan Single Parent Family Foundation in Spain.[6]

5. **Combination of existing solutions:**

   → A comprehensive framework should include debt cancellation, restructuring, and other tailored solutions to address the diverse needs of debtors.

6. Access to restructuring measures:

- All debtors should have access to restructuring measures that allow for manageable debt repayment plans.

7. Free or low-cost debt advice:

- To make insolvency procedures accessible, debt counseling services should be provided free of charge or at a low cost, particularly for vulnerable populations.

8. Full discharge of debts for honest debtors:

- Debtors who have acted in good faith should qualify for a full discharge of their remaining debts after a maximum period of three years. A judicial decision can extend this period in specific circumstances, when it is in the best interests of the debtors.

9. Harmonized "honesty" test across the EU:

- A uniform "honesty" test should be applied across all member states to ensure consistency and fairness in the treatment of debtors, in order to ascertain which debtors have acted in "good faith".

10. Addressing non-performing loans:

- Effective management of non-performing loans (NPLs) is essential for reducing the economic and social impact of insolvency. The framework should include measures for early intervention when debtors are found to be in difficulty, streamlining insolvency proceedings and ensuring transparency and creditor protection.

The urgent need for a harmonised EU insolvency framework is clear. The current fragmented approach increases the financial distress of over-indebted families, generates a number of societal and social problems such as health issues, social tensions and hinders economic growth. By adopting the key principles and specific recommendations outlined in this brief, the EU can create a more just, effective, and compassionate insolvency framework. This framework will protect vulnerable families, promote economic stability, and contribute to the overall resilience of the European Union, ensuring that all citizens have access to fair and dignified insolvency procedures.

REFERENCES

1 DIRECTIVE (EU) 2019/1023 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency.

2 European Commission (2023), Study on European consumers' over-indebtedness and its implications - Annexes to the Final Report.

3 Holmgren, R., Nilsson Sundström, E., Levinsson, H., & Ahlström, R. (2019). Coping and financial strain as predictors of mental illness in over-indebted individuals in Sweden. Scandinavian journal of psychology, 60(1), 50-58.

4 Financial Services User Group (2023), Opinion Paper on Personal Insolvency.

5 Finance Watch (2022), Report – From debtor prisons to being prisoners of debt

COFACE Families Europe

Rue du Marché aux Herbes 105/b48,
1000 Brussels
Tel: +32 2 500 56 90
Email: secretariat@coface-eu.org
Website: coface-eu.org

@COFACE_EU
@COFACE.EU
@familieseurope
Families Europe
COFACE Families Europe