



Relentless Expert exchange and financial
inclusion paths to promote stable debt advice
services and fresh **START**

D1.1 Report on the Over-indebtedness state of art



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Acronyms

APRC	Annual Percentage Rate of Charge
ARERA	Autorità di Regolazione per Energia Reti e Ambiente
ASVIS	Alleanza Italiana per lo Sviluppo Sostenibile
CCD	Consumer Credit Directive
CSB	Crisis Settlement Bodies
CSB	Crisis Settlement Body
CWA	Creditworthiness assessment
DRP	Debt Restructuring Plan
EC	European Commission
ECB	European Central Bank
ECDN	European Consumer Debt Network
EU	European Union
FABI	Federazione Autonoma Bancari Italiani
IMHO	Irish Mortgage Holders Organisation
INFE	International Network on Financial Education
ISTAT	Istituto Nazionale di Statistica
MC	Movimento Consumatori
MDC	Movimento Difesa del Cittadino
OECD	Organisation for Economic Co-operation and Development
OIPE	Observatory on Energy Poverty
SECCI	Standard European Consumer Credit Information
TSC	Technical Support Committee
TUB	Testo Unico Bancario - Consolidated Banking Act

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1. Executive summary

This document summarises the final results collected by RE-START - ***Relentless Expert exchange and financial inclusion paths to promote stable debt advice services and fresh START***- project funded by European Union's Single Market programme under grant agreement No 101055374. According to project proposal, the RE-START's objective was to implement an innovative and replicable solutions addressed at the European associations that already perform debt-advice service, or would be, enhancing quality service, standardizing process. Moreover, in order to improve the operational effectiveness of the structures that already perform debt advice services, the RE-START project's aim is to create a permanent network of experts operating at local, national and European level, in all the matters related to debt-advice to share information and best practices.

Specifically, RE-START aims to:

1. Increase the accessibility of debt advice services to Italian consumers.
2. Improve the operational effectiveness of the structures for providing debt advice services to EU consumer through the creation - or the strengthening – to experts, technicians, and debt-advisors EU network.

Objective 1: Increase the accessibility of debt advice services to Italian consumers.

Based on an updated state of the art review - consumer and sector requirements - MC has strengthen its own network of n.27 debt-advice points providing a dedicated phone-line. Thus, a **remote assistance service** has been activated to offer a first aid to citizens in difficulty and to deal with unpredictable Covid-19 crisis evolution. The on-line support i) provides information on MC network services and on its closer advice point; ii) represents a first contact point to collect consumer's needs and to transfer practical information to deal with generic issue iii) and gives consultant assistance through MC advisors.

Moreover, to enhance the debt advice points' capacity to involve local citizens, and to increase financial education knowledge among consumers, **n.5 video clips** dealing with economic themes like debt, debt sustainability and over-indebtedness with a specific focus on pathological cases have been made (<https://www.youtube.com/playlist?list=PLdcCFRf-y9U8mgibjPLwrn2IS5ienQ8-z>). The beneficiaries have been citizens and stakeholders' staff (worker and volunteers of NGO organizations, parishes, public and private operators, and social workers) that, as a front-line worker, may have a direct impact on beneficiaries, sharing videos and knowledge.

Objective 2: Improve the operational effectiveness of the structures for providing debt advice services to EU consumer, including through the creation or the strengthening of specific networks of experts, technicians and debt-advisors.

According to MC activities, a team of experts has been selected from foundations, universities, and national institutions to achieve highest quality standard on debt advisory services and steer network work, if needed. According to this goal, a Technical Support Committee (TSC) has been made to verify over-indebtedness state of art and to provide an updated training course on economic, law and psychological themes to increase MC advisors' skills.

Thus, to strengthen a TSC network of experts, technicians and debt-advisors, through RE-START project MC organized **n.4 on- line workshop** to debate on case studies from legal, psychological, and economic point of view.

Between December 2022 and May 2023 MC has organized n.4 workshop focus on:

- I° Workshop - topics: MC best-practice and debt-advice service; ethics and customer services code; communication and networking strategies.
- II° Workshop - topics: out-of-court settlements; guarantees and social securitization; over-indebtedness procedures; customer's barriers and obstacles identification on debt advice service access
- III° Workshop – topics: State of art of debt advice services in Europe; service organization; ethic code, target groups, communication.
- IV° Workshop – topics: out-of-court settlements and over-indebtedness procedures, a comparison between EU countries models.

Moreover, in order to maximize workshops achievement, RE-START project has organized a new **specialist-training course** that, based on those already in uses, has been upgrade with workshops results. Thus, the new course aim has been to provide knowledge on a) social, economic and physiological reasons that can lead to an over-indebtedness, b) creditworthiness assessment procedures, c) new provisions on Italian legislature (in force from 1 September 2021) and d) on European state of art, new opportunity, and common strategy – cases study.

2. Context

2.1 European framework

In 2016, G20 approved the “National Strategies for Financial Education” created by OECD - Organisation for Economic Co-operation and Development - and evaluated as a strategic tool to increase financial knowledge, skills, and attitudes. “In turn, this can contribute to individuals’ (including vulnerable and low income) participation in financial, economic, and social life, as well as to their financial well-being. As a complement to financial inclusion and financial consumer protection, financial education is also important to restore confidence and trust in financial markets and can support financial stability”¹. As a result, now most of G20 countries have a national strategy for pursuing the objective of financial inclusion and some states also mention the debt advice tool as part of this strategy.

According to that, the European Commission (EC) has launched several activities aimed to encourage Member States exchange through meetings and conferences to evaluate how to promote and develop debt advice services in all countries of the European Union (EU). On 10 October 2018, the European Commission organised a first Stakeholder Forum on Debt Advice to collect views from different stakeholders on this topic. The Forum addressed the importance and effectiveness of providing such assistance to EU households to address over-indebtedness². The Forum agreed that over-indebtedness was a multifaceted phenomenon with a negative impact on different stakeholders and society as a whole. Debt advice benefits all involved actors: it is a powerful tool to help over-indebted people, who face an unsustainable debt burden and economic distress. At the same time, it allows creditors to be repaid. If provided in early stages, it can help overindebted people to accept and clarify their difficult financial situation, prioritise actions, and facilitate negotiation between parties. It also helps to ensure that all debtors are treated with respect. Unscrupulous credit management should be prevented³.

On 2020, Eurofound published a new study on which debt advice services were examined across EU Member States, analysing their main characteristics and possible development trends⁴. As Eurofound report shows, there are some countries with long history of debt advice service and more with absent or limited capacity.

¹ National Strategies for Financial Education Oecd/Infe Policy Handbook; OECD;
<https://www.oecd.org/daf/fin/financial-education/National-Strategies-Financial-Education-Policy-Handbook-Highlights.pdf>

² Conclusions of 2018 Debt Advice Stakeholders Forum: https://commission.europa.eu/system/files/2018-10/conclusionsdebt_advice_forum_.pdf

³ Conclusions of 2018 Debt Advice Stakeholders Forum: https://commission.europa.eu/system/files/2018-10/conclusionsdebt_advice_forum_.pdf

⁴ Eurofound (2020);
https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef19044en.pdf

Here, the following countries were categorised in those three groups:

- Relatively well-established debt-advice: AT, BE, DE, FI, FR, IE, LU, NL, SE, (UK);
- Considerable debt-advice: CZ, DK, EE, PL, PT;
- Sporadic debt-advice: BG, CY, EL, ES, IT, HR, HU, LT, LV, MT, RO, SI, SK.

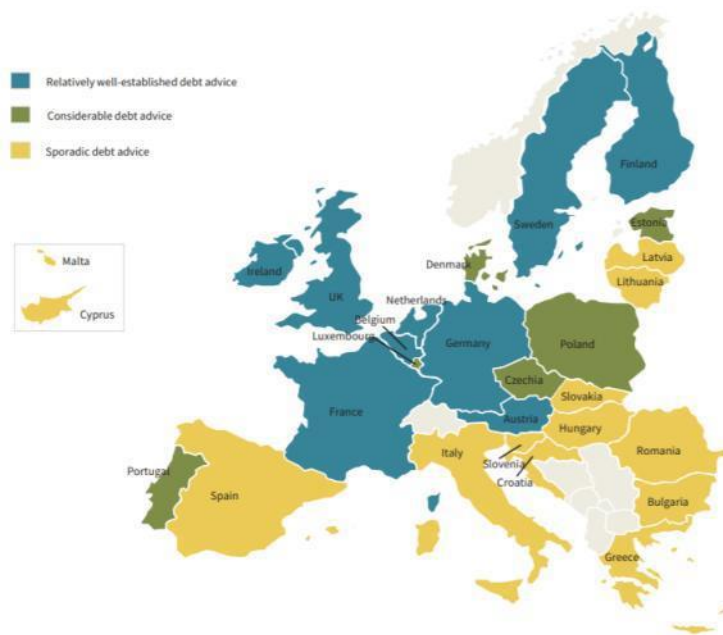


Figure 1 Source: Eurofound (2020), *Addressing household over-indebtedness*, p.20 – compiled by Eurofound from the contributions of the Network of Eurofound Correspondents, Eurofound’s own investigation and feedback by experts.

In 2020, Commission pointed out – on New Consumer Agenda - as a “debt advice has proven an effective way of helping over-indebted consumers to return to financial sustainability, while ensuring that creditors are repaid” and how “a euro spent on debt counselling can save more than two euros in social benefit”⁵. Even the Council, on 22 February 2021, “underline the need to promote inclusive awareness campaigns and local advice to reinforce consumer protection online and offline; highlights the importance to support debt advice services and preventive financial counselling as well as considering relief mechanisms”⁶.

In December 2021, European Commission published the final report of “Provision of actions to extend the availability and improve the quality of debt advice services for European households” project. Therefore, the Commission concluded that “additional funding for debt-advice systems is needed to improve the quality of the availability of debt-advice services in the EU. This is particularly evident for the countries where the

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0696&from=EN>

⁶ <https://data.consilium.europa.eu/doc/document/ST-6364-2021-INIT/en/pdf>

provision of debt advice is sporadic or not available at all. Besides scaling up funding, it is also essential to create the necessary infrastructure with debt advice organisations and debt advisors to deliver the service”⁷.

Finally, on 18 October 2023, the new Directive on consumer credit – the Directive (UE) 2023/2225 cd. CCD II – has been published on the Official Journal of the European Union at the end of the consultation process started in June 2021 by the European Commission. The new Directive repealing the previous Directive (2008/48/EC) revising and modernizing the current rules on consumer credit. Therefore, the new Directive aims to create a full harmonisation between EU Member States “in order to ensure that all consumers in the Union enjoy a high and equivalent level of protection of their interests and to create a well-functioning internal market”⁸. Thus, the main news can be summarised as follows:

A. Scope (art.2) – Commission has extended the scope of Directive covering i) new form of credit currently exempted (i.e. free interest rate credits such as “Buy Now, Pay Later”, leasing agreements with an option to buy, all overdrafts); ii) introducing upper threshold of credit agreements set out in this Directive will be higher than the one set out in Directive 2008/48/EC in order to take into account the indexation for the effects of inflation and iii) create a “lighter regime” in terms of information in ads and at pre-contractual stage for some credits.

B. Advertising of credit agreements (art. 8) – Now there are a new provision to the advertisement: *Member States shall require that advertising concerning credit agreements include a clear and prominent warning to make consumers aware that borrowing costs money, using the wording ‘Caution! Borrowing money costs money’ or an equivalent wording* (art.8). *Moreover, the standard information shall be easily legible or clearly audible, as appropriate, and adapted to the technical constraints of the medium used for advertising and shall specify, in a clear, concise, and prominent way.* There will be a reduced amount of information disclosed in advertisements which could be not visually displayed (i.e., radio). Moreover, the Parliament introduced a prohibition of certain misleading ads such as advertisement *that encourages consumers to seek credit by suggesting that credit would improve the financial situation of those consumers.*

C. Pre-contractual information (art. 10) – According to pre-contractual information, the consumers have the right i) to receive clear and comprehensible pre-contractual information needed to compare different offers; ii) the key information have to show in the first part of the Standard European Consumer Credit Information (SECCI) form and iii) the precontractual information shall be provided to the consumer in good time before the contract sign.

⁷ https://commission.europa.eu/system/files/2022-06/debtadvice_final_report.pdf

⁸ DIRECTIVE (EU) 2023/2225 (13); https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202302225

D. The consumers have to be informed in a clear and comprehensible manner when they are presented with a personalised offer that is based on automated processing of personal data (art.13). Moreover, even if bundling practices has been allowed, tying practices has been prohibited (art.14).

E. Creditworthiness assessment (CWA) – Finally the new Directive discipline in a clear way the CWA procedure that, by now, have to be “carried out on the basis of relevant and accurate information on the consumer’s income and expenses and other financial and economic circumstances”. Moreover, that information shall not include special categories of data, such as sensitive personal data (religious, sexual orientation, etc), and any credit should be made available only after a positive creditworthiness assessment to prevent consumer’s over- indebtedness. Finally, has been introduced the consumer’s right to request and obtain from the creditor an human intervention, consisting of the right to: (a) request and obtain from the creditor a clear and comprehensible explanation of the assessment of creditworthiness, including on the logic and risks involved in the automated processing of personal data as well as its significance and effects on the decision; (b) express the consumer’s own point of view to the creditor; and (c) request a review of the assessment of the creditworthiness and the decision on the granting of the credit by the creditor.

F. Debt advice services. One of the main innovations of the directive concerns debt-advice services. Article 3 (22) defines debt advisory services’ as *“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 (27), in favour of consumers who experience or might experience difficulties in meeting their financial commitments”*. By Art. 36 “Member States shall ensure that independent debt advisory services are made available to consumers who experience or might experience difficulties in meeting their financial commitments, with only limited charges payable for such services. 2. For the purpose of fulfilling the obligations laid down in paragraph 1, creditors shall have processes and policies in place for the early detection of consumers experiencing financial difficulties. 3. Member States shall ensure that creditors refer consumers who experience difficulties in meeting their financial commitments to debt advisory services easily accessible to the consumer”.

This research aims to analyse the economic and legal context in which Italy will have to implement the Directive by making debt counselling services available throughout Italy. To this end, the current context will be examined with particular regard to the spread of services, providers, activities carried out by debt advisors and sources of financing. In particular, the role of the debt advisor in over-indebtedness crisis settlement procedures and the economic and psychological barriers limiting their dissemination will be considered.

2.2 Italian framework

Energy price increase (ARERA⁹ 2023. Electricity bill in consumer protection at +18.6% in the fourth quarter of 2023¹⁰), high inflation (ISTAT¹¹ September 2023: +5.3%¹²) and the vertiginous increase in costs linked to financing and mortgages (ECB rate in September 2023 equal to 4.5%¹³) combined with prevision of poor economic growth (European Commission September 2023: Prevision of +0.9% for 2023, prevision of +0.8% for 2024¹⁴) are worsening an already not easy economic situation that, especially in the weaker brackets, sees an increase in the number of those who find themselves in a situation of fragility with the exacerbation of the already strong inequalities present in Italy. In order to understand the current situation, however, it is also important to take into account the events that have characterised the last 15 years in order to assess their impact on poverty and inequality in Italy today. We need only recall the financial crisis in 2008, followed by the sovereign debt and spread crisis in 2011, and then the pandemic crisis of 2020, to understand why poverty and inequality have grown so much in Italy in recent years. Further complicating the situation were further exogenous shocks which, first in 2022 (war in Ukraine) and then in 2023 (Israel-Palestine war), saw the outbreak of two wars whose medium to long-term consequences are not yet clearly identifiable, but which, in the short term, have already made their effects felt through the increase in the prices of energy goods, which rose from +44.5% in September to +71.1% in November 2022. Suffice it to say that, just in 2022, there was an increase in food prices of +13.1%¹⁵ and a collapse in the propensity of households to save to 8.0% (in 2021 it was 13.8%¹⁶). Moreover, despite the fact that the National Institute of Statistics confirms that households' available income increased by 5.5% (+4.8% in 2021), the increase in prices from 8.9% to 11.8% between September and October 2022, resulted in a total contraction of 1.6% of their real purchasing power (+3.2% in 2021 - available income expressed in real terms)¹⁷. The energy crisis, rising prices of primary goods and accelerating inflation have intensified the difficulties for the weaker brackets of society (families with minor children, temporary workers, women and migrants¹⁸), who ultimately suffer the most damaging effects of the current situation.

⁹ ARERA – Autorità di Regolazione per Energia Reti e Ambiente (<https://www.arera.it/it/inglese/index.htm>)

¹⁰ https://www.arera.it/it/com_stampa/23/230928.htm

¹¹ ISTAT – Istituto Nazionale di Statistica (<https://www.istat.it/en/>)

¹²

<https://www.istat.it/it/archivio/289234#:~:text=Nel%20mese%20di%20settembre%202023,precedente%2C%20confermando%20la%20stima%20preliminare.>

¹³ ECB RATE is the reference Rate of the European Central Bank (ECB). It represents the rate at which the ECB grants loans to banks and is used as an indexation parameter for variable rate mortgage loans.

<https://mutuonline.24oreborsaonline.ilsole24ore.com/guide-mutui/tasso-bce.asp>

¹⁴ https://economy-finance.ec.europa.eu/economic-surveillance-eu-economies/italy/economic-forecast-italy_en

¹⁵ <https://www.forbes.com/advisor/it/finanza-personale/2023/09/29/inflazione-italia-ultime-notizie/>

¹⁶ <https://www.istat.it/it/files//2023/10/Conti-economici-istituzionali-2022.pdf>

¹⁷ <https://www.istat.it/it/files//2023/10/Conti-economici-istituzionali-2022.pdf>

¹⁸ https://www.caritas.it/wp-content/uploads/sites/2/2023/06/Rapp.-Caritas-2023.qxp_STAMPA_def.pdf

In this regard, ISTAT confirms that, in 2022, almost a quarter of the Italian population (24.4%) is at risk of poverty or social exclusion¹⁹ while 9.4%, i.e., more than 5.6 million individuals, live in absolute poverty (ISTAT; 2020 data)²⁰. Furthermore, this condition is often associated with situations of **child poverty**, defined as *the deprivation of children and adolescents from the possibility of learning, experiencing, developing and allowing their abilities, talents and aspirations to flourish freely*²¹, growing steadily in Italy in recent years (24.5% in 2019, 25.1% in 2020 and 26% in 2021²²) and of **educational poverty**, defined as *the impossibility for children to learn, experience, develop and allow skills, talents and aspirations to flourish freely*, which, all too often, is "passed down" to the next generations.

According to the latest ASVIS report (ASVIS Report 2023²³), absolute child poverty in Italy affected 1.4 million children belonging to 1.96 million households. The incidence of absolute poverty increases depending on the number of underage children in the household, the employment status of household members and their nationality. It is also higher in metropolitan areas and in households without home ownership. With regard to educational poverty, the data (ASVIS²⁴ Report 2022²⁵) tell us that 67.6% of minors, aged between 6 and 17, did not go to the theatre in the year preceding the pandemic, 62.8% did not visit an archaeological site or monument, 49.9% did not visit exhibitions and museums, 48.1% did not read any non-school books, and 22% of minors, aged between 3 and 17, did not play any sports or physical activity²⁶. Finally, in this context, **energy poverty** has broken out, i.e., *the difficulty of buying a minimum basket of energy goods and services, or alternatively, in a sense of energy vulnerability, when access to energy services implies a diversion of resources (in terms of expenditure or income) beyond a normal value*²⁷. According to the 2023 Report of the Italian Observatory on Energy Poverty (OIPE), energy poverty affected 2.2 million households at the end of 2021, some 125,000 more than in 2020. In percentage terms, the phenomenon affected 8.5 per cent of Italian households²⁸.

While these dynamics have intensified all known forms of poverty, there are those who, on the other hand, have even seen their economic conditions improve. In this respect, suffice it to say that in 2020-2021, the richest 1% benefited from almost two-thirds of the increase in aggregate net wealth and a very limited

¹⁹ <https://www.istat.it/it/files/2023/06/REPORT-REDDITO-CONDIZIONI-DI-VITA2022.pdf>

²⁰ https://www.istat.it/it/files/2021/06/REPORT_POVERTA_2020.pdf

²¹ <https://www.savethechildren.it/blog-notizie/che-cosa-e-poverta-educativa-definizione-e-cause>

²² [https://www.conibambini.org/osservatorio/minori-a-rischio-poverta-o-esclusione-sociale-in-italia-quali-fattori-incidono/#:~:text=I%20minori%20a%20rischio%20povert%C3%A0,provvisorio%20per%20l'Italia\).](https://www.conibambini.org/osservatorio/minori-a-rischio-poverta-o-esclusione-sociale-in-italia-quali-fattori-incidono/#:~:text=I%20minori%20a%20rischio%20povert%C3%A0,provvisorio%20per%20l'Italia).)

²³ [Rapporto ASVIS 2023:](https://asvis.it/public/asvis2/files/Rapporto_ASViS/Rapporto_ASViS_2023/RapportoASViS_2023_final.pdf)

https://asvis.it/public/asvis2/files/Rapporto_ASViS/Rapporto_ASViS_2023/RapportoASViS_2023_final.pdf

²⁴ ASVIS - Alleanza Italiana per lo Sviluppo Sostenibile (Italian Alliance for Sustainable Development); <https://asvis.it/>

²⁵ [Rapporto ASVIS 2022:](https://asvis.it/public/asvis2/files/Rapporto_ASViS/Rapporto_ASViS_2022/RapportoASViS2022.pdf)

https://asvis.it/public/asvis2/files/Rapporto_ASViS/Rapporto_ASViS_2022/RapportoASViS2022.pdf

²⁶ https://www.savethechildren.it/sites/default/files/files/Poverta_educativa.pdf

²⁷ <https://oipeosservatorio.it/wp-content/uploads/2023/07/rapporto2023.pdf>

²⁸ <https://oipeosservatorio.it/wp-content/uploads/2023/07/rapporto2023.pdf>

number of individuals saw their wealth increase, during the stock market meltdown in 2022, at a rate of USD 2.7 billion per day²⁹

At the same time, in Italy, the richest 20% of the population owned more than 2/3 of the national wealth (68.6%) in 2021; another 20% owned 17.5% of the wealth, while the remaining 60% (poorest) of the population owned 14% of all national wealth. Moreover, over the last two decades, the wealth held by the richest 10% of the population has grown by 3.8 percentage points, while the share held by the poorest has decreased by 4.1 percentage points over the same period. The main negative effects of the phenomenon involve the most fragile brackets of society such as, for example, large families (with at least five members), families with at least one foreign member³⁰, the youngsters and the lower educated.

2.3. Consumer Credit and non-fulfilment

According to data available on EURISC, the credit information system managed by CRIF³¹, in the first quarter of 2023, the number of Italians holding an active instalment credit agreement increased to 51.4% of the adult population (+11.8% compared to 2022). At a per capita level, the average instalment repaid each month is EUR 322 (+5.6% compared to 2022), while the residual exposure - understood as the sum of the per capita amounts still to be repaid in the future to settle outstanding contracts - is EUR 34,875 (+9.3% compared to 2022). Especially with regard to mortgages, the data certify an increase in the monthly instalment amount (+13.5%) and residual exposure (+10.8%)³². In this regard, the Bank of Italy confirms how, in August 2023, interest rates on loans granted for the purchase of homes (inclusive of ancillary costs: Annual Percentage Rate of Charge, APRC) stood at 4.67 per cent (4.58 in July)³³ which led to a collapse in the number of trades. It is estimated that, to date, mortgages account for only 19.3% of total active loans, while more than 50% of the total is represented by loans for the purchase of consumer goods and services (e.g., cars, motorbikes, electronics, etc.) followed by personal loans, which account for 30% of the total, with an almost stable trend over time³⁴. At the national level, Valle d'Aosta is the region with the highest number of citizens with at least one active credit report (61.7% of the total), followed by Tuscany (with 57.8%) and Latium (with 56.1%), on the contrary Trentino-Alto Adige (29.8%), Basilicata (with 41.5%) and Campania (with 44.1%) are the regions with the lowest percentages. As regards the residual exposure still to be repaid, Trentino-Alto Adige tops the national ranking with EUR 45,792 (up from EUR 40,706 in 2022), followed by Lombardy with EUR 44,478,

²⁹ https://www.oxfamitalia.org/wp-content/uploads/2023/01/Report-OXFAM_La-disuguaglianza-non-conosce-crisi_final.pdf

³⁰ https://www.oxfamitalia.org/wp-content/uploads/2023/01/Report-OXFAM_La-disuguaglianza-non-conosce-crisi_final.pdf

³¹ CRIF is a company specialized in credit information and business information systems - <https://www.crif.it/chi-siamo/>

³² <https://www.crif.it/area-stampa/comunicato-mappa-del-credito-primo-semestre-2023/>

³³ https://www.bancaditalia.it/pubblicazioni/moneta-banche/2023-moneta/statistiche_BAM_20231010.pdf

³⁴ <https://www.crif.it/area-stampa/comunicato-mappa-del-credito-primo-semestre-2023/>

Emilia-Romagna with EUR 41,408, Veneto with EUR 40,971, and Friuli-Venezia Giulia with EUR 40,140. The profile of those opening a debt position is mainly in the 30-60 age group, followed by the 41-50 age group (3 out of 4 people) and the 18-30 age group (1 out of 4). Obviously, the reason for these figures is simply that the 'middle' generations are also those who, on average, are able to incur debt by virtue of earned income. With respect to gender, men are in the majority (58.5% compared to 41.5% for women). Slightly different values are recorded, however, in the case of taking out mortgages for which female borrowers account for 45.7%. Young people aged 18 to 30, on the other hand, are more active on special loans³⁵, which represent a less demanding credit option. The over 60s have a higher propensity to personal loans, and resort to credit to a lesser extent than the national population (35.6%)³⁶.

Based on data made public by CRIF³⁷, the credit risk concerning the total loans to households is just over 1%. The figures for the last months of 2022 and the first quarter of 2023 thus show a generally good 'credit quality', with a focus on mortgages.

The Federazione Autonoma Bancari Italiani (FABI), however, expressed growing concern about rising interest rates and the consequent increasing difficulty for households to repay their loans regularly and routinely. In this respect, FABI quantifies the impaired loans of Italian households in March this year at EUR 14.9 billion (EUR 6.8 billion for mortgages, EUR 3.7 billion for consumer credit and EUR 4.3 billion for other personal loans). Of this, EUR 5.7 billion are defined as *debts owed*, i.e., amounts that customers will no longer be able to repay, EUR 7.1 billion are assessed as probable defaults, and about EUR 2 billion are past due instalments³⁸.

Bank loans	Consumer credit	Mortgages	Other loans	Total
Debts owed	1.209	2.781	1.769	5.759
Probable defaults	1.462	3.451	2.238	7.151
Past due instalments	1.083	621	339	2.043
Total Italy	3.754	6.853	4.346	14.953

Table 1 - Table created with FABI data (figures to March 2023 in millions of euros)¹

2.4 Financial education in Italy

According to the latest Bank of Italy survey on financial literacy and financial skills³⁹ Italy sees its overall literacy indicator slightly improving from 10.2 in 2020 to 10.6 in 2023 (on a scale of 0 to 20). The survey, conducted on the basis of the methodologies developed by the OECD's International *Network on Financial*

³⁵The special-purpose loan is a form of financing granted by a credit institution or company which is obtained directly at the points of sale of goods and/or services and is strictly linked to the purchase made. (<https://www.24oreprestiti.ilsole24ore.com/guide-prestiti/prestito-finalizzato.asp>)

³⁶ <https://www.crif.it/area-stampa/comunicato-mappa-del-credito-primo-semester-2023/>

³⁷ <https://www.crif.it/area-stampa/comunicato-mappa-del-credito-primo-semester-2023/>

³⁸ FABI (2023); https://www.fabi.it/wp-content/uploads/2023/07/FABI_Analisi_20230707_sofferenzefamiglie.pdf

³⁹ https://www.bancaditalia.it/pubblicazioni/indagini-alfabetizzazione/2023-indagini-alfabetizzazione/statistiche_AFA_20072023.pdf

Education (INFE), assessed the knowledge, behaviour and attitudes of the Italian adult population (18-79 years) over a defined time span (three years). As already mentioned, the survey returns a unit indicator which, although improved, is still absolutely insufficient (10.6 out of 20) compared to expectations. From an analytical point of view, the study emphasises how the level of financial literacy increases as the level of education increases (people with an 8th grade diploma or a lower certificate have an average of 9.5 points while high school graduates and university graduates score 11.0 and 11.8 points respectively) and is correlated with the individuals' age - lower values among 18–34-year-olds (9.8) and higher in the population over 64 (10.3). Furthermore, there is a gender gap that penalises women (score of 10.4) to the advantage of men (10.8). Although the overall financial literacy score increased slightly in 2023, it should be emphasised that this improvement was mainly attributable to the behaviour (from 4.2 to 4.6) and attitude (from 2.0 to 2.3) components, while, on the contrary, the knowledge component even worsened (from 3.9 to 3.7). Compared to previous editions, 2023 also includes **digital finance** skills among the studied topics. Again, the overall indicator is the result of the survey conducted on knowledge, behaviour and attitude. Specifically, in the field of **knowledge**, citizens' understanding of the difference between cryptocurrency and money was assessed, whether there was familiarity with agreements signed through the use of digital signatures, and whether there was awareness of the fact that online dissemination of personal data allows profiling for commercial purposes. For **behaviours**, the habit of changing passwords related to the management of one's finances CSBurred. Finally, with respect to **attitudes**, the study assessed awareness of the risks associated with online shopping via public wi-fi networks. Among the most interesting aspects of the research is the fact that around 70% of the interviewees believe that crypto-currency have the same legal tender as money and that for 63%, digitally signed agreements have no legal value. Moreover, half of the interviewees are unaware of the risks involved in disclosing personal information online. 30% of interviewees share their current account passwords with third parties; less than 30% change their passwords regularly and just less than 20% check their financial service providers.

3. The lack of regulation of debt advice services in Italy

In Italy to date, no debt advice services are regulated by law that could fall within the definition provided for in Art. 3 Consumer Credit Directive approved on 12 September 2023 ("debt advice service" means personalised assistance of a technical, legal or psychological nature provided by independent professional operators who are not, in particular, creditors or credit intermediaries as defined in this Directive or credit buyers or credit managers as defined in Article 3, paragraphs (6) and (8) of the Directive (EU) 2021/2167 of the European Parliament and of the Council , for consumers who are experiencing or are likely to experience difficulties in meeting their financial commitments").

3.1. The provisions of the T.U.B. (Consolidated Banking Act) concerning the provision of services

Debt advice services may not be considered debt advice activities aimed at or in any case connected with the granting of credit, such as those regulated by the Consolidated Banking Act (Art. 120-terdecies and Art. 128-sexies) insofar as they are carried out by the financiers or credit intermediaries themselves. Similar conclusions may also apply to the information and fairness obligations of financiers ruled by Art. 120-quinquiesdecies of the Consolidated Banking Act (TUB) and by the Provisions on the Transparency of Banking and Financial Transactions and Services adopted by the Bank of Italy, which impose internal procedures for dealing with consumers in difficulty with their financial commitments⁴⁰.

3.2. The Crisis Code and the role of Crisis Settlement Bodies (CSB)

Even the Crisis and Insolvency Law, despite having strengthened the level of debtor protection compared to the previous law on over-indebtedness, completely ignores debt advice services and does not enhance the role of the expert (or advisor) in the procedures at all, as instead recognised by Law No. 3 of 27 January 2012, which included among the credits admitted to pre-deduction those arising "in connection with" the consumer plan or the minor composition relating to the assistance of professionals who had assisted the debtor in the procedures.

The Code neither mentions nor regulates the activities of the consumer debtor's advisor, both in the preparatory phase of the procedure and during it.

Debt settlement procedures, in line with the provisions of Law 3/2012, regulated by the CCII, instead attribute a central role to crisis settlement Bodies (CSB) and crisis managers.

The doctrine, on the one hand, has emphasised the CSBs' public role also as an auxiliary of the judge, on the other hand, it has emphasised the private relationship, remarking the contractual relationship with which the debtor entrusts the task of assisting him/her in the initiation and management of the procedure⁴¹.

In any event, the activity carried out by CSBs, while aimed at assisting and supporting the consumer in the context of procedures by paying a fee, differs from debt counselling in several respects.

⁴⁰See Antenucci e Caldarelli, Il debt advice per il consumatore: natura, dibattito europeo e implicazioni per l'Italia, in *Sovraindebitamento e consulenza sul debito*, cit..

⁴¹ In topic see Fiorio and Seminara, *Stato e prospettive dei servizi di consulenza del debito in Italia. Il ruolo del debt advisor nella gestione della crisi da sovraindebitamento*, in *Sovraindebitamento e consulenza sul debito*, cit..

Debt advice activities are broader and can also be limited to mere out-of-court advice, aimed at planning a household budget or reaching an agreement with creditors, but also extend to assistance of a psychological or social nature. Moreover, while debt advice may facilitate the debtor in over-indebtedness procedures, it is not necessarily prodromal to their activation.

The main difference must be found in the different role played by the crisis manager and the advisor. While the latter has a fiduciary relationship with the debtor, the CSB does not operate in the exclusive interest of the over-indebted person, but also acts in the interest of creditors, as an auxiliary of the court. The Italian Highest Appeals Court noted that the crisis manager acts as 'advisor to the debtor, albeit non-exclusive; entrusted certifier for the protection of creditors; auxiliary of the judge; mandatary in rem propriam of the creditors', specifying that the manager acts without any representation of the debtor to whom all acts of management are due.

3.3. Debt and microcredit advice services

Among the forms of debtor assistance regulated in our legal system is the obligation for microcredit Institutions to provide supporting services for the preparation of households' budgets in favour of individuals in particularly vulnerable economic and social conditions (Article 111, Legislative Decree No 383 of 1 September 1993, the so-called Consolidated Banking Law). This service tends to be carried out by the microcredit operator, but it can also be entrusted to subjects specialised in the provision of financial advice and assistance, i.e., to advisors who are third parties with respect to the credit provider (Art. 3, Min. Economy and Finance Decree No 176 of 7 October 2014). Again, microcredit institutions, while carrying out some activities typical of debt advising, operate as intermediaries and do not fall within the definition provided by the directive.

It must be concluded that there is no regulation of debt advising services in our legal system.

4. Debt advice services in Italy

The analysis of debt advising service provision that will be carried out in this chapter gathers the results of the research activities of the Re-Start project by which MC, in collaboration with numerous partners, set up the first structured national network of debt advising services. Before analysing the characteristics of debt advising services in Italy, let us briefly outline the context, actions and objectives of the Re-Start project.

4.1. The Riparto project

According to the results of a last Eurofound study (*Addressing household over indebtedness - 2020*) in 2016, 14% of people (EU28) were unable to make scheduled payments related to rent or mortgages, consumer credit, loans from family or friends. Moreover, from 2017 to 2018, there was an EU-wide increase of arrears among single parents at risk of poverty and debt advisory services gap between European countries have become more widely increased.

Therefore, lack of consumer education and financial crisis point out the importance to increase financial education and support an effective debt advice service to reduce the risk of payment default and over-indebtedness. According to Eurofound (2020), most of the effort will be focus on European Members where debt advisory services are absent or have limited capacity like Spain (ES), **Italy (IT)**, Malta (MT), Greece (GR), Cyprus (CY), Romania (RO), Hungary (HU), Bulgaria (BG), Croatia (HR), Slovenia (SI), Slovakia (SK), Lithuania (LT) and Latvia (LV).

Aware of these needs, Movimento Consumatori (MC) has built up a national network of NGO, foundations against loan-sharking, National Institution and Italian Universities focused on debt-advice services. To be more precisely, MC has created the first Italian debt-advice services network able to cover 85% of national territory through n.27 helpdesk and n.100 debt-advisor and with the capability to sustain almost 3.000 citizens and 300 firms per year.

Funded by the Italian Ministry of Labour and Social Policies, the **RIPARTO** project was created to make a significant contribution to “ending poverty in all its forms everywhere” (Goal 1 of the UN 2030 Agenda).

Therefore, the project aim was to help citizens and businesses to find a way out of over-indebtedness through free support, management, and guidance of the crisis management procedures provided by Italian Law (No. 3/2012 and now the new “Codice della crisi” be in effect as of July 15, 2022)

Hence, RIPARTO activities has been focused on n.3 main services:

PREVENTION - To prevent over-indebtedness and raising consumer awareness on financial decisions, MC has organized around Italy basic financial education courses on indebtedness, debt sustainability and over-indebtedness themes with particular reference to pathological situations of the credit relationship. Therefore, the activity aim was to improve citizens' financial literacy and promote patterns of sustainable consumption.

RESOLUTION – Once a specialized support is needed to deal with over-indebtedness situation, the RIPARTO's national net of debt advisors has been able to face with consumer's problems. This was the philosophy that inspired the free debt advisory services offered by the RIPARTO helpdesks throughout Italy. Citizens and businesses could turn to these helpdesks for support and skilled assistance when managing debt and over-indebtedness, thus allowing them to identify the best way to make their repayments manageable.

FRESH-START - Helping citizens fresh-start was another objective of the RIPARTO project, which relied on close collaboration with various project partners to help citizens access new work and professional opportunities, including through micro-financing services.

As shown in **Table 2** during the course of the project, the Riparto Network helpdesks came into contact with more than 4.000 citizens, of whom 2.467 came to the territorial helpdesks and 1.727 to the national helpline.

TOOLS	NATURAL PERSONS	LEGAL ENTITIES	N. CASES MANAGED
HELPDESKS	2.210	257	2.467
HELP-LINE	1.727	-	1.727
TOTAL	3.937	257	4.194

Table 2 - Outcomes of the RE-START NETWORK2

4.2 Debt advice service providers in Italy

Italy is among the 13 Member States where debt advising is a sporadic service, together with Bulgaria, Cyprus, Croatia, Greece, Hungary, Latvia, Lithuania, Malta, Romania, Slovenia, Slovakia and Spain⁴².

In Italy, there are limited initiatives that can be traced back to *debt advice*: the main service providers are non-governmental organisations (*in primis* Caritas), charities and other third sector associations, such as consumer associations, together with lawyers and financial professionals.

Due to the considerable increase in requests for *debt advice*, organisations such as the Movimento Consumatori have implemented specific campaigns, such as the Riparto project and the Re-Start project, dedicating part of their resources to these services.

⁴²See The Report "Provision of actions to extend the availability and improve the quality of debt-advice services for European households", published by the European Commission on 15 December 2021

Other organisations, while not directly providing a specific over-indebtedness advising service, play an important role in supporting people with debt problems, especially in contexts where there are few market alternatives available (e.g., third sector organisations active in the social sector and against loan-sharking foundations).

Within the framework of the Riparto project, the Movimento Consumatori carried out a survey in which 29 third sector organisations, social promotion associations, consumer associations, anti-usury foundations, voluntary associations and social cooperatives were interviewed (**Chart 1**).

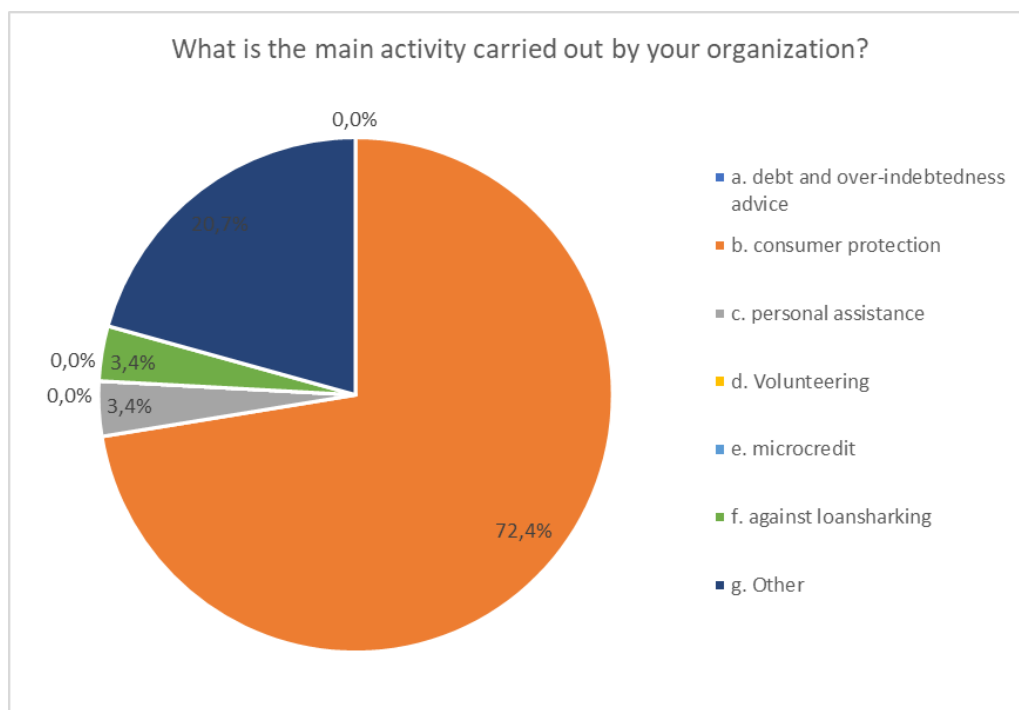


Chart 1: What is the main activity carried out by your organization?

It turned out that 79.3% of the institutions habitually come into contact, during their activities, with situations of over-indebtedness; the remaining 20.7% of the institutions intercept, albeit more sporadically, people with problems of serious indebtedness (**Chart 2**).

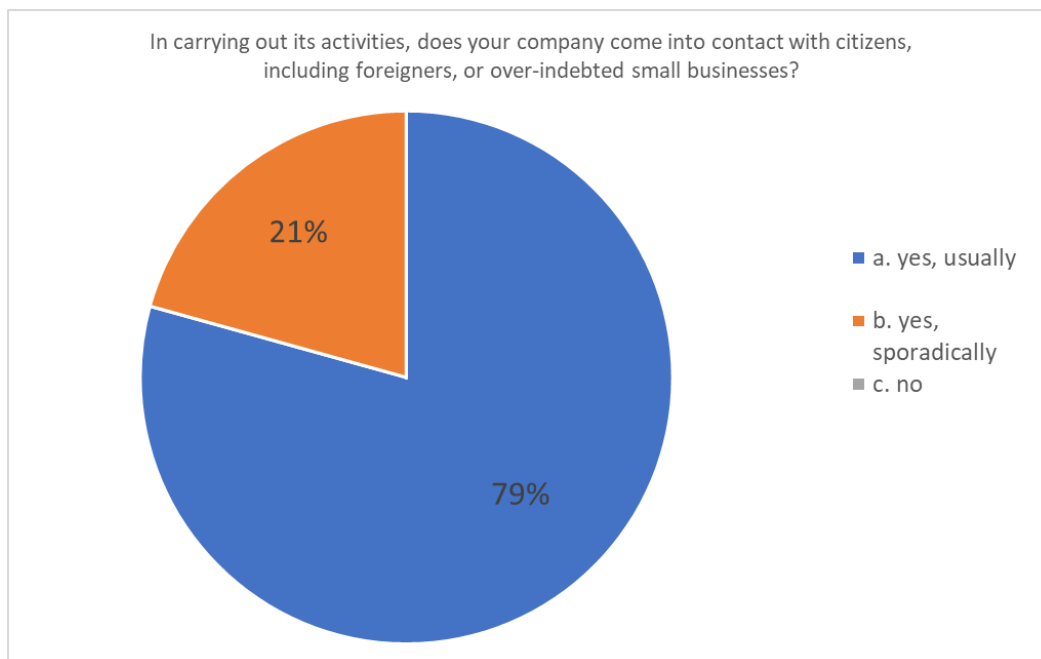


Chart 2: In carrying out its activities, does your company come into contact with citizens, including foreigners, or over-indebted small businesses?

The same survey shows that 69% of the surveyed organisations (20 out of 29) have carried out (or continue to carry out) over-indebtedness projects and activities in the last five years (**Chart 3**).

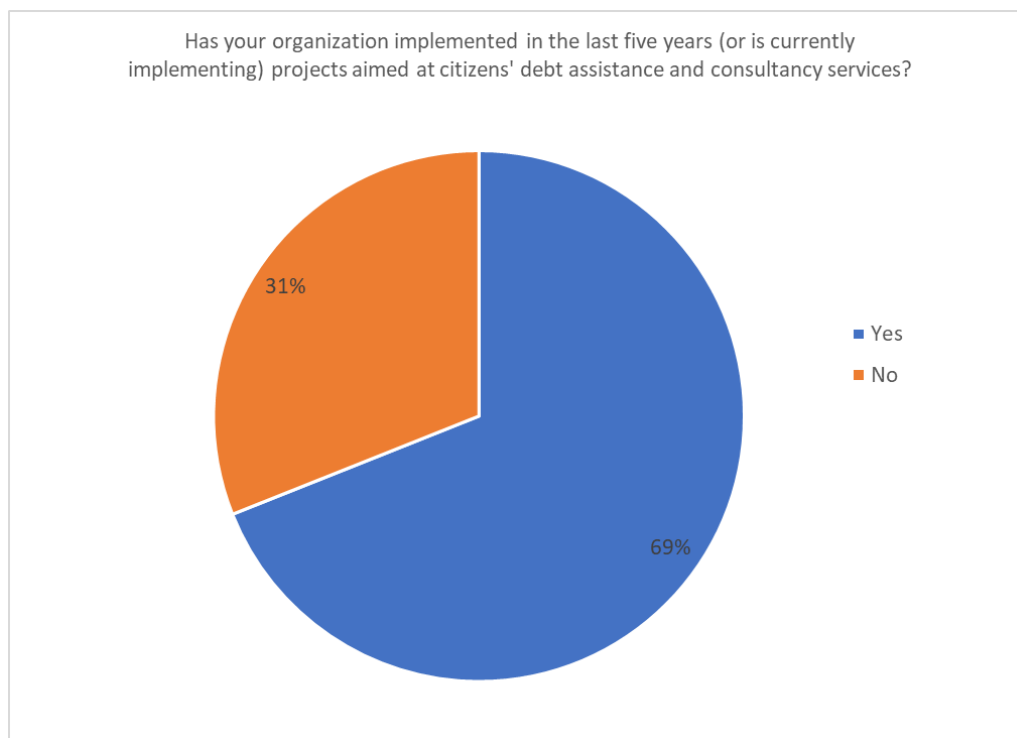


Chart 3: Has your organization implemented in the last five years (or is currently implementing) projects aimed at citizens' debt assistance and consultancy services?

While 90% of the institutions (18 out of 20) provide, or have provided, an advising service with debt analysis, only 50% have extended the service in supporting during the crisis settlement procedure. Only 9 out of 20 institutions engage (or have engaged) in out-of-court negotiations with creditors in the interest of the assisted persons with a view to settling their debts (**chart 4**).

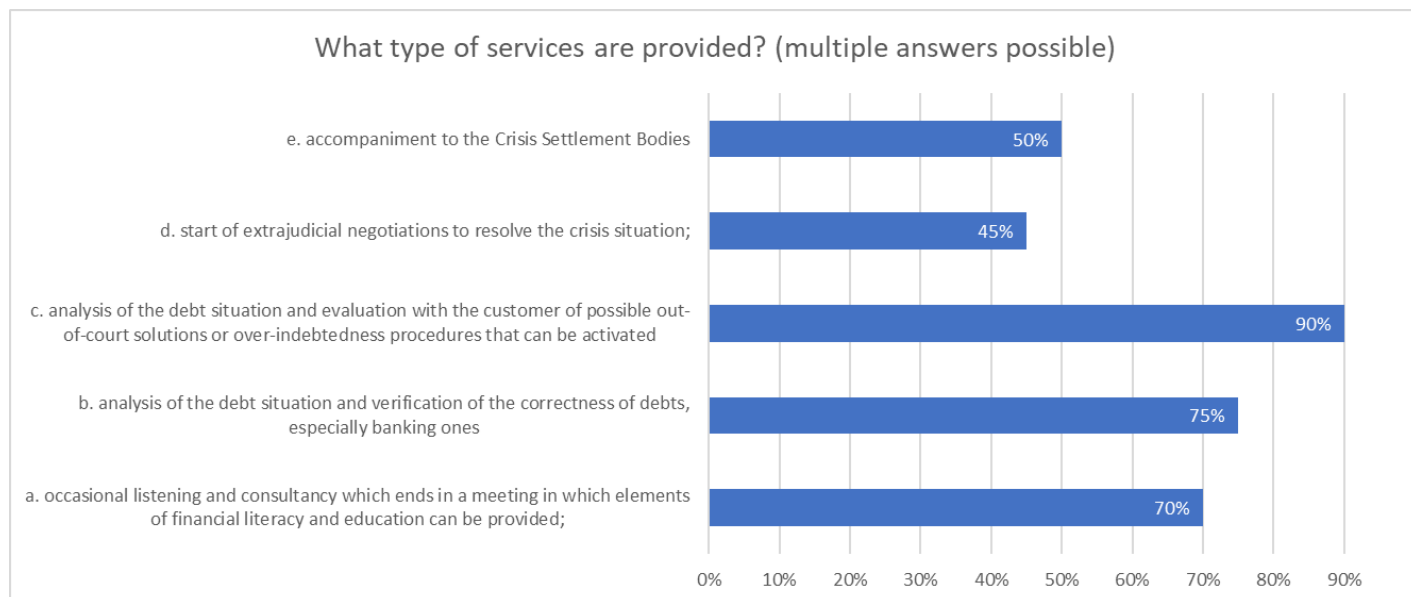


Chart 4: What type of services are provided?

In terms of the number of citizens assisted over the past year, 15% of the institutions helped more than 300 users, while 60% helped between 100 and 300; 25% did not reach 100.

75% of the *debt advice* are volunteers, while only 30% of the institutions employ paid external collaborators or employees (**chart 5**).

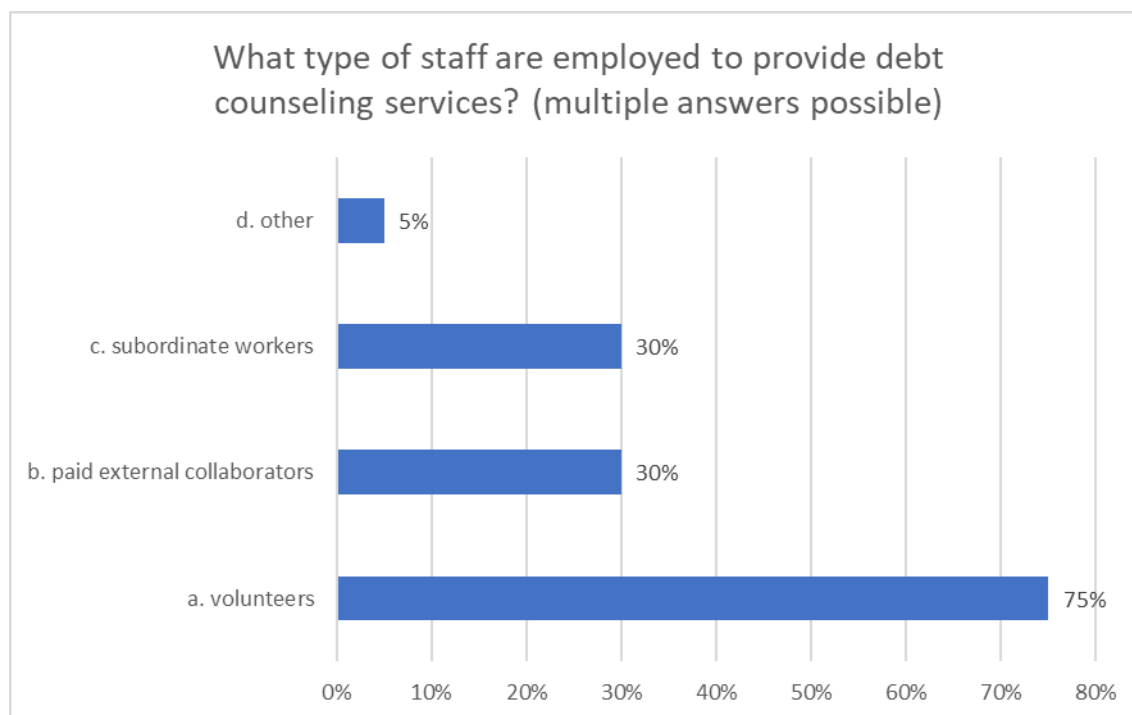


Chart 5: What type of staff are employed to provide debt counselling services? (multiple answers possible)

The experts employed have mainly legal (90% of the institutions) or economic (65%) skills, while only one institution out of 20 employs staff with psychological and social skills ([chart 6](#)).

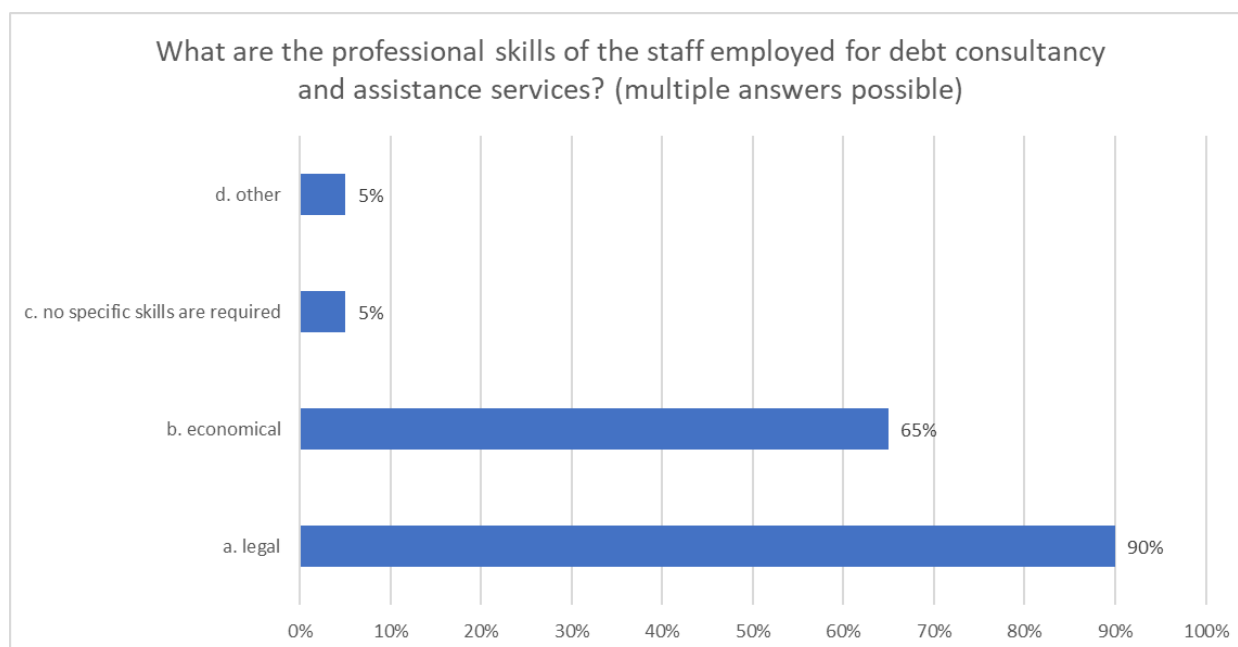


Chart 6: What are the professional skills of the staff employed for debt consultancy and assistance services? (multiple answers possible)

Concerning the costs of the service, 45% of the surveyed organisations provide the services totally free of charge, while 50% require the payment of a membership fee, ranging from €12 to €70 per year ([chart 7](#)).

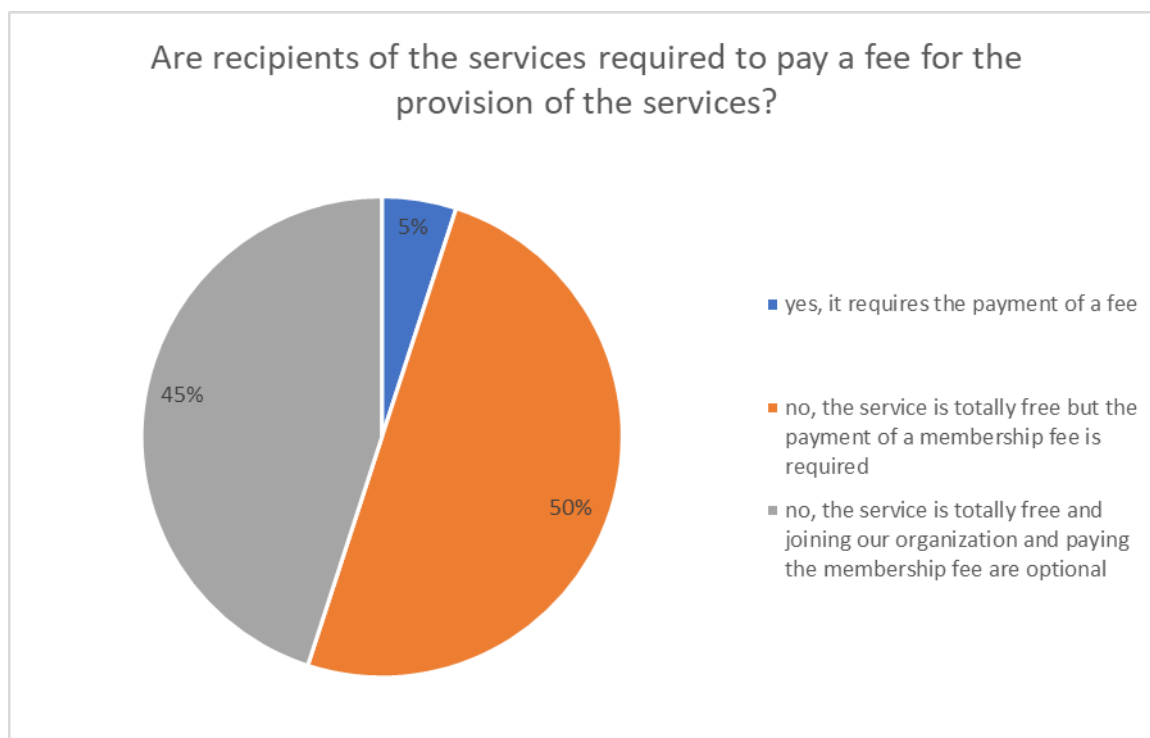


Chart 7: Are recipients of the services required to pay a fee for the provision of the services?

The initiatives of public bodies are sporadic. Among the most interesting initiatives, it should be pointed out the Metropolitan City of Bologna one which, in coordination with the Municipality, set up in 2018 the 'Sportello sovraindebitamento' (Over-indebtedness Helpdesk), providing a free service of first reception, financial education and, in the most complicated cases, facilitating access to settlement procedures⁴³. The Metropolitan City, the Municipality, the Association of Curators and Court Appointed Experts and the Court of Bologna also signed a Protocol to facilitate over-indebted citizens, who turned to the Helpdesk, to assess the start of the procedure, through further free advice from specialised professionals.

Similarly, the Metropolitan City of Turin, in cooperation with the CSB of the Municipality of Villastellone 'La Rinascita degli Onesti', implemented in 2020 the 'Sportello contro il sovraindebitamento' (Helpdesk against over-indebtedness), which provides a free advisory service to persons at risk of over-indebtedness⁴⁴. The helpdesk pays maximum attention to people in financial difficulty, stimulating financial education, promoting participation in over-indebtedness procedures and also addressing debtors towards psychological and social assistance paths.

Another interested initiative was carried out by the Municipality of Lecco which, with the cooperation of the associations Federconsumatori and Movimento Consumatori, activated a helpdesk for the prevention of

⁴³For further information on the initiative, please refer to the website www.comune.bologna.it.

⁴⁴For further information on the initiative, see the link <http://www.cittametropolitana.torino.it/cms/politiche-sociali/sportello-sovraindebitamento>.

over-indebtedness in 2018, which provides free advice on the consequences of over-indebtedness, as well as basic notions of financial education on consumption and responsible saving⁴⁵.

Although these are sporadic initiatives, still lacking a stable institutional implementation, they represent a gradual interest also on the part of public bodies in the issue of assistance for persons who are currently or potentially over-indebted.

4.3 Type of services provided

The core of debt advice services is represented by the legal-economic advising, which may, however, go so far as to include social and psychological assistance of the debtor in coping with the difficulties arising from over-indebtedness⁴⁶.

Among other things, the multifaceted nature of the advising activity allows for a more efficient service delivery, particularly when the advisor alternates between a technical-professional approach, posing as an 'expert' in front of the client, and an empathic approach, addressing the difficulties of the supported person, without a judgmental attitude. It is no coincidence that, when providing debt advice services, organisations (such as the Movimento Consumatori in the Riparto project) often have a code of ethics to guide their advisors' behaviour.

Getting into the details of the services that debt advisors can perform for users, we can take a cue from the experience of the Riparto project, and in particular from the advising services delivered by the 27 advising desks spread throughout the country.

A basic service involved listening to and advising the debtor, also with a view to providing elements of financial education and informing the assisted person about his or her situation and the risks of over-indebtedness. In addition to mere advising, in 875 cases out of a total of 1.816, specific analysis of the debt situation and verification of the correctness of debts was added, especially in the case of debts to banks, financial intermediaries and energy and telephone service providers.

The debts survey was often difficult due to obstacles in obtaining the necessary documentation for analysing the debt situation. According to a survey conducted among the various advisors in the Riparto network, 23.4% of interviewees believe that their clients are unable to retrieve documentation, while 52.4% believe that this rarely happens.

In those cases, in which profiles of illegitimacy of the claimed credits emerged, the Riparto network advisors also contested the detected improprieties out of court, with the aim of reducing the debt exposure for the undue part. An out-of-court settlement of the crisis was attempted in 147 cases. Among the categories of

⁴⁵Please refer to the link <https://www.comune.lecco.it/index.php/consulenze-gratuite/5227-sportello-per-la-prevenzione-del-sovrindebitamento>.

⁴⁶Also D. Korczak, *Debt advice and over-indebtedness in Germany*, Money Matters, Vol. 16, 2019, pp. 12–14.

creditors with whom it has been possible to reach an amicable settlement of the debt are *first and foremost* financial intermediaries and service providers (energy and telephony), while more difficulties have been encountered in reaching settlements with other private companies and the tax authorities.

In the absence of alternative solutions, debt advisors were in charge of verifying the existence of the prerequisites for the initiation of over-indebtedness procedures, helping the user to identify the Crisis Settlement Body and supporting him/her in the following phase of the procedure. It turns out that 61 individuals who approached the Riparto network were supported before an CSB.

Among the difficulties that can be encountered in this last phase, which often result in a real obstacle to the start of the procedures, are the costs of the CSB, which are often unaffordable for over-indebted persons, not infrequently without an income that exceeds the bare minimum needed to live. A second difficulty that may be encountered is that the assisted person gives up on the procedure, due to both the difficulty of finding the required documentation and to a limited interest in settling their indebtedness. The greatest risk, in psychological terms, is the debtor's indifference to his or her own condition, apathetically 'normalised' by the absence of danger, in incapacity, of losing anything. In such contexts, the activity of the debt advisor may be fundamental, not only in the legal-economic assistance of the user, but also in stimulating the user's confidence in the work of the CSB and in the possibility of a restart.

4.4. Debt advisors in the Riparto project: skills, activities and remuneration

As emerged from the survey of debt advisors who worked for the Riparto network, debt advisors generally indicated that they had adequate (50%) or at least sufficient (40.9%) legal and economic skills to perform their services (chart 8).

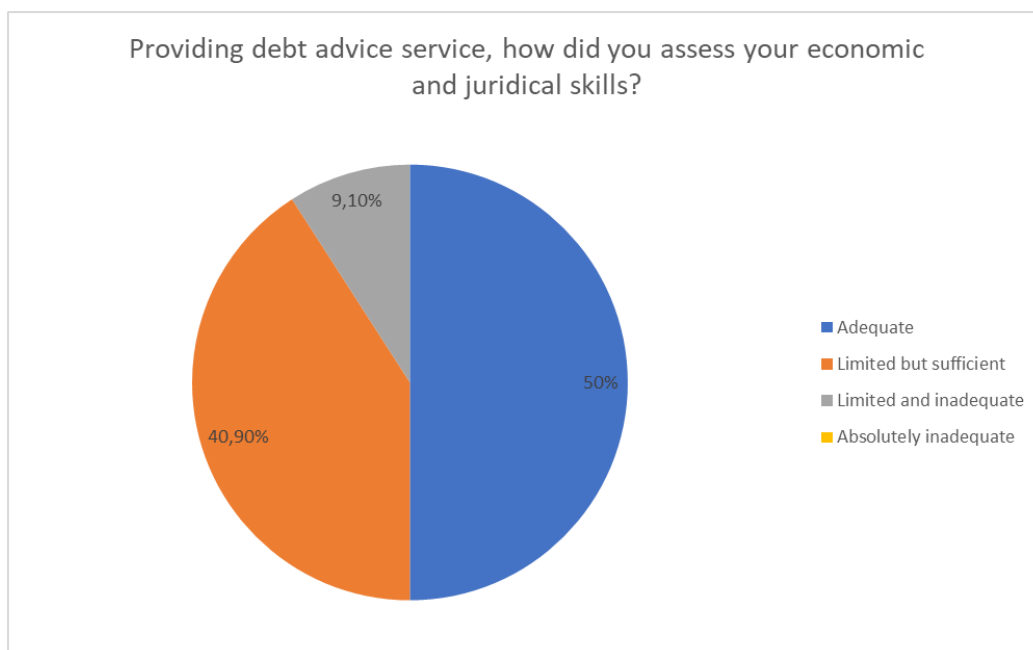


Chart 8: Providing debt advice service, how did you assess your economic and juridical skills?

The survey revealed a general increased difficulty in handling the psychological and emotional situation of the user. In fact, 36.4% of the interviewees felt that they had specific skills only in some cases (**chart 9**).

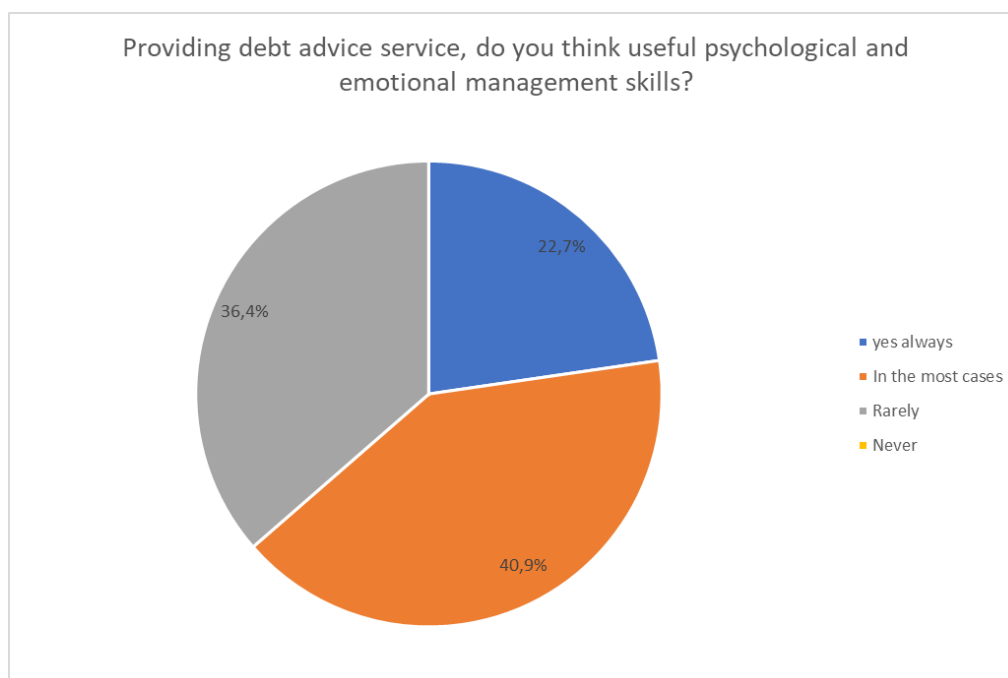


Chart 9: Providing debt advice service, do you think useful psychological and emotional management skills?

68.2% of the interviewees then stated that in order to improve the psychological approach with the user, it would be advisable to be assisted by professionals in the field; 59.1% considered specific and continuous training opportunities to be appropriate (**chart 10**).

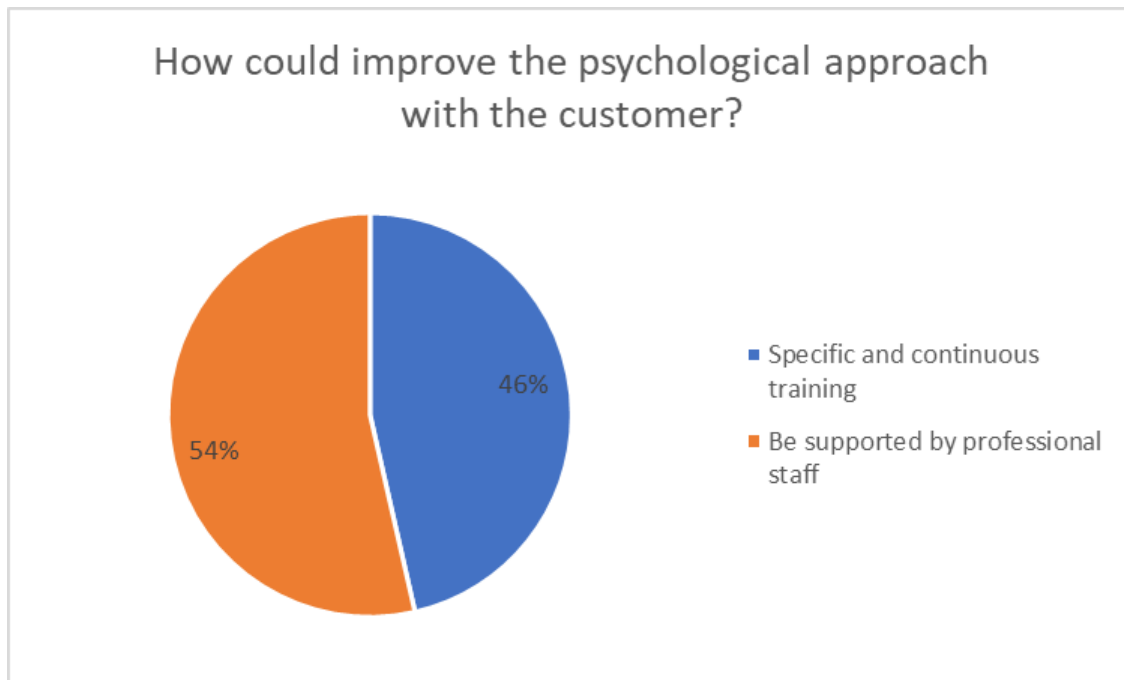


Chart 10: How could improve the psychological approach with the customer?

The survey then attempted to ascertain the work commitment in terms of hours spent by the advisors working for the Riparto network according to the difficulty of the cases examined. Three types of cases were identified:

- *Simple complexity: customer assistance ends in a meeting (in which advice can be given to the customer) and possibly in a communication (telephone call, or written letter) to creditors*
- *Medium complexity: customer assistance requires more than one meeting or communication and ends in an agreement with one or two creditors or in the evaluation, which has not been followed up, as to whether a crisis management procedure should be initiated*
- *High complexity: several meetings with the customer, management of negotiations with several creditors for reaching one or more out-of-court agreements or for the identification of the over-indebtedness settlement procedure and support to the CSB with the identification of the proposal and the collection of the necessary documentation.*

For a simple complexity case, 50% of the interviewees stated that they spent on average between one and two hours working, 31.8% between two and four hours (**chart 11**).

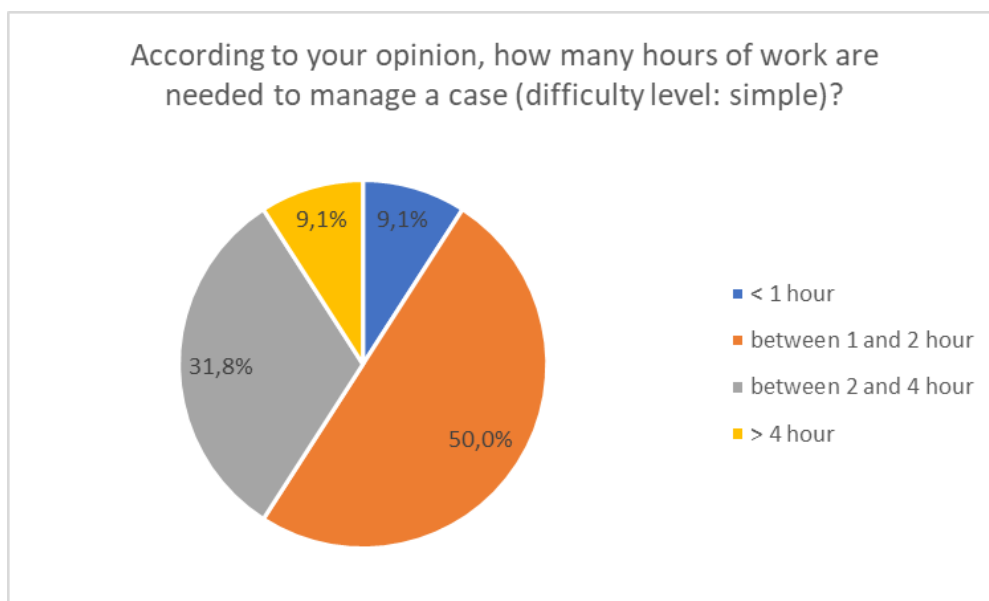


Chart 11: According to your opinion, how many hours of work are needed to manage a case (difficulty level: simple⁴⁷)?

For a medium-complexity case, 54% of the interviewees stated that they spent between 5 and 10 hours on average, 22.7% between 3 and 5 hours. More limited are the cases in which less than 3 hours (9.1%) or more than 10 hours (13.6%) were required (**chart 12**).

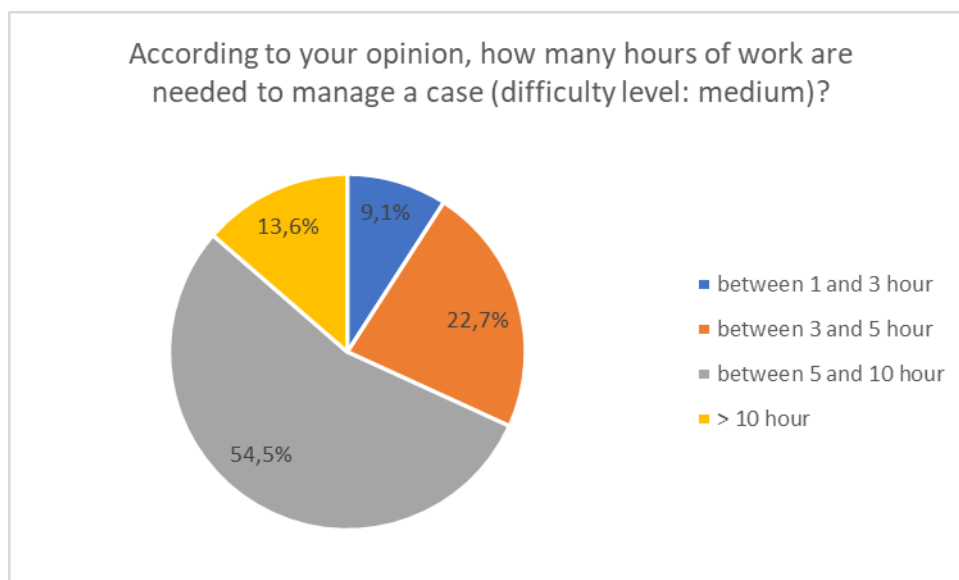


Chart 12: According to your opinion, how many hours of work are needed to manage a case (difficulty level: medium⁴⁸)?

⁴⁷ Simple level: customer assistance consists of manage a meeting to inform the customer or to make a phone call or written letter to the creditors.

⁴⁸ Medium level: customer support requires more than one appointment or communication. The advice service can be concluded with creditors' agreement or with preliminary act to use a crisis management procedure.

For a high-complexity case, 68.2% of the interviewees stated that they spent on average more than 15 hours working, 18.2% between 8 and 15 hours. More limited are the cases in which less than 8 hours are required (13.6%) (**chart 13**).

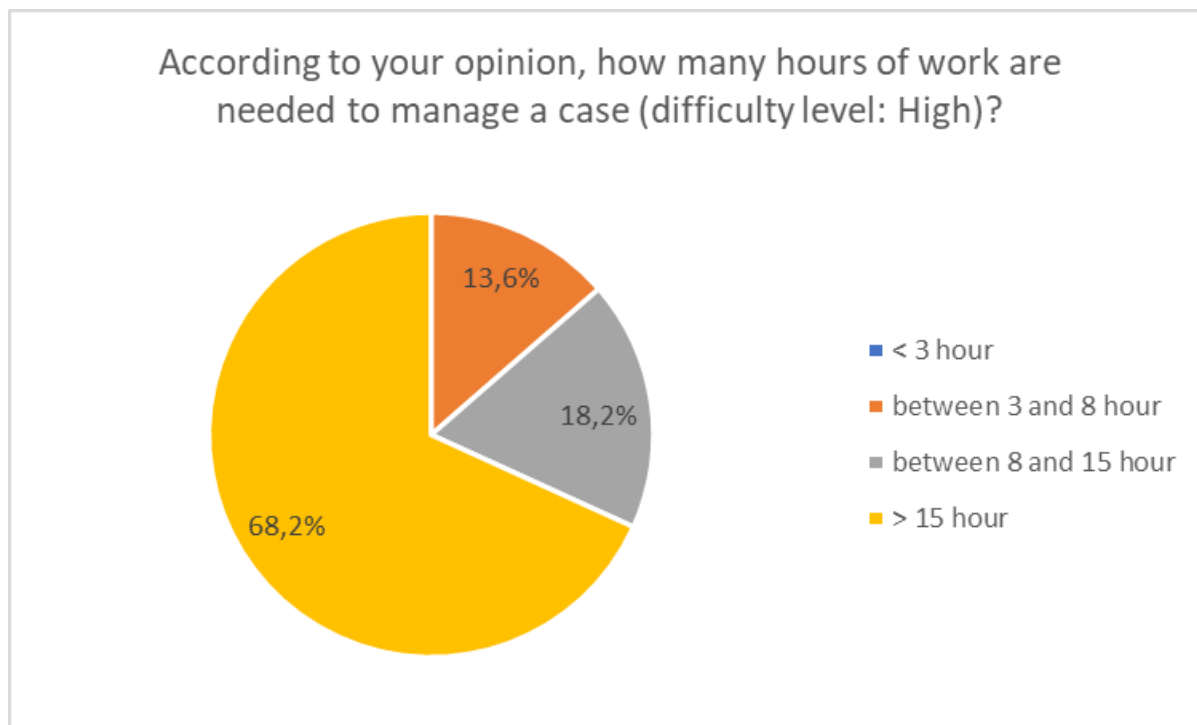


Chart 13: According to your opinion, how many hours of work are needed to manage a case (difficulty level: High⁴⁹)?

45% of the interviewees then stated that they considered a wage between EUR 10 and EUR 30 per hour to be fair, and 27.3% between EUR 30 and EUR 50 (**chart 14**).

⁴⁹ multiple meetings with client have needed, management of plurality creditors through one or more out-of-court agreements. Support to OCC procedure

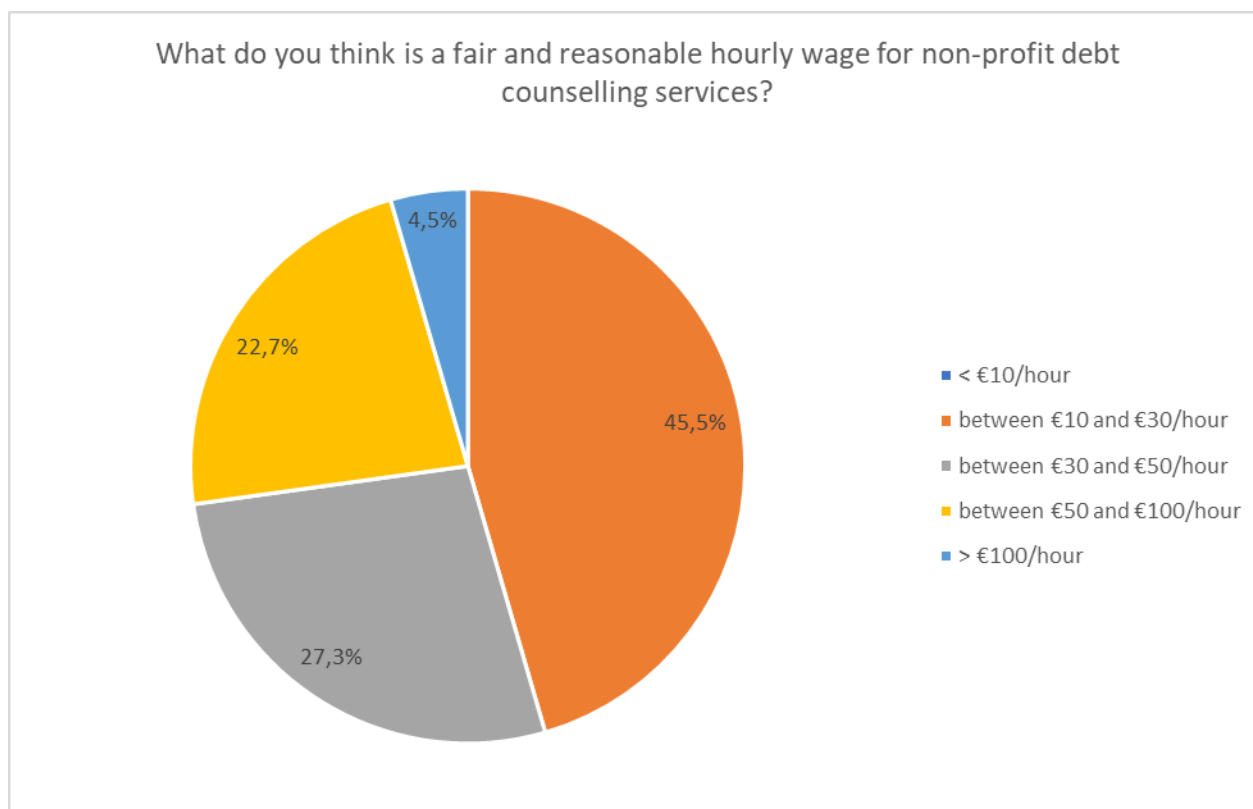


Chart 14: What do you think is a fair and reasonable hourly wage for non-profit debt counselling services?

The results collected and set out above show a lower number of hours, but not so far from the survey carried out with the Debt Advice Report 2021, which identified (as a European average) one hour for a simple case (mere oral advice); twenty hours for the intermediate case (involving more activity, including the possible amicable settlement of debt); fifty hours for the complex case (in which the activity goes as far as assistance in *debt-settlement* procedures).

Concerning the quantification of the costs of the debt advice service, the Debt Advice Report 2021 uses the hourly labour cost index developed by the Eurostat Institute in NACE Rev.2⁵⁰, for the sector 'Human health and social work activities'. According to the survey, the estimated cost for the service in Italy, following the tripartition referred to, and taking into account the number of over-indebted citizens in 2019, amounts to €29 for a simple case (which corresponds to the hourly cost), €586 for an intermediate case and €1,465 for a complex case.

The hourly cost also coincides with that considered fair by the majority of the interviewed network advisors

⁵⁰ <https://ec.europa.eu/eurostat/documents/3859598/5902521/KS-RA-07-015-EN.PDF>

4.5. Financing of debt advice services

In Italy, debt advice services provided to date are mainly financed by public funds, of national and/or European derivation, received by third sector entities for the implementation of specific projects. According to the survey launched (**chart 15**) within the framework of the Riparto project and addressed to third sector organisations, it appears that the provision of *debt advice* is mainly financed by public funds (65%), although there is no lack of private funding or donations (60%, mainly among consumer associations and against loan-sharking foundations).

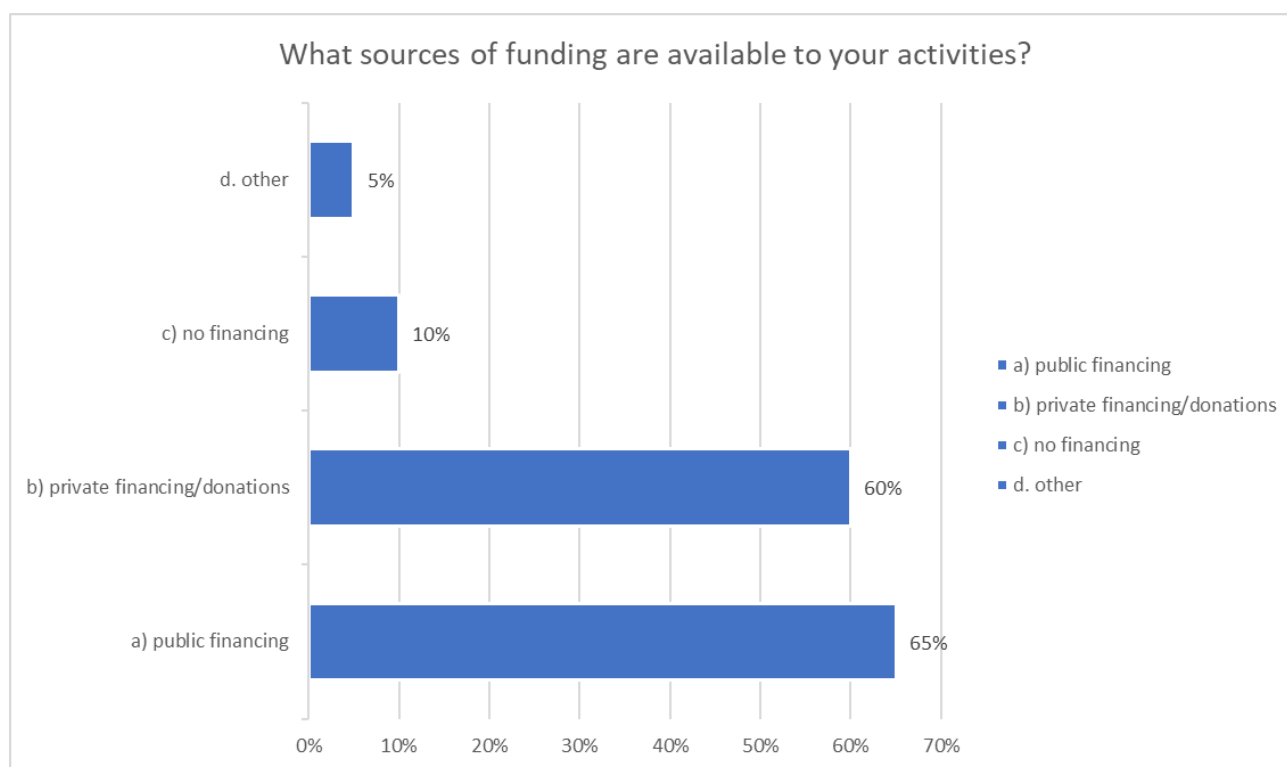


Chart 15: What sources of funding are available to your activities?

The same survey also showed that only in residual cases, around 5% of those interviewed, the payment of a fee is required, since in most cases the service is provided free of charge or by paying a membership fee to the third sector body providing the service. (**chart 16**)

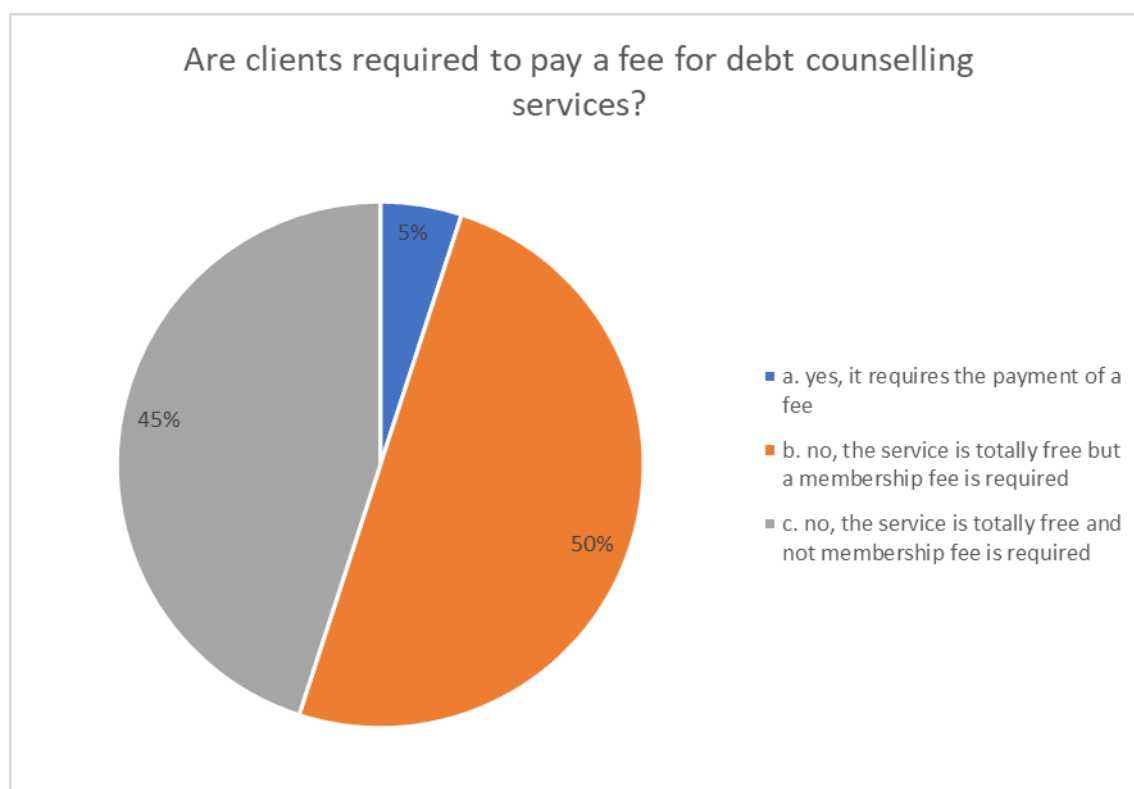


Chart 16: Are clients required to pay a fee for debt counselling services?

This survey thus revealed that the activities led by debt advisors require not only a high degree of professionalism, but also a considerable commitment in terms of time spent offering the service.

To try to provide an estimation, purely indicative and without statistical value, to identify the cost of the advice service for each case, it may be applied the hourly wage of €29 (equal to the hourly labour cost index elaborated by the Eurostat Institute in NACE Rev.2, for the sector "Human health and social work activities") to the average hours needed to assist consumers.

Difficulty	Average hours required	Cost € (29 EUR per hour)
Simple	2	78
Medium	7,5	217,5
Complex	20	580

Table 3: Average hours needed to assist consumers.

These approximate figures make it clear that the cost of the service cannot be met by the service provider's membership fee alone, always requiring external funding sources, given the difficulty for over-indebted people to pay the cost of the service.

These difficulties are even more pronounced for complex cases that require the initiation of an over-indebtedness settlement procedure, which entails some significant costs.

5. Debt advising and over-indebtedness crisis settlement procedures

One area in which debt advising activities are very important concerns over-indebtedness crisis settlement procedures aimed at allowing the debtor a second chance through debt discharge.

5.1. Over-indebtedness crisis settlement procedures

The Crisis and Insolvency Code, Legislative Decree No. 14 of 12 January 2019, which entered into force on 15 July 2002, repealed the previous Law No. 3/2012, which introduced over-indebtedness crisis settlement procedures in Italy.

Today, there are four different procedures for settling over-indebtedness situations:

1. The **minor arrangement** which can only be accessed by professionals, minor entrepreneurs, agricultural entrepreneurs, innovative start-ups and, debtors not subject to compulsory liquidation or other liquidation procedures. The minor arrangement is approved with 50% of the creditors eligible to vote's consent.
2. The **restructuring of consumer's debts** which can only be accessed by consumers, i.e., 'the natural person acting for purposes unrelated to any entrepreneurial, commercial, craft or professional activity carried on, even if a partner in one of the companies belonging to one of the types regulated in Chapters III, IV and VI of Title V of the Fifth Book of the Italian Civil Code, for debts unrelated to the company's debts'. The consumer may make a proposal that may provide for deferred or reduced payment of his/her debts. In any event, the creditors must be assured a remedy that is not less than what they would have obtained as a result of the liquidation of the assets.
3. The **controlled liquidation** which can be accessed by both consumers and other parties that may start the minor arrangement procedure. The procedure entails the liquidation of the debtor's entire assets to which the share of the income necessary for the maintenance of his/her household is ensured in any event. Upon termination of the procedures or after three years from their starting, if the liquidation of the debtor's assets has not been completed by that date, the debtor may be granted debt discharge by right if certain requirements are met.
4. Since December 2020, **the debt discharge of the incompetent debtor** has been introduced which allows the debtor, a deserving natural person who is not able to offer creditors any benefit, direct or indirect, not even in the future, to access to the debt discharge only once, without prejudice to the obligation to pay the debt within four years from the judge's decree date in the event that significant benefits arise that allow the satisfaction of creditors in an amount of no less than 10 percent.

Applications for the initiation of procedures for settling the over-indebtedness crisis, as already provided for by law 3/2012, can be submitted to the competent Courts with the help of the **Crisis Settlement Bodies** and crisis managers. The CSB must in fact prepare a report that illustrates the causes of the over-indebtedness, which explains the reasons for the debtor's inability to meet the obligations assumed, and which evaluates the completeness and reliability of the documentation filed with the application.

5.2. The spread of crisis settlement procedures in Italy

Every year the Italian Ministry of Justice publishes a statistical monitoring on the CSBs' activities, on the applications received, on the duration and outcomes of the procedures which well represents the state of diffusion of the procedures for the settlement of the over-indebtedness crisis in Italy. From the 2022 Statistical Monitoring on the crisis settlement bodies⁵¹ it appears that as of 31 December 2022, 364 over-indebted crisis settlement Bodies were listed in the register with an increase of 12% (from 324 to 364) compared to the previous year. During 2022, CSBs received 7,135 applications, an increase of 25% compared to 2021. 63% of the applications were assigned to a proceeding, 6% were archived before assigning the case to the manager, due to the debtor's waiver or because they were found to be ineligible; 31% of the applications as of 12.31.2022 were in the process of being assigned. As reported in **Table 4 and chart 17**, a total of 5.914 applications were registered in 2022 (the datum also includes applications filed in the previous year and not registered in 2021) of which 998 for the minor arrangement, 2.159 for the restructuring of consumer debts, 2.757 for controlled liquidation.

	North	Centre	South and Islands	Total
Minor-Arrangement	397	244	357	998
Restructuring plan	654	390	1.115	2.159
controlled liquidation/ judicial settlement	2.005	284	468	2.757
Total	3.056	918	1940	5.914

Table 4: Source STATISTICAL MONITORING OF OVERDEBTEDNESS CRISIS SETTLEMENT BODIES

⁵¹The document is available on the site:

<https://webstat.giustizia.it/Analisi%20e%20ricerche/Monitoraggio%20statistico%20CSB%202022.pdf>.

Unless otherwise specified, in the remainder of this paragraph reference will be made to the data from the 2022 Report.

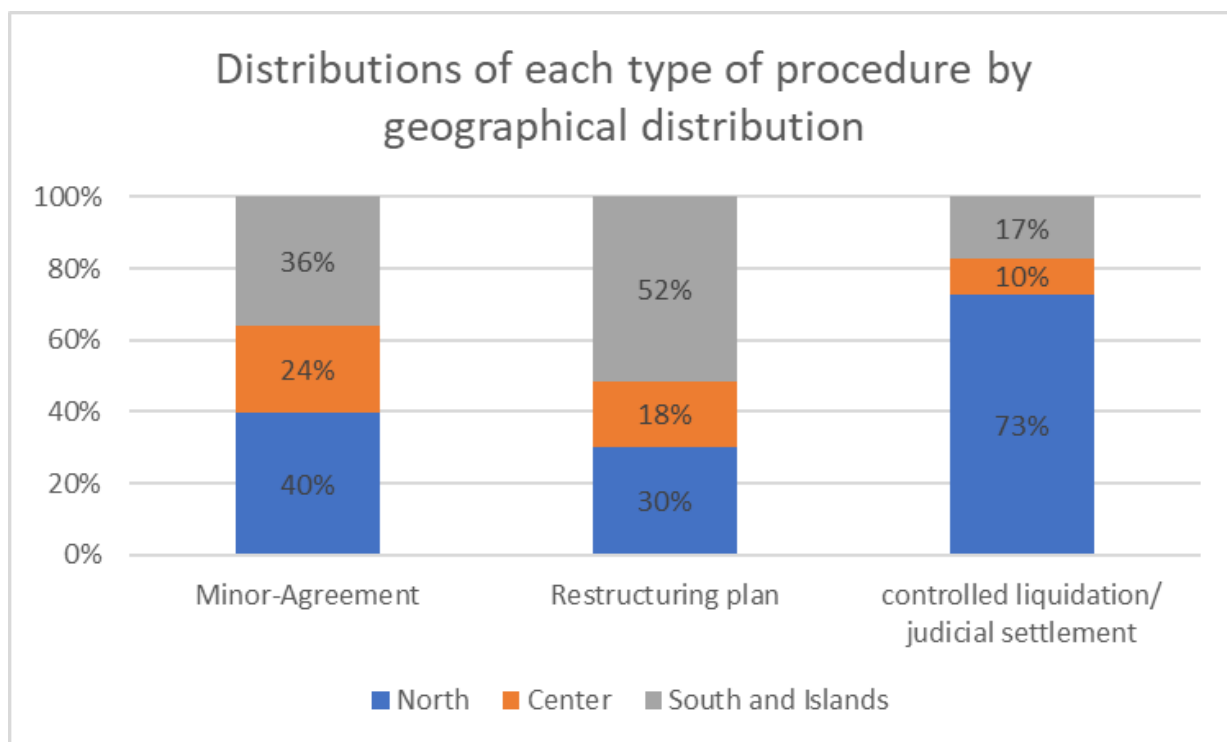


Chart 17: Source STATISTICAL MONITORING OF OVERDEBTEDNESS CRISIS SETTLEMENT BODIES

As depicted in **chart 18** the use of procedures for settling the over-indebtedness crisis is most widespread in the judicial districts of the North (52%), followed by those of the South and Islands (33%) and finally those of the Centre Italy (15%). In the North, asset Liquidations are more frequent, while in the South and Islands, consumer debt Restructuring is more common.

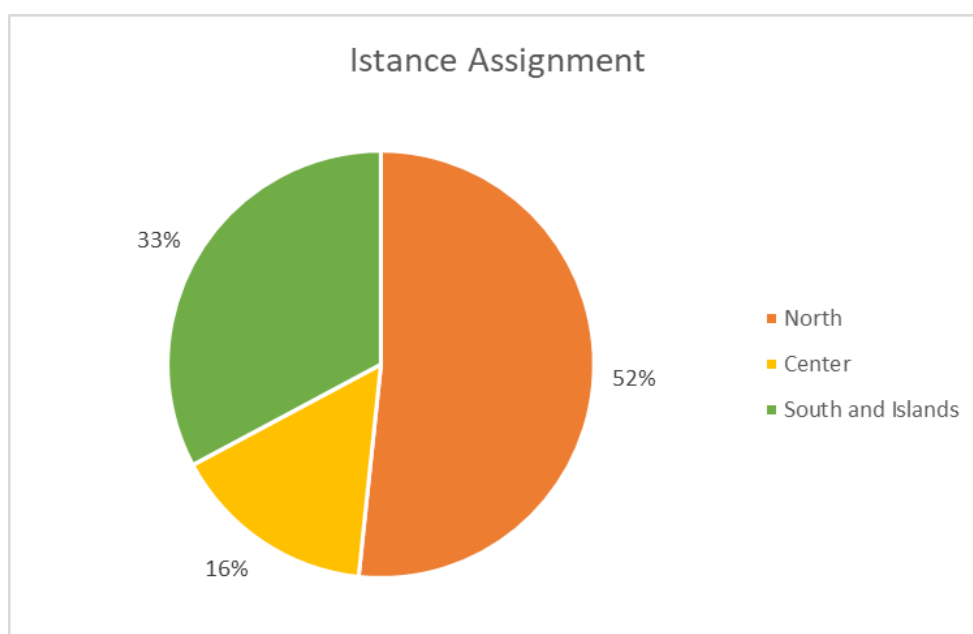


Chart 18: Source STATISTICAL MONITORING OF OVERDEBTEDNESS CRISIS SETTLEMENT BODIES

In 2022, there was a decrease in applications for consumer debt Restructuring (36%) and a considerable increase in those for controlled Liquidation (47%), as reported in **figures 3 and 4**.

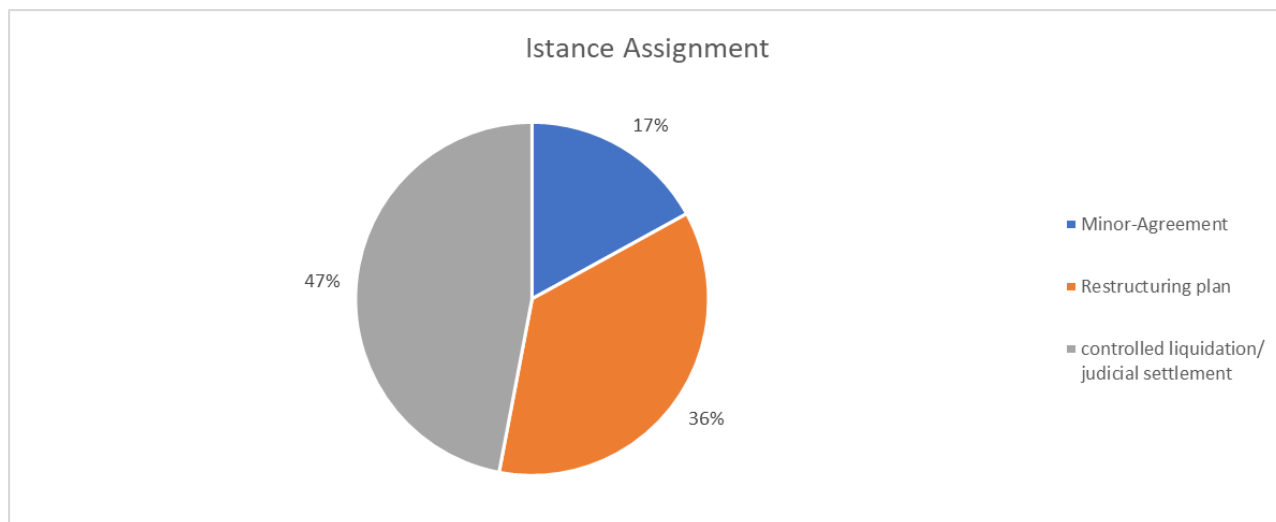


Chart 19: Source STATISTICAL MONITORING OF OVERDEBTEDNESS CRISIS SETTLEMENT BODIES

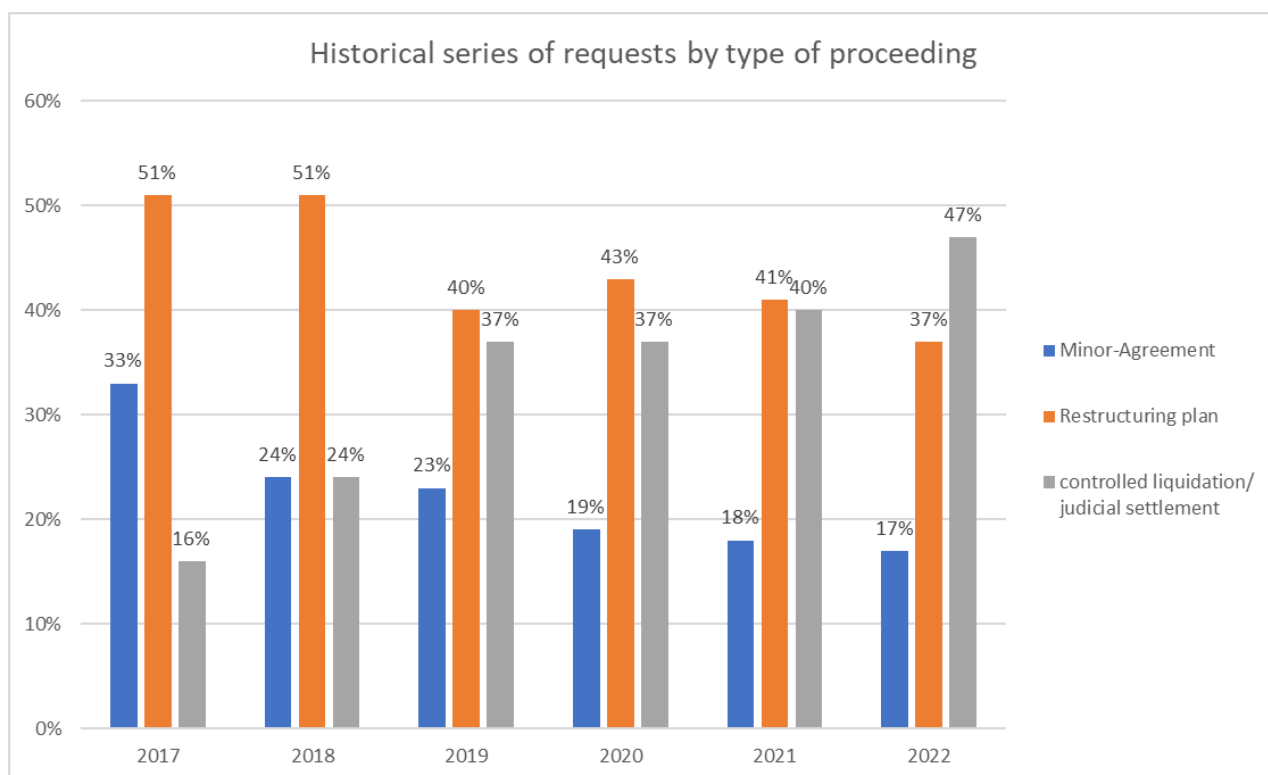


Chart 20: Source STATISTICAL MONITORING OF OVERDEBTEDNESS CRISIS SETTLEMENT BODIES

The controlled liquidation seems to have registered a significant success because it allowed the obstacles of eligibility for restructuring to be overcome, because it allows debt discharge within three years from the start of the procedure and involves lower costs in exchange for the guarantee for the debtor to be able to maintain its remuneration necessary to ensure the maintenance of his/her family. From an analysis of around a hundred decisions made during 2022 in the procedures for settling the crisis, it emerged that the overall average of the minimum subsistence varies between EUR 1.814 in Rome, 1.872 in Verona, 1.492 in Livorno, 1.439 in Milan, 1.485 in Turin, 1.354 in Naples, 1.290 euros in Bari (Chart 21)⁵²

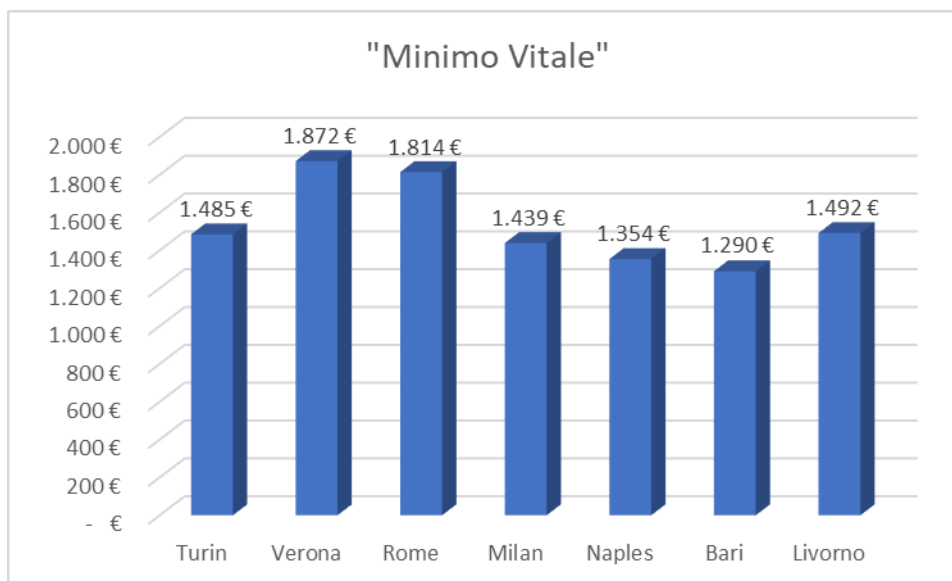


Chart 21: "Minimo vitale" - Minimum subsistence

Considering instead the composition of the family, the minimum subsistence guaranteed to debtors amounts on average to €1.207 for a family made up of a single person, 1.577 in the case of two adults, 1.473 for an adult and a child, 1.968 for 2 adults and 2 children, 2.424 for 2 adults and 3 or more children. As emerges from [chart 22](#) this is an amount that always exceeds the absolute poverty threshold by around 30%⁵³.

⁵² Data taken from Fiorio, *Tutela del credito, dignità della persona e utilità sociale*, in *Sovraindebitamento e consulenza sul debito. Un approccio multidisciplinare all'inclusione finanziaria*, edited by Fiorio, Malvagna and Sciarrone Alibrandi, Pacini Editore, 2023, 172.

⁵³ See Fiorio, *Tutela del credito, dignità della persona e utilità sociale*, cit.

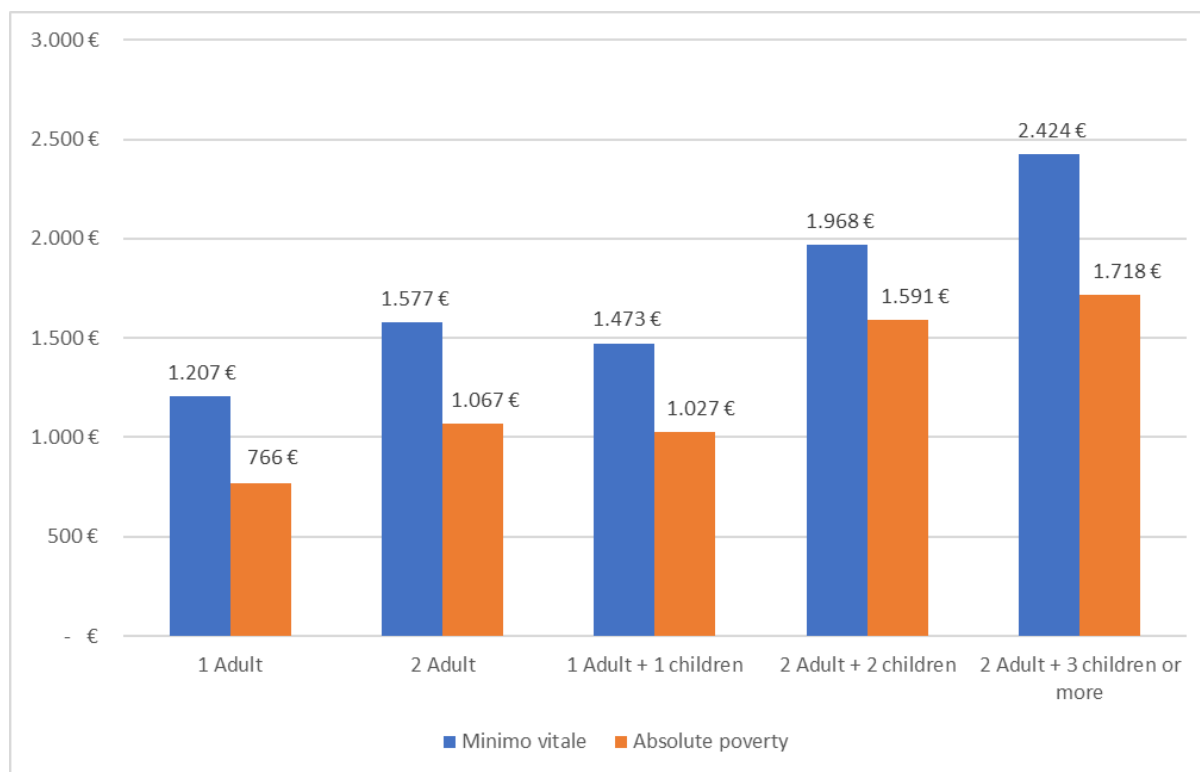


Chart 22: Minimi vitale and Absolute poverty

Again, from the statistical monitoring of the Ministry of Justice, it emerges that 50% of Minor arrangements and 55% of consumer debt Restructurings are defined by the debtor' waiver or by automatic termination by the CSB. The procedures which involve an approval provision represent 34% of Minor arrangements and 33% of consumer debt Restructuring. 12% of Restructuring procedures are defined with provisions of inadmissibility or lack of approval by the Court (**chart 23 and 24**).

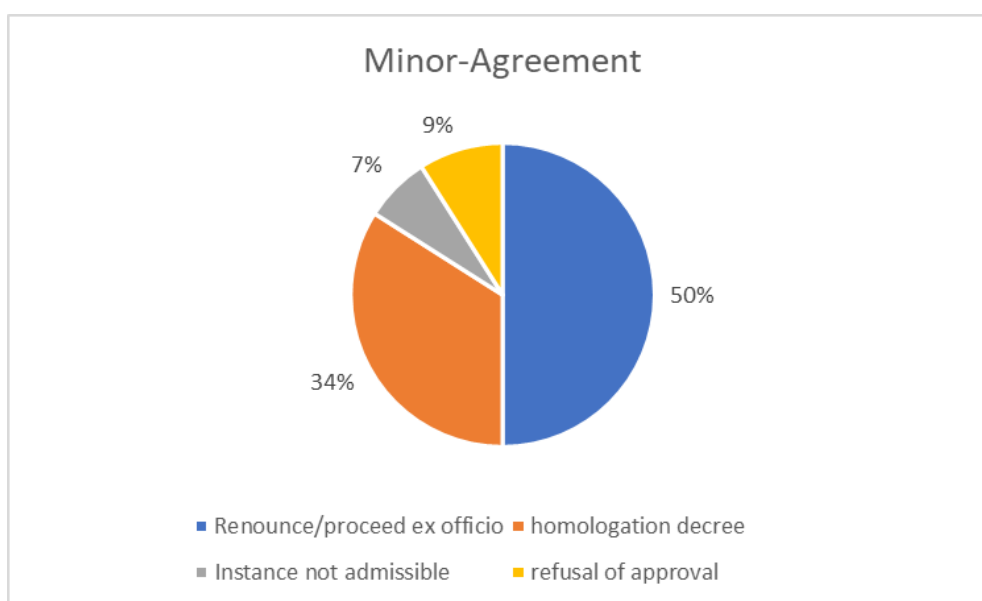


Chart 23: Concordato minore – Minor Agreement

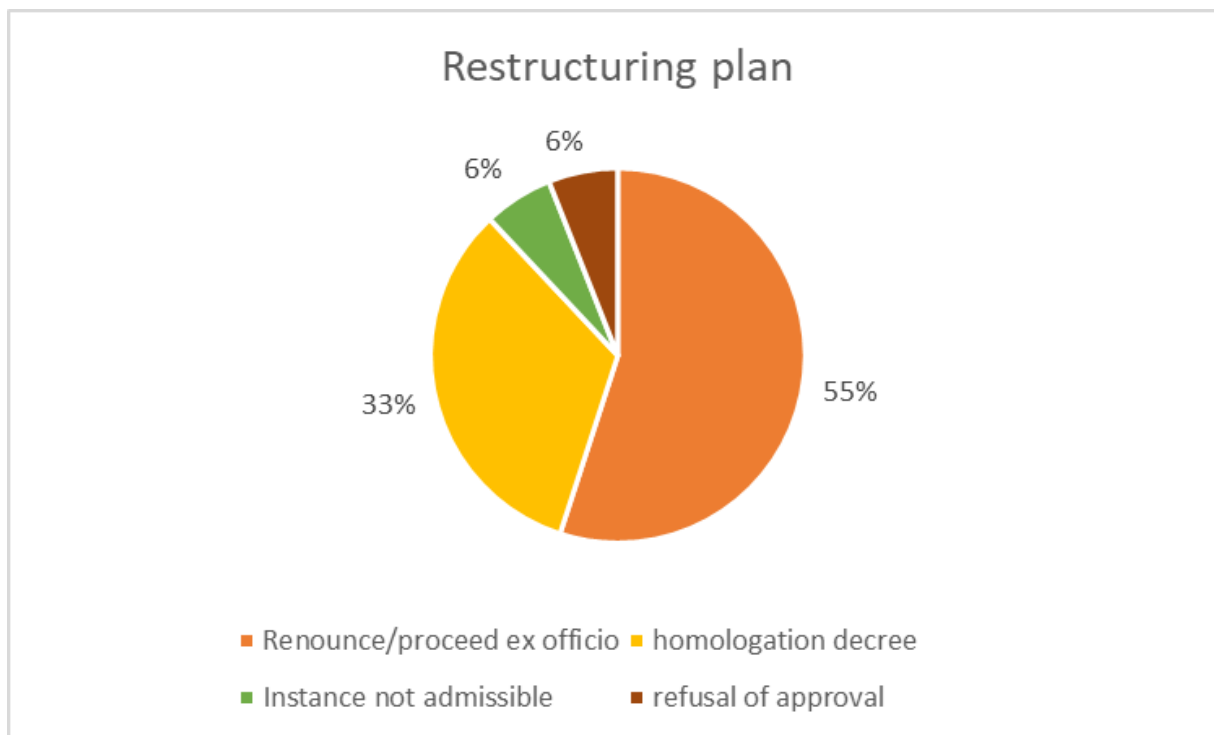


Chart 24: Ristrutturazione del debito – Restructuring plan

The outcomes of controlled liquidation procedures are very different, confirming their greater effectiveness: 61% of the proceedings end with a ruling of admission, while 33% see the debtor's waiver to go on in the procedure or termination by the CSB. Only 6% end with a declaration of inadmissibility of the application (**chart 25**).

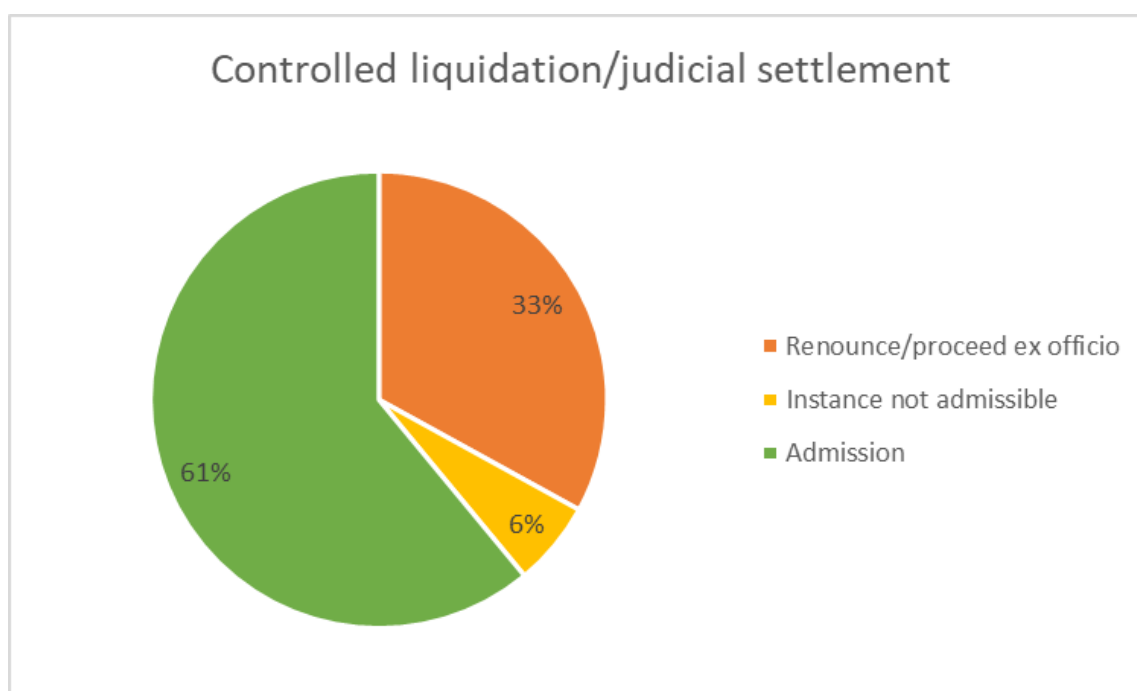


Chart 25: Controlled liquidation/judicial settlement

The debt repaid compared to the initial one stood at 19% in 2022 for the minor arrangement and 32% in the restructuring procedures. The unsecured credits were repaid to the extent of 10% in the minor arrangement and 24% in the debt restructuring. The procedural costs were € 2.174.196 for the minor arrangement and € 2.603.592 for the debt restructuring procedures, with a respective incidence on repaid debts of 5.5% (minor arrangement) and 9.3% (restructuring) (**Table 5**).

	Minor-Arrangement	Restructuring plan
Initial debts	€ 206.038.015,02	€ 87.872.117,91
<i>of which initial Debts due to unsecured persons</i>	<i>€ 113.376.390,84</i>	<i>€ 36.295.500,51</i>
Repayable debts	€ 39.329.233,58	€ 27.978.816,36
<i>of which repayable debts due to unsecured persons</i>	<i>€ 10.913.848,36</i>	<i>€ 8.738.284,34</i>
Procedure costs	€ 2.174.196,60	€ 2.603.592,56

Table 5: Procedure costs

The minor arrangement proceedings had an average duration of 545 days, while the restructurings lasted 554.

The data relating to asset liquidations, as reported in the 2022 Statistical Monitoring itself, do not have the same level of reliability as the liquidator is not always within the CSB. Data collected on the basis of the initial liquidation plans show that the percentage of repayable debt in relation to the initial debt stood at 28%, while the percentage of unsecured creditors' satisfaction stood at 13%, with an average duration of procedures of 443 days.

In 2022, incapacitated debtors' applications for debt discharge increased by 87% (compared to 146 pending procedures in 2021, 298 were opened in 2022). There were 343 proceedings pending as at 31.12.2022. The 101 finalised procedures included 38 waivers, 43 acceptances and 20 rejections (**table 5**).

	Pending	Open 2022	Finalised			Final
	2021		Waivers	accepted	Rejected	pending
Debt discharge of the incapable consumer	146	298	38	43	20	343

Table 6: incapacitated debtors' applications 2022

Although the crisis code has marked important progress (in 2022, 7.135 requests were presented to the Crisis Settlement Bodies ("CSB") compared to 4,785 in 2021 with an increase of 25%), to date the number of

procedures initiated in Italy is far lower than other European Union Countries in which *debt advice* services are widespread and structured.

(For Italy the data refers to 2021 and 2022 based on the data provided by the Italian Ministry of Justice, *Statistical monitoring bodies of the over-indebtedness crisis, 2021 and 2022*; for the other States the data are taken from Eurofund, *Addressing household over-indebtedness, 2020, 40* and refer to procedures started or concluded, as specified in the last line, in 2018).

	Italy 2021	Italy 2022	Belgium	Czech Rep.	Germany	Sweden
Number	4.785	7.135	12.548	18.189	65.564	10.752
Proc. per 10.000 inhabitants	0,8	1,2	13,7	21	9.5	13,4
	New	New	New	Accepted	New	Accepted

Table 7: Debt advice services in EU

From the data collected by the Ministry of Justice from the CSBs for 2022, a data that has already emerged in previous surveys is confirmed and appears to be structural: 50% of minor arrangements, 55% of consumer debt restructuring and 33% of controlled liquidation procedures ends with the debtor's waiver⁵⁴.

5.3. The role of the *debt advisor* in crisis settlement procedures

The Business Crisis and Insolvency Code (Legislative Decree 14/2019) completely ignores the services of *debt advice* and does not enhance the role of the advisor in the procedures at all, as instead recognised by the previous Law 3/2012 regarding over-indebtedness. The code does not mention or regulate the activities of the debtor's advisor, both in the preparatory phase of the application and during the procedure.

The solution does not seem to take into account that the *debt advisor* could play an important role and offer valuable assistance to allow the over-indebted person to acquire greater awareness of his/her debt situation and the tools that can be activated to prevent or settle the situation of crisis.

The Code exclusively enhance the activity of the CSB, and in particular of the Crisis Manager (or the liquidator, in controlled liquidation) who, however, do not carry out debt-advice activities which can be useful in the preparatory phase of the procedure, in the judicial one up to the approval, in the executive and litigation phases.

⁵⁴ Monitoraggio statistico organismi di composizione della crisi da sovraindebitamento, Year 2022, <https://webstat.giustizia.it/Analisi%20e%20ricerche/Monitoraggio%20statistico%20CSB%202022.pdf>

5.4. Preparatory activities up to the filing of the application

The *advisor* could take on an important role of assistance to the debtor already in the application submission phase. From the survey carried out among the debt advisors of the Riparto network, it emerged that 68.2% of users only rarely know the procedures for settling the crisis and that only 22% of customers are able to find the documentation to start a procedure (**Chart 26 and 27**).

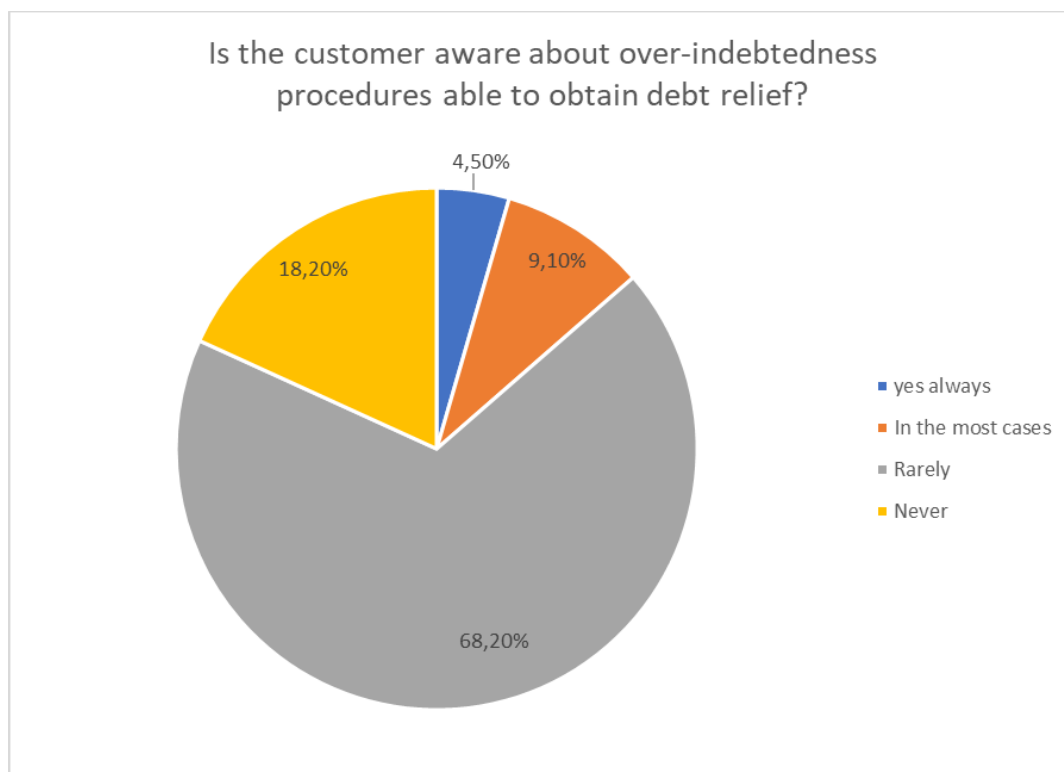


Chart 26: Is the customer aware about over-indebtedness procedures able to obtain debt relief?

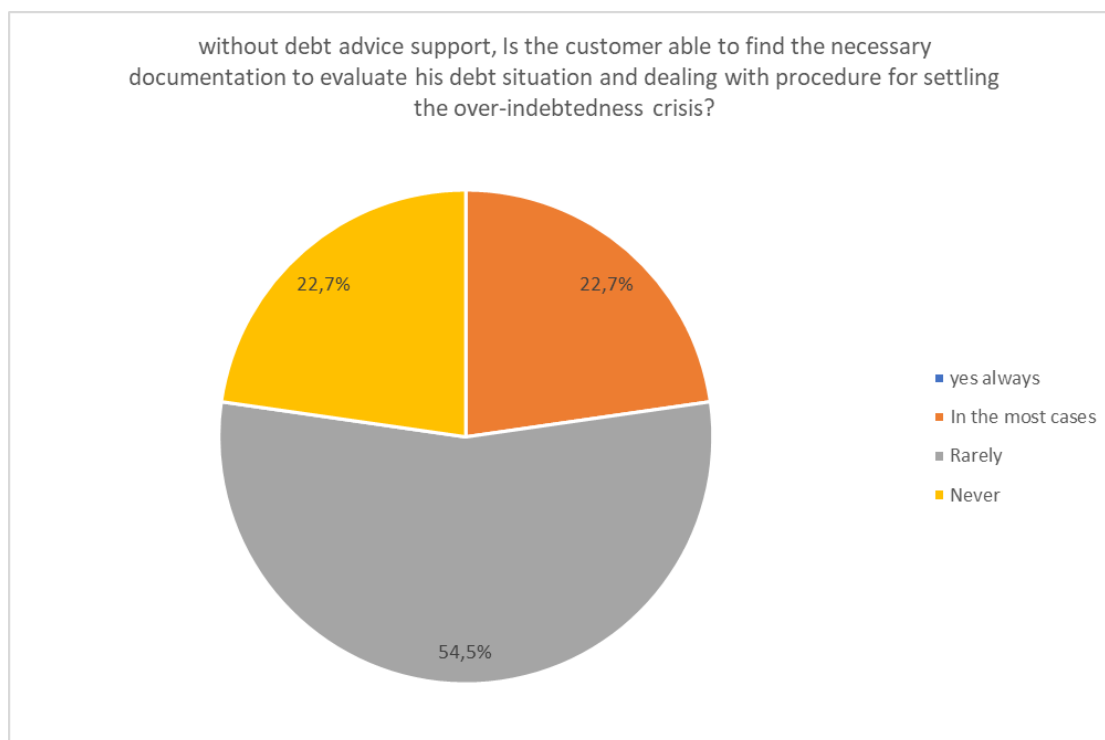


Chart 27: without debt advice support, Is the customer able to find the necessary documentation to evaluate his debt situation and dealing with procedure for settling the over-indebtedness crisis?

For the restructuring of consumer debts, the Body represents the necessary means for starting the procedure; despite the Art. 67 CCII identifies the CSB's activity in terms of "aid", the Art. 68 specifies that *«the application must be submitted to the judge through an CSB»*, excluding the mandatory assistance of the defender. Mandatory defence is also excluded for the controlled liquidation procedure, for which Art. 269 CCII provides that the debtor can present the appeal *personally* with the *assistance* of the Body; the latter is responsible for drafting the report on the debtor's economic, financial and patrimonial situation and on the completeness and reliability of the documentation.

As regards the minor arrangement and the debt discharge of the insolvent person, the Articles 76 and 283 CCII instead provide that the application is submitted *«through the CSB»*. For these procedures, however, there are no provisions that expressly allow the debtor not to be assisted by a defender; in this sense, the Art. 9, co. 2, CCII will apply, pursuant to which *«except in cases where it is not otherwise provided for, in the procedures governed by this code, the legal aid of a defender is mandatory»*.

Due to the optional nature of the technical defence in the debt restructuring procedure, some Courts have declared inadmissible the application filed by the consumer through his/her own trusted lawyer⁵⁵, stating that the only person entitled to start the procedure would be the CSB. The Court of Cuneo reached the same conclusions in its Guidelines on the procedures for settling the over-indebtedness crisis of 11 October 2022.

⁵⁵Court of Grosseto, sent. 19 September 2022, and Court of Cosenza, sent. 31 October 2022.

These conclusions do not appear correct and justifiable since, even if not mandatory, the technical defence is certainly permitted. The very choice to exclude the need for technical assistance for the consumer debt restructuring procedure and for the controlled liquidation appears questionable.

The presence of an *advisor* would facilitate the collection of documents and information necessary for the CSB to prepare its report; the debt advisor, in fact, knows the financial and income history of the over-indebted person and may often have already kept in contact with the creditors for an out-of-court debt restructuring.

5.5. The judicial phase before the Court up to the approval

In various situations the debtor may need assistance to respond to creditors' objections, or to express his/her observations also with respect to some CSB assessments (for example on the assessment of creditworthiness).

For the debt restructuring plan, the lawmaker has provided that, after receiving the creditors' observations, *«the CSB, having heard the debtor, reports to the judge and proposes the changes to the plan it deems necessary»* (art. 70, co. 6). It seems reasonable that the changes to the plan are shared with the over-indebted person, who cannot be forced to make a change to the proposal submitted *«with the aid of the CSB»*⁵⁶.

In the event of creditors' disputes against the approval of the application (art. 70, co. 3, CCII), the debtor may be interested in technical assistance to assert his/her reasons, also from a technical-legal point of view. A real cross-examination is provided for only in the art. 80, co. 3, CCII, which, for the minor arrangement specifies the judge's duty to hear not only the CSB, but also the debtor, if disputes are raised regarding the convenience of the proposal. Even in this case, technical assistance may be necessary to give the debtor a voice.

5.6. The execution phase of the plan, the minor arrangement and the liquidation programme

As regards the execution phase of the consumer debt restructuring plan and the minor arrangement, the Articles 71 and 81 CCII provide that *«the debtor is required to carry out every act necessary to implement the approved plan»*, while the CSB is responsible for supervisory and policy tasks, as well as the resolution of difficulties possibly submitted by the judge. It is the debtor who must provide for the sales and transfers, *«through competitive procedures, also making use of specialised subjects, under the control and with the collaboration of the CSB»*.

⁵⁶ Cass. 29 July 2021, n. 21828.

In the execution phase of the plan and the minor arrangement the CSB does not operate as an advisor, but as a controller of the debtor and judge's interface; any liquidation activities are instead entrusted exclusively to the debtor.

It seems very unrealistic that the debtor, and in particular the consumer, not assisted by his/her own advisor, could be able to manage competitive procedures for the sale of real estate. In such situations it seems realistic, and necessary for the success of the procedure, for the debtor to be assisted by his/her own advisor. In the case of controlled liquidation, the execution of the program is the responsibility of the liquidator. In this context, the need for debtor assistance is limited to observations pursuant to Art. 273, co. 2, and to any complaint against the decree forming the liabilities.

5.7. Contentious proceedings for crisis settlement

The debtor's technical assistance is instead necessary in the contentious aspects of the procedures.

Art. 70, co. 4, provides that the debtor can submit a request to obtain protective measures; if these are revoked due to debtor's fraudulent acts, the Judge hears the parties, also through the exchange of written briefs, and proceeds with a decree (Art. 70, co. 5, CCII). In this case, the technical representation of the debtor seems necessary.

The same applies to the hypothesis of revocation of the approval of the restructuring plan due to false declarations on the assets or fraud, or even in the case of failure to fulfil the obligations set out in the plan or their supervening impracticability (Art. 72 CCII). In these cases, «*dispute with the debtor*» is expressly guaranteed, for which the assistance of a defender is essential.

Furthermore, the objection of incompetence that the debtor can raise against the application for controlled liquidation raised by a creditor is considered a contentious activity (Art. 268, co. 3). In this case the assistance of a defender must certainly be considered as necessary.

The technical defence is required for the appeal against the denial before the Court of Appeal (art. 70, co. 12, CCII). In fact, on the one hand the tasks of the CSB do not extend to assisting the debtor in presenting the complaint, and on the other hand the debtor cannot bring the encumbrance without the assistance of a defender. The waiver to the Art. 6 CCII contained in the Art. 68, co. 1, CCII must, in fact, be understood as confined to the proceedings before the Court.

From the *excursus* of the legislation above, it can be concluded that the assistance to the debtor during the procedures on over-indebtedness, even when not necessary, is appropriate and fundamental for the successful outcome of the procedure.

The lawmaker's choice not to enhance the role of the *advisor* therefore appears somewhat questionable and may represent an obstacle to the start and successful execution of the procedure.

5.8. The economic barriers and costs of procedures

Faced with a situation of over-indebtedness, any disbursement that is added to those already borne by the debtor represents an obstacle to accessing the procedures.

Where there are no free advisory services offered by associations or other non-profit bodies, among the costs limiting the recourse to the tools made available by the Code of Crisis we can highlight, first of all, those related to the analysis and assessment of the assets, economic and financial situation of the over-indebted person, aimed at identifying the most suitable path to achieve the debtor's target debt discharge and, therefore, the *Advisor's* fee.

While it is true that Art. 68 CCII on consumer debt restructuring expressly provides that the assistance of a defender is not required and that Art. 269 on controlled liquidation states that the appeal may be filed personally by the debtor, with the assistance of the CSB, in practice, cases of over-indebtedness proceedings without the intervention of a defender or, in any case, an advisor, are rather rare, in light of the complexity and difficulty that the debtor face in approaching such instruments.

Preparing the file requires a significant amount of work even for the simple reconstruction of the causes that led to over-indebtedness and for the collection of documents, and the appointed Crisis Manager is not always willing to take on this task, preferring, undoubtedly, that the file come to his/her attention already sufficiently prepared and documented.

The compensation of the Advisor, if a lawyer, is regulated by the forensic parameters of the Ministerial Decree 55/2014, Art. 21, paragraph 2, establishing that *"For assistance in judicial and out-of-court insolvency procedures, consideration is given to the extent of the debtor client's liabilities"*, also taking into account the activities to be carried out pursuant to Art. 19 of the aforementioned decree according to which *"for the purposes of the payment of the compensation, the characteristics, urgency, value of the activity performed, the importance of the work, the nature, the difficulty and of the value of the deal, the quantity and quality of the activities carried out, the subjective conditions of the client, the results achieved, the number and complexity of the legal and factual issues dealt with"*.

Another cost item that affects access to debt discharge tools is given by the compensation of the Over-indebtedness Crisis Settlement Body (CSB).

This compensation is established according to the rules set out in the Articles from 14 to 18 of Ministerial Decree n. 202/2014 (which refer to the tables contained in Art. 1 of the decree of the Minister of Justice no. 30 of 25 January 2012, relating to the compensation of bankruptcy trustees and in the composition with creditors procedures) and is calculated on a percentage, more important, of the assets realized [a) from 12%

to 14% when the assets do not exceed EUR 16.227,08; b) from 10% to 12% on sums exceeding EUR 16.227,08 up to EUR 24.340,62; c) from 8.50% to 9.50% on sums exceeding EUR 24,340.62 up to EUR 40.567,68; d) from 7% to 8% on sums exceeding EUR 40.567,68 up to EUR 81.135,38; e) from 5.5% to 6.5% on sums exceeding EUR 81.135,38 up to EUR 405.676,89; f) from 4% to 5% on sums exceeding EUR 405.676,89 up to EUR 811.353,79; g) from 0.90% to 1.80% on sums exceeding EUR 811.353,79 up to EUR 2.434.061,37; h) from 0.45% to 0.90% on sums exceeding EUR 2.434.061,37] and on a much lower percentage than the ascertained liabilities (from 0.19% to 0.94% up to EUR 81.131,38 and from 0.06% to 0.46% on sums exceeding this figure).

The fees, as determined above, are then reduced by a percentage between 15% and 40% (the most frequent in practice).

The organisation is also entitled to a flat-rate reimbursement of general expenses of between 10 and 15% of the compensation, as well as reimbursement of expenses actually incurred and documented.

- E.g., assets of EUR 15.000 and liabilities of EUR 85.000: total compensation of the CSB included, net of 40% reduction, between a minimum of EUR 1.173,88 and a maximum of EUR 1.728,26, plus reimbursement of general expenses from 10 to 15% and VAT at 22%
- E.g., assets of EUR 200.000 and liabilities of EUR 400.000: total compensation of the CSB included, net of 40% reduction, between a minimum of EUR 8.316,40 and a maximum of EUR 10.792,82, plus reimbursement of general expenses from 10 to the 15% and VAT at 22%

In practice, the CSB agrees with the over-indebted person the compensation due by submitting a quotation.

In the absence of an agreement, the CSB determines the compensation and reimbursement of expenses by referring to the provisions of Articles 14 - 18 of the aforementioned ministerial decree.

Articles 71, c. 4, (Consumer debt restructuring) and 81, c. 4, (Minor Arrangement) of the CCII, now provide that, once the execution of the plan has been completed and the final report of the CSB has been submitted, the judge, if the plan has been fully and correctly executed, proceeds to pay the compensation to the CSB, taking into account what may have been agreed upon by the body with the debtor and the diligence of the CSB.

These rules which, unlike the previous regulations, expressly provide for the postponement of the payment of the CSB's compensation at the end of the execution have led the Bodies to introduce advance payments divided into phases, to be paid by the over-indebted person, in order to avoid having to wait the complete execution of the procedure to receive the agreed compensation, also in relation to activities already fully carried out.

In this sense, reference is made to the provisions of the "Guidelines on the Manager's compensation in the procedures for settling over-indebtedness crises" within the scope of the procedures governed by the new Crisis Code referred to in Legislative Decree no. 14/2019, published in May 2023 by the ADR Accountants Foundation, with the aim of standardising the behaviour of the Crisis Settlement Bodies belonging to the different territorial Orders.

In particular, according to the provisions of these guidelines, the overall amount (determined according to the parameters set out in Art. 16 and Art. 14, co. 3, of ministerial decree 202/2014) is divided into three phases:

- the non-jurisdictional phase, relating to the preliminary investigation procedure until the release of the Report;
- the phase of the procedure established before the Court following the submission of the application and up to the possible approval Decree;
- the executive phase (post approval), until the release of the Final Report and payment of the compensation by the Judge.

The suggested *agreement template* divides the overall compensation into three parts:

- portion of compensation due for the preliminary investigation and issuing of the Report *ex* Art. 68, paragraph 2 of Legislative Decree 14/2019, equal to 50% of the entire compensation;
- portion of the compensation due for the phase of the procedure initiated before the Court following the submission of the application and until the possible approval Decree, equal to 20% of the entire compensation;
- portion of compensation due for the execution phase of the Plan equal to 30% of the entire compensation.

By virtue of this indication, the over-indebted person, in order to obtain the Manager's report to be filed in Court, must pay at least 50% of the compensation in advance: it is clear that this disbursement can represent an obstacle to accessing the procedures where the debtor would not be able to find the money necessary for the payment of the deposit requested by the CSB.

It would therefore be preferable to eliminate the reference to the payment, by the judge, of the CSB's compensation at the end of the procedure or at least to provide it only limited to the activities carried out after the approval phase.

Other costs to be borne by the over-indebted person are represented by the standard court fee and the registry fees (currently: EUR 98 + EUR 27), required for filing the appeal in Court.

Art. 71, c. 1, for the restructuring of consumer debts, provides that in the event of any sales and transfers indicated by the plan, the costs for advertising, competitive procedures and any specialised entities used to carry them out will have to be borne.

Furthermore, the debtor will be burdened by any cancellations of the registrations of pre-emption rights, the registration of foreclosures, conservative seizures as well as the sentence closing the procedure. Pursuant to Art. 81, c. 1, for the minor arrangement, further the aforementioned charges to be borne by the debtor in the event of sales and transfers, s/he will also have to pay for the estimates of expert operators, except in the case of goods of modest value.

6. Over-indebtedness and psychological barriers

The inability to recognise and manage one's emotions is among the causes that can contribute to over-indebtedness. Not being able to manage emotions compromises the ability to adapt to the changes that life can bring, leading to behaviours that can prove dysfunctional, including poor money management. At the same time, the condition of over-indebtedness can itself become a source of emotional burden, raising stress levels and compromising psychological well-being. But what is meant by stress? And why is it so important to learn to manage the emotional burden that comes with it? Taking the definition of Lazarus RS, Folkman (1984) *"Stress is characterized by the fact that the individual perceives the challenges that the environment poses to him/her as too burdensome and exceeding his/her resources, as factors capable of putting his/her well-being is at risk."* This condition can trigger the general adaptation syndrome (SGA), a non-specific response to any request coming from the environment which involves the biological systems (nervous, cardiovascular, immune). In this sense, stress is a physiological response of the organism to any change brought about by stressors (internal or external factors), which can disturb the psychophysical balance of the individual' (Selye, 1975). Alongside a positive tension, or eustress (from the Greek eu = good), there is a negative one or distress (from the Greek dis = suffix indicating something negative and destructive) as an expression of discrepancy between individual requests and resources. The consequences of this condition can therefore concern organic, psychological and behavioural alterations which can lead to the development of a condition of anxiety and fear. It therefore becomes essential to recognise these emotions and manage the resulting emotional load.

The emotion of anxiety shares many characteristics with fear and some differences. We experience fear when faced with a known or understood threat, while anxiety results from an unknown or poorly defined threat. Faced with a danger or warning signal, our body prepares to flee or stay to fight. The fear generates anxiety which in turn causes the fear (Siegel & Warren, 2013).

Fear is a powerful and useful emotion. It has been selected by the evolution of the human species to allow

us to prevent dangers and is therefore functional in avoiding them. But it works well if it is proportionate to the dangers. This was the case as long as men had direct experience of the dangers and decided, voluntarily, whether to face them or not. Today many dangers do not depend on our experiences. We become aware of them because they are described by the media and often distorted by the messages circulating on the internet. In this regard, getting infected by the collective contamination of panic leads us to ignore objective data and our judgment can weaken. Many feel anxious and want to act and do something to reduce the anxiety, and this can generate stress and irrational and unproductive behaviour. In order to do something, we often end up doing the wrong things (for example getting over-indebted) ignoring simple, apparently trivial but very effective protective actions. Too many emotions prevent correct reasoning and hinder the ability to see things in a correct and broader perspective, that is, widening the space-time with which we examine phenomena. It is difficult to counter emotions with reasoning, but it is good to try to base oneself on objective data. The essential rule is the balance between the feeling of fear and the objective risk.

The fear curve (figure 13): The relationship between the efficiency of our behaviours and fear is described by a curve in the shape of a camel's hump; underestimating the problem is not effective, it leads to inadequate behaviour, overestimating it has the same result: a lot of fear but little efficiency. The correct consideration of danger helps us and increases our "resilience quotient".

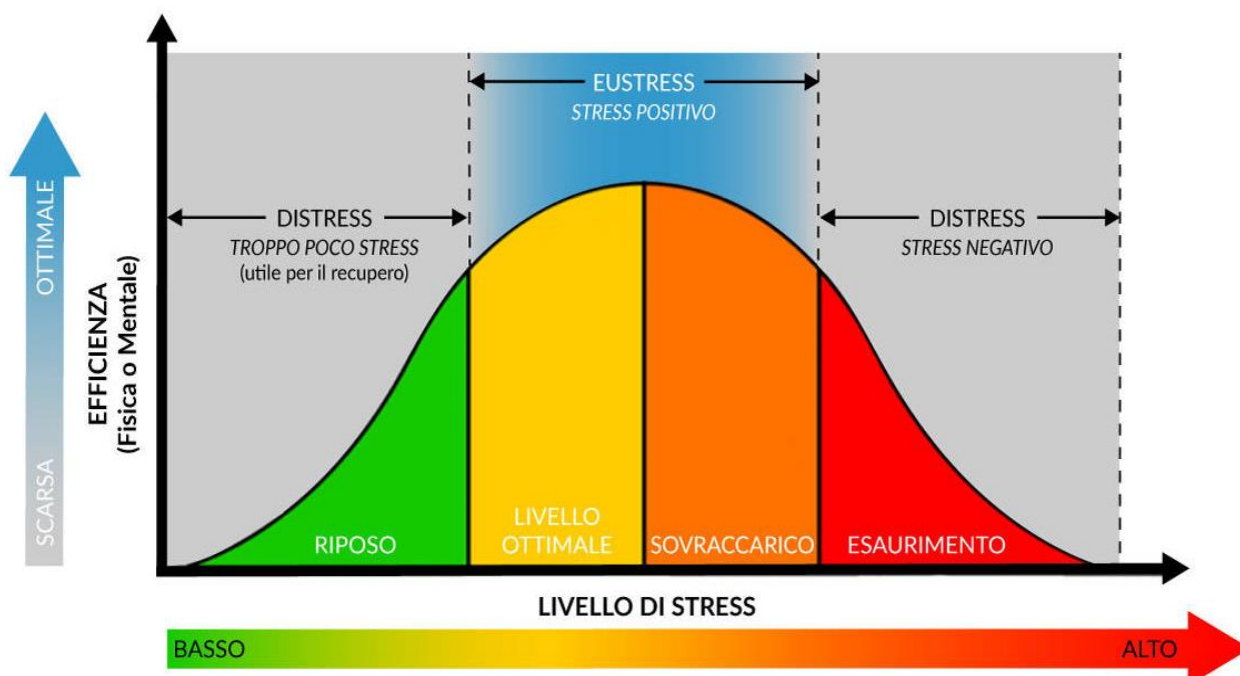


Figure 2: Graphical representation of the fear curve

6.1 Individual attitudes that may represent risk factors with respect to the possibility of over-indebtedness

The unexpected events that may cause economic disruption may be varied, just as social, relational, psychological and economic causes contribute to over-indebtedness, but it seems that researchers agree in attributing the main cause of the accumulation of debts to the inability to manage money correctly (Marron, 2012). The incorrect management of money mainly derives from its irrational use, i.e., over-indebted people would be more subject to the risk of making compulsive purchases (Gathergood, 2012). Choices are dictated by following the pleasure principle rather than a reality principle. It means that money is used to change one's mood and to gratify oneself rather than to meet actual needs. The result is impulsive and unplanned spending (Lejoyeux, & Weinstein, 2010). Some authors believe that an individual's economic problems originate from experiences with money during childhood, which, associated with a particular cultural environment, lead to the acquisition of specific behaviours that develop self-destructive tendencies such as the search for consideration, self-pity and masochism (Han, 2020).

Furthermore, what in psychology is defined as “*external locus of control*”, i.e., thinking of oneself as the effect of what happens (Lefcourt, 1991), is considered as a risk factor. This leads the person to think that s/he is in a situation of over-indebtedness due to the others' fault (the crisis, politics, society, etc.). All this leads to not taking responsibility for one's actions and to placing oneself in a passive attitude that creates a block. The person who has an external *locus of control* perceives that s/he has no power to change things, an attitude that could compromise the success of a debt recovery process.

6.2 Consequences of the emotional burden of indebtedness

Economic hardship and debt do not only have economic costs, but they soon end up having much more serious psychological costs. Let's see the main ones:

1. *Depression*. The presence of economic problems generates worry and desperation, but a depressed mood in turn leads to worsening the bad mood resulting from the economic condition, thus generating a vicious circle and a growing bad mood which can lead to a real depression or, in the most extreme situations, lead to suicide.
2. *Somatizations of Stress*. The thought of having to pay off debts or not knowing how much money to pay for future expenses is a huge source of stress, which also has an impact on physical well-being: headaches, various pains and even an increase in cardiovascular diseases.
3. *Anxiety*. An unstable economic situation turns every day into a possible threat, since unexpected expenses, even small ones, are always around the corner, thus leaving us in a continuous situation of alert that will soon turn into real anxiety.

4. *Impairment of Social Relations.* Experiencing a difficult economic situation represents a major obstacle to socialization. The person with a debt problem can experience emotions such as shame, guilt, embarrassment, a sense of failure, which can lead him/her not to share what is happening to him/her with anyone and to choose isolation so as not to deal with these emotions. Closing yourself in, especially if you are experiencing a situation as stressful as indebtedness, increases the risk of depression, which, in turn, risks affecting or at least making the debt recovery process even more tiring. Furthermore, tensions can be generated with partners and family members who struggle to recognize their loved one, or who live in a continuous state of emotional tension as a consequence of their relative's stress and depression.
5. *Work Difficulties.* Being indebted and looking for ways to settle one's debts often ends up being the only thought of those with economic problems, entering this *loop* makes it difficult to concentrate and operate even in the workplace, with the possible disastrous consequence of losing one's job, which will end up further worsening one's debt position.

A correlation has also been observed between the debt situation and the abuse of alcohol and substances or getting into pathological gambling (Hämmig & Herzig, 2022). These behaviours can represent the cause and effect of a debt situation, activating a vicious circle in which they act both as attempted solutions and as a source of even greater debts. In some situations, the person could even implement a psychological mechanism called "*denial*" which helps him/her not to perceive the problem and the emotions linked to it and therefore not to see the signals in space which remind him/her of the fact that s/he has a significant debt and that s/he must try to repay it if possible. The fact of not perceiving the problem and the related emotions leads the person to continue to incur more and more debt.

6.3. Psychological and individual aspects that may be protective factors with respect to the possibility of over-indebtedness and the success of the debt restructuring process

Debt settlement has a positive effect on both psychological and physical health. Repaying the debt allows the person to feel better on a psychological and physical level, significantly improving their level of self-esteem. Furthermore, in some cases, debt settlement processes lead these people to develop better financial management skills and to change for the better some of their personal characteristics, which otherwise would have led them to get into further debt (Lea, Webley & Walker, 1995). In this situation it helps a lot to have what in psychology is defined as "*internal locus of control*", that is, considering yourself the cause of the events that happen in your life (Lefcourt, 1991). Having this attitude predisposes one to question one's own tasks and take responsibility for events, putting people in a position to ask themselves "*what can I do to improve my condition?*". With respect to debt, this translates into a reflection on one's way of seeing money, managing it, and considering work.

You think of yourself as the authors of change: *"I can do something to change my situation, even if only partially"*. This attitude prepares the person to better face the debt settlement process and prevent any relapses. It is essential for the indebted person to have social support to overcome the temptation of isolation, given by emotions such as shame, guilt, embarrassment, sense of failure. Therefore, it is very important to recognise one's emotions and talk about them with someone trusted, whether within the family or friend network or to turn to the so-called speaking Groups, so as to compare one's experience and one's past with other debtors who find themselves in the same situation. Furthermore, psychological support can be helpful to process all those emotions that do not allow you to better manage the recovery process. Having specifically dedicated helpdesks represents for these people not only a point of information and technical advice on specific debt issues, but also an external point of reference with which to compare and be accountable. This has a positive effect on the person's ability to self-control, who normally moves between the impulse to spend and the desire to remain faithful to the good intention of saving to pay off the debt.

The impact of the psychological dimension on the phenomenon of over-indebtedness was confirmed by the quantitative and qualitative survey carried out within the "Riparto" project which, among other aspects, clearly highlighted how the emotional condition of those who turn to helpdesk also has a significant impact on the customer's willingness to question/help themselves to solve their problem of over-indebtedness, because s/he manifests fear, desperation, stress, etc. It has also been observed that the psychological suffering deriving from the debt situation is not directly related to the amount of debt, but rather is the result of various elements that interact with each other. Emotional and relational aspects affect the psychological health more than the debt burden. Most of the people who turned to the help desk also declared that they did not have a strong social network that could support them in this difficult moment, and/or that they had not revealed their condition to their family or friends. Finally, some people reported feeling a sense of shame because of their condition, so much so that they preferred help desks located far from their community.

Psychological barriers also emerged in the management of the help desk. The debt advisors in fact, had the opportunity to observe how in the exercise of their mandate it was essential to also take into account the psychological aspects and emotional state of those who turn to the desk and how important it was for the success of the service itself, providing not only technical, legal-economic advice, but also have an empathetic attitude, recognise the person's psycho-social needs and respond in an integrated way by activating specifically dedicated support networks.

7. Over-indebtedness, microcredit and social finance

The indicators on **financial inclusion** in Italy in 2020 recorded an improvement when compared to those of 2018⁵⁷; there was an increase in the supply of credit - coinciding with the pandemic crisis (measures to support the liquidity of households and businesses) and a digitalisation process which facilitated the meeting between supply and demand of financial products.

The gap between the different Italian regions in terms of financial inclusion is significant; more accentuated in the North West and North East, lower in the Central and Southern areas; Trentino-Alto Adige presents the most advanced inclusion rates according to 2020 data; followed by Lazio, Lombardy, Veneto, Emilia-Romagna, Piedmont, Friuli-Venezia Giulia, Umbria, Tuscany, Marche, Sardinia, Valle d'Aosta, Puglia, Abruzzo, Liguria, Campania, Sicily, Basilicata, Calabria and Molise⁵⁸.

The causes originating the debt/or debts incurred with third parties can be of different nature: voluntary or involuntary unexpected events, work crisis, management inability. According to the Bank of Italy's findings, people asking for a loan to cope with situations of over-indebtedness are growing; financing that weighs on people's family budgets and on the budgets of businesses. Added to these situations is the sharp increase in the cost of living due to the growing inflation recorded in recent years, with effects that weigh on households the most vulnerable people and businesses. As a response to many over-indebtedness situations, solutions are sought from credit institutions or other informal entities, which often lead to dealing with the world of loan-sharking, which is also increasingly growing in Italy.

Among the various financial products, the offer of **microcredit** is increasingly important, which due to its specificity and characteristics responds to the needs of a group of vulnerable users from a social and financial point of view.

At an international level, there are 981 microfinance institutions; they serve 140 million customers with a global portfolio of EUR 124,1 billion⁵⁹; the clientele is predominantly female (80%) in support of economic activities which are carried out mainly in rural areas (65%).

In Europe, the microcredit tool became part of the offer of many financial institutions following the 2008 crisis to respond to the needs of a growing number of financially and socially excluded people and growing poverty. To date, there are 156 European financial institutions present in 30 countries, with an active portfolio of EUR 4,3 billion and 1,4 million active customers.⁶⁰

⁵⁷Source: Banca Etica, The economy to be rebuilt and the responsibility of finance, 2020

⁵⁸ Ibidem

⁵⁹Source: data www.convergences.org, 20217

⁶⁰Source: Microfinance in Europe Survey Report (2022 edition)

The panorama of European financial institutions sees a clear prevalence of non-banking financial institutions (36.6%), non-governmental organizations (30,7%) and cooperatives (24,8%); data confirming the social value of the microcredit tool. The banking institutions offering microcredit products are limited in number (5,9%) to which is added an offer of products by government bodies (1%).

The microcredit ecosystem in Italy is extremely lively and differentiated; a sector that counts 132 operators⁶¹, who in 2021 served 15.239 customers for a loan volume of EUR 217 million. This is a growing sector that is able to operate in an increasingly widespread way with a view to proximity to the so-called 'non-bankable subjects'; people or small businesses who have difficulty accessing bank credit due to a lack of real guarantees or a credit history.

Italian legislation (Art. 111 of the Consolidated Banking Act and Ministerial Decree 176/2014) gives microcredit the guise of a true financial instrument for business activities, distancing itself from microcredit as known in other contexts: informal, small or very small activities, promoted by vulnerable subjects.

By its nature, microcredit is commonly recognised as a modest credit even if Italian legislation provides for the possibility of disbursing up to EUR 40.000 to businesses, extendable to EUR 50.000.

Italian legislation requires that the provision of a credit product would be accompanied by non-financial services (called auxiliary services); the lawmaker's intent is to accompany the beneficiaries or customers of microcredit, understood as non-bankable and vulnerable people from an economic and social point of view. People or businesses who have a high-risk profile and who need support on various topics such as i) technical assistance for the feasibility study of a business project, ii) advising for a business plan, iii) training on various economic-financial topics, iv) support in seeking financing and seeking nominal capital. Among the various services **financial education** is not explicitly indicated, but it seems to be a transversal theme across all accompaniment paths, given the low level of skills in the field of a growing number of people in vulnerable situations.

The business microcredit is aimed at self-employed workers who have had a VAT number for no more than 5 years and with no more than five employees; this measure tends to ensure that the financial product is aimed at a particular segment of the population and that it can effectively be a tool for the applicant's financial inclusion; accompanying him/her with an ever-increasing indebt capacity, moving from a small loan to larger loans provided by banks, depending on the evolution of one's economic activity. Individual businesses that have had a VAT number for no more than 5 years or LTDs with no more than 10 employees are also eligible. As set out in the 2022 Italian Financial Law, the ceiling of EUR 40.000 for business credit can reach EUR 75.000 for self-employment and micro-entrepreneurship operations and financial intermediaries

⁶¹Source: Financial inclusion and microcredit report 2022

are authorized to provide up to EUR 100.000 to limited liability companies, without the obligation of real guarantees.

The increasingly difficult access to bank credit, for systemic reasons linked to the crisis of the banking system, and the lack of creditworthiness and guarantees, make microcredit a strategic tool even if the volumes disbursed and the number of applications is still low compared to a growing demand that still finds it difficult to meet supply. When non-financial services (or auxiliary services according to Italian legislation) are associated with a credit product, we talk about microfinance (and no longer microcredit).

In 2022, in Italy, 6,214 microcredit operations for businesses were recorded with an average loan of EUR 18.000 and 10.194 social loans (households, students and against loan-sharking) with average loans of EUR 9,287. As per best practices - microcredit may also benefit from guarantee funds: among the most relevant are public funds: the European Investment Fund and the Central Fund, while private funds serve dedicated targets such as those supported by credit consortia, or by against loan-sharking funds.

The main added value of this financial tool is to support people and small businesses in a path of financial and social inclusion. Through the provision of loans for economic activities or credits of a social nature, skills in financial education and management are strengthened; credits which can also be fundamental for dealing with debt difficulties and therefore useful for settling previous issues and starting again on new bases. Microcredit tools, financial and non-financial, if used in an integrated way, therefore represent an opportunity, complementary to others, to accompany people on a path to release from situations of economic and financial difficulty which also impact the social dimension.

In any support process for over-indebted people and businesses, it is essential to combine dedicated support on financial education issues: from identifying needs to finding suitable solutions to ensure the sustainability of the process.

8. Conclusion

The activities of the Re-Start project and the analysis of the current offer of debt advice services in Italy (see § 4.3) confirms the need for them to be divided into four distinct areas:

- legal advice, almost always necessary to evaluate the debt situation, to manage any out-of-court agreements with creditors and to access over-indebtedness procedures;
- economic-financial advising;
- psychological counselling to reduce the risk of waiving crisis resolution procedures and to activate specific psychological support services, in cases where a level of mental suffering emerges that is incompatible with an effective debt advice service (§ 6)

- social support, necessary for a more effective multidimensional management even after the closure of the procedures to counteract the risk of recidivism, social marginalization and increase in poverty situations.

The bodies providing the services must be independent from the creditors or their trade associations and should be identified as non-profit organizations in the Third sector. It is important to encourage collaboration and cooperation between entities active in individual territories in order to encourage the creation of real territorial and national networks to combat over-indebtedness, as positively occurred with the Riparto project and continued with Re-Start.

As emerged in the most advanced European experiences, debt advice services require external financing. According to the most relevant European studies, the overall impact of the services is positive not only for the debtor, but also for the creditors and for the entire community. Depending on the different welfare systems, every euro invested in debt advising can lead to an overall saving of between EUR 1.3 and EUR 5. In the Italian context, with limited services diffusion, and also with citizens, financial operators and local authorities' poor knowledge, it is necessary to combine the territorial dimension with incisive national financing, training and communication policies.

A mixed system of public/private financing could be the optimal solution. As emerged in some relevant European experiences (Ireland, Finland, Belgium, Holland and the United Kingdom), debt advice services can be financed by the main categories of creditors also through specific mandatory payments imposed based on the turnover and the general impact of the type of debt in the creation of over-indebtedness. This system of public-private partnership with the involvement of creditors would ultimately make the cost of the service fall on the beneficiaries who are able to support it, i.e., the community and the creditors.

As shown in table 7, §. 5.2 the number of procedures submitted in Italy is extremely limited and not comparable to what happens in the European Union Countries in which debt advice services are made available to citizens (0,8 procedures per 10.000 inhabitants in Italy versus 9,5 in Germany and 13,7 in Belgium). The effectiveness of crisis settlement procedures is further limited by cases of debtor's waiver or dismissal by the CSB.

Three main obstacles to the start or continuation of the procedures for settling the over-indebtedness crisis have emerged:

- psychological and emotional difficulties in starting the process (§ 6);
- difficulty in finding the necessary documentation (§ 5.4);
- costs for the start and for the entire procedure (5.8).

The debt advisor is an indispensable figure both in the preparatory phase of the procedure to allow the debtor to know the purposes, have confidence in the path to be undertaken and collect the necessary documentation, and during the procedures, in particular in the judicial phase leading to the approval, in the execution of the plan and the minor arrangement and in any possible numerous litigation implications. It is therefore necessary to identify the tools that allow the debtor to bear the costs of his/her advisor, considering that in most cases the debtor is a subject without adequate financial resources.

The CCII does not enhance in any way the role of the debtor's advisor. The Art. 6 CCII, for over-indebtedness procedures, expressly provides for pre-deductible payment only of the CSB's credits, making no provision for those of the professional who assisted the debtor during the debt restructuring or the minor arrangement procedure.

It would be necessary to provide that the fees of the debtor's Advisor, for activities actually necessary for the exercise of the right of defence, must be paid in advance for all crisis settlement procedures. To encourage greater use of the procedures also thanks to the availability of debt advice services, the pre-deduction payment of a lump sum could be envisaged in favour of the non-profit debt advising centre which assisted the debtor in the preparatory phase for the submission of the application to the CSB.

The costs and compensation due to the CSB represent the main obstacle to starting over-indebtedness procedures. To date, there are no tools available to allow the over-indebted people to bear the costs of starting the procedures. The fees due to the CSB do not fall within the protections provided for legal aid which in any case provides for an income limit (EUR 12.838,01) so low that it is often exceeded even by the over-indebted people.

The obstacle of the costs of starting the procedure is even more evident for the procedures for the debt discharge of the very low-income individual, i.e., the person who does not possess any assets or income, even future ones, deducting what is necessary for his/her own maintenance. These are individuals who, precisely because they lack any additional income beyond what is necessary to maintain their family, cannot afford the cost of starting the procedures. In these cases, the absence of any assets to liquidate does not even allow the payment of CSB fees as a pre-deduction.

A further stumbling block is today represented by some provisions of the Crisis Code (Articles 71, paragraph 4, 81, paragraph 4) which provide for the payment of the CSB's compensation at the end of the procedure. These are inefficient rules that require the CSB to wait years for the settlement of the due compensation and which can therefore lead to an increase in fixed advances paid by the debtor, which, as we have seen, often represent an obstacle that is difficult to overcome.

Some tools allowing over-indebted individuals to face the costs necessary to start and complete the procedures in order to obtain debt discharge are needed.

- the CSB's compensation should be paid gradually during the procedure with only the final payment expected upon completion of the settlement activities. For all procedures the court fees currently due at the time of submitting the application should be eliminated;
- for the debt discharge procedures of the insolvent person, the fees of the CSB and those of the debtor's advisor should be paid in full by legal aid regardless of the debtor's income;
- For all other procedures, access to legal aid should be guaranteed with two changes compared to the current regulations:
 - the compensation due to CSBs should be included, limited to starting costs that are not paid in advance;
 - the income limit should be changed to take into account available, debt-free income.

As noted in studies on debt advice at a European level, the immediate cost that would arise for the State to make debt advice services available on a large scale and to facilitate the start of crisis settlement procedures represents an investment with a positive impact not only for the debtor, but also for the creditors and for the entire community. Depending on the different welfare systems, each euro invested in debt advising can lead to an overall saving of between EUR 1.3 and EUR 5.

The transposition of the Art. 36 of Directive 2023/2225 which requires Member States to ensure "that independent debt advice services for which only limited fees are due are made available to consumers who encounter or may encounter difficulties in meeting their financial commitments" requires the Italian lawmaker to consider not only the most advanced European experiences, but also the best practices which in recent years have allowed us to outline some initial guidelines for an Italian debt advising model which we have attempted to outline in this report. Specifying that consumers must pay only "limited expenses", the directive requires Member States to identify adequate resources so that fundamental services that must be integrated into the welfare model for citizens are provided in a widespread manner.

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