

DEBTS AND INSOLVENCY

There are currently many people who are insolvent, some of them having become so due to ideological reasons and many others against their will.

At a time when there are millions of us in default, by joining together as debtors we can get back our freedom and cease to be seen as bad.

Economic power manipulates so that debtors are socially rejected. However, a person in default, even though they may get that way due to errors in the management of their money, ceases to form a part of the consumerist system, thereby allowing them to learn to live differently.

In fact, many of us have decided on insolvency as a useful tool for our daily lives. A combination of the anti-democratic practice of the political powers and current legislation means that insolvent persons can enjoy many more civil liberties than others: the state can punish us with fines, but it doesn't have tools to make us pay those fines.

This is why, in the PODEMOS publication, enricduran.cat/wp-content/uploads/2013/02/02podemos_cast.pdf, we are beginning to generate tools so that all of us who are in a situation of insolvency or who want to be can get in touch with each other. And then use this new freedom we enjoy in benefit to society and ourselves.

Those of us who are insolvent can get organised to carry out collective actions without suffering any financial reprisal by the state.

Our freedom allows us to carry out actions of civil disobedience or assume tasks that, for our solvent companions, would be much more risky to do: not paying for public transport, distributing bulletins/flyers of social collectives, giving names at demonstrations, assuming positions of responsibility within collective entities, or issuing invoices to self-managed cooperatives with a VAT of less than €120,000 to avoid having to pay VAT.

Therefore, here we present insolvency as a tool of social transformation. If you would like to participate, we've listed what you should know:

HOW DO YOU MAKE YOURSELF INSOLVENT?

As from the moment you decide to cease to pay your debts and mortgages, it is advisable to conduct a previous study and more specifically document your particular case, thereby anticipating the subsequent events that will be triggered and thus protecting yourself from possible seizures.

In this section we'll facilitate this task by offering some applicable, generic and prudent guidelines, so that any eventuality is minimised.

It is important to be aware of your personal situation, including all the particulars that will condition the process.

Therefore, before ceasing to pay your debts and mortgages, the main idea is to get rid of your present and future assets.

The equation is very simple: If you don't own anything = You have nothing that can be seized.

It is not necessary to make any declaration of insolvency before any state institution, but rather, it simply has to be put into practice according to certain measures: not having any properties or vehicles registered in your name.

Not having bank accounts in your name, although you can be listed as an authorised person. Not holding shares in the stock market or in any commercial company. Not having a salary, not be receiving a pension, not be receiving unemployment or any similar official income (except below the SMI [*national minimum wage*], which is possible, as explained below).

Moreover, owing money is not listed as an offence in the Criminal Code. It is only a breach of contract, which depends on the Civil Code. You must forget about the trial-delinquent association. You are not a delinquent. You are free to travel whenever and wherever you want.

Ceasing to pay a loan only closes the doors to asking for new loans. You could be subject to the seizure of accounts, the garnishment of wages, or the seizure of present and future assets, but the law provides for certain assets and income that cannot be seized.

There are many personal situations that make insolvency difficult in the short term, so perhaps the part about not receiving a salary, a pension, or some other payment from the state is the most difficult part for insolvency. Even still, the garnishment of a part of wages could be more profitable than continuing to pay debts and fines.

WHAT AMOUNT OF MY WAGE WILL BE GARNISHED? (ALSO FOR RETIREES, SELF-EMPLOYED INDIVIDUALS, THOSE ON MEDICAL LEAVE, AND THE UNEMPLOYED)

If a wage is below the National Minimum Wage (SMI), it cannot be garnished. For 2015, the SMI is 648.60 euros. Above this amount, it is garnished according to the brackets defined in Article 592 of the Civil Procedure Act (LEC), which will usually be much less than what you pay to banks.

And furthermore, if a debt is for an unpaid mortgage, the minimum amount that cannot be garnished is €967.95, according to the new law of July 2011.

OTHER THINGS TO THINK ABOUT BEFORE CEASING TO PAY DEBTS

Default can be managed ethically. You can pay off your friends first, if you owe them money, and your suppliers who are small and medium enterprises, and then cease to pay taxes to the state and, above all, cease to pay multinationals and banks.

If you have any property that you need to get rid of, do so before ceasing to pay a debt, or as soon as possible once you decide that you are not going to pay more fines. Finally, before any seizure may be applied, you should sell stocks, withdraw money, and close accounts.

In this regard, you must keep in mind that there is an offence of punishable insolvency (popularly called concealment of assets), and therefore how and when you get rid of property is important. If you do it at the moment when you are already subject to a suit for the non-payment of a loan, you will risk being

subject to criminal action. Unless the property is sold at market price (in which case, we're within our legitimate right to manage our own assets), or it is contributed as share capital to a cooperative. In this latter case, we make it difficult for the creditor, given that the share capital of a cooperative cannot be seized for the debts of its members, and at the same time, the certificate of share capital contribution would demonstrate that there continues to be an ownership relationship between the person and the property, such that the person cannot be accused of punishable insolvency.

OTHER PERSONAL ADVICE REGARDING THE IMPOSSIBILITY OF PAYING DEBTS

- If you just can't take it any more, immediately stop paying off all credit cards and loans, and prioritise your health and the basic needs of your family before paying off debts to banks.
- If you are a married couple and one or both of you have debts that you are going to stop paying, it is important that you be married under the principle of separate property during marriage, because both your wage and your spouse's could be garnished. Furthermore, the amounts would be added together before calculating the garnished amount. You can declare the separation of marital property by mutual agreement before a notary public, and it won't cost you more than 150 euros.
- Before selling or changing the name under which a car is registered, check with the Department of Motor Vehicles if there is any retention of title. Cars with retention of title cannot be sold without cancelling the debt.
- Don't pay attention to any telephone calls or letters that may come in the future, no matter how threatening they may be.
- If anyone notifies your neighbours, you can file a complaint due to violating the Private Data Protection Law.
- As soon as you can, assume a new financial life. Without bank loans, or credit cards, or instalment purchases. It is possible to live well, we can assure you.

More info: How can we expropriate money from banks?, www.derechoderebelion.net, foroantiusura.org, desobediencia.es, cridadesobediencia.cat, atornallom.net