

- The creditor can take you to court. The court will decide in a simplified procedure in your absence – a so called “**court ordered payment**” (platební rozkaz) will be issued. The court ordered payment will be sent to you. The document must be delivered to you and received by you – in case it is not (e.g. you refuse to acknowledge receipt), the court will cancel the court ordered payment and will initiate proceedings, to which you will be invited. You can file a **countercheck** (odpor). The time limit for this is very short, the deadline is stated in the court ordered payment) and then the court will order a hearing. The decision will be a **verdict** (rozsudek), which you can **appeal** (odvolání).

Note: Unlike the court ordered payment, the verdict comes into effect even though it is not delivered to you or you refuse to receive it!

- **The countercheck against a court ordered payment** or the **appeal of a verdict** can be successful if you prove the claim against you is not based on the truth or that you are in fact paying the debt. **This is your last chance to answer unfair charges.** If you do not provide proof of your case, an appeal may give you a little more time, but you will have to pay your debts anyway, with all the legal fees added.
- When the verdict comes to effect, the creditor will pass the case to an executor.
- The legal fees are specified in the verdict and they are added to your original debt.

8

Execution, Enforcement of the Verdict

- The creditor will assign an executor. The executor will ask the court for authorization to carry out an attachment or other collection action. The court will order the action – and issue the decision to carry it out. The court will not decide **what will be collected** – this is a decision to be made by the executor. The court decision will be delivered to the creditor and the debtor. It might also be delivered to e.g. the cadastral (real property) registry, the registry of motor vehicle owners or your employer. After the delivery of the decision you are not allowed to dispose of your property – you are not allowed to sell it or give it to someone.
- The executor will issue an order of attachment describing which of your assets will be taken. It could be an attachment of your bank account; the executor can also confiscate and sell your possessions (your car, house) or things in your house.

Note: it can also be in the house of somebody else, if the debtor lived there.

- The executor can also **attach** (block) **your bank account** (obstavit účet) to settle a debt – this means that all the money that is there will be taken and any money that comes into your account will be confiscated as well. It is also possible to garnish part of your social benefits. You can be left with only the so-called unseizable minimum, which is 2/3 of the minimum living allowance.
- Forensic or private executors exist; the difference between these institutions is in the way they deal with persons and companies or other legal entities. Executors are considered as a part of state law enforcement and it is illegal to prevent their action.
- Even in this phase we recommend cooperating with the executor and finding a compromise and convince her/him not to choose an alternative which is particularly bad for you.
- The executors will charge you rather high fees. You will get the bill in the form of an order to pay the expenses of the attachment.

9

Can you do anything against execution or other collection?

- **It is possible to appeal the decision to carry out the collection**, but unless you have some extraordinary arguments (e.g. you in fact paid the whole debt off), the attachment will be carried out anyway.
- It is possible to file a **complaint to exclude some asset from the collection**, if the executor made some unjustified attachments or confiscation. It is possible to file a proposal to stop the attachment for inadmissibility (e.g. if your earnings are garnished even though there were no court ordered income deductions).
- **You can file an objection against the order to pay the executor’s fees.** It can be done with the executor

within three days from the delivery of the order. If the executor does not accommodate you, file an objection in the court. The court will decide within 15 days.

Note: A debt you owe to the state (e.g. taxes, social or health insurance) can be collected by attachment without a decision by a court.

- If you signed an arbitration clause or a so-called order for enforcement (doložka vykonatelnosti), **your debts can be collected without a court decision.**

10

How will debts affect your life? Is it possible to get rid of debts?

- You will be in the registry of debtors – it is likely you will have problems if you want to borrow money in the future.
- If you have a loan and an account in the same bank and you are late with the payments, any money coming into your account can be transferred to pay your debt without a decision by a court or executor.
- If your bank account was attached – the account is blocked; all the money that comes to the account will be confiscated.
- There is a possibility to refinance the debts, a so-called **consolidation** (konsolidace), when many debts are consolidated into one loan. This is possible if you are still paying according to the conditions in your agreement(s). The consolidation will not lower the overall debt, only the monthly installments, so it will take longer to pay the debt off. Find more information in a reputable bank.
- If somebody offers you help to pay off your debts, it is very risky! A private company or an individual offering you help cannot do anything beyond what you can do yourself: get in touch with the creditor, ask for an installment plan. You will not have control over the potential helper and you will not know if he/she actually passes your payments to the creditor! These “helpers” are often dishonest businesses!

11

Bankruptcy, insolvency

- If the value of your assets is lower than the sum of your debts, you can become insolvent (úpadek). It is good for the debtor under certain circumstances to file for personal insolvency in court. The court will examine your assets during the insolvency proceedings.

12

Bankruptcy protection (personal bankruptcy)

- It means the legal **enforcement of bankruptcy.**
- Only the **debtor** can file **in court** for bankruptcy. Many documents have to be attached (overview of earnings and assets, approval of the debtor’s spouse, etc.) The court decides if the debtor is being honest and if the debts settlement plan is possible to follow. The creditors must get at least 30% of the debt.
- If the court approves the bankruptcy, the creditors decide, if the debtor’s assets will be sold or if the debtor will pay them a large portion of her/his income for the next 5 years. The debtor will be left with only a minimum amount according to what the court decides.
- If the debtor follows the debt settlement plan, the court will cancel the rest of the debts. Otherwise the assets of the debtor will be confiscated.

If you find yourself in financial distress please contact the counseling centers of Centrum pro integraci cizinců (more at www.cicpraha.org) or specialized counseling centers for people in financial distress:

Občanské poradny – <http://dluhy.obcanskeporadny.cz>, Poradna při finanční tísni – www.financnitisen.cz

For further information look at: www.cicpraha.org/infoservis

Centrum pro integraci cizinců, Kubelíkova 55, 130 00 Praha 3, Tel./fax: (+420) 222 360 452, Email: info@cicpraha.org

Central Bohemia Region Counseling Centre, Centrum pro integraci cizinců,

Zahradní 46, 280 02 Kolín, Tel.: + (420) 312 310 322

While the content of this leaflet is believed to be correct as of the date of issue, it should be considered informational in nature.



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LOANS AND DEBTS – AND WHAT TO DO ABOUT THEM

1

What is debt and how does it start?

- ▶ Debt is an unpaid obligation, usually monetary. A debt is created if:
 - you do not pay for a service which you used (travel expenses, rent, utilities such as gas, electricity, telephone, internet, etc.)
 - you do not pay the obligatory payments defined by law in the full amount and on time (social security premiums, health insurance premiums, taxes)
 - you borrow cash
 - you overdraw your debit or credit card and you don’t pay the debt off according to the conditions of the card agreement
 - you sign a guarantee for somebody else’s loan in a bank — you become a guarantor — and this person does not pay her/his obligations, the bank will take the amount owed from you.
- ▶ You can get into problems even if the debt was caused by somebody else:
 - relatives, who live or lived with you – you may be confronted with an executor
 - obligations of your spouse – the debts of your spouse are part of the so-called shared assets and you are responsible for the debts even if you no longer live together. Your spouse’s business debts fall under shared assets as well.

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MINISTERSTVO VNITRA
ČESKÉ REPUBLIKY

2

What can you do now to prevent having debts?

- Debts can be the result of late payments – even though you did not borrow any money. Every institution has its policy for the case of delayed payments. The percentage added to your payments is usually called a penalty or a „late fee“
- Pay obligatory insurance premiums and taxes – social and health insurance, tax deposits – on time and make sure you pay the correct amount.
- Pay all the services connected with your housing (rent, gas, electricity, internet,..) on time. If another member of the family is in charge of paying the bills, **make sure** from time to time that everything is really being paid.
- If you want to terminate a contract that obligates you to pay something, give your termination notice on time and know how long you have to go on paying for the service (how much prior notice must be given to terminate the contract).
- When you move, terminate the contract(s) for the services furnished under your name with the gas/electricity provider in person at the provider's offices.
- Let all the companies whose services you are using know about your changing address and make sure your mail is delivered (or forwarded) to the right address.
- If you do not pay for a utility service, the provider can switch it off. Still, even then, the contract can still be in effect and you may still be obligated to pay the monthly payments.
- If your spouse has his/her business, he/she can file for **limiting the extent of asset sharing** (zúžení rozsahu společného jmění) in court in advance.
- If you have a mortgage with your spouse and you are separated or in the process of getting a divorce, arrange refinancing before the divorce. Your bank will give you the necessary information. If you do not refinance the mortgage, you will still have to keep paying it even though you have moved out!
- Always buy a fare ticket or coupon when using public transport. If you are caught without a ticket and you get a fine, pay it as soon as possible. **Do not let a small amount of money increase to a big amount by incurring additional fines and late fees.**

3

Cash loans

▶ Do you urgently need to borrow money?

- Ask a relative or a friend for a loan without interest or at a low interest.
- If you cannot do this, borrow money from a well established bank. Bank loans are safer.
- Do not borrow money from institutions other than banks. Other companies will always appear willing to “help you out”. They arrange loans quickly, without a guarantor and without any verification of your income (ability to repay). Such loans are much riskier and so they carry much higher interest and fees and have worse conditions (higher penalties) in case you have problems paying off the debt.
- Avoid offers on the Internet, ads in the streets, in the newspapers, teletext, do not accept telephone offers or offers of people who contact you on their own, rather than waiting for you to contact them.

! **If you borrowed cash, you must pay the loan off according to the loan or credit agreement. Your primary task is to make sure you have a regular, sufficient income. Always have a plan B for case you will be without income for some time or in case of some extraordinary situations.**

4

Consumer financing and buying on a payment plan

- There are many kinds of loans. **Consumer financing** (spotřebitelský úvěr) has better protection by law, it is usually a loan over 5 000,- Czk.
- You may be offered a loan to buy some goods with the option to postpone payment of the first installment for some time (usually some weeks or months).
- If an advertisement says the interest “**starts at**” 7%, you will probably pay a higher interest.
- The conditions of the agreement must be simple and comprehensible. If they are not, do not accept the agreement.
- If you are unable to make substantial payments to quickly pay off the loan, interest and penalties will pile up, so your debt will grow, faster and faster in time.

! **According to the law, you can cancel the contract in 14 days without giving any reason. You can also cancel the consumer financing, return the relevant goods and end the contract.**

CONSUMER FINANCING CAN HAVE DIFFERENT FORMS:

▶ 1. Payment cards you did not apply for.

You can receive a payment card (by mail, as a promo upon the opening a new store) **you did not ask for** with a loan that was approved in advance. This may be followed by a phone call encouraging you to use it. If you activate this payment card – you will put it in a cash machine or you use it when buying something, **you are accepting a loan contract without knowing its conditions.**

▶ 2. Promotional events, invitation to a product demonstration, door to door sales

- You can be invited to a promotional event – presentation of a product or service promising good prices and bonuses (free gifts, lunch).
- You cannot check the product properly during such an event and you sign the purchase agreement right there. The loan agreement is usually a part of the purchase agreement. You are forced to make a quick decision, while the product being offered may not be of the quality claimed and are often overpriced.
- **Door to door sales** (you are contacted by a seller at home or on the street, they usually offer telephone services, gas or electricity) entail the same risks. Always make sure it is not a trick!
- **You can also cancel this contract and return the goods in 14 days without giving any reason.**

▶ 3. Manipulation by “winning a contest”

You are informed by phone or mail that you won a contest you never enrolled in. You then have to do something to get the “real prize”, though – make a phone call, order some products under unfair conditions, **and mainly – give out personal information** (even your bank account number and other information which can be **abused!**). This is a trick – **do not react to it!**

5

Loan agreement

When your **loan** (půjčka) or **credit** (úvěr) application is approved, you will enter into a **loan agreement**. The conditions of the agreement must be understandable. You need to know the amount you are borrowing, the interest and how and when it is calculated and the date when the creditor expects the payments credited to their account. You will have to pay fees other than just the interest and the principal – a fee for negotiating the loan, monthly fees for your account administration, fees in case you change the way you make the payments, a fine when you are late with your payments etc. Make sure you know what happens if you are not able to pay and what **the sanction (penalty) is if you pay your debt off in advance**. If you borrow a higher amount, various types of guarantees will be part of the agreement:

- your creditor wants a guarantee from another person – a guarantor. If the borrower doesn't pay the debt, the creditor will claim the money from the guarantor.
- you can use your or somebody else's property as collateral for your debt.
- you can give a promissory note (“I.O.U.” – směnka) as a guarantee – some private institutions other than banks may require you to sign a blank promissory note, with no date and no amount. They will use it against you in case you don't pay off your debt. **We strongly discourage you from signing a promissory note!**

If the borrower does not voluntarily carry out his/her obligations given in the agreement and the parties cannot settle, a court decides about the rights and obligations. There is an exception to this: if the agreement includes a so called arbitration clause (rozhodčí doložka). An arbitration clause means that if the debt is not paid, the dispute will not be decided by a judge, but rather by an arbitrator (rozhodce). The arbitrator is typically chosen by the creditor. The arbitrator will therefore be on the creditor's side, not on your side, and **you cannot appeal the arbitrator's decision.**

6

What will happen if you do not pay your debts?

- Even if you are late with your installments for just a few days, there may be already the **delay**
- If you have many debts, it is necessary to first pay the debts which are the biggest threat to you and your livelihood – rent, utilities, loans with the most adverse conditions, child support.

! **Note: avoiding child support payments is a crime, you could go to prison.**

- If you cannot pay according to the agreement, inform your creditor as soon as possible. You can ask the institution from which you borrowed to lower the installments – a so called „**payment plan**“. You must propose a plan which you will be able to fulfill. It is likely that the creditor will be willing to negotiate with you, but it's their right to turn your proposition down. Do not give up and ask for a payment plan once again. Send **regular payments even in amounts lower than required by the agreement**. If you are later involved in legal proceedings, the court might appreciate your attempt to solve the situation.
- You can ask for a **suspension of payments**, but the creditor does not have to agree.
- All the negotiations with your creditor should be in writing. If you reach an agreement on the phone, the creditor can later deny it. If you meet in person, you should leave with a written and signed result – e.g. an agreement about a change of installments.
- **Loan payments cover interest and various fees first; the debt principal itself is paid afterwards!** That is why a debt can stay the same (or even grow) if your installments are too low!
- Do not assume that the institution will automatically do accounting for you. (*E.g.: even though you have an overpayment for a certain time period and your are behind for another, a utility provider will require the payment of the money owed. Two unpaid fines with the transit company will be handled as two independent complaints.*)

7

Debt collection

If you do not pay your debt and you don't come to an agreement with your creditor, you can expect the following:

- Some creditors will send one or more debt-collection letters. Other companies do not do this and immediately pass your case on to a law firm or a debt collection agency. The law firm or debt collection agency will send you a letter or meet you in person and they will try to make you pay your debt. You can still settle out of court during this phase, but the penalties and the collection agency's fees will be added to your debt.
- The creditor may sell the debt to another company. You must be informed of this in writing. The other company will then collect the debt from you instead of the original creditor.