

INTERNATIONAL CONFERENCE:
*REGULATION OF ABUSIVE INFORMAL DEBT COLLECTION PRACTICES - COULD THE
SCANDINAVIAN MODEL SERVE AS A MODEL FOR EU REGULATION?*

DATE: 3th September 2021

CALENDAR: 6 months + 2-month papers' revision/completion

Conference Call	22 th of March 2021
Registration & Submission of Abstracts	8 th of May 2021
Selection & Decision on Speakers	15 st of May 2021
Submission of papers/working papers/articles	1st of September 2021
Submission of final versions for publication	30 th of October 2021
Publication	May 2022

LOCATION: Copenhagen, Denmark

VENUE: University of Copenhagen, Faculty of Law,

NUMBER OF SPEAKERS: 15 (including Keynote Speaker and Organizer)

NUMBER OF ATTENDEES: 30 students, researchers, practitioners from ministries, municipalities, consumer organizations, financial institutions and supervisory agencies.

KEYNOTE SPEAKER: TBA

CONFERENCE THEME:

The loss of jobs and the decline in real incomes caused by the 2008 financial crisis and the COVID-19 pandemic have affected consumers' ability to repay their debts. This has led to high ratios of non-performing loans (NPLs), which affect the stability of the financial industry and undermine economic recovery. The result has been a drastic increase in informal debt collection practices (IDCPs).

Debt collection begins when a creditor determines that a consumer is behind on payments and must be contacted about repaying their debt. Generally, the debt collection process can be divided into two categories, *formal* and *informal*, depending on whether the state apparatus (i.e., courts and bailiffs) is involved in the process. Most creditors prefer to use IDCPs because they are cheaper, faster, and less risky than formal processes. However, (IDCPs) can become abusive if the creditor engages in impermissible conduct to extract payment.

Abusive IDCPs encompass all methods of private enforcement that a creditor employs for debt recovery that a) do not involve the judiciary or state agents and b) threaten consumers' physical, psychological, or economic wellbeing. Abusive IDCPs may often involve violence, harassment, and invasion of privacy. Subjecting consumer-debtors to such practices may cause family hardship, public shaming, social exclusion, or psychological and relationship issues while increasing over-indebtedness. Moreover, ethical and law-abiding debt collectors are exposed to unfair competition, as unethical collectors will have a higher recovery rate. The functioning of the financial system is also affected since consumers confronted with abusive IDCPs are reluctant to access credit in the future. In addition, the economy is hurt because abusive debt collectors use regulatory and tax arbitrage to divert profits and avoid tax contributions. Ultimately, abusive IDCPs affect consumers' access to justice and effective remedies as long as they remain unregulated.

The World Bank warns that consumers are exposed to "aggressive debt collection practices and late payment or default fees" as a direct result of the COVID-19 recession, emphasizing that "enhanced monitoring of aggressive and unscrupulous debt collection activities is crucial during these times" (emphasis added).

Despite the serious harms of IDCPs, they remain largely unregulated at both the member state (MS) and the European Union (EU) level. According to a 2020 survey, only nine MS regulate them: Belgium, Denmark, Germany, Greece, Estonia, Finland, the Netherlands, Romania and Sweden. Thus,

two-thirds of EU consumer-debtors (281.47 million people) lack adequate protections due to the absence of national sector-specific legislation, while EU-wide regulation (i.e., the Unfair Commercial Practices Directive) plays only a marginal part. Moreover, the existing regulatory frameworks display significant idiosyncratic features, which creates disruptions in the collection process (thus affecting the performance of financial services) for it leads to unjustified different treatments of consumer-debtors and fosters regulatory arbitrage.

This raises **two key questions**: 1) How can IDCs be regulated effectively? 2) Should a solution be adopted at EU or MS level?

The general aim of the conference is to contribute to the improvement of the legal base and regulation of IDCs across the EU by sharing and discussing the existing regulatory models, within which the Scandinavian model plays a central role. Moreover, it will create a venue for dialogue between academics, experts, practitioners, to bring to forefront both issues, policy considerations and solutions concerning abusive IDCs in Scandinavia and the EU. In doing this, the conference will consider that well-functioning, private enforcement mechanisms such as IDCs should ensure that no imbalance will occur between the interests of creditors to speedy and cheap debt-recovery and those of consumer-debtors not to be subjected to abusive IDCs. Ultimately, it will constitute the stepping stone for a collaborative project, in the form of a monograph, to be published by May 2022 (publishing contract already signed with Springer Law).

Considering all the above, the topic is of interest not only to the debt collection industry and consumer-debtors, but also to national and EU legislators or regulators, practitioners, NGOs, and policy makers for it touches upon key EU prerogatives such as the proper functioning of the internal market, consumer welfare and fair competition.

FURTHER SPECIFICATIONS

The conference follows up on two previous successful events. The first is the 2018 international conference titled *“The Responsible Consumer in the Digital Age – International Nordic Perspectives in Consumer Financial Protection”* that resulted in the publication of a special issue of *Tilburg Law Review*. The second is the 2019 international conference *“Fair and Non-Discrimination Access to Financial Services”* which resulted in a number of videos and podcasts totalling over 4000 views and a collaborative monograph published in 2020.

The conference will gather a strong core of highly accomplished scholars and practitioners whose experience in financial services and consumer law enables them to address one of the more important challenges of our time: providing an adequate level of consumer protection against abusive IDCs, without hindering the right of creditors to recover their debts.

The conference and publication output will expand legal knowledge concerning all the above by addressing the systemic differences between EU Member States, sharing experiences and identifying answers to common challenges posed by abusive IDCs. Thus, the conference will enable participants to make a first, big step and lay the foundation for solid research and long-term academic cooperation in the field in the EU.

The proceedings of the conference will be video-taped, while the collected papers will be published, in order to ensure a maximum reach and dissemination. Access to videos and papers will be *open* to the public, given both the societal and academic importance of the topic.

The publication will take the form of a peer-reviewed edited monograph. A willingness to contribute to this is expected from the conference presenters. University of Copenhagen will also make available, free of charge, on its webpage the conference presentations, as well as all working papers, thus ensuring access of local and international practitioners to the conference’s activities and research output.

The event is envisioned to take place in persona, with observance of all safety requirements, unless circumstances at the time dictate otherwise, in which case the event will be held online.

CALL FOR PAPERS AND PRACTICAL INFORMATION:

The conference welcomes three types of proposals/contributions:

- **Country reports from MS with sector-specific legislation** against abusive IDCs: these should cover at a minimum: a) definition of debt collectors and of protected categories; b) licensing system and requirements; c) banned practices – preferably with references to national case law; d) validation of debts and costs of debt collection; e) enforcement – preferably with references to case law.
- **Country reports from MS without sector-specific legislation**, these could cover references to common abusive practices and how these are handled via general consumer protection legislation, criminal or civil law, unless the same structure as above can be followed. Reference to local case law, anecdotal evidence or case studies is strongly encouraged and welcome.
- **Articles addressing local/specific or systemic issues raised by abusive IDCs in the MS.**

Proposals must be submitted with a suggested title, author's name and affiliation, an abstract not exceeding 500 words and an indication of the panel, by email to Catalin Gabriel Stanescu (catalin-gabriel.stanescu@jur.ku.dk) until the 8th of May 2021. The final decision will be communicated to the authors by the 15th of May 2021.

The choice of proposals will seek to ensure a balanced representation of the various aspects of the conference theme and ensure a wide representation of jurisdictions. Contributors are expected to submit a full draft paper for the conference by the 1th of September 2021 and a final version no later than by the 30th of October 2021.

There is no registration fee for conference speakers. Lunch, tea & coffee and refreshments will be provided for all participants during the conference. Speakers will also be invited to our speakers' dinner free of charge. **The conference envisions full coverage of funds for travel and accommodation for all participants.**

CONTACT:

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