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A NOTE FOR THE NEED TO REGULATE PRIVATE DEBT COLLECTORS' ACTIVITIES IN GEORGIA – EXISTING REGULATORY GAP AND SELECTED COMPARATIVE APPROACHES

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ABSTRACT

The economic recession, COVID-19 pandemic, growing indebtedness of the consumers, and enhancement of credit borrowings such as credit cards, personal and household loans have led to the growing numbers of the credit default, and the subsequent surge of the debt collection practices in the World and Georgia is no exception. Even though private debt collection is necessary on the market, it usually involves abusive or unfair practices towards the debtors in the debt recovery process. This Article identifies an existing regulatory gap in the field of private debt collection and analyzes traditional branches of Georgian law to answer the question of whether they can tackle and prevent abusive and unfair debt recovery practices. It also gives an overview of the selected regulatory responses – Anglo-Saxon systems (the United States and the United Kingdom) possessing the most developed system. The specific focus rests on the building blocks of an efficient regulatory system touching upon the private debt collection activities with the idea that will follow the best practice and fill the regulatory gap.

"Professional bill collectors have one objective: getting paid via the shortest most, most direct route."

"Collectors are a valuable asset to any business, but, unfortunately, they are often viewed as a necessary evil."

A. Michael Coleman[1]

INTRODUCTION

The economic recession, growing indebtedness of the consumers, enhancement of the credit borrowings such as credit cards, personal loans, store cards, and reduction of welfare policies have led to the growing numbers of the credit default and subsequent surge of debt collection practices.[2] In recent years, Covid-19 pandemic induced economic crises and further defaults on the credits, and substantially affected the debt market worldwide.[3] Debt collection is an integral part of the business, but, it is usually proclaimed as a "necessary evil"[4] in a society. Debt collectors usually have a negative image, whose only intention is to extract money without feelings and compassion towards the debtors. It is rightly mentioned that "[t]he collection of debts brings out the ugliness in people".[5] On the other hand, promises shall be fulfilled by the debtors, contracts – enforced by the state to ensure the market continues functioning. Therefore, despite the proclaimed image of the debt collectors, it is rightly noted that they are necessary evils in the states. Their job starts when the debtor defaults on the debt and repayment terms are violated. Creditors can resort to judicial or out-of-court debt collection. In the cases when court proceedings and subsequent enforcement is relatively expensive, the credits resort to the private debt collection service or sale of debt to the secondary market where debt collecting firms operate.[6] Problem arises when private debt collectors involve outrageous, abusive practices in the process of collecting debts.[7] Multiple phone calls, embarrassing comments, threatening debtors with criminal charges, informing third parties regarding the debtor's monetary obligations, and violating their privacy – are examples of abusive practices used worldwide, and Georgia is no exception.[8] Allowing the co-existence of the private enforcement together with the public enforcement on the market is an efficient decision made by the state that can result in timely debt collections and fulfillment of contractual obligations.[9] However, private enforcement needs to be regulated to avoid excessive human rights violations during the debt collection that cannot be justified by the aim of timely enforcement of contracts and debt repayment. States strike to find the balance between allowing private debt collection agencies to work on the market for the efficiency of debt collection (where it is possible) and the protection of debtors' rights.

Georgia lacks sector-specific regulation of the private debt collection process. It should be noted that the statement does not refer to the service of the "*private bailiff*" ("*private enforcement officer*") exercising public authority under the Law of Geor-

1 Coleman, M.A., (2004). *Collection Management Handbook: The Art of Getting Paid*. (2nd end.). John Wiley & Sons Inc. Preface XIV, p. 1.

2 Tajti, T., (2019). *A Holistic Approach to Extra-Judicial Enforcement and Private Debt Collection: A Comparative Account of Trends, Empirical Evidences, and the Connected Regulatory Challenges* –Part One. Pravni Zapisi, (2), p. 278; Stănescu, C. G. (2021). *Regulation of Abusive Debt Collection Practices in the EU Member States: An Empirical Account*. Journal of Consumer Policy, 44(2), p. 179; Ferretti, F. (Ed.). (2016). Spooner, J. (2016). *Comparative Perspectives of Consumer Over-Indebtedness: A View From The UK, Germany, Greece, And Italy*. International Insolvency Review, 25(3), p. 241-244; *See* generally, Deville, J. (2015). Lived Economies Of Default: Consumer Credit, Debt Collection and The Capture of Affect. Routledge.

3 Botta, A., Caverzasi, E., & Russo, A., (2020). *Fighting The Covid-19 Crisis: Debt Monetisation and EU Recovery Bonds*. Intereconomics, 55(4), p. 239-244; Kurowski, Ł. (2021). *Household's Overindebtedness During the COVID-19 Crisis: The Role Of Debt And Financial Literacy*. Risks, 9(4), p. 62.

4 Coleman, M.A., (2004).

5 Whaley, D. J., (2020). *Problems and Materials on Consumer Law*. Aspen Publishers, p. 785.

6 Fox, J., (2012). *Do We Have Debt Collection Crisis Some Cautionary Tales of Debt Collection in Indiana*. Loyola Consumer Law Review, 24(3), p. 359.

7 Stănescu, C. G., (2021), p. 180.

8 Whaley, D. J., (2020).

9 *See* Landes, W. M., & Posner, R. A., (1975). *The Private Enforcement of Law.* The Journal Of Legal Studies, 4(1), 1-46 (regarding general privatization of law enforcement); Gow, H. R., Streeter, D. H., & Swinnen, J. F. (2000). *How Private Contract Enforcement Mechanisms Can Succeed Where Public Institutions.* Agricultural Economics, 23(3), pp. 253-265.

gia on Enforcement Proceedings.[10] Their actions are regulated under the law, but activities of the private debt collection business representatives stay out of the specific regulation. Private debt collectors (or private debt collector agencies) are the ones who do not constitute governmental bodies, nor perform such functions on behalf of the state and whose services include collection of personal data of debtors, identifying their property, contacting debtors by telephone, mail or any other means, contacting debtors relatives, involving persuasion or any other tactics to ensure debt collection.[11] Illegal processing and disclosure of personal data of the debtors to the third parties in the collection process has been addressed by Personal Data Protection Service of Georgia.[12] Debt collecting agencies operating on the market were fined for the processing and disclosing debtors' personal data to the third parties, violating data protection laws of Georgia.[13] Despite the fact that one aspect of the debt collection abusive practices is caught by the data protection laws, it is questionable whether Georgian legislation without sector-specific regulation addressing data collectors' activities can ensure collection of debts without excessive calls, threatening practices, violating debtor's dignity or peace. Hence, this paper aims to analyze the existence of the regulatory gap in the Georgian system in relation to the private debt collectors' activities and provide comparative approaches from the selected jurisdictions regulating the area that can serve as the starting point for further legal research in the stated direction.

1. EXISTING REGULATORY GAP

Classical branches of law are generally considered to be ill-suited to catch abusive practices in the process of private debt collection.[14] Extreme abuses in debt collection, such as taking or threatening illegal action that does not involve a threat of violence, killing, damaging health or destroying property cannot be qualified as a crime according to the Criminal Code of Georgia.[15] Therefore, continuous threatening of debtors to institute criminal, civil or administrative proceedings even in cases when the statute of limitations to sue has expired (in case of a civil action) is an abusive debt collection practice that is not caught by any provision of the Criminal Code of Georgia unless debt collectors involve a threat of killing, damaging health or destroying property and the threatened debtors have a reasonable fear that the threat will be carried out. In addition to this, false statements and representations of the debt collectors, such as attempts to collect an amount greater than was owned or handing in letters to the debtors that look like court decisions without forgery (without forging signatures or stamps), are also not caught by the Criminal Code of Georgia. In line with the stated argumentation, excessive phone calls or other means of communication during non-working hours, harassing, oppressing, or abusing practices in the communication within the process of debt collection are not punishable as crimes in Georgia. Hence, criminal law is inadequate to deal with unlawful and misleading (or fraudulent) activities involved by private debt collectors.

Turning to corporate law, it is relevant to mention that this body of law ensures the registration, structuring, and functioning of the business entities.[16] Absence of any licensing requirement

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10 Law of Georgia on Enforcement Proceedings, Article 14^{6}, No. 1908 (1999). <https://matsne.gov.ge/ka/document/view/18442?impose=translateEn&publication=99>

11 Tajti, T., (2019), p. 294.

12 Personal Data Protection Service of Georgia, *Report on the State of Personal Data Protection and Activities of the Inspector* (2020), (2018) and (2017) <https://personaldata.ge/en/about-us>

13 Business Media Georgia, *Private Debt Collecting Companies Fined for Disclosing Personal Data* (2018) <https://bm.ge/ka/article/sesxis-amomgebi-kompaniebi-personaluri-informaciis-gamjgavnebistvis-daajarimes/17015>

14 Tajti, T., (2019), p. 294; Florida Statutes Title XXXIII, Chapter 559, section 559.542.

15 Law of Georgia Criminal Code of Georgia, No. 2287 (1999). <https://matsne.gov.ge/ka/document/view/16426?publication=241> Article 151 (Threat) "A threat of killing, damaging health or destroying property, when a person threatened has started to have a reasonable sensation of fear that the threat will be carried out [...]"; Article 181 (Extortion) "Extortion, i.e. demanding another person to hand over property or title in property or the right to use property by threatening to use violence against the victim or the victim's close relative or to destroy or damage their property or to make public the information that may damage their reputation or otherwise damage substantially their rights [...]".

16 Law of Georgia on Entrepreneurs, Article 1(1), No. 875-Vრს-Xმპ (2021) It "regulates the legal forms of an entrepreneur, the procedures for their incorporation and

for private debt collecting agencies (firms) leads to the conclusion that the National Agency of the Public Registry as the registration authority cannot serve as an effective gatekeeper disciplining debt collecting agencies working on the market.[17] Hence, company registration proceedings and rules related to the functioning of the business entities can hardly prevent debt collecting agencies involving abusive practices from entering the market. The National Agency of the Public Registry of Georgia is not obliged to look behind the corporate shield and prevent certain debt collectors from entering the market. In addition to registration requirements, no special regulation is in force that could subject debt collectors to licensing or require non-conviction of the debt collectors. Furthermore, no governmental authority is equipped with supervisory powers to oversee the activities of the private debt collectors that could have adequate abilities to tackle abusive practices and protect debtors from excessive debt collection.[18] Absence of disciplinary authority means that no governmental authority can impose disciplinary sanctions, revoke licenses (as it is not required to obtain), monitor debt collection practices for ensuring fair debt collection. Hence, general corporate law cannot preclude private debt collection agencies involving abusive practices to enter the market and operate.

Resorting to consumer protection law, it should be noted that new law on consumer rights protection was adopted in Georgia in March 2022 after several years of gap in consumer protection regulation.[19] However, consumer protection law pays attention to radically different risks that business entities might pose for the consumers (as a weaker party), while classical risks inherent to the debt collection, such as abusive or oppressive practices, stay out of the reach of the consumer protection laws. Therefore, laws addressing abusive commercial practices or discriminatory approaches towards consumers in the process of selling goods or receiving services are different from debt collection since debtor cannot be considered as the consumer of the service or purchaser of goods. Hence, consumer protection law and the one that recently entered into force without corresponding cases and legal tradition in this area cannot serve as the basis for the protection of debtors.

To sum up, traditional branches of law developed and currently in force in Georgia are insufficient to cover the whole spectrum of abusive practices private debt collectors undertake, and therefore, the regulatory gap exists.

2. GENERAL OVERVIEW OF THE EXISTING REGULATORY APPROACHES

States have different regulatory approaches to debt collection practices, in general, and activities of private debt collectors, in particular. Common law legal family has always been favorable to self-help and debt collection practices[20] and, therefore included regulations tackling abusive debt collection practices. Within the common law system, sector-specific legislation (separately addressing abusive debt collection practices) and general regulations (involving traditional branches of law) are present. As mentioned above, general regulations (substantive law) operate differently as they aim to enforce contracts, ensure the operation of business entities, protect consumers, or punish criminal offenses; while sector-specific regulations aim to address abusive debt collection practices as such.[21]

It is relevant to start with the U.S. sector-specific regulations addressing private debt collection

registration, and issues related to their activities".

17 Law of Georgia on Entrepreneurs, Article 4(3); Law of Georgia on Licenses and Permits, No. 1775 (2005). <https://matsne.gov.ge/ka/document/view/26824?impose=translateEn&publication=62> Article 1(1) states that the law provides for the exhaustive (comprehensive) list of all permits and licenses that are required in Georgia.

18 Tajti, T., (2019), p. 297-298 (stating that licensing requirements together with disciplinary powers can end up unsuccessful if tactics of debt collectors are not regulated in sector-specific laws).

19 Law of Georgia on Consumer Rights Protection, No. 1455-VIIIმს-Xმპ (2022). <https://www.matsne.gov.ge/ka/document/view/5420598?publication=0>

20 Tajti, T., (2020). *A Holistic Approach to Extra-Judicial Enforcement and Private Debt Collection: A Comparative Account of Trends, Empirical Evidences, and the Connected Regulatory Challenges* – Part Two. Pravni Zapisi, p. 18.

21 *See* further discussion, Stănescu, C. G., (2015). *Self-Help, Private Debt Collection and the Concomitant Risks: A Comparative Law Analysis*. Springer, p. 217.

since the U.S. approach represents itself as the most comprehensive legal framework in the stated direction.

2.1. The U.S. Model

The U.S. model includes a legal framework concerning private debt collection practices on federal and state levels. The primary protection of individual debtors is provided by the Federal Debt Collection Practices Act (FDCPA), aiming to prevent, monitor and sanction unfair debt collection practices.[22] The stated Act includes the definition of the private debt collector that involves any person using "any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts"[23] or any person directly or indirectly involved in the collection or attempts of collection of debts. It also includes the procedure of the debt validation and the list of prohibited practices that include (non-exclusively) the following: threatening to use violence or other means to harm an individual's reputation or property, usage of obscene and any other abusive language, publishing or disclosing debtor's data, repetitive calls, false representations of debt collectors regarding status and amount of debt, or any possible legal actions related to debt, collection of additional interest fees and charges incidental to the debt obligation, threatening to start prosecution against the debtor, communicating outside working hours.[24] The Act also provides for the defense mechanisms, individual and collective actions of debtors if unfair debt collection practices were involved.

Most states of the U.S. have implemented state fair debt collection practices statutes – mini FDCPAs, that are more detailed than federal regulation and provide for more protective rules for debtors.[25] It should also be stated that federal FDCPA is a *de minimis* rule and state statutes can afford more protection to consumer-debtors, such as licensing requirement.[26] Most of the mini-FDCPAs include the licensing requirement at a state level for private debt collectors that is another *ex-ante* protective mechanism against unfair debt collective practice.[27] List of the unfair debt collection cases together with the licensing requirements and the regulatory framework for the civil action in case of violation, collectively constitute an excellent example of the sector-specific regulation of the debt collection practices.

2.2. The U.K. Model

The U.K. Model is described as the "soft touch" approach in relation to the debt collection practice regulation.[28] Rules are fragmented and can be found in different branches of law, mostly consumer protection law; however, it was rightly mentioned by Tibor Tajti that the U.K. "has one of the most developed and tested laws on private debt collection – even if fragmented and scattered over more branches of law, and the most important part actually being soft law today."[29] The fact that the U.K. does not have a comprehensive act regulating debt collection cannot lead to the conclusion that the unfair practices are not addressed. Consumer Credit Act involves the protection of consumer debtors, regulates relevant conditions for the acquisition of debt collection licenses, allows taking of measures against applicants, authorizes debt adviser services, and considers vulnerability conditions of particular debtors (for instance, mental health conditions).[30] It is idiosyncratic characteristics of the U.K. system that it is only concerned with consumers and affords to them wide range of protections against unfair collection practices.

The Financial Conduct Authority (FCA) is the responsible state agency guaranteeing that customer debtors are treated with "forbearance and due consideration".[31] The FCA has broad enforcement,

22 *See* generally, The Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692–1692.

23 15 U.S.C. §1692a(6).

24 *Ibid.* §1692.

25 *See* the list of the States adopting mini-FDCPAs, National Conference of State Legislatures, *State Fair Debt Collection Statues* (2021). [Last seen 10.09.2022] <https://www.ncsl.org/research/financial-services-and-commerce/state-fair-debt-collection-practices-acts.aspx>

26 Stănescu, C. G. (2015), p. 218.

27 *Ibid*.

28 *Ibid*. p. 220.

29 Tajti, T. (2020).

30 The Consumer Credit Act (2006) (as amended); *See* Financial Conduct Authority (FCA) Handbooks. <https://www.handbook.fca.org.uk/handbook> [Last seen 30.11.2022].

31 *See* Financial Conduct Authority (FCA), CONC 7.3 Treat-

supervisory, investigative, and disciplinary powers *vis-à-vis* private debt collectors.[32] Also, there are restricted debt collection practices in the Consumer Credit Sourcebook (CONC)[33] and the Regulated Activities Order of 2001 which indicates that debt collection is the regulated activity and special permission is required to get engaged into those activities.[34] Hence, the FCA views debt collection practice as an inherently *high-risk* activity, and the regulatory structure is designated to protect the consumer and limit unfair approaches.

The FCA oversight over the debt collection practices starts with communicating the information to debtors. Private debt collectors are obliged to communicate the information in a clear, fair, and not misleading in nature, also they do not have the right to mislead the debtors regarding their legal position or the amount of debt.[35] Hence, debt collectors are not allowed to send the letters that look like court claims, using inappropriate language, contact debtors at unreasonable times or require premium calls.[36] Debt collectors are obliged to present balance statements to the debtors and provide adequate information regarding their outstanding debt obligation; also, debtors are entitled to a reasonable period of time and opportunity to repay their debts, and it is even required to consider "suspending, reducing, waiving or canceling any further interest or charges" in cases when a debtor is in financial difficulties.[37] Moreover, debt collection is prohibited when a debtor is particularly vulnerable (for example, mentally ill) to make any financial decision.[38]

In addition to the abovementioned protections against abusive debt collection practices guaranteed under the CONC, the Consumer Rights Act 2015 deals with unfair debt collection assignment terms and debt collection contracts.[39] What is considered to be "unfair" under the stated Act is decided on a case-by-case basis, but it shall cause a significant disbalance between the parties to the detriment of the debtor.[40] Debt collection assignment terms are subject to the judicial review. The same applies to the fee and charges that are subject to general regulations, as well as court oversight from the perspective of the common law approaches to the penalty clauses.[41] The U.K. regulatory structure also provides for the Financial Ombudsman Service, which is entitled to regulatory oversight mechanisms to stop excessive debt collection practices.[42]

Despite the various mechanisms in force in the U.K.'s regulatory structure to tackle excessive debt collection practices, it is criticized for lack of clarity since various legal acts are involved in the process, and enforcement of the rights guaranteed in relation to the vulnerable debtors is not always guaranteed.[43] It should also be noted that criticism of one of the prominent legal approaches is relevant for the countries without regulatory structure designated for the private debt collection process and activities.

2.3. The Building Blocks of an Efficient Regulatory System

The main building blocks employed by an efficient regulatory system shall be the following: *"(1) definition of the debt collectors; (2) the existence of a licensing system; (3) the presence of legal requirements concerning (a) communication with*

ment of Customers in Default or Arrears (Including Repossessions): Lenders, Owners and Debt Collectors (CONC 7.3.4). <https://www.handbook.fca.org.uk/handbook/CONC/7/3.html> [Last seen 30.11.2022]

32 *See* Financial Conduct Authority (FCA), The FCA's Duties and Powers <https://www.handbook.fca.org.uk/handbook/PROF/3.pdf> [Last seen 30.11.2022]; *See* also, FCA's Approach to Enforcement. <https://www.handbook.fca.org.uk/handbook/EG/2.pdf> [Last seen 30.11.2022]

33 Consumer Credit Sourcebook (CONC), a combination of Standards, General Principles for Business (1.1.4.). <https://www.handbook.fca.org.uk/handbook/CONC/>.

34 The FSMA, Regulated Activities Order (2001). [Last seen 01.02.2023] can be accessed from <https://www.legislation.gov.uk/uksi/2001/544/contents/made> (Article 39F states that the debt collectors fall under the scope of "credit intermediaries"; the same applies under the Article 3 (f) of Parliament and Council Directive 2008/48/EC1 Directive on Credit Agreements for Consumers).

35 CONC 7.11.1.

36 CONC 7.3.2, 7.3.2A, 7.3.6.

37 CONC 7.3.5 (1).

38 CONC 7.10.

39 Consumer Rights Act (2015). <https://www.legislation.gov.uk/ukpga/2015/15/contents/enacted> [Last seen 01.02.2023].

40 *Ibid*. s 62(4).

41 Gardner J., Gray M. (2022). *Regulation of Abusive Informal Debt Collection Practices. The U.K. Debt Collection Industry: Why Regulation is not Enough* in Regulation of Debt Collection in Europe. p. 206.

42 *Ibid*. p. 207.

43 *Ibid*. p. 213.

the debtor and third parties, (b) harassment of the debtor or third parties, (c) using misrepresentation or misleading information, (d) validation of the debt, and (e) costs and additional charges; (4) open-end definitions; (5) enforcement via private action; and (6) enforcement via state action".[44]

2.3.1. Defining Private Debt Collectors

In the process of regulating private debt collectors, it is noteworthy to determine to whom the law applies. For example, the U.S. model (federal level FDCPA) only covers private debt collectors involved in debt recovery, their employees and agents, and lawyers active in the process.[45] Definitions are more extensive on State levels aiming to involve creditors and assignees.[46] Taking into account the idea that regulating debt collectors aims to protect debtors and prevent abusive debt recovery practices, the definition of a debt collector shall be clear, precise and all-encompassing. Hence, it shall include original creditors, assignees, and any third parties (including lawyers) involved in the debt collection process.

2.3.2. Licensing System

Jurisdictions regulating private debt collection (namely, the U.S. (State level), the U.K., Germany, Sweden, Belgium, Finland, Norway, Denmark, Greece, and Latvia) have implemented licensing systems designated for private debt collectors.[47] Operating licenses are issued upon request to the private debt collectors who meet regulatory requirements and aim to observe them throughout their activity. Failure to meet the preconditions can result in criminal sanctions,[48] or administrative measures, suspension, or termination of the debt collection activity.[49] It is also possible to impose the financial guarantee system for recovery of financial losses or damages from abusive practices. A licensing system is one of the major building blocks for an effective regulatory system designated to protect debtors from abusive debt recovery activities.

2.3.3. Abusive Practices

Regulating system of the debt collection activities shall include the list of abusive practices. It shall be clearly stated in law debtors shall be communicated in a fair and precise manner. Restrictions shall include activities related to communication with the debtor or third parties. Debtors shall be notified regarding their current standing and outstanding debt obligations; on the other hand, regulating communication with debtors shall protect the private life of the debtor, their relationship with third parties, their public image and dignity.[50] Hence, debtors shall not be exposed to public shame or abusive language and behavior in the process of debt collection.

In addition, debtors shall be entitled to the validation of debts to ascertain that the claim is valid and it is their obligation to pay. Debtors are entitled to a written notice specifying the amount owed and the documents certifying the debt.[51] Thus, debtors shall get information regarding the original creditor, assignee, and their outstanding debt.

Moreover, the abusive practices list shall include the activities of the private debt investors that are aggressive in nature or intends to harass or abuse the debtors. They shall also be protected from any misleading information regarding the debt, its collection, their legal standing, fees, or charges.

2.3.4. Open-end Definitions

The regulating system shall also include open-end definitions to follow the innovation and creation in the field of abusive debt collection practices. Adopting "soft law" mechanisms such as guidelines by the supervisory bodies are discussed as one option (such as the U.K.'s Consumer Credit Sourcebook); however, it is inherently challenging for the civil law jurisdictions.[52]

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44 Stănescu, C. G. (2015), p. 230-231.

45 Fair Debt Collection Practices Act (FCDPA). <https://www.federalreserve.gov/boarddocs/supmanual/cch/fairdebt.pdf> [Last seen 01.02.2023].

46 Stănescu, C. G., Albanezi A. (2022). *Romania's Struggle to Regulate Abusive Debt Collection Practices* in Regulation of Debt Collection in Europe. p. 168.

47 *Ibid*. p. 169.

48 Operating without authorization is considered a criminal offence in the U.K. See Finlay S. (2009) *Consumer Credit Fundamentals.* p. 79.

49 *See* Stănescu, C. G., Albanezi A. (2022). p. 169.

50 *Ibid*. p. 171.

51 *Ibid*. p. 174.

52 *Ibid*. p. 175.

2.3.5. Enforcement via Private and Public Actions

Abusive private debt collection practices shall be prevented and cured via private and public actions. An efficient regulatory system shall allow remedies against abusive and unfair debt collection activities. Private action and civil liability are the core of FDCPA in the U.S. system.[53] Debt collectors shall be liable for their actions and breaches of law, while debtors need to be entitled to the damages and compensation of legal and administrative fees. In the U.K. system, debtors can resort to the Financial Ombudsman Service. Notwithstanding the problems in the court procedures, the existence of civil liability is one of the main building blocks of the efficient regulatory system touching upon the activities of private debt collectors.

Another important mechanism shall include the existence of public actions. In this scenario, supervisory or regulatory bodies shall be entitled to impose administrative sanctions or proceed with criminal charges against private debt collectors when they breach the law and engage in abusive or unfair debt recovery practice or pursue their activities without the necessary authorization.

53 *Ibid*. p. 176.

CONCLUSIONS

This Article gave a general overview of the importance of debt recovery and the abusive practices of debt collectors. It is argued that debt collection is an inherently risky activity that can excessively violate the debtor's rights if not properly executed. Debt recovery practice is not new for the Georgian market; however, information on the matter is only presented on television or social media. It is noteworthy to stress that Georgian legislation does not provide for sector-specific regulation touching upon the activities of private debt collectors. Also, traditional branches of law cannot deal with abusive practices in the debt recovery process. It is also analyzed that even the brand-new consumer rights protection law of Georgia does not include provisions protecting debtors from private debt collectors' unfair practices.

Additionally, the Article provided selected regulatory approaches based on the U.S. and the U.K. experience. Leading examples involved sector-specific regulations (the U.S. model) and "soft touch", fragmented laws (the U.K. model) to show that both are acceptable if they include the building blocks relevant for an efficient regulatory structure. Georgia has not yet taken its path toward private debt collectors' regulation. Therefore, it is relevant to acknowledge the regulatory gap and analyze the existing approaches and the building blocks of an efficient system.

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