

CONSUMER RIGHTS PROTECTION IN THE EXTRAJUDICIAL DEBT COLLECTION PROCEDURES: THE FOREIGN COUNTRIES EXPERIENCE

Summary

Consumer rights protection in the extra-judicial debt collection procedures has become an increasingly acute legal and social problem during the recent years in various countries. Since 2008 economic crisis in countries in Europe, USA and others the consumers face the bitter consequences of over-indebtedness. So far, different methods of combating those problems have been applied in various European countries with ongoing legal discussion of whether more efficient methods should be employed.

In the last 5 years some countries in Europe introduced the special legal regulations aimed at debt collection agencies in order to strengthen consumer protection. The aim of this study is to analyze the experience of foreign countries when regulating this area in order to help to decide if such kind of special legislation is needed in Lithuania, or if the current legal rules are able to solve those problems in accordance with social needs and the society's sense of justice. In case that a special legislation would be considered as relevant for Lithuania, the question arises, what can we learn from the good practices examples from abroad.

In order to answer these questions this study analyses first, the meaning and definition of the debt collecting procedure and its possible impact on consumer rights, second, purposes to introduce the special legislation in Germany, Latvia and other European countries, third, the national approaches regarding states control over the debt collection agencies, forth, the national approaches regarding permissible amounts of expenses for recovery of a debt and the non-reimbursable expenses, fifth, other consumer rights protection measures such as right to the information and requirement for the communication culture with the consumers and sixth, the possible ways and suggestions for the improvement of the Lithuanian legal regime in area of extra-judicial debt collection related to the consumers.

The conclusion was made that Lithuanian legislator in case that the study of factual situation would show that Lithuanian consumers face the same problems as consumers in other European countries should seriously consider the possibility of proposing solutions how to strengthen consumer rights in this area on the legislative niveau. By doing so Lithuanian legislator should weight the proportionality of the restrictions, because here an important issue is the conflict between the principle of social state and the fundamental right of entrepreneurship freedom.