

Report “Is the human dignity of individual debtors at risk?”

Executive summary

The fundamental right to a life worthy of human dignity is far from being guaranteed for all EU citizens. Credit and debt have become an increasingly important cornerstone of European economies. Consumers shoulder the burden of debt to fuel growth in the economy, but too often they find themselves crushed by its weight. Although consumers are pushed to use credit, they are not protected from the consequences of becoming over-indebted. This too often means being sentenced to a life of poverty, which raises both huge ethical and economic concerns for society as a whole.

One of the key areas that leads to a risk of breaching the fundamental rights of debtors is the lack of minimum income protection. A clear difference needs to be made between a decent and sober standard of living and being forced to live in poverty for years. There is no ethical or economic justification for debtors to be forced to live in poverty. It is a punitive practice that has been inherited from a past when being indebted was not a normal part of everyday life and when private debt was not considered as a major driver of economic growth.

The survey conducted by Finance Watch shows that the lowest possible amount of money needed to finance a minimum, dignified standard of living is not protected from debt collection in the EU today. Even where some rules currently exist, the survey has shown that they are often not properly enforced, or sufficiently to address the issue. This leaves many EU citizens at risk of being driven into poverty by debt collection.

Unfortunately the survey has also confirmed that EU citizens are also facing a serious and widespread problem of debt collector malpractice. If debt collection takes place outside of the courts then it is generally not regulated and leaves debtors exposed to aggressive practices and harassment. The survey shows that the EU is rife with examples of malpractice that put the fundamental right of debtors at risk.

The lack of protection faced by debtors creates a strong incentive for debt collectors to collect money without limits. This incentivises debt collectors to employ more persuasive behaviour, as it can lead to higher profits. It leaves very little room for fair players and practices to emerge. Market players who currently try to enforce ethical practices will struggle to collect the right amounts in the right way, because unethical collectors have an incentive and possibility to undermine them.

A minimum level of income exempt from garnishment should be established through EU-level regulation to ensure that indebted households do not fall into poverty or have their rights breached. This means that the exempt level of income should be adjusted to the individual situation of each household, taking into account its composition and circumstances, such as the cost of housing and sufficient heating, the cost for child education, to maintain a decent level of recreational activity, the cost of covering the type of mobility required to maintain access to work, related to a decent social life and the cost of appropriate health care.

Debt collection practices also need to be regulated at European level. This should prohibit behaviour or practices that are likely to negatively impact on debtor privacy, human dignity or are likely to mislead them. Debtors must also be properly informed of their rights and given the right support. Ensuring that all EU citizens have access to free, independent professional debt advice is an important step to ensure that debtor dignity is guaranteed. A key first opportunity to achieve this is through the proposed EU credit servicers directive, to ensure that minimum EU standards for debt collection practices finally exist.



1

Harmonised rules for safe and fair EU credit servicers

The authorisation of credit servicers should be subject to a uniform and harmonised set of conditions throughout Europe. To ensure compliance with debtor protection principles as well as personal data protection rules, appropriate governance arrangements and internal control mechanisms should be in place. Harmonised EU regulation should ensure that the costs and remuneration of credit servicers are never charged to consumer.

2

A common EU standard for income protection

A minimum level of income and means needed to live a life worthy of human dignity must be protected for all citizens. There is no ethical or economic justification for debtors to be forced to live in poverty. This baseline living standard must be formalised and monitored through regulation to ensure its effectiveness. A minimum level of income exempt from garnishment should be established that is adjusted to the individual situation of each household.

3

Higher EU consumer protection standards

A minimum level of common EU standards for debt collection when dealing with consumers and a common EU list of prohibited activities should be put in place. Member states should ensure that behaviour or practices that are likely to negatively impact on consumer privacy or are likely to mislead them are prohibited, as they often constitute harassment.

4

A standardised debt notification document is the key to fair competition

This should include providing a standardised debt notification document that is regulated under EU law to ensure consumers are properly informed, before any debt collection can take place. These measures aim to foster fairer competition between creditors and move away from the current situation of competition revolving around malpractice.

5

Free, independent professional debt advice

Debt advisors have a key role in informing consumers of their rights and help to ensure the best possible result for both creditors and debtors. They ensure that debtor dignity is guaranteed at all costs. Professional, independent and free debt advice should be available for all EU citizens.