

## Draft Regulation on Consumer Debt Collection in Bulgaria

The Bulgarian Government recently proposed a draft law on debt collection in consumer cases. If adopted, the proposed “*Consumer Contracts Debt Collection Act*” (the “**Act**” or “**Draft Law**”) would be the first piece of national legislation providing a sector-specific regulatory framework for the debt collection market, which is currently unregulated. The main purpose of the Draft Law is to protect the rights of consumer debtors by putting an end to certain abusive debt collection practices.

### Scope of application

The proposed Act aims to regulate the activity of both debt buyers and debt servicing entities in the area of non-performing consumer contracts. A significant exception from the scope of the Draft Law concerns consumer loans granted by credit institutions that are covered by *Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU*. The Directive provides similar rules with respect to consumer loans, but these rules are not transposed by the Draft Law. Their transposition is expected by the end of 2023. Debt services provided by lawyers, notaries and bailiffs are also excluded from the scope of the Draft Law.

### Registration requirement

The Draft Law proposes the introduction of a special register for debt collection and debt servicing companies. To qualify for registration, the debt collection/servicing entity must meet a number of strict criteria, including a minimum capital requirement amounting to approximately EUR 250,000.

Debt collectors must also provide evidence that the personnel they hire to carry out the collection activity, as well as the persons involved in their management and supervision, have no criminal background in relation to certain crimes and are not currently being prosecuted for property and financial crimes (among other things), and that no enforcement proceedings have been initiated against them for the recovery of public claims of significant amounts.

### Transfer of claims

According to the Draft Law, claims under consumer contracts may only be transferred to entities registered in the above register. Further, the initial creditor is required to notify the consumer of any transfer of receivables. The notification must contain detailed information on the transferred claim as well as an invitation for voluntary enforcement within a two-week period. If the claim is settled within this period in favour of the initial creditor, the transfer agreement would have no legal effect vis-à-vis the consumer. In addition, according to the Act, should the consumer object to the claim within a three-month period, the debt purchaser is not allowed to pursue any out-of-court enforcement. The proposed provision is imprecise and probably aims to ensure that an objection raised by the consumer results in enforcement being suspended until the dispute is resolved by the court.

### Debt collection modalities

The proposed Act tackles the much-debated issue of debt-collector malpractice by generally prohibiting any practices entailing harassment, duress, physical violence or insults. It contains a number of clear-cut restrictions regarding the methods of debt collection, including a ban on phone calls between 8 p.m. and 7 a.m., as well



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as on weekends and national holidays. Violations of these rules may lead to sanctions ranging from substantial fines (up to EUR 25,000) to the removal of the entity from the debt collectors register.

## Outlook

In view of the limited scope of the proposed rules (which practically exclude consumer loans), it remains to be seen whether they can serve their intended purpose of preventing violations of individual debtors' rights. The proposed law is poorly drafted and some texts are expected to be revised during the parliamentary vote. However, it

is certain that, if adopted, the proposed Act would require significant changes in the organization and practices of both creditors and debt-collecting/servicing entities.

## For more information

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