

The Current Legal Framework Concerning Abusive Debt Collection Practices in the Member States of the European Union

An Empirical Account

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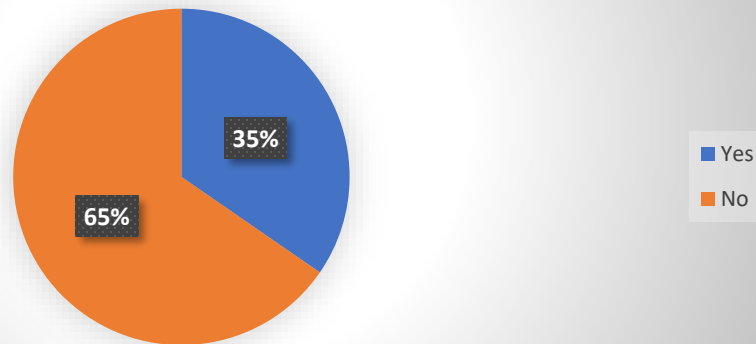


Background

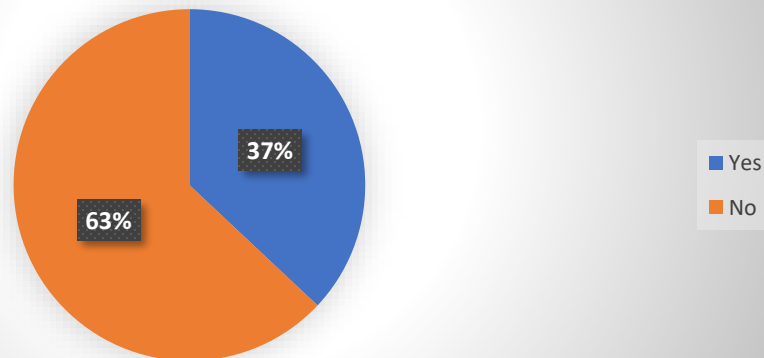
- **What is non-judicial debt collection?**
 - all methods employed by a creditor for debt recovery that do not involve the judiciary or other state agents (bailiffs, sheriffs, or police officers). In other words, it is a form of **private enforcement**
- Current context – the Proposal for a Directive on Credit Servicers, Credit Purchasers and Recovery of Collateral (NPLD Proposal): develop market for NPLs by harmonizing requirements and *creating a single market for credit servicing* to third parties across the EU.
 - **Defines the activities of credit servicers, sets common standards for authorization and supervision, and imposes conduct rules across the EU. -> Where is debt collection?**
- **No sector specific legislation at EU level**
 - Abusive debt collection practices are covered by the Unfair Commercial Practices Directive (UCPD) according to Eu Commission's guidelines on the implementation of the Directive. **Is it enough?**
 - **What about national legislation?**

Regulation of Abusive Debt Collection in the EU

Number of Member States having Sector Specific Debt Collection Legislation - 26 respondents

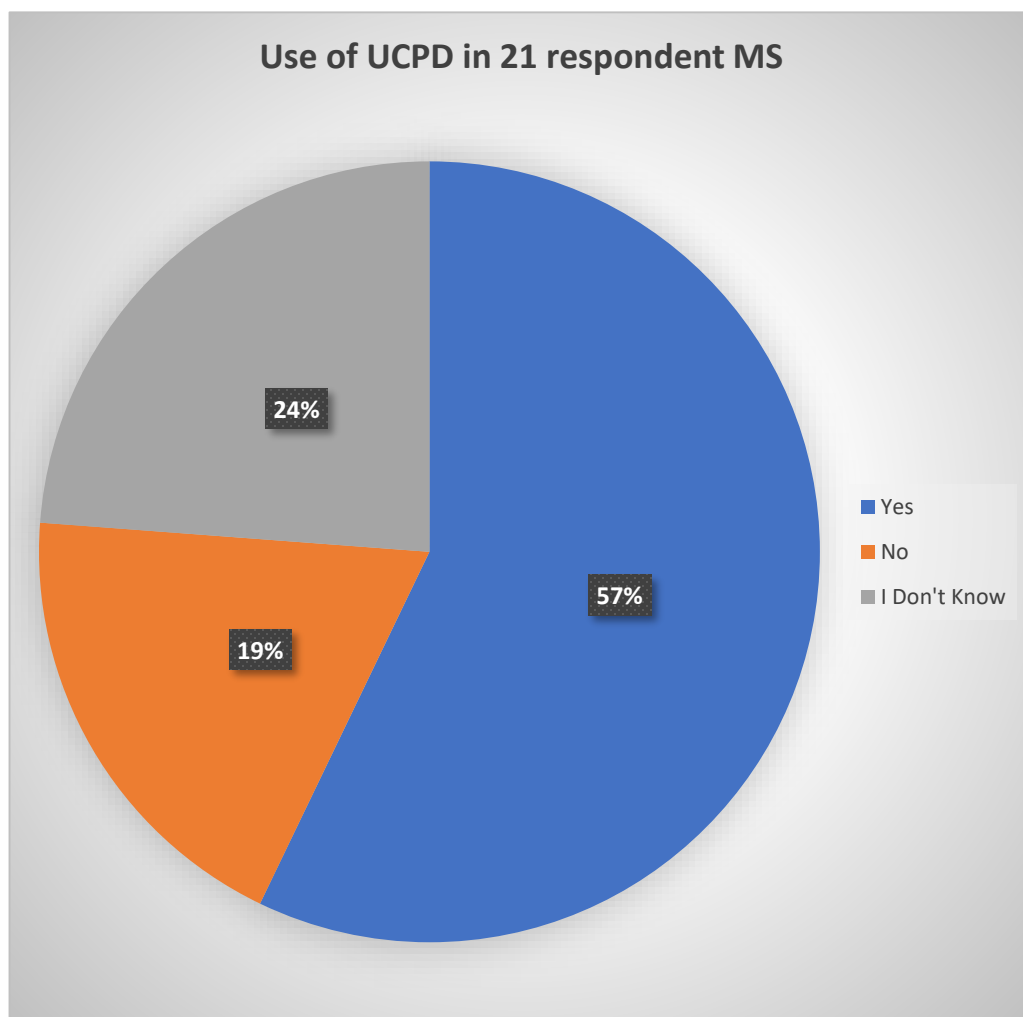


Sector specific legislation in 27 MS (excluding UK) by population



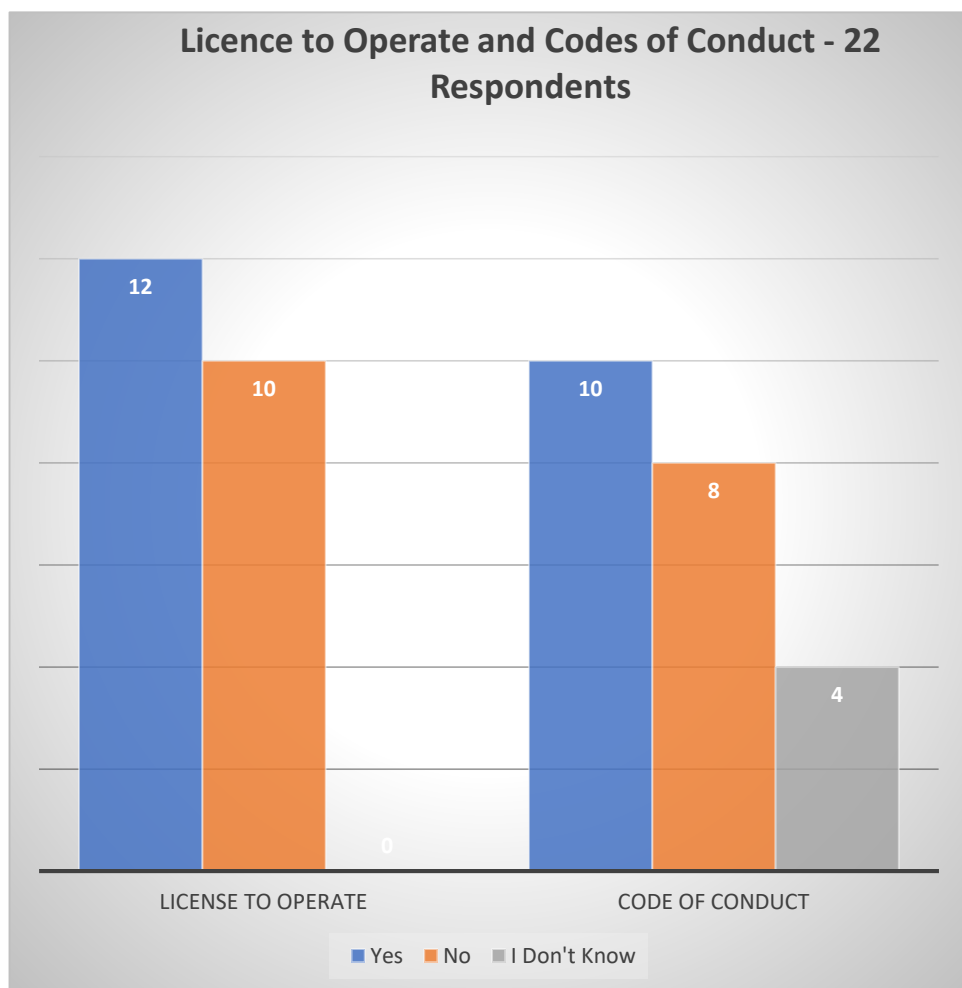
- 9 Member States have sector specific legislation: Belgium, Denmark, Finland, Germany, Greece, Latvia, the Netherlands, Romania and Sweden
- 3 states (Austria, France and Ireland) have scattered rules concerning communication with debtors
- 1 state (Hungary) relies on soft-law – non-binding guidance of the National Bank
- 281,47 million consumers (out of 446,82 million) live in MS without sector specific legislation
- Percentages of states (65%) are highly consistent with percentage of consumers (63%)

The Use of UCPD in Connection to Abusive Debt Collection in EU Member States



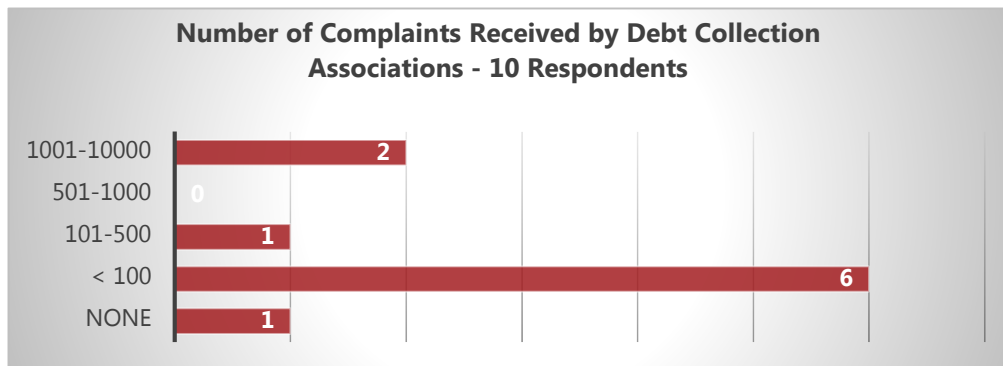
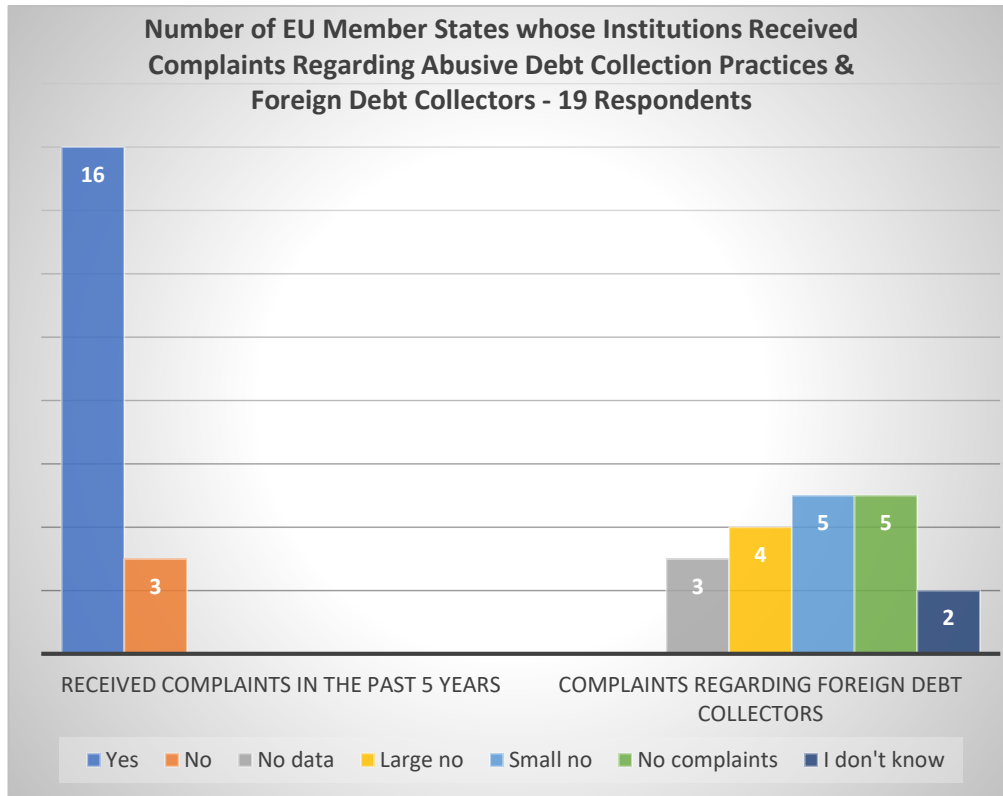
- 12 MS use the UCPD against abusive debt collection: **Belgium**, Czech Republic, **Denmark**, **Finland**, **Germany**, Italy, **Latvia**, **Netherlands**, Poland, Slovakia, Slovenia and Spain
- **Only 5 out of 17 MS** with no sector specific legislation use UCPD as alternative -> limited replacement role?
- Large IDK percentage might reflect low local awareness/knowledge (lack of/little resources/experience?)

General status on licensing and supervision of debt collection entities



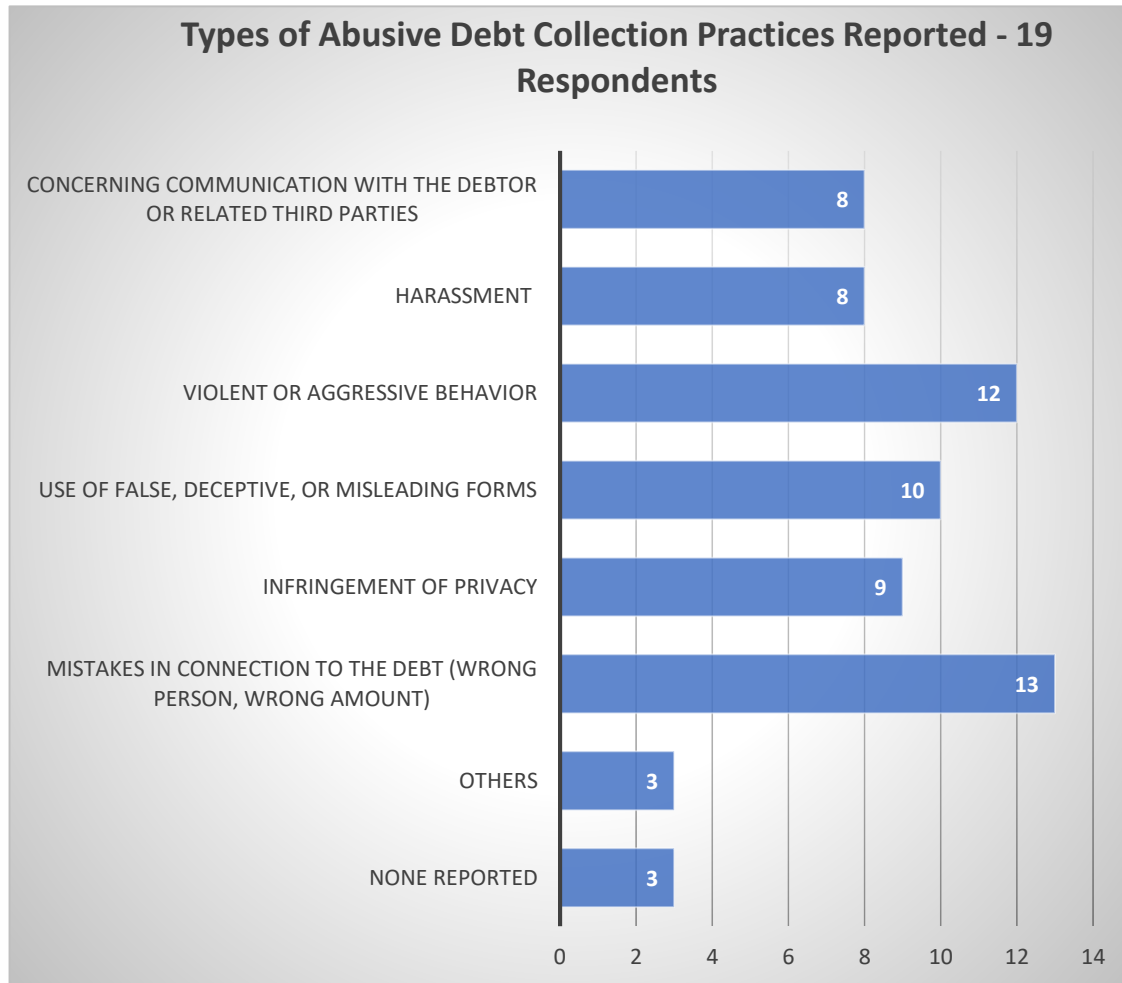
- First line of defense (prior assessment)
- 12 MS license debt collectors: **Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Italy, Latvia, Romania, Sweden, and Slovakia**
- Cross-border issues:
 - Multiple licensing?
 - Regulatory arbitrage?
 - Various licensing/supervisory agencies
- Codes of Conduct – complementary role:
 - Industry level (Finland and Italy)
 - Regulatory (Belgium, Denmark, Sweden)

Complaints Concerning Abusive Debt Collection Practices



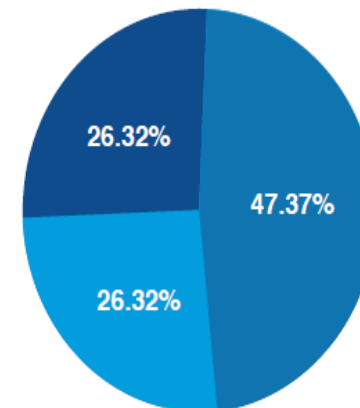
- Numbers used – estimates (even exact figures are inaccurate)
- No. of complaints \neq no. of abuses
- **Widespread issue:** 16 out of 19 MS indicated complaints
- 9 out of 19 had complaints about foreign debt collectors (**cross-border issue**)

Types of Complaints Concerning Abusive Debt Collection Practices



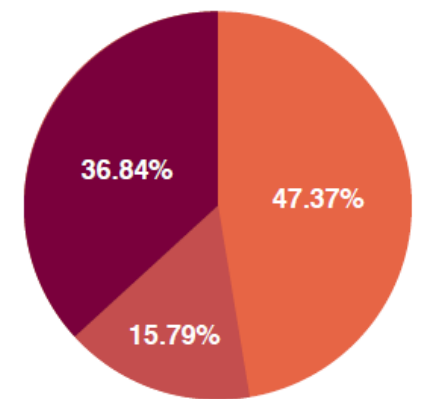
- All types known – **wide spectrum**
- Most common: **wrong amount** (68% of respondents)
- Finance Watch (2020): 73% & 62%

Collectors tried to collect undue interest, fees or other charges in addition to a debt



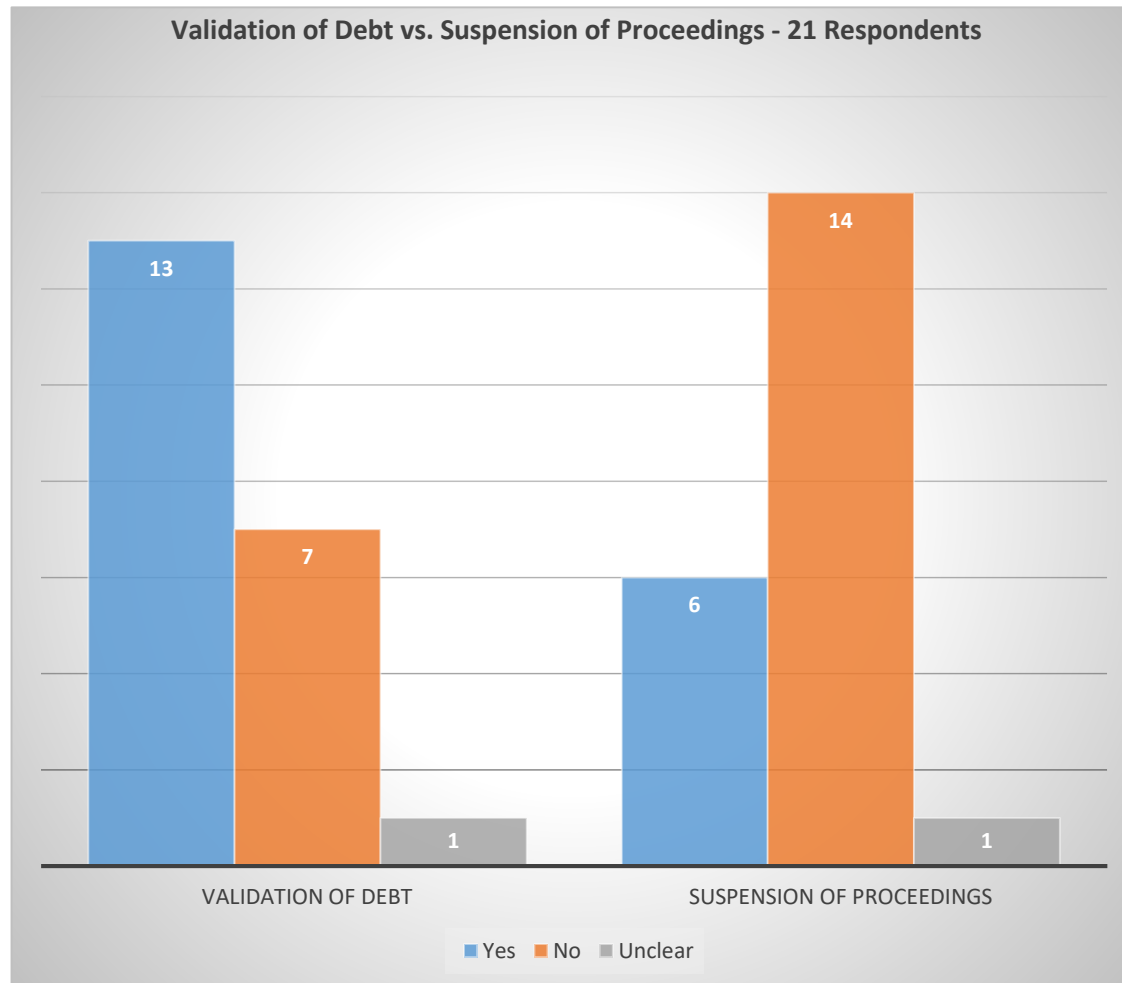
■ No ■ Yes ■ No, but exceptions exist

Denaturing the amount the debtors owe



■ No ■ Yes ■ No, but exceptions exist

Debt Validation & Suspension of Collection

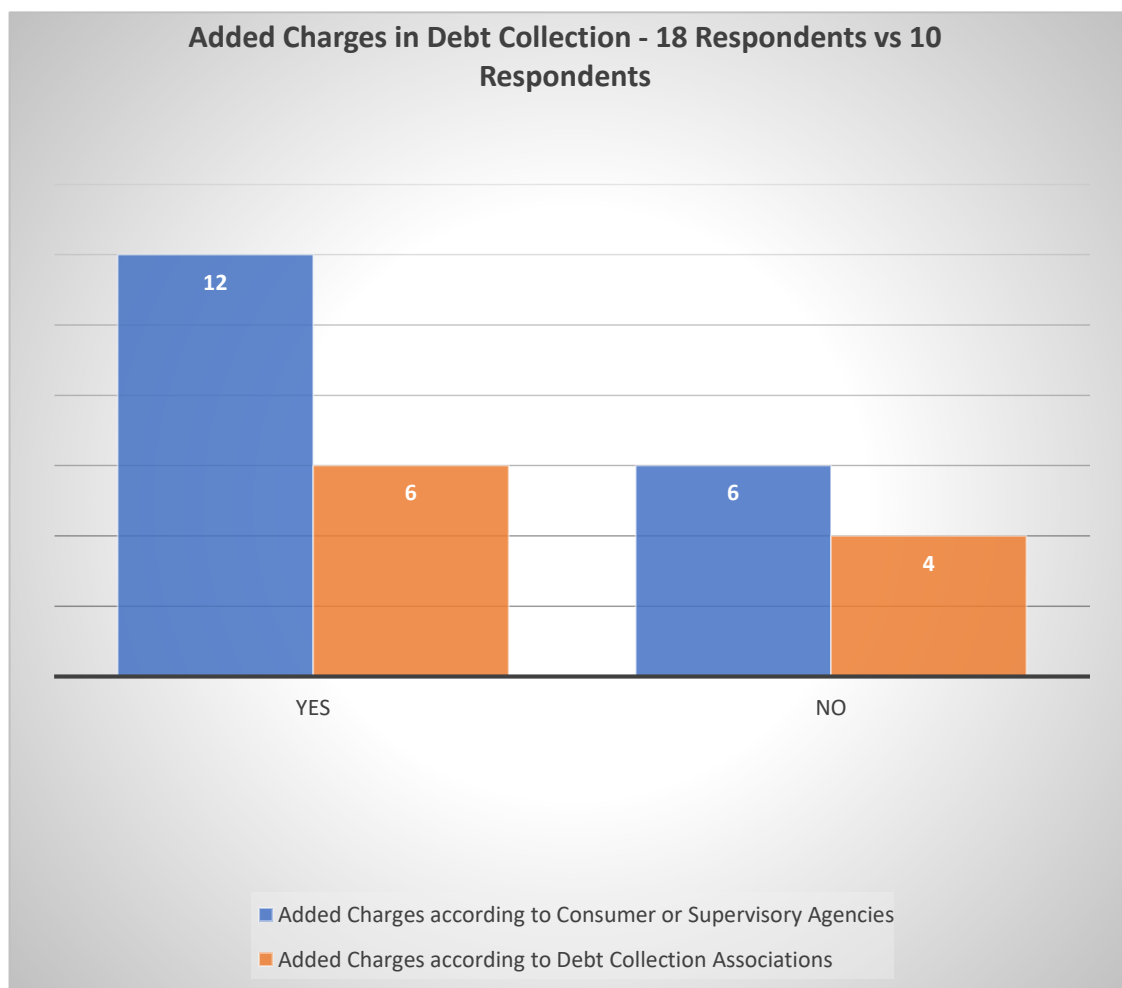


- 13 MS allow **validation of debt**: (**Belgium**, Croatia, **Denmark**, Estonia, **Finland**, **Germany**, **Greece**, Ireland, Italy, **Netherlands**, **Latvia**, **Romania**, Slovenia, **Sweden**)

BUT

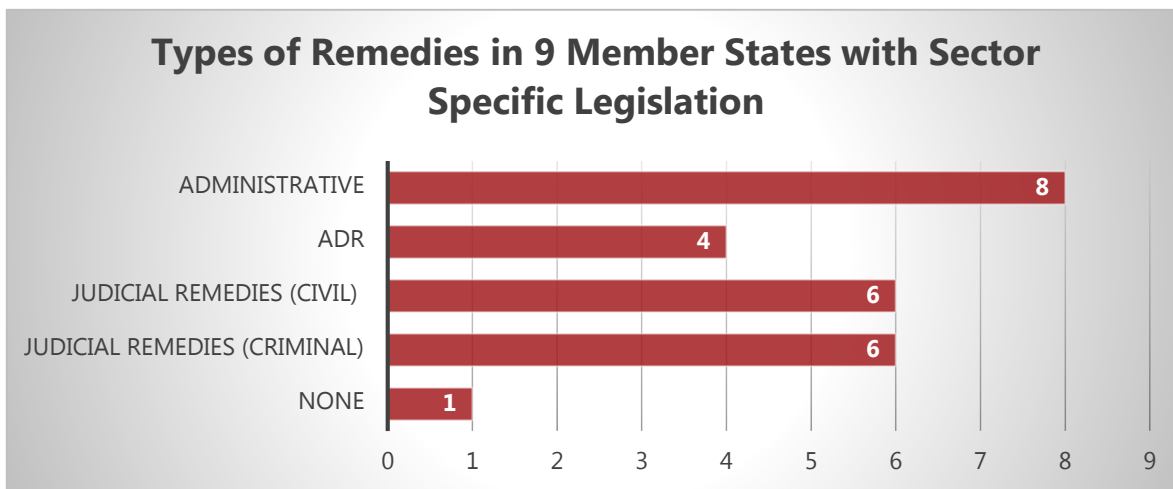
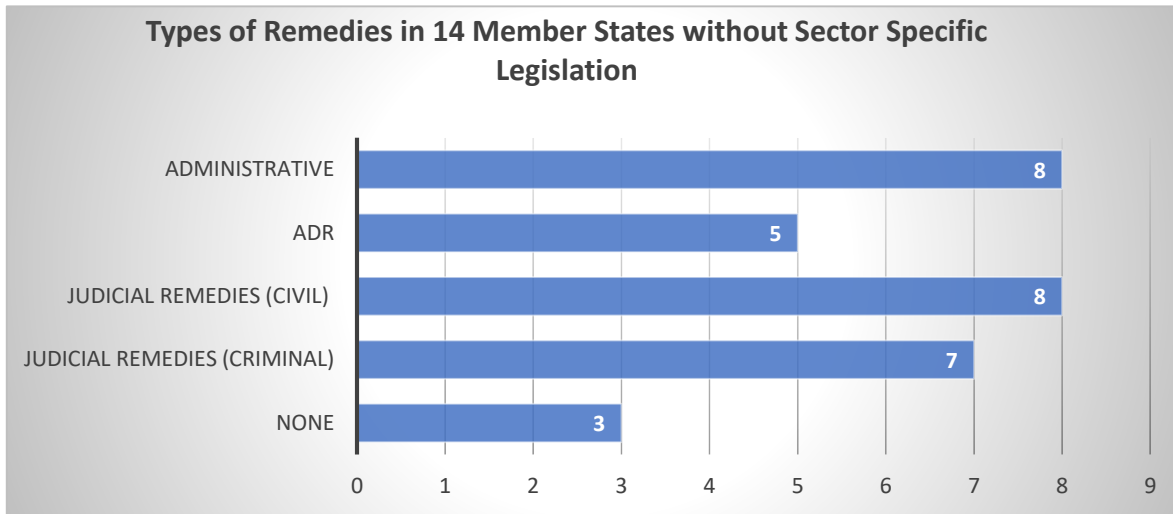
- Only 6 **stay collection** efforts during validation: **Belgium**, Croatia, **Denmark**, **Finland**, Ireland, **and Romania**

Added Charges



- 12 out of 18 respondents indicated that added charges are allowed -> increased risk of over-indebtedness
- Uncertainty about what and how it can be collected:
 - Austrian consumer authority – NO added charges; Austrian debt collector association – YES
 - Italian and Polish consumer authorities – YES; debt collector associations - NO

Remedial Options Available to Aggrieved Consumer-Debtors.



- Lack of sector specific regulation =/= lack of protection
- Traditional remedies available
- Most common: administrative remedies

Conclusions

- Largely unregulated/grey area
- Many uncertainties
- Fractured and diverse legal framework
- Hard to identify types? (*Scandinavian, Civil Law, Common Law, Other model?*)
- Various traditional remedies (hardly efficient)
- Low harmonization, low legal certainty and predictability -> issue in cross-border settings (additional barriers)

- Absence of convincing, converging and widespread national solutions
- There is a need for sectors specific regulation at EU level

THANK YOU FOR YOUR ATTENTION!

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