Considerations regarding the Particularities of Credit Agreements for Consumers relating to Immovable Property according to the Provisions of Government Emergency Ordinance no. 52/2016

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Abstract: As part of the transposition procedure into the national legislation of Directive 2014/17/EU on credit agreements for consumers relating to real estate immovable properties, was adopted Government Emergency Ordinance no. 50/2010 on credit agreements for consumers. The provisions of the normative acts are should apply exclusively for: credit agreements for consumers who sell immovable property, credit agreements secured by mortgages on real estate property and credits agreements involving a legal right related to residential immovable property. A credit agreement for consumers is the agreement through which a creditor grants or promises to grant to a consumer a credit to acquire an immovable residential property in the form of a deferred payment, loan or any other similar accommodation. According to the law, residential immovable property means the land or an existing or projected building that is the object of a real estate investment. The real estate investment may consist in: acquiring the property rights in a residential immovable property through legal acts by onerous title, improving a residential immovable property, refurbishing, rehabilitating, consolidating or extending it etc. The study of the normative acts mentioned above presents theoretical and practical interest from the general perspective of consumer protection and, in particular, through the economic and legal importance of the material object of credit agreements, respectively the residential immovable property. This paper is structured in three parts: “The Consumer Credit – an Overview”, “Credit Agreements Secured by a Mortgage” and “Credit Agreements for Consumers Relating to Residential Immovable Property”.The legal approach ends with conclusions.

Keywords: *The Civil Code, art. 1166-1323; Directive 2014/17/EU; Government Emergency Ordinance no. 50/2010; Government Ordinance no. 50/2010; Government Ordinance no. 21/1992.*

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1. The Consumer Credit – an Overview

Credit, in general, is an institution that falls within the economic cycle and it represents the *premise* of any important activity.

Credit has been associated to consumption because of the increasing interest of consumers in purchasing goods and services (Luha, 2020). Under these circumstances, “consumer credit” has become a widespread and intensively used financial and legal means - the consumer credit allows the consumer to finance the purchase of goods or services (Julien, 2015, p. 304).

The general legal framework, in the matter, is provided in G.O. no. 21/1992 on consumer protection and G.O. 50/2010 on credit agreements for consumers (G.O. no. 50/2010 transposes into the national legislation Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers).

a). *The credit agreement for consumers in the provisions of G.O. no. 12/1992 (modified by G.O. no. 174/2008 on the modification and amending some normative acts for consumer protection)*

According to article 9², “Any form of advertising relating to credit agreements indicating an interest rate or any other figures related to the cost of the consumer credit” shall include: the interest rate on the credit and “any costs included in the total cost of the consumer credit”; the total credit amount; the annual percentage rate of charge; the duration of the credit agreement and the total amount payable by the consumer.

In the agreement offer, the information related to costs shall be written visibly and legibly, in the same field of vision and with the same font.

Moreover, if, for the granting of the credit, the consumer shall conclude an insurance contract this “shall be mentioned in the advertisement”.

According to article 9³ of the Ordinance the agreement concluded with consumers shall comply with the following *general rules*.

Credit agreements shall include, in addition to the provisions of the common law, the administration fees, withdrawal and deposit fees for the account that are due by the consumer (when the financial service provider charges such fees).

Similarly, interest rates, as well as commissions, bank charges, taxes, fees (expenses) due to the bank and any other costs of the credit, in particular of certain services that the consumer may not opt out shall *be mentioned in the agreement* “without simply referring to the general business conditions of the financial services provider”.

The agreement shall also include the type of interest (fixed or variable).

During *the performance of the agreement* it is forbidden to increase commissions, fees, bank charges, any other costs mentioned in the contract or to introduce and charge new taxes, commissions, bank charges and fees or any other costs that have not been mentioned in the contract.

In case of *early repayment*, the early repayment fee for the credit is determined in close connection to the creditor's losses and it shall not represent "a disproportionate obstacle to the exercise of the consumer's right" to ask the repayment of the credit.

The agreements shall be concluded in writing, visibly and easily legibly, with a font size of at least 10, on paper or on any other durable medium, in at least two copies.

The *clauses of the agreement may be modified* only through an addendum to the contract that is accepted by the consumer - in the Canadian specialized literature, it has been established that the modification of the credit agreement should be made through *a new agreement* (Heureux, 2000, p. 110).

The agreement may be terminated according to the common law in the matter, including through performance, cancellation or withdrawal of the consumer.

When the credit agreement terminates, the financial services provides shall hand in, free of charge, *a document* that certifies the fact that "all the obligations between the parties have been executed". Once all the obligations between the parties have been completely executed, the provider shall close the bank accounts necessary for the financial services „without the consumer's obligation to submit another request and without paying any ancillary costs" (article 9² letter b of the ordinance).

b). *The credit agreement for consumers in the provisions of G.O. no. 50/2010.*

The credit agreement is the agreement through which a creditor grants, promises or establishes the possibility to grant a consumer a credit in the form of deferral of payment, loan or other similar financial accommodation (article 7 (2) of the Ordinance).

From the text of the law it results that the term "credit" should not be understood as "loan" as it is accepted in the civil law, in the sense that *the notion of credit has a broader meaning*, both legal and economic (which includes the loan) - in the legal specialized literature it has been stated that "the term credit includes both the claim the creditor raises against the debtor as well as

the duration granted to the latter for the payment of the debt” (Sferdian, 2007, p. 328).

According to the normative act that we analyze, the credit agreement shall comply with two special conditions:

- the credit should be used exclusively to finance an agreement whose object is to provide certain goods or services;
- the credit agreement and the purchase agreement for goods or services shall form a ”single trading entity”.

The pre-agreement stage should include “the standard information” (Goicovici, 2005, p. 15) needed by the credit consumer **(article 8 of the Ordinance)**.

The following are standard information: the interest rate for the credit, fixed or variable, the total credit amount, the annual percentage rate of charge, the duration of the credit agreement, the price of acquisition and the value of any payment in advance, the total amount payable by the consumer and the value of the installments.

The credit agreements shall include complete, clear and easy to understand information, written in Romanian. According to the law, the information included in the agreement may be further detailed or explained by the bank, on the express request from the consumer, before signing the agreement in the form of a note, annex to the agreement **(article 7 (2) of the ordinance)**.

Creditors also shall provide the consumer “adequate explanations” so that the latter could assess whether the agreement is adapted to his needs and to his financial situation (article 18 (1) of the Ordinance).

The following are considered “adequate explanations”: explaining the pre-agreement information, the essential characteristics of the products offered, explaining the costs that are included in the total cost of the credit, the consequences of default in payment by the consumer. In the same context, in the case of “an overdraft facility” the creditor shall provide the consumer with the information that allow him to compare more offers in order to take an informed decision **(article 22 (1) of the ordinance)**.

The effects of the credit materialize through the clauses of the agreement (creditor’s obligations and consumer’s obligations).

The main obligations according to the agreement are: granting the credit by the creditor and playing the price by the consumer.

The following are forbidden:

- clauses that allow to alter unilaterally the agreement, without the conclusion of an addendum **(article 40 (1) of the ordinance)**.

- clauses through which the consumer is obliged to observe the confidentiality of the clauses and the conditions of the agreement.

The modification of the credit agreement could be imposed by the parties or by law.

When the parties agree to modify the total amount of the credit after the conclusion of the agreement, the creditor shall update the information regarding the consumer.

Under the circumstances mentioned above, the creditor shall assess the consumer's creditworthiness before any significant increase in the total amount of the credit (article 30 of the Ordinance).

In the case of modifications imposed by the law, the consumer's not signing the addenda is considered *tacit acceptance*.

Within 15 days as of the date of the receipt of the notification the consumer shall communicate his acceptance or refusal of the new conditions.

Not receiving an answer from the consumer within the period mentioned above is not deemed as tacit acceptance and the contract shall not be modified.

The credit agreement may be terminated according to the common law clause (through performance, because of the failure to execute the main obligations etc.) or according to one that is characteristic to the consumption law, *the withdrawal from the credit agreement*. According to the general contracting rules, the unilateral termination (through the will of one party) is possible only in the case of contracts with successive performance concluded for an indefinite period.

According to the provisions of the normative act approached, the consumer "has the right to withdraw from the credit agreement, without giving any reason" for 14 days (article 58 (1) of the Ordinance).

The period of 14 days begins from the day of the conclusion of the credit agreement or from the day the consumer received the clauses and the conditions of the agreement and the information according to the law (article 58 of the Ordinance).

In case the consumer withdraws, he shall notify this to the creditor and shall pay the credit or the part of the credit drawn down and the borrowing rate.

The notification of the withdrawal from the credit agreement shall be given on paper or any other durable medium that is available and accessible to the creditor and shall be sent by legally accepted means before the deadline expires.

In principle, in case of withdrawal, the consumer does not due any other compensation (article 60 of the Ordinance).

If the consumer exercises the right of withdrawal from the credit agreement and if an ancillary service relating to the credit agreement is provided, then the consumer is no longer bound by the ancillary service (article 61 of the Ordinance).

As a principle, the consumer is entitled, at any time, *to discharge fully or partially his obligations* (under a credit agreement).

In the situation mentioned above, the consumer is entitled to a reduction in the total cost of the credit. *The reduction in the total cost* consists in the reduction of the interest and the costs for the period between the date of the early payment and the date of the end of the credit agreement (article 66 (1) of the ordinance).

On the other side, in the case of the early repayment of credit, the creditor is entitled to *fair and objectively justified compensation*. The compensation is paid for possible costs directly connected to early repayment of the credit on condition that the early repayment is made within a period for which the borrowing rate is fixed **(article 67 (1) of the ordinance)**.

As a general rule, such compensation shall not exceed the amount of interest the consumer would have paid during the period between the early repayment and the agreed date of termination of the credit agreement (article 69 of the Ordinance).

Only the consumer if credit may assign the credit agreement. In this case, the consumer has the right to plead against the assignee any defense that was available to him against the original creditor, including the right to receive compensation (article 70 of the Ordinance).

The assignment shall be notified by the assignor to the consumer within 10 days from the conclusion of the assignment agreement, through registered letter.

As a general public rule, any notification the creditor sends to the consumer shall be signed, shall bear the date and a reference number.

Failure to comply with the provisions regarding the notification of the consumer result *in the nullity* of the act (article 44 of the Ordinance).

Following the termination of the agreement, the accounts of the credit are closed, without any other additional costs.

2. Credit Agreements Secured by a Mortgage

Credit agreements secured by mortgage for real estate investment are regulated by Law no. 190/1999.

The credit agreement for real estate investment is granted for two purposes:

- for the purpose of investment in real estate for housing or for other usage or
- to repay a credit agreement secured by a mortgage previously granted, at least guaranteed by a mortgage of the real estate that is subject to the real estate investment (article 2, letter c of the law).

The credit agreement for real estate investment could be granted exclusively by authorized institutions (article 1 (2) of the law).

According to the law, authorized institutions designate universal banks and banks for credits secured by a mortgage, National Housing Agency, mortgage companies and any other entities established according to special laws.

The mortgage credit is granted exclusively for building real estate (Gheorghe et al., p. 238, p. 252).

According to the law, *residential immovable property* designates the building or the land on which was constructed or will be constructed a building which is the object of a real estate investment (article 2 letter e of the law).

The economic activity, according to the law, is the real estate investment.

Real estate investment may consist of: the acquisition of property rights for a real estate through legal documents against payment, arranging, refurbishing, consolidating or extending it etc. (article 2, letter g of the law).

The mortgage credit can be approached both economically and legally.

From the legal perspective, the mortgage credit presents the essential elements of an agreement (an assent between the parties intended to produce legal effects) (Goicovici, 2009, p. 15).

The parties of the agreement secured by a mortgage are: the mortgage lender (the authorized credit institution) and the client (the beneficiary of the loan).

During the formation of the contract stage, the offer for the credit shall be free of charge and printed on paper or any other durable medium.

Furthermore, the creditor shall provide a repayment schedule and a draft of the credit agreement.

The agreement for a credit secured by a mortgage shall include the following “information” concerning the costs paid by the client: the total amount of the credit; the interest rate for the credit, fixed or variable; the total cost of the credit; the duration of the credit agreement; the total payable amount and the costs of the insurance agreement (article 9 (1) of the law).

According to article 15 of the law, the mortgage lender is obliged to insert, in the text of the agreement, “clauses” through which the beneficiary is informed about all the guarantees and the conditions of their possible use (article 15 of the law).

It is prohibited to grant mortgage credits subject to accepting by the client of other services that are not related to that particular credit granting or to the purchasing of other securities issued by the authorized institution that is granting the credit (article 11 of the Law).

We consider that the legal nature of the “information” and “clauses” compulsorily included in the agreement is that of *the validity conditions* established for agreements in article 1179 of the Civil Code (Boroi & Anghelescu, 2012, p. 127), with all the ensuing consequences.

The two *main obligations* of the parties are: the creditor’s obligation to grant the credit and the beneficiary’s obligation to pay.

The amount of the credit granted could be expressed in lei or in convertible currency and shall be made available to the client in installments or in full.

The beneficiaries have the right to repay the credit early, under the conditions agreed by the parties through the mortgage credit agreement. The consumer’s right to repay the credit is a part of the mechanism that ensure the contractual balance and the equity between the parties (Vasilescu, 2006, p. 17).

If the interest rate is *variable*, *two rules* are applied:

a) the interest rate variation shall be outside of the control of the mortgage lender, related to the fluctuations of certain verifiable reference indexes, mentioned in the agreement, or to legislative modifications that require this;

b) **the agreement may provide that the interest rate changes only if the increase or the decrease represents, in relation with the initial interest rate, a certain minimal determined difference.**

The agreement for a mortgage credit for real estate investment may be *modified*, through the agreement of the parties, in writing, through *addenda* (article 9 (2) of the law). *The clauses regarding the due date* before the agreed term and the cases where these clauses shall be enforced shall be included in the mortgage credit in a separate article (article 12 of the law).

3. Credit Agreements for Consumers Relating to Residential Immovable Property

According to article 2 (1) of the Government Ordinance no. 52/2016, the provisions of the normative act shall *exclusively* apply to these three categories of agreements:

1. credit agreements for consumers relating to acquiring immovable property,
2. credit agreements secured by a mortgage on immovable property and
3. credit agreements that imply a legal right related to immovable property.

Consequently, the emergency ordinance *shall not apply to*:

- credit agreements where the credit is granted by an employer to his employees, as a secondary activity, when such credit is granted free of interest or at a lower annual percentage rate of charge;
- credit agreements where the credit is granted free of interest and commissions;
- saving and crediting agreements in collective system for housing;
- credit agreements granted to a limited number of beneficiaries according to a legal provision of general interest, free of interest or at lower interest rates.

a). *The Credit Agreement. Definition, objects and form.*

The credit agreement for consumers means an agreement whereby a creditor grants or promises to grant to a consumer a credit for the acquisition of a residential immovable property in the form of deferred payment, loan or other similar financial accommodation (article 3 (2) of the ordinance).

The parties of the agreement are the creditor and the consumer (beneficiary of the credit).

The creditor is the credit institution (legal person) who grants credits of the types provided by the law, in the course of his trade or professional activity (article 3 (2) of the ordinance). *A credit institution* is an undertaking whose main business consists in receiving deposits of other repayable funds

from the public and to grant credits for its own account according to the provisions of the law (article 3 (8) of the ordinance).

The credit intermediary is the natural or legal person who does not act as a creditor and who, in the course of his trade, business or profession, for a fee, *arranges the connection*, directly or indirectly, between a consumer and a creditor or between the consumer and another credit intermediary (article 3 (5) of the ordinance).

The credit intermediary shall provide the following services:

- offers the consumers credit agreements;
- assists consumers by undertaking preparatory activities or any other administrative activities related to credit agreements;
- concludes credit agreements with consumers on behalf of the creditor.

The *tied* credit intermediary is a credit intermediary but he acts on behalf and under the full and unconditional responsibility of: only one creditor or one group or of a number of creditors or groups that do not represent the majority of the market.

From the elements above, it results that the relationship between the creditor and the credit intermediary had the legal nature of a *power of representation* (in which the creditor is the principal and the credit intermediary is the agent). The mandate contract with representation is the document by which, on the grounds of assigning a power of representation by the principal, the agent undertakes to conclude one or more legal acts on behalf and in the name of the principal (Cârpenaru, 2019, p. 527).

The other party of the agreement is the consumer (beneficiary of the credit).

The real estate developer is also a subject of the credit agreement.

The *real estate developer* is the legal person who performs all real estate operations in order to build, complete and deliver to beneficiaries certain dwellings, as well as the coordination of financing sources needed to accomplish these operations.

Credit contracts shall include complete, clear and easily comprehensible information in Romanian.

Credit contracts are drawn up using a visible and clearly readable font, namely Times New Roman, minimum size 12, on paper or any other durable medium.

If the agreement is drawn up on paper, the background colour of the paper on which is drawn up the agreement shall be in contrast with the font used (article 14 (1) of the ordinance).

b). *Advertising, information, explanations and practices preliminary to the conclusion of the credit agreements.*

The precontractual phase of the credit for consumers for immovable property is characterized by the "information" and "practices" made available by the creditor.

According to article 6 of the ordinance, all the advertising and promotional materials related to credit agreements shall be accurate, clear and shall avert any error.

Any *advertising* concerning credit agreements shall include standard information: the identity of the creditor or of the credit intermediary; where applicable, the fact that the credit agreement is secured by a mortgage on that immovable property; the interest rate; the total amount of credit; the annual percentage rate of charge; the duration of the credit agreement; the amount and the number of installments; the possibility to conclude an insurance policy for financial risk in case of default in payment.

Any advertising shall include "information" that is clearly, concisely, visibly and easily readable presented, in the same the same field of vision and with the same font or clearly audible (article 7 (3) of the ordinance).

In any advertising creditors shall include a "concise and proportionate warning about the specific risks" associated with the credit agreements. Creditors shall warn consumers "especially about the variation of the reference index, about the fluctuation of their income and the exchange rate involved for credits denominated in a foreign currency which could lead to the ability to repay the credit" (article 7 (7) of the ordinance).

Likewise, in this phase of the agreement, the creditor shall provide at all times clear and easy to understand "general information" relating to the credit agreements, on paper or on any other durable medium or in electronic format (article 8 (1) of the ordinance).

The general information shall include, among other: the identity and the address of the registered trade office of the creditor; the purposes for which the credit may be used; the forms or surety; the possible duration of the credit agreement; the types of interest rates available; the options for reimbursing the credit (including early repayment).

According to article 9 (1) of the ordinance, the creditor "provides the consumer with the personalized information" (that the latter need to compare the credits available on the market).

The personalized information shall be provided in good time before any consumer becoming obliged through a credit agreement or an offer, but within maximum *15 calendar days* before conclusion.

This term above represents a “period to reflect” for the consumer before the conclusion of the credit agreement.

Furthermore, creditors shall provide to the consumer *adequate* explanations on the agreement “to enable him to assess whether the credit agreements and the ancillary services are adapted to his needs and financial situation” (article 11 (1) of the ordinance).

According to article 12 (1) of the ordinance, bundling is allowed but tying practices are prohibited.

c). *The content of the credit agreements.*

According to article 26 of the ordinance, the credit agreement shall include “clearly and concisely” the following main clauses.

The contracting parties are the credit information and the beneficiary-consumer of the credit (with identification information: the address of the trade registered office and the personal address, the phone number, the fax number, the e-mail address etc).

The type of credit: for the sale of immovable property, secured by a mortgage on immovable property or involving a legal right on an immovable property.

The total of credit and the conditions that regulate the drawdown of the credit. In the case of a credit in the form of a deferred payment for a certain asset, the agreement shall mention that asset and its price (article 26 (e) of the ordinance).

The borrowing rate of the credit (fixed or variable) and the conditions that govern its application. The interest rate for the credit shall include the complete formula for its calculation as well as the terms, the conditions and the procedure for the modification of the interest rate for the credit (article 26 (g) of the ordinance).

The annual percentage rate and the total amount payable by the consumer (calculated at the date of the conclusion of the credit agreement).

The consumer’s right to *repay the credit* and, implicitly, to be provided a repayment table (when the consumers exercises his or her right to repay early the credit, the creditor shall make available for the consumer an illustrative amortization table - repayment table), as well as a copy of the credit agreement.

The repayment table is provided to the consumer, free of charge, at any moment, during the entire duration of the credit agreement and it shall be drawn up on paper or any other durable medium (article 27 (1) of the ordinance).

The securities the consumer has to provide (as well as the type of the necessary insurance).

The consumer's right of *withdrawal* (and the procedure to cancel the agreement).

The duration of the credit agreement.

d). *The performance of credit agreements.*

During its duration the agreement produces legal effects for the contracting parties (the creditor and the beneficiary-consumer of the credit).

According to article 16 (1) of the ordinance, during the performance of the credit agreement the following activities are prohibited:

The increase of commissions, fees and charges (conditions) of the agreement.

To introduce and charge new commissions, fees or any other bank charges, except the specific costs of supplementary products and services that have been expressly required by the consumers, that were not mentioned in the agreement or that were not provided on the date of its conclusion.

Charging a cash deposit fee for the payment of installments (regardless of whether the deposit is made by the credit holder or another person).

Charging a withdrawal fee for the amount drawn down from the credit (regardless of the date when the credit is drawn down).

Charging a commission, fee of any other bank charges in case the consumer requests and the creditor agrees to change the maturity date, reschedule the installments or to grant a grace period.

Charging commissions in case the consumers in case the consumer requests a change of the securities, provided that the consumer pays all the costs related to the establishment and evaluation of the new securities.

Increasing the interest rate or, as the case may be, of the fixed interest rate, introducing and or increasing commissions as well as of new costs through addenda drafted for changing the maturity date, rescheduling, grace periods granted on the request of the consumer.

Charging a commission, fee of bank charge in case the consumer requests a document that is necessary for the early repayment of the credit through refinancing.

As a general rule in the matter, we mention that the clauses that allow the creditor to change unilaterally the clauses of the agreement without concluding an addendum accepted by the consumer are prohibited (article 19 (1) of the ordinance). According to the law, it is forbidden to include in

the credit agreements clauses that: oblige the consumer to keep the confidentiality of the contractual clauses and conditions; allow the creditor to declare the maturity or terminate unilaterally the contract or impose a sanction on the consumer in case the good repute of the creditor is affected; allow the creditor to declare the maturity of the credit earlier in case the consumer did not fulfill his obligations according to other credit agreements concluded with other creditors nor could the creditor impose the consumer to conclude an insurance agreement for the securities with an insurance company agreed by the creditor (article 19 (3) of the ordinance).

e). *Modification, assignment and the termination of credit agreements.*

According to the common law, during its performance, the agreement may be modified.

According to the conditions above, the credit agreement may be, in principle, modified because the criterion of its duration depends on its essence.

The modification of the agreement by the parties' agreement produces new rights and obligations for the contracting parties.

The unilateral modification of the costs of the credit is, in principle, possible in the case of the credit agreement *exclusively according to the conditions of the agreement*.

In the situation mentioned above, the creditor shall *notify the modification* to the consumer, in writing and shall hand the latter, after signing to confirm the receipt, a new repayment table (article 16 (2) of the ordinance).

The assignment of the agreement consists in assigning the agreement, by one party, during its performance to a third party (Pop, 2009, p. 563).

According to the common law, a party may hand off its obligations arising out of an agreement *only if the services have not been yet fully performed* and the other party consents thereto (article 1315 (1) of the Civil Code).

The subjects of the assignment of the agreement are: *the assignor*, the contracting party who assigns his rights and obligations to the assignee; *the assignee*, the third party who assumes the assignor's rights and obligations, and the *assigned party* who is the other contracting party.

Credit agreements for consumers for immovable residential properties *may be assigned exclusively to creditors*, others than non-credit institutions (article 58 (2) of the ordinance).

Whenever the claims that result from a contract are assigned, the consumer has the right to invoke against the assignee *any means of defense* that he may use against the initial assignor, including the right to compensation.

The assignment, either individual or within a debt portfolio, becomes opposable to the consumer by *the notification sent to him by the assignor* (article 59 (1) of the ordinance).

The assignment shall be notified by the assignor to the consumer *within 10 calendar days* as of the conclusion of the assignment agreement, through registered letter.

This notification shall be drawn up in writing, in a clear, visible and easily readable language, with the font Times New Roman, size 12, on paper and it shall include: the name and the identification information of the creditor (including the name of the initial creditor who has assigned the claim), the date of the conclusion of the assignment; the amount due and the account in which payments are made (article 59(4) of the ordinance).

According to article 60 of the ordinance it is prohibited, among others, to: assign the credit agreement to an entity that does not its registered trade office in Romania; charge commissions, interest and late payment interest by debt collecting entities; use techniques that harass or abuse any person in connection with the recovery of claims; use during the process of recovering debts, threats or other aggressive techniques in order to physically or mentally harm the consumer or his or her relatives or to damage his or her reputation.

The credit agreement *terminates* according to the general rules of the contract, through complete performance, the consent of the parties etc. (article 1321 of the Civil Code).

The right of unilateral withdrawal (the consumer's right) may be exercised only if "the agreement has not entered into force" (article 1276 of the Civil Code)

4. Conclusions

European and national regulations in the matter of the consumption legislation have a their *general objective* the special legal relations created between economic operators and individual consumers (aiming at protecting the "weak party", the consumers).

Credit agreements for consumers relating to real estate immovable properties, regulated by G.O. no. 52/2016 have *a restricted field at the real estate level*, respectively the credit agreements for consumers on the moment of selling immovable property, credit agreements secured by a mortgage on real estate and credit agreements that involve a right related to an immovable property.

As the consumption agreement complies with the general contracting rules enforced by articles 1166-1323 of the Civil Code, “credit agreements” have the same legal status.

The law approaches the activity that consists in granting credits for consumers from an economic perspective and for this reason the legal analysis of this credit is difficult.

The difficulty of the research also lies in the fact that the transposition into the national legislation of the European directive requires a *harmonization* operation through which the characteristic institutions of the consumption law are adapted (in this particular case “advertising”, “information”, “explanations”, “preliminary practices” etc.) to the general contractual regulations derived from the provisions of the Civil Code.

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