

SCIENTIFIC VALUES ON THE EUROPEAN LEGAL REGULATION ON THE CONSUMER CREDIT AGREEMENT

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Abstract

With the increase of revenue, including in the budget sphere, which stimulates the planning of purchases of products that could improve the quality of life, with the reduction of interest rates by banks, the citizens are increasingly stimulated to conclude credit agreements. The subjects of the civil legal relationship in consumer law must be on the one hand the consumer and on the other hand the professional, the entrepreneur, the creditor. From the essence of the notions, obtained by the common law and Directive 2008/48 / on consumer credit agreements, it follows that the notion of consumer and professional, is notions that includes the legal relationship in the sense of consumer protection law, and the notion of creditor. Through this research paper we propose to analyze the credit agreement both from the perspective of common law and agreement to special rules established by Directive no. 2008/48 and the Law Rep. of Moldova no.202 / 2013 regarding the credit agreement for consumers.

Keywords: consumers, protection, contract, credit, interests, agreement

Introduction

From the essence of the notions of the “professional” from the Civil Code and “entrepreneur” from Law no. 105 of 13.03.2003, emerges the idea of the legal relationship within the meaning of consumer protection law, but also the notion of creditor, or the person who offers a loan. The loan being offered on the basis of a contract to a person who meets the conditions of the notion of consumer will have different specifications than a loan contract provided by the regulations of common law, ie the Civil Code. The subjects of the civil legal relationship in consumer law

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must be the consumer on the one hand and the professional (i.e. the entrepreneur, the creditor, etc.) on the other.

1. Scientific valences on the credit agreement

The origins of the credit date back to ancient times, in the 2000s before Christ in the old cities of Assyria and Babylon, when the retail banks granted loans in grain to farmers and traders who transported goods. Money transactions were also registered during the Roman Empire, when creditors operating in temples came up with two innovations, namely accepting the deposit and exchanging money. In China and India, archaeologists concluded that such activities were also common in those times.

According to the explanatory dictionary of the Romanian language, „*credit is a sum of money made available to someone for borrowing*”¹. Therefore, a credit is being perceived as a monetary relationship between a natural or legal person (creditor), who grants a loan of money or who sells goods or services on debt, and another natural or legal person (debtor), who receives the loan or buys on the debt, the loan granted (repayable and usually conditional on the payment of interest) (Investopedia, 2021).

Thus, the concept of credit outlines the elements of a legal act, that is to say, of a civil contract. From the beginning of the investigation of the anatomy of the civil contract, the notion of the Civil Code of Republic of Moldova as early as 1964, which reflects, contracts are „*acts committed by citizens and organizations in order to give birth, modify or extinguish civil rights and obligations*” (old Civil Code of the Republic of Moldova, 1964)

Based on the ideas, principles and norms of the system of continental law, or as it is known, the legal family of Romanesque tradition, identifies that the civil contract manifests two qualification criteria: the agreement of will and the legal purpose. In the broad sense of the agreement of will, it is understood that each part of the contract manifests a certain desire to achieve a purpose. So the construction of the civil contract is based on the principles of consensualism, based on moral rules to keep your promise, to be in good faith, to respect the interests of the other (Cimil, 2012, p. 15).

The German doctrine reflects the concept of the contract as an agreement between the partners to regulate legal relations or an agreement of will between two or more persons in order to achieve a legal outcome. Whereas, Russian civilists, Golitov V.B., define the contract as a special form of the binding legal relationship, based on the freely expressed will of the parties, which consists in the assessment and realization of its factual actions in order to achieve the legal consequences in personal interests (Cimil, 2012, p. 19).

¹ Definition of the word consumer (retrieved from <https://dexonline.ro>).



The Romanian concept does not differ much from those previously mentioned, the contract being described as „*the expression of freedom of the envy*” in private law (Stanculescu, 2017).

The Moldovan legislature provided a general concept of the contract in art. 992, paragraph 1 of the Civil Code, namely „*the contract is the agreement of will between two or more persons by which legal relations are established, amended or extinguished*”. Therefore, the analysis of the credit concept in different legislative frameworks highlights the fact that the basis of the contract is in itself the desire/will of the persons to achieve a certain purpose between them and thus, the contract will be shaped as an agreement of wills between the parties.

By transposing the identified characteristics of the credit concept over the concept of a contract, the idea that a credit itself emerges following the conclusion of a contract is shaped. In fact, the concept of credit encompasses the defining elements of the contract, or reverts to the essence of the credit, this time in the light of the concept offered by the national legal norm, art. 1763, para. 1 of the modernised Moldovan Civil Code, „*By credit agreement, a bank or a non-bank lending organisation (creditor) undertakes to make available to another person (debtor) an amount of money as a loan, provided that it is reimbursed, paid interest and other related payments, or assumes any other commitment to a claim or to make a payment to extend the repayment period of the debt or to issue any guarantees.*”, it is identified that two legal conditions are required for the occurrence of a credit: receiving the loan and offering the loan, which is governed by the legal norm of the modernised Moldovan Civil Code.

2. Characteristics of the credit agreement

From the anatomy of the contract in general and the credit agreement in particular, according to Cimil (2012) there can be distinguished four defining features:

- The credit contract is an agreement of will between two or more persons alive at the time of the conclusion of the contract;
- The agreement is reached by free expression of will;
- The purpose of the contract is to make, amend or extinguish legal reports;
- The contract involves the consideration of public order and good morals.

The first and second defining features give rise to the principle of freedom of contract, which specifies that contracting parties may, within the limits of the mandatory rules of law, conclude freely a contract and freely determine their content, and that the obligation to conclude a contract is prohibited, except where the obligation to contract is provided for by the Moldovan Civil Code or arises from a voluntary obligation. The same applies for the credit agreement. Thus, the conclusion of such a legal act is due only to the contractual freedom, to the individual desire of the person (Cimil, 2012, p. 16).

In the order set out, the credit agreement is legally characterised as a consensual contract, i.e. it is considered to be a credit agreement when the parties’



agreement of will is reached on the essential terms of the contract. It is a contract for consideration, a fact identified in the text of art. 1763, para. 1 of the Moldovan Civil Code: „ ... *make available an amount of money as a loan, subject to its repayment, payment of interest and other related payments, or undertake any other commitment to purchase a claim or to make a payment to extend the repayment period of the debt or to issue any guarantee*”, in other words, for the credit granted, the debtor is obliged to pay interest and other related amounts provided for in the contract.

Also from the above referred text, the legal character with regard to the performance of the contract is identified. Thus, the credit agreement is a contract with successive execution – the mutual benefits of the creditor and the debtor are carried out over time. Since both parties to the credit agreement undertake each other to fulfil obligations and also to obtain each other’s rights, that contract is synalagmatic in nature.

In addition to the characteristics listed above, it should be noted that a contract within the meaning of the legal rules in force will be considered only when it meets the elements of the contract. The first element of the credit agreement is the subjects or parts of the contract. As subjects of the contract in general, they may be natural persons and legal persons who have full capacity to exercise and exercise their rights and obligations (Chibac *et al.*, 2010, p. 93).

The subjects of the credit agreement are called debtor and creditor. The first is the party that receives the loan and pays interest, other related payments, etc., and the creditor is the person offering the loan. It should be specified that the creditor, in accordance with art. 1763 of the Civil Code of the Republic of Moldova, has special quality, i.e. the creditor can be „a bank or a non-bank lending organization”. In the case of the debtor, the art. in question does not specify who may be a debtor, limited to the concept of ‘persons’.

According to art. 2 of the Moldovan Law on the National Bank (Law on the National Bank of Moldova, 1995) in conjunction with art. 3 of the Moldovan Law on Financial Institutions (Law of financial institutions, 1995), the bank as a creditor represents entities that have the capacity to use the means attracted from natural and legal persons to grant loans. It is also apparent from those rules that other financial institutions may be able to be a creditor.

In accordance with art. 26, paragraph 1 of the Moldovan Law on financial institutions, credit granting is one of the financial activities carried out by the banks alongside other types of financial services (i.e. consumer and mortgage loans, factoring with or without right of recourse, financing of commercial transactions, etc.), and the bank can perform these activities only based on the authorization issued by the National Bank of the Republic of Moldova.

However, the Moldovan Law no. 202 of 12.07.2013 regarding credit agreements for consumers, in art. 3, identifies the creditor as a natural or legal person who grants or undertakes to grant credits or loans in the course of his/her business or professional activity (Consumer Credit Agreement, 2013).



The material object of the respective contract is the money, thus the idea that the credit agreement has many characteristics of the loan agreement. In fact, even the Moldovan Civil Code legislates this in art. 1763, para. (3): *„The provisions relating to the loan agreement shall apply to the credit agreement in so far as the rules of this Chapter do not provide otherwise or the essence of the credit agreement does not show otherwise.”*

So, if the loan agreement in the material object of the contract can be even a good, then in the case of the credit agreement it is limited to money. The special object of the credit agreement is the service of making the amount of money available to the debtor under the conditions laid down in the contract.

In general, the subject matter of the contract is nothing more than what the parties want to achieve through the conclusion of the contract. That is, in the existence of the contract, several conditions are imposed to the object, such as: to be in the civil circuit; to be determined or determinable; to occur at the present moment or some time in the future; to be legal (false money cannot be considered as an object that meets the legal conditions for the validity of the contract).

Another element of the contract is the price. Thus, from the meaning of the concept it is clear that the credit contract is for a fee, or the creditor with the offer of credit pursues the purpose of obtaining some income, and the debtor has the obligation to execute. The price of the credit agreement is represented by the interest and other related payments, or any other undertaking to purchase the claim or to make a payment, to extend the repayment period or to issue any security (Chibac *et al.*, 2010, p. 93).

With regard to consumer credit agreements, the price of the contract is even specified in art. 3 of the Moldovan Law no. 202 of 12.07.2013 regarding credit agreements for consumers: *„the total cost of credit to consumers shall mean all costs, including interest, commissions, fees and any other costs which the consumer must bear in connection with the credit agreement and which are known to the creditor, with the exception of notarial fees; the costs for the ancillary services relating to the credit agreement, in particular the average amount of insurance premiums, shall be included where obtaining or obtaining the credit in accordance with the terms and conditions presented is subject to the conclusion of a service contract.”*

Also, in Moldavian Law no. 202 of 12.07.2013 regarding credit agreements for consumers, in art. 3, there is the notion of the effective annual interest, which is considered as the total cost of the credit for the consumer expressed as an annual percentage of the total value of the credit, including the costs mentioned in art. 23 para. (2), as appropriate.

In fact, art. 3 also enumerates the list of costs that do not relate to the annual interest rate: *„For the purpose of calculating the annual interest rate, the total cost of the credit to consumers shall be determined, except of costs other than the purchase price, which, for the purchase of goods and services, it is obliged to pay, regardless of whether the transaction is carried out in cash or on credit”.*



Also, in the consumer credit contracts, according to art. 23, para. (2) of the Moldavian Law on Consumer Credit Agreements, in the contract price are also included:

- the costs of administrating an account that records both payment transactions and withdrawals;
- the costs of using means of payment for both payment transactions and withdrawals;
- as well as other costs relating to payment transactions which are included in the total cost of credit to the consumer.

According to art. 3 of the same law, the exception to the costs listed above is made if the account opening is optional, and the account costs have been clearly and separately indicated in the credit agreement or in any other contract concluded with the consumer.

It was previously specified that the credit agreement also meets the conditions of the loan agreement if the rules governing the former are not contrary. So, from the analysis of both the legal norms regarding the credit agreement and the loan agreement it is identified that this type of contract is to be concluded in written form and this fact represents a condition of validity, it being also stipulated in art. 316 para. (2) of the Moldavian Civil Code that the form is a condition of validity of the legal act only in cases expressly provided by law.

Regardless of the fact that both the doctrine and the legal norms related to the legal act outline that the legal acts between legal entities, between legal entities and individuals and between individuals, which exceed the value of 1000 lei are concluded in writing, however art. 321 of the Civil Code, is an exception, namely: *„and in cases provided by law, regardless of the value of the object.”*

Moreover, the art. 1763, para. (2) of the Civil Code expressly mentions that the form of the credit agreement is the written one. Therefore, once the written form of the contract is not respected, its nullity is attracted, a fact legislated in art. 322, para. (2) of the Civil Code: *„Failure to comply with the written form of the legal act shall invalidate it only if this effect is expressly provided by law or by agreement of the parties.”*

Regarding the term of the contract, it is not an essential clause, the parties being free to set the term of the contract, and in the absence of a contractual provision, it will be considered concluded without a term. The disadvantage is that the term of the contract is not specified, ie the creditor can request the repayment of the loan at any time, the debtor having only 30 days from the date on which he received the request for repayment of the amount security (Chibac *et al.*, 2010, p. 71).

Logically, in accordance with the principle of freedom of contract, the contract shall cease at the time of the parties' agreement. But there are other situations of termination of the contract, for example: the contract ends when the debtor's obligation has been honored, when a deadline has been written in the text of the contract or in the case of a resolution.



Regarding the resolution, the Moldavian Civil Code does not provide any exhaustive circumstances, but art. 1769, para. (1) regulates the following situations: *“the creditor may terminate the contract and request the repayment of the credit and the related amounts if: the debtor has become insolvent; the debtor did not provide the required guarantees or reduced the guarantees offered without the creditor’s consent; the debtor does not pay the interest within the established term; the debtor has not fulfilled the obligation to repay at least 2 installments of the loan, when the contract provides for the repayment of the loan in installments; the creditor may terminate the contract in other cases as well”* (Civil Code of the Republic of Moldova, 2002).

It should be noted that the resolution for the reasons listed above takes effect only when the creditor has given the debtor a period of 15 days to pay the outstanding amount and the payment has not been made. Therefore, it is noted that the resolution is dedicated only to the creditor, being registered as a right of the creditor if the debtor „falls” under the conditions mentioned, while the creditor is offered the right to revoke the contract.

In the essence of the revocation, an interpretation in this chapter is offered by the lawyer Victoria Goncearuc: *“the revocation consists in the termination of a contract based on the will of both parties or of one of the parties, as mentioned in the commentary of the Civil Code. The moment from which it ceases to produce legal effects, the revoked contract depends on the nature of the contract. Or, in the case of contracts with instant execution - the revocation will terminate the contract with retroactive effect from the moment of concluding the contract, and in the case of the contract with successive execution as a result of the revocation the contract will cease to produce effects for the future. It is specific to the revocation that unlike the resolution, the revocation must not contain any justification. Its essence comes from the fact that it can only be used by the consumer who is protected by law as the weakest part of a contract with an economic operator”* (Goncearuc, 2016).

3. Legal relationship between creditor and consumer in credit agreements

As mentioned previously, the legal relationship between its subjects, namely the creditor and the debtor, represents the base of a credit agreement. In general, the creditor and the debtor of a credit agreement may be both legal and natural persons, and no exceptions are registered in this respect.

The credit agreement for the development of a business is concluded between professionals, while a consumer agreement can occur between a natural person (consumer or debtor) and a professional, viewed in the light of the concept of creditor.

As set out in the preceding paragraphs, each part of the credit agreement has the possibility to establish and negotiate proportionately the contractual terms in order to reach a common denominator. Thus, the participants in the credit agreement in general can be considered to be in an equal position, although in the



case of consumer legal relations, the participants are always in a position of inequality: on the one hand, there is the trade that is on the „*strong side*”, and on the other hand - the “*weak part*”, that is, the consumer (Goncearuc, 2016).

The position of inequality is the consequence of the fact that the person of the consumer is presumed to not know the creditor’s field of activity, although the creditor is a person specialised in his field of activity, therefore the creditor knows both the advantages of the field and the levers of deception, which may not coincide with the principle of good faith of the consumer in particular.

The debtor (consumer) may be any natural person who does not engage in entrepreneurial or professional activity, who, as a result of the conclusion of the contract, is obliged to repay the amount of money received from the creditor, and to pay the interest and other related payments, or undertakes any other obligation to purchase a claim or to make a payment to extend the repayment term of the debt or to issue any guarantees. According to Băieşu and Plotnic (2014), the consumer finds himself in a situation of triple inferiority to the trader/creditor/economic agent:

- a technical one, stating that the trader is well aware of the services he provides to the consumer, while the consumer may be aware of them when presented to him, giving him a more limited time to analyse the situation;
- a economic one: creditor has a disproportionate economic force towards the consumer;
- a legal one, or the creditor owns a whole “*army*” of employees who pre-establish contracts, with well-prepared clauses, instead the consumer finds himself deprived of any possibility of negotiation and is forced to join the creditor’s proposals.

The reasons for hasty decisions are in fact the precarious economic situation or the desire to solve some problems in the shortest possible time, not least the lack of consumer information.

Although the debtor-consumer portrays himself as a sovereign, or consumers have the freedom to choose what and from whom they will contract, he presents many weaknesses as previously reported. The consumer is sovereign because the entrepreneur’s decision to place offers to take out a loan depends on the consumer’s request. That is, supply and demand are considered. Therefore, if the consumer class is increasingly positive towards taking out a loan, then economic operators also show an interest in obtaining the consumer’s agreement in contracting. Thus, with the consumer’s request, the trader actually pursues the aim of obtaining a considerable income in terms of its proportions. Consequently, the trader having that purpose fails to provide a qualitative service, not taking into account the consumer’s rights themselves.

In fact, the vulnerability of the debtor-consumer and the supremacy of the creditor is inferred from their rights and obligations. Obviously the thing is that the creditor, i.e. the creditor, compared to the debtor-consumer has many more



obligations, and at the discretion of the debtor-consumer remains the action to be informed.

In the context of art. 3 of the Moldovan Law of the Republic of Moldova No. 202 of 12.07.2013 in respect of consumer credit agreements, the creditor is the natural or legal person who grants or undertakes to grant loans or loans in the course of his commercial or professional activity. Hence, the creditor who grants credit or intends to grant credit to a consumer will have to act strictly, or on the other side of the legal relationship, is not only a source of income, but also a person with requirements and rights requiring appropriate vigilance.

The rights of the debtor-consumer actually appear from the moment the creditor comes up with an offer. Therefore, according to art. 4 of the above-mentioned law, advertising of credit offers must necessarily contain as follows:

- the interest rate on the loan, fixed and/or floating, together with information on any costs included in the total cost of the loan.
- the total amount of the credit;
- effective annual interest;
- the duration of the contract (if necessary);
- in the case of a credit in the form of deferral of payment for a particular good or service, the current price and the amount of any advance payment;
- the total amount payable by the consumer and the amount of payment rates, if necessary;
- the consumer's warning of the responsibility for repayment of the credit.

Thus, from the information on the conditions for granting consumer loans by creditors, important data are presented in credit offers:

- credit currency;
- the total amount of credit in national currency;
- the interest rate on the loan, fixed/floating, in national currency (minimum/maximum) / in foreign currency (minimum/maximum), as well as the method of calculating the interest rate on the credit;
- the duration of the credit agreement in national currency (minimum/maximum) / the duration of the credit agreement in foreign currency (minimum/maximum);
- payments other than the interest rate on the loan in national/foreign currency, which are included in the total cost of the loan;
- the actual annual interest on credit in national currency/foreign currency and the information set out in Art. 4(3) of the Consumer Credit Agreement (note that the interest amount is different, depending on the credit offered/requested and depending on the creditor's granting the credit).

In addition to the above-mentioned, the annexes serving as the necessary information for consumers also include the mode (rates, in full) and the frequency of payments – in general both economic operators use the method of payment by monthly annuities; the documents necessary for obtaining the credit (overall the indispensable documents are the credit application; the identity card and confirmation of the consumer's income respectively), depending on the desired



credit, additional additional information may be requested, such as the extract from the Real Estate Register, documents confirming ownership, etc.

Also, a credit insurance may be required. The most oftenly used forms of insurance requested by the financial institutions are mortgage or collateral (especially when when the consumer-debtor's income is not sufficient to provide the credit and its value), while for multi-option credits, espresso credits, overdrafts credit for salary projects (with the use of bank cards) generally guarantees are required. De jure, a guaranty/surety shall be required if the consumer does not present sufficient income for the repayment of the contracted credit. As regards forms of credit insurance, the microfinance company would require a guaranty or a surety in any case. The basis of this form of insurance would be the high creditworthiness of the debtor consumer (Plotnic, 2010).

The Annexes also provide information on the effects of the early repayment, as well as the penalties attached to the credit agreement. Here it is considered what payments will be beared by the consumer if they have the desire to pay the credit in advance, and the amount of this payment – commission, is dependent on the trader/creditor as well as the type of contract concluded.

The banking-type economic agent shall also include the conditions under which the interest rate may change.

Overall, by reporting all the information indicated the creditor/trader, practically, sets out from the outset the terms of repayment, and from the annexed tables it is identified that both the microfinance economic operator and the banking economic operator, from the very beginning, impose conditions on the consumer. Therefore, the consumer – the borrower will receive the credit conditions as granted, i.e. if you accept the conditions are are given the credit, if not – you do not sign the credit agreement. Thus, the question where is th eprotection of consumer arises again, or the information which the creditor is obliged to provide in advance is in fact presented under the form of well-established contractual clauses, to which the consumer only have to agree. Therefore, the consumer – debtor in relation to the creditor – the economic agent, is very vulnerable, sometimes hastily entering into a credit agreement without checking the official website of the creditors/economic operators, due to the lack of time, patience and knowledge, or simply because he/she is being pressed by the financial situation.

Moreover, it is well inferred from the annexes that the creditor/trader has the privilege of analysing the potential debtor very well, having as source of information the documents which the consumer presents in order to demonstrate his/her income. The purpose of this verification and analysis is to conclude on the creditworthiness of the debtor, i.e. whether or not it is in the possibility of repaying the credit.

Therefore, even though there are some obligations the creditor/trader has in front of the consumer, it is not clear how the debtor qualifies as a consumer, nor is it clear the difference between an economic operator contracting in general rules



with a physical person and an economic operator contracting in the special rules with a consumer.

It should also be reiterated that a consumer in general is regarded as a physical person intending to procure or who orders or uses products, services for his needs, but not related to entrepreneurial or professional activity, whereas the consumer wears the debtor's coat, when he intends or contracts a credit agreement for personal purposes.

The question of whether or not a person acts outside his profession has arisen in doctrine and case-law (Băieșu and Plotnic, 2014), taking into account three criteria:

- the criterion of the “*direct relationship*” of the contract with the professional activity reveals the professional nature of the contract, in which case the legal person will be deemed to have concluded that contract for the purpose for which it was established;
- the criterion of “*indirect relationship*” between the contract and the professional activity indicates the situation in which the contract, although concluded for professional purposes, falls outside the professional's sphere of competence;
- the criterion “*extra-professional*”, places the contract outside the professional activity, i.e. in the area of personal, family needs.

In practice, the creditor in order to secure an effective contract, in the contractual clauses expressly indicates the purpose of the credit agreement.

The analysis of two credit agreements (from a banking and non-banking financial institution)², reveals the existence of a clause dedicated to ‘The purpose of the credit’. If there is a credit agreement for personal needs, this type of contract will fall under consumer credit agreements and the debtor will also be protected in the light of the legal rules on consumers protection, while the economic agent/the creditor will have a dual responsibility, as he is dealing with a person who is vulnerable from a legal point of view (Plotnic, 2014).

4. Credit agreement at European level: specific notions and trends

Council Directive 87/102 / EEC of 22 December 1986 on the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit lays down rules at European level for consumer credit agreements (Council Directive 87/ 102/EEC). In 1995, the Commission presented a report on the implementation of Directive 87/102 / EEC and carried out a wide-ranging stakeholder consultation. In 1997, the Commission presented a summary report on the reactions to the 1995 report. In 1996, a second report on the implementation of Directive 87/102 / EEC was drawn up.

² The credit agreement (retrieved from www.energbank.com); The credit agreement (retrieved from <https://microinvest.md>).



These reports and consultations highlighted substantial differences between the laws of different Member States in the field of credit for individuals in general and consumer credit in particular. An analysis of the national laws transposing Directive 87/102 / EEC shows that Member States use various consumer protection mechanisms in addition to those provided for in Directive 87/102/EEC due to different legal or economic situations at national level.

The factual and legal situation resulting from these national differences leads in some cases to distort competition between EU creditors and impedes the proper functioning of the internal market, where Member States have adopted different binding provisions, stricter than those laid down in the Directive 87/102 / EEC. This situation limits the ability of consumers to make direct use of the gradually increasing cross-border supply of credits. Such distortions and limitations may, in turn, have consequences for the demand for goods and services.

In order to ensure consumer confidence, it is important that the market provides them with a sufficient degree of protection. Thus, the free movement of credit offers should be able to take place under optimal conditions, both for those who provide credit and for those who request it, taking into account the specific situations in each Member State.

For the purposes of this Directive, the following definitions shall apply:

- (a) “consumer” means a natural person who, in the course of operations covered by this Directive, is acting for purposes which are outside his trade, business or profession;
- (b) „creditor” means a natural or legal person who grants or promises to grant credit in the course of his business or profession;
- (c) „credit agreement” means a contract whereby a creditor grants or promises to grant a consumer credit in the form of deferred payment, loan or other similar financial facilities, except for contracts for the continuous provision of services or for the supply of goods of the same kind, when the consumer pays for them in installments, during their supply.

The endeavors of the EU to protect its consumers while accessing credits resulted in adopting in 2008 a Consumer Credit Directive (2008/48/EC). Directive 2008/48/EC on credit agreements for consumers has the objective to secure a high level of protection and thus increasing the confidence of Europeans involved in taking out loans. The Directive also seeks to create the best possible conditions for the free movement of credit offers and to establish a level playing field for providers in different Member States (European Commission, 2021b).

In 2020, a New Consumer Agenda was approved, revealing the perspective for an EU consumer policy from 2020 to 2025, highlighting its key priority areas, for example the digital transformation and specific needs of consumer groups susceptible of being vulnerable in the digital era (European Commission, 2020a). Also, in September 2020, in order to achieve consumer protection and financial stability in the internal market, but also build an innovative financial market in the EU, the Commission adopted a Digital finance strategy and legislative proposals on



crypto-assets and digital resilience (European Commission, 2020b). The main priorities of the EU Digital Finance Strategy are aligned with the new Capital Markets Union action plan (published in September 2020), that comes with few recommendations to help member countries to better strive towards a green, digital, inclusive and resilient recovery after COVID-19 pandemics (European Commission, 2020c).

Also, continuous efforts have been realized in order to deepen the Economic and Monetary Union (EMU) by 2025, especially in the field of cross-border integration and risk reduction in the EU banking system. All these efforts resulted in the initiative of the EC to come with a renewed proposal of a directive on consumer credits, which has been put on a table in June 2021. This is going to repeal and replace the Consumer Credit Directive (2008/48/EC) (amended in 2011, 2014, 2016 and 2019) and aims to establish an even more harmonised EU framework for consumer credit, to facilitate the emergence of a smoothly functioning internal market in consumer credit, to ensure enhanced consumer information and understanding of consumer credits, to better protect consumers from irresponsible lending practices, and provide a higher level of consumer protection in order to ensure consumer confidence (European Commission, 2021a).

Conclusions

In conclusion, it is identified that a credit agreement is where a person called a creditor makes available or undertakes to make available to another person, called a borrower, an amount of money as a loan, as a result of which the creditor will be entitled to collect the payment of interest, related payments, or other commitments to which the borrower has been bound in order to repay the loan.

According to the elements of the credit agreement, it is identified that the credit agreement covers the general characteristics of the loan agreement and the general legal act, with the exception of special regulations, which are envisaged both in the Moldavian Civil Code and in the Law No. 202 of 12.07.2013 on consumer credit agreements.

In the comment of all those relied on, the legal relationship between the creditor/economic agent and the consumer in a credit agreement is governed by special legal rules and is dictated in particular by the vulnerability of the consumer, i.e. the creditor having the primary obligation to effectively inform the consumer of all the terms of the contract and the risks in the event of non-compliance with the contractual obligations. The debtor in a consumer credit agreement shall be legally a consumer not from the time of conclusion of the contract but even from the moment he intends to contract, and from the moment when economic operators (potential creditors) publish information on consumer credit agreements, or as previously stated in the obligations of the creditor, shall also include the fact of informing the consumer of the general provisions of an account credit card for consumers, in this respect even information extracted from the official websites of banking and non-bank operators is attached.



Consequently, the creditor-consumer ratio in the credit agreement is based in particular on the fact that the consumer is regarded as the vulnerable party and the creditor is regarded as a professional who knows his activity. The relationship between the creditor and the consumer is in fact regarded as a relationship in which the creditor appears with the obligation to train the consumer alone, to give him the time necessary to inform him of all the nuances of a consumer credit agreement, or to the contrary the creditor himself in the light of the consumer credit agreement may suffer both legally and economically.

Along the years, a number of relevant pieces of legislation regarding consumer credit agreements have been enacted in EU and the Republic of Moldova, this being determined by the rapid evolution of digitalization, but also the endeavor to ensure a greater protection of its consumers. The last developments of EU consumer policy aim to facilitate the emergence of a smoothly functioning internal market in consumer credit, to ensure enhanced consumer information and understanding of consumer credits, to better protect consumers from irresponsible lending practices, and provide a higher level of consumer protection in order to ensure consumer confidence.

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