

## **New legislation on consumer credit agreements in Romania**

Law-Now Romania  
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The Romanian government's Emergency Ordinance No. 50 'on credit agreements for consumers', which was published in the Official Gazette part I, no. 389 and came into force on 21 June 2010, significantly changed consumer rights with relation to credit agreements. This new legislation will have a big impact on the banks and lending institutions operating in Romania, which now have only 90 days to comply with this new legislation. This new law applies not only to new agreements but creditors should also modify their existing credit agreements in line with the new law.

### **What does the new law mean?**

The new legislation regulates the rights and obligations of consumers and creditors when concluding credit agreements and while an estimated 8 million consumers will benefit from the new law, banks and lending institutions will be forced to re-think their long-term strategy in order to avoid large penalties and court action.

The key points in the Emergency Ordinance No. 50/2010 are:

- The maximum commission that consumers wishing to pay down a loan prematurely may be charged is 1% (and 0.5% if there is less than one year left in the contract);
- Banks and lending institutions are obliged to ensure that their clients make as an informed decision as possible – they should set out all the conditions of the credit agreements clearly, using a standard form, and explain the terms in full;
- Consumers have the right to withdraw from credit agreement up to 14 days after signing and do not need to justify their decision;
- Banks and lending institutions are no longer allowed to charge commission for:

(a) deposits and withdrawals in relation to loan payments;  
and

(b) credit file analysis should the loan not be granted;

- Banks and lending institutions may only charge commission for the following:

(a) administration of the credit;

(b) the premature repayment of the loan;

(c) the late payment of the loan; and

(d) any supplemental services requested by the consumers.

- The consumer's right to a drawdown under the credit agreement can be withdrawn by the bank or lending institution only when:

(a) there are objective and justified reasons;

and

- (b) if either special clauses were set out in the contract from the start or in certain circumstances, which are set out in (paragraphs 2 and 3) of article 55

### **Romania - specific modifications to the original EU Directive**

The new Romanian legislation was introduced to implement an EU directive adopted earlier this year (European Parliament and Council directive 2008/48/CE of 23 April 2008 on credit agreements for consumers), although there are some marked differences between the new Romanian law and what was originally set out in the EU directive.

Two key differences are:

- The new law applies to credit agreements secured by mortgages, which is expressly eliminated from the EU directive.
- The new law establishes a rule to be applied to credit agreements with fluctuating interest, which had not been adopted by the European directive. According to Romanian legislation, the interest should correspond to fluctuations in one of the following: EURIBOR / ROBOR / LIBOR / the National Bank of Romania's interest rate, according to the currency in which the credit was contracted.

### **The role of the National Authority for Consumer Protection**

Much of the input for the modifications to the Romanian law came from a draft prepared by Romania's National Authority for Consumer Protection ("NACP"), which had significant support from the outset from the Competition Counsel and Romania's Prime minister, Emil Boc. The NACP is the authority responsible for ensuring that banks and lending institutions are complying with the new legislation as well as sanctioning them for any breaches.

### **What's next for banks and lending institutions?**

For banks and lending institutions, this new legislation raises questions about how to practically implement before mid-September, but also, more importantly, about how best to guarantee consumer credit and manage risk. Empowered by this new legislation, the NACP has the chance to be more aggressive and exercise higher control, with the ability to impose heavy fines and instigate court proceedings. The courts tend to favour the consumers in their judgments, which may prompt an increase in use of alternative dispute resolution ('ADR') in order to settle conflicts out-of-court and avoid lengthy and costly court proceedings. If banks and lending institutions are to avoid penalties and conflict altogether they will need to develop a careful long-term strategy as soon as possible.