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EMPIRICAL STUDY CONCERNING THE CURRENT STATE OF ABUSIVE CLAUSES IN CREDIT BANK CONTRACTS. FROM JUDICIAL PRACTICE SECTION V – LAW

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Abstract *The research focused on the current state of credit bank contracts containing possible abusive clauses. The study was carried out and possible abusive clauses were identified on the types of bank credit agreements within the scientific research platform for the second period of our research, namely December 2014 - April 2017.*
The study aimed to achieve the objectives set in terms of: grouping of bank lending contracts by types of contracts within the framework of the scientific research platform, study of supplementary acts on credit bank contracts, analysis of contractual clauses by types of bank contracts, it was analyzed and monitored if The form and content of credit agreements is or not identical for each type of contract, if the types of contracts investigated within the framework of the scientific research platform contain possible abusive clauses, the identification of possible abusive clauses in the research banking contracts investigated and finding practical solutions for the protection of clients in bank lending contracts..

Key words:
Bank credit, judicial practice, framework
JEL Codes:
G21, K20, K34

I. INTRODUCTION

We relate to a practical context in which we have applied quantitative research in conjunction with qualitative research aimed at finding the answers to the established objectives. The research line mainly followed has been conducted with a primary objective:

1. The current state of credit bank contracts that contain possible abusive clauses

In the alternative, the secondary objectives set were as follows:
1. Grouping of bank credit agreements within the scientific research platform by types of contracts.
2. Form and content of bank credit agreements. Whether or not these are identical on each type of contract.
3. Study and analysis of the clauses contained in the supplementary acts to credit bank contracts.
4. Analysis of contractual clauses by types of bank contracts.
5. Identification of possible abusive clauses in the scientific research platform by types of credit bank contracts
6. The analysis of the possible abusive clauses, and if the same type of contracts are found in the same alienation, they are found to be repetitive if they are found in whole or in part or if they are not found and if they follow the same principles**.**
7. Analysis and identification of possible abusive clauses in the scientific research platform contained in the additional acts on credit bank contracts**.**
8. Findings regarding possible abusive clauses within the scientific research platform.
9. Formulating the opinion on the new procedure for resolving possible abusive clauses in bank credit agreements.

Within the framework of the scientific research platform, the grouping of credit bank contracts and additional documents to bank lending contracts by types of contracts allowed us to analyze the contractual clauses by types of bank contracts and to identify possible abusive clauses contained in their content.

This stage was followed by the selection and grouping of possible abusive clauses by their nature and source of origin.

From this perspective, we grouped the possible abusive clauses according to the following criteria:

1. Possible abusive clauses on the nature of interest;

2. Possible abusive clauses in the nature of bank fees;
3. Possible abusive clauses in the nature of interest rates

II. GROUPING OF BANK CREDIT AGREEMENTS WITHIN THE SCIENTIFIC RESEARCH PLATFORM BY TYPES OF CONTRACTS

The scientific research platform has allowed us to identify, select, analyze, observe and group credit lending contracts.

The group is related to the bank credit contracts studied, analyzed and identified, related to the second research period December 2014-April 2017. The scientific research platform under study allowed us to carry out a group of them concretized in a number of 37 types of bank lending contracts as follows:

1. Mortgage loan agreement
2. Loan agreement for the refinancing of a consumer loan
3. Consumer credit contract
4. Consumer credit contract with mortgage guarantee
5. Mortgage loan with fixed interest rate in the first two years and variable interest starting with the 25th month of the loan
6. Credit agreement for personal needs
7. Personal mortgage loan agreement with the mortgage
8. Personal needs loan with real estate guarantee
9. Mortgage loan agreement
10. Credit agreement for personal needs with real estate collateral
11. Mortgage Guaranteed Personal Loan Agreement
12. Credit and Warranty Agreement
13. Credit facility and guarantee facility contract
14. Consumer loan with variable interest
15. Non-Domestic Credit Needs Agreement
16. The credit agreement for the purchase of a dwelling house
17. Credit agreement for the purchase of a real estate object
18. Non-currency credit agreement with revised interest rate
19. Mortgage loan agreement
20. The credit agreement to be used for the purchase of a "First House"
21. Credit Saving Contract
22. Non-denominated treasury bank credit contract
23. Bank credit agreement for real estate investments
24. The real estate credit contract for the purchase of arable land outside
25. Mortgage Credit Agreement for Individuals (ANL)
26. Real estate loan for real estate purchase Optional Flux
27. Real estate loan agreement for buying real estate
28. Maxicredit Super Bank Loan Agreement
29. The bank credit contract for real estate investments for individuals
30. Credit agreement for the purchase of vehicles
31. Non-Domain Treasury Contract
32. Non-denominated treasury credit contract
33. Super credit agreement with mortgage, with a fixed interest rate of 1 year
34. Non-denominated treasury agreement
35. Maxicredit credit agreement with mortgage with fixed interest 1 year for personal needs
36. Non-nominal treasury contract with fixed interest for the first 3 months.
37. Credit arrangement intended to cover current personal expenses with real estate collateral

III. POSSIBLE ABUSIVE CLAUSES ON INTEREST RATES

Within the scientific research platform, the potentially abusive clauses identified at the level of bank lending contracts take the following forms and have the following content:

1. The penalty interest is xx pp. per year above the interest rate.
2. The penalty interest shall be applied to the amount due from the due date on the date of effective payment, regardless of whether that date precedes or follows a possible judgment.
3. Interest:

a) A fixed interest rate of xx% for the first year of credit, a period commencing on the first drawing date, after which it will pay the variable interest rate of the bank, which is revised on March 25, June 24, September 25 and December 25, according to the Index LIBOR / EURIBOR / BUBOR reference at 3 months, depending on the currency of the credit, according to the index valid on 15 March, 15 June, 15 September and 15 December. If the bank decides to review the interest rate level, it will inform the client about the new monthly payment rate and the new applicable interest rate.

4. For delays in the payment of credit and / or interest rates, the borrower and / or the debtor, owes the bank penalty interest.

The penalty interest is equal to the current contractual interest plus 50% of the current contractual interest rate.

5. The variable interest rate is equal to the benchmark of the Mortgage Bank granted in CHF plus a margin of 0 percentage points.
6. During the course of the credit, the current interest rate may change depending on the evolution of the benchmark set by the bank.
7. For late payment of the credit rates, the Borrower shall pay the Bank an increased interest at a rate set at xx pp. Per annum over current interest.
8. At the date of signing the contract, the current interest rate is xx% per year. The variable interest rate is equal to the benchmark for the mortgage credit granted in CHF plus a margin of 0 percentage points.
9. For the period between the first withdrawal from the credit account and 12 months the interest rate is fixed. After this period interest is indexable.
10. During the performance of the contract, except for the above period, the Bank reserves the right to modify interest rates and bank charges. The interest rate change will be processed in the reference month at the due date in the credit agreement.
11. Interest is set in percentage terms as annual interest rate.
12. Interest is variable in accordance with the Bank's policy. Interest may be changed unilaterally by the bank, taking into account the reference interest rate for each currency (e.g. EURIBOR / LIBOR / BUBOR, etc.) without the consent of the borrower.
13. The change in interest will result in recalculation of interest due.
14. The Bank reserves the right to periodically review the interest rate according to the evolution of the benchmark for each currency (EURIBOR for Euro, LIBOR for Usd, BUBOR for Ron etc), the interest rate changes being applicable without the customer's consent being required.
15. At the date of signing the contract, the current interest rate is 5.75%. The variable interest rate is equal to the benchmark of the bank for the mortgage credit granted in CHF plus the margin x percentage points.
16. The current interest rate may change depending on the evolution of the benchmark index set by the Bank.
17. 17. Interest shall be determined in percentage terms as the annual interest rate. Interest is variable according to bank policy. Interest may be changed unilaterally by the bank, taking into account the reference interest rate for each currency (e.g. EURIBOR / LIBOR / BUBOR, etc.) without the consent of the borrower. The new interest rate will apply to the outstanding balance of the loan from the date of application set by the Bank. Changing the interest will result in recalculation of interest due.
18. For the period between the first withdrawal from the credit account and 12 months the interest rate is fixed. After this period, current interest is calculated according to the benchmark established by the Bank for Mortgage Credits granted in CHF. The Bank's benchmark for mortgage credit is determined by the cost of financing sources and interest rate developments on mortgage loans on the Romanian banking market.
19. Following the change in the interest rate by the bank, the borrower will not reimburse the remainder of the loan and the related interest and management fee within 10 days from the date of becoming aware, the borrower is deemed to have accepted the new interest rate.
20. The interest rate may be changed unilaterally by the bank, taking into account the reference interest rate for each currency.
21. Interest: "For the first year of lending a fixed interest rate of xx% and a subsequent variable composed of the reference index LIBOR / EURIBOR / BUBOR 3M was applied plus the margin of xx%, revised on 25 March, 25 June , September 25 and December 25, according to the LIBOR / Euribor / BUBOR 3M benchmark, determined by the currency of the credit.
22. Interest: fixed interest rate for the first credit year, the period commencing on the date of the first drawing, after which it will pay a Bank's floating rate which is subject to review by the Bank's interest policy on that date, comprised of the benchmark BANKING REFERENCE LOSS at which the spread of xx% interest is revalued according to the evolution of the reference interest.
23. Interest may change depending on the variation of the benchmark and / or margin, the latter varying according to the bank's decision.
24. The Bank may amend interest accordingly at any time according to its decision.
25. The Bank is expressly authorized by contract to use the respective funds to buy an amount equal to the one in the currency of the amounts owed, applying the Bank's exchange rate and may debit that account with the cost of the purchase and other charges, as the case may be.
26. Interest is calculated as the sum of the internal reference rate and the bank's margin.
27. For the loan made available, the Borrower will pay:
    a) The variable interest rate of xx% composed of the Reference Bank Reference Interest plus

the yy% Margin, the interest being revised according to the evolution of the Reference Interest.

28. A floating rate of x% composed of the benchmark Bank Interest Rate Reference Rate plus y% margin, the interest being revised according to the evolution of the Reference Interest.
29. Interest is variable in accordance with the Bank's policy.
30. A fixed interest rate of x% for the first 12 months of the lending period, the period commencing on the first drawing date, after which it will pay variable interest.
31. Current Interest Rate: The Interest Rate Variable, which is applied to the credit balance, is composed of the ROBOR / EURIBOR / LIBOR Reference Ratio at 3 months, according to the currency of the Credit, plus the Bank's Margin in the amount of xx%.
32. The revised current interest rate, and is calculated by applying the current annual interest rate to the credit balance. For the purpose of calculating the interest, it is considered to be 360 days a year for the 30-day period.
33. Interest is calculated by applying the formula referred to in the "General Business Conditions for Physical Entities.
34. The Bank may modify the current interest rate according to the evolution of the financial market,
35. Interest is variable according to the policy of the bank. The interest rate may be changed unilaterally by the bank, taking into account the reference interest rate for each currency (ex EURIBOR (EUR) / LIBOR (CHF) / RUBOR (RON), etc.) without the consent of the client.
36. The actual annualized interest rate (EAD) of the loan is x% p.a., and was calculated at the time of the credit agreement.
37. The lender will have the right to review the interest rate after the first year of the first use of the Loan, according to the benchmark LIBOR 6M + 3.5% p.a.
38. A fixed interest rate of x% per annum was provided for the first lending year, with the result that for the remainder of the interest period either a fixed anniversary interest over a period of three years according to point 4.1 2) lit. B) or an annual interest rate for a credit year according to item 4.1. 2) lit. C), depending on the borrower's option, and if the borrower does not exercise this benefit, the contractual clauses on the revised interest rate.
39. During the course of the credit, the variable current interest rate changes depending on the evolution of the BCR reference interest rate / the administered interest / the Libor / Euribor / Bubor benchmark.
40. Current interest was originally x% per annum and subsequently variable including a client risk margin.
41. Current interest is formed of variable interest, which is displayed at the bank's premises.
42. The change in current interest (%) leads to recalculation of the interest due.
43. Current interest consists of the half-yearly reviewable interest rate, which is displayed at the bank's offices, plus 3pp. The half-yearly benchmark reference interest rate is September 30th of each year and applies from October 1 to March 31 next year, respectively March 31st of each year, and applies from April 1 to September 30th The same year.

IV. POSSIBLE ABUSIVE CLAUSES IN THE NATURE OF BANK CHARGES

Regarding the possible abusive clauses of the bank fees identified in the scientific research platform, respectively contained in the bank lending contracts, they take the following forms and have the following content:

1. The credit granting fee is x% of the total amount of the credit.
2. The grant fee will be calculated by the bank and will be paid by deduction from the loan amount, on the date of the first credit drawdown or by depositing into the current account of the borrower.
3. The grant fee is deducted from the loan amount, so the interest calculation is made for the entire credit period at the full value and not the actual amount granted.
4. Credit management is the cost of maintaining and managing the credit.
5. The amount of credit guarantees shall not be less than xx% of the credit balance. If, during the course of the contract, the Bank unilaterally considers the value of the property presented as a collateral and fails to cover the obligations resulting from this contract, the client undertakes to provide additional collateral so that the total value of the collateral will cover at least x% Of the loan balance, the presentation of the additional guarantees will be made within max 30 working days upon request of the bank. The client will bear all the costs associated with the valuation, the reassessment of the guarantees, the failure to provide the guarantees constitutes a case of fault.

6. Credit Management Fee: X% calculated on the amount of the contracted loan, is paid out of the credit at the date of the first use of the credit.
7. For the loan granted, the borrower will pay the following commissions: monthly credit management fee of x% applied to the amount of the credit balance.
8. commissioning and management fee of X%, calculated on the value of the credit, payable only once upon signing the Contract
9. Fee for granting and managing X%, calculated on the amount of the credit, payable only once upon signing the Contract;
10. During the course of the contract, the Bank reserves the right to modify bank charges. The interest rate change will be processed in the reference month at the due date in the credit agreement. For additional services, the lender will charge a fee of xx% applicable to the credit balance at the date of the customer's request,
11. Issuing an address containing up to date details of the credit and / or the costs required for partial repayment of partial redemption. The commission applies to each requested and issued address. The commission is charged at the latest when the address is issued.
12. Issuance of the building / demolition agreement or other modifications of the real estate collateral (dismantling, affixing). The commission applies to each agreement requested and issued. The commission is charged at the latest when the agreement is released.
13. Management fee set as a percentage of x% applied to the valuation value of the buildings as collateral and perceived monthly at the maturity date with the monthly payment rate.
14. Issuance of the agreement for the registration of a subsequent mortgage for a building that is a guarantee. The commission applies to each requested and issued address. The commission is charged at the latest when the address is released.
15. Issuance of an agreement to remove a property under warranty. The commission applies to each agreement requested and issued. The commission is charged at the latest when the agreement is issued.
16. Issuance of the rental agreement for a building under warranty. The commission applies to each requested and issued. The commission is charged at the latest when the address is issued.
17. The Bank may alter the level of fees, interests and fees without the Borrower's consent.
18. The Bank reserves the right to periodically review the interest rate according to the evolution of the benchmarks for each currency (EURIBOR for Euro, LIBOR for Usd, BUBOR for Ron etc.), the interest rate changes being applicable without the need for customer consent.
19. The bank may change the level of fees and commissions given the customer's consent. The new fee and commission level will be published in the Commission's Tariff and will be displayed at the bank's premises.
20. The administration fee can be changed.
21. The Bank may change the level of fees, interests and fees to the consent of the Borrower.
22. During the course of the contract, the bank may change the level of commissions, interests and fees without the Borrower's consent.
23. For the credit granted, the client will pay a commission of 2% of the credit amount.
24. The credit management fee for the real estate collateral loan at the beginning of the reimbursement period is% of the annuity value and% of the interest rate.
25. Credit monitoring fee:% flat, calculated on the approved amount of the credit and will be paid monthly along with the credit rate.
26. Credit Management Fee: 0.01% calculated on the amount of the contracted loan; Is payable on credit at the time of first credit utilization.
27. The administration fee calculation formula is: the product of the credit balance, the management fee analysis rate and the number of days elapsed since the previous maturity date divided by 360 days.
28. monthly credit management fee of x%, applied at the amount of the credit balance
29. The grant fee is calculated together with the management fee, being calculated at the value of the entire credit.
30. The credit administration fee for the personal loan with real estate collateral at the beginning of the repayment period is x% of the annuity value and x% of the interest rate.
31. Credit monitoring fee: x%, calculated on the approved amount of the credit and will be paid monthly together with the credit rate
32. Credit Management Fee: xx% flat calculated on the amount of the contracted loan; He / she pays the credit on the date of the first use of the credit
33. conversion fee of xx% (minimum 100 EUR or equivalent USD / RON / CHF) applied to the credit balance
34. Provisioning fee of 1,777 CHF, representing 1.9%, applied to the requested amount.
35. Monthly Management Fee: 0.11% applied to the amount of the outstanding loan amount together with the rate.

36. For additional services that the bank will provide after the credit is granted, at the written request of the client, the bank will charge a fee of xx% applicable to the credit balance from the date of the client's request.
37. Issuance of the agreement to alienate a building under warranty. The commission applies for each agreement requested and issued.
38. Fee X CHF, representing xx% of the total amount of the Credit, fully payable at the date of signature of this contract or at the latest on the date of the first drawdown of the approved credit.
39. Monthly Management Fee: xx% payable from the due date of Y.
40. For the Bank's monitoring of the use / repayment of the credit as well as the fulfillment of any obligations assumed by the Bank under the credit agreement, the Borrower owes monthly to the Bank an administration fee of xx% (in some of the above mentioned cases, the percentage Y%) that is calculated by applying the percentage to the credit balance
41. For the Bank's monitoring of the use of credit repayment as well as of any other obligations assumed by the Bank under the non-nominative personal loan contract, the Borrower owes monthly to the Bank an administration fee of xx%, calculated by applying the percentage to the balance credit.
42. In order for the Bank to maintain / repay the credit and to fulfill any other obligations assumed by the Bank under the credit agreement, the Borrower owes monthly to the Bank an administration fee of xx%, calculated by applying the percentage to the value Initial credit.
43. Provided the risk tracking commission as follows: Risk Tracking Fee of € 10 per month, representing a percentage of yy% of the amount of contracted loan.
44. Appropriate commission for possible special services that go beyond the normal procedures of a savings-credit contract.
45. The administration fee is fixed monthly and is calculated by applying a certain percentage to the value of the contracted loan.
46. The administration fee is charged in full, inclusive for the fractions of the month.
47. Management fee x monthly, representing the percentage of y of the credit value;
48. Risk Tracking Fee of xx% per month, representing a percentage of y of the amount of contracted credit.
49. The Bank may alter the level of commissions according to the evolution of the financial-banking market
50. The risk tracking commission is calculated flat by applying a certain percentage to the value of the contracted loan

V. POSSIBLE ABUSIVE CLAUSES ON THE NATURE OF INTEREST RATES

Possible abusive clauses in the nature of interest rates identified in the scientific research platform, respectively contained in bank lending contracts, take the following forms and have the following content:

1. Interest rate: After 6 months, the interest rate is variable, depending on EURIBOR / LIBOR / CHF / LIBOR / BUBOR at six months, plus the fixed margin of xx%. The variable interest rate at the date of signing this contract is xx%.
2. The interest rate is increased by xx pp. Over the entire lending period.
3. The interest rate will be subject to a half-yearly review on 1 January and 1 July of each year, based on EURIBOR / LIBORCVHF / LIBOR / BUBOR, at six months (London) on the last working day of November and Mai Of each year. The Bank will inform the Borrower of any change / revision of interest and / or bank charges and / or charges levied by the latest at the date of their application, using, at the unilateral election of the Bank, any means of communication (written notification, E-mail sent to the e-mail address communicated in writing by the borrower, display at the premises of the territorial units and / or publication on the Bank's website / in the press). If the Borrower disagrees with the new applicable interest rate and / or bank charges and / or charges, it has the right to terminate the contract unilaterally. On the unilateral termination of the contract, all obligations of the Borrower shall become immediately due and payable, without the charge for early repayment provided in Art. 2.5 of the CSC. The unilateral non-issuance of the contract by the Borrower by a notice notified to the Bank within 30 days from the date of communication of the review of interest and / or bank charges and / or perpetual costs constitutes a tacit acceptance by the Borrower of the new conditions.
4. By changing the interest rate according to the LIBOR / EURIBOR / BUBOR benchmark, the Bank reserves the right to subsequently notify the LOAN / CO-DEBTOR, changing the current interest rate either by written notification with acknowledgment of receipt or by inserting the new Interest rates in the statement of account.

5. The variable interest rate, which applies to the credit balance, is composed of the ROBOR / EURIBOR / LIBOR Reference Ratio at 3 months, according to the currency of the Credit, plus the Bank's margin in the amount of 3.25%. The variable interest rate is revised from February 25, May 25, August 25, and November 25, according to the ROBOR / EURIBOR / LIBOR Reference Ratio at 3 months - based on the currency of the Loan, based on the benchmark Valid on 15 March, 15 June. 15 September and 15 December.
6. For the period between the first draw in the credit account and 12 months, the interest rate is fixed. After this period, the current interest is calculated according to the benchmark established by the Bank for Mortgage Credits granted in CHF. The Bank's benchmark for mortgage credit is determined by the cost of financing sources and interest rate developments on mortgage lending in the Romanian banking market.
7. In the event of a change in the interest rate level, the interest rate change will be exercised at the date of the next due date in the reimbursement schedule.
8. The Bank reserves the right to periodically review the interest rate according to the evolution of the benchmark for each currency (EURIBOR for Euro, LIBOR for Usd, BUBOR for Ron etc.), the interest rate changes being applicable without the need of the customer's consent.
9. The Bank reserves the right to review the interest rate according to the Bank's policy and the evolution of the LIBOR (CHF) indicator to 3 months
10. The penalty interest rate is equal, at any time during the course of the credit, to the current interest rate plus 10%.
11. If the bank decides to change the interest rate level, it will inform the client about the new monthly payment rate and the new applicable interest rate.
12. The interest rate is:

- fixed and is set as an annual percentage as specified in Chapter III of the Loan Terms;

- variable and revised every 3 months according to the new benchmark and bank margin, the first change being 3 months from the date of the credit.

13. The Reference Interest Rate will be updated on a half-yearly basis by the bank on 1 January and 1 July and will be determined on the basis of the EURIBOR 3M quotation valid on the last working day of December and June respectively.
14. The interest rate is: variable depending on the evolution of the financial-banking market and / or the cost of financing and credit management, being differentiated as a level in two periods according to Chapter. III Terms of the Borrower. At the date of the conclusion of the contract, the interest rates applied for the two periods are those mentioned in Cap. III The terms of the loan.
15. During the course of the contract, the Bank reserves the right to modify the interest rates mentioned in Chap. III The terms of the loan. The new percentages of interest apply to the existing balance of the borrower at the date of the change. The new interest rates will be communicated to the lender / lender jointly by written notice and by display at the headquarters of the units.
16. The Interest Rate Variable, which applies to the credit balance, is composed of the ROBOR / EURIBOR / LIBOR Reference Ratio at 3 months, according to the currency of the Credit, plus the Bank's Margin in the amount of xx%.
17. During the course of the contract, the Bank reserves the right to change the interest rates mentioned.
18. The Variable Rate, which applies to the credit balance, is comprised of the ROBOR / EURIBOR / LIBOR Reference Ratio at 3 months, according to the currency of the Credit, plus the Bank's Margin in the amount of xx%. The variable interest rate is revised.
19. The Bank may modify the current interest rate according to the evolution of the financial market.
20. The amount of the rates may change automatically as a result of the change in the current interest rate.
21. Annual applicable annual interest rate, referred to in art. 4.1 point 2 shall be the one in force at the moment of exercise of the option, to be specified in the additional acts concluded at the exercise date of the option. In the case provided by art. 4.2, the revised anniversary interest for an applicable year shall be that in force at the time of the anniversary of the credit, interest to be displayed at the bank's premises.
22. If the Borrower opts for the Revised Interest Rates, the Annual Interest Ratio in force at the time of exercise of the option may be modified by the Bank in the light of the Bank's financial market or credit policy.

VI. THE RESULTS OBTAINED. CONCLUSIONS.

The study looked at the current state of credit bank contracts containing possible abusive clauses.

Compared to the objectives set we found that:

- The study of the scientific research platform confirms the existence of possible abusive clauses both in the content of the credit banking contracts and in the content of the additional acts to the credit bank contracts.

- In the content of credit bank contracts and in the content of additional documents to bank lending contracts, banks only speak about the client, the debtor, the borrower or the client who is the borrower. We note that although the national and European legal frameworks have created a legal framework for consumer protection, it also does not refer to the concept of customer.
- The old actions pending before courts, tribunals and judges in the country follow the old course.
- The new procedure is implemented in solving the centralized actions at the Bucharest Court of Appeal, the Bucharest Court of Appeal and the High Court of Cassation and Justice in Bucharest.
- If the bank has not denounced the contract in accordance with Ordinance 50, the complaint will be brought before the Bucharest Tribunal.
- If the bank has denounced the contract in accordance with Ordinance 50, within 60 days there is a possibility of renegotiation and consequently the case is no longer heard before the Bucharest Court.
- Registration of actions at the Bucharest Tribunal is done by either:
  - ANPC Bucharest based on the documentation received from the ANPCs in the territory after having previously carried out the analyzes and investigations for legality and made the necessary due diligence on the basis of justified complaints with documents received from the clients of the banks;
  - The applicants' lawyers;
  - Directly by bank customers.
- The new procedure for dealing with abusive clauses at a centralized level is a procedure:
  - lasting:
    - ✓ As a time for obtaining a court decision or solution;
    - ✓ the multitude of actions to be heard only at the Bucharest Court.
  - Costly for bank customers because it raises the issue of costs with;
    - ✓ transport;
    - ✓ accommodation;
    - ✓ meals;
    - ✓ Advocates' fees.
- A classification of possible abusive clauses in the content of credit bank contracts and in the content of additional acts to credit bank contracts has been obtained according to sources and their source;
- The form and content of credit agreements is or not identical for each type of contract;
- The form and content of the additional acts in the credit bank contracts do not comply with the identical content and form of each type of contract;
- For the same type of contracts, the possible abusive clauses do not appear as numbering, on the same articles and on the same lines;
- In the same type of contracts, the possible abusive clauses are found repetitively, sometimes they are totally or partially or not, and they do not respect the same principle;
- The client with the quality of the loan has opened a current account with the bank. It is only after this stage that the lending procedure takes place.
- Any consumer of credit in order to receive bank loans must first become a client of the bank. This is a consequence of the obligation to open a current account at the bank after which the consumer turns into a customer of the bank.
- The Bank has the right to make the currency conversion, at the bank's selling rate for the currency of the credit, in compliance with the legal norms in force;
- The bank has the right to declare the entire credit due also if any creditor of the clients initiates the forced execution procedure against them;
- The bank is mandated by the borrower / codebtor to contract, if necessary, to exchange currency on behalf of and for the client, using its own quotes and completing the documents related to this operation. Any exchange rate differences will be borne by the borrower or the debtor;
- In the case of interest rate changes, the reimbursement schedule also changes. The Borrower may accept or decline the change. The non-clarification of the point of view until the next maturity of the loan from the date of the change of interest, commissions and bank charges is considered tacit acceptance. In the event of the borrower's non-acceptance of the change in interest and bank charges, he is entitled to unilaterally denounce the contract by repaying in advance the credit, commissions and interest.
- The non-use of the loan by the borrower within the above-mentioned term entitles the Bank to terminate the Contract unilaterally.
- For late payment of any amounts resulting from this contract the borrower undertakes to pay to the Bank penalties in the amount of 50% over the established interest rate.
- The client undertakes to provide the property. The insurance policy will be terminated in the currency of the credit, unless this currency is CHF, in which case the policy will be terminated in EURO.
- The Borrower authorizes the bank to automatically debit its account in RON / currency opened with

the bank with the amounts declared in accordance with the contract.

- Up to the limit of the amounts due, the borrower authorizes the bank to make on its behalf and on behalf of any foreign exchange transaction required to convert the amounts held by the borrower into its current accounts in the contract currency.
- The customer is obliged to pay commissions for additional services specifically requested by the customer (credit rescheduling), services that were not provided in the original credit agreement and which were not offered at the date of its conclusion - x pa applied to the credit balance and perceived Monthly together with the installment, starting with maturity.
- Studying credit lending contracts and additional documents to credit banking contracts allowed us to analyze and observe the existence of possible abusive clauses by types of bank contracts and synthesize them.
- On the basis of the identification of possible abusive clauses in the researched bank loan contracts, we have synthesized them in order to achieve the objective, namely to find practical solutions for the protection of clients in credit bank contracts;
- Any consumer of credit, irrespective of the credit type, becomes a client of the bank, once the bank has opened its current account.
- The clients of the bank are natural persons and legal entities.
- There can be no equal sign between credit consumers and bank customers in any situation. Practice proves there is confusion about the two concepts. Overlapping of the two concepts occurs when the consumer credit becomes a consumer of bank loans, respectively by the request of opening a current account requires the opening of a current account and becomes a customer of the bank.
- We appreciate that legal entities should also be protected by the legal framework of credit consumers.
- Paying Law 77/2016, corroborated with Law 199/1999 on mortgages, although responding to a social need, did not have the expected effect on:

  a). Customers of banks, on the grounds that:
    - the law was not well understood by them and very few customers turned to it;
    - law enforcement remained at the discretion of everyone in such a situation;
    - there are few situations solved on the basis of this law;
    - the solutions were given to the bank's clients;

  b). For banks on the grounds that:
  - ✓ It is not convenient for banks for that:
    - Helps those who cannot pay their rates at the bank;
    - Banks work with money, cash, receivables;
    - The law covers more real estate loans;
    - repayment of the loan on the basis of an immovable property, presupposes its taking over into the patrimony of the bank;
    - There were no favourable solutions for the banks;
    - The solutions were in favour of the bank's clients.
  - ✓ For the bank is an extra and lasting activity because:
    - even if by selling the property the bank recovers its claim, this is done in time with the costs of advertising, execution, etc .;
    - If the sale does not take place, the banks collect immobile and create problems with their management.

  c). The procedure to take advantage of the effects of this law implies:
    - notification;
    - court action;
    - the courts have provided solutions that can bind the banks;
- We note that in many cases banks are dealing with the bad debts of directing receivables towards the assignment of their claims, after a prior notification of no more than 90 days to creditors such as credit institutions; Assignees on consumers; Non-banking financial institutions.
- In Hungary, we notice state intervention.
- The Paying Law in Spain involves the obligation of the bank's clients to fully support the costs of building the buildings.
- The subjective information predominates.
- The vast majority of Swiss franc lending contracts were taken over by other banks with the possibility of renegotiation.
- With regard to informing customers or potential customers of bank credit customers, we found that there is insufficient availability, often only remaining at the simulation stage for a credit. No alternative is offered.
- Faced with the first period of research we found:
- The emergence of other possible types of abusive clauses:
  1. Under the name;
  2. In terms of establishing calculation methods;

3. As regards the combination of two or three possible abusive clauses within the same article of bank credit counter-claims;
4. In terms of spoken language;
5. In terms of the use of terms that were not covered by the terms of the contract;
6. There are ways of computing that do not respect those provided by the legal framework.

- The modest involvement of consultants with regard to value perception and correct customer information, the promotion of services with professionalism and understanding for potential clients of banks.
- Payment of a service is made after it is consumed. Assessment of satisfaction or deception with regard to the service in question occurs after partial or total consumption of the service, which often leads to customer dissatisfaction.

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    Part I. Abusive clauses of interest nature
    Part II. Abusive clauses in the nature of bank charges
    Part III. Abusive clauses concerning rates