

Credit agreements for consumers

2002/0222(COD) - 23/04/2008 - Final act

PURPOSE: to harmonise certain aspects of the laws, regulations and administrative provisions of the Member States concerning agreements covering credit for consumers.

LEGISLATIVE ACT: Directive 2008/48/EC of the European Parliament and of the Council on credit agreements for consumers and repealing Council Directive 87/102/EEC.

CONTENT: the Council adopted a Directive which will ensure a high level of consumer protection and establish the conditions for a genuine internal market in consumer credit. The Dutch delegation voted against the Directive and the Belgian, Greek and Luxembourg delegations abstained. The main points of the new legislation are as follows:

Scope: this Directive shall apply to consumer credit agreements between EUR 200 and EUR 75 000. It shall not apply to certain types of credit agreement, such as deferred debit cards, or mortgage loans.

Pre-contractual and contractual information: the Directive sets out standard information to be included in advertising. Thus, the information mentioned which precede the conclusion of the contract shall include: a) the borrowing rate, fixed or variable or both, together with particulars of any charges included in the total cost of the credit to the consumer; b) the total amount of credit; c) the annual percentage rate of charge; d) if applicable, the duration of the credit agreement; (e) in the case of a credit in the form of deferred payment for a specific good or service, the cash price and the amount of any advance payment; and f) if applicable, the total amount payable by the consumer and the amount of the instalments.

In good time before the consumer is bound by any credit agreement or offer, the creditor and, where applicable, the credit intermediary shall provide the consumer with the information needed to compare different offers in order to take an informed decision on whether to conclude a credit agreement. This information shall be provided by means of the Standard European Consumer Credit Information form set out in Annex II.

The Directive stipulates that Member States shall ensure that, before the conclusion of the credit agreement, the creditor assesses the consumer's creditworthiness on the basis of sufficient information, where appropriate obtained from the consumer and, where necessary, on the basis of a consultation of the relevant database. Member States whose legislation requires creditors to assess the creditworthiness of consumers on the basis of a consultation of the relevant database may retain this requirement. Each Member State shall in the case of cross-border credit ensure access for creditors from other Member States to databases used in that Member State for assessing the creditworthiness of consumers.

Right of withdrawal: the consumer shall have a period of 14 calendar days in which to withdraw from the credit agreement without giving any reason. Where in the case of a linked credit agreement, national legislation at the time of the entry into force of this Directive already provides that funds cannot be made available to the consumer before the expiry of a specific period, Member States may exceptionally provide that the period of 14 days may be reduced to this specific period at the explicit request of the consumer.

Early repayment: the consumer shall be entitled at any time to discharge fully or partially his obligations under a credit agreement. In such cases, he shall be entitled to a reduction in the total cost of the credit, such reduction consisting of the interest and the costs for the remaining duration of the contract. In the event of early repayment of credit the creditor shall be entitled to fair and objectively justified compensation for possible costs directly linked to early repayment of credit provided that the early

repayment falls within a period for which the borrowing rate is fixed. Such compensation may not exceed 1 % of the amount of credit repaid early, if the period of time between the early repayment and the agreed termination of the credit agreement exceeds one year. If the period does not exceed one year, the compensation may not exceed 0.5 % of the amount of credit repaid early.

The Directive also defines situations where compensation for early repayment shall not be claimed. The creditor may exceptionally claim higher compensation if he can prove that the loss he suffered from early repayment exceeds the amount determined by the Directive.

If the compensation claimed by the creditor exceeds the loss actually suffered, the consumer may claim a corresponding reduction. Any 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.

Revision of thresholds: the Commission shall undertake, every 5 years and for the first time 12 May 2013, a review of the thresholds laid down in this Directive and its annexes and the percentages used to calculate the compensation payable in the event of early repayment.

ENTRY INTO FORCE: 11/06/2008.

TRANSPOSITION: 12/05/2010.

APPLICATION: from 12/05/2010.