



TARTU ÜLIKOOL



Consumer Credit- worthiness Assessment

About the legal situation in Estonia

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Agenda

- Legal basis and contents
- Practical problems
- Procedural issues



Legal basis

- Governed by the Law of Obligations Act (LOA), mainly § 403-4 (principle of responsible lending);
- Supported by the Creditors and Credit Intermediaries Act (CCA), most importantly § 49.



Responsible lending

Consists of:

- acquiring information which allows to assess whether the consumer is creditworthy (LOA § 403-4 (1) p 1);
- assessing the creditworthiness of the consumer (LOA § 403-4 (1) p 2).



Acquiring information

A creditor must gather information about:

- financial situation and size of regular income;
- other obligations, including the size of regular financial obligations;
- earlier performance of payment obligations;
- other assessable regular household expenses;
- the impact of the possible increase in the obligations;
- any other significant facts.

CCA § 49 (1) and LOA § 403-4 (2)



Means of obtaining information

The creditor must:

- request information from the consumer;
- use appropriate databases (no positive credit register, but it could start operating in 2028);
- use internal sources in possession of the creditor.

CCA § 50 (1) and LOA § 403-4 (3)



Assessing creditworthiness

- Creditor has to analyse the collected information.
- As a result of the analysis, the creditor has to become **convinced**, that the obligations arising from a credit agreement will be performed under the terms and conditions agreed on in the agreement.
- If the creditor is not convinced, it may not enter into a credit contract.

LOA § 403-4 (6), CCA § 49 (4)



Sanctions for breach

If the creditor violates its obligations:

- the interest rate of the consumer credit contract shall be deemed to be the interest rate provided for in the law (not very high);
- the consumer shall owe no other fees to the creditor;
- the creditor shall redetermine the repayments taking into account the reduction of the interest rate and other expenses.



Practical problems

- Negligent irresponsible loaning (mostly non-bank lenders) (max APRC 47,04%);
- No positive credit register;
- No legalised max dept to income ratio;
- Ignorant consumers;
- Unwillingness to protect their rights in court.



Developments since 2023

Supreme Court decision nr 2-21-13098 from 24.11.2023 said:

- Court must *ex officio* (without the defendant) evaluate whether there have been breaches;
- Court must refrain from default judgments;
- regardless of type of procedure (including order-for-payment, insolvency etc).



Order-for-payment

Before May 2025:

- No response = order for payment (Code of Civil Procedure § 489 (1));
- About 40 000 applications annually.

After May 2025:

- Limits on order-for-payment;
- At most interest provided by law;
- No capacity to evaluate evidence;



Insolvency proceedings

Claims satisfied by a court decision should be accepted without defence (bankruptcy act § 100-3 (4) p 1), but in practice claims arising from consumer credit are not accepted.

- Reasoning – ECJ: At least one evaluation of unjust standard terms
- Also applies to creditworthiness?
- *contra legem*?
- *res judicata*?



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Thank You for attention!

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