

Mr Klaus Werner Iohannis  
President of Romania  
Palatul Cotroceni  
Bulevardul Geniului nr. 1-3  
Sector 6 – 060116 Bucuresti  
Romania

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9 December 2015

**Subject: Legislation on datio in solutum**

Dear Mr President,

I am writing to you on behalf of BEUC, The European Consumer Organisation, which represents 41 well respected, independent national consumer organisations from 31 European countries. As a representative of consumers, BEUC supports any legislative measures aiming to protect consumer interests, notably the "datio in solutum" law recently adopted by the Romanian Parliament.

We have been informed that in Romania many consumers face unfair commercial practices in the financial services sector, have been severely hit by the financial crisis and struggle to pay their monthly instalments. The credit interest rates in Romania were among the highest in the EU, and the rates are still high today. On the other hand, the income levels in Romania are among the lowest in the EU and until very recently, no measures existed to help consumers in financial difficulty. We therefore believe that the „datio in solutum” law would be crucial to help distressed borrowers.

Please allow us to outline below in more detail our views on this crucial issue.

Very recently the European Parliament adopted a resolution which calls on the European Commission to share best practices regarding the application in certain Member States of 'datio in solutum', and to assess its impact on consumers and business<sup>1</sup>.

This was because the Parliament found that *"in many cases consumers were not duly informed by banks about the extent of the risks associated with proposed investments, and whereas in such cases the banks also failed to perform suitability tests to determine whether clients had adequate knowledge to understand the financial risks they were exposing themselves to"*. In addition, *"...the impact of the crisis has aggravated the situation for evicted families, who still have to pay out their mortgage debt and the increasing interest on it..."*.

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<sup>1</sup> The European Parliament Resolution on Mortgage legislation and risky financial instruments in the EU: the case of Spain, 8.10.2015:  
<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2015-0347>

The Directive 2014/17/EU on credit agreements relating to residential immovable property for the first time referred very clearly to "datio in solutum" as a possible measure that could be adopted to protect consumers in financial difficulty. In addition, recital 15 of the Directive says that *„the objective of this Directive is to ensure that consumers entering into credit agreements relating to immovable property benefit from a high level of protection“*. Furthermore, Recital 7 makes very clear that *„Member States should be allowed to maintain or introduce more stringent provisions than those laid down in this Directive in those areas not clearly specified as being subject to maximum harmonization. Such a targeted approach is necessary in order to avoid adversely affecting the level of protection of consumers relating to credit agreements in the scope of this Directive“*.

Taking the above into account, the Directive does not contain any provision which would prevent Member States from adopting a mandatory „datio in solutum“ measure aiming to protect consumers.

There is a historical opportunity to offer consumers a very efficient instrument to protect them from the dramatic consequences of over-indebtedness. It is key that this opportunity is not missed!

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Goyens', with a long horizontal stroke extending to the right.

Monique Goyens  
Director General