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The Unlikely Continuity. The Communist Legacy of Romanian Consumer and Residential Credit Laws

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Abstract: The study challenges the dominant narrative that Romanian consumer and residential credit laws are a product of the country's return to capitalism and the market economy, proposing an alternative interpretation. It demonstrates that the origins of Romanian consumer and residential credit laws lay in the pre-World War II and communist legislation that survived the 1989 Revolution. This shows that the communist legacy in consumer and residential credit is real and more enduring than expected and that communism did not differ from capitalism in this respect, other than how consumer and residential credit was organised. Using legal history and doctrinal analysis in a functional approach coupled with statistical and empirical data, the study proves the existence of a normative continuity between pre-and post-1989 Romanian consumer and residential credit laws that ended with the EU accession efforts. Finally, this continuity between communist and capitalist consumer and residential credit laws indicates functional similarities between the monarchic (capitalist) and communist legal systems, further undermining the relevance of political and economic ideology and the idea that communism was inimical to consumers and consumer or residential credit.

Keywords: consumer protection, consumer and residential credit, consumer finance, communism, capitalism, legal continuity, Romania

JEL Classification: G510, N30, N33, N 34, P260, K39

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1 Introduction

Discussing the legacy of communist consumer and residential credit laws in an EU Member State may seem anachronist. At first glance, the Romanian consumer and residential credit legal framework is a product of the country's return to capitalism and the market economy following the 1989 anti-communist Revolution and EU accession efforts. Narratives provided by Romanian authorities, historians and academics support this view. Until 2022, the homepage of the National Authority for Consumer Protection in Romania stated that due to 'political-ideological reasons', the concepts of 'society of consumption' and 'consumer protection' could only circulate

publicly after the fall of communism.¹ According to one of the most acclaimed Romanian historians, the Romanian communist system was utterly disinterested in the population's consumption.² Such assertions suggest that since communist ideology was incompatible with consumerism and consumer protection, the latter are post-communist phenomena.

These misconceptions are even more evident concerning credit for consumers. The few legal academic works either downplay or ignore the impact of the 42 years of communist legal order (1947–1989) on consumer and residential credit laws.³ Most authors addressing Romanian consumer and residential credit legislation begin with the transition period without acknowledging the historical background.⁴ Peligrad traces the history of Romanian mortgage credit to the 19th century but completely overlooks the communist period, jumping to 1999 when the remaining communist laws were repealed.⁵ Nicolae and Popa focus exclusively on the issues raised by the debt relief mechanisms implemented after the 2007–8 financial crisis.⁶

The legal academics' disregard for the legislation adopted during the communist period appears to depend on the following assumptions: 1) communist law had no bearing on consumer finance (since consumer and residential credit was ideologically incompatible with communism), 2) the communist legislation and its heritage were erased by Romania's return to capitalism and the adoption of the EU acquis, and 3) communist law was so different from current law that there is no reason to discuss or compare with it.

These explanations fail to consider that, between the 1947 abolition of the monarchy and the 1989 fall of communism, there was not a legal void but 42 years during which the Romanian society, economy and legislation continued to function and evolve. They also fail to explain consumer and residential credit's apparent

1 National Consumer Protection Agency, <<https://anpc.ro/articol/582/istoricul-autoritatii-nationale-pentru-protectia-consumatorilor>> accessed 28 April 2022. The current version of the website (amended in August 2022), states that “Începând cu 1990, pentru prima dată după Al Doilea Război Mondial, s-a vorbit în România, despre “societatea de consum” și “protecția consumatorilor” (Since 1990, for the first time after the Second World War, there has been talk in Romania of “consumer society” and “consumer protection”).

2 Boia, L. *Strania istorie a comunismului românesc*, (Humanitas, 2016), 144.

3 *Infra*, Section 3.1.2.

4 Apan, R.D. *Protecția juridică a consumatorilor. Creditul destinat consumului și domeniile conexe* (Sfera juridică, 2007), 1–10; Rizoiiu, R. *Garantiile reale mobiliare. O abordare funcțională*, (Universul Juridic, 2011); Gheorghe, A.N., Spasici, C. and Arioca, D.S. *Dreptul consumației*, (Hamangiu, 2012), 238–40; Piperea, G. *Protecția consumatorilor în contractele comerciale*, (C.H. Beck, 2018), 9–29; Rizoiiu, R. *Curs de garanții civile*, (Hamangiu, 2020), 1, 23, 138–9 or Goicovici, J. *Dreptul relațiilor dintre profesioniști și consumatori*, (Hamangiu, 2022).

5 Peligrad, V. *Creditul Ipotecar. Piața primară și piața secundară* (CH Beck, 2012), 39.

6 Nicolae, M. and Popa, I.-F. (eds), *Credite pentru consumatori*, (Solomon, 2017).

normative and functional continuity, which survived the transition from communism to capitalism until the implementation of the EU acquis. Ignored by the legal literature, this phenomenon is better evidenced by socio-economic works supported by the existing (albeit incomplete) statistical data.

According to these latter studies, discarding the potential communist legacy in consumer finance is misguided. Manko eloquently demonstrated an enduring communist legacy in Polish legal culture⁷ with examples easily traceable in Romanian law. Chernyshova's sociological enquiry into Soviet consumer culture showed that, despite certain constraints on consumption, 'the Brezhnev period did see a limited version of capitalist consumer modernity'.⁸ Heldmann documents a similar trend in the German Democratic Republic⁹ and Valuch in Hungary.¹⁰ Given the historical thesis that Romania strictly followed the USSR's directives and example,¹¹ is unlikely that a similar consumer culture was absent. Other comprehensive works called for a reassessment of the 'Anglo-centric story',¹² pointing out that 'fascist and communist societies consumed too'. In other words, not all consumers are 'liberal capitalists'.¹³ Romania's example also proves this assertion.

The existence of consumer and residential credit in communist Romania does not entail the absence of differences between liberal-capitalist and communist countries. Most Romanian consumer and residential credit laws adopted during communism do not refer specifically to 'consumers' as a recognised category of natural persons engaging in transactions for consumption (as they are currently defined by EU or national legislation).¹⁴ Instead, they rely on alternative terminology ('workers = *muncitori*', 'retirees = *pensionari*', 'peasants = *țărani*'), although it should be emphasised that these labelling differences are ideological and formal in nature,

7 Manko, R. 'Survival of the Socialist Legal Tradition? A Polish Perspective,' *Comparative Law Review*, Vol 4, p. 1–28.

8 Chernyshova, N. *Soviet Consumer Culture in the Brezhnev Era*, (Routledge, 2013) 9.

9 Heldmann, P. 'Negotiating Consumption in a Dictatorship: Consumption Politics in the GDR in the 1950s and 1960s', in Daunton, M. and Hilton, M. (eds) *The Politics of Consumption. Material Culture and Citizenship in Europe and America*, (Berg, 2001), 191.

10 Valuch, T. *Everyday Life under Communism and After: Lifestyle and Consumption in Hungary, 1945–2000*, (CEU Press, 2021), 90.

11 Boia, *supra* note 2, p. 56–62.

12 Trentmann, F. *Empire of Things: How We Became a World of Consumers, from the Fifteenth Century to the Twenty-First*, (Harper Perennial, 2017), 36.

13 *Ibid.*, 37.

14 Art 3 (a) of the Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (Consumer Credit Directive/CCD), OJ L 133, 22.5.2008, p. 66–92 or Art 7 of Government Emergency Ordinance (GEO) 50/2010 privind contractele de credit pentru consumatori, Official Gazette no 389/11.06.2010.

not of substance. In addition, communist countries experienced less choice, lower quality, and more shortages than their capitalist counterparts.¹⁵

However, these differences are irrelevant when analysed through the lens of functionality. While no recognisable and widely accepted functional method exists, legal comparatists agree on several elements. *First*, functionalist comparative law is factual, focusing not on the rules but their effects. Thus, it often responds to real-life situations (e.g., housing crisis, improvement of living standards), and legal systems are compared on their judicial responses to similar problems. From this perspective, one can easily trace several similarities deriving from the continuation of monarchical goals during the communist era: industrialisation driving urbanisation and increasing living standards. From this perspective, the communist period in Romania was ‘the longest unbroken period of increase in the living standard in the entire 1918–2018 century’,¹⁶ and credit for consumers played a significant role.

Second, comparative law combines its factual approach with the idea that its legal objects under investigation must be understood in the light of their functional relation to society. Law and society are deemed separable, albeit related. Despite a common myth, the communist system accepted and even encouraged individual or personal property¹⁷ for two main reasons: (a) to achieve its ideological and political goals (increasing the population’s standard of living, ensuring basic needs for all citizens) and (b) to create or maintain strong popular support. The functional analysis of credit legislation implemented during the communist period brings additional evidence.

Third, the function itself is used as a comparative element: institutions (legal or non-legal) are comparable if they fulfil similar functions in different legal systems.¹⁸ In this regard, two aspects stand out: (a) the **fundamental role of the state in the development of residential credit** during the monarchic and communist periods, mainly via state guarantees, tax incentives and fixed, low (legal) interest rates; and (b) the **fundamental role of instalment sale mechanisms** during the monarchic

15 *Ibid.*, 37; Valuch *supra* note 10, 129, Piketty, T. *Capital and Ideology*, (Harvard University Press, 2020), 587.

16 Stănescu, I. “Quality of Life in Romania 1918–2018: An Overview”, *Calitatea Vieții*, vol XXIX, Issue 2, 2018, 112, p 123.

17 Damsa, L. *The Transformation of Property Regimes and Transitional Justice in Central Eastern Europe. In Search of a Theory*. (Cham: Springer International Publishing, 2016), p. 105–107. According to Damsa, only the property of ‘production means’ was abolished.

18 Michaels, R. ‘The Functional Method of Comparative Law’ in Reinmann, M. and Zimmermann, R. (eds) *The Oxford Handbook of Comparative Law*, (Oxford, 2006), p 342.

and communist regimes **in developing credit for consumer durables**, due to the low purchase power of the population.

Thus, focusing on the economic reality of the transaction rather than the terminology used by the legislators, it becomes clear that various forms of credit existed and were widely employed during communism in Romania for residential purposes or the acquisition of durable goods. This functional reality suggests that ideology played a minor role in developing consumption and access to credit. Therefore, a legal analysis cannot discard periods when the political and economic system was allegedly incompatible with capitalism.

This study argues that the legacy of communist consumer and residential credit laws in Romania proved more enduring and influential than previous works have suggested. Using legal history and doctrinal analysis in a functional approach, coupled with statistical and empirical data, it demonstrates a normative continuity between pre-and post-1989 Romanian consumer and residential credit laws that endured until the adoption of the EU-driven framework in the late 1990s. It further ventures that this normative continuity indicates the existence of solid foundations and functional similarities between the two legal systems, undermining the idea that ideology alone could explain the creation of consumer and residential credit laws or that communism was inimical to consumers and consumer and residential credit.

The rest of the article is organised as follows. The *second* section deals with consumer and residential credit's historical and ideological origins. It advances a set of core consumer and residential credit characteristics extracted from the current liberal-capitalist legal tradition of the European Union (EU) to assess the normative continuity and functional equivalence of consumer and residential credit laws during the monarchy and communism. Section three introduces the three stages of Romanian history and pursues the emergence and development of consumer and residential credit in Romanian law between 1859 and 2007. Section *four* discusses the secured credit granted to consumers for building or purchasing a residential property. In contrast, section *five* examines secured and unsecured credit given to consumers to acquire durable goods. Both sections reveal that communist legislation played an essential role in developing consumer and residential credit legislation in Romania, justifying the idea of legal continuity in this area. Lastly, concluding remarks emphasise that since the enduring impact of communist legislation on the advance and modernisation of consumer and residential credit law during the transition period is undeniable, the relevance of economic and political ideology regarding consumer and residential credit should be revisited.

2 The Fundamentals of Consumer and Residential Credit

Credit is generally understood as ‘loans and other deferred payment methods made available to consumers and companies to enable them to purchase goods and services, raw materials and components.’¹⁹ The Latin root, *credere*, can be translated as ‘trust’. Without trust, there would be no credit, which explains why, in many instances, the creditor’s confidence must be enhanced by some form of guarantee (collateral).²⁰ Credit depends on legal and value systems that recognise the sanctity of contracts between parties.²¹ Modern legal systems have added simplified and swift enforcement procedures to strengthen credit agreements’ legal and binding nature.²²

In this context, consumer credit is a ‘short and medium-term credit extended to individuals through regular business channels, usually to finance the purchase of consumer goods and services or to refinance debts incurred for such purposes.’²³ This study adopts a broader understanding of the term. It addresses two primary forms of credit for consumers: **(a) residential credit**, meaning a secured loan granted to individuals to construct or purchase a dwelling, and **(b) secured or unsecured commercial lending to individuals to acquire consumer goods**.²⁴

2.1 Historical Origins of Consumer Credit

Graeber traced the origin of credit and debt at least 5000 years back.²⁵ Most authors agree that the modern foundations of credit were laid in the Western world and developed alongside the nation-state, for instance, in the Netherlands, the UK, Germany, France and the US. However, it was generally a privilege for the wealthy and powerful.²⁶ The democratisation of credit (i.e., granting credit to lower strata of

¹⁹ *The Harper Collins Dictionary of Economics*.

²⁰ Rizioiu (2020), *supra* note 4, 41–3.

²¹ *Ibid.*, 58.

²² *Ibid.*, 62.

²³ *The Encyclopedia of Economics*, (McGraw-Hill, 1982), 184.

²⁴ Finlay, S. *Consumer Credit Fundamentals*, (Palgrave MacMillan, 2005), 4.

²⁵ Graeber, D. *Debt: The First 5000 Years*, (Melville House, 2014), p. 214–221.

²⁶ MacDonald, S.B. and Gastman, A.L. *A History of Credit & Power in the Western World*, (Routledge, 2017) 6–7, 193. Also, Gelpi, R.-M. and Julien-Labruyere, F. *The History of Consumer Credit. Doctrines and Practices*, (Palgrave MacMillan, 2000), 113, 129.

society) began only in the first decades of the 20th century²⁷ and rapidly expanded after WWII.²⁸

The above historical overview should not be construed in the sense that poorer categories were deprived entirely of credit until recent years. Alternative banking has been documented to have existed alongside private commercial and merchant banking early in European history.²⁹ Charitable organisations such as ‘Monte de Pietà’ (Mount of Piety), which functioned as pawn-credit foundations, extended credit to the poor against security in personal goods,³⁰ including in Romania.³¹ Credit cooperatives and saving houses were founded across German and French-speaking areas pooling member resources and facilitating access to cheap credit.³² They played an essential role in promoting financial inclusion and increasing the standard of living of the low-income classes.³³ They were the source of inspiration for the first institutions designed to grant affordable residential credit in Romania,³⁴ which, however, did not save them from nationalisation under the communist regime.³⁵

In the US, a substantial transformation of consumer credit occurred at the end of the second decade of the 20th century, when state governments pressured commercial banks to extend credit to the masses to curb predatory lending by loan sharks.³⁶ The democratisation of consumer and residential credit drove the consumers’ desire to improve their living standards³⁷ by committing their future incomes in exchange for immediate access to durable goods or housing.³⁸ Similarly, increasing the citizens’ living standards was the primary motivation for the communist system to provide consumers with credit for residential properties and other durable goods.³⁹

27 MacDonald and Gastman *supra* note 26, 217–235, Calder, L. *Financing the American Dream. A Cultural History of Consumer Credit*, (Princeton University Press, 1999), 37; Gelpi and Julien-Labruyere *supra* note 26, 100; Finlay *supra* note 24, 23, 25.

28 Levy, J. *Ages of American Capitalism. A History of the United States*, (Random House, 2021), 1140.

29 Butzbach, O. and von Mettenheim, K. E. “Alternative Banking and Theory”, *Accounting, Economics and Law*, Vol 5, Issue 2, p 112–121.

30 *Ibid.*, 112.

31 Firoiu, D and Marcu, L.P. (eds), *Istoria dreptului românesc*, Vol II, part II, Editura Academiei Republicii Socialiste Romania (Bucharest), 1987, p 387.

32 Butzbach and von Mettenheim, *supra* note 29, p. 111, 116

33 *Ibid* 127.

34 Noica, N.S. – *Intre istorie si actualitate. Politici de locuire in Romania*, Ed. Masina de scris (Bucharest), 2003, p. 44–45.

35 Butzbach and von Mettenheim, *supra* note 29, p. 112.

36 MacDonald and Gastman *supra* note 26, 224; Calder *supra* note 27, 20.

37 Gelpi and Julien-Labruyere *supra* note 26, 95, 100.

38 Another factor leading to the increase of consumer credit is the increased household incomes, Gelpi and Julien-Labruyere *supra* note 26, 131.

39 Vihavainen, T. and Bogdanova, E. (eds), *Communism and Consumerism*, (Brill, 2016) XIX. Also, Heldmann *supra* note 9, 194.

2.2 Ideological Origins of Consumer and Residential Credit

An apparent ideological element is attached to consumer and residential credit and its effects. In the words of one historian, ‘today, the culture of consumption is largely responsible for legitimising capitalism in the eyes of the world.’⁴⁰ Another argued that ‘consumerism’ – and, implicitly, the tools that made it possible, consumer and residential credit – is one of the fundamental traits that made Western civilisation the dominating force in world history.⁴¹

Nevertheless, differences exist even within the capitalist system between private and alternative banking models. A broad and heterogeneous set of financial institutions (i.e., credit cooperatives, savings banks, credit unions or mutual savings associations) has been less animated by considerations such as profit maximisation for shareholder benefits and risk-taking that generally characterise private commercial banking. On the contrary, their mission was focused on fostering economic and social development and facilitating savings or credit for poorer households via prudent banking and sustainable returns.⁴² Despite their goals and alternative approaches, these institutions were created and active in the credit market.

On their end, communist systems, like the Romanian one, generally viewed credit as a manifestation of the capitalist order, representing an instrument for despoiling the poor and enriching the rich. Communist credit was motivated not by profit but by the fair and equal redistribution of resources⁴³ and the desire to instil loyalty to the Party and cohesion in the mass of citizens.⁴⁴ Thus, the position of the socialist economy appears to have embraced some of the alternative banking’s views in its rejection of profit-generating interest rates (which were perceived as neo-usurious) and sustainable, rational use of existing financial resources.⁴⁵

Romanian communist legal scholars listed four types of credit: (a) banking credit (by which the state extended credit to economic units and the population); (b) public credit (by which the state used the population’s savings to lend to economic units); (c) cooperative credit (used in the cooperative system) and, of relevance to this study, (d) consumption credit (by which the state, through the banking apparatus and commercial units, fosters sale of durable goods to the population through credit repayable in instalments).⁴⁶

⁴⁰ Calder *supra* note 27, 24.

⁴¹ Fergusson, N. *Civilization: The West and the Rest*, (Penguin, 2011), 196–255.

⁴² Butzbach and von Mettenheim, *supra* note 29, p. 110.

⁴³ *Ibid*, 203.

⁴⁴ For similar reasons in other countries in the Soviet bloc: Heldmann *supra* note 9, 194, Valuch *supra* note 10, 93.

⁴⁵ Turliuc, V. (ed) *Circulatie baneasca si Credit*, Iasi, 1985, p 201.

⁴⁶ *Ibid*, 211.

In opposition to capitalist systems, where private commercial banks appear as intermediaries between the Central Bank and the credit beneficiaries, the socialist systems adopted a so-called ‘direct crediting’ policy, by which commercial units and the population could access credit directly from the operational branches of the National (Central) Bank (Table 1).⁴⁷

Table 1: Ideological approach concerning consumer and residential credit.

	Capitalism	Communism
Role of credit	An instrument for advancing income for the immediate purchase of goods (commercial)	An instrument for implementing the financial and economic policy of the party (non-commercial)
Motivation of credit	Profit maximisation	Fair and equal distribution of resources
Source of credit	Private investors	The state
Grantor of credit	Private banking Alternative banking Retailers	State-owned banks State companies (retailers)
Cost of credit (interest)	Cost of credit determined by market forces	Cost of credit determined by law

Nevertheless, ideological considerations fade when one considers access to residential credit. Historians have linked the development of credit markets and products to growing urbanisation and industrialisation,⁴⁸ a trend easily discernible in communist systems. This study shows that as Romania continued industrialisation and urbanisation efforts under the communist regime, the role of residential credit granted to the population grew similarly, peaking at the end of the 1970s. Moreover, residential credit’s constitutive elements and mechanics are the same regardless of the political or economic regime. Ultimately, the evidence will show that the Western and communist types of residential credit are functionally equivalent from a legal perspective and answer the same social needs.

The main differences are the source of credit and the formation of interest. Regarding the source, credit comes mostly from retailers or banking and non-banking financial institutions in capitalist systems. In contrast, in communist systems, credit comes from the state via specialised financial institutions (such as the House for Savings and Consignments in Romania) or non-financial institutions (such as retailers – state-owned enterprises). Regarding interest, while in capitalist systems, it is governed by free-market forces and suffers the vagaries of the market, in communist systems, it is fixed by law and less affected by market changes.

⁴⁷ *Ibid.*

⁴⁸ MacDonald and Gastman *supra* note 26, 196.

Even so, capitalist systems were not always free from state credit. In the 1930s, the US government subsidised credit in the collapsed residential construction industry. Consequently, ‘state-subsidised credit (...) became an enduring entitlement of US citizenship.’⁴⁹ After WWII, the US Housing Act of 1949 expanded government credit subsidy programmes and established the amortised 30-year home mortgage as the industry standard,⁵⁰ free from purely market-based influences.

The situation was similar in modern Romania. Before and after WWI, the state offered credit to specific categories of consumers to foster access to owned housing. State credit was needed to induce private investment to build and meet the critical demand for housing, which communist governments, including Romania’s, have also confronted and attempted to solve. Thus, state-backed credit for addressing the social need for housing was hardly a communist invention or attribute and cannot count as an argument against the functional equivalence of communist and capitalist consumer and residential credit. On the contrary, it strengthens it.

How interest rates are determined in the two systems could also challenge the idea of functional equivalence from an ideological and economic perspective since communist systems considered interest a means of ‘supplementary exploitation’ of the population.⁵¹ However, one should remember that capitalist systems initially urged private banks to get involved in crediting the population mainly to combat exorbitant and eventually predatory interest rates.⁵² At the same time, alternative banking models provided customers cheap credit. In addition, communist systems did not entirely stop from charging interest. In communist Romania, interest rates were maintained: a) to cover the administrative costs of banks, b) to curb excessive use of credit, c) to stimulate specific sectors of the economy via differentiated interest rates and d) to punish those who did not repay on time.⁵³ However, interest rate levels were significantly decreased by law to deprive them of their exploitative potential. Therefore, by decoupling interest rates from free market mechanisms, the credit products offered by the state or its economic operators tended to be more advantageous to the population.

Societies whose members have recourse to credit need growth and, more importantly, employment prospects. Thus, a deteriorating economic situation negatively affects repayments.⁵⁴ This was evident during the financial crisis of 2007–8 and the COVID-19 pandemic. From this standpoint, consumer debtors in communist economies appear to have been in a better position because

⁴⁹ Levy *supra* note 28, 952.

⁵⁰ *Ibid.*, 1155.

⁵¹ *Ibid.* p 213.

⁵² *Supra* note 35.

⁵³ *Ibid.* p 214–215.

⁵⁴ Gelpi and Julien-Labruyere *supra* note 26, 112.

unemployment was virtually non-existent (and even criminalised), and the risk of non-payment was minimal. Moreover, in case of default, they had multiple occasions to repay their dues before their property was foreclosed.

2.3 Elements of Consumer and Residential Credit

A reference point is needed to assess the functional equivalence of consumer and residential credit in Romania's capitalist and communist systems. To that end, I propose juxtaposing and comparing the following building blocks of consumer and residential credit 1) the subject of credit (consumers), 2) responsible lending (assessment of creditworthiness, down payments and risk-mitigating mechanisms), 3) the cost of credit (interest, charges and penalties), 4) the duration of the agreement and 5) the availability of swift enforcement mechanisms for honouring debt payments and obligations. These fundamental elements will be used in sections 4 and 5 to test the functional equivalence of Romania's communist consumer and residential credit legislation with monarchic or transition counterparts.

Paradoxically, the same building blocks can be identified in the 2008 Consumer Credit Directive (CCD)⁵⁵ and the 2014 Consumer Mortgage Directive (CMD),⁵⁶ which would have suggested a normative continuity after EU accession. However, adopting the EU-driven *acquis* has discontinued the normative continuity of the monarchic and communist consumer and residential credit laws by promoting asset-based credit and market-based interest rates and limiting consumer protection measures to mandatory disclosures and financial prudential rules.

3 Continuity in Transformation: Consumer and Residential Credit in Romania

This section reflects that Romania has undergone a continuous legislative and institutional transformation. This process is even more pronounced in the case of consumer finance.

⁵⁵ The Consumer Credit Directive (CCD), *supra* note 14.

⁵⁶ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, OJ L 60, 28.2.2014, p. 34–85, as consolidated in 2018 (Consumer Mortgage Directive or CMD).

3.1 Three Stages of Romanian History

Three main stages can be identified in Romanian history. The first covers the *modern* period, from the 1859 Union until the abolition of the monarchy in 1947. It constituted the country's foundational period when its institutional and legal framework was created. The second is the *communist* period, lasting from 1947 until the 1989 Revolution, nowadays commonly regarded as an unwanted intermezzo in the country's development. The third is the *contemporary* period, which extends from the fall of communism in 1989 to the present and is generally portrayed as a return to the democratic and capitalist system built during the foundational years. During this period, Romania joined the EU in 2007.

Each stage was marked by efforts to develop, industrialise, and modernise the country and its institutions, even though most contemporary historians and legal scholars deny any merits to the communist period. The continuous transformation is more evident if analysed chronologically, based on these three stages (Figure 1).

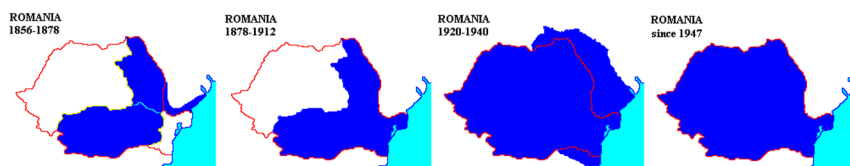


Figure 1: The territorial evolution of Romania from 1856 to the present day. Source: World History at KMLA (<https://www.zum.de/whkmla/region/balkans/xromania.html>). The figure illustrates the fast pace of Romania's unification, which also meant territorial and population changes that posed significant challenges to Romanian policymakers and legislators.

3.2 The Emergence of the Consumer and Consumer and Residential Credit in Romanian Law

The common wisdom that Romanian consumption and consumer and residential credit are creations of the transition from communism to capitalism is misleading and incorrect. Before and, especially during communism, efforts were made to increase access to consumer goods, curb unfair trading practices and ensure fair and equitable access to credit. The emergence and expansion of consumer finance accompanied the establishment and development of the Romanian financial system during the foundational years and the improvement of citizens' living standards during communism via access to housing and durable goods.

3.2.1 Modern Romania

During the modern period (1859–1947), the local economy had a preponderant agricultural character. Thus, most imports concern products for consumption,⁵⁷ which indicates the emergence of a preoccupation with and an inclination toward buying consumer goods, in line with the international trend. Empirical data also reveals a steady increase in consumer goods imports as the country's financial situation and the population stabilised and improved (Table 2).

Table 2: The increase of imports of specific consumer items during 1879–1903. Source: Romania's Statistical Yearbook 1904, p. 315, Table 10.

Years	Rice	Raw coffee	Cacao Kilograms	Citric, exotic fruits, nuts, etc.
1879	3.613.076	804.857	1.282	2.211.916
1884	5.156.222	1.272.015	2.419	2.606.802
1889	6.039.195	1.188.576	7.417	3.070.248
1894	6.636.637	1.378.894	23.279	4.913.179
1899	7.369.690	1.826.806	52.574	5.695.392
1903	9.396.457	2.206.416	60.727	7.094.352

As of 1878, the House of Deposits and Consignments, a public financial institution, would also start issuing loans to “particulars”. During 1878 and 1902, these loans totalled Lei 50,007,758, of which only Lei 1,479,350 were still outstanding in 1902.⁵⁸ However, it would not be the sole provider of credit. By 1898, 18 banks were active on the Romanian market; in 1914, there were 215. A rapid expansion could be witnessed in the number of popular (cooperative) banks. In 1914 there were 2935 such institutions.⁵⁹

The rate of consumer goods imports decreased during the interwar years due to a combination of protective tariffs, import substitution with local products⁶⁰ and a decrease in the population's purchasing power due to the economic crisis in the 1930s (Table 3).

⁵⁷ Academia Romana, *Istoria Romaniei*, vol VII, (Univers Enciclopedic, 2015), 612–3. According to empirical data, in the mid-1920s, consumer goods represented about half of total imports in Romania. Moreover, the import growth of consumer goods was much faster than the growth of national income. Kaser, M.C. and Radice, E.A (eds), *The Economic History of Eastern Europe 1919–1975, Volume I–III*, (Clarendon Press: Oxford, 1985), Vol I, p 417–418 and Table 7.19.

⁵⁸ Romania's Statistical Yearbook 1904, p. 468–469, Table 4.

⁵⁹ Velescu, O. “Banca „Creditul Funciar Urban” – factor de civilizație. O privire asupra societății bucureștene de la sfârșitul secolului al XIX-lea”, *Historia Urbana*, Issue 1+2, p. 37.

⁶⁰ Kaser and Radice (eds), *supra* note 57, Vol I, p. 408–411, 460–461.

Table 3: Romania: commodity composition of exports and imports 1922–1938 (Per cent). Source: Kaser, M.C. and Radice, E.A (eds), The Economic History of Eastern Europe 1919–1975, Volume I, Clarendon Press (Oxford), 1985, 461, Table 7.36, 7.56 and 7.57.

	Average 1922–1924		Average 1928–1929		1932		1935		Average 1937–1938	
	Export	Import	Export	Import	Export	Import	Export	Import	Export	Import
Agricultural produce	62.1	11.2	49.6	9.2	46.7	9.0	36.0	8.5	43.9	6.2
Raw materials	35.4	2.3	49.6	4.4	50.7	4.7	61.8	4.3	52.0	7.7
Primary products	97.5	13.5	96.2	13.6	97.4	13.7	97.8	12.8	95.9	13.9
Consumer goods (other than agricultural)	1.1	51.1	2.5	42.0	1.4	46.3	1.6	36.5	3.3	25.0
Machinery and vehicles	0.2	9.5	0.1	18.4	0.3	10.6	–	17.9	–	25.0
Manufactures	2.5	86.5	3.8	86.4	2.6	86.3	2.2	87.2	4.2	86.1

According to empirical data, consumer credit emerged early in the form of instalment sales of durables and other consumer goods. In 1887, Singer sewing machines were sold in instalments in several Romanian cities⁶¹ under the influence of economic models imported from the United States. These were later joined by bicycles and musical instruments (1897),⁶² gramophones, furniture, and carrycots (1909), commercialised via specialised shops.⁶³ According to the advertisements, all these consumer goods were destined for “industrialists and families of high quality (Figure 2).”⁶⁴

Even after WWI, although the territory and population of Romania tripled in size, its economy remained mainly agrarian (employing approximately 80% of the active population).⁶⁵ It depended on exports of commodities such as cereals and oil⁶⁶ and imports of consumer goods, machinery, and other finite products.⁶⁷ The market



Figure 2: Advertisement for instalment sales retail shop destined for “Families of Superior Quality”. Source: *Opinia*, Year VI, no 831/1909, p. 4. The figure illustrates that instalment purchases were not available for everyone, but for the well-off segments of the population.

⁶¹ *Lupta*, Year IV, no 228/1887, p. 4 and *Lupta*, Year VI, no 799/1889, p 4, (personal archive).

⁶² *Opinia*, Year 1, no 31/1897, p 3, (personal archive).

⁶³ *Opinia*, Year VI, no 831/1909, p 4, (personal archive).

⁶⁴ *Ibid.*

⁶⁵ Ronnâs, P. *Urbanization in Romania: A Geography of Social and Economic Change since Independence*, (The Economic Research Institute – Stockholm School of Economics, 1983), p. 116–117.

⁶⁶ Live animals, cereals, vegetables, raw wool and petrol represented almost 86% of the total exports in 1925, while cereals represented 45% of the total exports in 1927, Kaser and Radice (eds), *supra* note 57, Vol I, p 405, 407. See also: Ilie, S. “Households’ Income in Romania for the 1918–2018 Century: Resources and Social Protection”, *Calitatea Vietii* XXIX, no 2, 2018, p. 163.

⁶⁷ Kaser and Radice (eds), *supra* note 57, Vol I, p 463–464, 473 – Tables 7.56 and 7.57.

was only a secondary distribution mechanism. Income inequality was high, with 96% of people struggling to survive from one day to the next.⁶⁸ ‘Credit’ was primarily employed to make ends meet. For instance, in 1931, debts up to Lei 6000 represented 32.9% of the total debts owed to credit cooperatives and 73% of their total number of debtors at a time when the maximum hourly wage for a skilled worker was around Lei 28 and the daily wage for a male working in agriculture ranged between Lei 60 and 90.⁶⁹ At the same time, debts between Lei 6001 and 10,000 represented 19.2% of the total debt owed to credit cooperatives and 14.5% of the total debtors.

On the opposite end of the spectrum, debts between Lei 20,001 and 50,000 and debts over Lei 50,000 amounted to 15.7%, respectively 11.8% of the total debts owed to credit cooperatives, but only 3.3%, respectively 0.7% of their total number of debtors.⁷⁰ Newspapers abounded in advertisements of credit sales for consumer goods (e.g. vacuum cleaners, radio sets), although these were most likely addressed to the top 3–4% of the population.

Urbanisation levels were low before WWI, and efforts were made to facilitate access to credit for constructing new dwellings, with various success rates. For instance, the Urban Credit House (UCH) of Iasi issued 2379 loans during 1881–1903, totalling over Lei 40 million, out of which more than a quarter (Lei 12.7 million) were repaid by 1903.⁷¹

Housing availability and quality remained problematic between the two world wars. For instance, 16,400 housing units were built in the capital city of Bucharest during 1918–1938 for 631,000 inhabitants and 158,000 households at the 1930 census. During 1935–1938 only 38,892 constructions were authorised in the entire country.⁷² Voluntary sales of immovables remained somewhat constant, with variations during the economic crisis of the 1930s. However, there is no exact indication of how many were sold and purchased on credit.⁷³ Thus, it is unsurprising that the legislature focused on solving the housing crisis, with consumer residential credit laws emerging in 1921.

Consumption suffered during WWII because production was redirected to support the war effort. The quantity and quality of the food supply and other

⁶⁸ Stanescu, *supra* note 16, p. 112. See also: Kaser and Radice (eds), *supra* note 57, Vol I, p. 138.

⁶⁹ Wages and hours of labors, *Monthly Labor Review*, Vol 29, No 1, (1929), p. 176.

⁷⁰ Romania's Statistical Yearbook 1933, Part VI Credit Institutions, p. 124, Table 30.

⁷¹ Romania's Statistical Yearbook 1904, p. 494, Table 26.

⁷² Romania's Statistical Yearbook 1940, p. 499, Table 256.

⁷³ In 1931, a number of 38,803 immovables were sold, totalling a value of Lei 3.69 billion. In 1933, the peak of the economic crisis, the number decreased to 30,293, totalling Lei 2.19 billion. In 1935, the number of transactions reached 42,159, with a total value of only Lei 1.74 billion, while in 1936, the number of transactions slightly decreased to 40,290, while their value increased to Lei 2.45 billion. See Romania's Statistical Yearbook 1940, p. 699, Table 368.

essential goods (i.e., clothing or footwear) became critical.⁷⁴ Nevertheless, most foodstuffs and goods were freely traded on the market, encouraging speculation.⁷⁵ Housing was a significant issue, worsened by the Allied bombardments.

For these reasons, in 1945,⁷⁶ the Parliament adopted one of the first laws considering the interests of *consumers* as a specific category.⁷⁷ The law did not define consumers but implied that they were natural persons entering commercial agreements for consumption. Professional merchants were obliged to inform consumers of their prices for goods and services and publicly disclose their contact and registration details,⁷⁸ in what appear to be proto-consumer protection rules through mandatory disclosures and transparency.

Additionally, merchants could be liable for fraud if they used smaller measurements or sold underweight, counterfeit, or sub-quality products.⁷⁹ Selling consumer goods at prices either higher than the maximal ones or lower than the minimal ones set by law was also punishable.⁸⁰ In these cases, the consumer could be held liable alongside the merchant unless they reported the latter's unlawful behaviour to the authorities.⁸¹

3.2.2 Communist Romania

Following WWII, Romania underwent severe structural changes in all areas as its economy and society were reorganised according to the communist model developed by the USSR. Nevertheless, it experienced its version of the 'glorious thirty years'⁸² – with economic recovery in the 1950s and an economic boom in the 1960s and 1970s – followed by a self-induced crisis in the 1980s that ultimately led to the regime's collapse.⁸³

These economic realities would be reflected in consumer and residential credit legislation. However, it should be mentioned from the outset that during the entire period, the banking system and access to credit – including for households – were

⁷⁴ Stănescu *supra* note 16, p. 116.

⁷⁵ *Ibid.* 118.

⁷⁶ In 1945, Romania was still a nominal monarchy, but under occupation by the Soviet Army and towards its painful transition to communism. The king was forced to abdicate in 1947 and the monarchy was replaced by a Popular Republic.

⁷⁷ Law no 351/1945 for the repression of illicit speculation and economic sabotage, republished in the Official Gazette no 126/06.06.1945, Art 1, letter h.

⁷⁸ *Ibid.*, Art 18.

⁷⁹ *Ibid.*, Art 21.

⁸⁰ *Ibid.*, Art 23.

⁸¹ *Ibid.*, Art 23.

⁸² Piketty, T. *Capital in the Twenty-First Century*, (Harvard University Press, 2014), 11–5, 138–9.

⁸³ Boia *supra* note 2, p. 182–5.

placed under control and used as both an instrument for fair and equitable redistribution of resources and for achieving the party's financial and economic policy.⁸⁴ The Romanian National Bank – the central bank – was nationalised (1946),⁸⁵ while all other banking and credit institutions were dissolved and liquidated (1948),⁸⁶ with some notable exceptions, such as the House of Savings and Cheques and the House of Deposits and Consignments. These were merged into one institution, the House of Savings and Consignments (1948),⁸⁷ whose mission was to attract the population's savings and perform the crediting operations for the population, as provided by law.⁸⁸

Empirical data for the first communist decade is scarce because official statistical reports were suspended during the war and only resumed in 1957.⁸⁹ Prior works addressing living standards in Romania have pointed out that the post-war and recovery periods were still affected by chronic shortages of consumer goods, including food, even if available income steadily increased.⁹⁰ Living standards only surpassed pre-war levels in the 1960s.

After the abolition of the monarchy in 1947, consumer protection against unfair trading practices became a criminal matter. Law 351/1945 was replaced by Decree 183/1949 on the punishment of economic crimes,⁹¹ followed by Decree 202/1953 amending the Criminal Code.⁹² The terms *merchants* (*comerciant*) and *consumers* (*consumator*) disappeared,⁹³ replaced by criminal or civil law-specific terminology (i.e., victim [*victimă*] or buyer [*cumpărător*]). Nevertheless, the decrees maintained consumer protective measures against unfair trading practices.⁹⁴ As criminal offences, these actions were investigated by prosecutors, police officers or special delegates of the relevant ministries and punished with imprisonment, fines and confiscations.⁹⁵

⁸⁴ Turcu, I. *Banking Law*, Vol I, (Ed Lumina Lex, 1999), p. 79. Also, Georgescu, F. “Financial and banking legislation adopted in Romania between 1944 and 1948”, *National Museum*, Issue 16/2004, p. 516, 522–523.

⁸⁵ Law no 1056/1946, published in the Official Gazette no 298/28.12.1946.

⁸⁶ Decree no 197/1948 for the development and liquidation of banking enterprises and credit institutions, published in the Official Gazette no 186/13.08.1948.

⁸⁷ Turcu, *supra* note 84, p. 82.

⁸⁸ Turcu, *supra* note 84, p. 79–80, 82.

⁸⁹ Stănescu *supra* note 16, p. 115.

⁹⁰ *Ibid.*, p. 121.

⁹¹ Published in the Official Gazette no 25/30.04.1949.

⁹² Published in the Official Gazette no 15/14.05.1953.

⁹³ The term consumer can still be found in Decree 202/1953, Arts 268¹⁷ and 268²³.

⁹⁴ Decree 183/1949, Art 3 and Decree 202/1953, Arts 268², Art 268²⁰, Art 26,8²¹.

⁹⁵ Decree 202/1953, Art 26,8²².

While the criminalisation of unfair trading practices was also part of a repressive effort directed at those categories of citizens that rejected the communist regime, not all merchants were freedom fighters. Some were punished for their anti-consumer behaviour. Therefore, the rules protective character for consumers cannot be disregarded, as evidenced by their survival after the fall of communism. Moreover, the state bodies' investigative and enforcement roles are still reflected in the architecture of the consumer protection apparatus developed after 1989, being subordinated to the government.

The sporadic resurfacing of the term *consumer* throughout Ceausescu's regime (1965–1989) is also relevant. Decree 446/1972 on the organisation and management of the Ministry for Internal Commerce⁹⁶ states that one of its attributes is to 'orient and influence the taste and preference of *consumers* towards local products (emphasis added).'⁹⁷ The increase in local production, economic efficiency and national income improved the population's living standards,⁹⁸ access to consumer goods and means of redress. More growth in the total net income of the population was foreseen, coupled with an expansion and diversification of consumer goods and the construction of more housing with state credit.⁹⁹

The 1972 law on finances¹⁰⁰ constituted a solid legal basis for crediting consumers. It allowed the House of Savings and Consignments to offer credit to the population for constructing or buying housing properties and other goods, as provided by the law.¹⁰¹ According to the Civil Code, beneficiaries could also guarantee credits through possessory securities in personal property (pawning).¹⁰² Thus, credit improved the population's living standards by unlocking future income and enabling faster access to durables. Empirical data confirms that the increased demand for consumer goods fuelled local production and the national economy (Table 4).¹⁰³

Unfortunately, these developments were halted during the 1980s when Romanians had to endure some of the harshest economic conditions in the communist bloc due to Ceausescu's decision to repay the country's external debt. The result was

96 Published in the Official Gazette no 131/22.11.1972 (which became Law no 79/1972).

97 Decree 446/1972, Art 5, letter b).

98 Boia, *supra* note 2, 50.

99 Decision of Common Plenary of the Central Committee of the Romanian Communist Party and the Supreme Council of Economic and Social Development of 27–28 November 1973 on measures for meeting and surpassing the provisions of the National Plan for Economic and Social Development of Romania in 1974, the problems of energy development and the measures for saving fuel and energy, published in the Official Gazette no 188/1.01.1973.

100 Published in the Official Gazette no 9/22.11.1972.

101 *Ibid.*, Art 119.

102 1864 Civil Code, Art 1685 and Art 1393.

103 Murgescu, B. *Romania si Europa: Acumularea decalajelor economice*, (Polirom, 2010) 352–4, citing the Annual Statistics of Romania, 1990.

Table 4: Interior commerce in communist Romania. The table illustrates the continuous growth in both consumption and production in Romania during the communist years. Source: Statistical Yearbook of Romania 1990, as compiled by Bogdan Murgescu in *Romania si Europa: Acumularea decalajelor economice*, (Polirom, 2010), p. 353.

	1948	1950	1960	1970	1980	1989
Total commercial units (thousand units)	108.4	65.8	50.8	61.6	78.7	82.0
Out of which						
Private	97.9	38.2	0.6			
State owned	2.0	7.8	23.5	30.7	40.6	41.9
Cooperatives	8.5	19.8	26.7	30.9	38.1	40.1
The total volume of sales (billion lei)	9.9	13.6	39.8	93.7	213.0	297.3
Bread (thousand tons)	...	667.5	1.2150	1.9617	2.4495	2.5719
Pasta (thousand tonnes)	...	18.7	28.7	48.3	61.6	85.9
Meat (thousand tonnes)	...	75.9	138.5	185.6	462.7	224.4
Meat products (thousand tonnes)	...	9.9	45.8	94.1	236.7	257.1
Fish (thousand tonnes)	...	6.9	10.8	52.7	72.3	75.3
Canned fish (thousand tonnes)	...		18.5	26.3	37.6	44.3
Edible oil (thousand tonnes)	...	23.9	69.6	134.8	203.9	199.2
Milk (thousand hl)	...	354.0	1.1900	3.7269	5.9579	5.5872
Cheese (thousand tonnes)	...	8.5	28.1	59.0	95.2	57.7
Butter (thousand tonnes)	...	2.0	8.9	14.7	28.7	23.5
Eggs (million pieces)	...	27.0	159.6	610.4	1.5660	2.0664
Sugar (thousand tonnes)	...	84.3	148.4	233.3	419.4	345.2
Sugar products (thousand tonnes)	...	14.4	42.9	71.6	144.7	480.6
Fresh vegetables (thousand tonnes)	...	105.2	241.7	649.3	813.8	860.5
Canned vegetables (thousand tonnes)	...		16.7	79.8	163.0	237.8
Fresh fruit (thousand tonnes)	...	78.6	97.3	107.0	225.9	302.1
Beer (thousand hl)	...	880.0	1.6160	4.2474	9.7340	11.7783
Textiles and clothing made of cotton (million m ²)	...	120.7	184.8	232.3	284.4	287.3
Woollen fabrics and garments (million m ²)	...	18.1	28.2	40.3	72.4	59.7
Woven fabrics and garments of silk (million m ²)	...	12.0	22.7	32.0	60.1	80.7
Knitwear (million lei)	...	434	1.444	4.017	10.533	14.780
Footwear (million pairs)	...	8.6	26.8	51.2	76.9	84.3
Furniture (million lei)	...	58	998	3.243	7.960	6.539
Vacuum cleaners (million pieces)	...		6.0	64.6	132.5	159.2
Watches (thousand pieces)	...		390.0	910.5	1.8561	1.7428
Medicines (million lei)	...	206	613	1.058	0.2252	4.428
Soap (thousand tonnes)	...	12.2	29.0	25.6	23.7	20.6
Detergents (million lei)	...		30.0	295.6	827.2	1.3963

penury in consumer goods and a drastic reduction in the quality of living, which culminated with the 1989 Revolution.

3.2.3 Contemporary Romania

After the fall of communism in 1989, sector-specific consumer law emerged relatively fast with the adoption of the Government Ordinance (GO) 21/1992 on consumer protection.¹⁰⁴ A Consumer Code was adopted in 2004.¹⁰⁵

In 1993, Romania embarked on the path of legislative harmonisation with the EU, a precondition to the country's entry into the Union.¹⁰⁶ The negotiation chapter concerning consumer protection was provisionally concluded in 2001, and the government signed the Treaty for joining the EU on 25 April 2005, undertaking to continue legislative harmonisation efforts.¹⁰⁷

The most relevant pieces of legislation impacting consumer and residential credit include Law 58/1998 on banking,¹⁰⁸ Law 193/2000 on abusive terms in consumer contracts,¹⁰⁹ GO 85/2004 on consumer protection in concluding and performing contracts at a distance for financial services,¹¹⁰ Law 289/2004 on the legal regime of credit contracts destined for consumers, natural persons¹¹¹ and its Application Norms.¹¹²

Several additions to the consumer and residential credit regime occurred after Romania acceded to the EU: Government Emergency Ordinance (GEO) 50/2010 on consumer credit,¹¹³ the New Civil Code in 2011, GEO 52/2016 on credit agreements offered to consumers for immovable property¹¹⁴ and the debt relief mechanisms attempted by Law 77/2016 on giving in payment of immovable property for the discharge of obligations under credit agreements.¹¹⁵

¹⁰⁴ Published in the Official Gazette no 212/1992.

¹⁰⁵ Published in the Official Gazette no 593/01.07.2004.

¹⁰⁶ Law 20/1993 on the ratification of the European Agreement of Association between Romania and the European Community and its Member States, published in the Official Gazette no 73/12.04.1993, Title V, Arts 69–71 and Title VI, Art 93.

¹⁰⁷ Apan *supra* note 4, 17–8.

¹⁰⁸ Published in the Official Gazette no 121/23.03.1998.

¹⁰⁹ Published in the Official Gazette no 560/10.11.2000.

¹¹⁰ Published in the Official Gazette no 796/28.08.2004.

¹¹¹ Published in the Official Gazette no 611/06.07.2004.

¹¹² Order 2/2005 of the National Bank approving the implementing rules of Law No 289/2004 on the legal regime of consumer credit agreements for consumers, natural persons and Order 231/2005 of the National Agency for Consumer Protection both published in the Official Gazette no 326/20.005.

¹¹³ Published in the Official Gazette no 389/11.06.2010.

¹¹⁴ Published in the Official Gazette no 727/20.09.2016.

¹¹⁵ Published in the Official Gazette no 330/28.04.2016.

With these, the transition from communist to EU consumer and residential credit was complete. However, the EU legislation falls outside the scope of this study. The following sections referring to contemporary period focus instead on the normative acts adopted between 1990 and 1999 before Romania implemented the EU acquis concerning credit for residential property and durable goods. The subsequent analysis will reveal that although the new legislation was meant to replace the communist one, the building blocks remained the same.

4 Secured Credit for Residential Property

4.1 The Modern Period (1859–1947)

The issue of housing as purpose-built property has been a concern in the modern period, even before WWI. The state's intervention and financial support played a tremendous role in slowly improving the housing situation, at least in urban areas.¹¹⁶ If in Western Europe, the intervention could be explained by the governmental belief that housing improvement would be a pre-condition for raising the workforce's physical, educational and cultural level, in Eastern Europe urban dwelling construction was part of the efforts towards industrialisation and economic development.¹¹⁷ Romania was no exception from this trend.

In its old form, mortgage credit was extremely disadvantageous due to the high-interest level and short repayment period. Moreover, the local population lacked financial literacy, which made it easy prey to unscrupulous lenders. A new Law concerning mortgage credit¹¹⁸ was implemented in 1873¹¹⁹ to address these flaws. The law recognised the local economic situation, characterised by a lack of capital and poverty. The authorities employed the experience of other countries, such as Germany, to solve this situation.¹²⁰

To tackle the usurious loans of the time and encourage building construction in the capital and emerging cities,¹²¹ in 1874, the first UCH was set up in Bucharest. However, more were to appear during 1875–1881. These institutions did not lend money but issued bonds called 'letters of credit' (*scrisori de credit*). The bonds yielded an interest of 5% (in 1875–1881, the interest was 7%). They were backed by all the real

¹¹⁶ Kaser and Radice (eds), *supra* note 57, Vol I, p. 347.

¹¹⁷ *Ibid.*

¹¹⁸ Royal Decree no 827/06.04.1873.

¹¹⁹ Firoiu, and Marcu (eds), *supra* note 31, p 384.

¹²⁰ Noica, *supra* note 34, p. 44.

¹²¹ Argus, Year 16, no 3638/1925 ("Creditul urban si chestia constructiilor de viator"), p. 1 (personal archive).

estate mortgaged by the UCH. Although the initiative was advantageous for its customers, due to the low saving power of the population, it was too expensive to be appealing. The value of the loan could only amount to 50% of the total value of the dwelling, while the 5% interest rate meant that in 20 years, the initial value of the loan would double. Thus, this system was partially successful, with only 200 dwellings built in Bucharest in 1911–1930.¹²²

In 1910, Romania adopted the first European law “regulating the construction of cheap and healthy housing.”¹²³ The Explanatory Memorandum acknowledged that “private initiative cannot generate the number of housings needed, due to the current state of the economy”, which required the state’s intervention and support.¹²⁴ These came as a series of facilities for builders and new owners, including exemptions from all taxes relating to housing for individuals and companies. The builder paid the city only half of the building work’s value planned for opening new streets, and the material for housing construction was exempt from taxes.¹²⁵ The law also imposed limits on profits for construction companies, capped at 6% of the dwelling’s price.

Among the first applications of the law was the subsequent creation by Bucharest City Hall of the Bucharest Communal Company for Cheap Housing Construction.¹²⁶ The law empowered the company to build cheap housing of a maximum value of Lei 8000 to sell to the inhabitants of Bucharest, who could pay a 10% down payment of the dwelling’s value. Preference was to be given to workers, public and private employees who were in good health, under the age of 50, and whose salary was below or equal to Lei 250. Since the company could not invest its capital during the first 20 years, it was empowered to issue bonds (*obligațiuni*) with 5% interest, which were sold on the market.¹²⁷ The company was active until 1945.¹²⁸

In the early 1920s, the challenge of housing aggravated. Besides the destruction caused by WWI, no new housing was constructed during 1916–1920. Moreover, cities became increasingly overcrowded due to the migration of the peasantry, attracted by the prospects of a better living standard and the emergence of new working places due to industrialisation.¹²⁹

¹²² Velescu, *supra* note 59, p. 49.

¹²³ Law 514/1910. The law was seconded by a Regulation, published in the Official Gazette no 170/2.11.1910.

¹²⁴ Noica, *supra* note 34, p 30–31.

¹²⁵ Nițulescu. D.C. “Nicolae Șt. Noica (coord.), colaboratori Ruxandra Noica și Cristina Gabriela Popescu, Între istorie și actualitate. Politici de locuire în România”, *Calitatea vieții*, Issue 3–4, p 399.

¹²⁶ Law concerning the set-up of a Communal Company for the Construction of Housing in Bucharest, published in the Official Gazette 16.05.1910.

¹²⁷ Noica, *supra* note 34, p. 31.

¹²⁸ *Ibid* 33, 550–51.

¹²⁹ Noica, *supra* note 34, p. 52–53.

Thus, measures to encourage housing construction were adopted in 1921.¹³⁰ Cooperative societies were set up to buy and divide the land to construct low-cost housing for members: workers, civil servants, and pensioners, and build on this land. Thus, the envisioned solution for the housing issue began to involve urban owners' direct, mutual, and solidary association. To this end, in 1926, another law on Urban Credit Houses was passed, authorising the establishment of companies with unlimited duration through direct association and mutual guarantee of urban owners, who could borrow against the mortgage on their properties.¹³¹

The 1921 initiative was renewed via Law 80/1927 on the encouragement of housing building¹³² and later provided a series of facilities to specific categories of individuals, such as temporary tax exemptions¹³³ and access to cheap credit from the state.¹³⁴ The 1927 law was in force until 1973 when it was repealed as no longer compatible with the socialist legal framework.¹³⁵ Nevertheless, its survival long into the communist period is a compelling argument supporting the idea of continuity in the consumer-credit legislation and functional equivalence, ideology notwithstanding. It also indicates that consumer housing remained a concern for the new regime.

In 1930, a series of institutions with real consequences on credit and the economic orientation of the state appeared, among which the Transitory Mortgage Credit Institute,¹³⁶ the Autonomous House of Building Constructions and the Rural House, which were to make it possible for small farmers with no property, like the rest of the population, to obtain advantageous loans for the rational development of their households, transforming their debts guaranteed by short-term mortgages and exaggerated interest rates (12%) into long-term debts with low-interest rates.¹³⁷

4.2 The Communist Period (1947–1989)

The state's financial contribution and involvement in housing construction remained significant. Since WWII devastated a substantial part of the residential buildings in major cities (Ploiesti or Bucharest),¹³⁸ and Eastern countries rejected

¹³⁰ Law on encouragement of construction of 23 July 1921.

¹³¹ Decree 1122/1926 published in the Official Gazette no 68/20.03.1926. For details, Firoiu and Marcu, *supra* note 31, p. 384 and Noica, *supra* note 34, p. 97–99.

¹³² Published in the Official Gazette no 95/03.05.1927, Art 1.

¹³³ *Ibid.*, Art 2.

¹³⁴ *Ibid.*, Art 45 and 49.

¹³⁵ Decree 691/1973 on the repeal of certain acts, published in the Official Gazette no 7/14.01.1974.

¹³⁶ Law 58/1930. See also *Adeverul*, Year 43, no 14,178/1930 ("Creditul ipotecar tranzitoriu"), p. 4.

¹³⁷ Firoiu and Marcu, *supra* note 31, p. 384, Noica, *supra* note 34, p. 99.

¹³⁸ Noica, *supra* note 34, p. 113.

Western foreign aid, the reconstruction had to rely exclusively on domestic resources. These were affected by the war and the subsequent reparations – USD 1.2 billion – the country had to pay to the USSR for its role in the war. Moreover, Romania was occupied by Soviet troops for a decade (until 1956) and was thoroughly pillaged through the so-called SovRoms, joint-venture companies that had no other purpose but to extract Romanian resources for the benefit of the USSR.¹³⁹ Therefore, the housing situation improved modestly in the first years after the war, with most residences being built in rural areas from the population's funds.¹⁴⁰ The explanation for this phenomenon is the population's purchasing power fluctuation. Those in the rural areas who managed to save up before the war invested their savings in housing construction in the first decade after.

However, the ratio between dwellings constructed from own funds and those constructed from state funds or with state support (residential credit) will reverse in the next two decades. As a result of the massive internal migration caused by resumed efforts for industrialisation (and the implicit development of a numerous and skilled working class),¹⁴¹ the communist state began an extensive program of apartment block building, which it supported both technically and financially. The primary purpose was to provide sufficient housing for those who needed it and to distribute it justly to the population. Therefore, the allocation and the sale of apartments did not observe market criteria but the premise that everyone has the right to one house (Figure 3).¹⁴²

The first normative measures by which the state credited the construction of new housing were Decision 4015/1953, corroborated by Decision 980/1954 and Decision 58/1956, whereby the employing enterprise or organisation guaranteed the employee's loan for constructing new housing.¹⁴³ These enabled 'workers, technicians, engineers, public employees, young married couples and members of collective agricultural households to access individual credit to build new housing'.¹⁴⁴ Decision 4015/1953 established a priority order¹⁴⁵ and a maximum cap for the credited amounts. The financial terms were extremely generous, as the required initial down payment was

¹³⁹ Iuga, N., *Istoria sovromurilor si jefuirea Romaniei in zilele noastre*, <<https://www.art-emis.ro/istorie/istoria-sovrom-urilor-si-jefuirea-romaniei-in-zilele-noastre>> accessed 08.02.2023.

¹⁴⁰ Clapham, D. "Privatisation and the East European Housing Model", *Urban Studies*, vol 32, no 4–5, 1995, p. 682. See also Romania's Statistical Yearbook 1968.

¹⁴¹ Virdol, D., Suditu, B., Dumitrache, L., Valceanu, D.G. "Dynamics of Housing Stock in Romania – between politics and policies", *Human Geographies – Journal of Studies and Research in Human Geography*, Vol 9, no 2, p. 209, 211. Also, Noica, *supra* note 34, p. 117–118; Kaser and Radice (eds), *supra* note 57, Vol III, p. 25.

¹⁴² Noica, *supra* note 34, p. 118.

¹⁴³ Decision 4015/1953, Art 15.

¹⁴⁴ Decision 4015/1953, Art 1.

¹⁴⁵ Decision 4015/1953, Art 3.

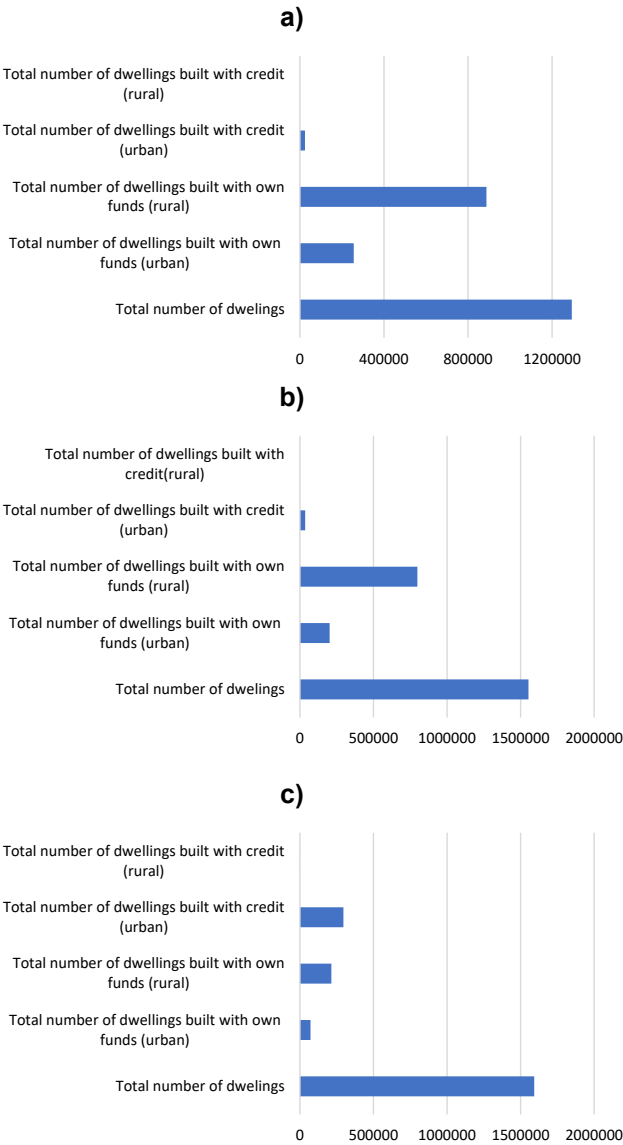


Figure 3: a)–c). Dwellings brought into use during 1950–1960, 1961–1970, 1971–1980. Source: Romania’s Statistical Yearbook 1990 and 1998. The figures illustrate a steady increase in residential credit granted to the urban citizenry for the purpose of building or purchasing a dwelling, coupled with a steep decline in housing construction from own funds in the countryside, while residential credit for similar purposes in the countryside is virtually non-existent.

10%, while the yearly interest rate was only 0.1%. Moreover, the necessary land for construction was made available by the state (although with retention of ownership), and the owners were exempted from property tax for 10 years.¹⁴⁶ These privileges, reminiscent of the monarchic legislation for residential constructions, were abrogated in 1977 as deemed no longer compatible with the socialist order.¹⁴⁷

As mentioned, the communists maintained and steadily generalised the monarchic law's incentives (i.e., cheap state credit and tax exemptions). The foundation was Decision 26/1966, by which the state offered the necessary land for construction and granted medium-term credits (15 years) with fixed interest (1% annually).¹⁴⁸ Newly built personal properties were exempted from taxes for 10 years, while those who made a down payment higher than the required 30% enjoyed more favourable credit terms.¹⁴⁹ These incentives were maintained by post-communist legislation, given that Decision 26/1966 was abrogated only in 1997.¹⁵⁰ The longevity of this normative act and its lasting effects are other arguments in favour of continuity and the success of credit activities for the population (Figure 4).

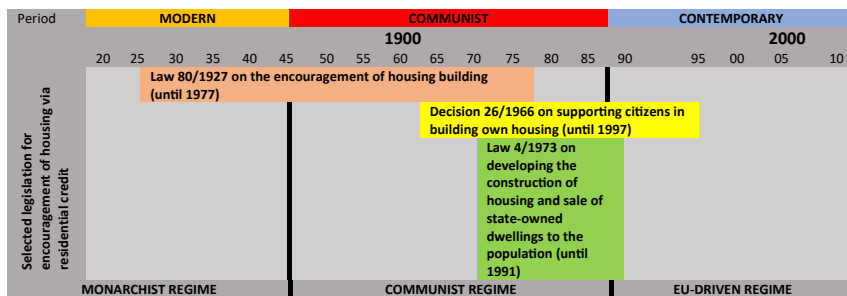


Figure 4: Legal continuation of Romanian residential credit laws. The figure illustrates the continuity of residential credit legislation throughout the three stages of Romanian history and their coexistence, despite ideological differences.

¹⁴⁶ Noica, *supra* note 34, p. 136.

¹⁴⁷ Decision 251/1977 on abrogating several normative acts, published in the Official Gazette no 113/29.10.1977.

¹⁴⁸ Decision 26/1966 on state support for urban citizens in the construction of private property housing, Art 4 and 11.

¹⁴⁹ *Ibid.*, Art 10. Also Decree 445/1966 concerning state support for urban citizens in constructing private property dwellings, published in the Official Gazette no 27/27.05.1966, Explanatory Memorandum and Art 9 and 10.

¹⁵⁰ Decision 735/1997 on abrogating several normative acts, published in the Official Gazette no 323/24.11.1997.

Subsequent laws expanded residential credit backed by a mortgage to more categories of consumers.¹⁵¹ Decision 26/1966 was further implemented by Decree 445/1966 concerning state support for urban citizens in constructing private property dwellings¹⁵² and Decree 713/1967 on the construction, by citizens, with state support, of vacation homes in touristic locations,¹⁵³ which became Law 19/1967.¹⁵⁴ Both decrees were replaced by Law 9/1968 for the development and sale of dwellings from the state fund to the population and the construction of personal vacation homes,¹⁵⁵ which unified and systematised the legal regime for residential credit.

The 1970s saw the peak of housing construction in Romania,¹⁵⁶ an unmistakable mark of the extent and success of residential credit during communism. Due to the state's inability to continue building at the same pace and prices, it reverted to a system of housing construction based on the partnership between tenants and the cooperatives that had construction rights, with the aid of state loans, advancing, thus, the development of private property.¹⁵⁷ This effect was facilitated by the adoption of Law 4/1973 on the construction and sale of housing from the state fund to the population and the construction of personal vacation homes,¹⁵⁸ which abrogated Law 9/1968 and generalised the credit terms by consolidating all previous legislation into one comprehensive act. The premise of Law 4/1973 was the increased demand for more and better housing.¹⁵⁹ Construction continued to be financed by the population's income, with cheap, long-term¹⁶⁰ state credit,¹⁶¹ until the fall of communism.

The comprehensive housing policy of the communists produced spectacular results. Between 1951 and 1989, 5.5 million housing units were built in Romania, 2.98 million by the state, state-owned enterprises, cooperatives and local organisations and 2.54 million through the population's private funds.¹⁶² The communist type of residential credit enabled Romania to have one of Europe's highest ratios of housing ownership.

151 Decree no 445/1966, Explanatory Memorandum, Law no 9/1968, Explanatory Memorandum.

152 Published in the Official Gazette no 27/27.05.1966.

153 Published in the Official Gazette no 66/23.07.1967. The text is not available.

154 Published in the Official Gazette no 67/26.07.1967.

155 Published in the Official Gazette no 57–58/09.05.1968. It was abrogated by Law no 4/1973.

156 Stanescu *supra* note 16, p 126.

157 Dumanescu, L. "Home and Families in Communist Romania", *Transylvanian Review*, Issue 01/2015, p. 48–49.

158 Published in the Official Gazette no 46/31.03.1973.

159 *Ibid.*, Art 1.

160 *Ibid.*, Art 10.

161 *Ibid.*, Art 2.

162 Stanescu *supra* note 16, p 126, citing the National Commission for statistics, 1991, 524–5.

4.3 The Contemporary Period (1990–Present)

The changes that occurred during the 1990s in the economic and political spheres during the transition from a planned economy to a free market, respectively, from a totalitarian regime to a democratic one, had a tremendously detrimental impact on housing construction and residential credit in Romania leading to the financialisation of housing. Several factors contributed to this: (a) a decrease in construction of new state-financed dwellings due to the economic downturn and shift in funding priorities, (b) a surge in demand for housing caused by a population increase following Ceausescu's anti-abortion laws, (c) the abrupt liberalisation of prices for construction materials, and (d) the decrease in real earnings coupled with the anti-inflationist policies of the government, which significantly reduced the purchasing power of the population (Figure 5).¹⁶³

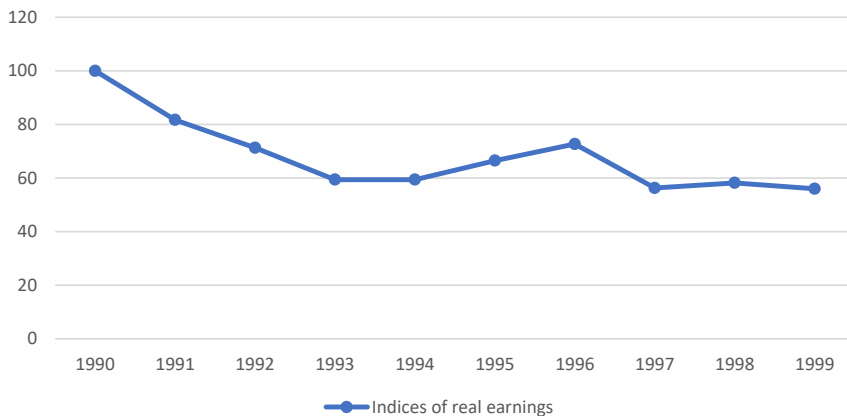


Figure 5: Indices of real earnings in Romania 1990–1999. Source: Romania's Statistical Yearbook 1990, 1998 and 2004. The figure illustrates the steep decline in real earnings in Romania during the first decade following the 1989 Revolution, which, coupled with high inflation, significantly affected the purchasing power of the population.

Nevertheless, the most crucial cause of the decline in new housing construction was the disappearance of the state-backed financing system based on fixed and affordable interest rates. Market forces could not react and resolve the disparities between the demand and offer of housing¹⁶⁴ (and when they did, they behaved in a predatory manner by setting extremely high-interest rates). At the same time, in opposition to the approaches of the monarchic or communist periods, the transition

¹⁶³ Noica, *supra* note 34, p. 149–150.

¹⁶⁴ *Ibid* p. 176.

governments were unable and unwilling to intervene and support low-income families to acquire a home.

Law 4/1973 survived the 1989 anti-communist Revolution until 1991 when Law 50/1991 on the authorisation of construction works repealed it¹⁶⁵ and re-fragmented residential credit legislation. During the transition, the state withdrew from financing new constructions,¹⁶⁶ and most state-owned dwellings were privatised between 1990 and 1994.¹⁶⁷ Thus, while Law 50/1991 tackled the construction of new dwellings and vacation homes, Decree 61/1990¹⁶⁸ and Law 85/1992 addressed the sale of dwellings built from state funds.¹⁶⁹ The two systems ran parallel until a new residential credit regime was adopted in 1999.

Law 50/1991 initially provided that state banks and the House of Savings and Consignments would grant credits to consumers (referred to as natural persons) to build a dwelling or vacation home.¹⁷⁰ The tax exemption used during the monarchical and communist construction laws was maintained,¹⁷¹ and more incentives to build new dwellings were added. However, Law 50/1991 failed to implement any rules for mortgage-backed credit, and the abrogation of Law 4/1973 generated a legislative gap that endured until the end of the 1990s.

To encourage the construction of new dwellings, Law 114/1996 on housing¹⁷² restated several incentives such as a reduced tax on profits on investing in the construction of housing, exemption from property tax for 10 years for buyers,¹⁷³ and subsidised credits granted for a maximum period of 20 years by the House of Savings and Consignments, which remained a state-owned financial institution. Concerning the interest rate applicable to the loan, the law initially stated that it could not be higher than the interest practised in the financial-banking market. The interest was subsidised by 85% by the state.¹⁷⁴ Nevertheless, when the average interest rate amounted to 50% per year, the interest rate paid by the credit beneficiary was 7.5%, which doubled the credit value in 13 years. Thus, in 1997 it was changed to match the interest practised by the

165 Published in the Official Gazette no 163/07.08.1991.

166 Trifu, A. and Lupu, D. V. “Creditul ipotecar in Romania”, *Studia Universitatis Vasile Goldiş*, Arad – Seria Ştiinţe Economice, Issue 3/2009, p 84–85.

167 Virdol et al., *supra* note 141, p 219. See also: Briciu, C. “Politici sociale de locuire”, *Calitatea vieţii*, Issue 1/2016, p. 46. Noica, states that out of 2,350,000 apartments that existed in the states dwellings fund in December 1989, 1,825,000 were sold to the population by August 1994, *supra* note 34, p. 163.

168 Published in the Official Gazette no 22/08.02.1990.

169 Published in the Official Gazette no 180/29.07.1992.

170 *Ibid.*, Art 21.

171 Law 50/1991, Art 35 (2).

172 Published in the Official Gazette no 254/21.10.1996.

173 Law 114/1996, Art 5.

174 Law 114/1996, Art 20.

House for the population's saving deposits plus 5%. Even so, the interest rates remained high and unavailable to the largest segment of the population.

Therefore, during 1992–1998, credit for building or acquiring housing (other than those sold by the state) was virtually nonexistent in Romania. According to a study by the Romanian National Bank, several economic, political and legal factors contributed to the complete decline of residential credit: a) the high inflation of 1991–1994 and 1997–1998 (which diminished the value of credits to be repaid and exposed banks to financial losses), b) the volatility of the labour market (which made banks reluctant to lend to natural persons or specific categories of employees), c) the banks' preference for short-term loans with high interest made to the industry¹⁷⁵ (which minimised the availability of credit for the population), d) high-interest rates for mortgage credits (which made them unaffordable to most population), e) high costs for housing corroborated with the low income of the population, f) a general legislative and social instability regarding ownership rights, and g) slow judicial mechanisms of enforcing a debt (Figure 6).¹⁷⁶

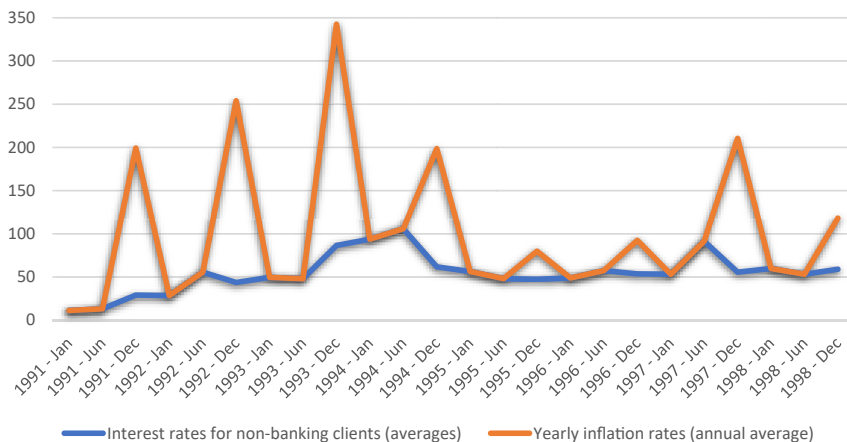


Figure 6: Average interest rates for non-banking customers including consumers and average annual inflation rates 1991–1998. Source: The Romanian National Bank Annual Reports. The figure illustrates the spikes in inflation that affected the early and late 1990 and the steep annual interest rates practised by the Romanian banks in their relationship with businesses and consumers. These two factors made residential credit granted on market terms unaffordable for most of the population.

¹⁷⁵ Pasti, V. *The Challenges of Transition: Romania in Transition*, (Eastern European Monographs, 1997), p. 301.

¹⁷⁶ Romanian National Bank: Creating the Necessary Framework for developing the Market for Certain Banking Products and Services (Study), 10.03.2007, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwj_r_FWP05T7AhUY6CoKHce8DTYQFnoECACQAQ&url=https%3A%2F%2Fwww.bnr.ro%2FDocumentInformation.aspx%3FidInfoClass%3D8161%26idDocument%3D4803%26directLink%3D1&usq=AOvVaw1dGCnDCQ-nH5pG7V7mo-nf> accessed 04 November 2022.

The state ultimately intervened to address the situation during the creation of the National Agency for Housing in 1998,¹⁷⁷ which was enabled to grant credits secured by a mortgage for building, purchasing, rehabilitating, consolidating, or expanding a dwelling. For this purpose, the Agency could conclude special agreements with banking institutions to finance the credits at a lower interest rate than the financial market average.¹⁷⁸

The legal framework for mortgages for the construction, purchase, rehabilitation, consolidation, and expansion of dwellings was implemented by Law 190/1999,¹⁷⁹ coupled with the Methodological Norms 3/2000 issued by the National Bank.¹⁸⁰ The law was a general instrument covering any mortgage agreement for consumers or professionals.¹⁸¹ Other financial institutions could also give mortgage credits besides banks, the House of Savings and Consignments and the National Agency for Housing. The law set mandatory rules for the protection of debtors (prior disclosure of contractual terms, a ban on unilateral modification of terms, right to early repayment and limitation of administrative costs). Nevertheless, it did not solve the issue of variable interest in consumer contracts and left most financial matters at the mercy of contractual negotiation between credit issuers and their clients. This lack of regulation enabled the financial institutions to dictate terms via adhesion contracts. Interest rates remained high, and residential credit remained unaffordable for most of the population.¹⁸² In 2001, for instance, the interest rate for credits granted to natural persons by the House of Savings and Consignments was 41% per year for housing credit,¹⁸³ which, in 10 years, quadrupled the nominal value of the granted credit. It should be mentioned that if in 2000, the inflation was 40%,¹⁸⁴ in 2001 it was down to 13.5% in 2001 and 8.6% in 2002¹⁸⁵ and would continue to decrease and stabilise in the next decade. This suggests that the previously high inflation levels could no longer justify the amount of interest charged.

177 Law 152/1998 on the set up of the National Agency for Housing, published in the Official Gazette no 265/16.07.1998. See also the Minute of the Parliamentary debates concerning the adoption of Law 152/1998, <www.cdep.ro/pls/steno/steno2015.stenograma?ids=1661&idm=6> accessed 05 July 2022.

178 *Ibid.*, Art 2 (2) and (4) and Art 4 (1) a).

179 Published in the Official Gazette no 611/14.12.1999.

180 Published in the Official Gazette no 174/24.04.2000.

181 *Ibid.*, Art 1 and 7.

182 Manolachescu, D. "Housing for the rich", *Cuvantul Nou*, Year X, no 2576/1999, p. 1 (personal archive).

183 *Tribuna Sibiului*, 28 septembrie 2001, p. 2 (personal archive).

184 Romanian National Bank, Report on Inflation 1/2001, <<https://bnr.ro/DocumentInformation.aspx?idInfoClass=3922&idDocument=4219&directLink=1>> accessed 17.02.2023.

185 Romanian National Bank, Report on Inflation 2/2002, <<https://bnr.ro/DocumentInformation.aspx?idInfoClass=3922&idDocument=4221&directLink=1>> accessed 17.02.2023.

Later, in 2002, Law 541/2002¹⁸⁶ on collective savings and loans for housing was passed, based on the German model of houses for savings. It was a short-lived return to the ideas and incentives that funnelled housing construction in the early monarchic years of the late 19th Century as it was abrogated and replaced by GO 99/2006 on credit institutions and capital adequacy.¹⁸⁷

Even so, the adoption of a comprehensive regime for residential credits coupled with access to foreign capital banks on the Romanian markets slowly revitalised residential credit, an aspect confirmed by the increase in mortgage payments as a percentage of GDP from almost zero in 2000 to 3.6% at the end of 2007. However, loans for housing purchases were expensive in the private sector, exacerbated by the low availability of cheap state loans. Thus, foreign currency loans (with slightly lower interest rates) – mainly in Euros, but increasingly also in Swiss francs – were the main driver of growth, expanding rapidly (83% year-on-year in 2007) and accounting for almost 90% of total housing loans at the end of 2007. Since interest rates were very high compared to other European markets, it incentivised the banks' leniency in crediting. The exposure of Romanian consumers to exchange rate risks and high interest were the main drivers of the 2007–8 financial crisis and the subsequent collapse of the residential credit market in Romania.¹⁸⁸ High interests and inefficient governmental credit support schemes for young couples or those purchasing or building their first housing¹⁸⁹ continue to plague the Romanian residential credit market (Figure 7).

The above developments did not reverse the high ownership ratio that existed at the fall of communism. The trend continued and was consolidated during the early years of the transition due to the legislation that enabled the population to purchase housing built from state funds with affordable state credit¹⁹⁰ and at sale prices set at the 01.01.1990 level.¹⁹¹ As a result, in 2022, 96.1% of dwellings in Romania are private properties, the highest percentage in the EU (Figure 8).¹⁹²

186 Published in the Official Gazette no 733/08.10.2002.

187 Published in the Official Gazette no 1027 of 27.12.2006.

188 Trifu, and Lupu, *supra* note 166, p 86.

189 Briciu, *supra* note 167, p 58–60.

190 Briciu *supra* note 167, p. 46.

191 Noica, *supra* note 34, p. 163.

192 Distribution of population by tenure status, type of household and income group – EU-SILC survey (2022), <https://ec.europa.eu/eurostat/databrowser/view/ILC_LVHO02_custom_1513577/bookmark/table?lang=en&bookmarkId=776c7a00-1a0a-4818-aeae-8c08024912a9> accessed on 17 July 2022.

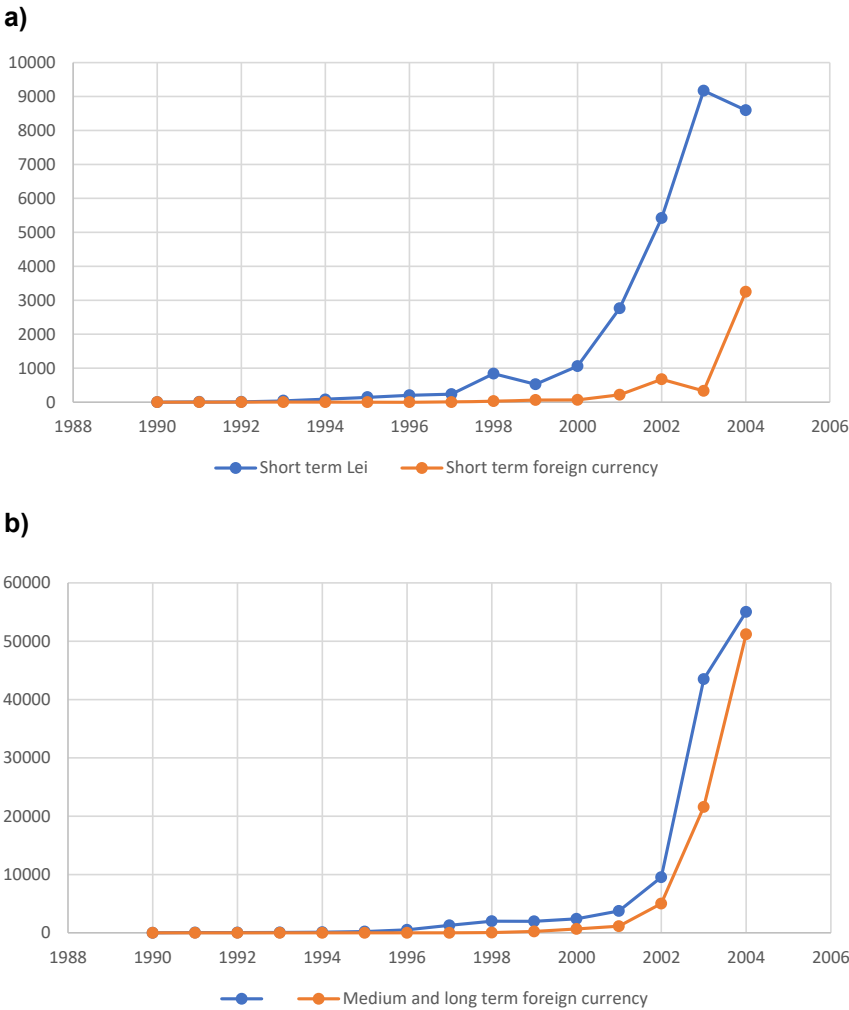


Figure 7: a) and b) Internal short-term versus medium- and long-term credit granted to the population in Lei and foreign currency 1990–2004 (Values in Billion Lei. Source: Romanian National Bank, Annual Reports 1999, 2000, 2002, and 2004). The figures illustrate the low level of crediting the population during the first decade following the 1989 Revolution and the steep increase in crediting following the revamping of the legal framework governing residential and consumer credit in 1999. At the same time, the figures reveal the closing gap between medium and long-term credits (generally associated with residential credit) granted in Lei and those granted in foreign currency. As unaffordable interest rates plagued medium and long-term credits in Lei, Romanian consumers had no choice but to pursue credits in foreign currencies, which exposed them to the additional risk of exchange rates.

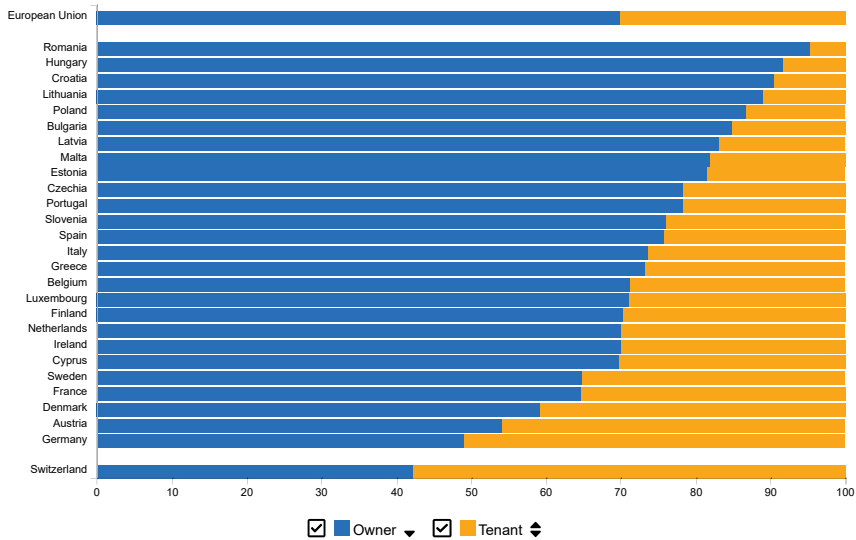


Figure 8: Share of people living in households owning or renting their home, 2020. Source: EUROSTAT. The figure illustrates the high level of housing ownership in Romania, which was reached during the communist years and the early years of transition when the state-owned housing fund was privatised at low nominal prices and with cheap state loans. One should also notice that the first positions in the table belong to former communist states, which had similar approaches to housing and residential credit for the population.

4.4 Categories of Consumers

The banking legislation adopted during the interwar period favoured creating several Houses for Savings, Credit and Mutual Aid of different social categories – most of which were in a difficult economic situation – enabling them to access loans with low interest and favourable repayment terms. This concern is reflected by Law 80/1927, where housing credit was made available to specific categories of natural persons with lower incomes: state employees and retirees, persons with disabilities and war widows.¹⁹³

The communists maintained a similar approach but, given the population's increasing income and savings potential, steadily expanded the categories that could access residential credit to the urban citizenry (Decision 26/1966 and Decree 445/1966), followed by extensions via Law 9/1968 and generalised availability under Law 4/1973.

¹⁹³ Law 80/1927, Art 45, letter A).

The consumer categories did not change after the 1989 Revolution. Law 50/1991 stated that natural persons (employees, peasants and retirees) benefit from credits and state subventions covering interest to build a dwelling or vacation home.¹⁹⁴ Moreover, the state incentivised specific categories of vulnerable consumers (married couples under 30 years, persons with disabilities, persons or families relocating from the cities to villages) to build a home with a state subvention of 30% of the construction's value.¹⁹⁵

If the communists restricted home ownership to a single dwelling, Decree 61/1990 adopted a milder stance stating that Romanian consumers¹⁹⁶ could purchase housing in instalments even if they already had one.¹⁹⁷ However, Law 85/1992 provided that one could not buy a dwelling built from state funds in instalments if they already owned a home.¹⁹⁸ Consumers under 30 years old, vulnerable categories (i.e., persons with disabilities)¹⁹⁹ and repatriated citizens²⁰⁰ benefitted from more advantageous terms. Law 85/1992 also enabled 'other categories of buyers' than employees and retirees to purchase on credit by repaying directly at the House of Savings and Consignments, thus generalising the availability of residential credit for housing built from state funds.²⁰¹ This also meant the state-backed cheap loans for privatising its dwellings' fund.

Generalisation and re-consolidation of credit for residential purposes were implemented via Law 190/1999.²⁰² However, the new regime opened the door to private creditors (commercial banks) and variable interest rates widespread in some EU countries (Table 5).

4.5 Creditworthiness

Notably, under the monarchy or communism, all categories allowed to access residential credit enjoyed a stable income stream from the state, making them credit-worthy. The monarchy favoured public employees and war widows, while the

¹⁹⁴ Law 50/1991, Arts 21, 22.

¹⁹⁵ *Ibid.*, Art 23.

¹⁹⁶ Purchasing housing for reselling or renting – which were deemed commercial activities – was forbidden, which underlines the fact that the Decree 61/1990 was a consumer credit instrument. Law 85/1992, Art 17 also limited the scope of the law to Romanian natural and legal persons.

¹⁹⁷ Decree 61/1990, Art 1 and 3. However, one could not purchase another dwelling for the purpose of reselling or renting it, according to Art 4.

¹⁹⁸ Law 85/1992, Art 11.

¹⁹⁹ Decree 61/1990, Art 7 (2), Art 8, Art 9 and 10, Law 85/1992, Art 13–14.

²⁰⁰ Decree 61/1990, Art 24.

²⁰¹ Law 85/1992, Art 12, c).

²⁰² Law 190/1999, Art 1 and 7.

Table 5: Comparison of categories of consumers that could access residential credit.

	Law 80/ 1927	Decision 26/ 1966	Decree 445/ 1966	Law 9/1968	Law 4/1973	Decree-Law 61/ 1990	Law 50/1991	Law 85/1992	Law 190/1999
Type and subject of credit	Residential	Residential & urban citizenry	Residential & urban citizenry	Residential & general population	Residential & general population	Residential & general popula- tion (no restrictions)	Residential & general popula- tion (no restrictions)	Residential and commercial & general population	Investment & general popula- tion and enterprises.

communists favoured employees (workers), the military and retirees. In both cases, a solid social and equitable element was involved. Under the monarchy, the beneficiaries of Law 80/1927 could not have a yearly income over Lei 200,000, could not own another dwelling and had to prove that they did not sell another dwelling in the past. The communists will later impose similar limitations, and these would survive (albeit amended) into the post-communist transition.

During communism, state support was first available through the Investment Bank of Romania for those who could provide evidence of savings of up to 30% of the dwelling's value as a down payment.²⁰³ Later, creditworthiness was assessed based on employment or retirement status and the length of savings deposited with the House of Savings and Consignments, which also determined the priority order (Table 6).²⁰⁴

Interestingly, after the fall of communism and the revamping of residential credit, Law 190/1999 contained no provisions for assessing consumers' creditworthiness. The matter was left entirely to the creditors by the National Bank's Methodological Norms 3/2000.²⁰⁵ The banks had to request proof of stable income; however, the norms allowed the indebtedness level to reach 50% of the consumer's monthly net income.²⁰⁶ This would have catastrophic consequences a decade later during the 2007–8 financial crisis when, the value of monthly instalments doubled or tripled because of changes in currency valuations for foreign denominated loans and increases in interest rates. Due to this phenomenon, coupled with the loss of jobs and decreased income, most consumer debtors could not meet their obligations and defaulted on their loans.²⁰⁷

203 Decision no 26/1966, Art 2.

204 Law 9/1968.

205 Methodological Norms 3/2000, Art 4.

206 *Ibid.*, Art 8, a).

207 Voinea, L. Criza economica interna: cauze si solutii, *Ziarul Financiar*, 23.11.2008, <<https://www.zf.ro/opinii/criza-economica-interna-cauze-si-solutii-3544642>> accessed 08.02.2023; Ionascu, D. Analiza. Cat au pierdut romanii in 10 ani de la declansarea crizei. Face Romania acum aceleasi greseli? *Libertatea*, 18.09.2018, <<https://www.libertatea.ro/stiri/analiza-zece-ani-de-la-declansarea-crizei-economice-romania-face-acum-aceleasi-greseli-2397098>> accessed 08.02.2023; Mihai, A., ZF la 20 de ani. Evenimentul anului 2009: Criza financiara incepe sa-si arate efectele in economie, dar toata lumea este optimista si crede ca dezastrul va dura doar cateva luni, *Ziarul Financiar*, 06.11.2018, <<https://www.zf.ro/zf-20-de-ani/zf-la-20-de-ani-evenimentul-anului-2009-criza-financiara-incepe-sa-si-arate-efectele-in-economie-dar-toata-lumea-este-optimista-si-crede-ca-dezastrul-va-dura-doar-cateva-luni-17605646>> accessed 08.02.2023.

Table 6: Comparison of responsible lending elements in residential credit legislation.

	Law 80/ 1927	Decision 26/ 1966	Decree 445/ 1966	Law 9/1968	Law 4/1973	Decree- Law 61/ 1990	Law 50/ 1991	Law 85/ 1992	Law 190/ 1999	RNB Norms 3/2000
Creditworthiness	Proof of sta- ble income.	Proof of sta- ble income. Evidence of savings.	Proof of sta- ble income.	Proof of stable in- come. Evidence of savings and length of deposits.	Proof of sta- ble income.	Proof of income.	Proof of income	Proof of income.	N/A	Proof of sta- ble income.

4.6 Down-Payment Requirements

Anyone interested in accessing residential credit had to advance a down payment under the monarchist and communist regimes. Under the 1927 Construction Law, this varied between 10 and 20%, and the beneficiary had to prove that it had the land needed for construction.

In 1966, the communists solicited 30%,²⁰⁸ although the rate lowered over time. From 1968, the down payment varied between 20 and 30% depending on the consumer's income²⁰⁹ and the length of the credit,²¹⁰ a differentiation which reflected the idea of equitable distribution and access to credit based on financial possibilities. From 1973, those needing additional credit to meet the down payment threshold or the remaining purchase price could obtain an unsecured loan from the House of Savings and Consignments for 5 or 10 years, with an 8% annual interest rate.²¹¹ The minimum advance payment was not only a measure of what nowadays constitutes 'responsible lending' but also an indication of the population's saving potential.

After the fall of communism, Law 50/1991 did not specify any down payment requirements. However, for vulnerable categories, the 30% state subvention was likely deemed as a down payment by banks with state capital and the House of Savings and Consignments.²¹²

Conversely, Decree 61/1990 replicated most provisions of the communist legislation, with better terms for the vulnerable categories. The minimum down payment was 30%, while vulnerable individuals could deposit only 10%.²¹³ Moreover, those who could not meet the down payment requirement could obtain a credit from the House of Savings and Consignments for 5 years at a yearly legal interest of 5%. Favoured categories of consumers could get a credit facility for the down payment for 10 years, with an interest rate of only 3%.²¹⁴ Law 85/1992 lowered the down payment to 10%,²¹⁵ probably encouraging purchases and aiding the population, which started to feel the economic downturn. At this point, it is apparent that the legal mechanism of fixed interest was still applicable in the same manner it was employed by the communists, despite the high inflation rate.

²⁰⁸ Decision no 26/1966, Art 2. According to Decree no 445/1966, Art 3, the down payment could also reach 40%.

²⁰⁹ Law 9/1968, Explanatory Memorandum.

²¹⁰ Law 4/1973, Art 22.

²¹¹ *Ibid.*, Art 33.

²¹² Law 50/1991, Art 23.

²¹³ Decree 61/1990, Art 7 and 10.

²¹⁴ *Ibid.*, Art 8.

²¹⁵ Law 85/1992, Art 11.

Finally, Law 190/1999 and the National Bank's Methodological Norms 3/2000 did not include any provisions concerning a minimum down payment, leaving the matter to the creditors. Removing the minimum requirements for advance payments implemented by the communists had a devastating effect on the viability of credits a decade later because of the reckless granting and taking of residential credit (Table 7).

Table 7: Comparative down payment requirements for residential credits.

	Law 80/ 1927	Decision 26/1966	Decree 445/ 1966	Law 9/1968	Law 4/1973	Decree- Law 61/ 1990	Law 85/ 1992	Law 190/1999 & NRB's methodo- logical norms
Down payment	10% (public officers and pensioners)/ 20% + land	30% or more	30–40%	20–30%	20–30%	30% or more/ 10% for under 30 years	10%	N/A

4.7 Duration and Cost of Credit

Under the 1927 Construction Law, the remaining credit was released in instalments over 20–30 years²¹⁶ as the dwelling's construction progressed.²¹⁷ Credit repayment took place in two yearly instalments.²¹⁸ Thus, although income was available, significant discipline was needed to ensure enough was saved for the payments. The annuity bore an interest of 1% over the National Bank's interest rate for public employees and retirees and 2% for other beneficiaries.

The communists opted for monthly payments. Under Decree 445/1966, the credit had to be repaid in 15 years maximum, in equal monthly instalments, with an annual legal interest of only 1%.²¹⁹ The explanation for the terms' generosity lies either with the law's addressees (urban citizenry and, probably, state employees) or the low risk of non-payment. At the time, unemployment was almost non-existent, and incomes steadily grew due to extrinsic (economic recovery) and intrinsic factors (party ideology and planned economy). The ideological positioning towards interest could also

²¹⁶ Law 80/1927, Art 47.

²¹⁷ *Ibid.*, Art 46.

²¹⁸ *Ibid.*, Art 51.

²¹⁹ Decree no 445/1966, Explanatory Memorandum and Art 9 and 10.

be a reason for the low level of interest, although rates will increase in the following years.

In 1973, the repayment period was extended to 15–25 years. However, the extension made credit more expensive. Interest varied between 1.5–3%²²⁰ and 2–5% per year, depending on the consumer's monthly salary.²²¹ The differentiated interest levels were indexed to wages, meaning those with higher incomes paid higher interest rates. This followed the principles of fairness and stimulation that still justified the use of interest by the communist credit system, thus enabling those with lower income to access credit more easily. It also suggests a concern regarding the indebtedness levels of consumers because a uniform interest rate would have been more cumbersome for lower-income employees and exposed them to a higher risk of non-payment.

After the 1989 Revolution, Decree 61/1990 and Law 85/1992 maintained the 25-year limit for credit repayment and set an annual interest rate of 4%, while favoured categories were expected to pay only 2%.²²² The nominal interest, however, was almost irrelevant, given the high levels of inflation that followed the fall of communism. If in 1989, average yearly inflation was 1.1%, in 1990, it rose to 5.1%, followed by 170.2% in 1991, 210.4% in 1992 and 256.1% in 1993.²²³

Law 50/1991 did not mention any duration or interest levels. The regulatory gap is striking, as the law allows state capital banks and the House of Savings and Consignments to set them by contract. Nevertheless, since it granted a subvention equivalent to the credit's interest, the actual amount had no relevance for the consumer.²²⁴

Finally, Law 190/1999 provided only a minimum period for repayment, set at 10 years for consumers.²²⁵ It also opened the door to variable interest, which commercial lenders would favour due to high inflation rates and the instability of the national currency. Variable interest was a significant novelty for Romanian consumers, who were used to fixed interest rates and transparent terms. Their inability to comprehend the consequences of variable interest and the banks' failure to explain them adequately led to the consumers' inability to repay their debts during the 2007–8 financial crisis, which turned into a significant national social issue (Table 8).²²⁶

²²⁰ Law 9/1968, Art 14.

²²¹ Law 4/1973 Art 29.

²²² Decree 61/1990, Art 9, Law 85/1992, Art 11 and 13.

²²³ According to data from the National Institute for Statistics, <<https://insse.ro/cms/ro/content/ipc%E2%80%93serie-de-date-anuala>> accessed 24 October 2022.

²²⁴ Law 50/1991, Art 22.

²²⁵ Law 190/1999, Art 2.

²²⁶ Apan *supra* note 4, 22–3.

Table 8: Comparative aspects regarding the cost and duration of residential credit.

	Law 80/1927	Decision 26/1966	Decree 445/1966	Law 9/1968	Law 4/1973	Decree-Law 61/ 1990	Law 50/ 1991	Law 85/1992	Law 190/1999
Cost of credit	NBR's interest rate plus 1% (public offi- cers and pen- sioners)/plus 2%	Legal inter- est: 1% per year	Legal inter- est: 1% per year	Legal inter- est: 1.5–3% per year	Legal inter- est: 2–5% per year	Legal interest: 4%/2% (for con- sumers under 30 years)	N/A (set by contract)	Legal interest: 4%/2% (for con- sumers under 30 years)	Market variable in- terest (set by con- tract according to a legal formula)
Duration	30 years (public offi- cers and pen- sioners)/20 years	15 years	Up to 15 years	15–25 years	15–25 years	Up to 25 years	N/A (set by contract)	Up to 25 years	Minimum 10 years (duration set by contract)

4.8 Risk-Mitigation Mechanisms

During the monarchy, the amounts due under Law 80/1927 were deemed fiscal charges in case of non-payment, and a mortgage over the dwelling backed them.

The communists implemented additional mitigating mechanisms against the risk of non-payment. Based on the provisions of Decree 445/1966, owed amounts were retained at the source (via the employers) from the debtors' salaries.²²⁷ A mortgage over the purchased dwelling secured the credit. The debtors were precluded from selling the property before full repayment of the credit without the creditor's prior approval²²⁸ and the new owner's subrogation into the previous one's contractual obligations.

Decree 61/1990, Law 85/1992, and Law 190/1999 replicated all the above²²⁹ with the addition that the mortgage had to be recorded in public records to enhance the security of the crediting institution.²³⁰ Law 190/1999 abolished the withholding of payments by employers. However, a new risk-mitigation mechanism was introduced: the mandatory private insurance of the mortgaged asset, in which the creditor was the beneficiary with the consequence of increasing the consumers' financial burden.²³¹

Surprisingly, no such risk-mitigation mechanisms are listed in Law 50/1991. There is no limitation on the owner's rights to sell the newly built dwelling or vacation home before credit repayment. However, if the consumer sold the property within 10 years of construction, the state-paid subventions had to be refunded with interest (Table 9).²³²

4.9 Enforcement and Cure of Default

According to Law 80/1927, if the debtor defaulted on three consecutive instalments, the crediting state agency could repossess the construction, evacuate the debtor (or tenants) and rent it out to recover the missed payments. Judicial formalities or processes did not condition repossession. Nonetheless, to protect the debtor, the crediting state agency had to send two prior notices within 30 days of each other.²³³

²²⁷ Decree 445/1966, Art 6.

²²⁸ The Investment Bank or the National Savings Bank.

²²⁹ Decree 61/1990, Art 11, 12, 19, Law 85/1992, Art 15, Law 190/1999, Art 3, 5.

²³⁰ Decree 61/1990, Art 17, Law 85/1992, Art 15, Law 190/1999, Art 3.

²³¹ Law 190/1999, Art 16.

²³² Law 50/1991, Art 25 and 30 (3).

²³³ Law 80/1927, Art 52.

Table 9: Comparison of risk mitigation mechanisms in residential credit.

Law 80/1927	Decision 26/1966	Decree 445/1966	Law 9/1968	Law 4/1973	Decree-Law 61/1990	Law 50/1991	Law 85/1992	Law 190/1999
Guarantees	Amounts due were deemed fiscal charges. Mortgage	Garnished salary. No sale without prior approval until full repayment. Mortgage	Garnished salary. No sale without prior approval until full repayment. Mortgage	Garnished salary. No sale without prior approval until full repayment. Mortgage	Garnished salary. No sale without prior approval until full repayment. Mortgage	N/A (but consumer must return the state subvention with interest)	Garnished salary. No sale without prior approval until full repayment. Mortgage	N/A No sale without prior approval until full repayment. Mortgage Insurance of the mortgaged asset

Similar measures benefitted construction companies that sold buildings on credit to individuals. They were entitled to repossess and sell the property only following a speedy judicial procedure.²³⁴ The debtor was given several terms to repay and could stop the process until the day before the public auction by paying all arrears (including interest and penalties).²³⁵

The monarchic legal framework was thus debtor-friendly, granting numerous opportunities to cure the default and avoid eviction. The explanation may reside with the social character of the law (designed for vulnerable categories) and the fact that the money came from the state, not banks or private investors motivated by profit.²³⁶

During communism, starting with Decision 26/1966, the credit contract was deemed an authentic deed and a writ of execution, which simplified and expedited debt recovery.²³⁷ Delayed instalments carried an annual interest of 6% (in 1968),²³⁸ which increased to 12% (in 1973).²³⁹ However, only after the debtor defaulted on six (consecutive) instalments could the Investment Bank foreclose the dwelling and evict the owner.²⁴⁰ This suggests not only the continuity of the social character of the legislation, which allowed consumers multiple occasions to cure their default but also that the communists considered the residential character of the private property, for which reason it could not be seized without a serious reason.

To avoid speculation, consumers could not purchase a dwelling to resell it, and those who sold a private property were not allowed credit access.²⁴¹ Given the housing shortage that the legislation aimed to solve, limiting the number of private properties one could own was reasonable. Similar restrictions existed before the communist period in the 1927 construction law. Moreover, the limitation followed the Party's economic ideology, which encouraged satisfying one's needs but frowned upon amassing wealth and exploiting fellow comrades. The limitation was eliminated after the fall of communism by Decree 61/1990,²⁴² although one could not purchase another dwelling on credit for resale or rental purposes,²⁴³ further

²³⁴ *Ibid.*, Art 67–68.

²³⁵ *Ibid.*, Art 69.

²³⁶ At the time, private banks were not yet in the business of consumer credit (residential or otherwise).

²³⁷ Law 80/1927, Art 54.

²³⁸ Decree 445/1966 Art 11.

²³⁹ *Ibid.*, Art 34.

²⁴⁰ *Ibid.*, Art 34.

²⁴¹ *Ibid.*, Explanatory Memorandum and Art 6.

²⁴² Decree 61/1990, Art 3.

²⁴³ Id at Art 4.

strengthening the idea of legal continuity. This limitation was later repealed by Law 85/1992.²⁴⁴

Decree 61/1990 and Law 85/1992 were heavily influenced by the communist legislation regarding default and enforcement. The credit contract was deemed authentic and continued to be a writ of execution.²⁴⁵ Unpaid instalments attracted a penalising interest of 8%, while default on six consecutive instalments allowed the creditor to initiate enforcement proceedings on the mortgaged asset and evacuate the consumer.²⁴⁶

Law 50/1991 was mostly silent on default and enforcement. However, breaches of legislation governing the construction of homes were not without consequence, as the new owners could lose their construction authorisation, or the land granted for construction.²⁴⁷ Additional rules were likely set in the credit contracts.

Law 190/1999 maintained most communist provisions facilitating enforcement, such as the ‘writ of execution’ character of the credit contract,²⁴⁸ but otherwise worsened consumer protection measures, especially concerning housing. In case of consumer default, the creditor was required to send one written notice and, in the absence of a cure within 30 days, could rescind the contract and enforce the entirety of the credit amount plus interest.²⁴⁹ Consumers could be evicted from their homes immediately, even if they did not have another place to live.²⁵⁰ Moreover, crediting institutions could use their private or judicial executors to speed up evictions.²⁵¹

These measures removed the protections that characterised monarchic and communist residential credit laws and exposed consumers to significant risk, as even the slightest delay in payment could leave them homeless and still indebted to credit institutions. The matter became apparent in the aftermath of the 2007–8 financial crisis when consumers unable to repay their loans lost their homes and faced residual payments to the banks.²⁵²

²⁴⁴ Law 85/1992, Art 20.

²⁴⁵ Decree 61/1990, Art 19, Law 85/1992, Art 1.

²⁴⁶ Decree 61/1990, Art 13, Law 85/1992, Art 15.

²⁴⁷ Law 50/1991, Arts 33–34.

²⁴⁸ Law 190/1999, Art 21.

²⁴⁹ *Ibid.*, Art 19 and 20.

²⁵⁰ *Ibid.*, Art 22 (1).

²⁵¹ *Ibid.*, Art 23.

²⁵² Later, the (in)famous Law 77/2016 on giving in payment (published in the Official Gazette no 330/28.04.2016) tried to implement a *datio-in-solutum* type of mechanism to solve precisely this kind of consequence by allowing consumer-debtors to free themselves of residual payment by relinquishing the mortgaged dwelling in favour of the crediting institution, but without much success, due to the intervention of the Romanian Constitutional Court following a powerful financial industry lobby. For details: Stănescu, C.G., Transforming Consumer Financial Protection Law through Constitutionalisation: How the Romanian Constitutional Court Highjacked Consumer Financial

Thus, it is safe to conclude that the situation of consumers with residential credit deteriorated with the implementation of Law 190/1999, and the new measures governing mortgages created a severe imbalance in the creditor-debtor relationship (Table 10).

5 Secured and Unsecured Credit for Consumer Goods

5.1 The Modern Period (1859–1947)

There is evidence that during the modern period, credit was granted to ‘particulars’ – meaning natural persons – as early as 1878 via the House of Deposits and Consignments, some of which were for personal needs and consumption. While prevalence was given to wealthy social categories, poorer categories could access credit to make ends meet²⁵³ via the pawnshops called “Mount of piety”, whose activity was regulated as of 1906.²⁵⁴ Moreover, in the interwar period, several Houses for Savings, Credit and Mutual Aid were set up by various categories of public employees: teachers, accountants, economists, priests, magistrates, railway personnel, and sailors. These issued short and long-term loans with low interest and favourable repayment terms to their members to acquire goods, education, consumption, health care and even for the acquisition of housing.²⁵⁵

Historical data shows retailers and producers sold several consumer goods in instalments, like in Western Europe or the US, as early as 1887 (Figure 9).²⁵⁶

At this time, instalment purchase was likely a privilege of well-off categories of consumers deemed creditworthy, given the risks undertaken by the creditors.²⁵⁷ Nevertheless, more categories may have benefitted.

Some consumer durables were more popular than others. Available data shows that radio subscriptions steadily increased from 7871 in 1927 to 274,314 in 1938.

Protection, in Micklitz, H.-W. and Twigg-Flesner, C. (eds), *The Transformation of Consumer Law and Policy in Europe*, (Hart, 2023) (forthcoming).

²⁵³ Stănescu *supra* note 16, p 112.

²⁵⁴ Fîroiu and Marcu (eds) *supra* note 31, p. 367.

²⁵⁵ *Ibid*, p 389.

²⁵⁶ *Supra* Section II, B, 1.

²⁵⁷ *Supra*, Figure 2.

Table 10: Comparative aspects concerning default and enforcement terms in residential credit.

	Law 80/1927	Decision 26/ 1966	Decree 445/ 1966	Law 9/1968	Law 4/1973	Decree-Law 61/1990	Law 50/ 1991	Law 85/1992	Law 190/1999
Default	Legal interest for default, plus debt collection costs (if any)	6% per year	6% per year	N/A	12% per year on due amounts	8% per year on due amounts	N/A	8% per year on due amounts	Market interest (set by contract) Acceleration clauses (30 days notice)
Enforcement	Directly enforceable. Eviction. Repossession. Foreclosure	Directly enforceable	Directly enforceable. Foreclosure	Directly enforceable. Foreclosure	Directly enforceable. Foreclosure	Directly enforceable. Foreclosure	N/A	Directly enforceable. Foreclosure	Directly Enforceable Repossession Foreclosure Eviction

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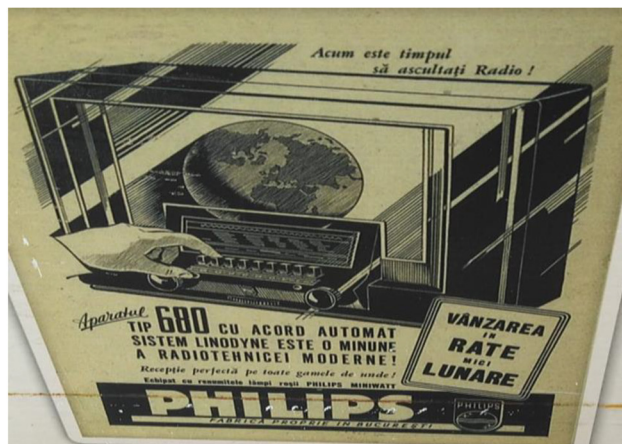
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Figure 9: Advertisement for sales in instalments of gramophones, respectively, radios, 1929. Source: personal archive.

Percentagewise, the number of subscriptions per 1000 inhabitants increased from only 0.5% in 1927 to 13.9% in 1938.²⁵⁸

Other consumption items, such as foodstuff, were available to poorer categories via revolving credit in small neighbourhood shops.²⁵⁹ The issue was considered ideologically relevant, and the far-right movement tried to curb what it perceived as

²⁵⁸ Romania's Statistical Yearbook 1940, p 569, Table 310.

²⁵⁹ Stanescu *supra* note 16, p 112.

a risk of communism by creating ‘cooperatives’ where regular consumers could benefit from quality goods at reduced prices and with deferred payments.²⁶⁰

5.2 The Communist Period (1947–1989)

The democratisation of credit for consumption continued in communist Romania once the country began to recover economically after the war but failed to match the rising supply of some industrial consumer goods with the capacity for cash purchases. Thus, an ideological and psychological barrier had to be crossed – reverting to sales on instalment payments – which were previously considered inadmissible in socialist countries.²⁶¹ Romania appears to be the first among the European communist bloc to have introduced it – empirical data shows that furniture shops already used instalment sales in 1954²⁶² – followed by Poland and Hungary in 1959.²⁶³ This positively affected per capita consumption and the standard of living.

Credit for consumer goods was made available to specific consumers (workers) via Decree 63/1955, supplemented by Decree 123/1955. These were repealed by Decree 296/1959 on the sale and purchase of goods and services with payment in instalments.²⁶⁴ Application norms were adopted later that year through Decision 1087/1959.²⁶⁵

The above set the foundations for all future legislation by establishing (1) which undertakings were allowed to sell with payment in instalments (state-owned enterprises, consumer cooperative sales units),²⁶⁶ (2) which categories of consumers could purchase in instalments (permanent employees of socialist organisations and members of craft cooperatives),²⁶⁷ (3) the applicable terms and conditions (down payment, number of instalments)²⁶⁸ and (4) risk-mitigation mechanisms.²⁶⁹

260 Corneliu Zelea Codreanu *Insemnari si manifeste*, (Colectia ‘Europa’ Munchen, 5th Ed, 1981), 67–8.

261 Kaser and Radice (eds), *supra* note 57, Vol III, p. 129–130.

262 *Drum Nou*, no 3110/1954, p. 2 (personal archive).

263 According to empirical data, in 1960, 70% of motorcycles, 50% of washing machines, television sets and 40% of radio sets were bought on hire-purchase in Hungary. Kaser and Radice (eds), *supra* note 57, Vol III, p. 130.

264 Published in the Official Gazette no 21/12.08.1959.

265 Published in the Official Gazette no 34/21.09.1959.

266 Decree 63/1955, Art 1, Decision 1087/1059, Art 1.

267 Decree 63/1955, Art 1, Decision 1087/1959, Art 3.

268 Decree 63/1955, Art 2, c), Decision 1087/1959, art 4.

269 Decree 63/1955, Arts 4 and 5, Decision 1087/1959, Art 4, Para 4, letter d), Art 5–7.

The availability of consumer credit continued to expand in the late 1960s, covering more goods (e.g., art objects or musical instruments,²⁷⁰ radio and television sets for members of agricultural cooperatives and peasants,²⁷¹ personal vehicles²⁷²) and other specific types of consumers, such as retirees.²⁷³ In the case of art objects, the law merely caught up with a pre-existing commercial practice.²⁷⁴ Empirical data shows a significant increase in the sale of consumer durables such as radios, refrigerators, vacuum cleaners, televisions, washing machines or personal vehicles during 1960–1980. Cross-referencing sales data with information regarding the average income and the price of consumer durables, one can safely infer that most sales took place on credit using the instalment payments mechanism. The expansion also enhanced the fragmentation of communist credit laws about acquiring consumer durables (Figure 10, Table 11).

Decision 1319/1972 unified and amended the sale of consumer goods and the performance of services on credit to large categories of low-income consumers, including retirees.²⁷⁵ All this legislation was abrogated and replaced by Decree 205/1981.²⁷⁶

The large number of normative acts and repeated changes in consumer credit legislation reflects the Party's constant interest in developing local goods for local consumption and increased concern with designing a functional and comprehensive consumer credit framework.

²⁷⁰ Decision 2628/1967 on sale with payment in instalments of works of fine art, musical instruments, apparatus, accessories and musical works, published in the Official Gazette no 92/26.10.1967.

²⁷¹ Decision 1379/1971 on sale of radios and televisions with payment in instalments to members of agricultural production cooperatives and individual peasants, published in the Official Gazette no 137/30.10.1971.

²⁷² Decision 1334/1973, published in the Official Gazette no 157/13.10.1973.

²⁷³ Decision no 1042/1968 concerning sale of goods and performance of services with payment in instalments by retirees and for the abrogation of certain provisions of Government Decision no 1087/1959 for the application of Decree no 296/1959 was published in the Official Gazette no 67/20.05.1968.

²⁷⁴ According to newspapers of that time, art objects were sold with payment in instalments as of 1956, *Steagul roșu*, Year III, no 663/1956, p. 1 (personal archive).

²⁷⁵ Decision 1319/1972 concerning sales of goods and performance of services with payment in instalments, published in the Official Gazette no 125/13.11.1972, Art 3.

²⁷⁶ Decree 205/1981 on sale of goods and provision of services with payment in instalments, published in the Official Gazette no 52/20.07.1981, abrogated by Decree 280/19 March 1990 on the sale of goods, provision of services and execution of works with payment in instalments, published in the Official Gazette no. 46 31.03.1990.

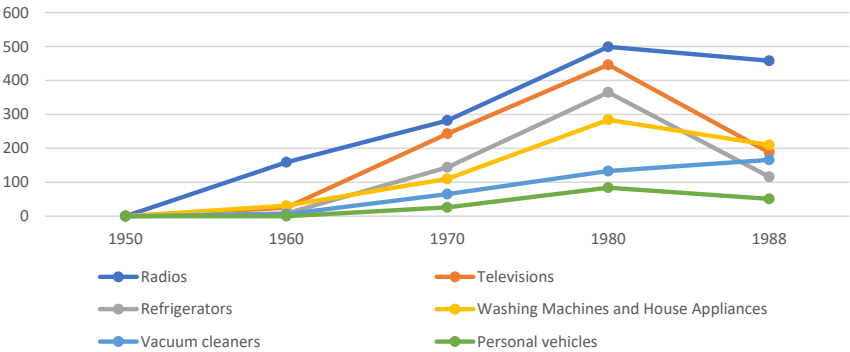


Figure 10: Yearly sales of consumer durables during 1950–1988 (Thousand Pieces). Source: Romania’s Statistical Yearbook 1968, 1978, 1988, 1990, 1998. The figure illustrates the increase in sales of consumer durables during the communist era, which peaked in 1980 and declined during the last decade of the communist regime due to Ceausescu’s decision to repay the country’s external debt.

Table 11: Prices during Communism Regime Period (Based on an estimated exchange rate of 16 Lei for 1 Dollar). Source: Econtext.ro, ingerisidemoni.ro. The salary-price ratios suggest that the purchase of consumer durables took place via credit arrangements, such as instalment sales, although one cannot exclude savings.

	Prices during Communism Regime Period (based on an estimated exchange rate of 16 Lei for 1 dollar)	
	1980s – Lei	1980s – Dollars
Average income	3459	150
Products		
Utilities for housing (three room apartment)	300	18.7
Three room apartment in Bucharest	120,000	7500
Vehicle (Dacia)	70,000	4375
B & W TV (internal production)	3–4000	187.5–250
Colour TV (internal production)	12,000	750
Refrigerator (internal production)	5000	312.5
Radios	350–1400	21.8–87.5
Furniture (Library and Hanger)	5500	343.75

5.3 The Contemporary Period (1990–Present)

After the fall of communism, the Government extended the existing instalment sales mechanism to several goods and services via Decision 45/1990, which was adopted five days into the new year.²⁷⁷ Decree 205/1981 was replaced by Decision 280/1990,²⁷⁸ which survived until 2004, when it was abrogated as obsolete and no longer compatible with ‘the new legal order’.²⁷⁹ The latest communist Decree and the post-revolutionary Decisions are almost identical. Besides the name of the institutions involved, the core provisions and contractual templates remained unchanged (Figure 11).

Historical data reveals that instalment sales continued to function for many years after the Revolution, without substantive changes and sometimes, outside the banking system, with credit issued straight by the retailers. For instance, in 1995, a local retailer of furniture and home appliances offered credit with a 30% downpayment for eight months, and a fixed interest of 6%,²⁸⁰ while, in 1997, another retailer of home appliances was offering credit up to Lei 10 million (at the time), in 24 monthly instalments, against a 15% downpayment.²⁸¹ In 1998, some retailers were advertising instalment sale agreements for home appliances with a 10% advance payment.²⁸²

What rendered instalment sale legislation obsolete was the re-fragmentation of credit legislation (e.g. the introduction of vehicle-leasing contracts for consumers and businesses²⁸³), followed by the complete revamping of Romania’s legal treatment of security interests in personal property via Law 99/1999²⁸⁴ and the subsequent adoption of the EU *acquis*, coupled with a decline in economic activity and the population’s purchasing power.

Law 99/1999 caused two developments concerning credit for durable consumer goods. First, it re-allowed merchants other than credit institutions to sell on credit in instalments without meeting the requirements for banking activities imposed by

²⁷⁷ *Cuvantul liber*, Year I, no 3/1990, p. 4.

²⁷⁸ Decision 280/1990 on sale of goods, performance of services and works with payment in instalments, published in the Official Gazette no 46/31.03.1990.

²⁷⁹ Decision 233/2004 on repealing certain normative acts, published in the Official Gazette no 191/04.03.2004, rectification published in the Official Gazette no 338/19.04.2004, Art 1, Annex 1, Chapter II, 4.

²⁸⁰ *Adevarul Harghitei*, 21 decembrie 1995, p. 4, (personal archive).

²⁸¹ *Cuvantul Liber*, 14.10.1997, p 6 (personal archive).

²⁸² *Tribuna*, 18 august 1998, p 7 (personal archive).

²⁸³ Government Ordinance 51/1997 on leasing operations and leasing companies, published in the Official Gazette no 224/30.08.1997.

²⁸⁴ Law 99/1999 on certain measures to accelerate the economic reform, published in the Official Gazette no 236/27.05.1999.

[illegible]

Figure 11: Instalment sale contract of furniture, 1989. As the figure illustrates, the contract used a standard form. The same standard form was used by Decision 280/1990.

Law 58/1998.²⁸⁵ Since Decision 280/1990 was still in force and would not be repealed until 2004, Law 99/1999 did not reinvent sale in instalments but only updated and adapted it to the new economic and normative realities.

Second, Law 99/1999 altered the 1864 Civil Code's restrictions on security interests over movable property and non-possessory security interests but also increased their predictability and enforceability.²⁸⁶ This was a significant change, as implementing non-possessory pledges and self-help repossession encouraged the

285 *Ibid.*, Art 100.

286 Padurari, V. and Burtoiu, A.S. 'Taking stock of Romanian secured transactions after 15 years of reform: A mapping of past, present and future milestones' in Dahan, F. (ed) *Research Handbook on Secured Financing in Commercial Transactions*, (Edward Elgar, 2015), 403–4.

expansion of credit for consumer durables. However, the procedures were deemed too creditor friendly (especially in consumer relationships) and toned down later. The 2011 New Civil Code, which re-unified the provisions applicable to security interests in movable and immovable goods²⁸⁷ and reintroduced safeguards for defaulting debtors, including consumers.

Because commercial banks mainly handled consumer credit during the 1990s,²⁸⁸ prudential rules had to be enforced by their supervisory authority, the Romanian National Bank.²⁸⁹ However, the first norms were implemented only in 2003 and concerned the protection of the financial system, not of consumers.²⁹⁰

5.4 Categories of Consumers

If, during the monarchy, the instalment purchase was a privilege of well-off consumers, during communism, credit for consumer goods was first made available to workers.²⁹¹ Nevertheless, the motivation remained the same: the consumer's ability to repay.

The availability of consumer credit continued to expand in the late 1960s when it was extended to retirees,²⁹² peasants²⁹³ and low-income workers.²⁹⁴ Ultimately, Decree 205/1981 generalised access to credit to all 'natural persons' until 1990.

During the transition, Decision 280/1990 further expanded the democratisation of consumer credit by adding natural persons 'who can prove that they have monthly income and a stable domicile in the same locality as the seller' (Table 12).²⁹⁵

5.5 Creditworthiness

During communism, to access credit for consumption, one had to prove income. Therefore, instalment sales were first available to workers and retirees only. Although the initial laws are silent on the amount of income, it must have played a part in the decision to grant credit. Those falling under a certain threshold were

²⁸⁷ *Ibid.*, 407.

²⁸⁸ Law 58/1998, Art 44.

²⁸⁹ *Ibid.*, Art 45.

²⁹⁰ Apan *supra* note 4, 21–2.

²⁹¹ Decree 63/1955, Art 1.

²⁹² Decision 1042/1968.

²⁹³ Decision 1379/1971.

²⁹⁴ Decision 1319/1972.

²⁹⁵ Decision 280/1990, Art 3.

Table 12: Comparative aspects concerning retailers that could sell and consumers that could buy using instalment sale mechanisms.

Legislation	Decree 63/1955	Decree 296/1959 + Decision 1087/1959	Decision 1319/1972	Decision 1334/1973	Decree 205/1981	Decision 280/1990	Law 99/1999
Who can sell	State-owned enterprises. State-owned commercial organisations	State-owned enterprises and commercial organisations. Consumer cooperative sales units. handicraft cooperative command centres		Crediting institutions (House of Savings and Consignments)	State-owned and cooperative socialist units	State-owned and cooperative units. Vehicles are sold through a specialised intermediary company	Legal and natural persons
Who can buy	Employees	Permanent employees. Members of handicraft cooperatives	Permanent employees, members of handicraft cooperatives and retirees whose salaries/pensions are below 3600 Lei. Members of agricultural production cooperatives and peasants with individual households (subject to restrictions)	Employees	Natural persons	Natural persons: (employees, members of agricultural production and consumption cooperatives, retirees, and other persons that can prove monthly income and have a stable domicile in the same city as the seller)	Legal and natural persons

unable to purchase in instalments. This reality is apparent in the provisions of Decision 1319/1972, which made credit available to workers and retirees with a monthly income below Lei 3600.²⁹⁶

In addition, Decree 65/1955,²⁹⁷ Decree 296/1959 and Decree 205/1981 provided that monthly instalments could not be higher than one third of the consumer's monthly income. This measure was kept after the fall of communism.²⁹⁸ While it sought to curb over-indebtedness, this limitation could also thwart attempts to purchase durable goods in instalments.

Creditworthiness assessment remained the same in the early years of the transition. Decision 280/1990 required proof of income in the form of a template statement filled and signed by the consumer's employer.²⁹⁹

However, the revamped secured credit in personal property relaxed creditworthiness assessment, leaving the matter to the crediting institutions. Thus, the National Bank had to implement prudential rules to limit credit risks, returning to the communist ideas that (1) consumers' creditworthiness must be assessed regarding their financial capabilities and (2) monthly instalments should not surpass 30% and, later, 40% of the debtor's monthly net income.³⁰⁰ Since the National Bank has no attributions concerning consumer protection,³⁰¹ the listed measures had only an indirect effect on consumer protection. They were meant to safeguard the soundness of financial policies of commercial banks by including an obligation to verify consumers' creditworthiness.

However, security interests in personal property and partnerships between retailers and commercial banks (which enabled the latter to extend credit to consumers without the supervision of the National Bank) eased consumer loans to the point where a valid ID card sufficed to obtain credit for personal needs, albeit against a hefty interest rate.³⁰² For instance, in 2004, one of the foreign banks in the country

²⁹⁶ Decision 1319/1972, Art 3.

²⁹⁷ Decree 63/1955, Art 2, d).

²⁹⁸ Decision 280/1990, Art 5.

²⁹⁹ *Ibid.*, Annex 2.

³⁰⁰ Norms 15/2003 on credit risk limitation in consumer credit, published in the Official Gazette no 920/22.12.2003, Art 7–9, Norms 10/2005 on the limitation of credit risk on loans to individuals, published in the Official Gazette no 683/29.07.2005, Art 11.

³⁰¹ See Law 101/1998 on the Statute of the National Bank of Romania, published in the Official Gazette no 203/1998, Arts 25 and 26, and Law 312/2004 on the statute of the National Bank of Romania, published in the Official Gazette no 582/2004, Art 2. See also, Vasilescu, A. *Protectia consumatorilor de servicii financiare – in dezbateri* (II), 01.09.2021, *Ziarul Financiar*, <<https://www.zf.ro/eveniment/adrian-vasilescu-bnr-protectia-consumatorilor-de-servicii-financiare-20250404>> accessed 24 October 2022.

³⁰² Oan, D. "Credit cu buletinul si fara Isarescu" Hotnews (13.07.2005), <<https://www.hotnews.ro/stiri-arhiva-1220044-credit-buletinul-fara-isarescu.htm>> accessed 06 July 2022.

promoted an ‘express credit’ to consumers, ranging between Lei 6 and 140 million (at the time), for three years, with an interest rate of 32% per year.³⁰³ This type of credit became very popular³⁰⁴ and caused significant losses to retailers after the 2007–8 financial crisis, as many consumers could not repay.

5.6 Down Payment Requirements

Consumers were expected to pay part of the price upfront. During communism, the amount of the down payment varied depending on three factors: (1) the consumer category, (2) the consumer’s income and (3) the goods or services purchased. The expected advance payment was initially relatively high (25–40%).³⁰⁵ It was reduced by Decree 269/1959, and all Decisions based on its provisions (1042/1968, 1379/1971³⁰⁶ and 1334/1973) oscillated between 15 and 30%.³⁰⁷ Decision 1319/1972 introduced slightly higher requirements (20–40%) but only for the purchase of personal vehicles,³⁰⁸ which were deemed luxury goods.

Instalment purchases became more expensive as the communist economy experienced a crisis during 1980–1989 due to expensive access to raw materials unavailable in the country and insufficient energy sources for production, coupled with Ceausescu’s decision to repay Romania’s external debt. For example, Decree 205/1981 established a 30% down payment for furniture over Lei 5000 (when the average salary was around Lei 3500) and 50–60% for personal vehicles.³⁰⁹

Decision 45/1990 required a 30–50% down payment. According to Decision 280/1990, consumers still had to provide an advance payment following the list of goods and terms issued by the Ministry of Interior Commerce, which was to be reviewed periodically depending on the changes in consumer demand and the available stocks.³¹⁰

With the emergence of commercial banks issuing consumer credit, prudential rules were issued by the supervising authority starting only in 2003. The National Bank recommended that besides taking security, creditors take a down payment of

³⁰³ *Cuvantul nou*, Year XV, no 3963/2004, p. 5 (personal archive).

³⁰⁴ According to existing data, 70–80% of household appliances purchased during 2007–2008 were bought with “ID card credits”, <<https://stirileprotv.ro/stiri/financiar/creditul-cu-buletinul-se-intoarce-in-romania-insa-dooobanzile-sunt-astronomice-sunt-camatari-cu-acte-in-regula.html>>, accessed 07 July 2022.

³⁰⁵ Decree 63/1955, Art 2, b).

³⁰⁶ Decision 1379/1971, Art 2, b).

³⁰⁷ *Ibid.*, Art 4.

³⁰⁸ Decision 1319/1972, Annex 1.

³⁰⁹ Decree 205/1981, Annex 1.

³¹⁰ Decision 280/1990, Art 2.

25% of the value of the consumer good, in line with the approach of the previous communist legislation (Table 13).³¹¹

5.7 Duration and Cost of Credit

The duration and cost of credit also varied with the nature of the goods, the down payment and the consumer's income. Decree 63/1955 established that the remainder of the price had to be repaid in 12 equal monthly instalments.³¹² Under Decree 296/1959, the number of instalments expanded to 24 for workers and serving militaries and 12–24 for other categories of consumers.³¹³

As of 1972, low-income consumers could also access instalment sales, although in more restrictive terms. The number of instalments varied from 3 to 12 months.³¹⁴ Purchasers of personal vehicles initially had 36 months to pay,³¹⁵ but this period was reduced to 20 in 1981.³¹⁶

In 1955, the cost of credit was 6%.³¹⁷ This figure was lowered to 3% from 1959³¹⁸ until 1971, when it increased to 5%.³¹⁹ All subsequent legislation³²⁰ maintained this interest level until the fall of communism.

If Decision 45/1990 maintained a fixed legal interest, set at 5% per year,³²¹ Decision 280/1990 stated that consumers would pay interest consisting of two elements: 1) the legal interest owed to the banking creditor (1% during communism) and 2) 2% charge for covering administrative expenses such as cashing of instalments or debt recovery. The interest was still fixed in each contract; however, variations emerged as the formula for calculating the interest depended on the legal interest rate on the signing day.³²²

With the appearance of consumer credit issued by commercial banks, interest rates and credit costs became a matter of contract between consumers and banks, in which the latter dictated the terms. The prudential norms issued by the National Bank on limiting consumer credit did not address interest rates or interest caps. Such caps were deemed incompatible with the free market. Thus, instead of fostering

311 Prudential Norms 15/2003, Art 9, Prudential Norms 10/2005, Art 8.

312 Decree 63/1959, Art 2, c).

313 Decision 1087/1959, Art 4, c).

314 Decision 1319/1972, Annexes 1–4.

315 Decision 1334/1973, Art 2.

316 Decree 205/1981, Annex 1, I.

317 Decree 63/1955 supplemented by Decree 123/1955.

318 Decree 296/1959, Art 2, Decision 1042/1968, Art 4, d).

319 Decision 1379/1971, Art 2, d).

320 Decision 1334/1973, Art 3, Decree 205/1981, Art 3.

321 *Supra* note 277.

322 Decision 280/1990, Art 7.

Table 13: Comparative aspects concerning the price and down payment for items sold in instalments.

Legislation	Decree 63/ 1955	Decree 296/ 1959 + Decision 1087/1959	Decision 1319/1972	Decision 1334/1973	Decree 205/1981	Decision 280/1990	Prudential Norms 15/2003
Price	Current retail price (without increase)	Current retail price (without increase)	Current retail price	Current retail price			
Downpayment	25–40%	15–30%	Variable (depending on income and the nature of the goods): 20–40% (for em- ployees) 30–50% (for members of agricultural co- operatives and peasants)	40–50% (depending on the employee's position and income)	Variable (depending on income and nature of the goods): Vehicles 50% (or 60% if income was below 4000 lei per month). Furniture 30%	Negotiated at sale	25% or personal guarantees from third parties

competition to benefit the consumers, the free market made consumer credit more expensive and hazardous (Table 14).

5.8 Risk-Mitigation Mechanisms

During communism, instalments were withheld from the debtor's salary or pension.³²³ The situation did not change immediately after 1989.³²⁴ Retirees, peasants and members of agricultural cooperatives also had to bring 1–2 solvable guarantors.³²⁵ Finally, for specific categories of goods with high value (e.g., personal vehicles), the buyer was obliged to maintain insurance against damage for the entirety of the credit contract.³²⁶

The insurance requirement was generalised after the 1989 Revolution to cover all goods purchased in instalments.³²⁷ Although Decision 280/1990 did not speak of guarantors, the template contract mentioned that 'retirees and persons that cannot prove a monthly income had to bring two guarantors with a secure income.'³²⁸

This practice survived even after the emergence of consumer credit issued by commercial banks. However, securing credit with personal property³²⁹ significantly improved the creditors' status by providing predictability and enforceability (Table 15).

5.9 Enforcement

Throughout communism, the credit contract was deemed a writ of execution and did not require *a priori* judicial verification before enforcement.³³⁰ All enforcement procedures were exempted from judicial fees, facilitating the creditor's action against bad debtors.³³¹ The executory character of the credit agreement and the exemptions from judicial fees were maintained by post-communist legislation such as Decision 280/1990³³² and Law 99/1999.³³³

³²³ Decree 63/1955, Art 4, Decree 256/1959, Art 2, Decision 1042/1968, Art 5, Decree 205/1981, Art 3.

³²⁴ Decision 280/1990, Art 5.

³²⁵ Decision 1042/1968, Art 4, c), Decision 1379/1971, Art 2, e), Decision 1042/1968, Art 4, c).

³²⁶ Decision 1334/1973, Art 5, Decree 205/1981, Annex I.

³²⁷ Decision 280/1990, Art 6.

³²⁸ *Ibid.*, Annex I, Art 7.

³²⁹ Law 99/1999, Title VI, Art 1.

³³⁰ Decree 63/1955, Art 5, Decree 296/1959, Art 4, Decision 1042/1968, Art 8, Decree 205/1981, Art 5.

³³¹ Decree 63/1955, Art 5, Decree 256/1959, Art 4, Decree 205/1981, Art 5.

³³² Decision 280/1990, Art 8.

³³³ Law 99/1999, Art 14 and 17.

Table 14: Comparative aspects concerning duration and cost of credit for consumer durables purchased in instalments.

Legislation	Decree 63/ 1955	Decree 296/1959 + Deci- sion 1087/1959	Decision 1319/ 1972	Decision 1334/1973	Decree 205/ 1981	Decision 280/1990	Law 99/1999	Prudential Norms 15/ 2003
Duration	Max 12 months	Variable (depending on the buyer's status and the na- ture [value] of the good): Max 24 months (for workers and militaries); Max 12 months (for other employees and members of handicraft cooperatives (with the exemption of furniture and other high- value durables, for which there are 24 months)	Variable (depending on income [down payment] and the nature of the good): 3–12 months (for employees and retirees) 6–10 months (for members of agri- cultural co- operatives and peasants)	Max 36 months	Variable (depending on income [down payment] and nature of the good): Vehicles – max 20 (respectively 18) months. Furniture 14 months	Negotiated at sale	N/A	N/A
Cost of credit	Legal inter- est (6% per year) To be paid together with the last instalment	Legal interest (reduced to 3% per year). Interest owed by socialist organisations to banks for granted credit is 1% per year		Legal inter- est: 5% per year	Legal interest: 5% per year	Legal interest for banking creditors + 2% for expenses coverage for recovery of payments. (The National Romanian Bank credited the sellers with legal in- terest minus the value of the down payment).	Debt collection and foreclosure costs, including insurance and deposit of the secured good. Interest (as set by contract)	N/A

Table 15: Comparative aspects concerning guarantees and risk mitigation for non-payment for sales in instalments.

Legislation	Decree 63/1955	Decree 296/1959 + Decision 1087/1959	Decision 1319/1972	Decision 1334/1973	Decree 205/1981	Decision 280/1990	Law 99/1999	Prudential Norms 15/2003
Guarantees and risk mitigation	<p>Garnished income (at source).</p> <p>Instalments limited to 1/3 of monthly income.</p> <p>In case of unemployment, the seller could ask for restitution of the goods (termination).</p> <p>No sale prior to complete payment.</p> <p>Other creditors could not pursue goods prior to complete payment</p>	<p>Garnished income (at source).</p> <p>In case of unemployment, the seller could pursue payments.</p> <p>No sale prior to complete payment.</p> <p>Other creditors could not pursue goods prior to complete payment.</p> <p>In case of a sale, the seller could pursue the new owner to pay outstanding instalments</p>	N/A	<p>No disposition prior to complete payment.</p> <p>The vehicle must be insured until complete payment.</p>	<p>Garnished income (at source).</p> <p>The amount cannot be higher than 1/3 of the monthly income.</p> <p>In case of unemployment, the seller could pursue payments.</p> <p>No disposition prior to complete payment.</p> <p>Other creditors could not pursue goods prior to complete payment.</p> <p>In case of a sale, the seller could pursue the new owner to pay outstanding instalments</p>	<p>Garnished income (at source).</p> <p>The amount cannot be higher than 1/3 of the monthly income.</p> <p>In case of unemployment, the seller could pursue payments.</p>	<p>Security interest over present or future movable assets (subject to registration, publicity and preference rules).</p> <p>Preference order set by law.</p> <p>Creditors can pursue goods even when in the possession of third parties</p>	<p>Personal guarantees (from third parties).</p> <p>The amount should not be higher than 30% of the net monthly income.</p> <p>Other (set by creditors)</p>

At the inception of communist credit for consumption, Decree 63/1955 stated that in case of consumer default, the seller could seek either repayment of the amounts owed, or the restitution of the goods sold. In the latter case, the sale was deemed invalid *ex lege*, and the debtor was entitled to the restitution of paid instalments minus the value of the wear and tear and other expenses caused by the sale and repossession of the good.³³⁴ However, the seller did not have a security right over the personal goods purchased on credit, as these were incompatible with the civil law system. Therefore, the provisions that allowed the seller to pursue the good until complete repayment were difficult (if not impossible) to implement and were not replicated in subsequent legislation.

Even so, goods purchased on credit could only be pursued by other creditors once their price was covered entirely.³³⁵ Moreover, the creditor had an unsecured claim over the debtor's assets and income.³³⁶ Where available, they could pursue the guarantors, who were joint and severally liable for the consumer's remaining obligations under the contract.³³⁷ By law, the consumer had full ownership of the goods from the signature of the contract but was forbidden to dispose of them until complete payment.³³⁸ If the consumer ignored the ban, the subsequent purchasers could be pursued by the creditor for the remaining price.³³⁹

After the fall of communism, Decision 280/1990 unsurprisingly maintained all these risk-mitigation mechanisms,³⁴⁰ since it mirrored the provisions of communist decrees. However, Law 99/1999 revolutionised the enforcement of consumer credit agreements by granting security over personal property purchased on credit. In case of default, the creditor could choose between private and judicial enforcement,³⁴¹ satisfy their claim from the secured good,³⁴² pursue the secured good in the hands of any party³⁴³ and even dispose of the collateral without having it in their possession.³⁴⁴ The 2011 New Civil Code altered the procedure but not the overall substance of secured creditors, who still enjoy significant protection (Table 16).

³³⁴ Decree 63/1955, Art 5.

³³⁵ Decree 256/1959, Art 3, Decree 205/1981, Art 4.

³³⁶ Decision 1042/1968, Art 5 (2).

³³⁷ Decision 1042/1968, Art 6 (2).

³³⁸ Decree 63/1955, Art 3, Decree 256/1959, Art 3, Decision 1334/1973, Art 5, Decree 205/1981.

³³⁹ Decree 256/1959, Art 3.

³⁴⁰ Decision 280/1990, Art 6.

³⁴¹ *Ibid.*, Art 62.

³⁴² *Ibid.*, Art 86.

³⁴³ *Ibid.*, Art 23 and 63.

³⁴⁴ *Ibid.*, Art 65.

Table 16: Comparative aspects concerning the enforcement of instalment sales to consumers.

Legislation	Decree 63/1955	Decree 296/1959 + Decision 1087/1959	Decision 1319/1972	Decision 1334/1973	Decree 205/1981	Decision 280/1990	Law 99/1999	Prudential Norms 15/2003
Enforcement	Contract constitutes enforcement title. Enforcement and all procedural acts concerning enforcement are exempted from judicial fees	Contract constitutes enforcement title. Enforcement and all procedural acts concerning enforcement are exempted from judicial fees	N/A	N/A	Contract constitutes enforcement title. Enforcement and all procedural acts concerning enforcement are exempted from judicial fees. Vehicle must be insured until complete payment	Contract constitutes enforcement title. Enforcement and all procedural acts concerning enforcement are exempted from judicial fees	Security contract constitutes enforcement title. Registration of security contract is exempted from taxes/fees. Credit can choose between judicial and non-judicial enforcement (self-help repossession and sale of security goods). Non-judicial enforcement is not conditioned on payment of any tax or fee. Debtor remains liable for deficiency payments. All taxes, charges, and related costs are covered by the secured goods	N/A

6 Conclusions

As mentioned, after the fall of communism, the Romanian legal discourse tended to portray the transition to democracy and the free-market economy as a ‘return’ to the initial capitalist path, during which consumer and residential credit laws emerged according to the market economy principles. The study proved that the assertion is not entirely true. Two aspects indicate not so much a ‘transformation’ than a continuous development of Romanian consumer and residential credit laws through the monarchic and communist regimes and the first decade of post-communist transition that followed until the implementation of the EU acquis.

First, the communist regime increased industrialisation efforts, continuing the country’s economic and legal transformation that started during the *modern* (monarchic) period.³⁴⁵ While little is said about *consumers* as a recognised category or *consumer and residential credit* during the monarchy and communism, these periods – especially the latter – saw significant developments. The purchase of consumer goods in instalments existed under the monarchy, as did residential credit for specific categories of consumers. These were not abolished but developed and widely employed by the communist regime to develop the local economy and improve the population’s standard of living. Whether consumer and residential credit was deeply embedded in ideology is of little relevance from a legal and functional perspective.

Second, the transition to capitalism did not entirely remove the legal and institutional framework of the communist regime, further corroborating the idea of continuity, at least until the adoption of the EU-driven legal framework. Communist institutions and approaches survived after 1990, just as some monarchic laws related to consumer residential credit persisted into the communist period. Moreover, these significantly influenced the legislation adopted during the transition years until the transposition of the EU acquis.

This leads to the conclusion that while consumer and residential credit emerged in liberal-capitalist societies, their use and development are not dependent on ideological considerations. The functional elements of consumer and residential credit remained the same across the different political, economic and legal systems experienced by Romania until joining the EU. They pursued the same dynamics, except for the interest rate fixing via law during communism. Nevertheless, the idea of normative continuity is not affected, for interest rate fixing existed before the communist regime and endured at least a decade after.

³⁴⁵ Boia *supra* note 2, 61–2.

Based on the Romanian example, it is safe to assume that the attempt to use consumer and residential credit to increase the general welfare of the population transcended ideology. To be sure, the period leading to the global financial crisis of 2007–8 had opposite effects because, during the reconstruction of the consumer and residential credit legislation in the transition period, the previous preference of the monarchic and communist system for affordable credit to settle societal needs and citizen expectations was replaced by norms and rules which facilitate corporate greed and consumer exploitation. Sadly, these norms were not repealed after the crisis, only ‘improved’ with prudential measures adopted by the EU in the aftermath of the 2007–8 financial crisis to safeguard the financial system.³⁴⁶ Thus, one can infer that the continuity revealed by this paper did not end with the return to capitalism but with the introduction of the financialised type of capitalism that came with the EU accession.

The article’s conclusion reassesses two assumptions (1) that ideology matters and (2) that Eastern communism was inimical to consumers and consumer and residential credit. The provided examples challenge both notions and invite further historical investigation into the role of the communist legal tradition in shaping consumer and residential credit laws. This may be done using comparative perspectives from all former Central and Eastern European states once part of the communist bloc. At the same time, it invites a comparative study of the evolution of consumer and residential credit arrangements that could not be progressive over time, as the financialised period started by EU accession efforts shows.

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References

Primary Sources

1864 Civil Code.

³⁴⁶ Although these rules were supposed to protect consumers, they mainly ensure the stability of the financial sector.

- Decision 1087/1959 on the application of Decree No 296/1959 on the sale of goods and provision of services against payment in instalments, published in the Official Gazette no 34/21.09.1959.
- Decision 1319/1972 concerning sales of goods and performance of services with payment in instalments, published in the Official Gazette no 125/13.11.1972, Art 3.
- Decision 1334/1973, published in the Official Gazette no 157/13.10.1973.
- Decision 1379/1971 on the sale of radios and televisions with payment in instalments to members of agricultural production cooperatives and individual peasants, published in the Official Gazette no 137/30.10.1971.
- Decision 233/2004 on repealing certain normative acts, published in the Official Gazette no 191/04.03.2004, rectification published in the Official Gazette no 338/19.04.2004, Art 1, Annex 1, Chapter II, 4.
- Decision 251/1977 on abrogating several normative acts, published in the Official Gazette no 113/29.10.1977.
- Decision 26/1966 on state support for urban citizens in the construction of private property housing, published in the Official Gazette no 1/12.01.1966.
- Decision 2628/1967 on sale with payment in instalments of works of fine art, musical instruments, apparatus, accessories and musical works, published in the Official Gazette no 92/26.10.1967.
- Decision 280/1990 on sale of goods, performance of services and works with payment in instalments, published in the Official Gazette no 46/31.03.1990.
- Decision 4015/1953, Official Gazette no. unavailable.
- Decision 735/1997 on abrogating several normative acts, published in the Official Gazette no 323/24.11.1997.
- Decision no 1042/1968 concerning sale of goods and performance of services with payment in instalments by retirees and for the abrogation of certain provisions of Government Decision no 1087/1959 for the application of Decree no 296/1959 was published in the Official Gazette no 67/20.05.1968.
- Decision of Common Plenary of the Central Committee of the Romanian Communist Party and the Supreme Council of Economic and Social Development of 27–28 November 1973 on measures for meeting and surpassing the provisions of the National Plan for Economic and Social Development of Romania in 1974, the problems of energy development and the measures for saving fuel and energy, published in the Official Gazette no 188/1.01.1973.
- Decree 1122/1926 published in the Official Gazette no 68/20.03.1926.
- Decree 183/1949 on the punishment of economic crimes, published in the Official Gazette no 25/30.04.1949.
- Decree 197/1948 for the development and liquidation of banking enterprises and credit institutions, published in the Official Gazette no 186/13.08.1948.
- Decree 202/1953 amending the Criminal Code, published in the Official Gazette no 15/14.05.1953.
- Decree 205/1981 on sale of goods and provision of services with payment in instalments, published in the Official Gazette no 52/20.07.1981, abrogated by Decree 280/19 March 1990 on the sale of goods, provision of services and execution of works with payment in instalments, published in the Official Gazette no. 46 31.03.1990.
- Decree 296/1959 on the sale of goods and provision of services against payment in instalments, published in the Official Gazette no 21/12.08.1959.
- Decree 445/1966 concerning state support for urban citizens in constructing private property dwellings, published in the Official Gazette no 27/27.05.1966.
- Decree 445/1966 on state support for citizens of cities to build their own homes, published in the Official Gazette no 27/27.05.1966.

- Decree 446/1972 on the organisation and management of the Ministry for Internal Commerce, published in the Official Gazette no 131/22.11.1972.
- Decree 61/1990 on the sale of state-funded housing to the population, published in the Official Gazette no 22/08.02.1990.
- Decree 63/1955, Official Gazette no. unavailable.
- Decree 691/1973 on the repeal of certain acts, published in the Official Gazette no 7/14.01.1974.
- Decree 713/1967 on the construction, by citizens, with state support, of vacation homes in touristic locations, published in the Official Gazette no 66/23.07.1967.
- Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (Consumer Credit Directive/CCD), OJ L 133, 22.5.2008, pp. 66–92.
- Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, OJ L 60, 28.2.2014, pp. 34–85, as consolidated in 2018 (Consumer Mortgage Directive or CMD).
- Government Emergency Ordinance (GEO) 50/2010 on, published in the Official Gazette no 389/11.06.2010.
- Government Emergency Ordinance (GEO) 52/2016 on credit agreements offered to consumers for immovable property, published in the Official Gazette no 727/20.09.2016.
- Government Ordinance (GO) 21/1992 on consumer protection, published in the Official Gazette no 212/1992.
- Government Ordinance (GO) 51/1997 on leasing operations and leasing companies, published in the Official Gazette no 224/30.08.1997.
- Government Ordinance (GO) 85/2004 on consumer protection in concluding and performing contracts at a distance for financial services, published in the Official Gazette no 796/28.08.2004.
- Government Ordinance (GO) 99/2006 on credit institutions and capital adequacy, published in the Official Gazette no 1027 of 27.12.2006.
- Law 101/1998 on the Statute of the National Bank of Romania, published in the Official Gazette no 203/1998.
- Law 114/1996 on housing, published in the Official Gazette no 254/21.10.1996.
- Law 152/1998 on the set up of the National Agency for Housing, published in the Official Gazette no 265/16.07.1998.
- Law 19/1967 for the approval of Decree No 713/1967 on the construction by citizens, with state support, of personally owned houses – for rest or tourism – in spa resorts and other tourist places, published in the Official Gazette no 67/26.07.1967.
- Law 190/1999 on mortgage credit for property investments, published in the Official Gazette no 611/14.12.1999.
- Law 193/2000 on abusive terms in consumer contracts, published in the Official Gazette no 560/10.11.2000.
- Law 20/1993 on the ratification of the European Agreement of Association between Romania and the European Community and its Member States, published in the Official Gazette no 73/12.04.1993.
- Law 289/2004 on the legal regime of credit contracts destined for consumers, natural persons, published in the Official Gazette no 611/06.07.2004.
- Law 296/2004 on the Consumption Code, published in the Official Gazette no 593/01.07.2004.
- Law 312/2004 on the statute of the National Bank of Romania, published in the Official Gazette no 582/2004.
- Law 4/1973 on the construction and sale of housing from the state fund to the population and the construction of personal vacation homes, published in the Official Gazette no 46/31.03.1973.

- Law 50/1991 1991 on the authorisation of construction works, published in the Official Gazette no 163/07.08.1991.
- Law 514/1910. The law was seconded by a Regulation, published in the Official Gazette no 170/2.11.1910.
- Law 541/2002 on collective savings and loans for housing, published in the Official Gazette no 733/08.10.2002.
- Law 58/1930.
- Law 58/1998 on banking, published in the Official Gazette no 121/23.03.1998.
- Law 77/2016 on giving in payment of immovable property for the discharge of obligations under credit agreements, published in the Official Gazette no 330/28.04.2016.
- Law 80/1927 on the encouragement of housing building, published in the Official Gazette no 95/03.05.1927.
- Law 85/1992 addressed the sale of dwellings built from state funds, published in the Official Gazette no 180/29.07.1992.
- Law 9/1968 for the development and sale of dwellings from the state fund to the population and the construction of personal vacation homes, published in the Official Gazette no 57–58/09.05.1968.
- Law 9/1972 on finances, published in the Official Gazette no 9/22.11.1972.
- Law 99/1999 on certain measures to accelerate the economic reform, published in the Official Gazette no 236/27.05.1999.
- Law concerning the set up of a Communal Company for the Construction of Housing in Bucharest, published in the Official Gazette 16.05.1910.
- Law no 1056/1946, published in the Official Gazette no 298/28.12.1946.
- Law no 351/1945 for the repression of illicit speculation and economic sabotage, republished in the Official Gazette no 126/06.06.1945, Art 1, letter h.
- Law on encouragement of construction of 23 July 1921.
- Methodological Norms 3/2000 implementing Law No 190/1999 on mortgage credit for real estate investment, published in the Official Gazette no 174/24.04.2000.
- Minute of the Parliamentary debates concerning the adoption of Law 152/1998, <www.cdep.ro/pls/steno/steno2015.stenograma?ids=1661&idm=6> accessed 05 July 2022.
- Order 2/2005 of the National Bank approving the implementing rules of Law No 289/2004 on the legal regime of consumer credit agreements for natural persons, and Order 231/2005 of the National Agency for Consumer Protection published in the Official Gazette no 326/20005.
- Prudential Norms 10/2005 on the limitation of credit risk on loans to individuals, published in the Official Gazette no 683/29.07.2005.
- Prudential Norms 15/2003 on credit risk limitation in consumer credit, published in the Official Gazette no 920/22.12.2003.
- Royal Decree no 827/06.04.1873, Official Gazette no. unavailable.

Secondary Sources

- Academia Romana, *Istoria Romaniei*, Vol. VII, (Univers Enciclopedic, 2015).
- Adevarul Harghitei, 21 December 1995.
- Adeverul, Year 43, no 14178/1930 (“Creditul ipotecar tranzitoriu”).
- Apan, R.D. *Protectia juridica a consumatorilor. Creditul destinat consumului si domeniile conexe* (Sfera juridica, 2007).
- Argus, Year 16, no 3638/1925 (“Creditul urban si chestia constructiilor de viator”).
- Boia, L. *Strania istorie a comunismului romanesc*, (Humanitas, 2016).

- Briciu, C. (2016). Politici sociale de locuire. *Calitatea vieții*, XXVII (1), 42–62.
- Butzbach, O., & von Mettenheim, K. E. (2013). Alternative banking and theory. *Accounting, Economics, and Law: A Convivium*, 5(2), 105–171.
- Calder, L. (1999). *Financing the American dream. A cultural history of consumer credit*. Princeton University Press.
- Chernyshova, N. (2013). *Soviet consumer culture in the Brezhnev era*. Routledge.
- Clapham, D. (1995). Privatisation and the East European housing model. *Urban Studies*, 32(4–5), 679–694.
- Codreanu, C. Z. (1981). *Insemnari si manifeste* (5th ed.). Colectia ‘Europa’ Munchen.
- Credite cu buletinul, <<https://stirileprotv.ro/stiri/financiar/creditul-cu-buletinul-se-intoarce-in-romania-insa-dobanzile-sunt-astronomice-sunt-camatari-cu-acte-in-regula.html>>.
- Cuvantul liber, 14 October 1997.
- Cuvantul liber, Year I, no 3/1990.
- Cuvantul nou, Year X, no 2576/1999.
- Cuvantul nou, Year XV, no 3963/2004.
- Damșa, L. (2016). The transformation of property regimes and transitional Justice in central Eastern Europe. In *Search of a Theory* (1st ed.). Springer International Publishing.
- Daniel Oan ‘Credit cu buletinul si fara Isarescu.’ Hotnews (13.07.2005), <<https://www.hotnews.ro/stiri-arhiva-1220044-credit-buletinul-fara-isarescu.htm>>.
- Distribution of population by tenure status, type of household and income group – EU-SILC survey (2022), <https://ec.europa.eu/eurostat/databrowser/view/ILC_LVHO02__custom_1513577/bookmark/table?lang=en&bookmarkId=776c7a00-1a0a-4818-aeae-8c08024912a9>.
- Drum nou, no 3110/1954.
- Dumanescu, L. (2015). Home and families in communist Romania. *Transylvanian Review*, XXIV(1), 44–58.
- Fergusson, N. (2011). *Civilization: The west and the rest*. Penguin.
- Finlay, S. (2005). *Consumer credit fundamentals*. Palgrave MacMillan.
- Firoiu, D., & Marcu, L. P. (Eds.). (1987). *Istoria dreptului romanesc, Vol. II, part II*. Editura Academiei Republicii Socialiste Romania.
- Gelpi, R.-M., & Labruyere, F. J. (2000). *The history of consumer credit. Doctrines and practices*. Palgrave MacMillan.
- Georgescu, F. (2004). Financial and banking legislation adopted in Romania between 1944 and 194816. *Muzeul Național*, 1(16), 515–528.
- Gheorghe, A. N., Spasici, C., & Arioca, D. S. (2012). *Dreptul consumatiei*. Hamangiu.
- Goicovici, J. (2022). *Dreptul relatiilor dintre profesioniști și consumatori*. Hamangiu.
- Graeber, D. (2014). *Debt: The first 5,000 years*. Melville House.
- Heldmann, P. (2001). Negotiating consumption in a dictatorship: Consumption politics in the GDR in the 1950s and 1960s. In M. Daunton, & M. Hilton (Eds.), *The politics of consumption. Material culture and citizenship in Europe and America*. Berg.
- Ilie, S. (2018). Households’ income in Romania for the 1918–2018 century: Resources and social protection. *Calitatea vieții*, XXIX(2), 161–200.
- Ionascu, D. Analiza. Cat au pierdut romanii in 10 ani de la declansarea crizei. Face Romania acum aceleasi greseli? Libertatea, 18.09.2018, <<https://www.libertatea.ro/stiri/analiza-zece-ani-de-la-declansarea-crizei-economice-romania-face-acum-aceleasi-greseli-2397098>>.
- Iuga, N., Istoria sovromurilor si jefuirea Romaniei in zilele noastre, <<https://www.art-emis.ro/istorie/istoria-sovrom-urilor-si-jefuirea-romaniei-in-zilele-noastre>>.
- Kaser, M. C., & Radice, E. A. (Eds.). (1985). *The economic history of Eastern Europe 1919–1975* (Vols. I–III). Clarendon Press.
- Levy, J. (2021). *Ages of American capitalism. A history of the United States*. Random House.

- Lupta, Year IV, no 228/1887.
- Lupta, Year VI, no 799/ 1889.
- MacDonald, S. B., & Gastman, A. L. (2017). *A history of credit & power in the western world*. Routledge.
- Manko, R. (2013). Survival of the socialist legal tradition? A polish perspective. *Comparative Law Review*, 4(2), 1–28.
- Michaels, R. (2006). The functional method of comparative law. In M. Reinmann, & R. Zimmermann (Eds.), *The Oxford Handbook of Comparative Law*. Oxford University Press Inc.
- Mihai, A., ZF la 20 de ani. Evenimentul anului 2009: Criza financiara incepe sa-si arate efectele in economie, dar toata lumea este optimista sic rede ca dezastrul va dura doar cateva luni, Ziarul Financiar, 06.11.2018, <<https://www.zf.ro/zf-20-de-ani/zf-la-20-de-ani-evenimentul-anului-2009-criza-financiara-incepe-sa-si-arate-efectele-in-economie-dar-toata-lumea-este-optimista-si-crede-ca-dezastrul-va-dura-doar-cateva-luni-17605646>>.
- Murgescu, B. (2010). *Romania si Europa: Acumularea decalajelor economice*. Polirom.
- National Consumer Protection Agency, <<https://anpc.ro/articol/582/istoricul-autoritatii-nationale-pentru-protectia-consumatorilor>>.
- National Institute for Statistics, <<https://insse.ro/cms/ro/content/ipc%E2%80%9393serie-de-date-anuala>>.
- Nicolae, M., & Popa, I-F. (Eds.). (2017). *Credite pentru consumatori*. Solomon.
- Nițulescu, D. C. (2004). NICOLAE ȘT. NOICA (coord.), colaboratori RUXANDRA NOICA și CRISTINA GABRIELA POPESCU, Între istorie și actualitate. Politici de locuire în România, București, Editura Mașina de scris, 2003, 208 pagini, cu o prefață de Mugur Isărescu. *Calitatea Vieții*, XV(3–4), 399–400.
- Noica, N. S. (2003). *Între istorie și actualitate. Politici de locuire în Romania*. Ed. Masina de scris.
- Opinia, Year I, no 31/ 1897.
- Opinia, Year VI, no 831/1909.
- Padurari, V., & Burtoiu, A. S. (2015). Taking stock of Romanian secured transactions after 15 years of reform: A mapping of past, present and future milestones. In F. Dahan (Ed.), *Research handbook on secured financing in commercial transactions*. Edward Elgar.
- Pasti, V. (1997). *The challenges of transition: Romania in transition*. Eastern European Monographs.
- Peligrad, V. (2012). *Creditul Ipotecar. Piata primara si piata secundara*. CH Beck.
- Piketty, T. (2014). *Capital in the twenty-first century*. Harvard University Press.
- Piketty, T. (2020). *Capital and ideology*. Harvard University Press.
- Piperea, G. (2018). *Protectia consumatorilor in contractele comerciale*. C.H. Beck.
- Rizoiu, R. (2011). *Garantiile reale mobiliare. O abordare functionala*. Universul Juridic.
- Rizoiu, R. (2020). *Curs de garantii civile*. Hamangiu.
- Romania's Statistical Yearbook 1904.
- Romania's Statistical Yearbook 1912.
- Romania's Statistical Yearbook 1933.
- Romania's Statistical Yearbook 1940.
- Romania's Statistical Yearbook 1968.
- Romania's Statistical Yearbook 1978.
- Romania's Statistical Yearbook 1988.
- Romania's Statistical Yearbook 1990.
- Romania's Statistical Yearbook 1998.
- Romania's Statistical Yearbook 2004.
- Romanian National Bank, Annual Report 1999.
- Romanian National Bank, Annual Report 2000.
- Romanian National Bank, Annual Report 2002.
- Romanian National Bank, Annual Report 2004.

- Romanian National Bank, Creating the Necessary Framework for developing the Market for Certain Banking Products and Services (Study), 10.03.2007, <<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjrfWP05T7AhUY6CoKHce8DTYQFnoECACQAQ&url=https%3A%2F%2Fwww.bnr.ro%2FDocumentInformation.aspx%3FidInfoClass%3D8161%26idDocument%3D4803%26directLink%3D1&usg=AOvVaw1dGCnDCQ-nH5pG7V7mo-nf>>.
- Romanian National Bank, Report on Inflation 1/2001.
- Romanian National Bank, Report on Inflation 2/2002.
- Ronnås, P. (1983). *Urbanization in Romania: A geography of social and economic change since independence*. The Economic Research Institute – Stockholm School of Economics.
- Stanescu, I. (2018). Quality of life in Romania 1918–2018: An overview. *Calitatea Vietii*, XXIX(2), 107–144.
- Stanescu, C. G. (2023). Transforming consumer financial protection law through constitutionalisation: How the Romanian constitutional Court highjacked consumer financial protection. In H.-W. Micklitz, & C. Twigg-Flesner (Eds.), *The transformation of consumer law and policy in Europe*. Hart (forthcoming).
- Steagul rosu, Year III, no 663/1956.
- The Encyclopedia of Economics, (McGraw-Hill, 1982).
- The Harper Collins Dictionary of Economics.
- Trentmann, F. (2017). *Empire of things: How we became a world of consumers, from the fifteenth century to the twenty-first*. Harper Perennial.
- Tribuna Sibiului, 28 September 2001.
- Tribuna, 18 August 1998.
- Trifu, A., & Lupu, D. V. (2009). Creditul ipotecar in Romania. *Studia Universitatis Vasile Goldiş, Arad – Seria Ştiinţe Economice*, 19(3), 81–89.
- Turcu, I. (1999). *Banking law* (Vol. I). Ed Lumina Lex.
- Turliuc, V. (Ed.). (1985). *Circulaţie banească şi Credit*. Iasi.
- Valuch, T. (2021). *Everyday Life under communism and after: Lifestyle and consumption in Hungary, 1945–2000*. CEU Press.
- Vasilescu, A. Protecția consumatorilor de servicii financiare – in dezbatere (II), 01.09.2021, Ziarul Financiar, <<https://www.zf.ro/eveniment/adrian-vasilescu-bnr-protectia-consumatorilor-de-servicii-financiare-20250404>>.
- Velescu, O. (2007). Banca Creditul Funciar Urban – factor de civilizație. O privire asupra societății bucureștene de la sfârșitul secolului al XIX-lea. *Historia Urbana*, XV(1+2), 399–400.
- Vihavainen, T., & Bogdanova, E. (Eds.). (2016). *Communism and consumerism*. Brill.
- Virdol, D., Suditu, B., Dumitrache, L., & Valceanu, D. G. (2015). Dynamics of housing stock in Romania – between politics and policies. *Human Geographies – Journal of Studies and Research in Human Geography*, 9(2), 207–223.
- Voinea, L. Criza economica interna: cauze si solutii, Ziarul Financiar, 23.11.2008, <<https://www.zf.ro/opinii/criza-economica-interna-cauze-si-solutii-3544642>>.
- Wages and hours of labors, Monthly Labor Review, Vol. 29, No 1, (1929).