

## **New Developments in the Battle Against Consumer Over-Indebtedness in Brazil**

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About a year ago, the Law 14.181/2021 was published in Brazil, known as the Over-Indebtedness Law. The purpose of the law is to prevent the over-indebtedness and protect the consumers in good faith that are unable to pay for all their debts without compromising their dignity.

While the Law aims to help the consumers, it also seeks to improve the national economy, especially in the post-pandemic era.

All financial commitments assumed due to a consumer relationship – including credit operations, installment purchases and continued provision services – are to be considered consumer debts and to be protected by the Law.

By dealing with the over-indebtedness situation, the Law has several fronts of action, ranging from the creation of specific rules on the offer of transparent credit to the possibility for consumers to file a lawsuit to renegotiate their debts in a global hearing with the creditors.

Despite of having a series of self-applicable rules, some concepts and procedures provided by the Over-Indebtedness Law were to be regulated by the Federal Consumer Authority to be effective.

More recently, on 26th, July 2022, a Federal Decree (Decree n. 1.150/2022) was published addressing one of the most important aspects of the Law: the objective parameter to be followed by the Authorities while preventing or dealing with the consumers' s over-indebtedness situation, for preservation and non-commitment of the consumer's right to basic conditions of life – called existential minimum.

Although there is no fixed definition or concept provided by the Law for the existential minimum, the recent Federal Decree determined that, once in front of a consumer over-indebtedness situation, judges or conciliators must always preserve at least 25% of 2022's Brazilian minimum wage to guarantee a dignified life for the consumer. The criteria established by the Federal Decree only represents R\$ 303.00 - approximately USD 57.80

Before the Federal Decree was edited, in the face of legislative silence, consumer protection agencies were divided between the income percentages to be considered to guarantee the existential minimum. The percentages for it varied, mainly between 30% and 65% of the individual income of the consumer.

The number fixed by the Federal Decree is now being criticized by consumer protection associations, class entities and public bodies.

Lawsuits are already being filed in the Supreme Court of Justice, seeking the annulment of the Federal Decree. The Federal Public Prosecutor Office also issued a public note criticizing the parameters established for the existential minimum. At the beginning of September 2022, congressmen mobilized with the proposal of a bill that nullifies the effects of the Federal Decree.

As noted, the parameter for the existential minimum is one of the hottest topics today, especially in face of the fact that the over-indebtedness of the population is increasing and is reaching record numbers. This scenario certainly generates impacts on all kind of business in development in the country and it is, without a doubt, something to keep an eye on in Brazil.