

banking & finance - legal changes published in February 2020

Decision no. 23/2019 regarding the examination of the appeal in the interest of the law submitted by the Bucharest Appeal Court on an issue of law, published in the Official Gazette no. 142 of February 21, 2020.

The subject of the appeal in the interest of the law concerns the nature of enforceable title of the distance financial services agreements concluded under the terms of the Government Ordinance no. 85/2004 when the debtor has not signed the agreement, but the proof of the agreement's conclusion is made with an agreement signed by the creditor, with an account statement or other similar evidence that shows that the amount was transferred to the debtor's account or, as the case may be, such amount was drawn by the debtor and with a confirmation, by email or SMS, from the debtor regarding the acceptance of the loan offer and from the creditor regarding the acceptance of the debtor's order.

The High Court of Cassation and Justice admitted the appeal in the interest of the law and established that the interpretation and application of the provisions of art. 3 lit. a), b), e) and f) and art. 8 of the Government Ordinance no. 85/2004 related to art. 120 of the Government Emergency Ordinance no. 99/2006 or, as the case may be, art. 52 paragraph (1) of Law no. 93/2009, art. 632 paragraph (2) and art. 272 of the Civil Procedure Code or, as the case may be, art. 5 of Law no. 455/2001, the distance financial services agreement concluded in accordance with the provisions of art. 8 of the Government Ordinance no. 85/2004 constitutes an enforceable title in the absence of the handwritten signature or the extended electronic signature, unless the parties impose the signature as a condition for the validity of the agreement.