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Abstract:

Starting from July 1th, 2023, a new separate consumer proceeding is in effect in civil litigation. According to the legislator's declaration, it is intended to implement the principle of compensatory justice, aiming to restore a real balance in the legal relationship between consumers and entrepreneurs. The following analysis is aimed at verifying the correctness of the applied regulatory method both as to the adequacy of the use of the institution of separate proceedings, as well as the scope of procedural distinctions and their potential to distinguish a consumer case from other civil disputes. Additionally the usefulness of the new regulations as tools to ensure the elimination of contractual imbalances will be assessed. In this regard, the point of reference will be EU law and its pro-consumer interpretation, already well-established in case law. It leaves no doubt about the necessity for Member States to make efforts both at the normative and judicial levels to ensure an effective and proportionate remedy to restore contractual balance and discourage unfair market practices by entrepreneurs.

The analysis presented, after juxtaposing the content of Articles 458¹⁴-458¹⁶ of the Code of Civil Procedure with the assumptions and objectives of consumer protection, justifies the conclusion that the separate proceedings introduced in these provisions do not constitute an adequate normative response to the specificity of disputes between entrepreneurs and consumers.