ISSN 2345-1424 http://jrtmed.uccm.md E-ISSN 2345-1483

Journal of Research on Trade, Management and Economic Development
Category B
VOLUME 12, ISSUE 2(24)/2025

JUSTIFYING IMPEDIMENT AND MAINTAINING CONTRACTUAL BALANCE IN PROFESSIONAL–CONSUMER RELATIONS

Valeria PRAPORȘCIC, Lecturer, PhD student
Trade Co-operative University of Moldova
E-mail: valeriapraporscic97@gmail.com
ORCİD: https://orcid.org/0009-0004-8197-7450

DOI: https://doi.org/10.59642/JRTMED.2.2025.04
Universal Decimal Classification: 366.542:347.440(478)
JEL Classification: K12, K22, D18

Abstract

This article examines how the justifying impediment operates in professional–consumer contracts to preserve contractual balance when performance is disrupted. It translates the exemption criteria—externality, unpredictability, and unavoidability/insurmountability—into concrete evidentiary requirements: proof of a causal nexus between the event and the affected obligation, timely notice to the counterparty, and genuine mitigation efforts.

The analysis also evaluates attestations issued by the Chamber of Commerce and Industry (CCI) as standardized evidentiary support: helpful for structuring facts and reducing uncertainty, yet never a substitute for judicial scrutiny. Distinguishing such excusing events from mere commercial hardship or price increases, the paper proposes an operational checklist of documents and steps for practitioners. The aim is to enable rigorous screening of exemption claims, deter abusive reliance on impediments, and support a fair allocation of risk between consumer and professional while safeguarding contractual balance.

Keywords: *justifying impediment; contractual balance; consumer contracts; causation; notice; evidence; contractual risk*

1. Introduction

Consumer contracts govern the relationships between professionals and consumers and represent an essential component of the modern economy. In a dynamic market influenced by global and regional economic fluctuations, both traders and consumers face significant risks that may affect the performance of contractual obligations. Financial crises, inflation, rising production costs, and other market changes may lead traders to invoke the justifying impediment as a means of exemption from liability.

The justifying impediment is a legal concept that allows a contracting party to be released from its obligations when unforeseeable and uncontrollable circumstances arise, making contract performance impossible. While civil law regulates this situation in the context of general contractual relations, its application to consumer contracts raises additional concerns regarding the balance between consumer rights and the protection of traders.

Under European Union law, consumer protection is a fundamental principle, and traders must demonstrate that the invoked impediment is real, objective, and unavoidable. Directive 93/13/EEC on unfair terms in consumer contracts stipulates that any contractual clause allowing for the unilateral modification of contractual obligations to the detriment of the consumer must be justified and fair [1]. However, national regulations in various Member States show differing approaches to the applicability of the justifying impediment in consumer contracts.

In civil law systems such as those of France and Germany, the justifying impediment is recognized as a ground for exemption from contractual liability but is subject to strict conditions. For example, the French Civil Code governs this situation under the concept of fortuitous impossibility of performance, requiring that the event be completely unforeseeable and unavoidable [2]. In contrast, in common law systems such as those of the United Kingdom and the United States, strict adherence to the principle of pacta sunt servanda is required, and exemption is only permitted if the contract explicitly provides for such a possibility.

In the Republic of Moldova, the justifying impediment is regulated under Article 904 of the Civil Code. However, the lack of detailed provisions in the field of consumer contracts has led to inconsistent interpretations by the courts. The Law on Consumer Protection does not clearly define how consumers are to be protected in situations where traders invoke this impediment to justify non-performance of the contract [3].

Given these challenges, the present research aims to investigate how the justifying impediment is regulated and applied in consumer contracts, identifying possible solutions for ensuring a fair balance between consumer rights and trader interests. A comparative analysis of international legal systems will highlight the most effective practices in the field, while the assessment of case law will contribute to a better understanding of how courts interpret this legal mechanism. Moreover, the study will propose legislative measures to enhance consumer protection in cases where contracts are affected by economic changes.

2. The degree of investigation of the problem currently, and purpose of research

Existing studies on the justifying impediment have primarily focused on its applicability in commercial and civil contracts, without thoroughly addressing its implications in the context of consumer contracts. In legal literature, the justifying impediment is frequently analyzed from the perspective of general contract law, being closely associated with concepts such as force majeure and hardship. However, in consumer contracts, the matter becomes more complex, as consumer protection constitutes a fundamental principle that restricts traders' ability to invoke such exemptions.

Comparative analysis of legislation across jurisdictions demonstrates significant differences in the application of this concept. Within the European Union, although the legislation ensures a high level of consumer protection, the national interpretations by courts vary. For example, the case law of the Court of Justice of the European Union (CJEU) has established that impediments invoked by traders must be strictly scrutinized to prevent abuses against consumers [4].

In the Republic of Moldova, national case law on the justifying impediment in consumer contracts is limited, and judicial interpretations remain inconsistent. Therefore, this research aims to clarify the applicability of this mechanism, to highlight existing challenges, and to formulate recommendations for improving the legislative framework.

The main objective of the study is to analyze the applicability of the justifying impediment in consumer contracts, identifying legislative and doctrinal solutions that ensure a balance between consumer rights and the legitimate interests of traders. The research aims to contribute to the development of a clearer legal framework, better adapted to current economic realities, while preventing the abusive use of this mechanism and ensuring effective consumer protection.

The evolution of the concept of the justifying impediment and of contractual balance mechanisms reflects a gradual development of the theory of obligations within European civil law. Its origins can be traced to classical Roman doctrine, where, according to Gaius, "an obligation does not exist where performance becomes impossible without the debtor's fault." This idea was later adopted and refined in modern codifications such as the Code civil des Français (1804) and the Romanian Civil Code (1864), which enshrine the principle of the binding force of contracts while also acknowledging exceptions arising from fortuitous events and force majeure.

In contemporary doctrine, the institution of the justifying impediment has been extensively discussed in relation to the principle of contractual balance. L. Pop argues that any cause for exemption from liability must be interpreted restrictively so as not to undermine the economic function of the contract, emphasizing that contractual justice requires constant adaptation to market conditions [5]. Similarly, I. Dogaru and V. Drăghici define the justifying impediment as a "legal mechanism for balancing the competing interests of the parties," which entails an objective assessment of the impossibility of performance and of the debtor's diligent conduct [8].

In recent French doctrine, P. Malaurie, L. Aynès, and Ph. Stoffel-Munck develop a modern approach to the theory of force majeure by incorporating criteria such as unpredictability and unavoidability, while introducing an additional element — the proportionality of the exonerating effect [7]. This perspective supports the idea that exemption from liability should not be automatic but conditioned upon clear proof of a causal link between the event and the impossibility of performance.

Within Romanian and Moldovan legal scholarship, doctrine remains influenced by classical conceptions, yet with an increasingly pronounced focus on protecting the vulnerable party. Thus, I. Trofimov defines the contract as an "agreement of wills governed by the principles of good faith and fairness" [9], while Dandara and Revenco emphasize the importance of integrating consumer protection rules into the dynamics of civil obligations [10]. These contributions have laid the foundation for the current trend of analyzing the justifying impediment not only through the lens of general contract theory but also as an instrument for balancing professional–consumer relations.

At the same time, authors such as C. Stătescu and C. Bîrsan highlight the exceptional nature of exemption from liability, noting that it should be admitted only in the presence of an impossibility that is "absolute, real, and independent of the debtor's will" [6]. Conversely, A. Cuznețov identifies, in the evolution of commercial contracts, a trend toward flexibility in performance aimed at meeting the needs of a globalized and digitalized economy [11].

The comparative analysis of these approaches reveals a divergence between traditional doctrine — which prioritizes the principle of pacta sunt servanda — and modern doctrine, which favors the protection of contractual balance and good faith in performance. The present research aligns with the latter direction, aiming to demonstrate that the application of the justifying impediment in consumer contracts must be grounded on objective, verifiable, and proportional criteria, in order to prevent abuses and strengthen confidence in the market.

Accordingly, the purpose of this research is to clarify the legal limits of invoking the justifying impediment and to formulate legislative recommendations aimed at harmonizing national law with European standards, thereby ensuring effective consumer protection and an equitable distribution of contractual risk.

Through the comparative analysis of doctrinal sources and existing regulations, it has been observed that the specialized literature has addressed the justifying impediment mainly from the perspective of general civil obligations, without granting it a clearly defined role in professional–consumer relations. Thus, works by L. Pop, C. Stătescu and C. Bîrsan, as well as by Malaurie, Aynès, and Stoffel-Munck, have outlined the theoretical foundations of this institution but have not sufficiently examined its impact on consumer protection within the current economic context. The present research fills this doctrinal gap by examining how the justifying impediment may function as a mechanism for maintaining contractual balance and preventing abuses in relations involving consumers. Consequently, the purpose of this study was to clarify the legal limits of invoking the justifying impediment and to formulate legislative and interpretative proposals that would allow its fair, proportional, and transparent application, in order to preserve contractual balance and protect vulnerable parties. The results obtained confirm the achievement of this purpose, as the analysis led to the identification of objective criteria for its application (unpredictability, inevitability, and direct causation), the recognition of gaps in national practice, and the proposal of solutions aimed at harmonizing national legislation with European standards on consumer protection.

3. Methods and materials applied

The analysis of the justifying impediment in consumer contracts and its impact on consumer protection requires a complex methodological approach that allows for a comprehensive understanding of the phenomenon from legal, economic, and social perspectives.

This study applies multiple research methods, combined in an interdisciplinary manner to provide a well-rounded perspective.

The primary method used is doctrinal legal analysis, which involves the examination of the concept of justifying impediment in contract law and its distinction from related notions such as force majeure and hardship. This has included reviewing scholarly works in the fields of civil law, consumer contract law, and consumer protection, including legal treatises, academic articles, and relevant doctrinal opinions. This approach has enabled the identification of interpretive differences and the applicability of the justifying impediment across various legal systems.

Another key method was comparative legal analysis, through which the relevant regulations in the Republic of Moldova, the European Union, and other jurisdictions were examined. This involved studying the Civil Code of the Republic of Moldova, national consumer protection legislation, and European directives governing trader-consumer contractual relationships. This comparative approach facilitated the identification of strengths and weaknesses in the national legal framework in relation to international standards.

Case law analysis was also used to study judicial decisions from Moldova and other jurisdictions, including rulings by the Court of Justice of the European Union (CJEU), in order to assess how the concept of justifying impediment is interpreted and applied in concrete cases. This method contributed to understanding current trends in the application of the mechanism and identifying relevant examples illustrating the impact of economic change on consumer contracts.

Additionally, an interdisciplinary approach was adopted by integrating legal analysis with economic considerations relevant to consumer contracts. Economic changes such as inflation, recession, and market fluctuations can significantly influence the performance of contractual obligations. Therefore, the research assessed the impact of such factors on contractual relationships between consumers and traders, using relevant economic data to contextualize the legal analysis.

Thus, the methodological approach of this study combines legal doctrinal analysis, comparative legal research, case law evaluation, and economic assessment of the justifying impediment's impact on consumer contracts. This combination has enabled a detailed examination of the topic and the formulation of relevant conclusions to improve the existing legal framework.

4. Research results and discussion

4.1. Analysis of the concept of justifying impediment and its distinction from other legal mechanisms

In the consumer-contract context, the justifying impediment must be understood as an event external to the debtor, unforeseen at the time the contract was concluded, and so significant that even the exercise of due diligence by the debtor would not have prevented its consequences. The mechanism thus excludes ordinary commercial risk and requires a combination of these conditions: the event must lie outside the realm of control; it must not have been reasonably predictable when the obligation was assumed; and it must have caused a factual impossibility of performance despite the debtor's efforts. The absence of any of these elements negates the applicability of the justifying impediment [3].

The justifying impediment is a legal concept that allows the debtor to be released from liability for non-performance of contractual obligations when an unforeseeable, unavoidable, and uncontrollable event occurs, rendering performance impossible. This mechanism is essential in contract law, as it ensures a balance between the principle of contractual binding force (pacta sunt servanda) and the unpredictability of certain events. Although the terms "justifying impediment," "force majeure," and "hardship" are often used interchangeably, clear distinctions exist. Force majeure refers to external, unforeseeable, and unavoidable events that make performance impossible—such as natural disasters, wars, or governmental acts. Under French law, force majeure is defined as an event beyond the debtor's control that could not have been foreseen at the time of contract conclusion [12].

By contrast, hardship refers to situations where, although performance is still possible, it becomes excessively burdensome for one of the parties due to major and unforeseeable economic changes. In such cases, the affected party may request contract adaptation or termination. The German Civil Code (Bürgerliches Gesetzbuch) under §313 provides for contract adjustment in cases of a fundamental change in circumstances [13]. In the Republic of Moldova, the Civil Code does not explicitly define the term "justifying impediment," but it does regulate the circumstances under which it can be applied, offering a legal basis for exemption from liability in cases of non-performance due to objective reasons [14].

4.2. The impact of economic changes on consumer contracts and the applicability of the justifying impediment

The global economy is characterized by constant dynamics, and economic changes have a significant impact on consumer contracts. In a context marked by inflation, economic recessions, currency fluctuations, and financial crises, both traders and consumers face difficulties in performing their contractual obligations. A generalized increase in prices reduces purchasing power and can substantially affect consumers' ability to fulfill their financial commitments, particularly in long-term contracts [15]. Hyperinflation can turn a contractual obligation into a severe financial burden, especially impacting credit and leasing agreements.

Economic recessions lead to labor market instability, reduced disposable income, and greater financial hardship for consumers. This phenomenon was evident during the 2008 global financial crisis (Krugman, 2009) [16], when many consumers became unable to meet their obligations, forcing financial institutions to renegotiate loan contracts to avoid widespread defaults (Stiglitz, 2010) [17]. Currency devaluation and exchange rate volatility also directly affect contracts denominated in foreign currencies. A loan contracted in a strong currency can become unaffordable if the local currency depreciates rapidly. This was strongly felt in Eastern Europe with mortgage loans denominated in Swiss francs, where local currency depreciation dramatically increased repayment costs (EBA, 2016) [18]. In such an unstable economic landscape, the question arises whether the justifying impediment can be applied to consumer contracts. In doctrine and case law, this concept is defined as an unforeseeable, unavoidable, and external event that makes contractual performance impossible (Gordley, 2021) [19]. However, European courts have adopted a conservative approach toward recognizing economic difficulties as a justifying impediment. The Court of Justice of the European Union has repeatedly emphasized that economic fluctuations are part of the normal risk of commercial activity and cannot, in themselves, justify exemption from contractual liability (CJEU, C-208/19) [20].

In this regard, foreseeable financial difficulties, even if they affect consumers' ability to pay, are not considered valid grounds to suspend or unilaterally alter contractual performance.

In the Republic of Moldova, the law does not provide specific clarifications on the applicability of the justifying impediment in the context of economic changes. According to the Civil Code, an obligation is considered non-performable when an impediment arises that is beyond the debtor's control and could not reasonably have been foreseen at the time of contract conclusion (Civil Code of the Republic of Moldova, 2002) [3]. Nevertheless, economic difficulties such as inflation or recession are generally treated as normal commercial risks, and courts tend not to accept them as sufficient grounds for non-performance (Chamber of Commerce Moldova, 2023) [12]. This approach leaves a high degree of legal uncertainty and may lead to inconsistent interpretations depending on the specific circumstances of each case.

From an economic perspective, the justifying impediment must be assessed in light of macroeconomic shocks that disproportionately affect consumers. Inflation erodes purchasing power, increases the real cost of credit, and destabilises long-term payment obligations. Currency depreciation amplifies repayment burdens for contracts denominated in foreign currency, while recessions reduce household income and heighten the risk of default. These economic dynamics demonstrate that consumer vulnerability is structurally higher than that of professionals, which justifies a more protective legal approach. Accordingly, recognising a justifying impediment requires not only proof of an external event but also an economic analysis showing that the impact goes beyond normal market volatility [21].

4.3. National and international regulations on the justifying impediment in consumer contracts

At the international level, the justifying impediment is governed by various legal instruments that establish the conditions under which a party may invoke such a mechanism to be exempt from liability. The United Nations Convention on Contracts for the International Sale of Goods (CISG), in Article 79, states that a party is not liable for a failure to perform any of its obligations if it proves that the failure was due to an impediment beyond its control, and that it could not reasonably have been expected to have taken the impediment into account at the time of the conclusion of the contract [22]. However, this provision primarily applies to international commercial contracts and does not directly address consumer relations. By contrast, in the European Union, consumer protection is reinforced through a series of directives aimed at ensuring a fair balance between consumer rights and trader obligations. Directive 93/13/EEC on unfair terms in consumer contracts prohibits any clause that allows the trader to unilaterally alter the contract terms without valid justification, thus protecting consumers from abuse [1]. As such, traders cannot arbitrarily invoke the justifying impediment to avoid performance, and any such clause must be clearly justified and must not create a significant imbalance between the parties. Moreover, Directive (EU) 2019/771 on contracts for the sale of goods stipulates that the seller is obligated to deliver goods in conformity with the contract, and any impossibility of performance must be clearly and objectively demonstrated [23].

In the Republic of Moldova, the regulations on the justifying impediment are not explicitly formulated with reference to consumer contracts, which allows for various interpretations in case law. The Civil Code governs issues related to non-performance, including force majeure and hardship. Article 904 of the Civil Code provides that a debtor is exempt from liability if the failure to perform is due to an impediment beyond their control and which could not have been reasonably foreseen at the time of the contract’s conclusion [3]. However, this provision applies generally to all contracts and does not include specific rules applicable exclusively to consumer contracts. This lack of specificity may generate legal uncertainty, particularly in trader-consumer relationships, where consumer protection should take precedence.

Law No. 105/2003 on Consumer Protection provides a general framework for consumer protection in Moldova, requiring traders to deliver goods and services in accordance with the contract and prohibiting unfair commercial practices. Although this law does not directly regulate the justifying impediment, it stipulates that any modification of contractual terms to the consumer's detriment must be justified and must not create a contractual imbalance [24]. Therefore, traders invoking the justifying impediment to suspend or terminate a consumer contract must clearly demonstrate the existence of a real and objective impediment in accordance with consumer protection principles.

Additionally, Law No. 192/2022 on Unfair Terms in Consumer Contracts introduces strict rules on limiting the trader's ability to invoke exoneration clauses. According to this law, any contractual clause that allows unilateral modification of obligations to the detriment of the consumer may be considered abusive and, therefore, legally void. In practice, this means that a trader cannot invoke a justifying impediment to avoid performance unless it is clearly demonstrated that the situation is genuinely unforeseeable and unavoidable [25].

Thus, both international and national regulations on the justifying impediment in consumer contracts reflect a clear trend toward protecting consumers against unilateral contract modifications and abusive liability exemptions by traders [26]. Nevertheless, in Moldova, the absence of clear provisions on the applicability of the justifying impediment in consumer relations creates legal uncertainty. Harmonizing national legislation with European standards could clarify these issues and ensure more effective consumer protection against commercial abuses [20].

4.4. Analysis of relevant case law regarding the justifying impediment in consumer contracts

In the Republic of Moldova, the application of the justifying impediment in consumer contracts has gained more attention recently, particularly in the context of the COVID-19 pandemic. An article published on JURIDICE MOLDOVA discussed how the declaration of a state of emergency may constitute a justifying impediment for the non-performance of contractual obligations. The author emphasized that, in the absence of a specific force majeure clause, parties may invoke general provisions of civil legislation to justify non-performance [27]. Furthermore, the Chamber of Commerce and Industry of the Republic of Moldova has developed a regulation for issuing certificates attesting to force majeure events. These certificates serve as evidence of a justifying impediment, thus facilitating the resolution of contractual disputes in court [12].

Although case law remains relatively limited, recent judgments illustrate a more structured approach to assessing justifying impediments. A relevant example can be found in the judgment of the Chișinău Court, Central Office, Case No. 2-6423/2020 (14 September 2020), where the court examined the effects of the COVID-19 pandemic on contractual performance. Although the case did not concern a commercial entity alone, its reasoning is directly applicable to consumer contracts. The court held that the pandemic qualifies as an unforeseeable and unavoidable event; however, exemption from liability is granted only where the debtor proves a direct causal link between the event and the impossibility of performance. The court also clarified that certificates issued by the Chamber of Commerce and Industry serve as supporting evidence but do not bind the court, which retains full discretion in assessing whether the conditions of a justifying impediment are met. This judgment illustrates how Moldovan courts apply the criteria of externality, unpredictability, and causality in practice, confirming the doctrinal view that not every economic difficulty constitutes a justifying impediment [28].

Internationally, courts have adopted diverse approaches to the application of the justifying impediment in consumer contracts. In French case law, courts have generally been reluctant to accept economic hardship as grounds for force majeure in consumer contracts. For an event to qualify as force majeure, it must be unforeseeable, unavoidable, and beyond the debtor's control. For example, In French case law, courts have consistently held that normal economic fluctuations do not constitute force majeure, as they fall within the ordinary risks of economic activity (Cour de cassation, chambre commerciale, 16 September 2014, no. 13-20.306). [29]. However, in the context of the COVID-19 pandemic, French courts acknowledged the pandemic as a force majeure event under certain conditions. In a notable case, the Paris Commercial Court ruled that the pandemic constituted force majeure, releasing a debtor from liability for non-performance, as the pandemic was unforeseeable and unavoidable at the time of contract conclusion.

Several practical cases have recognized the pandemic as a justifying impediment with significant implications. One example involves the European Union Directive (EU) 2015/2302 on package travel and linked travel arrangements, which provided that travelers may terminate contracts without penalty in the event of unavoidable and extraordinary circumstances. In Case C-83/22, RTG v. Tuk Tuk Travel SL, the CJEU addressed the right of travelers to cancel tour packages due to the pandemic, which was deemed such a circumstance [26]. Another practical example arose in Germany, where courts examined cases in which suppliers could not deliver goods on time due to pandemic-related restrictions. In one such case, the court recognized the pandemic as force majeure, exempting the supplier from liability for delay and emphasizing the unforeseeable and unavoidable nature of the event [14]. Several national courts across Europe have examined the legal consequences of the COVID-19 pandemic on contractual performance. While approaches differ, a common element is the strict assessment of causation and the exceptional nature of exemption from liability. In this context, courts have generally required proof that the pandemic directly rendered performance impossible, rather than merely more onerous.

4.5. Proposals for improving the legislative framework regarding the justifying impediment in consumer contracts

The legislative proposals presented in this subsection are original contributions of the author and result from the comparative analysis conducted in the previous sections. They aim to adapt the national regulatory framework to the specific vulnerabilities of consumers and to ensure a coherent application of the justifying impediment in practice.

To ensure fair and clear application of the justifying impediment in consumer contracts, several legislative measures are proposed. The first measure concerns the clarification of the definition and specific conditions of the justifying impediment. It is essential for national legislation to provide a clear definition of this concept and to specify the conditions under which it may be invoked. This would include clearly distinguishing it from force majeure and hardship, as well as setting criteria such as unpredictability, inevitability, and externality of the event [39]. Another important measure is the introduction of standardized clauses in consumer contracts. To avoid ambiguity and divergent interpretations, it is recommended that standardized clauses addressing the justifying impediment be incorporated into consumer contracts. These clauses should define the notification procedure, applicable timeframes, and evidentiary requirements regarding the existence of the impediment [17].

Lastly, ensuring consumer protection against abuse is crucial. Legislation should include mechanisms to protect consumers from unjustified attempts by traders to invoke the justifying impediment as a means to escape contractual obligations. Such mechanisms could involve penalties for abusive invocation of the impediment and the right of consumers to claim compensation for damages incurred.

5. Conclusions

In conclusion, the justifying impediment in consumer contracts represents a particularly important legal institution, playing a key role in maintaining contractual balance and safeguarding consumer interests. In the current context—marked by economic crises, pandemics, and climate change—this concept gains increased relevance, requiring a flexible and adaptive approach to contractual obligations.

The study has shown that the justifying impediment should not be viewed merely as an exception to the principle of the binding force of contracts, but rather as a mechanism for ensuring fairness and protecting the parties involved. In this sense, both national and international regulations—including the Civil Code of the Republic of Moldova and international conventions—provide a solid legal basis for the recognition and application of this concept.

The analysis also demonstrated that, amid market globalization and digital transformation, it is necessary to modernize legislation to reflect new economic and social realities. This would ensure adequate consumer protection and greater contractual stability. We conclude that to ensure effective application of the justifying impediment, it is essential for contracting parties to understand both their rights and obligations, and for legislators to implement reforms that facilitate rapid adaptation to economic and social changes. In this way, a balanced and resilient contractual framework can be created—one capable of responding to both present and future challenges.

REFERENCES

1. Directive 93/13/EEC on Unfair Terms in Consumer Contracts. Official Journal of the European Communities, L 95, 21 April 1993. [online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31993L0013 (visited 19.03.2025)
2. French Civil Code, Article 1218 (Force majeure). [online]. Available at: https://www.legifrance.gouv.fr (visited 19.03.2025)
3. Civil Code of the Republic of Moldova, No. 1107/2002. Official Gazette of the Republic of Moldova, No. 82-86/661. [online]. Available at: https://www.legis.md/cautare/getResults?doc_id=121029 (visited 19.03.2025)
4. Case Law of the Court of Justice of the European Union (CJEU). [online]. Available at: https://curia.europa.eu (visited 19.03.2025)
5. POP, L. Civil Law. Obligations. The General Legal Regime. 2nd ed. Bucharest: Universul Juridic. 2020, pp. 412-418. ISBN 978-606-39-0663-3.

6. STĂTESCU, C. and BÎRSAN, C. Civil Law. The General Theory of Obligations. Bucharest: Hamangiu. 2008, pp. 215-220 . ISBN 978-973-1836-51-6.
7. MALAURIE, P.; AYNÈS, L.; STOFFEL-MUNCK, Ph. Droit des obligations. 13th ed. Paris: LGDJ. 2024, p. 223. ISBN 978-2-275-14311-8.
8. DOGARU, I. and DRĂGHICI, V. P. Civil Law. General Theory of Obligations. 3rd ed. Bucharest: C.H. Beck. 2019, pp. 289-296 . ISBN 978-606-18-0832-8.
9. TROFIMOV, I. Civil Law. Civil Contracts. Chișinău: F.E.–P. Publishing House. 2004, pp.75-76. ISBN 978-9975-0-0000-0.
10. DANDARA, L. and REVENCO, V. Civil Law. Special Civil Contracts: Lecture Notes. Chișinău: Trade Co-operative University of Moldova (UCCM). 2019, pp.12-16. ISBN 978-9975-81-050-0.
11. CUZNEȚOV, A. The Evolution of Commercial Contracts (from the Medieval Period to the Present). Revista Națională de Drept. 201, No. 7, pp. 12–13. ISSN 1811-0770.
12. Chamber of Commerce and Industry of the Republic of Moldova. (2023). Certificate of Justifying Impediment. [online]. Available at: https://chamber.md/aviz-de-atestare-a-impedimentului-justificator (visited 19.03.2025)
13. CAZACU, O. Article 904 – Justification due to an impediment. [online]. 2020. Available at: https://animus.md/adnotari/904/ (visited 18.03.2025)
14. Gesetze im Internet – Bürgerliches Gesetzbuch (BGB), §313. German Civil Code – Adaptation of contracts. [online]. Available at: https://www.gesetze-im-internet.de/englisch_bgb/ (visited 18.03.2025)
15. European Central Bank. What is inflation? [online]. 2023. Available at: https://www.ecb.europa.eu (visited 19.03.2025)
16. KRUGMAN, P. The Return of Depression Economics and the Crisis of 2008. W.W. Norton & Company. 2009, p. 191. ISBN 978-0-393-07101-6.
17. STIGLITZ, J. Freefall: America, free markets, and the sinking of the world economy. W.W. Norton & Company. 2010, pp. 45–62, ISBN 978-0-393-07596-0.
18. European Banking Authority (EBA). (2016). Report on consumer protection in the eu mortgage market. [online]. Available at: https://www.eba.europa.eu (visited 19.03.2025)
19. GORDLEY, J. Foundations of private law: property, tort, contract, unjust enrichment. Oxford University Press. 2021, pp. 301–320, ISBN 978-0-19-885916-7.
20. Court of Justice of the European Union (CJEU), Case C-208/19. Judgment on economic hardship as a justifying impediment. [online]. Available at: https://curia.europa.eu (visited 19.03.2025)
21. European Central Bank. Economic Bulletin, Issue 4: Inflation dynamics and the impact on households. Frankfurt am Main: ECB. [online]. 2023. Available at: https://www.ecb.europa.eu (visited 19.03.2025)
22. United Nations Convention on contracts for the international sale of goods (CISG), Article 79. (1980). United Nations Commission on International Trade Law (UNCITRAL). [online]. Available at: https://uncitral.un.org/en/texts/salegoods/conventions/sale_of_goods (visited 19.03.2025)
23. Directive (EU) 2019/771 on the Sale of Goods. Official Journal of the European Union, L 136, 22 May 2019. [online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L0771 (visited 19.03.2025)
24. Law No. 105/2003 on Consumer Protection. Official Gazette of the Republic of Moldova, No. 176-181/746. [online]. Available at: https://www.legis.md/cautare/getResults?doc_id=118374 (visited 19.03.2025)
25. Law No. 192/2022 on Unfair Terms in Consumer Contracts. Official Gazette of the Republic of Moldova, No. 321-332/802. [online]. Available at: https://www.legis.md/cautare/getResults?doc_id=131245 (visited 19.03.2025)
26. Supreme Court of Justice of the Republic of Moldova. (2023). Decision on Justifying Impediment in Consumer Contracts During COVID-19. [online]. Available at: https://www.csj.md (visited 19.03.2025)
27. JURIDICE MOLDOVA. Declaration of the state of emergency vs. justifying impediment (Force Majeure). [online]. 2021. Available at: https://juridicemoldova.md/7474/declararea-starii-de-urgenta-vs-impedimentul-justificator-force-majore.html (visited 18.03.2025)
28. Judecătoria Chișinău, sediul Central. (2020). Hotărârea din 14 September 2020, dosar nr. 2-6423/2020. [online]. Available at: https://jc.instante.justice.md (visited 18.03.2025)
29. French Court of Cassation, Commercial Chamber, judgment of 16 September 2014, no. 13-20.306. Bulletin des arrêts de la Cour de cassation. [online]. Available at: https://www.courdecassation.fr/ (visited 18.03.2025)
30. Directive (EU) 2015/2302 on Package Travel and Linked Travel Arrangements. Official Journal of the European Union, L 326, 11 December 2015. [online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L2302 (visited 18.03.2025)

Rezumat

Acest articol examinează modul în care impedimentul justificator operează în contractele dintre profesionist și consumator pentru a menține echilibrul contractual atunci când executarea obligațiilor este perturbată. Analiza transpune criteriile de exonerare — exterioritatea, imprevizibilitatea și caracterul inevitabil/insurmontabil — în cerințe probatorii concrete: dovedirea legăturii cauzale dintre eveniment și obligația afectată, notificarea în timp util a cocontractantului și existența unor eforturi reale de limitare a prejudiciului.

Studiul evaluează, de asemenea, atestările emise de Camera de Comerț și Industrie (CCI) ca mijloace probatorii standardizate: utile pentru structurarea faptelor și reducerea incertitudinii, dar care nu pot substitui controlul judiciar. Prin delimitarea acestor evenimente exoneratoare de simplele dificultăți comerciale sau creșteri de preț, articolul propune o listă operațională de documente și pași practici pentru profesioniști. Scopul este de a permite o evaluare riguroasă a cererilor de exonerare, de a descuraja invocarea abuzivă a impedimentelor și de a susține o repartizare echitabilă a riscurilor între consumator și profesionist, cu protejarea echilibrului contractual.

Cuvinte-cheie: *impediment justificator; echilibru contractual; contracte consum; cauzalitate; notificare; probe; risc contractual*

Аннотация

В статье рассматривается функционирование оправдательного препятствия в договорах между профессионалом и потребителем как механизма сохранения договорного баланса при нарушении исполнения обязательств. Критерии освобождения от ответственности — внешность события, непредсказуемость и его неизбежность/непреодолимость — переводятся в конкретные доказательственные требования: установление причинно-следственной связи между событием и затронутым обязательством, своевременное уведомление контрагента и принятие реальных мер по минимизации последствий.

Также анализируются справки, выдаваемые Торгово-промышленной палатой (CCI), как стандартизированное доказательное средство: полезное для систематизации фактов и снижения неопределенности, но не заменяющее судебную оценку. Разграничивая такие освобождающие события от обычных коммерческих трудностей или повышения цен, статья предлагает практический чек-лист документов и действий для специалистов. Цель исследования — обеспечить строгую проверку заявлений об освобождении от ответственности, предотвратить злоупотребления и способствовать справедливому распределению рисков между потребителем и профессионалом при сохранении договорного баланса.

Ключевые слова: *оправдательное препятствие; договорный баланс; потребительские договоры; причинность; уведомление; доказательства; договорный риск*

Received 02.05.2025
Accepted 02.10.2025
Published 31.12.2025