

## THE EFFECTIVENESS OF THE OVER-INDEBTEDNESS LAW IN ADDRESSING THE VULNERABILITY OF ELDERLY CONSUMERS

### A EFICÁCIA DA LEI DO SUPERENDIVIDAMENTO FRENTE A VULNERABILIDADE DO CONSUMIDOR IDOSO

### LA EFICACIA DE LA LEY DE SOBREENDEUDAMIENTO FRENTE A LA VULNERABILIDAD DEL CONSUMIDOR ADULTO MAYOR



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#### ABSTRACT

This article analyzes the effectiveness of Law No. 14,181/2021, known as the over-indebtedness law, in relation to the vulnerability of elderly consumers. The study is based on the observation that the increase in credit supply and the expansion of consumer relations have contributed to the growth of indebtedness among the population, especially among older adults. In this context, it seeks to understand whether the mechanisms introduced by this legislation are capable of providing effective protection to this social group. In light of this, the study addresses the following question: Can Law No. 14,181/2021 truly protect elderly consumers? Therefore, the general objective of this research is to analyze the effectiveness of the Over-Indebtedness Law in relation to the vulnerability of elderly consumers, seeking to understand how the legal instruments provided by the legislation contribute to preventing and addressing situations of excessive indebtedness. As a specific objective, the study aims to reflect on how the judiciary can resolve disputes and protect elderly consumers. The methodology adopted consists of a bibliographic review based on the analysis of doctrine, legislation, and case law related to the topic. Regarding its objectives and methods, the research is classified as qualitative, descriptive, and explanatory. The results indicate that Law No. 14,181/2021 represents an important advancement in consumer protection by introducing mechanisms aimed at preventing over-indebtedness and preserving a minimum standard of living. By promoting responsible credit practices and financial reorganization, the legislation seeks to ensure greater balance in consumer relations. However, its effectiveness depends on the joint action of the judiciary, consumer protection agencies, and the implementation of public policies focused on financial education. It is concluded that the enactment of Law No. 14,181/2021 represents a significant advancement in the protection of Brazilian consumers.

**Keywords:** Over-Indebtedness. Elderly Consumer. Vulnerability. Law No. 14,181/2021. Consumer Law.

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## RESUMO

O presente artigo analisa a eficácia da Lei nº 14.181/2021, conhecida como lei do superendividamento, frente a vulnerabilidade do consumidor idoso. O estudo parte da constatação de que o aumento na oferta de crédito e ampliação das relações de consumo contribuíram para o crescimento do endividamento da população, principalmente entre os idosos. Nesse contexto busca-se compreender se os mecanismos introduzidos pela referida legislação são capazes de oferecer proteção efetiva a esse grupo social. Diante do exposto, o trabalho responde o seguinte questionamento: A lei nº 14.181/2021 pode realmente proteger o consumidor idoso? Sendo assim, a presente pesquisa tem como objetivo geral analisar a eficácia da Lei do Superendividamento frente à vulnerabilidade do consumidor idoso, buscando compreender de que maneira os instrumentos jurídicos previstos na legislação contribuem para prevenir e enfrentar situações de endividamento excessivo. E como objetivo específico tem-se: refletir como o poder judiciário poderá resolver as demandas e proteger o consumidor idoso. A metodologia adotada consiste em pesquisa bibliográfica baseada na análise da doutrina, legislação e jurisprudência relacionadas ao tema. Quanto aos objetivos ou meios, a pesquisa é classificada como qualitativa, descritiva e explicativa. Os resultados indicam que a Lei nº 14.181/2021 representa um avanço importante na proteção do consumidor ao introduzir mecanismos voltados à prevenção do superendividamento e à preservação do mínimo existencial. Ao introduzir mecanismos voltados à prevenção do superendividamento e à promoção do crédito responsável, a legislação busca garantir maior equilíbrio nas relações de consumo e possibilitar a reorganização financeira do consumidor. Entretanto sua efetividade depende da atuação conjunta do Poder Judiciário, dos órgãos de defesa do consumidor e da implementação de políticas públicas voltadas à educação financeira da população. Conclui-se que, diante dessa realidade, a promulgação da Lei 14.181/2021, representa importante avanço na proteção do consumidor brasileiro.

**Palavras-chave:** Superendividamento. Consumidor Idoso. Vulnerabilidade. Lei nº 14.181/2021. Direito do Consumidor.

## RESUMEN

El presente artículo analiza la eficacia de la Ley n.º 14.181/2021, conocida como la ley de sobreendeudamiento, frente a la vulnerabilidad del consumidor adulto mayor. El estudio parte de la constatación de que el aumento en la oferta de crédito y la ampliación de las relaciones de consumo han contribuido al crecimiento del endeudamiento de la población, especialmente entre las personas mayores. En este contexto, se busca comprender si los mecanismos introducidos por dicha legislación son capaces de ofrecer una protección efectiva a este grupo social. Ante lo expuesto, el trabajo responde a la siguiente pregunta: ¿Puede realmente la Ley n.º 14.181/2021 proteger al consumidor adulto mayor? Por lo tanto, el objetivo general de esta investigación es analizar la eficacia de la Ley de Sobreendeudamiento frente a la vulnerabilidad del consumidor adulto mayor, buscando comprender de qué manera los instrumentos jurídicos previstos en la legislación contribuyen a prevenir y enfrentar situaciones de endeudamiento excesivo. Como objetivo específico, se propone reflexionar sobre cómo el poder judicial puede resolver las demandas y proteger al consumidor adulto mayor. La metodología adoptada consiste en una investigación bibliográfica basada en el análisis de la doctrina, la legislación y la jurisprudencia relacionadas con el tema. En cuanto a sus objetivos y métodos, la investigación se clasifica como cualitativa, descriptiva y explicativa. Los resultados indican que la Ley n.º 14.181/2021 representa un avance importante en la protección del consumidor al introducir mecanismos orientados a la prevención del sobreendeudamiento y a la preservación de un mínimo vital. Al promover prácticas de crédito responsable y la reorganización financiera, la legislación busca garantizar un mayor equilibrio en las relaciones de consumo. Sin embargo, su efectividad depende de la actuación conjunta del poder judicial, los organismos de defensa



del consumidor y la implementación de políticas públicas orientadas a la educación financiera de la población. Se concluye que la promulgación de la Ley n.º 14.181/2021 representa un avance significativo en la protección del consumidor brasileño.

**Palabras clave:** Sobreendeudamiento. Consumidor Adulto Mayor. Vulnerabilidad. Ley n.º 14.181/2021. Derecho del Consumidor.

## 1 INTRODUCTION

In recent decades, consumer relations have undergone profound transformations due to the expansion of the financial market and the expansion of access to credit. The ease of obtaining loans, financing and other types of credit has become part of the daily lives of a large part of the population, allowing the acquisition of goods and services that were previously not within the immediate reach of many consumers. Although this scenario has contributed to boosting the economy and expanding access to consumption, it has also brought relevant consequences, among which the growth of the population's indebtedness stands out.

In this context, the phenomenon of over-indebtedness stands out, which can be understood as the situation in which the individual consumer, even acting in good faith, is unable to meet his financial obligations without compromising resources necessary for his own subsistence. More than a merely economic problem, over-indebtedness reveals a relevant social issue, as it can directly affect the dignity of the consumer and compromise their financial stability.

The expansion of access to credit, associated with the complexity of contracts and the intense offer of financial products, has contributed to the emergence of situations in which consumers assume obligations that are incompatible with their ability to pay. Often, the contracting of loans and financing occurs without a full understanding of the contractual conditions or the risks involved in financial operations.

Among the social groups most exposed to these situations, the elderly consumer stands out. The aging process of the Brazilian population has increased the presence of elderly people in consumer relations, especially in the credit market. However, factors such as the reduction in income after retirement, possible cognitive limitations and the difficulty in understanding complex contracts can intensify the vulnerability of this group in consumer relations.

In view of this reality, the Brazilian legal system has come to recognize the need for specific mechanisms aimed at preventing and treating over-indebtedness. In this scenario, the enactment of Law No. 14,181/2021, known as the Over-indebtedness Law, stands out, which promoted important changes in the Consumer Protection Code by introducing instruments aimed at preventing excessive indebtedness and enabling the consumer's financial reorganization.

This legislation also incorporated into the Brazilian legal system the concept of preservation of the existential minimum, ensuring that over-indebted consumers can reorganize their financial life without compromising essential resources for their subsistence.

Such a measure reveals the legislator's concern to reconcile consumer protection with the stability of economic relations.

In this sense, there is a need to analyze whether the mechanisms introduced by Law No. 14,181/2021 are capable of offering effective protection to elderly consumers, considering their condition of vulnerability in consumer relations. The investigation of this theme becomes especially relevant in view of the growth of situations of indebtedness among the elderly and the need to ensure decent living conditions for this social group.

In view of the above, the problematizing question of the research is: Can Law No. 14,181/2021 really protect the elderly consumer?

Thus, the present work has as its general objective to analyze the effectiveness of the Over-indebtedness Law in the face of the vulnerability of the elderly consumer, seeking to understand how the legal instruments provided for in the legislation contribute to prevent and face situations of excessive indebtedness. And the specific objective is to reflect on how the judiciary can resolve the demands and protect the elderly consumer.

To achieve these objectives, bibliographic and documentary research was carried out based on the analysis of legislation, specialized doctrine and jurisprudence related to the theme, in addition to the use of scientific articles and theses related to the theme of the work. As for objectives and means, the research is classified as qualitative, descriptive and explanatory in nature.

The hypothesis of this research is that Law No. 14,181/2021, by introducing mechanisms aimed at preventing over-indebtedness and promoting responsible credit, contributes significantly to the protection of elderly consumers, reducing their exposure to abusive practices in consumer relations, however its effectiveness still depends on the proper application by the bodies of the Judiciary, the performance of consumer protection agencies and the implementation of public education policies financial.

Based on this analysis, it is intended to identify the advances provided by Law No. 14,181/2021, as well as the challenges that still persist to ensure effective protection for the elderly consumer.

The research begins with the Introduction, which addresses a general context of the theme explained, also presents the justification, the problematizing question, the objectives, the methodology and the hypothesis of the work. The theoretical foundation of the present study is mainly based on the contributions of authors such as: TARTUCE, Flávio. **Manual de Direito do Consumidor**. Rio de Janeiro: Forense, 2023; MIRAGEM, Bruno. **Consumer Law Course**. São Paulo: RT, 2022; NUNES, Rizzatto. **Consumer Law Course**. São Paulo: Saraiva, 2021; BRAZIL. Law No. 14,181/2021. Available at:

[https://www.planalto.gov.br/ccivil\\_03/\\_ato2019-2022/2021/lei/l14181.htm](https://www.planalto.gov.br/ccivil_03/_ato2019-2022/2021/lei/l14181.htm). Accessed on February 24, 2026; MARQUES, Cláudia Lima. **Contracts in the Consumer Protection Code**. São Paulo: RT, 2016; BRAZIL. **Statute of the Elderly**. Law No. 10,741/2003. Available at: [https://www.planalto.gov.br/ccivil\\_03/leis/2003/l10.741.htm](https://www.planalto.gov.br/ccivil_03/leis/2003/l10.741.htm). Accessed February 24, 2026; BRAZIL; **Consumer Protection Code**. Law No. 8,078/1990. Available at: [https://www.planalto.gov.br/ccivil\\_03/leis/l8078compilado.htm](https://www.planalto.gov.br/ccivil_03/leis/l8078compilado.htm). Accessed on February 24, 2026 and BRAZIL. **Constitution of the Federative Republic of Brazil of 1988**. Available at: [https://www.planalto.gov.br/ccivil\\_03/constituicao/constituicao.htm](https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm). Accessed on February 24, 2026.

In view of the authors presented, the research explains about Over-indebtedness in Consumer Law, presenting the concept and reality. Then, the work explains about the consumer society and credit expansion, addressing how access to financial mechanisms contributed to the increase in the population's indebtedness and to the emergence of over-indebtedness situations. The phenomenon of over-indebtedness in the scope of consumer law is analyzed, highlighting its main concepts, characteristics and legal implications, dedicating itself to the verification of the vulnerability of the elderly consumer in consumer relations, emphasizing their conditions of hyper vulnerability and the factors that contribute to their greater exposure to abusive practices, especially in the credit market. Subsequently, Law No. 14,181/2021, known as the over-indebtedness law, is examined, focusing on the mechanisms introduced by it, such as responsible credit and the preservation of the existential minimum, as well as its application in the protection of elderly consumers. Finally, the work presents a critical analysis of the effectiveness of this legislation in the face of the vulnerability of this social group under study.

In view of the above, it is concluded that the over-indebtedness law represents an important advance in the protection of consumers, especially the elderly, by seeking to balance consumer relations and ensure minimum conditions of dignity, even though its effectiveness depends on the proper practical application and strengthening of public policies aimed at financial education.

## **2 OVER-INDEBTEDNESS IN CONSUMER LAW**

### **2.1 CONCEPT OF OVER-INDEBTEDNESS**

The phenomenon of over-indebtedness has come to occupy a prominent position in legal discussions related to consumer relations, especially in societies in which access to credit has become widely disseminated. The ease of contracting loans, financing and other financial instruments, although it represents an important mechanism for economic inclusion,

can also generate situations of excessive indebtedness when not accompanied by an adequate assessment of the consumer's financial capacity.

In this context, over-indebtedness can be understood as the situation in which the individual consumer, even acting in good faith, is unable to meet his financial obligations without compromising resources essential to his subsistence. As Marques (2016) explains, over-indebtedness consists of the "global impossibility of the individual consumer, in good faith, to pay his current and future debts without compromising the existential minimum necessary for a dignified life" (Marques, 2016, p. 302).

The same understanding is shared by Kirchner (2021, p. 137), who characterizes over-indebtedness as "the manifest, durable, and structural impossibility of the consumer in good faith to pay the set of his or her non-professional debts due and falling due".

According to Moraes (2020), over-indebtedness is the "pathology of credit", that is, the distortion of a mechanism originally intended for inclusion.

This definition shows that over-indebtedness is not limited to the simple default of a specific obligation. It is a structural situation in which the set of debts assumed by the consumer prevents the maintenance of a minimum balance between income and expenses, compromising their financial stability and, often, their own dignity.

According to Pagnozzi *et al* (2025):

Consumer over-indebtedness is today a latent and worrying reality in the Brazilian context. More than a reflection of individual financial lack of control, it expresses the contradiction of a model of society that, while stimulating consumption, imposes on people the solitary responsibility of dealing with the consequences of an aggressive and often opaque credit system. In this scenario, the need to rethink the role of the State, the market and the consumer himself emerges, in order to establish a balance between contractual freedom and the preservation of human dignity. (Pagnozzi *et al*, 2025)

In view of the above, over-indebtedness cannot be understood only as a matter of default or inability to pay, but as a structural problem that involves vulnerability, asymmetry of information and the absence of effective financial education and responsible credit policies. The over-indebted consumer is, above all, a victim of a system that encourages him to consume, but which rarely prepares him to manage the credit offered to him. (Pagnozzi *et al*, 2025)

In this sense, the doctrine highlights that over-indebtedness must be analyzed not only from an economic perspective, but also from a social and legal perspective. Miragem (2022) observes that the phenomenon is directly related to the transformations that have occurred

in the contemporary consumer society, marked by the expansion of credit and the growing complexity of contractual relationships established between consumers and suppliers.

In addition, over-indebtedness can generate consequences that go beyond the individual scope, affecting family organization and the consumer's own social inclusion. In many situations, the excessive commitment of income to the payment of debts makes it difficult to meet basic needs, such as food, housing and health.

In view of this reality, the need for legal mechanisms capable of preventing situations of excessive indebtedness and ensuring greater balance in consumer relations becomes evident.

## 2.2 CONSUMER SOCIETY AND CREDIT EXPANSION

The expansion of credit in recent decades is directly associated with the development of the so-called consumer society. The possibility of immediate acquisition of goods and services through financing or installments has become a central element in the functioning of the contemporary economy.

In this scenario, credit has started to play a fundamental role in making consumption viable, allowing consumers to have access to products and services even when they do not have sufficient financial resources at the time of purchase. However, the expansion of this dynamic has also brought new challenges to the legal system.

According to Nunes (2021), the structure of the contemporary consumer market tends to favor suppliers, who have greater technical and informational mastery over the products and services offered. The consumer, in turn, often finds it difficult to fully understand the contractual conditions, especially when it comes to complex financial transactions.

In this sense, the massive supply of credit, associated with marketing and advertising strategies, can encourage the contracting of loans and financing without an adequate assessment of the economic impacts of these decisions. In many cases, the consumer assumes financial commitments that are incompatible with his ability to pay.

This reality highlights the need for Consumer Law to act in order to establish protection mechanisms capable of reducing the existing asymmetry in market relations.

## 2.3 OVER-INDEBTEDNESS AND HUMAN DIGNITY

The discussion about over-indebtedness is also directly related to the principle of human dignity, which constitutes one of the foundations of the Brazilian legal system, as provided for in article 1, item III, of the Federal Constitution.

When consumers commit a large part of their income to paying off debts, their ability to meet basic needs can be severely affected. In these cases, the problem of indebtedness ceases to be just an economic issue and starts to represent a risk to the individual's own dignity.

In this sense, the doctrine highlights that the protection of over-indebted consumers must be guided by constitutional principles that ensure minimum conditions of dignified existence. As Miragem (2022) observes, the preservation of the existential minimum is an essential element to ensure that debt collection does not fully compromise the resources necessary for the consumer's survival.

Over-indebtedness, when it reaches the level of compromising the existential minimum of the individual, is not only an economic failure: it is a violation of human dignity, as it prevents the person from maintaining an existence consistent with the minimum standards of dignified living. (Pagnozzi *et al*, 2025)

Brazilian jurisprudence has also recognized the importance of this protection. The Superior Court of Justice has already highlighted that the interpretation of consumer protection rules must consider the vulnerability of the consumer and the constitutional principles that guide the legal system. In a relevant decision, the court stated that:

"the principle of private autonomy is not absolute, and must respect other principles of our legal system (social function of the contract, objective good faith), including one of the most important, which is the principle of the dignity of the human person, affirmed in article 1, III, of the Federal Constitution" (STJ – REsp 1.586.910/SP, 2017, p. 11)

Thus, the fight against over-indebtedness should be understood as part of a legal policy aimed at protecting the dignity of the consumer and promoting more balanced consumer relations.

### **3 THE VULNERABILITY OF THE ELDERLY CONSUMER IN CONSUMER RELATIONS**

#### **3.1 VULNERABILITY AS THE FOUNDATION OF CONSUMER LAW**

The recognition of consumer vulnerability is one of the fundamental pillars of the protection system established by the Consumer Protection Code. Consumer legislation is based on the understanding that, in consumer relations, the consumer is usually in a disadvantaged position in relation to the supplier, either due to economic power, or due to technical and informational mastery over the products and services offered in the market.

In this sense, article 4 of the Consumer Protection Code establishes that the national policy on consumer relations has as one of its principles the recognition of the vulnerability

of the consumer in the consumer market. Such recognition justifies the creation of rules aimed at balancing the relationship between consumers and suppliers.

As Nunes (2021) explains, consumer vulnerability stems from the very structure of contemporary consumer relations, in which suppliers have greater economic capacity and greater control over information related to the products and services offered. For the author:

"Vulnerability is the basis of the consumer protection system, as it highlights the need for State intervention to balance the relationship between consumer and supplier" (Nunes, 2021, p. 127).

Thus, consumer protection is not justified only by the existence of contractual conflicts, but by the structural inequality present in market relations.

### 3.2 THE HYPERVULNERABILITY OF THE ELDERLY CONSUMER

Although all consumers are considered vulnerable in consumer relations, certain groups have conditions that intensify this fragility. In these cases, the doctrine uses the concept of **hypervulnerability**, which refers to situations in which personal or social factors increase the vulnerability already recognized by the legal system.

Among the groups that fit this condition, the elderly consumer stands out. The aging of the Brazilian population has increased the participation of older people in consumer relations, especially in access to financial services and credit agreements.

However, the aging process can bring significant changes in people's economic and social lives, influencing their participation in the consumer market. The reduction in income after retirement, possible cognitive limitations and the difficulty in understanding complex contracts can increase the exposure of the elderly to abusive practices. Marques (2016) highlights that the hypervulnerability of the elderly consumer requires special attention from the legal system, since the particularities of this group can increase the risks of indebtedness and exploitation in consumer relations.

In this sense, the legal protection of elderly consumers must take into account their specific characteristics, ensuring mechanisms capable of preventing abusive practices and ensuring greater balance in contractual relations.

### 3.3 THE STATUTE OF THE ELDERLY AND PROTECTION IN CONSUMER RELATIONS

The protection of older people in Brazil was significantly strengthened with the enactment of the Statute of the Elderly (Law No. 10,741/2003). This legislation established a set of rules aimed at ensuring fundamental rights to people aged sixty and over, guaranteeing conditions of dignity, respect and participation in society.

The Statute of the Elderly recognizes that the aging of the population requires public policies and legal instruments capable of protecting this social group against situations of exclusion and vulnerability.

In the context of consumer relations, the Statute reinforces the need to guarantee special protection to the elderly, especially in the face of practices that may compromise their economic security. This protection becomes particularly relevant in the context of the expansion of the credit market, which has started to direct various types of loans and financing to the elderly public.

According to Miragem (2022), the protection of elderly consumers requires a systematic interpretation of legal rules, in order to ensure that consumer relations are guided by good faith, transparency, and contractual balance. Such understanding reinforces the need for preventive action of Consumer Law, especially in situations involving the granting of credit.

In addition, the Statute of the Elderly establishes important guidelines related to protection against abusive practices, especially those that may compromise the economic security of the elderly. In this context, situations in which elderly consumers are induced to contract financial services or products without full understanding of their conditions stand out, which can result in excessive impairment of their income.

Another relevant point concerns the priority given to the elderly in access to justice and state protection. The Statute ensures mechanisms that facilitate the defense of their rights, allowing greater effectiveness in legal protection in cases of abuse in consumer relations.

In this sense, the performance of consumer protection agencies, such as the Consumer Protection and Defense Programs (PROCONs), becomes essential to ensure the effectiveness of protective rules. These bodies play an important role in mediating conflicts, guiding consumers, and monitoring abusive practices in the market.

Thus, the Statute of the Elderly, combined with the Consumer Protection Code, constitutes an important instrument of legal protection, especially in a context marked by the growing supply of credit and the increase in over-indebtedness. The combination of these rules allows not only the repression of abusive practices, but also the promotion of policies aimed at the protection and inclusion of elderly consumers in consumer relations.

### 3.4 PAYROLL LOANS AND INDEBTEDNESS OF THE ELDERLY POPULATION

One of the factors that contributed to the increase in indebtedness among the elderly in Brazil was the expansion of payroll loans. This type of loan is characterized by the

automatic discount of installments directly from the consumer's payroll or social security benefit.

Although payroll loans have interest rates that are generally lower than other types of credit, its wide offer and ease of contracting can generate negative consequences when there is no adequate analysis of the consumer's ability to pay.

In many cases, the elderly consumer takes out successive payroll loans to pay off previous debts, creating a cycle of indebtedness that compromises a significant portion of their monthly income.

In this scenario, the over-indebtedness of the elderly consumer comes to represent not only an individual economic problem, but also a relevant social issue that requires the action of the legal system to ensure adequate protection for this group.

In addition, it is important to highlight that the vulnerability of elderly consumers in the context of payroll loans is also related to aggressive and sometimes non-transparent commercial practices, which make it difficult to fully understand the contractual conditions. Many of these contracts occur in environments marked by informational asymmetry, in which the consumer does not have sufficient elements to adequately assess the risks involved.

In this scenario, the absence of adequate financial education and public policies aimed at consumer guidance further aggravates the situation, contributing to the perpetuation of the debt cycle.

Thus, it is evident that confronting the over-indebtedness of elderly consumers requires not only normative intervention, but also preventive and educational action, capable of promoting greater awareness and autonomy in financial decisions, thus reinforcing the need for an effective and integrated application of consumer protection rules.

## **4 THE LAW OF OVER-INDEBTEDNESS AND ITS EFFECTIVENESS IN PROTECTING THE ELDERLY CONSUMER**

### **4.1 LAW NO. 14,181/2021 AND TACKLING OVER-INDEBTEDNESS**

In view of the growth of the indebtedness of the Brazilian population and the difficulties faced by consumers who are in a situation of personal insolvency, the Brazilian legislator began to discuss the need to create specific legal mechanisms aimed at the prevention and treatment of over-indebtedness. As a result of this legislative process, Law No. 14,181/2021, known as the Over-indebtedness Law, was enacted.

This legislation promoted important changes in the Consumer Protection Code, introducing instruments aimed at preventing excessive indebtedness and enabling the financial reorganization of the consumer. Among the objectives of the law are the promotion

of responsible credit, the expansion of transparency in contractual relations and the creation of debt renegotiation mechanisms.

According to Marques (2016), the legal recognition of over-indebtedness represents a significant advance in consumer protection, as it allows the problem to be faced more adequately by the legal system. For the author, the treatment of over-indebtedness should seek to reconcile the satisfaction of credits with the preservation of the consumer's dignity.

In this sense, Law No. 14,181/2021 establishes a set of measures aimed at preventing abusive practices in the granting of credit and ensuring greater protection for consumers in vulnerable situations.

In view of this, it is observed that the referred law represents not only a normative update, but a paradigm shift in the way the Brazilian legal system starts to deal with over-indebtedness. By recognizing the over-indebted consumer as a subject of specific protection, the legislation overcomes the traditional view that treated default only as a breach of contract, also considering it as a social phenomenon that requires state intervention.

Such a change is especially relevant when it comes to the elderly consumer, whose condition of hypervulnerability demands differentiated attention from the Law. The new legislation, by establishing guidelines aimed at the prevention of indebtedness and debt restructuring, creates instruments that can contribute significantly to the protection of this social group, especially in the face of recurrent practices of indiscriminate granting of credit.

In this way, the Over-indebtedness Law not only expands consumer protection mechanisms, but also reinforces the need for balance in consumer relations, by imposing stricter duties on credit providers. This normative advance shows the legislator's concern to promote greater contractual justice and ensure minimum conditions of dignity for consumers, especially those who are in a situation of greater economic and social fragility.

#### 4.2 THE PRINCIPLE OF RESPONSIBLE CREDIT

One of the most relevant aspects introduced by the Over-indebtedness Law is the strengthening of the principle of responsible credit. This principle establishes that financial institutions and other credit providers must carefully assess the economic capacity of the consumer before granting loans or financing.

The adoption of this principle seeks to avoid situations in which the consumer assumes financial obligations that are incompatible with his economic reality, helping to prevent situations of excessive indebtedness.

Miragem (2022) highlights that responsible credit is a fundamental element for the balance of consumer relations in the financial market. For the author, the granting of credit

should be associated with the analysis of the consumer's ability to pay and the provision of clear information about the contractual conditions.

In addition, the legislation reinforces the importance of transparency in credit relationships, requiring suppliers to present complete information on interest rates, charges, and consequences of default.

In this context, the implementation of the principle of responsible credit is essential for consumer protection, especially those who are in a situation of greater vulnerability, such as the elderly. The granting of credit without proper analysis of the consumer's ability to pay may constitute an abusive practice, as it directly contributes to the aggravation of over-indebtedness.

In view of the above, it is observed that the responsibility of credit providers is not limited to the provision of formal information, and it is necessary to ensure that such information is provided in a clear, adequate and understandable manner, considering the particularities of the consumer public. In the case of elderly consumers, this requirement becomes even more relevant, given the possible difficulties in understanding technical terms and complex contractual clauses.

In this case, the principle of responsible credit assumes a preventive role in the fight against over-indebtedness, by requiring a more cautious posture on the part of financial institutions. Its effective application contributes not only to the protection of the individual consumer, but also to the promotion of greater balance and justice in consumer relations, reducing the incidence of practices that may compromise the dignity and financial autonomy of consumers.

#### 4.3 THE EXISTENTIAL MINIMUM

Another central element introduced by Law No. 14,181/2021 is the protection of the so-called **existential minimum**. This concept refers to the set of resources necessary to ensure minimum conditions for dignified survival for the consumer.

The preservation of the existential minimum prevents debt collection from totally compromising the consumer's income, ensuring that he can continue to meet his basic needs.

In this sense, the doctrine highlights that the protection of the existential minimum represents a fundamental instrument to ensure that the treatment of over-indebtedness is compatible with the constitutional principles of human dignity and consumer protection.

As Tartuce (2023) observes, the recognition of the existential minimum reinforces the need for balance between the economic interests of creditors and the protection of consumer dignity.

It is clear that the preservation of the existential minimum should be understood as a legal limit to the action of creditors, preventing the satisfaction of financial obligations from occurring to the detriment of the basic conditions of survival of the consumer. Such an understanding reinforces the need to interpret consumerist norms in the light of constitutional principles, especially that of the dignity of the human person.

In the case of elderly consumers, the protection of the existential minimum takes on even greater relevance, since, in many cases, their income is composed exclusively of social security benefits, which makes any excessive commitment particularly burdensome. The significant retention of these amounts can directly compromise essential expenses, such as food, medicines, and housing.

In addition, the effectiveness of this principle requires active action by the Judiciary and consumer protection agencies, in order to ensure that debt renegotiation agreements and collection measures respect the limits necessary to preserve the dignity of the consumer. In this context, the existential minimum is not presented only as a theoretical concept, but as a practical instrument of social protection.

Therefore, it can be seen that the protection of the existential minimum is a central element in the policy to combat over-indebtedness, contributing to ensure not only the fulfillment of obligations, but also the maintenance of decent living conditions for consumers, especially those in situations of greater vulnerability.

#### 4.4 JURISPRUDENCE AND APPLICATION OF THE LAW

The practical application of the Over-indebtedness Law has been the subject of analysis by the Brazilian courts, which have recognized the need to interpret the consumer protection rules in the light of constitutional principles.

The Superior Court of Justice has already highlighted the importance of consumer protection in consumer relations, recognizing the need to interpret consumer rules in favor of the vulnerable party in the legal relationship.

In this sense, the following jurisprudential understanding stands out:

“... since in the checking account discounts are also entered from third parties, including a financial institution (credit union), which are on the margins of what was decided without isonomy, reaching only one creditor. In fact, it is not justified, in the absence of a legal provision, to establish a limitation only to loans involving the bank and its account holder, since, for consistency and isonomy, the same solution would have to be adopted for payments with post-dated checks, carnets, bills, among other well-known forms of loan and payment.” (STJ – REsp 1.586.910/SP, 2017, p.2.)

Decisions such as the one verified above demonstrate that the Judiciary has recognized the importance of legal mechanisms capable of preventing situations of over-indebtedness and ensuring adequate protection for consumers in vulnerable situations.

In this scenario, it is observed that the consolidation of a jurisprudence aimed at protecting over-indebted consumers plays a fundamental role in the effectiveness of Law No. 14,181/2021. The performance of the Judiciary, by interpreting consumer rules in the light of constitutional principles, contributes to the construction of more balanced solutions that are compatible with the social reality of consumers.

With regard to the elderly consumer, this action becomes even more relevant, since their condition of hypervulnerability requires a more sensitive analysis by the judges. The adoption of measures that consider the particularities of this group, such as the limitation of discounts on social security benefits and the facilitation of debt renegotiation, demonstrates the evolution of the jurisprudential understanding in order to promote greater justice in consumer relations.

Furthermore, it is verified that the effectiveness of the Over-indebtedness Law depends not only on the existence of legal provisions, but also on their interpretation and consistent application by the courts. The construction of solid precedents in line with the principles of human dignity and consumer protection contributes to the standardization of decisions and the strengthening of legal certainty.

Therefore, the joint action of the Judiciary, consumer protection agencies, and financial institutions is essential to achieve the objectives of Law No. 14,181/2021. Only through this integrated action will it be possible to ensure the effective protection of the consumer, especially the elderly, promoting more balanced consumer relations compatible with constitutional values.

## **5 FINAL CONSIDERATIONS**

The phenomenon of over-indebtedness has been consolidated as one of the main challenges of consumer relations in contemporary society. The expansion of the credit market and the growing complexity of financial operations have contributed to the increase in the population's indebtedness, highlighting the need for legal mechanisms capable of promoting greater balance in consumer relations.

Throughout the present work, it was possible to observe that over-indebtedness does not represent only an individual economic problem, but also a relevant social issue that can compromise the dignity of the consumer. In this context, vulnerability plays a central role in understanding the inequalities that exist in consumer relations.

The analysis carried out showed that the elderly consumer is in a situation of special fragility in the consumer market. Factors such as the reduction in income after retirement, the difficulty in understanding complex contracts, and the wide supply of payroll loans contribute to increasing the risks of excessive debt among older people.

In view of this reality, the enactment of Law No. 14,181/2021 represents an important advance in the protection of the Brazilian consumer. By introducing mechanisms aimed at preventing over-indebtedness and promoting responsible credit, the legislation seeks to ensure greater balance in consumer relations and enable the financial reorganization of the consumer.

The protection of the existential minimum is a fundamental element of this legislative policy, as it ensures that over-indebted consumers can reorganize their financial life without compromising resources essential to their subsistence.

However, although the Over-indebtedness Law represents a significant advance in the Brazilian legal system, its effectiveness depends on the joint action of the Judiciary, consumer protection agencies, and the implementation of public policies aimed at the financial education of the population.

Therefore, it is concluded that Law No. 14,181/2021 is a relevant instrument for the protection of elderly consumers in consumer relations, contributing to the promotion of more balanced relationships and to the effectiveness of the principles of human dignity and consumer protection.

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