THE RIGHT OF UNILATERAL TERMINATION. THE RIGHT OF WITHDRAWAL

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SUMMARY: 1. Terminology -2. Applicability - 3. Means of exercising. Additional prices. Supplementary prices - 4. Calculation of the period of termination/withdrawal. Expansion. Forfeiture. - 4.a. the 10 working days have become 14 calendar days – 4.b. the 90 days became 12 months. Extension of the termination/withdrawal period, or extension of the consumer information period?

Abstract: *This study aims at making a comparative analysis between the contents of Directive 1997/7 and Directive 2011/83, respectively, transposed in Romania. Directive 2011/83 has recently been implemented as part of the internal legislation, through the adoption of Government Emergency Ordinance no. 34/2014. The study only identifies a part of the modifications that occured following what can be called a 're-launch' of the right of withdrawal, recognized for consumers who enter distance or off-premises contracts.*

1. One of the most important aspects of the new consumer protection law (GEO 34/2014 on consumer rights in regards to contracts concluded with professionals) is, of course, the greatly 'right of withdrawal', which is discussed at a normative level through the retrieval and reconsolidation of the former 'right of termination' found in the previous GO 130/2000 on the protection of consumers in respect of distance contracts.

Before talking about its applicability, one obvious fact needs to be pointed out, namely, the fact that we are dealing with at least one terminological modification: the right recognized to consumers is, according to the current legislation, of withdrawal, and not of termination. This differentiating aspect is most likely to be found only in the Romanian transposition of Directive 97/7 on the protection of consumers in respect of distance contracts, and of Directive 2011/83 on consumer rights, as in both European regulations this right is discussed using of the same term – 'withdrawal', 'the right of withdrawal.' This is important because having a difference in terminology that is due to a difference in translation of a European regulation, may indicate the fact that between the concept of right of withdrawal, on one hand, and the right of termination, on the other, there are no fundamental differences, as we are talking of the same legal institution.

If, however, in relation to the contents of the European directives, the same concept is approached, at least formally, the particularity of the right of termination, as it appears in the consumer protection legislation, presents essential differences to the classic legal institution of termination recognized by the Romanian civil code (art. no.1276-1277). As we know, the particularity of unilateral termination clauses is that

they operate exclusively *ex nunc*, once they are in effect, the contract is considered terminated only in the future, without any influence on what happened in the past. One initial effect would be that the performance executed under a unilaterally terminated agreement, remain gained by the party who received it. In addition, it is also considered that the clause through which a contractor was given the right to unilaterally terminate the contract, must NOT be confused, regardless of the name it is found under, with the clause of rescission, the effect of which results in the termination of the contract, usually with an *ex tunc* effect. Unilateral termination or repudiation (art. 1545 New Romanian Civil Code) does not mean a withdrawal of consent *ab origine*, because the party that exercises it wants to cease execution of the contract only in the future.

I have mentioned all those non-characteristics of the institution of termination to make an easier differentiation between it and the concept with the same name, found in GO no.130/2000 (the previous law). If we take into account the method in which the right of termination is exercised, as it was regulated in the previous law, we will observe that its main effect was, on the contrary, the retroactive dissolution of the contract. Activating the right of termination, in the form guaranteed by the consumer protection law, **did not operate only in the future, but directly reached the consent, it made its way to the origin of the contract.** The consumer had the possibility to exercise this right regardless of the other party's performances, and in fact, this happened more often because, as a result of exercising this right, it was possible to refuse the product/service **already** delivered by the seller/provider.

GO 130/2000 on the protection of consumers in respect of distance contracts	**GEO 34/2014 on consumer rights in regards to contracts concluded with professionals**
Article 7 – (1) The consumer has the right to **unilaterally terminate** the distance contract within 10 working days, without penalty and without giving any reason.	**Article 9 The right of withdrawal** (1) Save where the exceptions provided for in Article 16 apply, the consumer shall have a period of 14 days **to withdraw** from a distance or off-premises contract, without giving any reason (…)

If we take into account the abovementioned aspects, one can reach the conclusion that the differences in terminology between GO 130/2000 and GEO 34/2014 are not exactly random. The use of the term "withdrawal" and not

"termination", emphasizes the fact that we are not dealing with the institution of termination, or that, at least, the effects of exercising the right recognized by the consumer protection are different, with aim towards the retroactive dissolution of the contract between parties, and not just in the future, a fact that brings it closer to the **institution of termination**, especially if we consider its link to the consent.

As you can see, the right regulated in the previous legislation under the name of 'right of termination' has the same effects as the right regulated by GEO no 34/2014; the different terminology is the means by which the legislator has seen fit to warn regarding some specific (and special) effects of this form of termination, compared to the unilateral termination regulated in the New Romanian Civil Code.

Concretely, we could consider that by exercising the right of withdrawal, a real dissolution of the distance contract occurs. The consumer has the possibility, even after the conclusion of the contract, to dissolve the entire agreement, a fact that presents itself as an exceptional situation to the rule of binding force and contractual symmetry, principles on the basis of which the irrevocability cannot be accepted in its unilateral form. For a more detailed explanation of the exceptional character of the withdrawal provisions, one can consider the fact that the decision of withdrawal is made (of terminating the contract) **after** the moment in which the acceptance of the offer has reached the recipient (within the 14 days AFTER the conclusion of the contract); this is prohibited by the imperative norms of Article 1199 New Romanian Civil Code, which attests that: "after this time, the issue of withdrawal is out of the question, much less that of revocation, because once the acceptance has been received, the contract is considered concluded and it is already governed by the binding force principle."[1]

2. The right of withdrawal is not only recognized for consumers in respect to distance contracts (including online) but also to those who conclude off-premises contract. There are only four situations that are limitedly prescribed by the law, and which fall within the sphere of off-premises contracts, and these are identified by article 2, point 8 of GEO 34/2014:

a) the contract is concluded in the simultaneous physical presence of both the professional and the consumer in a place that is not the commercial premises of the professional;

b) the contract is concluded as a result of an offer from the consumer under the same circumstances as mentioned in point a);

c) the contract is concluded in the professional's commercial premises or through other means of distance communication, immediately after the consumer was approached personally and individually, in a place that is not the commercial property

[1] Liviu Pop, Tratat Elementar de Drept Civil (2012).

of the professional, in the simultaneous physical presence of both him as well as the consumer;

d) the contract is signed during the course of an excursion organized by the professional with the purpose or effect of promoting and selling products or goods to the consumer;

Points a, b and d) clearly describe circumstances in which, without a doubt, we are not dealing with distance contracts, the texts expressly mentioning the physical and simultaneous presence of both parties (either expressly, or deduced from the text in point d)). As opposed to these paragraphs, point c) identifies a situation that is on the edge between distance contracting and the contracting in which the consent is made through the physical presence of the parties. The contract is concluded at a distance, but there were no means of distance communication, the approach being made in person, prior to the conclusion, thus implying the physical presence of the contracting parties. I highlighted the fact that distance communication was not exclusively used in order to emphasize the fact that this contract would not have been considered at a distance anyway, because it did not meet the defined conditions for this type of contract: "any contract concluded between the trader and the consumer under an organized distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded."

I will dwell exactly on the particularity described in point c), because it transcribes the legislator's preference, who, in order to avoid a conflicting interpretation, also regulated the situation in which the contract is concluded through means of distance communication after the moment in which the consumer has been approached personally and individually, in a place that is not the commercial property of the professional (the trader). Therefore the moments prior to concluding the contract, in which the parties (the consumer and the professional, respectively) address each other offers, have a relevance for the applicability of this provision, as well as for the recognition of the right of withdrawal.

This regulation, meant to end the interpretation of the previous legislation that left this circumstance uncovered, is beneficial first and foremost for the consumer, whose rights will no longer only be recognized in typical situations, such as online contracting, in which distance communication is used throughout the entire pre-contractual period (as it is mentioned in the above definition), meaning that it includes the period BEFORE the date that the law considers to be the conclusion date of the contract.

3.

GO 130/2000 on the protection of consumers in respect of distance contracts	**GEO 34/2014 on consumer rights in regards to contracts concluded with professionals**
Article 7 – (1) The consumer has the right to **unilaterally terminate** the distance contract within 10 working days, without penalty and without giving any reason. The **only charges** that may be made to the consumer because of the exercise of his right of withdrawal is the **direct cost of returning** the goods	**ARTICLE 9 The right of withdrawal** (1) Save where the exceptions provided for in Article 16 apply, the consumer shall have a period of 14 days **to withdraw** from a distance or off-premises contract, without giving any reason and without incurring any costs other than those provided for in **Article 13(3) and Article 14.**
	Article 13. (3) Notwithstanding paragraph (1), the trader shall not be required to reimburse the supplementary costs, if the consumer has **expressly opted for a type of delivery other** than the standard delivery offered by the trader.
	Article 14 (2) The consumer incurs only the **direct costs of returning the goods**, with the exception of the case in which the trader agrees to pay those costs or in which the trader has failed to inform the consumer that the consumer will be liable to pay these costs. (3) The consumer shall only be liable for any **diminished value of the goods resulting from the handling of the goods** other than what is necessary to establish the nature, characteristics and functioning of the goods. The **diminished value of the** goods should not discourage the consumer to exercise his right of withdrawal. The consumer shall in any event not be liable for diminished value of the goods where the trader has failed to provide notice of the right of withdrawal in accordance with point (h) of Article 6(1).

As one can observe from the above-mentioned definition, the right of termination, and withdrawal, respectively (in the current law) represents the possibility given to the consumer of withdrawing from a contract concluded at a distance, or off-premises, without motivating his decision. The final mention is important ('without motivating his decision') and emphasizes the fact that recognition does not only operate when the deficiencies of the goods are noticed, or any other lack of fulfillment of the trader/party's obligations, making it clear that we are not dealing with a termination, but with a contractual withdrawal, a withdrawal of consent – a

form of 'changing one's mind' regarding the contracting and all its elements – as I said, a true dissolution of the entire contract.

Regarding the right regulated in the previous law, in addition to not needing to provide a reason, the consumer's right to not have any penalties imposed upon him is recognized, and it is expressly provided that the only costs the consumer will be liable for are the "direct cost of returning the goods" – meaning the costs of transportation.

The provisions of the previous regulation had as an effect an elimination of the cases in which the right in question, although recognized by the law, was actually limited by the providers/traders to services/products purchased at a distance, by compensation clauses that would be applicable to the consumer who would exercise his right of termination. The clear mention in the text that there will not be any "other penalties" imposed upon the consumer, refers and was applicable expressly in those situations, which had become a frequent practice and that, without such a clear mention, would affect the correct application of the law's provision, implicitly the right of termination.

As opposed to the previous regulation, the text of GO 34/2014 uses a different expression, in the sense that those penalties are no longer expressly provided, only stating the fact that the consumer will not be liable for 'any costs other than those provided for in Article 13(3) and Article 14.'

The sphere of what these 'costs' mean is identified by reference to certain elements expressly not included in it, such as those provided in article 13, paragraph 3, and article 14, respectively. In other words, from the interpretation of the law's text, one can understand that, outside of the return costs (by other means of transport, other than the standard) and the diminished value of the goods as a result of their sending/receiving, other costs cannot be imposed to the consumer.

In one opinion, the wording used in the text of the new law and the lack of any disposition that expressly includes 'penalties', are clues of the fact that the new legislation in the field would allow compensation clauses to be imposed to the consumer if he exercises the right of withdrawal. However, between the concept of 'penalty' and 'additional cost' (meaning any other cots imposed in addition to the selling price) there are real semantic differences, as the penalties are not considered supplemental prices/costs, but means of constraint, methods of sanctioning the failure to execute the contract.

Given the correlation between the institution of penalties and that of contractual rescission, another reason for which the current law no longer mentions penalties, could be the fact that these (the penalties) correspond exclusively to the situation in which the contract is terminated as a result of the failure to fulfill some obligations, whereas the unilateral termination and withdrawal rights are not correlated with the incidence of a situation in which the other party fails to fulfill its obligations. The termination, as well as the possibility of withdrawal, is recognized regardless of the manner in which the other party fulfills its contractual obligation,

and it is understood that any consumer will be able to exercise this right, including in the case in which the other party fulfills its obligations completely, this being the most frequent situation. The effect is specific, as I've mentioned before, and extends to the origin of the contract, being equivalent to a withdrawal of consent.

Another difference between the previous legislation and the new one is the fact that the new law no longer considers diminished value costs as costs that CANNOT be imposed. Through an interpretation per a contrario, it is clear that these types of costs can be imposed to the consumer and it's important to note that the text does not refer to the costs of the diminished value owed by returning the product, but to the costs of diminished value resulting from product handling, an action that, without a doubt, is made not only upon return, but upon sending the product as well. In other words, if a product that was purchased online is subject to transportation and multiple handovers until the consumer receives it and, as a direct result of these actions, the product's sale value is diminished, the only person who will bear the price difference will be the consumer; although the handling obligation and its risks are borne, at least in principle, by the seller, until the date of receipt.

4. Calculation of the period of termination/withdrawal. Expansion. Forfeiture.

4.a The previous law provisioned 10 working days for exercising the right of termination. The modification incurred by the transposition of Directive 2011/83 indicate a term of 14 days without any mention regarding their type – working or calendar, and it is important to find out and see how this difference in the number of days is explained, and what effects it has on the calculations of the related periods.

A first certainty is the fact that, in certain situations, the 10 working days that the previous legislation mentioned, actually represented 14 calendar days. For example, if we consider the day of October 10th, 2014 as a starting day, the termination period would expire, according to the previous legislation, on the 23rd of the same month. Given this example, the termination period of 10 working days means, in actuality, 14 calendar days – if we take into consideration the starting date, October 10th, as well as the expiration date, October 23rd.

Since I noted earlier that the equivalence of the 10 working days in 14 calendar days does not have a general nature, it needs to be mentioned that there are situations in which those 10 working days are "translated" into only 12 calendar days; an example would be the case in which the calculation is made with a starting date on November 10th and an expiration date on November 21st, 2014.

The first aspect that can be noticed is that, without a doubt, in real-life application, these periods could be longer or shorter for certain consumers, with the possibility that the trader/service provider to intentionally inform or establish the contract conclusion date, or the date on which the product was received, the fist day

of the week, and not the last; this would have the purpose of allowing the consumer's right to expire after 12 calendar days, not 14.

There is another fact that needs to be taken into account: in addition to the non-working days at the end of each week (Saturday and Sunday) each state's legislation recognizes as non-working days, religious or national holidays that cannot be taken into account when establishing the period for the right of unilateral termination. Therefore, if in addition to those two Saturdays and two Sundays after the beginning of the withdrawal period, one or more national holidays occur, the number of working days can even exceed 14 calendar days. A concrete example is one in which the period calculated from the starting date of November 28th, until December 12th, 2014; this period, in addition to the two Saturdays and Sundays, also includes the date of December 1st (Romania's Great Union Day), which is also considered a non-working day. In this situation we are dealing with 15 calendar days, in which the consumer would have had the right to submit his withdrawal request.

If we take this aspect into account and we consider that, at least at an initial interpretation, the 14-day term that is mentioned in GEO 34/2014 in reality represents 14 calendar days, we could conclude that the purpose of this modification is to make the calculation rule **more uniform and independent of the incidence of days considered non-working in some Member States and working in others.**

Therefore, for an online store that sells products in both Romania, as well as Italy, for example, according to the new legislation, regardless of the date on which the calculation starts, and regardless of the number of national days recognized by only one of these two countries, the withdrawal period is the same and will expire within **14 days** from the contract's conclusion, or **from the date on which the product is received.**

The new legislation establishes a much wider variety of starting dates than the ones indicated above, according to article 9, paragraph (2), but what I truly wanted to emphasize is the fact that, in actuality, this modification does not regard the concrete number of days, this remaining somewhat the same, but a uniform interpretation as to what a withdrawal period is, regardless of the consumer's citizenship, the sellers location, or the incidence of several non-working days in certain periods of the year.

GO 130/2000	**GEO 34/2014**
The period of 10 days provided for exercising this right shall begin: a) in the case of goods, **from the day of receipt** by the consumer where the obligations laid down in Article 4 have been fulfilled;	Article 9. (2) Without prejudice to Article 10, the withdrawal period referred to in paragraph (1) shall **expire** in 14 days from: (a) in the case of service contracts, **the day of the conclusion of the contract**; (b) in the case of sales contracts, the day on which the consumer or a third party other

b) in the case of services, from the **day of conclusion of the contract** or from the **day on which the obligations laid down in Article 4 were fulfilled**, provided that this period does not exceed 90 days.	than the carrier and indicated by the consumer **acquires physical possession of the goods** or: (i) in the case of multiple goods ordered by the consumer in one order and delivered separately, the day on which the consumer or a third party other than the carrier and indicated by the consumer **acquires physical possession of the last good**; (ii) in the case of delivery of a good consisting of multiple lots or pieces, the day on which the consumer or a third party other than the carrier and indicated by the consumer **acquires physical possession of the last lot or piece**; (iii) in the case of contracts for **regular** delivery of goods during defined period of time, the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires physical possession of the **first good**; (c) in the case of contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium, **the day of the conclusion of the contract.** (3) the contracting parties shall perform their contractual obligations during the withdrawal period in accordance with this emergency ordinance.

4.b

Omission of information of the consumer	**Article 10. Omission of information of the consumer**
Article 7 (2) In the event in which the trader has **failed** to transmit to the consumer the information provided in Article 4, the term for the unilateral termination of the contract in **of 90 days** and it shall begin: a) for products, from the day of receipt by the consumer; b) for services, from the day of the conclusion of the contract. (3) If during the period of 90 days the information provided in Article 4 are provided to the consumer, the period of 10 working days for the unilateral withdrawal of the contract **shall begin from that moment.**	(1) If the trader has not provided the consumer with the information on the right of withdrawal as required by point (h) of Article 6(1), **the withdrawal period shall expire 12 months** from the end of the initial withdrawal period of 14 days. (2) If the trader has provided the consumer with the information provided for in paragraph (1) of this Article within 12 months from the day referred to in Article 9(2), the withdrawal period shall expire 14 days after the day upon which the consumer receives that information.

In order to calculate the period in which the right of termination could have been be exercised, the text from GEO 130/2000 indicated as a starting point, in Article 7, the day on which the products were received, in the case of product sale, and the date of the conclusion of the contract, in the case of services, respectively. As I mentioned in the previous point, the current legislation awards more importance to identifying as many instances of contracting with consumers as possible, other starting dates being established as well, according to the nature of the product/service and the type of contracting – Article 9 (2), as it can be seen in the above table.

But what is important to analyze in the context of these articles that have been subject to an obvious modification from GO 130/2000, is that **extension of the termination/withdrawal period** in the case of failure to inform the consumer, which, in it's initial form, was of 90 days and in GEO 34/2014 became 12 months.

In order to understand the changes and the effects of the new regulation, I considered it appropriate to relate to the provisions of the previous law, namely Article 7 paragraphs (2) and (3).

Paragraph 2 of Article 7 mentions a first exceptional situation from the 10-working-day rule of unilateral termination, the legislator establishing that, in the case **in which the seller or the provider omitted to inform the consumer in accordance with Article 4, the termination period was extended to 90 days**. As an **apparent** sanction for the trader, in the case in which he would fail to fulfill his obligations of information, the consumer would have benefitted of far more days than the 10 working days established as a rule. I emphasized "apparent" because, for a correct interpretation, we need to take into account not only the text of paragraph 2, but also the provisions of the entire normative act, as a whole; in this case the corroboration with the following paragraph (3) is relevant, where it is mentioned that, in the case in which the information occurs during the 90-day period, 'the 10 day period shall begin from that moment.'

In other words, the so-called penalty for late information was NOT applied in the case in which the seller/provider would have informed the consumer within the 90-day period following the contract's conclusion, because, as it is clearly mentioned in the text, in this situation, **the termination period is still 10 working days, and not 90**. Even if the seller fails to notify the consumer correctly, and only does so on day 89, for example, the termination period will be the same, 10 working days, calculated, it's true, from the moment of complete transmission of the information.

Moreover, and considering paragraph 2 from the interpretation of which we started, only the consumer who is not notified at all, or who is notified with a delay greater than 90 days, will benefit from the extension of the 90-day period, this second paragraph applying only in those situations that are not regulated through paragraph 3.

In other words, the 90-day period that the text was referring to was more of an advantage for the seller/provider, practically acting similar to an additional grace period awarded to him, in order to fulfill the obligation from Article 4, that of informing the consumer.

The only circumstances in which the consumer would have benefitted from an extension of the termination period, being the ones in which the seller failed to inform him at all, or informed him with a delay greater than 90 days.

Compared to the concrete situation, it is understood that the circumstance in which the seller does NOT inform the consumer at all, cannot be taken into consideration; it can be assumed that the second paragraph of Article 7 is applicable only in the situation in which the consumer is informed with a delay of more than 90 days. But this situation, although it would apparently create an advantage for the consumer, is also inequitable because, according to the rules established in paragraph (2), **the 90 days are calculated from the date on which the product is received**.

In other words, although the seller fulfills his own obligations with a delay of over 90 days, the consumer still does not benefit from the entire 90-day period in which he can exercise his right of termination; the reason is because the calculation

of this period considers a date that most likely occurred at the same time as the contracting date. For the sake of the explanation's relevance, we will consider the concrete case of a service provider who has a delay of information greater than 90 days, however, fulfilling his obligation on day 150, calculated from the date of the contract's conclusion.

Although we are dealing with a clear situation in which the consumer is at a disadvantage – the 90 days mentioned in paragraph (2), of which the consumer should have benefitted in a compensatory manner, in the event in which the obligation of information went unfulfilled for a period longer than 90 days – are purely theoretical, as in most cases the consumer cannot benefit from this so-called extension period. Considering the concrete case, as the one above, due to those 150 days that passed from the contract's signing date (which means the delay is greater than 90 days), from an initial interpretation, one can assume that that consumer is no longer even entitled to formulate a withdrawal request, because those 90 days have already expired, since they are calculated from the date of the conclusion of the contract, and not from the date of information.

Somewhat unjustified, in the worst case scenario – that in which not only there is a delay longer than 90 days, but a complete omission (if one can call it that) of the information – not only that it is not translated as a penalty to the trader, but also robs the consumer of the possibility to exercise his right of withdrawal.

One can argue that beyond the 90-day limit, there was actually no right of termination, regardless of the contractual behavior of the trader.

In another opinion, one could say that it is somewhat equitable to not award any additional benefit to the consumer, including, evidently, the benefit of exercising his right of termination after a period greater than 90 days, arguing that the contracting period is long enough, and the performance of the other party is consistent enough to consider the contract as being accepted by both parties. Still the right of termination shouldn't have been correlated with the existence, or non-existence of the trader's performance, as the purpose is the protection of the consumer, regardless of the fulfillment of any obligation by the other party. **Moreover, the text was also talking about a so-called extension of the termination/withdrawal period.**

So, in actuality, under the previous legislation, there was no penalty system against a trader that failed to fulfill his obligations and, on the contrary, there was a very clear provision that awarded him an additional benefit, namely, the right to present the information necessary for the contracting with a delay of 90 days compared to the conditions given in Article 4.

The new law

Compared with the text of the old law, it's obvious that we are dealing with at least one modification namely the extension of the 90-day period to 12 months, in

the case in which the trader fails to inform the consumer (in the new law, the term 'trader' is substituted with the term 'professional'). We will not be talking about an extension of the right of withdrawal in this case either, as the provisions of the new law have largely the same normative scheme that was under consideration for the right of termination.

What are the specific changes?

- the term. Similarly to Article 7, paragraph (2) and (3) from GO 130/2000, the provisions of paragraph (1) of Article 10 from GEO 34/2014 establish the conditions under which the right of withdrawal can be exercised in the event of failure to inform, or delayed information of the consumer. A withdrawal period that expires in 12 months, from the end of the initial period of 14 days, is provisioned.

Paragraph (2) of the same Article 10 regulates the situation in which the information is transmitted toward the consumer, but with a delay that cannot exceed 12 months. Because paragraph (2) refers to the particular case of omission to inform within a certain period, we will consider that, as in the previous law, paragraph (1) involves a larger, general, sphere of applicability, which excludes the situation presented in paragraph (2). In other words, in relation to the special text of paragraph (2), the only interpretation of paragraph (1) is that the text takes into account the situation of omission (the complete lack of information) or of a delay that is greater than 12 months.

The method of calculation of the applicable period, in the case of failure of information, is slightly modified from the previous situation.

The withdrawal period is considered to expire in 12 months from the end of the initial period of 14 days. For this first situation mentioned in paragraph (1) of Article 10, we will consider the concrete case of a transaction concluded on June 16th, 2013, for which the so-called withdrawal period would expire on June 30th, 2014 (June 16th + 14 days + 12 months). As previously shown, this paragraph is solely applicable in the situation in which the trader does not inform the consumer AT ALL, or he transmits the information with a delay greater than 12 months. Therefore, for a service transaction concluded on June 16th, 2013, the withdrawal period expires on June 30th, 2014, regardless of whether the consumer was informed with a (maximum) delay of 14 days over the 12 months, or NOT AT ALL.

So, compared to the previous legislation, that resulted in an absence of the right of termination in the cases in which the notification was delayed more than 90 days, in the current regulation, an additional 14 days are granted in which the consumer can exercise his right of withdrawal. In other words, even in the worst case of omission to inform the consumer, he still has the possibility to withdraw from the contract, but in a period that cannot be longer than14 days, if, of course, the actual

date of information is taken into account. Indeed, in the case in which there is a delay of only one day over the 12 months specified in paragraph (2), the consumer can benefit fully of those 14 days, but the withdrawal period becomes smaller, as the delay of the transmission becomes larger, even reaching a situation identical to the one provided in the previous legislation, in which the consumer no longer benefits of any right if the trader delays the information by more than 14 days over those 12 months.