



## **BANKING & FINANCE | Decision of the Court of Appeal of Porto: Invalidity of Consumer Credit Agreement and Abuse of Rights by the Consumer**

A decision by the Court of Appeal of Porto has recently been published regarding a lawsuit under which a consumer claimed for the invalidity of a loan agreement for the acquisition of a vehicle entered with a credit institution (such an agreement having still been executed under Decree-Law 359/91 of 21 September which was recently replaced by Decree-Law No. 133/2009, of 2 June). The consumer sustained his claim on a breach by the aforementioned credit institution of its information duties within the context of the negotiation and execution of the agreement.

The Court acknowledged that the agreement in question should be declared null and void. However, it upheld the argument, presented by the credit institution, that the consumer, having paid, for almost two years, several instalments under the relevant loan, would be acting on abuse of rights (“*abuso de direito*”) by arguing the invalidity of the loan agreement based on events occurred at the execution of the agreement, as the credit institution had a legitimate expectation that the clauses had been understood and accepted by the customer.

