

# Economic Implications of Law no. 77/2016 on the Housing Loans Market

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## Abstract

The current paper presents a quantitative assessment of the economic implications of Law no. 77/2016 on the giving in payment of immovable property for the discharge of obligations arising from loans, covering the reference period 13 May 2016 – 28 November 2023. Using official data from the National Agency for Cadastre and Real Estate Publicity, the Superior Council of Magistracy, the National Bank of Romania, and the Alternative Banking Dispute Resolution Centre, the study offers an empirical perspective on the law's actual impact on the mortgage market. The results indicate that *datio in solutum* remained a marginal phenomenon, affecting fewer than 9% of real estate-secured loans during the analysed period. Contrary to initial claims of systemic risk, Law no. 77/2016 functioned as a last-resort mechanism for distressed debtors without destabilizing the contractual lending framework. The study also identifies a post-2020 legislative tightening that significantly reduced access to this legal remedy. A critical weakness observed is the underutilisation of alternative dispute resolution mechanisms, prompting the authors to recommend greater emphasis on financial education and mediation. Overall, the findings support the view that Law no. 77/2016 has served a targeted, corrective function rather than a disruptive one, and its measured application may continue to contribute to a more balanced and socially responsive housing finance system in Romania.

## Keywords

*Datio in solutum*, mortgage discharge, Law no. 77/2016, housing finance, alternative dispute resolution.

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## Introduction

In the paper entitled *A Critical Analysis of the Evolution of Datio in Solutum Law in the Context of the National Housing Strategy 2022–2050*, published in 2024, one of the present article's authors, Orjan Mihnea-Tudor, together with co-author Stan Adelina, examined both from a legal and economic perspective the correlation between the provisions of Law no. 77/2016 on the giving in payment of immovable property for the discharge of obligations arising from loans (hereinafter referred to as “**Law no. 77/2016**”)<sup>1</sup> and the national housing policy, as reflected in the *National Housing Strategy 2022–2050*, an official document drafted by the Ministry of Development, Public Works and Administration.

Briefly, the two authors have concluded that:

- Law no. 77/2016, as revised by Law no. 52/2020, has shifted from borrower protection toward contractual rigidity, limiting its usefulness for those seeking mortgage release;

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<sup>1</sup> Entered into force on 13 May 2016 and amended on 16 May 2020 by Law no. 52/2020 for the Amendment and Completion of Law no. 77/2016 (“**Law no. 77/2016**”)

- Romania's National Housing Strategy 2022–2050 highlights persistent issues—overcrowding, weak rental markets, and housing shortages—that force many into long-term debt, particularly young urban families
- by passively deferring housing access to market mechanisms, the Romanian state risks institutionalizing long-term debt and abandoning its role as a social guarantor;
- re-extending *datio in solutum* to “First Home” National Programme loans could partially address this imbalance;
- ultimately, the ethical and social impact of mass mortgage lending must remain central to housing policy debates in Romania.

Building on the intention to expand the previously mentioned study, we, the authors of this paper, have gathered statistical data from official sources reflecting key aspects of the application of Law no. 77/2016 over the reference period 13 May 2016 – 28 November 2023. Our aim is to provide an objective, data-driven assessment of the law's impact on the national housing loans market.

In our view, academic inquiry into Law no. 77/2016 should go beyond theoretical discussions of its evolution and structure. Concrete, quantifiable evidence of the law's long-term effects is of significant practical value, both for the banking sector and for policymakers. Understanding these effects is essential to evaluating the law's actual influence on the housing loans market.

The timeliness and relevance of this topic are also supported by best practices in legislative processes and public policy-making, which require ongoing monitoring of a law's socio-economic impact after its entry into force. As such, this research may serve as a useful reference for Romanian decision-makers in 2025.

Moreover, please note that the findings of the present research may also be interpreted as a *late response* to the renowned group of theorists and practitioners who, in 2016, authored a monograph dedicated to this piece of legislation, entitled *The Datio in Solutum Law: Arguments and Solutions* – in Romanian: *Legea dării în plată: argumente și soluții* (Stoica, V. & others, 2016), even though our reply arrives approximately nine years later. Specifically, the authors of the aforementioned monograph—cited, alongside Ms. Stan A., in our 2024 publication – had drawn attention to the potential economic blockages to which, in their view, Law no. 77/2016 was *ab initio* vulnerable: primarily, the undermining of economic stability and predictability, the weakening of contractual commitments, the declining attractiveness of the Romanian credit market, and, equally, the deterioration of the legal and economic climate in which credit institutions operate in our country. It should be noted that these doctrinal concerns were officially endorsed by numerous representatives of the banking sector, including institutional actors, a point we elaborated upon in the aforementioned research published in 2024.

Now, with access to robust statistical data reflecting nearly a decade of the law's application, we are in a position to assess, objectively, impartially, and with mathematical-level methodological rigour, the extent to which the concerns expressed by the aforementioned authors have materialized into concrete realities of the credit market or whether, on the contrary, they have remained, for the most part, within the bounds of academic debate.

Thus, insofar as the correct interpretation of the statistical data presented in this study reveals that Law no. 77/2016 did not significantly disrupt the balance of the market under analysis—its impact tending rather to be marginal—we note, from this early stage of the paper, that this would allow for the validation of the opposing thesis advanced by another author (Buz, A.D., 2017), according to whom Law no. 77/2016 constituted a necessary regulatory instrument aimed at increasing the level of consumer protection within the credit market. In other words, more plainly stated, it would become possible to argue for the predominantly positive dimension of the law, in relation to the role it has played in shaping the credit market. For greater rigour, it should be noted that this author's viewpoint was not, from the early days of Law no. 77/2016, an isolated one; similar positions were expressed on multiple occasions, including in a scholarly article, by one of the key technical drafters involved in the original version of the law (Piperea, Ghe., 2016). Moreover, this point of view was also shared by the initiator of the legislative proposal that ultimately became Law no. 77/2016, an aspect clearly reflected in the explanatory memorandum accompanying the draft law.

## 1. Statistical Data on the Impact of Law no. 77/2016 During the Reference Period 13 May 2016 – 28 November 2023 on Housing-Related Borrowing

As a result of our verifications carried out with the support of the National Agency for Cadastre and Real Estate Publicity, we were able to identify the number of private real estate ownership rights registered in the land book on the basis of the provisions of Law no. 77/2016 at national level, during the period 13 May 2016 – 28 November 2023:

**Table no. 1. Number of Private Real Estate Ownership Rights Registered Under Law no. 77/2016, by Year (2016–2023)**

Year	Private real estate ownership rights registered in the land book on the basis of the provisions of Law no. 77/2016 at national level
2016 (i.e., 13.05.2016 – 31.12.2016)	1.962
2017	3.137
2018	3.686
2019	3.956
2020	4.021
2021	10.020
2022	12.469
2023 (i.e., 01.01.2023 – 28.11.2023)	10.186
<b>Total:</b>	<b>49.437</b>

Source: Reply Letter no. 57048/28.11.2023 issued by the National Agency for Cadastre and Real Estate Publicity

However, we draw attention to the potentially misleading nature of this table: the fact that a private real estate ownership right—transferred to the creditor following a *datio in solutum* initiated by the debtor—was registered in the land book in a given year does not necessarily mean that the property was offered in payment during that same year. It is possible that, due to the creditor deeming the debtor's notification non-compliant with legal requirements, a dispute arose between the parties, and the ensuing litigation may have taken a significant amount of time, with the final court ruling being issued in a later year than the one in which the property was initially offered in payment.

In this regard, we also recommend consulting the following judicial statistics, which were made available to us by the Superior Council of Magistracy for the period between 13 May 2016 and 24 November 2023:

**Tabel no. 2. Judicial Cases Related to Law no. 77/2016: Creditor Challenges and Debtor Requests for Debt Discharge (2016–2023)**

Year	Number of newly registered cases concerning creditor challenges against the debtor's <i>datio in solutum</i> notification	Number of newly registered cases concerning the debtor's request for acknowledgment of debt discharge
2016 (i.e., 13.05.2016 – 31.12.2016)	3.396	902
2017	3.329	800
2018	3.365	670
2019	3.281	495
2020	2.709	480
2021	2.287	506
2022	2.062	592
2023 (i.e., 01.01.2023 – 24.11.2023)	1.400	355
<b>Total:</b>	<b>21.829</b>	<b>4.800</b>

Source: Reply Letter no. 4/22106/24.11.2023 issued by the Superior Council of Magistracy

Given that, during the reference period 13 May 2016 – 24 November 2023, a total of 21,829 creditor challenges to debtor *datio in solutum* notifications were filed, and considering the well-established judicial practice whereby a significant amount of time—often well over a year—typically elapses between the initial filing of such a challenge and the delivery of a final court decision, our earlier conclusion regarding the interpretation of the statistical data provided by the National Agency for Cadastre and Real Estate Publicity becomes even more plausible.

Of particular relevance to the present study is the situation of loans secured by real estate (e.g., mortgages), granted to individual debtors by creditors supervised by the National Bank of Romania, as communicated to us by the latter for the reporting period 1 November 2016 – 30 September 2023.

**Tabel no. 3. Number of Real Estate-Secured Loans Granted to Individual Debtors by Creditors Supervised by the National Bank of Romania (2016–2023)**

Year	Number of loans secured by real estate granted to individual debtors by creditors supervised by the National Bank of Romania
2016 (i.e., 01.11.2016 – 31.12.2016)	85.639
2017	74.304
2018	68.076
2019	65.357
2020	64.603
2021	83.441
2022	73.284
2023 (i.e., 01.01.2023 – 30.09.2023)	38.032
<b>Total:</b>	<b>552.736</b>

*Source: Reply Letter no. XIV/5/194/18.01.2024 issued by the National Bank of Romania*

In the context of two largely overlapping reference periods—namely, 1 November 2016 to 30 September 2023 and 13 May 2016 to 28 November 2023—creditors subject to reporting obligations to the National Bank of Romania granted a total of 552,736 real estate-secured loans to individual debtors. Over the same period, only 49,437 transfers of real estate ownership were recorded under the application of Law no. 77/2016. This indicates that *datio in solutum*—as applied to immovable property acquired by individual debtors (i.e., typically *consumers*)—was a relatively limited phenomenon, representing approximately 8.95% of all such loans granted.

Consequently, the statistical data contradict the hypothesis advanced in the public space by institutional creditors and by their academic supporters, which suggested that the *datio in solutum* regime would broadly undermine the stability and continuity of contractual relations in the field of mortgage lending.

On the contrary, the figures confirm a different assessment: Law no. 77/2016 functioned as a last-resort mechanism for distressed debtors, not as a systematic erosion of the *pacta sunt servanda* principle. In simple terms, the overwhelming majority of these loans did not terminate through the debtor’s recourse to *datio in solutum*, but rather followed their contractual course—supporting the commonsense observation that most individuals who borrow to acquire a home do so with the hope of fully repaying the loan and keeping the property, not with the intention of eventually surrendering it to the creditor.

In addition to the observation regarding the relatively low frequency of *datio in solutum* transactions in relation to the total number of real estate-secured loans, it should be noted that lending activity in this segment was not significantly reduced during the reference period of 1 November 2016 to 30 September 2023. The arithmetic average of the annual values listed in the previous table is 69,092 loans, which compares to a peak of 85,639 loans in 2016 and a low of 38,032 in 2023 (i.e., for the partial period 1 January to 30 September 2023).

Any downward fluctuations in loan volumes over the period—such as the variation between 2021 and 2022—may be attributed to other significant factors unrelated to the *datio in solutum* mechanism, including the Covid-19 pandemic, the armed conflict in Romania’s proximity, the energy crisis, deteriorating

macroeconomic conditions (evidenced by rising inflation and policy interest rates), as well as the tightening of fiscal policy in 2023, which impacted the real estate market through multiple channels.

Within this broader context, while it can be argued that Law no. 77/2016 functioned as an economic sanction, in its nature, against undiligent, untimely, unfair or even unlawful practices by various actors on the real estate credit market, this sanctioning effect does not appear to have been particularly severe or systemically disruptive over the period from the law's entry into force through the end of 2023. In other words, the implementation of Law no. 77/2016 did not fundamentally undermine or compromise the process of requesting, approving, and contracting housing loans granted to consumers by financial institutions under the supervision of the National Bank of Romania.

On the contrary, starting in 2020—the year Law no. 77/2016 was amended by Law no. 52/2020—this segment of the lending market, which had been in decline from 2016 to 2020, experienced a visible revival, lasting until 2023. The significant decrease recorded in 2023 is more plausibly attributable to broader economic or geopolitical developments that bear little, if any, connection to Law no. 77/2016, especially considering that the law was not amended in 2023 and that its interpretation has not been modified in that year by either the Constitutional Court or the High Court of Cassation and Justice.

Also of interest is the evolution in the number of *datio in solutum* notifications accepted by creditors supervised by the National Bank of Romania during the reference period 1 December 2016 – 30 November 2023, as shown in the table below:

**Tabel no. 4. Annual Number of Datio in Solutum Notifications Accepted by Creditors and Corresponding Loan and Debt Values (1 December 2016 – 30 November 2023)**

Year	Number of notifications accepted by creditors	Amount granted under the loan agreement (RON)	Amount owed at the date of <i>datio in solutum</i> acceptance (RON)
2016 (i.e., 01.12.2016 – 31.12.2016)	52	10.339.001	8.604.538
2017	223	71.052.074	58.234.360
2018	104	30.192.607	26.649.008
2019	142	47.705.730	41.717.337
2020	303	105.199.221	86.767.360
2021	45	17.497.826	13.128.674
2022	8	3.267.574	2.486.014
2023 (i.e., 01.01.2023 – 30.11.2023)	25	9.697.529	5.618.354
<b>Total:</b>	<b>902</b>	<b>294.951.562</b>	<b>243.205.645</b>

*Source: Reply Letter no. XIV/5/194/18.01.2024 issued by the National Bank of Romania*

The sharp decline in accepted notifications after 2020 can be logically explained by the entry into force, in that year, of the revised *datio in solutum* mechanism. As detailed in the aforementioned study published in 2024, this new framework is significantly more restrictive and less accessible than the original version. The drop in the number of notifications after 2020 is therefore attributable to this legislative shift.

Apart from these findings, we must also express certain concerns regarding the evident lack of interest shown by both creditors and debtors in resolving disputes arising from *datio in solutum* notifications through alternative dispute resolution mechanisms rather than through the courts. This lack of engagement is clearly reflected when comparing the judicial statistics previously presented—provided by the Superior Council of Magistracy—with the statistical data supplied by the Alternative Banking Dispute Resolution Centre (ABDRC) for the reference period 13 May 2016 – 31 December 2023, which we present below:

**Tabel no. 5. Requests and Resolutions Related to Datio in Solutum Submitted to ABDRC Under Law no. 77/2016 (2016–2023)**

Year	Number of alternative dispute resolution requests submitted to ABDRC concerning notifications under Law no. 77/2016	Number of disputes (requests) successfully resolved by ABDRC
2016 (13.05.2016 – 31.12.2016)	0	0
2017	1	1
2018	8	2
2019	22	3
2020	20	10
2021	2	2
2022	4	3
2023	4	2
<b>Total:</b>	<b>61</b>	<b>23</b>

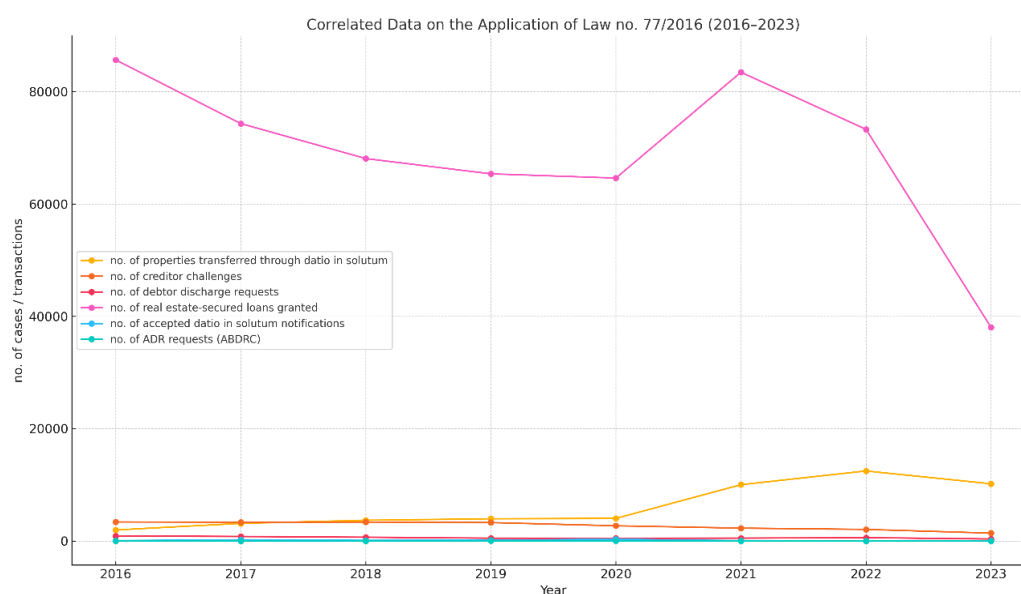
*Source: Response communicated by email by the ABDRC on 26.02.2024*

From our perspective, both the Romanian State and creditors should place greater emphasis on improving the financial literacy of debtors, encouraging them to make more frequent use of the services provided by ABDRC. This would help reduce the burden on the court system, which — as is widely acknowledged — is already overstretched with cases brought under various laws other than Law no. 77/2016.

At the same time, we assert that the reverse must also be considered: creditors, through their institutional policies, should show greater openness to settling disputes via the Centre's procedures.

This approach would help prevent both debtors and creditors from being penalized by incurring significant litigation costs and, from another perspective, would also protect the Judiciary — a public power not responsible for the circumstances under which debtors are no longer able to meet their loan obligations — from being *penalized* in turn by the influx of additional *datio in solutum* cases to adjudicate.

For the sake of clarity and synthesis, we will graphically illustrate the multitude of aspects highlighted by the data presented in Tables no. 1–5:



**Figure no. 1. Correlated Data on the Application of Law no. 77/2016 (2016–2023)**

*Source: Tables no. 1–5*



## Conclusions

This study set out to empirically assess the economic implications of Law no. 77/2016, using statistical data gathered from key national institutions over the period 13 May 2016 – 28 November 2023. The results allow us to draw several grounded conclusions:

a) Limited practical reach

Despite the initial concerns voiced by the financial sector and parts of academia, *datio in solutum* has proven to be a relatively rare phenomenon. With only 49,437 real estate ownership transfers recorded under Law no. 77/2016 out of 552,736 real estate-secured loans granted during the overlapping period, the mechanism was activated in less than 9% of cases.

b) Preservation of contractual stability

The findings challenge the assumption that Law no. 77/2016 would undermine the integrity of contractual lending relationships. On the contrary, the vast majority of housing loans followed their natural course, indicating that debtors generally aim to repay and retain their homes, not to surrender them through legal shortcuts.

c) Moderate impact on lending dynamics

Lending activity in the mortgage segment did not experience a systemic collapse. Variations in loan volumes over the years can be reasonably attributed to external macroeconomic shocks—such as the COVID-19 pandemic, geopolitical instability, and inflationary pressures—rather than to the operation of *datio in solutum*.

d) Post-2020 legislative shift

The steep decline in accepted notifications following 2020 correlates with the entry into force of the revised, more restrictive version of the law. This legislative tightening significantly limited access to the mechanism, especially in the absence of demonstrable hardship.

e) Underutilisation of alternative dispute resolution (ADR)

A notable weakness identified in the implementation of the law concerns the minimal recourse to ADR mechanisms such as the Alternative Banking Dispute Resolution Centre (ABDRC). With only 61 relevant cases submitted and 23 resolved successfully over a span of more than seven years, the ADR channel remains grossly underused by both debtors and creditors.

Thus, we recommend that both public authorities and creditors invest in improving financial education for consumers, while also encouraging ADR mechanisms to reduce litigation pressure on courts. Greater institutional openness to mediation could ease conflicts, lower costs, and support the broader social purpose of the law.

In sum, the evidence suggests that Law no. 77/2016 has not produced destabilizing effects on the housing loans market, but has instead served as a marginal, last-resort remedy for debtors in distress. Its continued refinement and responsible application could contribute meaningfully to a more equitable and balanced housing finance system in Romania.

f) Achievement of the intended purpose of the law

Considering, on the one hand, that the statistical data collected and presented do not reveal a general abuse by consumers of the provisions of Law no. 77/2016, and, on the other hand, that they also do not indicate a blockage in housing-related lending activity, our conclusion is that the law has followed the natural course for which it was conceived by the legislator. In essence, and in the vast majority of cases where its provisions have produced effects, the law has remained an instrument for safeguarding the vital interests of consumers facing economic hardship.

In other words, being generally used with moderation and reserved for exceptional situations of financial difficulty, we are able to argue, with supporting evidence, that Law no. 77/2016 has successfully fulfilled the purpose for which it was designed and adapted – namely, to provide an enhanced level of protection for consumer-debtors confronted with personal circumstances of patrimonial distress. Thus, as a general thesis also valid in case of Law no. 77/2016, as long as a law has produced the effect intended by the legislator at the time of its adoption, without generating adverse consequences detrimental to society, it may be stated,

in our view, that such a law – though possibly open to improvement – did not represent a legislative error, but rather, in essence, a legislative success.

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Bringing these conclusions together leads to a finding that is far from counterintuitive: the instinct of ownership is deeply embedded in the human mindset, such that relinquishing an already acquired property right is an *ultima ratio* for the vast majority of individuals when faced with delicate circumstances. We consider that this observation should remain a constant reference point in the Romanian legislator's strategy whenever it seeks to regulate matters related to private property rights or to adjacent fields. From a policy implication perspective, this should translate into the absence of fear on the part of the legislator that the majority of the rule's beneficiaries will invoke that rule (i.e., provision) superficially or in bad faith – at least as long as its application could entail negative consequences for their property rights.

Thus, what we strongly believe a wise and prudent legislator cannot overlook when enacting laws that touch upon the economic dimension of society—including in matters related to private property rights—is the psychological dimension inherent to the regulated context. The behaviour of the vast majority of individuals targeted by a new legal norm tends to be, in general, predictable. The law analysed in this research stands as a compelling argument in support of this assertion.

However, please be aware that, while this study provides a data-driven assessment of the economic implications of Law no. 77/2016 on the Romanian housing loans market, several limitations must be acknowledged. First, the analysis relies primarily on quantitative data obtained from national institutions, which, although official and relevant, may not capture the full complexity of the socio-economic dynamics involved, particularly in terms of individual debtor experiences or informal creditor practices (i.e., the statistical data cannot, with absolute certainty, capture all the scenarios that actually materialised during the reference period). Second, the temporal scope of the research (2016–2023) does not allow for prospective assessments of the law's future impact in evolving economic contexts. Third, the absence of a comparative international perspective limits the external validity of the findings, as similar legislative frameworks across EU member states were not systematically analyzed. Finally, the underrepresentation of qualitative insights (e.g., interviews with affected stakeholders or case-level judicial interpretations) constrains the study's ability to explore the normative and behavioural dimensions of the law's implementation.

These limitations suggest that future research would benefit from a mixed-methods approach and a broader comparative framework. Thus, we consider that a future analysis of Law no. 77/2016 through a comparative lens, examining its similarities and differences with analogous legislation in other Member States of the European Union or even in non-EU countries, could prove useful, provided that such a study maintains conceptual and methodological rigor. In particular, it should accord due reverence to the legal, economic, social, and even political differences between Romania and the states whose laws could become subject to comparative review. As a general indication, based on our current knowledge, most EU Member States do not have special laws granting consumers a general right to discharge their debt through the giving in payment of their immovable property, outside the contractual or insolvency framework. Legislation bearing some resemblance to Law no. 77/2016 can be identified in Spain (Royal Decree-Law no. 6/2012, Banking Code of Good Practices), while certain special statutory provisions capable of producing effects relatively similar to the Romanian law are also found in Italy (Law no. 119/2016) and Greece (Law no. 3869/2010). Moreover, particularly in light of the current fragility of the Romanian real estate market, we believe that future research could focus on complementary directions to the present study (for instance, the protection of promissory buyers in the event of the real estate developer's insolvency).

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