

**Question for written answer E-011448/2013  
to the Commission**

Rule 117

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Subject: Factors to be considered in implementing Directive 93/13/EEC

Pursuant to the case-law of the Court of Justice of the European Union – regarding implementation of Directive 93/13/EEC<sup>1</sup> – ‘an assessment of the legal situation of the consumer having regard to the means at his disposal, under national law, to prevent [continued] use of unfair terms, should [also] be carried out’.

In Hungary, in the case of long-term foreign currency loans secured by mortgages, the forint has depreciated and the cost of credit has risen, and this has led to a significant decrease in the value of property used as security<sup>2</sup>. In the Commission’s opinion, could this situation be construed as a factor making it significantly more difficult for consumers to be able to prevent the use of unfair contract terms such as unfavourable conditions imposed unilaterally on consumers<sup>3</sup>?

In the case of long-term foreign-currency mortgage loans, does the Commission consider it necessary to bear in mind the objective (also) recognised by the Court of Justice of the European Union, according to which the Consumer Rights Directive<sup>4</sup> as a whole should contribute to carrying out the tasks conferred on the EU, in particular that of improving the quality of life and standard of living throughout the EU?

On the basis of the case-law of the Court, it is necessary when establishing the unfair nature of a contract term to take all relevant circumstances into account<sup>5</sup>. Research conducted by the Hungarian National Bank (MNB)<sup>6</sup> indicates that the vast majority of people were not aware of basic financial terminology when taking out long-term foreign-currency mortgage loans. In the Commission’s view, should this be taken into account for the benefit of consumers (borrowers)?

The MNB study also indicates<sup>7</sup> that banks which exercised caution when issuing long-term foreign-currency loans managed to maintain steady profitability in spite of the fiscal burdens on banks and the payment difficulties associated with foreign-currency-based loans. In the Commission’s view, should this fact be taken into account for the benefit of borrowers?

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<sup>1</sup> Court of Justice of the European Union, C-415/11

<sup>2</sup> In many cases the current market price of property is lower than the borrowers’ debts

<sup>3</sup> It must also be borne in mind that access for borrowers to properly-trained defence lawyers is hampered primarily by financial difficulties

<sup>4</sup> Court of Justice of the European Union, C-92/11

<sup>5</sup> Court of Justice of the European Union, C-415/11

<sup>6</sup> Source : Hungarian National Bank, GFK, 2011

<sup>7</sup> Source: Hungarian National Bank, Pénziránytű (‘money compass’), GFK, 2011