



27.2.2013

## NOTICE TO MEMBERS

Subject: **Petition 1181/2012 by T.C. (Bulgarian), on proposals for improving the Commission communication on credit agreements relating to residential property**

### 1. Summary of petition

The petitioner refers to the proposal for a directive of the European Parliament and of the Council on credit agreements relating to residential property (COM (2011)142) and suggests introducing a phrase specifying that, where the borrower encounters financial difficulties and the bank concludes that the loan is not being paid regularly, and consequently seizes his or her property, the bank will no longer be entitled to demand further compensation. The petitioner explains that there have been cases in Bulgaria where the bank has sold mortgaged property for a sum far lower than the credit agreed and has then continued to demand that the borrower pay off the rest of the loan with interest. The petitioner believes that such practices result in citizens becoming slaves for life, and in many cases have caused such despair that people have taken their own lives.

### 2. Admissibility

Declared admissible on 14 January 2013. Information requested from Commission under Rule 202(6).

### 3. Commission reply, received on 27 February 2013

The petitioner asks the Commission to introduce in its proposal for a Directive on credit agreements relating to residential immovable property<sup>1</sup> a provision to help release consumers from the obligation to continue paying their mortgage credit where their house has already been repossessed by banks.

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<sup>1</sup> COM(2011)142

Different systems and laws are currently in force throughout the Union regarding debt settlement procedures. These procedures are dealt with at national level and remain within the jurisdiction of the national authorities concerned.

The Commission proposal for a Directive on credit agreements for consumers relating to residential immovable property adopted in March 2011 focuses on the pre-contractual phase and does not regulate the contractual relationship between the consumer and the bank once the agreement has been signed, or debt settlement procedures.

Aware of the difficulties encountered by European citizens in relation to repossession, the Commission has published together with its proposal for a Directive a Staff Working Paper on national measures and practices to avoid foreclosure procedures<sup>1</sup>, with the aim of drawing Member States' attention to the different mechanisms in place at national level.

The Economic and Monetary Affairs Committee of the European Parliament has proposed to introduce an amendment to the proposal for a Directive to ensure that rules are in place at national level to allow parties of a credit agreement to expressly agree that the return of the collateral is sufficient to repay the loan, where the borrower is in default (Article 18b – 'Arrears and Foreclosures').

The proposal for a Directive is currently negotiated in the Council and the European Parliament.

### Conclusion

Whilst the Commission understands the merit of the proposed amendment of the European Parliament, it can at the current stage of the inter-institutional negotiation on the proposed Directive neither prejudge the outcome of the latter, nor a fortiori what this will entail regarding foreclosures.

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<sup>1</sup> SEC(2011)357