

A new turn in foreign currency loan litigation: time does not always work in the banks' favor

For many, disputes concerning foreign currency-denominated loans may seem like a legacy issue of the past. However, a recent judgment of the Court of Justice of the European Union (CJEU) shows that the matter remains highly relevant. The central question in the present decision was when the limitation period begins to run within which a consumer may reclaim amounts paid under a contractual term later declared unfair by a final court judgment. The Court made it clear that this period cannot be calculated in such a way that the consumer is deemed to have lost the opportunity to enforce their rights from the very date of contract conclusion, at a time when they neither knew nor could reasonably have known that a particular contractual term might be unfair.

The case concerned a Hungarian mortgage loan agreement concluded in 2008 and denominated in Swiss francs. Under the contract, the exchange rate risk was borne entirely by the borrower, while repayments were to be made in Hungarian forints. The borrower later argued that they had not received adequate information regarding the exchange rate risk, and that this part of the contract was therefore unfair. The court of first instance, however, held that the claim was time-barred. In contrast, the CJEU has now made it clear that where the consumer was not in a position, at the time of concluding the contract, to recognize the unfair nature of the term, the limitation period cannot automatically commence from that date.

This approach extends beyond foreign currency loans. The ruling reinforces a broader principle of consumer protection: limitation periods must not be so strict as to effectively deprive the weaker party of their rights. The Court emphasized that consumers are typically in a weaker bargaining position, possess less information, and—particularly in the context of long-term credit agreements—cannot be expected to fully understand all risks at the moment of contract conclusion. It follows that the starting point of the limitation period cannot be determined in a purely mechanical manner that, in practice, tilts the balance in favor of banks or other service providers.

The Court also provided a clear answer on another important issue. The commencement or recommencement of the limitation period cannot be made dependent on when a national court of last instance ruled on a similar matter, nor on when the CJEU itself provided an interpretation of the relevant rule. The reason is straightforward: an average consumer cannot be expected to continuously monitor judicial decisions and independently infer from them whether a term in their own contract is unfair. This consideration is also significant from a business perspective, as it highlights that compliance with consumer protection requirements cannot be based on the assumption that customers will later inform themselves through case law.

For financial institutions, debt collection agencies, and other businesses relying on standard contractual terms, the ruling serves as a serious warning. Legal risk does not necessarily diminish over time merely because a contract is old. If the consumer was not genuinely in a position to recognize the infringement, courts are likely to approach the issue of limitation in a much more consumer-friendly manner. This may affect not only loan agreements but any business model based on complex or non-transparent terms where the adequacy of consumer information may later become subject to dispute.



KOVÁCS RÉTI SZEGHEŐ
ÜGYVÉDI IRODA

In practical terms, the decision may require businesses to place even greater emphasis on clear, demonstrable, and comprehensible pre-contractual information. It is not sufficient to provide information in a merely formal sense; it also matters whether the customer could actually understand the associated risks. From a business standpoint, this may necessitate improvements in documentation quality, a reconsideration of information processes, and a review of existing contract portfolios.