

Enforcement procedures may not be suspended in case of loans taken out abroad

Enforcement procedures directed at claims arising from consumer loan agreements in accordance with Act XXXVIII of 2014 on the Resolution of the Curia Concerning the Uniformity of Law Regarding Consumer Loan Agreements of Financial Institutions have been suspended until a date to be determined by a special law the drafting of which is currently in course – brought it to Origo’s attention the legal expert at Kovács Réti Szegheő Attorneys at Law.

Regarding the scope of loan agreements affected by the moratorium Dr Enikő Vida underlines that the statutory force applies unequivocally to consumer loan agreements i.e. to agreements concluded by financial institutions and consumers, concluded between 1st May 2004 and the date of entering into force of the law.

The act defines ‘financial institutions’ with reference to the Act on Credit Institutions and Financial Enterprises (CIFE), which determines financial institutions as credit institutions and financial enterprises.

A question of primary importance

The question arises whether the suspension of claim enforcement procedures will extend to the loans taken out from Hungarian banks only, or they will affect foreign bank loans as well.

In cases where the loan was provided by a foreign bank in Hungary through its branch office, or in the framework of so-called cross-border financial services, the ongoing enforcement of claims based on such agreements – similarly to the loans taken out from Hungarian banks – must be suspended, pointed out the legal expert of Kovács Réti Szegheő Attorneys at Law.

For instance, any such lending will be considered a cross-border service, where a bank with its registered seat in a foreign country grants a loan at a place other than the location of its seat, to a person residing in a country other than the country of the registered seat, place of business, head office, or headquarters of the lending institution.

These procedures will be pursued!

The aforementioned facts lead to the conclusion however, that enforcement procedures concerning loans borrowed abroad from foreign banks shall carry on.

In light of the above it is advisable to examine the claim under enforcement procedure with special attention to the type of the claim, the creditor, and the date from which the claim originates, as, in case of erroneously suspended procedures, the creditors are entitled to file an objection addressed to the court, which however, may be submitted to a bailiff as early as fifteen days from the date of the unlawful measures – warned Dr Enikő Vida.