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Judgment of the Court in Case C-598/21 | Všeobecná úverová banka

Unfair term in a consumer credit contract secured by the family home: the court must assess the proportionality between the seller or supplier's power to demand the whole of the loan and the seriousness of the consumer's non-compliance

In Slovakia, the bank Všeobecná úverová banka granted two customers consumer credit repayable over a period of 20 years. The customers pledged their family home as security. Due to a delay in payment of three months in the amount of approximately € 1,000, which occurred in the first year of the contract, the bank invoked an acceleration clause. That clause allows it to claim early repayment of the outstanding balance in full and to initiate the extrajudicial auction of the family home. The customers asked a Slovak court to suspend that auction, which, in their view, infringes their rights as consumers.

Slovak law allows for the triggering of such an acceleration clause if the borrower has a delay in payment of three months and the lender has complied with an additional notice period of 15 days. The courts are not obliged to review whether that clause is proportional to the seriousness of the breach of the consumer's obligations in the light of the amount and term of the credit. The Slovak court asks the Court of Justice whether such judicial review is compatible with EU law.

The Court replies that **judicial review of the possible unfairness of the clause must include a review of its proportionality**. It states that **the acceleration clause in question falls within the scope of the Unfair Terms Directive** ¹.

That review includes an examination of the extent of the consumer's failure to fulfil his or her contractual obligations, such as the amount of the instalments that have not been paid in relation to the total amount of the credit and the duration of the agreement. Moreover, **the court must take account of the consequences of the eviction of the borrower and his or her family from the dwelling constituting their principal residence**, the right to accommodation being a fundamental right. **If the court concludes that the clause is unfair, it must exclude its application.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, the abstract](#) of the judgment are published on the CURIA website on the day of

delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ Council [Directive 93/13/EEC](#) of 5 April 1993 on unfair terms in consumer contracts. While it is true that the contractual clause at issue incorporates provisions of Slovakian law, these do not appear to be mandatory. Only contractual clauses reflecting mandatory statutory or regulatory provisions justify the presumption that the national legislature has struck a balance between all the rights and obligations of the parties, and therefore excluding them from the scope of the Directive.