

Communication concerning the decision of the Curia of Hungary
in civil case n° Pfv.I.21.156/2015

The plaintiff and his co-debtor who was not party to the proceedings concluded a “foreign exchange mortgage loan contract” acknowledged by a notarial act with a bank that was the defendant’s legal predecessor and was not party to the proceedings. According to the terms of their contract, the amount of the loan was denominated in the domestic currency, while the bank “kept a record” of the loan in a foreign currency. The contract also stipulated that the amount of the monthly repayment instalments were to be determined by the bank in the domestic currency based on the selling rate applied by the same financial institution on the day preceding the due date for reimbursement.

Proceeding upon a petition for judicial review, the Curia pointed out that the parties to a foreign exchange loan contract should denominate the amount of the loan in a foreign currency, while the loan should be paid in the domestic currency. In the present case, the above contractual scheme had, however, not been duly applied, since the contractual parties had not denominated the amount of the loan in a foreign currency and the foreign currency equivalent of the amount of the loan could not be calculated on the basis of the loan contract. As a result, the loan contract had failed to determine the amount of the repayment instalments, nor could they be calculated by the terms of the loan contract. Consequently, the Curia found it justified to terminate the enforcement proceedings in respect of the unpaid part of the foreign exchange loan, because the loan contract, as opposed to the enforcement clause, denominated the amount of the loan in the domestic currency.

Budapest, the 8th of January 2016

Civil Department of the Curia of Hungary