



ess and Information

Court of Justice of the European Union

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Judgment in Case C-66/19
JC v Kreissparkasse Saarlouis

Consumer credit agreements must specify clearly and concisely how the withdrawal period is to be calculated

It is not sufficient for an agreement to refer, with respect to mandatory information the communication of which to the consumer determines when the withdrawal period starts to run, to a provision of national law that itself refers to other provisions of national law

In 2012 a consumer concluded with a credit institution, the Kreissparkasse Saarlouis, a credit agreement secured by mortgages for a sum of €100 000, at an annual borrowing rate of 3.61% fixed until 30 November 2021.

The credit agreement provides that the borrower has a period of 14 days to withdraw, that period running from the date of conclusion of the agreement but not starting to run until the borrower has received all the mandatory information referred to in a certain provision of the German Civil Code. The agreement does not include that information, though the communication of that information to the consumer determines when the withdrawal period starts to run. The agreement merely refers to a provision of German law that itself refers to other provisions of German law.

In early 2016 the consumer informed the Kreissparkasse that he was withdrawing from the agreement. The Kreissparkasse considered that it had properly informed the consumer of his right to withdraw and that the period for doing so had already expired.

The Landgericht Saarbrücken (the Regional Court of Saarbrücken, Germany), before whom an action was brought by the consumer, is doubtful whether he was correctly informed of the period in which he could exercise his right to withdraw. That court therefore requested from the Court of Justice a preliminary ruling on the interpretation of the directive concerning consumer credit agreements.¹

The Landgericht Saarbrücken appreciates that that directive provides that it does not apply to credit agreements secured by a mortgage, such as that in the main proceedings. However, since the German legislature decided that the rules laid down by the directive should also be applicable to such agreements, the Landgericht Saarbrücken considers that an answer from the Court is necessary for the resolution of the dispute. The Court finds that the reference is legitimate in order to ensure a uniform interpretation of the German legislation.

By today's judgment, **the Court holds that** the directive, the objective of which is to ensure consumers a high level of protection, must be interpreted as meaning that **credit agreements for consumers must include clear and concise information on how the period for withdrawal is to be calculated**. The effectiveness of the right to withdraw² would otherwise be seriously undermined.

¹ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ 2008 L 133, p. 66, and corrigenda OJ 2009 L 207, p. 14, OJ 2010 L 199, p. 40, OJ 2011 L 234, p. 46 and OJ 2015 L 36, p. 15). (1)

² Under the directive, if the consumer exercises his right of withdrawal, he is to pay to the creditor the capital and the interest accrued thereon from the date when the credit was drawn down until the date the capital is repaid, without any undue delay and no later than 30 calendar days après after the despatch by him to the

Further, the directive precludes a credit agreement referring, with respect to mandatory information the communication of which to the consumer determines when the withdrawal period begins to run, to a provision of national law that itself refers to other provisions of the law of the Member state concerned.

Where such a series of references occurs, the consumer cannot determine, on the basis of the agreement, the extent of his or her contractual obligations, or check whether all the required information is included in the contract that he or she has entered into, or, a fortiori, determine whether the period open for withdrawal has started to run.

In this case, the Court holds that the reference in the agreement at issue to provisions of German law does not comply with the requirement that the consumer should be made aware, in a clear and concise manner, of the period within which the right to withdraw can be exercised and of the other conditions governing its exercise.

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 a European Union 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.

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creditor of notification of the withdrawal. The interest is to be calculated on the base of the agreed borrowing rate. The creditor is not entitled to pay other compensation from the consumer in the event of withdrawal, except compensation for any non-returnable charges paid by the creditor to any public administration body.