

**Case law****Case Details**

**National ID:** 33 Cdo 1201/2012

**Member State:** Czechia

**Common Name:** link

**Decision type:** Supreme court decision

**Decision date:** 20/06/2013

**Court:** Supreme Court of the Czech Republic

**Subject:**

**Plaintiff:** J. F.

**Defendant:** T&C DOMOV s. r. o.

**Keywords:** consumer debt, financial services, judicial review

**Directive Articles**

Unfair Contract Terms Directive, [link](#) Unfair Contract Terms Directive, [Article 6, 1.](#)

**Headnote**

In case of a consumer loan agreement, it is not possible to judge the rights and obligations of this contract separately from the security instruments (the agreement on payroll deductions, penalties and promissory note). The reinsurance of a consumer loan agreement is subject to the consumer protection regime in accordance with § 56 par. 1 Civil Code (former Civil Code, now § 1813 of the Civil Code) discipline and the Directive 93/13/ECC. The courts are required to assess the invalidity of the arbitration clause even if the consumer has not asserted the invalidity of the arbitration clause during the arbitration proceedings, but only in the proceeding on revocation of the arbitral award.

**Facts**

The plaintiff loaned money from the defendant. The loan was secured by the promissory note. When the plaintiff failed to comply with his duties to pay back instalments, the defendant filled in the promissory note and enforced its claim before an arbitrator, as this type of conflict solution was agreed in the loan agreement and its terms and conditions.

As the plaintiff did not provide any statement to the arbitration action, the arbitrator granted to the defendant the whole amount mentioned in the promissory note, which, in accordance with the loan agreement and the terms and conditions, consisted of the outstanding balance of the outstanding loan, the interest of the loan, the loan arrangement fee, the enforcement costs and a contractual fine.

The plaintiff then submitted to the court an action for annulment of the arbitral award. This Action was dismissed by regional court. This decision was subsequently confirmed by the High court in the appeal procedure. The plaintiff then appealed to the Supreme Court.

**Legal issue**

In the case of a consumer loan agreement, it is not possible to judge the rights and obligations of this contract separately from the security instruments (the agreement on payroll deductions, penalties and promissory note).

The courts are required to assess the invalidity of the arbitration clause, even if the consumer has not asserted the invalidity of the arbitration clause during the arbitration proceedings, but only in the proceeding on revocation of the arbitral award.

**Decision**

Can an arbitration clause bypass the protection provided to consumers in a consumer dispute?

URL: [http://www.nsoud.cz/Judikatura/judikatura\\_ns.nsf/WebSearch/B4D2A21F68AD3C6FC1257BB10026B59A?openDocument&Highlight=0](http://www.nsoud.cz/Judikatura/judikatura_ns.nsf/WebSearch/B4D2A21F68AD3C6FC1257BB10026B59A?openDocument&Highlight=0),

Full text: [Full text](#)

**Related Cases**

No results available

**Legal Literature**

No results available

**Result**

The court repealed the decision of the High court and returned the case to the Regional court for further proceedings.