

Czech Republic: Strengthening the position of a debtor in the Consumer Credit Act

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During this summer, an amendment to the Consumer Credit Act came into effect. This new legislation introduces several major innovations, and is interesting for consumers, because it quite dramatically strengthens their position, and, on the contrary, it is in many ways critical for lenders.

According to the new regulation, lenders will be allowed to grant credits only to those who will be able to repay them properly; lenders will thus have to review the borrowers' financial standing. A lender's failure to do so will render the loan agreement null and void, the borrower will not be obliged to pay any interest, and will receive back any interest he has paid so far. The lender will only be entitled to the principal amount, which can be repaid by the borrower according to his ability.

Another novelty is that disputes arising from consumer credit contracts may be resolved by courts only. They may no longer be dealt with by arbitrators, since dispute resolution in arbitration proceedings often brought doubts on its objectivity in the past.

The amendment also addresses the early repayment of a debt. If the debt is repaid earlier, the lender will only be entitled to costs purposefully and objectively incurred by it in connection with such early repayment. As concerns housing loans, early repayment will be entirely free of charge if the borrower gets into a difficult situation, such as a long-term illness, etc.

If a borrower defaults on his instalments, the lender will only be allowed to charge fines and penalties of up to 50% of the credit amount, but only up to 200,000 CZK.

Changes affect mortgage loans, too. In addition to the possibility of repaying the loan early, as mentioned above, the amendment gives the possibility to repay up to one quarter of the mortgage loan at no charge one month before each anniversary of the mortgage loan contract. Banks used to charge high fees for such early repayment. When selling real estate, people will also be able to pay off the mortgage loan at once if certain conditions are met.

The new regulation also significantly increases the requirements imposed on non-bank entities doing business in the loans/credits area. So far, this business was a trade, and could have been carried out by almost anyone. But the Act now sets an obligation to have a registered capital of at least 20 million CZK. Companies providing credits will be inspected by the Czech National Bank instead of the Czech Trade Inspection, as was previously the case. If it is found that the entity provides credits illegally, it will face a fine of up to 20 million CZK.

In addition to the significant improvement of the debtors' position, the new amendment may also bring some negatives. For example, experts warn that such an amendment will radically reduce the offer of credits, and largely eliminate competition. People who cannot obtain a loan will likely seek financing outside the regulated market.

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