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Mišćenić, Emilia, Silvija Petrić. 2020. *Nepoštenost valutne klauzule u CHF i HRK/CHF kreditima (Unfairness of Currency Clause in CHF and HRK/CHF Loans)*. **Zagreb: Narodne novine, 388.**

This is an excellent book that provides a brilliant and well-researched study of the consumer credit clauses stipulated in Swiss Francs (CHF). The authors are two well established experts in the field, Emilia Mišćenić and Silvija Petrić, who must be highly congratulated for their thought-provoking, scholarly and comprehensive work, as they have succeeded in contributing in-depth research on this very intriguing topic and have managed to publish an exceptionally well written and critical study. The book raises several essential consumer law questions in relation to the highly problematic field of consumer credit agreements. The adequate and efficient regulation of consumer credit contracts seems to be one of the greatest challenges posed to the consumer law and policy. One must not forget that the recent global financial crisis of 2008 was partially caused by consumers entering into credit agreements that they could not repay. Still, even after the end of the financial crisis, the regulation of consumer credits has remained highly problematic despite some attempts to improve the regulatory landscape.

This issue became obvious some years later, as soon as the first new major problem occurred, the dramatic surge of the Swiss franc. In January 2015 the Swiss National Bank changed the foreign exchange rate of the Swiss franc (CHF) against the Euro and American dollar – something that was completely unexpected. As a result, the Swiss franc rallied a massive 30% versus the Euro and 25% against the US dollar. Although one might

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think that the introduction of this change is something that would have little to no effect on European consumers, unfortunately the truth was different as many consumers had concluded their credit agreements in CHF.

Consequently, this decision of the Swiss National Bank led to substantial repayment troubles for households with outstanding CHF-linked debt. Numerous consumers committed to these types of loans, as they had initially been advertised by some bankers as offering “very favourable rate to the consumers”. This was the case in particular with consumers coming from Southern and Eastern Europe: both in countries which are EU Member States (e.g. Croatia, Hungary, Poland) and those that are not (e.g. Serbia, North Macedonia). For example, only in Poland, it is estimated that around half a million consumers were affected by this sudden surge in the CHF exchange rate.

Depending on the country, consumers have started different actions aimed at mitigating their losses, political responses of the governments have differed and many cases were brought by the national courts. Some of these cases ended up even before the Court of Justice of the European Union, primarily in the context of the interpretation of the relevant rules of EU Directive 93/13/EEC on unfair terms in consumer contracts and EU Directive 2005/29/EC on unfair commercial practices as transposed in the national legal systems.

It is precisely this entire exciting, but also sad story, involving the consumer credit agreements concluded in the CHF, that is the main topic of this excellent book that has managed to provide an excellent examination of all legal issues. The focus of the study is on one particular jurisdiction, i.e. how the problem with consumer credits stipulated in CHF was addressed in Croatia and what measures were taken to address the challenges that tens of thousands of Croatian consumers faced: their consumer credit agreement suddenly became much more onerous and therefore the repayment much more problematic. Primarily due to the number of affected consumers, the Swiss franc agreements became not only a legal, but also an important political, societal and economic problem, as explained so well by the authors of this book.

Besides analysing the Croatian example, the authors adopt a robust comparative approach and engage with the European perspective enriching this excellent study and making it more academically appealing. What is particularly interesting is the explanation of the “dialogue”, or sometimes, rather lack of dialogue and proper understanding between, on the one side, the Croatian law, Croatian courts and lawyers, and, on the other side, the European law, the Court of Justice of the European Union and its case law.

Each of the book's chapters examines a particular aspect of the consumer credit agreements concluded in CHF. Accordingly, the authors start by explaining Croatia's obligation to comply with EU law and the *acquis* in the area of consumer protection and what this means in practice – something that the national authorities of Member States sometimes do not properly understand. The next chapter critically examines the Croatian legal framework for consumer credit agreements, which is then followed by a very innovative chapter that provides an exceptionally clear picture of how consumer credit agreements are concluded in practice in the banking sector.

The following chapter takes a more focused approach on the (il)legality of specific contract terms in consumer credit agreements stipulated in CHF, which is followed by a critical and constructive discussion of the Croatian case law in this area. Once again, this part of the book takes a very practical approach, which is something particularly outstanding in this book – that the authors do not limit their legal analysis to the black letter law, but take into consideration a more practical perspective, primarily the approaches of the courts in their related jurisprudence. Last but not least, the final chapter addresses the particularly problematic question of the legal consequences of unfairness of contract terms in CHF credit agreements. This is an issue that the Court of Justice of the European Union has been attempting (not very successfully) to clarify and resolve in its numerous cases dealing with a wide range of types of unfair contract terms during the past decade.

Throughout the book, the legal focus is on the two most important European and Croatian sets of rules on consumer protection – the provisions on unfair contract terms and the rules on unfair commercial practices – which provide extensive protection to consumers in consumer credit agreements. However, the authors have put this entire problem not only in its legal context, but also in its fundamentally important political, financial, societal and economic contexts, as it is noted that in Croatia the Swiss franc credit agreements have led to some (unsuccessful) legislative changes, political responses, as well as major international investment disputes and the involvement of the European Court of Human Rights. An excellent (and a very brave!) element of the book is the identification of all the case law shortcomings, the legislative actions and business activities of the banks that have occurred as a result of the Swiss Franc problem, which is something that should be particularly noted.

All in all, it is my conclusion that this is a well researched and well written book which is a must read for every legal scholar, practitioner and judge interested in the issues of consumer law, and in particular in one of the most

problematic, if not the most problematic fields of consumer law, at least in the Eastern and South-Eastern Europe. I would also recommend publication of the translated version of this book in English as this would provide access to its very important findings to a much wider group of readers and lead to a better understanding of this complex and actual topic.