

Swiss Franc Mortgages: Illegitimate and Illegal

Saturday 14 December 2019, by [TOUSSAINT Éric](#) (Date first published: 8 October 2019).

In Poland and France, along with Croatia, Hungary, Slovenia, Greece and other Balkan countries, the scandal of household mortgages made out in Swiss francs has hit over a million victims of big grasping private banks. The Court of Justice of the European Union has just given a judgement that takes the debt refusal collectivities over another hurdle of the obstacle course to justice that they are being made to run.

On 3 October 2019, the Court of Justice of the European Union, based in Luxembourg, gave a judgement partially favouring Polish victims of unfair mortgage agreements, granted mainly over the 2004 - 10 period (*Financial Times*, 4 October 2019, "EU rules in favour of Polish borrowers over Swiss franc linked loans" <https://www.ft.com/content/143eff16-e5c6-11e9-b112-9624ec9edc59>). This fraud took in nearly 700.000 Polish households who believed the big banks spin that borrowing in Swiss francs (CHF) was safe and secure (*Polish TVN*, 3 October 2019, "European Court of Justice backs Polish Swiss franc loan borrowers", <https://www.tvn24.pl/tvn24-news-in-english,157,m/european-court-of-justice-backs-polish-swiss-franc-loan-borrowers,974440.html>).

The unfair practises the banks used may be resumed as follows: the banks granted mortgage loans in Swiss francs to be reimbursed in Zloty claiming that the currency was very stable and it was therefore a good deal. However, as from 2010 the value of Swiss francs increased strongly against other currencies causing increased indebtedness. For example, a Polish household that borrowed CHF 150 000 fifteen years ago, and kept up its instalments regularly, find today that it still owes the same amount in Zloty and, along with many other borrowers in the same situation, is bound in perpetual debt. Eleven thousand similar cases are being pursued through the Polish courts. Seeing the slowness of the proceedings and the complicity of the authorities with the banks, several victims have appealed to the Court of Justice of the European Union [The Court of Justice of the European Union, previously known as The Court of Justice of the European Communities is one of the seven institutions of the European Union. It brings together two jurisdictions; the court of Justice and the General Court. The seat of the institution and its chambers is in Luxembourg. See official website : https://europa.eu/european-union/about-eu/institutions-bodies/court-justice_fr

] that has issued a judgement somewhat in their favour which should accelerate procedures in Polish courts and incite the Polish government to face up to its responsibilities. Until now, the only reaction of the Polish authorities to the difficulties of many of its citizens defrauded by the banks has been to introduce a few minor measures of assistance to the most vulnerable, that is, the government, with public money, reimburses some of their instalments to the banks in foreign (therefore speculative) currency. And the banks continue to happily make juicy profits.

"These households, that borrowed in Swiss francs, find themselves bound in perpetual debt"

A government truly in the service of the people and social justice would legislate to quite simply abolish these debts as illegitimate and illegal instead of, as they have done, recommending to the victims to take individual legal action. Of course they have not wanted to legislate, they are much more interested in protecting and colluding with big private Polish and foreign bankers. This kind of outstanding debt on the books of the banks amounts to the equivalent of €32 billion. For some of the banks the outstanding amounts are superior to the bank's equity. Which shows just how much fraudulent activity the banks have been doing.

The big banks that have been defrauding their clients are well known in Europe beyond the Polish borders: *BNP Paribas*, N°1 French bank; *Commerzbank*, 2nd German bank; *Santander*, N° 1 Spanish bank;; BCP, a big Portuguese bank that purchased its Polish subsidiary company Eurobank (now renamed Millenium) from *Societe Generale*.

The judgement of the court is another round in the saga of the Swiss franc tied mortgage loans.

In **Hungary** in 2014, popular pressure has forced Victor Orban's populist right-wing government to annul several billion Euros worth of Swiss franc tied mortgages and transform them into local currency (the Forint) mortgages.

The **Croatian** government found it necessary to relieve the indebtedness of 100,000 households in 2015 (for more details of the origin of Swiss franc tied mortgages see (in French): Pierre Gottiniaux, "Le scandale du crédit en franc suisse" 23 September 2013, <http://www.cadtm.org/Le-scandale-du-credit-en-franc>)

In **Slovenia** procedures are pending.

In **Greece**, the supreme Court of Justice ruled against the 70,000 Greek victims of Swiss franc mortgages thus showing once again that the institution defends the interests of the powerful against those of the people (See Ekathimerini.com, 'Loans in Swiss francs to be repaid at current rate' 18 April 2019, <http://www.ekathimerini.com/239697/article/ekathimerini/news/loans-in-swiss-francs-to-be-repaid-at-current-rate>).

In Paris France, Magistrates court proceedings will be heard against BNP Paribas in November, (see inset by **Patrick Saurin**)

BNP Paribas on trial for unfair commercial practices

Between March 2008 and December 2009, the French bank BNP Paribas Personal Finance (BNP PPF), placed toxic mortgages with 4,655 French buyers. This mortgage product named Helvet Immo, that targeted the purchasers of accommodation to be rented was subscribed in Swiss francs but reimbursed in Euros. The rise in the value of the Swiss franc put these borrowers into difficulties. Even those who kept up with their instalments saw that their outstanding amounts increased significantly.

As the banks refused to negotiate the borrowers decided to instigate legal actions creating a joint action with the assistance of several consumer associations such as *UFC-Que choisir*, *Consommation Logement Cadre de vie* and *Force Ouvrière consommateurs*, 2 000 victims filed criminal charges at the end of 2011 and a judicial enquiry was opened in 2013. On 29 August 2017, after three and a half years, the two examining magistrates decided on the double indictment of BNP PPF and trial before the magistrates court for 'unfair commercial practices'. Several times postponed, the tribunal will be held at the end of November 2019 in Paris.

On top of the joint action individual actions have been brought by borrowers who contest the abusive nature of certain clauses of the loan agreements and insufficient information at the moment of the signature. On 20 February 2019, in contempt of usual standards, in matters of abusive clauses in contracts involving currencies, imposed by the Court of justice of the European Union the appeals court rejected the complainants cases and absolved the banks of all their responsibilities. This complicity of the highest courts with financial interests has already been seen when local authorities in France were forced to take action against banks who had peddled them toxic loans indexed on foreign currency exchange rates.

For more information see the blog *Collectif des victimes du crédit Helvet Immo* - <http://collectif-helvet-immo.over-blog.com/> . See also in french *Le Monde*, “Prêts en francs suisses : une filiale de BNP Paribas renvoyée devant le tribunal”, 4 September 2017, https://www.lemonde.fr/economie/article/2017/09/04/prets-en-francs-suisses-une-filiale-de-bnp-paribas-renvoyee-devant-le-tribunal_5180843_3234.html

The great financial crisis of 2007-2008 that is still having effects today has revealed the deleterious, and highly expensive for the populations, practices of the banks. Far from serving the economy and financing big socially justified and ecologically necessary project that have become urgent the banks continue to pursue speculative gains that profit only the privileged few at the expense of the populations and local authorities.

The essential solution in this situation is to take control of the banks, put them under public control within the framework of a public service banking system functioning in favour of the general interest.

Coordinated action must be taken now all over Europe to eradicate the burden of illegitimate debt on the shoulders of the vulnerable population and especially debts tied to Swiss franc contracts that the big banks have peddled unfairly.

Translated by Mike Krolikowski.

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He co-authored *World debt figures 2015* with Pierre Gottiniaux, Daniel Munevar and Antonio Sanabria (2015); and with Damien Millet *Debt, the IMF, and the World Bank: Sixty Questions, Sixty Answers*, Monthly Review Books, New York, 2010. He was the scientific coordinator of the [Greek Truth Commission on Public Debt](#) from April 2015 to November 2015.

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