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Summary: In the draft of a Directive on representative actions, the European Commission proposed an extension of the existing model of the protection of collective consumer interests by the inclusion, therein, of the possibility of compensatory redress. The current model, based on the provisions of Directive 2009/22/EC, does not contain the possibility of consumers to claim compensation, but it enables bringing an action for an injunction by qualified entities designated by the Member States. The above mentioned provision of Directive 2009/22/EC was implemented by the Polish legislator in the Act on Competition and Consumer Protection, which provides separate proceedings concerning practices infringing collective consumer interests conducted *ex officio* before the President of the Office of Competition and Consumer Protection. The proposed extension of the existing model to include compensatory redress in the collective redress mechanisms gives rise to the necessity of remodelling the legal solutions existing in the Polish legal system. In what follows, the paper indicates the potential implementation variants and discusses the difficulties facing the Polish legislator related with the implementation of the Directive on representative actions in the shape proposed by the Commission.

Key words: consumer protection, collective interests of consumers, collective redress actions for consumers, representative actions, directive 2009/22/EC, act on competition and consumer protection.

JEL: K23, K33, K41

Anita Kucharska, **Consumer protection in the collaborative economy in EU Law – the analysis of selected problems**

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Summary: The main subject of this article focuses on the position of consumers in the collaborative economy in EU law. The phenomenon of the collaborative economy is an emergent field which causes plenty of yet unresolved legal problems. Choosing a method of providing the best kind of protection to the recipients of the services is one of the fundamental issues that need to be immediately analyzed. Safety of the users of platforms should be ensured with consideration of consumer protection rules currently in force and the nature of the collaborative economy's environment. The author formulates the thesis that it is necessary to implement two types of legal regimes: one that is more demanding (for participants who are professional providers of the underlying service) and another that is less strict (for participants who are unprofessional providers of the underlying service).

Key words: collaborative economy; sharing economy; consumer protection; EU law.
JEL: K12, K39

Beata Sieńko-Kowalska, **Mandatory *ex officio* examination of abusive contractual clauses by national courts and the guarantee of effective protection of consumers' interests**

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Summary: In order to ensure an appropriate level of consumer protection envisaged by the EU legislator, a national court is obliged to restore real balance between the consumer and the professional entrepreneur in every case and regardless of national law. The guarantee of effective consumer protection implies examining whether a disputed contractual provision has been individually agreed to by the professional entrepreneur and the consumer, as well as using any possible means to review *ex officio* the unlawful nature of the relevant contractual provision, even if it is the opinion of the court that the consumer did not raise the given aspect at any stage of the process. These two control mechanisms, i.e. abstract and incidental control, have a common and overarching goal, namely to guarantee consumers protection at least at a level set by the provisions of Directive 93/13/EEC, either through the President of the Office

for Competition or Consumer Protection as a public administration authority or through Polish common courts.

Key words: consumer protection, *ex-officio* examination of contractual clauses.
JEL: G21, K29

Magdalena Paleczna, **Misselling on the non-banking consumer credit market in the light of current market problems**

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Summary: Loan institutions and the credit services they offer represent a growing percentage of the credit market in Poland. Observing this market, and the proceedings conducted by the President of the Office of Competition and Consumer Protection against loan institutions, confirms the existence of large-scale irregularities that directly affect consumers, essentially non-professional financial market participants. These irregularities include misselling, which is a practice infringing collective consumer interests and consisting of the offering of financial services (in the case of loan institutions – credit services) which do not correspond to the real needs of consumers or are offered in a manner inadequate to their nature. Misselling in the practices of loan institutions is manifested by: incorrectly informing consumers about the characteristics of the credit service, failure to inform them about the costs associated with the service purchased, as well as the application of differentiated and excessive charges. The article analyses the phenomenon of misselling in the practices of loan institutions. A proposal on how to limit and prevent the phenomenon of misselling on the non-banking consumer credit market is also presented.

Key words: misselling, loan institution, consumer credit market irregularities, consumer credit, consumer credit law, consumer credit, consumer, consumer protection.
JEL: D18, G23, G28, G29, K49

Vanesa Choptiany, **Mechanisms of the protection of the borrower (consumer) in the context of facilities denominated and indexed to a foreign currency in the light of the Polish Borrower Support Act (Ustawa o wsparciu kredytobiorców) – selected issues**

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Summary: The article focuses on the analysis of the present regulatory amendments in the area of strengthening of the protection of borrowers (consumers), on the example of the facilities denominated/indexed to a foreign currency, with an emphasis on the recent amendment to the Polish Borrower Support Act. The purpose of the article is to analyse the legislation in terms of the effectiveness of the newest consumer protection mechanisms.

Key words: the facility denominated to the foreign currency, the facility indexed to the foreign currency, the protection of the borrowers, the Polish Borrower Support Act.
JEL: K15

Agnieszka Wachnicka, **Reduction in the total cost of consumer credit in case of early repayment in light of the CJEU ruling C-383/18**

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Summary: The aim of the article is to examine the effects of the judgment of the Court of Justice of the European Union in case C-383/18 (Lexitor) on the functioning of the consumer credit market. The article does not constitute a comprehensive analysis of the discussed issue, but touches upon selected issues and interpretation doubts arising in connection with the above ruling in the context of the wording of the provisions of the Consumer Credit Act. The Court has interpreted the provisions of Directive 2008/48/EC with regard to the types of costs subject to reduction in the case of an early repayment of credit, however, the above ruling did not eliminate all the problems of interpretation. The article analyses first of all the problems of the correct transposition of Article 16(1) of the Directive into Polish law and its effects, as well as doubts concerning the methodology of calculating the reduction of consumer credit costs in the case of an early repayment.

Key words: consumer credit, consumer, early repayment, total cost of credit, reduction of costs.
JEL: K12, K15, K23

Piotr Gałązka, **Differences in the assessment of consumer creditworthiness of consumers in EU Member States as an obstacle for the single EU credit market – analysis in the context of the minimization principle of Art. 5 GDPR**

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Summary: It is the basic principle that every financial institution granting a loan – including a bank – is obliged to assess the creditworthiness of the customer who applies for such a loan. The banking law doctrine recognizes that this obligation is a public duty for the bank and results from the nature of the bank as an institution of public trust, which assesses creditworthiness also in the interest of depositors whose funds have been entrusted to the bank.

The subject of the paper will be to present the situation and legal status in several Member States of the European Union with regard to detailed regulations regarding the assessment of creditworthiness, especially in the case of consumer credit.

In general, EU Member States can be divided into three categories in this respect: the first is where the method and scope of capacity assessment are left to the lender's own decision; the second one is where the guidelines for carrying out the capacity are included in the recommendations of the banking market supervisor; while the third one – the most strictly regulated category – has legal provisions specifying exactly how creditworthiness should be assessed.

This issue and the differences in regulations at the national level have three important references. The first is the obligation to implement the assumption of 'responsible lending', the second is the risk of creating a barrier to the implementation of a single credit market in the EU, and the third is the principle of minimizing the scope of personal data processed on the basis of the provisions of the GDPR.

Key words: consumer credit, creditworthiness, personal data protection.

JEL: G20, G21, G51, K22

Bartosz Wyżykowski, **Liability for unauthorized payment transactions in light of the changes resulting from PSD2**

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Summary: The purpose of the article is to explain interpretation doubts related to changes introduced in the Polish Payment Services Act as a result of the implementation of the PSD2 in regard to the liability for unauthorized payment transactions. The article doses not provide a comprehensive analysis of the discussed topic, but considers selected problems arising in connection with the relatively short period of time since the new regulation entered into force. Particular emphasis was placed on analyzing the effects of not requiring or accepting strong customer authentication (SCA). Analyzed were also the provisions of the Polish Payment Services

Act regulating the liability for unauthorized payment transactions initiated through a payment initiation service provider.

Key words: consumer; payer; unauthorized payment transaction; strong customer authentication; payment initiation service.

JEL: K12, K15, K23, K41

LEGISLATION AND CASE LAW REVIEWS

Summary: The article addresses the issue of jurisdiction over claims for damages caused by an infringement of competition law. The paper examines the case-law of the CJEU regarding the application of special jurisdiction stated in Art. 7(2) Regulation 1215/12 in private enforcement cases, with a particular focus on the judgment in case C-451/18 *Tibor-Trans*. This analysis has shown that the case-law is not yet settled, as the interpretation of the place where the damage arising from competition law violation took place is determined on a case-by-case basis. The judgment in the *Tibor-Trans* case provided further clarifications in this regard by stating that the damage suffered by an indirect purchaser may – under certain circumstances – serve as a basis for the special jurisdiction under Art. 7(2) Regulation 1215/12.

Key words: jurisdiction; actions for damages; competition law infringement.

JEL: K21, K41

Summary: The purpose of this article is to discuss the judgment of the CJEU of 10 July 2019 in case C-210/18 *WESTbahn Management GmbH*. In this judgment, the Court stated that the passenger platforms referred to in Annex I to Directive 2012/34/EU of the European Parliament and of the Council establishing a single European railway area (recast) are part of the railway infrastructure, and therefore their use is included in the minimum access package. The classification of a platform infrastructure as part of the railway infrastructure or service infrastructure facility is important in the context of the principles of charging rail carriers for their access and their amount, as well as the obligation to ensure fair access to railway infrastructure.

Key words: passenger platforms, railway infrastructure, service facility, minimum access package, access fee.

JEL: K23