

**Question for written answer E-014038/2013
to the Commission**

Rule 117

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Subject: Infringement procedure against Spain for its mortgage law

On 14 March 2013, the European Court of Justice (ECJ) ruled that Spain's mortgage law was incompatible with Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, since it provided 'incomplete and insufficient' protection for mortgage holders, especially in those cases where the mortgaged property was a family home. This should have opened the door to improved legal protection for households facing eviction.

The ECJ ruling should apply to all eviction cases in Spain since 1995, when the period for transposition of the directive ended. All foreclosures processed in this period should have been declared illegal by the Spanish courts, and the cases should be reopened in order to protect consumer rights in the face of abusive clauses.

The Spanish mortgage law, which is more than a century old, was modified by the current government and a new law entered into force on 15 May 2013. Unfortunately, the suggestions made by the ECJ were not fully taken into consideration and the government has not allowed mortgage holders to denounce their foreclosure proceedings as unlawful.

Around 500 000 evictions have been carried out since 2007 under the previous Spanish mortgage law, under which homeowners were forced to pay their debts as well as being evicted. Those cases have not been reopened, nor has the debt been renegotiated even after the ECJ declared the Spanish law abusive and contrary to EU law. This is a clear violation of the effective guardianship principle and citizens have been condemned to perpetual debt on the basis of an illegal procedure.

Will the Commission consider launching infringement proceedings against Spain as a result of this mortgage law?

Why did the Commission not take such steps before the ECJ ruling of 14 March 2013, in order to guarantee the proper transposition of Directive 93/13/EEC?

How will the Commission guarantee that mortgage credits granted under an abusive law are cancelled or renegotiated and that consumer rights are effectively protected in Spain?