

WHAT A FUSS FOR 7 BILLIONS EUROS !!!

or



THE GREAT ESCAPE

... of insured borrowers

a FRENCH EXAMPLE

**of the war between
bancassurance operators
and
other insurers**

Personal Insurances for borrowers

BANKINSURERS

CONSUMER

BORROWER

+

INSURED

LOAN

Insurance in case of
Death or Disability

BANK =
INTERMEDIARY
(broker)

BANK = BENEFICIARY
In case of borrower's
death or disability

BANK

SAME GROUP

INSURANCE
COMPANY

GROUP INSURANCE CONTRACT

OTHER INSURERS

CONSUMER

BORROWER

+

INSURED

INSURANCE
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Insurance in case of
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LOAN

BANK = BENEFICIARY
In case of borrower's
death or disability

BANK



Personal Insurances for borrowers in France

PREMIUMS 2017*
7 billions €

*To be compared to :
- Personal Income Tax : 70 billions €

PROFITS 2017*
3,5 billions €

*To be compared to :
- French Social Security : loss 2017 : 4 billions €

Actual situation

- To obtain the loan, the borrower accepts the Group Insurance contract proposed by the bank...
- and the whole operation (loan + insurance) is managed by the Bank-Insurance Entity
- Profits... : Bank-Insurance Entity

Problem

- After 6 months, 2 years, 5 years, the borrower can think of another insurance contract... less expensive or with a better coverage

How to escape ?

General provision of the Insurance Code* – Article L.113-2

The insured, and the insurer as well, is entitled **to terminate** the insurance contract **every year**

** Life insurance excluded*

New special provision of the Insurance Code – Art. L113-12-2

Act 17 March 2014

Insurances for borrowers (real estate)

The insured borrower is allowed to terminate the insurance contract **at any moment during the first year**.

He has to propose to the bank another insurance contract, with same level coverage

Question

Termination decided by the insured

- only during the first year ?

BANKINSURERS : YES !

- or every year, during the entire lending period ?

OTHER INSURERS : YES !!!

Legal Problem

Specialia generalibus derogant ?

***Specialia* : art.L.113-12-2**

**(only for borrowers : at any moment during the
first year)**

***Generalibus* : art. L.113-2
(every year)**

Solution ? Episode #1 - 2016

Cour de cassation (French Supreme Court)

YES ! *Specialia generalibus derogant*

**Only way to terminate :
at any moment during the first year,
NOT AFTER**

BANKINSURERS



OTHER INSURERS



Solution ? Episode #2

New Law 21 February 2017 : Both terminations allowed

Art. L.113-12-2
during the first year : at any moment

+

Art. L.113-2
after the first year : every year

BANKINSURERS



OTHER INSURERS



Solution ? Episode #3

French Constitutional Court

1) Is the new Law (2017) against the French Constitution ?

NO

BANKINSURERS



OTHER INSURERS



Solution ? Episode #3

French Constitutional Court

2) Is the new Law (2017) applicable to on going contracts ?

YES

BANKINSURERS



OTHER INSURERS



Solution ? Episode #4

New Law (1 April 2018) applicable
to on going contracts (1 January 2018) ?

YES

BANKINSURERS



OTHER INSURERS



SPÉCIAL THANKS TO FRANZ XAVER MESSERCHMIDT



CAST (in order of appearance)