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*The Impact of the Court of Justice
of the European Union's Rulings
on Managerial Decisions
in Commercial Banks*

ABSTRACT

The aim of this article is to examine the impact of the Court of Justice of the European Union's rulings on managerial decisions in selected commercial banks in Poland, with particular emphasis on changes in provisioning policies, legal risk management, and institutional strategy. The study is based on an analytical and comparative approach using financial, regulatory, and qualitative data. The findings indicate an increase in provisions for litigation and a growing importance of legal risk in banks' balance sheets. The results also show differences between institutions depending on their exposure to foreign-currency loan portfolios. The study contributes to interdisciplinary research at the intersection of law, economics, and management by demonstrating how judicial decisions shape managerial decision-making structures and drive adaptive mechanisms within the financial sector.

KEYWORDS: banking sector; legal risk; litigation-related provisions; Swiss franc mortgages

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INTRODUCTION

The contemporary banking sector operates within a complex network of interconnections between legal regulations, decisions of European Union institutions, and economic and social mechanisms. Legal and economic integration within the European Union means that decisions of judicial bodies, in particular the Court of Justice of the European Union (CJEU), exert an increasingly strong influence not only on the functioning of financial markets but also on decision-making processes within banking institutions. As the highest authority interpreting EU law, the CJEU shapes the legal and normative framework governing the activities of financial sector entities, thereby influencing their risk management strategies, business models, and customer relationships.

The rulings of the CJEU have a systemic character, as they affect market behaviour, risk policies, and the long-term strategies of financial institutions. From the perspective of institutional theory, CJEU rulings may be interpreted as an external institutional pressure that forces commercial banks to adapt their internal governance structures, risk-management systems, and strategic decision-making processes. In this sense, judicial decisions do not only create legal consequences, but also reshape organizational routines and managerial responses within regulated financial institutions (Schammo, 2021; Gortsos, 2024; Tsouris et al., 2026). Consequently, they also influence managerial processes within banks, including the formulation of credit policy, provisioning strategies, and communication and reputation management.”

In addition to typical financial risks associated with lending activities, commercial banks are increasingly confronted with legal risk arising from the interpretation of consumer protection regulations in light of EU law. Legal risk management in banking refers to the identification, assessment, monitoring, and mitigation of risks arising from litigation, regulatory interpretation,

contractual uncertainty, and judicial decisions. In highly regulated sectors such as banking, legal risk may directly influence capital allocation, provisioning policy, settlement strategies, and managerial accountability (Modras, 2023). In the Polish banking sector, a particularly notable example of this phenomenon is the issue of mortgage loans indexed or denominated in Swiss francs, granted on a large scale between 2004 and 2011. These products were chosen due to their lower interest rates and lower instalments compared with loans denominated in Polish PLN.

The systemic importance of foreign-currency loans in Central and Eastern European countries has been identified in earlier studies, which emphasized their potential to generate risks to financial stability, particularly under conditions of exchange rate volatility (Yesin, 2013). This risk materialised following the decision of the Swiss National Bank on 15 January 2015 to abolish the minimum exchange rate of 1.20 CHF/EUR. The sharp appreciation of the Swiss franc significantly increased the burden on households holding CHF-denominated mortgage loans and raised the level of credit risk in banks' balance sheets. In response to the heightened sensitivity of the financial sector to exchange rate fluctuations, several countries in the region drew on the Hungarian experience, where CHF loans had been converted into domestic currencies shortly before the SNB's decision, thereby reducing exposure to currency risk (Fischer & Yeşin, 2022). As a result, many borrowers found themselves in a difficult financial situation, leading to an increase in the number of legal disputes with banks. These disputes concerned, in particular, contractual clauses included in banking agreements that were considered unfair (abusive), as well as claims for the annulment of loan agreements or their so-called "de-franking".

Problems related to the repayment of consumer loans indexed to foreign currencies occurred on a large scale in many Central and Eastern European countries, including Romania, Hungary, Croatia, and Poland. Although similar contractual structures were

applied in Croatia and Poland, their consequences and regulatory responses differed significantly. Croatia introduced specific legislative measures at an earlier stage to provide a systemic solution to the widespread problem of foreign-currency indebtedness (Kundid Novokmet, 2021, p. 75). In contrast, in Poland the issue of Swiss franc loans became primarily shaped by the case law of the Court of Justice of the European Union, which generated potential systemic risk for the domestic banking sector (Grundmann & Badenhoop, 2023). A turning point was the judgment in Case C-260/18 (*Kamil Dziubak and Justyna Dziubak v Raiffeisen Bank International AG*, 2019), which allowed for the possibility of declaring a loan agreement invalid in the presence of unfair contractual terms. Subsequent rulings of the Court (C-19/20 [*I.W. and R.W. v Bank BPH SA*, 2021] and C-520/21 [*Arkadiusz Szcześniak v Bank Millennium*, 2023]) strengthened consumer protection while simultaneously limiting banks' ability to claim remuneration for the use of capital.

As a result of this line of case law, banks were forced to adjust their operations, including the creation of significant provisions for legal risk, modifications of credit policies, a review of contractual documentation, and changes in communication and reputation management (Gajdka et al., 2024, pp. 41, 48). This process also affected corporate governance practices, including executive remuneration systems, reinforcing the importance of regulatory compliance, transparency, and the management of legal and reputational risk.¹

Despite the growing body of research, existing studies have focused mainly on the financial and regulatory consequences of

¹ The reduction in the base remuneration of the Bank's Management Board members is visible in the financial reports for 2022–2024 in banks such as mBank or Bank Millennium, which mentions in its Supervisory Report/Remuneration Policy that “due to commissions/provisions for the legal risk of the Swiss franc loan portfolio,” the bank acted cautiously in terms of increasing remuneration costs, limiting the possibility of freely increasing personnel costs.

CJEU rulings for Swiss franc loan portfolios, overlooking their direct impact on decision-making processes within banks. In particular, there is a lack of analyses demonstrating how CJEU case law translates into provisioning policy, legal risk management, and the strategic positioning of institutions (National Bank of Poland, 2022, pp. 38–41).

However, the existing literature remains fragmented and concentrates primarily on legal protection of consumers, financial stability, and the macroeconomic consequences of foreign-currency mortgage litigation. Limited attention has been devoted to the managerial dimension of this phenomenon, particularly to the way in which supranational judicial decisions reshape internal decision-making processes, provisioning strategies, governance structures, and legal-risk management systems within commercial banks.

Consequently, an important research gap exists at the intersection of banking management, legal risk governance, and strategic decision-making under regulatory uncertainty.

In this article, managerial decisions are understood as strategic and operational choices made by bank management boards in response to changing legal, regulatory, financial, and reputational conditions. In the context of foreign-currency mortgage litigation, such decisions include provisioning policy, legal-risk management, settlement strategies, modifications of credit policy, compliance procedures, disclosure practices, and communication with stakeholders (Nguyen, 2022; Hopt, 2021).

Against this background, the main research question of this article is: how and to what extent has CJEU case law concerning Swiss franc loans influenced managerial decisions in Polish commercial banks, particularly in the areas of provisioning policy, legal risk management, and institutional strategy?

The research hypothesis assumes that the tightening of the CJEU's jurisprudence in cases C-260/18, C-19/20, and C-520/21 has significantly increased the importance of legal risk in Polish

banks, leading to a structural increase in provisions for litigation and to lasting changes in risk management practices and corporate governance.

The aim of this article is to analyse the impact of the rulings of the Court of Justice of the European Union on managerial decisions in commercial banks in Poland, with particular emphasis on changes in provisioning policy, legal risk management, and institutional strategy. The analysis covers the period 2019–2024 and focuses on the largest banks with significant exposure to Swiss franc loans, enabling the identification of sectoral trends without claiming full representativeness for the entire banking system.

THE CONCEPT OF PROVISIONS AND THE PRINCIPLES OF THEIR CREATION

Both the Accounting Act (Act of 29 September 1994, art. 3 sec. 1 item 21) and International Accounting Standards (2001, para. 10) define provisions as liabilities whose due date or amount is uncertain. Provisions are established in connection with anticipated future obligations or losses arising from past events. Examples include provisions for retirement severance payments, provisions for unused employee leave, provisions for warranty repairs, and provisions for legal claims.

The creation of provisions is a requirement of the principle of prudent valuation, which stipulates, among other things, that the expenses of the current period must not be understated by disregarding future liabilities that are almost certain to occur (Act of 29 September 1994, art. 7 sec. 1 item 5).

In accordance with IAS 37 (2021, para. 14) a provision is recognized when:

- a) the entity has a present obligation (legal or constructive) as a result of past events;

- b) it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and
 - c) a reliable estimate can be made of the amount of the obligation.
- If these conditions are not met, no provision is recognized.

Provisions in a commercial bank are conditional liabilities established to cover future, foreseeable expenditures or economic losses that are uncertain in terms of timing, amount, or even the existence of the obligation. They constitute a category of liabilities on the bank's balance sheet but are not liabilities in the traditional sense of the term – their realization depends on the occurrence of specific conditions.

Provisions should not be confused with mandatory reserves defined by central banking regulations (e.g., reserves maintained in accounts with the central bank). Mandatory reserves serve a prudential and regulatory function, whereas the provisions discussed in this article are accounting categories recognized in banks' balance sheets.

In accounting terms, provisions for uncertain liabilities and allowances for doubtful assets constitute distinct categories. Provisions are recognized in relation to probable future obligations arising from legal disputes or other uncertain liabilities, whereas allowances relate to the impairment of financial assets and expected losses on credit exposures. In the context of CHF-denominated mortgage portfolios, both categories may coexist; however, this study focuses primarily on litigation-related provisions associated with legal risk.

For the purposes of this study, a distinction is made between prudential reserves required under banking regulations and accounting provisions recognized in connection with legal and litigation risk. The present analysis focuses exclusively on accounting provisions related to uncertain liabilities arising from foreign-currency mortgage litigation.

These provisions should also be distinguished from allowances for doubtful assets, which relate to the impairment of credit

exposures and expected credit losses. Although both categories may increase in response to deteriorating foreign-currency mortgage portfolios, they reflect different accounting mechanisms and risk categories.

Provisions in commercial banks play an important role in ensuring financial stability and an adequate level of protection against risks associated with banking activities (Brescia Morra & Annunziata, 2024). They constitute not only an accounting requirement but also an important risk-management tool affecting banks' financial performance and capital position. A special place in the system of provisions is occupied by the so-called disputed provisions, which raise interpretative and legal controversies both in theory and in practice.

Disputed provisions constitute a specific type of provision that a bank creates in connection with existing legal risks, including, among others, court disputes, customer claims, disputes with tax authorities, or with other regulatory institutions. Their essence is a high level of uncertainty as to the final outcome of the proceedings and the potential impact on the bank's financial situation.

In contemporary banking systems, legal risk has become an increasingly important component of non-financial risk management. Unlike traditional credit risk, legal risk is strongly influenced by regulatory changes, judicial interpretation, and consumer protection standards. Consequently, litigation-related provisions are not merely accounting categories but also strategic instruments reflecting banks' expectations concerning future legal exposure and institutional stability.

This approach is consistent with the risk governance perspective, according to which banks' responses to non-financial risks depend not only on formal regulatory requirements, but also on internal governance mechanisms, risk oversight, board-level decision-making, and the ability to integrate emerging risks into strategic management processes (Ellul & Yerramilli, 2013).

Disputed provisions in banks may concern, among others: disputes with clients regarding so-called “abusive clauses” in loan agreements (e.g., Swiss franc loans); disputes with tax authorities (e.g., regarding the interpretation of VAT or CIT regulations); proceedings conducted by the Office of Competition and Consumer Protection (UOKiK); civil proceedings concerning compensation claims or breaches of contract.

The literature confirms the significant impact of CJEU case law on the scale and structure of bank reserves (Wilk, 2019). Polkowska (2025) points out that, in addition to structural increases in reserves, the Court’s judgments have changed the way legal risk is managed in financial institutions. As Kaczmarczyk (2025) demonstrates using the example of Getin Noble Bank, this risk can, in extreme cases, lead to the need for restructuring. Tereszkievicz (2024), in turn, emphasizes that the lack of comprehensive statutory solutions in Poland increases the vulnerability of the domestic legal system to the impact of EU law, necessitating profound transformations in portfolio structures, settlement negotiations, and banks’ communication strategies. Consequently, the evolution of CJEU case law is leading to a permanent redefinition of the relationship between banks and clients and an increase in the sector’s exposure to legal risk.

Despite the growing body of literature, existing research has focused mainly on the financial and regulatory consequences of the CJEU’s rulings for CHF-denominated loan portfolios, while overlooking their direct impact on the internal decision-making processes of individual banks. There is a lack of analyses showing how the Court’s case law on foreign-currency mortgage loans translates into actual managerial decisions in Polish commercial banks – particularly in the areas of provisioning policy, legal risk management, and the strategic positioning of institutions.

This article fills this important research gap by examining how the CJEU’s case law (in particular, Cases C-260/18, C-19/20, and C-520/21) influenced managerial decisions at the largest Polish

commercial banks – Alior Bank, Bank Millennium, mBank, Pekao, PKO BP, and Santander Bank Polska. This work not only expands the body of scholarship but also documents the practical implications of EU case law for the operation, stability, and governance of Polish financial institutions.

METHODOLOGY

This study adopts an analytical and comparative approach and is grounded in the triangulation of financial, regulatory, and qualitative data. Poland was selected as the research setting because it represents one of the most significant European cases of legal risk escalation related to foreign-currency mortgage loans. The Polish banking sector has been strongly affected by CJEU case law concerning unfair contractual terms in CHF-denominated mortgage agreements, and the scale of litigation has generated substantial financial, regulatory, and managerial consequences for banks. In the first stage, using statistical data drawn from the National Bank of Poland (NBP) and the Polish Financial Supervision Authority (KNF), the scope of the phenomenon is presented at the national level. The analysis encompasses, *inter alia*, the value of the portfolio of CHF-denominated mortgage loans, the level of provisions for legal risk associated with foreign-currency mortgage loans, and the evolution of these provisions over time. The study focuses on litigation-related provisions associated with legal uncertainty arising from CHF-denominated mortgage portfolios rather than prudential reserves maintained under banking regulations. These data enable the reconstruction of the macroeconomic and regulatory context for subsequent analysis.

The second stage involved a detailed analysis of six large commercial banks in Poland: Alior Bank, Bank Millennium, mBank, Bank Pekao, PKO Bank Polski, and Santander Bank Polska. The selection of these banks is justified by their systemic importance

and their significant historical exposure to CHF-denominated or indexed mortgage loan portfolios. These institutions were among the banks most visibly affected by the consequences of CJEU rulings, both in terms of litigation-related provisions and changes in legal-risk management practices. Therefore, they constitute appropriate cases for analysing how legal uncertainty translates into managerial decisions in commercial banks. These institutions are systemically important and have the largest exposure to CHF-denominated or indexed mortgage loan portfolios. The selection is justified by the visibility of the effects of CJEU rulings in these banks, both in financial terms (provisions, write-offs) and managerial terms (changes in policies, procedures, and strategies).

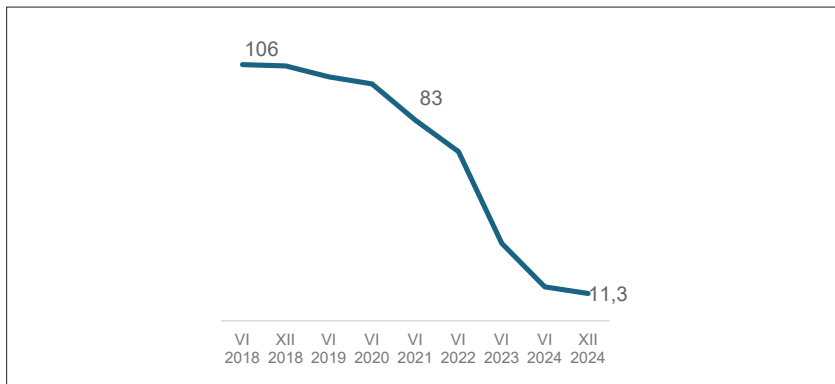
The study encompasses the period 2019–2024, which allows for the examination of the sector’s condition prior to the publication of the key CJEU judgments (C-260/18, C-19/20, C-520/21), as well as the banks’ responses following their issuance and the medium-term implications of these developments. Quantitative data were sourced from the individual financial statements of the banks, reports prepared by the NBP, KNF, and the Financial Stability Committee, as well as publicly available industry analyses. These data were subsequently subjected to comparative and longitudinal analysis, enabling an assessment of changes in the value of provisions, their balance-sheet composition, and their share in total provisions, as well as the trajectories of managerial decisions shaped by the escalating legal risk.

The qualitative component included a content analysis of CJEU rulings, regulations, and bank disclosures regarding risk policies, settlement programmes, and litigation strategies. Combining quantitative and qualitative data enabled the identification of decision-making mechanisms used by bank management boards and the assessment of how the CJEU’s case law has translated into the specific management practices of the largest Polish financial institutions.

Exposure of Polish commercial banks to legal risk arising from mortgage loans in Swiss francs – portfolio value, number of disputes and level of provisions

According to data from the Credit Information Bureau (BIK), in 2018 the number of active housing loans denominated in Swiss francs reached 470,000 contracts, and the value of these loans in banks amounted to approximately PLN 106 billion (Awi, 2019). In 2019, prior to the first CJEU ruling, the value declined to PLN 103 billion, representing 458,000 loan agreements – these were mainly mortgage loans (Kisiel, 2020).² Over the next five years, both the debt value and the number of loans decreased, and by the end of 2024, the portfolio of these loans amounted to approximately PLN 11.3 billion, and the number of loans decreased to approximately 188 thousand agreements.

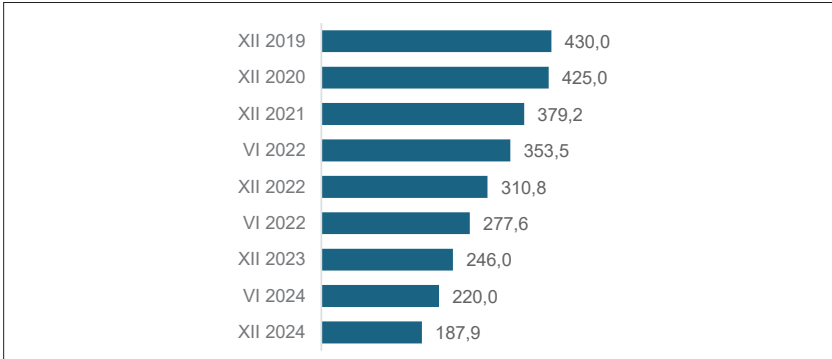
Figure 1. Value of the Portfolio of CHF Mortgage Loans in Banks*
(in PLN billion)



Note. Author's own elaboration based on NBP and KNF reports, and estimates based on NBP data.

² The bank with the largest portfolio of foreign-currency loans in Poland, particularly Swiss franc-denominated loans, is PKO Bank Polski. At the peak of their popularity, it had granted loans totaling PLN 24.5 billion, placing it first

Figure 2. Number of CHF Loans in Banks* (in thousands)



Note. Author's own elaboration based on NBP and KNF reports, and estimates based on NBP data.

Of the cases currently pending in court, approximately 160,000 concern foreign currency mortgage loans, with nearly one-third filed in 2024. Despite a certain acceleration in the processing of applications, only approximately 36,000 cases have resulted in a final judgment, and approximately 22,000 cases have resulted in a settlement between the bank and the borrower.

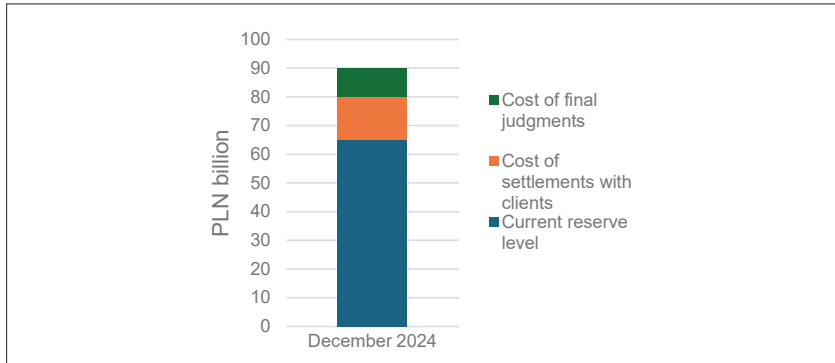
Between the 2019 CJEU ruling and the fourth quarter of 2024, the banking sector created approximately PLN 90 billion in provisions for customer disputes (Chart 3), with total provisions continuing to increase to around PLN 100 billion in 2025 (NBP, KNF). Reflecting the persistence of legal risk, in the second quarter of 2025 alone, the five largest banks in Poland created over

in the ranking. The next banks on the list were: Bank Millennium, which issued loans worth approximately PLN 15 billion; mBank, with loans amounting to around PLN 14.8 billion; and Getin Noble Bank, which held a Swiss franc loan portfolio valued at PLN 9.4 billion.

These four banks dominated the market for Swiss franc-denominated loans, and their activities had a significant impact on the market situation and on the legal consequences associated with foreign currency lending.

PLN 3.3 billion in new provisions related to foreign currency mortgage loans.

Figure 3. The status of provisions for legal risk of foreign currency housing loans at the end of 2024 and their current use



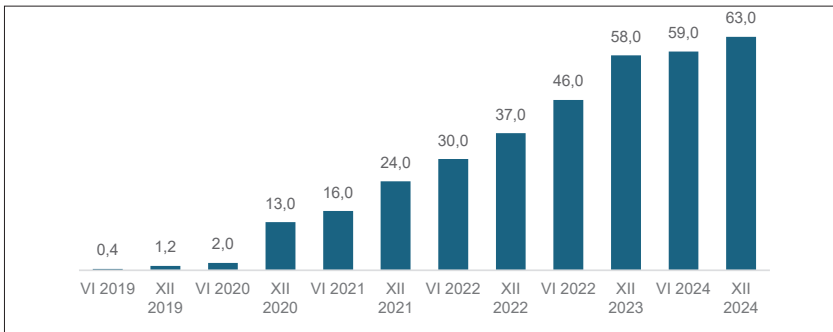
Note. National Bank of Poland (NBP) *Financial Stability Report*, June 2025, pp. 37–39.

Despite the declining number of active CHF loan agreements not subject to litigation—thereby limiting the inflow of new cases—legal risk remains significant. An increasing share of new claims concerns already repaid loans as well as loans denominated in other foreign currencies. Although banks have already covered a substantial portion of legal risk costs through existing provisions, the need for further increases cannot be excluded. Under a stress scenario, additional provisions could exceed PLN 30 billion, of which approximately PLN 12 billion would relate to active loans and around PLN 15 billion to already repaid loans, which have so far been less adequately covered by provisions. Moreover, due to the prolonged duration of court proceedings, additional costs associated with statutory interest may arise, estimated at approximately PLN 4 billion by mid-2025.³

³ NBP *Financial Stability Report*, June 2025, pp. 37–39

If not for the favorable coincidence of increased profits resulting from higher interest rates, banking institutions would have found it difficult to withstand such a heavy burden.

Figure 4. Provisions for legal risk related to CHF-denominated mortgage loans at the end of the period, in PLN billion (after deducting released reserves for the entire sector)



Note. Author's own elaboration based on NBP and KNF reports, and estimates based on NBP data.

Analysis of legal provisions in commercial banks with the largest portfolio of foreign-currency loans in Swiss francs

The analysis focuses on legal risk provisions in the six commercial banks with the largest portfolios of Swiss franc-denominated mortgage loans: Alior Bank S.A., Bank Millennium S.A., mBank S.A., Bank Pekao S.A., PKO Bank Polski S.A., and Santander Bank Polska S.A. These institutions are systemically important, and their managerial decisions significantly influence the broader financial sector.

Data from the financial statements for 2021–2024 indicate a substantial increase in provisions for court cases related to foreign-currency loans, reflecting both the evolution of CJEU case law and the growing number of legal disputes (Table 1). In particular, banks such as PKO BP, mBank, and Santander have recorded significant increases in provisions, reaching multi-billion-zloty

levels. This trend is associated with the heightened risk of adverse court outcomes, including claims not only for the return of principal but also for statutory interest.

Table 1. Value of provisions for court cases related to foreign-currency loans (in PLN million) and their dynamics (in %) in the analysed banks, 2019–2024

Bank	31.12. 2019	31.12. 2020	31.12. 2021	31.12. 2022	31.12. 2023	31.12. 2024	2024– 2019	2024 / 2019
Alior Bank	227.5	108.1	103.4	91.6	69.7	53.7	–173.8	23.6%
Bank Millennium	83.6	417.4	340.5	506.6	1 355.3	2 798.5	2 714.9	3347.5%
mBank	484.7	1 453.1	358.8	718.1	1 819.6	2 856.7	2 372.0	589.4%
Bank Pekao	19.0	80.3	113.4	425.3	755.0	1 135.0	1 116.0	5973.7%
PKO BP	133.0	426.0	595.0	851.0	3 001.0	5 733.0	5 600.0	4310.5%
Santander Bank	155.8	239.9	128.0	318.7	624.4	1 462.0	1 306.2	938.4%

Note. Own elaboration based on separate financial statements of the analysed banks for the years 2021–2024.

The first notable increase in legal risk provisions in most of the analysed banks occurred in 2020, as a response to the growing number of lawsuits following the CJEU ruling of October 2019 (the *Dziubak* case). The highest levels of provisions were recorded in 2024, when – due to the accumulation of litigation, settlements, and regulatory pressure from the Polish Financial Supervision Authority (KNF) for more comprehensive risk disclosure – they reached record levels, exceeding PLN 10 billion in total for the six largest banks.

Over the analysed period, the largest nominal increase in provisions was recorded at PKO BP (+PLN 5.6 billion, representing an increase of over 43-fold), followed by Bank Millennium (+PLN 2.7 billion, over 33-fold) and mBank (+PLN 2.37 billion). The highest percentage increase occurred at Bank Pekao, where

provisions rose more than 59-fold (from PLN 19 million to PLN 1.135 billion). Alior Bank was the only institution to record a decline in provisions – from PLN 227.5 million to PLN 53.7 million (–76.4%) – reflecting its comparatively low exposure to CHF-denominated loans and the earlier release of provisions.

Table 2. Share of provisions for litigation related to foreign-currency loans in the total provisions of the analysed banks, 2019–2024

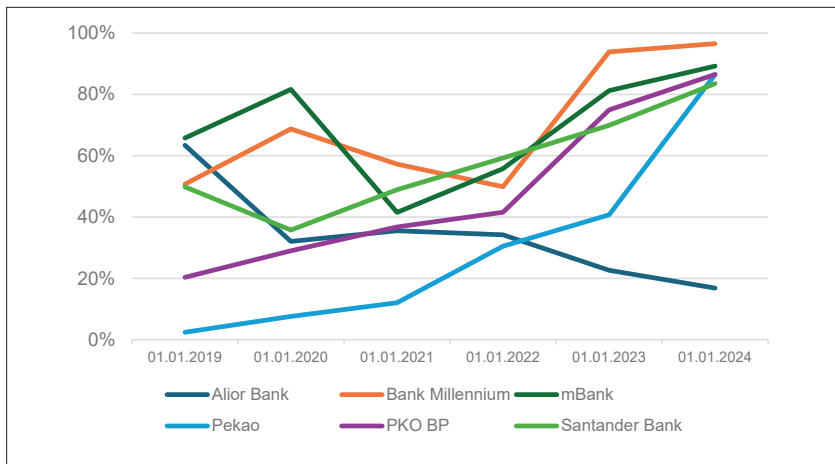
Bank	31.12. 2019	31.12. 2020	31.12. 2021	31.12. 2022	31.12. 2023	31.12. 2024
Alior Bank	63.4%	32.1%	35.5%	34.2%	22.6%	16.9%
Bank Millennium	50.7%	68.7%	57.3%	49.9%	93.8%	96.5%
mBank	65.7%	81.6%	41.5%	55.8%	81.3%	89.2%
Bank Pekao	2.5%	7.6%	12.1%	30.5%	40.7%	86.5%
PKO BP	20.4%	29.0%	36.8%	41.6%	75.0%	86.5%
Santander Bank	49.8%	35.8%	49.0%	59.3%	69.9%	83.5%

Note. Own study based on separate financial statements of the analysed banks for the years 2019–2024.

The analysed financial institutions, with the exception of Alior Bank, show a significant increase in the share of provisions for CHF litigation in total provisions between 2019 and 2024 (Table 2). In 2019, only two of the six banks (Alior and mBank) had provisions for litigation related to foreign-currency loans exceeding 50% of their total provisions. In 2024, five of the six banks have a share exceeding 80%, and two (Millennium, Bank Pekao, PKO BP) exceeding 85–95%, meaning that legal risk related to foreign-currency loans has become the dominant source of provisions on banks' balance sheets. At the beginning of the analysed period in 2019, the provision structure was dominated by credit and operational provisions, and write-offs for other risks; Swiss franc cases

were less significant. In 2024, legal provisions related to CHF loans became the main component of banks' liabilities, marginalizing other risks. One of the most "franc-denominated" banks is Bank Millennium, where in 2024 almost all of its total reserves (96.5%) were provisions for litigation related to foreign-currency loans. The largest increase in the share of these provisions in total reserves, from 2.5% in 2019 (practically unaffected by this issue) to 86.5% in 2024, when litigation-related provisions associated with CHF loans became dominant, occurred at Bank Pekao SA. The increase in these reserves after 2021 is the result of the acquisition of Idea Bank's portfolio and participation in the settlement program (Chart 5).

Figure 5. Share of provisions for court cases related to foreign-currency loans in total provisions, 2019–2024



Note. Own study based on separate financial statements of the analyzed banks for the years 2019–2024.

Table 3 presents the share of litigation-related provisions in total provisions across the analysed banks. A higher ratio indicates a greater exposure to legal risk and a higher potential impact of litigation on financial result.

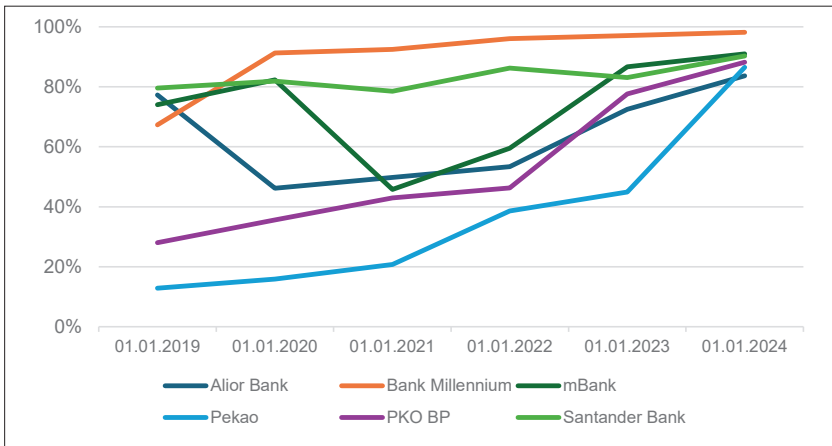
Table 3. The share of provisions for litigation in the total provisions of the analysed banks, 2019–2024

Bank	31.12. 2019	31.12. 2020	31.12. 2021	31.12. 2022	31.12. 2023	31.12. 2024
Alior Bank	77.3%	46.2%	49.8%	53.4%	72.5%	83.7%
Bank Millennium	67.3%	91.3%	92.4%	96.0%	97.1%	98.2%
mBank	74.0%	82.3%	45.8%	59.6%	86.6%	91.0%
Pekao	12.8%	15.8%	20.8%	38.6%	44.9%	86.5%
PKO BP	28.0%	35.6%	42.9%	46.3%	77.6%	88.2%
Santander Bank	79.6%	81.9%	78.5%	86.2%	83.1%	90.3%

Note. Own study based on separate financial statements of the analysed banks for the years 2019–2024.

Across the analysed period, all banks recorded a substantial increase in the share of litigation-related provisions. The average

Figure 6. Share of provisions for litigation in total provisions, 2019–2024



Note. Own study based on separate financial statements of the analysed banks for the years 2019–2024.

share rose from approximately 56% in 2019 to around 89% in 2024, with several institutions reaching levels above 90%. This trend indicates a structural shift in provisioning, with legal risk becoming the dominant component, surpassing credit and operational risk.

The graphical analysis confirms the upward trend observed in Table 3, with the most pronounced increase recorded at Bank Pekao (from 12.8% to 86.5%), while Alior Bank experienced the smallest change (from 49.8% to 83.7%) (Figure 6). In 2024, the highest levels were observed at Bank Millennium (98.2%), mBank (91%) and Santander Bank Polska (90.3%), where litigation-related provisions consistently accounted for the majority of total provisions.

Table 4. Share of provisions for litigation related to foreign-currency loans in the litigation provisions, 2019–2024

Bank	31.12. 2019	31.12. 2020	31.12. 2021	31.12. 2022	31.12. 2023	31.12. 2024
Alior Bank	82.0%	69.5%	71.4%	64.1%	31.2%	20.1%
Bank Millennium	75.4%	75.3%	62.0%	52.0%	96.7%	98.3%
mBank	88.8%	99.2%	90.7%	93.6%	93.8%	98.1%
Bank Pekao	19.1%	48.2%	58.4%	79.1%	90.6%	100.0%
PKO BP	72.7%	81.6%	85.7%	89.8%	96.6%	98.1%
Santander Bank	62.6%	43.7%	62.4%	68.7%	84.2%	92.5%

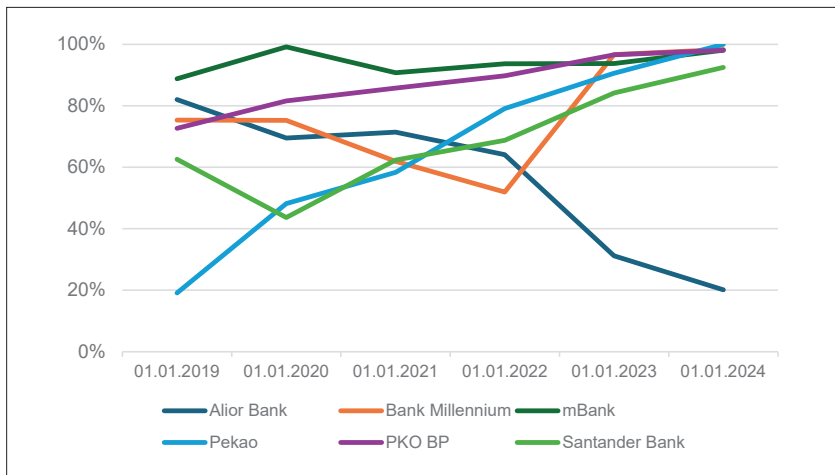
Note. Own study based on separate financial statements of the analysed banks for the years 2019–2024.

A marked increase in the share of foreign-currency loan litigation within total litigation provisions is observed across the sector, rising from approximately 66% in 2019 to around 84–85% in 2024. For most banks, disputes related to foreign-currency

loans – primarily CHF – have become the dominant source of litigation risk (Table 4).

Alior Bank constitutes an exception, with a significant decline in this share (from 82% to 20%), indicating that disputes related to foreign-currency loans now account for only a marginal portion of total litigation. In contrast, in the remaining institutions, foreign-currency loans account for the vast majority of litigation provisions, confirming their central role as a source of legal risk.

Figure 7. Share of provisions for litigation related to foreign-currency loans in the litigation provisions, 2019–2024



Note. Own study based on separate financial statements of the analysed banks for the years 2021–2024.

The dynamics presented in Figure 7 indicate a general increase in the share of provisions related to foreign-currency loan litigation within total litigation provisions across most banks over the period 2019–2024, with the exception of Alior Bank, where a clear downward trend is observed. This confirms that, for the majority of institutions, the importance of foreign-currency

litigation – particularly CHF-related – has been increasing over time.

In terms of the pace of change, the strongest increases are observed in Bank Pekao, Santander Bank Polska, and Bank Millennium. Bank Pekao exhibits a consistent and systematic upward trajectory throughout the entire period. Santander Bank Polska, after a decline in 2020 relative to 2019, shows a steady increase in subsequent years. Bank Millennium records a noticeable increase only from 2022 onwards, but at a relatively rapid pace.

PKO BP demonstrates a more gradual but stable upward trend. By contrast, mBank, after an increase in 2020 followed by a decline in 2021, records only a modest increase in the later years of the period.

DISCUSSION

The analysis shows that the case law of the Court of Justice of the European Union has fundamentally reshaped the framework within which Polish commercial banks manage legal risk, recognize provisions, and define their strategic priorities. Following the CJEU's rulings – particularly in cases C-260/18, C-19/20, and C-520/21 – foreign-currency mortgage disputes became the dominant source of legal exposure for the sector, forcing banks to redesign their approaches to risk valuation and corporate governance.

The empirical results confirm a clear and consistent pattern observed in the data. In nearly all analysed banks, provisions for CHF-related litigation grew at an unprecedented pace. As shown in the analysis, the share of litigation-related provisions in total provisions increased from approximately 56% in 2019 to around 89% in 2024, while in several banks this share exceeded 90%. At the same time, the share of foreign-currency loan litigation within total litigation provisions rose from approximately 66% to around

84–85%, confirming that legal risk associated with CHF loans has become the dominant component of provisioning structures.

This transformation is also reflected in the scale of provisions. Between 2019 and 2024, the banking sector created approximately PLN 90 billion in provisions for customer disputes, with further increases observed in 2025. At the level of individual institutions, the largest nominal increases were recorded at PKO BP, Bank Millennium, and mBank, while Bank Pekao experienced the highest relative growth. These dynamics indicate not only the growing scale of litigation but also the necessity of adjusting provisioning policies to the evolving legal environment.

At the same time, the dynamics observed across institutions are heterogeneous. Banks such as Pekao and Santander Bank Polska show a steady and systematic increase in the share of foreign-currency-related litigation provisions, while Bank Millennium exhibits a delayed but rapid increase after 2022. PKO BP follows a gradual but stable upward trend. In contrast, Alior Bank records a clear downward trend, reflecting its relatively low exposure to CHF portfolios. These differentiated trajectories suggest that banks adopted distinct adjustment paths in response to similar legal and regulatory pressures.

The analysis highlights clear differences between institutions. Banks with large historical CHF portfolios – such as PKO BP, mBank, Santander, Millennium, and Bank Pekao – have undergone the most substantial transformations, while those with limited exposure, such as Alior Bank, experienced a much smaller impact. This variation underlines the importance of portfolio structure and cautions against overgeneralizing conclusions to the entire sector.

CONCLUSION

The study demonstrates that the case law of the Court of Justice of the European Union has become one of the key factors influencing managerial decisions in Polish commercial banks. In particular, the judgments in cases C-260/18 (*Dziubak*), C-19/20, and C-520/21 have fundamentally changed the approach of financial institutions to managing legal and reputational risk.

The findings confirm the research hypothesis that the tightening of CJEU jurisprudence has led to a structural increase in legal risk and a corresponding rise in provisions for litigation. This is reflected in both the scale of provisions at the sector level and their growing importance within banks' balance sheets.

Banks were compelled to implement new management mechanisms, including an increase in provisions for court disputes, a review of loan portfolios, and updates to contractual documentation and compliance policies. These adjustments also influenced financial performance, dividend policies, and selected elements of corporate governance.

From a strategic management perspective, the CJEU's case law has contributed to the institutionalization of legal risk in banking, making it an integral part of risk assessment systems and decision-making processes. At the same time, the scale of these adjustments differed across institutions, depending on their exposure to foreign-currency loan portfolios.

The study has several limitations. It is based on publicly available data from financial statements, reports of the NBP and KNF, and industry publications, which do not provide access to the full internal information of individual banks, including detailed risk valuation methodologies and dispute management strategies. Another limitation is the lack of consideration of macroeconomic factors (such as exchange rate fluctuations or interest rate levels), which may have indirectly influenced managerial decisions and

the formation of provisions. Additionally, a portion of court proceedings remains ongoing, meaning that the full financial effects of the analysed phenomenon may only become apparent in the coming years.

Future research should focus on analysing the relationship between legal provisions and financial performance, conducting comparative studies across EU banking systems, and developing models to assess the long-term impact of evolving CJEU case law. In particular, it would be valuable to:

- conduct a quantitative analysis of the relationship between the level of legal provisions and banks' financial performance indicators (ROE, ROA, and capital adequacy ratio);
- compare the experience of the Polish banking sector with that of institutions in other European Union countries that have faced similar challenges related to foreign-currency loans (e.g., Hungary, Croatia, Romania);
- examine the long-term impact of settlement policies on the mitigation of legal risk and the restoration of consumer trust;
- develop forecasting models to estimate the future scale of provisions and their impact on the stability of the banking sector in the context of further developments in CJEU case law.

In conclusion, the rulings of the Court of Justice of the European Union have become a turning point in the functioning of the Polish banking sector, significantly influencing managerial decision-making and the structure of legal risk management. Although these changes have imposed substantial financial costs, they have also contributed to a more structured and formalized approach to risk management within the sector.

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