



**Claiming back fees,
commissions and interest
from your Spanish Bank in
relation to loan contracts
secured by a mortgage.**



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Introduction

Spanish banks are well known for applying hefty fees and high interest rates on loan contracts secured by a mortgage.

There is a famous example of a man who after 15 years of paying regularly installments was able to repay just €2,000 euros of the borrowed capital. All the remaining money was used by the Spanish bank to cover the loan interests.

Over the years, the European Court of Justice has found that many provisions of loan contracts drafted by the Spanish banks were contrary to the European Union Consumer Protection Law and therefore declared them to be abusive practices and unfair terms.

Examples of abusive practices is to charge the customer **the registrar fees, a product fee or to apply a rate for late interest** higher than 12% (under some loans late interest rate can be as high as 30%).

The legal consequence of declaring null and void a clause or provision of a loan contract is that the consumer is entitled to claim back the money plus legal interest.

Who is this guide for?

This guide is intended for:

- 1) British nationals who have bought houses or properties in Spain not for a commercial or business purpose (renting out an apartment is not considered a business activity) or have refurbished it, and
- 2) The operation has been financed through a loan granted by a Spanish Bank and secured by a mortgage, and
- 3) The loan contract is still on-going at present or has expired in the last five years.

Do I have a claim?

This checklist will help you work out if you have a claim:

Step 1

Check your Spanish purchase and mortgage deed and going through the following checklist:

- I was charged account or product fees (comisión de apertura)
- I was charged valuation fees (gastos de tasación de inmueble)
- I was charged public notary fees (derechos o aranceles notariales)
- I was charged land registrar fees (aranceles registrales).
- I was charged agency fees (honorarios, gastos de gestoría)
- I was charged or I will be charged a fixed amount for any unpaid or returned installment fees
- I was charged or I will be charged arrears interest higher than 12%
- I was charged early repayment fees
- I was charged change of parties administration fees.

If you have ticked one of the boxes above, you are most likely entitled to claim back money from your Spanish bank.

Step Two

Retrieve the invoices issued to you during the process in Spain as well as the statements from your Spanish bank account in and around the date of the commencement of the loan.

If you can't find these documents at your home in the UK or at your property in Spain, you might want to ask the Spanish solicitor or estate agent that assisted you with the conveyancing.

If you are unable to retrieve them with the above professionals you are entitled to ask the public notary directly, the agent or the land registrar within four and half years from the date the invoice was issued. Some professionals and companies will keep your information for six years).

Step Three

With respect to the provision of the fluctuation of the rate interest (pacto de clausula suelo), you have to gather pre-contractual information and relevant documents, for example:

- letter of offers,
- simulations of different scenarios of interest all provided by the Bank,
- mortgage statements, and
- certificates of interests.

Next steps

The amount of the claim and the restitution or reimbursement might vary from a few hundred to ten thousand euros depending on your circumstances.

If you need help to read and understand the Spanish documentation, to assess whether you are entitled to claim from your Spanish bank or to determine the amount of the restitution or reimbursement, do not hesitate to ask further information at : abogadoscerrato@icav.es

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