Questions referred

1. Should the concept of 'average consumer' referred to in Directive 2005/29/EC, [1] understood as a consumer who is reasonably well informed and reasonably observant and circumspect — given that it is vague and flexible — be worded according to the best science and experience and thus refer not only to the classic concept of *homo economicus*, but also to the findings of the latest theories on bounded rationality, which have shown how people often act by limiting the information they need through decisions which appear 'irrational' when compared with those that would be taken by a hypothetically observant and circumspect person; findings that impose a need for greater consumer protection where — as is increasingly the case in modern market dynamics — there is a risk of cognitive influence?

2. Can a commercial practice in which, due to the framing of the information, a choice may appear obligatory and with no alternatives be considered inherently aggressive, taking account of Article 6(1) of [that directive], which regards as misleading a commercial practice that in any way, 'including overall presentation', deceives or is likely to deceive the average consumer?

3. Does [Directive 2005/29/EC] justify the power of [the Autorità Garante della Concorrenza e del Mercato (AGCM)] (once the risk of psychological influence has been identified in relation to (i) the fact that a loan applicant is normally in need, (ii) the complexity of the contracts presented for signature by the consumer, (iii) the concurrent nature of the combined offer and (iv) the short period granted to take up the offer) to allow a derogation from the principle of the possibility of cross-selling insurance products and unrelated financial products by requiring a seven-day period between the signing of the two contracts?

4. In view of the repressive power of aggressive commercial practices, does Directive (EU) 2016/97, [2] and in particular Article 24(3) thereof, preclude [the AGCM] from adopting a decision on the basis of Article 2(d) and (j) of Directive 2005/29/EC, Articles 4, 8 and 9 thereof and the national implementing legislation after a loan application is rejected following the refusal of an investment services company, in the case of the cross-selling of a financial product and an unrelated insurance product (and where there is a risk of the consumer being influenced owing to the actual circumstances of the case, which can also be inferred from the complexity of the documents to be examined), to grant the consumer a seven-day cooling-off period between the combined offer being made and the insurance contract being signed?

5. Could the characterisation of the mere combining of two products — one financial product and one insurance product — as an aggressive practice result in an unlawful regulatory measure, and would this place on the trader (rather than on the AGCM, as it should be) the burden — a difficult one to discharge — of demonstrating that that combining of two products is not an aggressive practice in breach of Directive 2005/29/EC (especially as, under that directive, Member States may not adopt stricter rules than those provided for therein, even in order to achieve a higher level of consumer protection), or, on the contrary, does such a reversal of the burden of proof not exist, provided that, on the basis of objective evidence, there is deemed to be a real risk that the consumer in need of a loan will be influenced by a complex combined offer?

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[1] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22).

[2] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ 2016 L 26, p. 19).

Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 20 October 2022 — Ente Cambiano Società cooperativa per azioni v Agenzia delle Entrate

(Case C-660/22)

(2023/C 24/38)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Appellant: Ente Cambiano Società cooperativa per azioni

Respondent: Agenzia delle Entrate

Question referred

Do Articles 63 et seq., 101, 102, 120 and 173 TFEU preclude national legislation which, like Article 2(3-*ter*) and (3-*quater*) of Decree-Law No 18 of 14 February 2016, converted, with amendments, by Law No 49 of 8 April 2016, in the version applicable *ratione temporis*, makes the payment of a sum equal to 20 % net assets as at 31 December 2015 a condition for the possibility for cooperative credit banks having net assets of over EUR 200 million as at 31 December 2015, instead of joining a group, transferring their banking business to a public limited company, including a newly established one, authorised to perform banking activities, by amending their articles of association so as to exclude the performance of banking activities and at the same time maintaining the mutuality clauses set out in Article 2514 of the Italian Civil Code, and providing the shareholders with services which serve to maintain the relationship with the transferee public limited company relating to training and information on savings issues and the promotion of assistance programmes?

Request for a preliminary ruling from the Verwaltungsgericht Düsseldorf (Germany) lodged on 8 November 2022 — S.Ö. v Stadt Duisburg

(Case C-684/22)

(2023/C 24/39)

Language of the case: German

Referring court

Verwaltungsgericht Düsseldorf

Parties to the main proceedings

Applicant: S.Ö.

Defendant: Stadt Duisburg

Questions referred

1. Does Article 20 TFEU preclude a provision under which, in the case of voluntary acquisition of (non-privileged) nationality of a third country, nationality of the Member State and thus citizenship of the Union are lost *ex lege* where an individual examination of the consequences of the loss is conducted only if the foreign national concerned previously made an application for a retention permit and that application was approved prior to acquisition of the foreign nationality?

2. If the first question is to be answered in the negative: Is Article 20 TFEU to be interpreted as meaning that, in the procedure for the grant of the retention permit, no conditions may be laid down as a result of which an individual assessment of the situation of the person concerned and that of his or her family with regard to the consequences of the loss of citizenship of the Union does not take place or is superseded by other requirements?

Request for a preliminary ruling from the Verwaltungsgericht Düsseldorf (Germany) lodged on 8 November 2022 — N.Ö. and M.Ö. v Stadt Wuppertal

(Case C-685/22)

(2023/C 24/40)

Language of the case: German

Referring court

Verwaltungsgericht Düsseldorf