



C/2024/4573

29.7.2024

**Request for a preliminary ruling from the Oberster Gerichtshof (Austria), lodged on 22 April 2024 –
AY v Liechtensteinische Landesbank (Österreich) AG**

(Case C-279/24, Liechtensteinische Landesbank)

(C/2024/4573)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: AY

Defendant: Liechtensteinische Landesbank (Österreich) AG

Questions referred

1. Must the legal consequences of orders for the acquisition of financial products placed by a consumer domiciled in State A (here Italy) on the basis of an ongoing business relationship with a bank domiciled in State B (here Austria) be assessed in accordance with the law resulting from Article 6 of Regulation (EC) No 593/2008 ⁽¹⁾ (Rome I Regulation) if the conditions for the application of Article 6 of the Rome I Regulation were met when the individual orders were placed but not when the business relationship was entered into and the parties had at that time chosen the law of State B for the entire business relationship in accordance with Article 3 of the Rome I Regulation?
2. If question 1 is answered in the affirmative:
Is the exception in Article 6(4)(a) of the Rome I Regulation applicable where a bank opens accounts for a consumer domiciled in another Member State on the basis of a contract and subsequently acquires financial products for the consumer on the basis of the consumer's orders that are attributed to the accounts, where the consumer may (also) place the orders by means of remote communication?
3. If question 1 is answered in the affirmative and question 2 is answered in the negative: Must a choice of law made before the conditions for the application of Article 6 of the Rome I Regulation were met be regarded as unfair within the meaning of Article 3(1) of Directive 93/13/EEC ⁽²⁾ (Unfair Contract Terms Directive) after those conditions were met if the contract does not refer to the legal consequences of Article 6(2) of the Rome I Regulation?

⁽¹⁾ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ 2008 L 177, p. 6).

⁽²⁾ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).