

Parties to the main proceedings

Applicant: Banco Popular Español, S.A.

Defendants: Emilio Irles López, Teresa Torres Andreu

Questions referred

1. Is it compatible with the principle that unfair terms are not binding, laid down in Article 6(1) of Council Directive 93/13/EEC⁽¹⁾ of 5 April 1993 on unfair terms in consumer contracts, for the restitutory effects derived from a declaration on grounds of unfairness of the nullity of a 'floor clause' included in a loan agreement not to be applied retroactively from the date of conclusion of the agreement but rather from a later date?
2. Is the criterion that those concerned must act in good faith, which operates as a basis for limiting the retroactive effect derived from an unfair term, an autonomous concept of EU law that must be interpreted uniformly throughout the Member States?
3. If so, what circumstances must be taken into account in order for it to be determined whether those concerned acted in good faith?
4. At all events, is it compatible with the criterion of good faith for the actions of a seller or supplier, in creating the agreement, to have been the cause of a lack of transparency making the term unfair?
5. Is the risk of serious difficulties, which operates as a basis for limiting the retroactive effect derived from an unfair term, an autonomous concept of EU law that must be interpreted uniformly throughout the Member States?
6. If so, what criteria ought to be taken into account?
7. Must the risk of serious difficulties be assessed by taking account solely of the risk which may arise for the seller or supplier or must account also be taken of the loss caused to a consumer by the failure to reimburse in full the sums paid under that 'floor clause'?
8. Is it compatible with the principle that consumers are not bound by unfair terms, laid down in Article 6(1) of Council Directive 93/13/EEC, and with the right to effective judicial protection affirmed in Article 47 of the Charter of Fundamental Rights of the European Union, ⁽²⁾ for the same limitation of the restitutory effects deriving from the nullity of a 'floor clause', declared in proceedings brought by a consumers' association against financial bodies, to be automatically extended to individual actions for a declaration that a 'floor clause' is void because unfair brought by consumer customers who have concluded a mortgage loan with other financial bodies?

⁽¹⁾ OJ 1993 L 95, p. 29.

⁽²⁾ OJ 2000 C 364, p. 1.

Request for a preliminary ruling from the Cour administrative d'appel de Paris (France) lodged on 29 June 2015 — Overseas Financial Limited, Oaktree Finance Limited v Ministre de l'économie, de l'industrie et du numérique

(Case C-319/15)

(2015/C 279/31)

Language of the case: French

Referring court

Cour administrative d'appel de Paris

Parties to the main proceedings

Applicants: Overseas Financial Limited, Oaktree Finance Limited

Defendant: Ministre de l'économie, de l'industrie et du numérique

Question referred

Do the provisions of Article 17 of Council Regulation (EU) No 961/2010 of 25 October 2010 ⁽¹⁾ infringe Article 17 of the Charter of Fundamental Rights of the European Union and the first article of the first additional protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which protect the right to property, read together with Article 47 of that Charter and the first paragraph of Article 6 of the Convention, which guarantee the implementation of a judicial decision within a reasonable period of time, particularly to the extent that those provisions do not provide for the release of frozen funds where a third person relies on a right to payment of debt acquired by virtue of a judicial decision ordering a person designated in a freezing measure to pay an indemnity to him, given at the end of proceedings commenced before that designation, and that those two persons have no relationship, even indirect, connected to the activities covered by the regulation?

⁽¹⁾ Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1).

Action brought on 9 July 2015 — European Commission v Republic of Austria

(Case C-347/15)

(2015/C 279/32)

Language of the case: German

Parties

Applicant: European Commission (represented by: W. Mölls, J. Hottiaux and T. Maxian Rusche, acting as Agents)

Defendant: Republic of Austria

Form of order sought

The applicant claims that the Court should:

- declare that, in so far as it did not oblige ÖBB Personenverkehr (Austrian Federal Railways) to publish the public service compensation and the costs and revenues for each public service contract, the Republic of Austria has failed to comply with its obligations under Article 6(3) of Directive 2012/34/EU ⁽¹⁾ and under Article 6(1) read in conjunction with Rule 5 of the Annex to Regulation (EC) No 1370/2007 ⁽²⁾;
- order the Republic of Austria to pay the costs.

Pleas in law and main arguments

The defendant failed to comply with its obligations under Directive 2012/34/EU and Regulation (EC) No 1370/2007.