

**Request for a preliminary ruling from the Sąd Rejonowy w Sopocie (Poland) lodged on 26 March 2018 — H.W.**

**(Case C-214/18)**

(2018/C 259/27)

*Language of the case: Polish*

**Referring court**

Sąd Rejonowy w Sopocie

**Parties to the main proceedings**

*Applicant:* H.W.

*Other party:* PSM 'K' w G., Komornik Sądowy przy Sądzie Rejonowym w Sopocie Aleksandra Treder

**Questions referred**

1. In the light of the system of value added tax deriving from Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, <sup>(1)</sup> in particular Article 1, Article (2)(1)(a) and (c) and Article 73 in conjunction with subparagraph (a) of the first paragraph of Article 78, and the principle of VAT neutrality, which is a general principle of EU law, is it permissible — taking into account the content of Article 29a(1) and Article 29a(6)(1) of the Ustawa z dnia 11 marca 2004 r. o podatku od towarów i usług (tekst jednolity Dz.U. z 2017 r., poz. 1221 ze zm.) (Law of 11 March 2004 on tax on goods and services (consolidated version Dz. U., 2017, No 1221, as amended), 'the UPTU') in conjunction with the wording of Article 49(1) and Art. 35 along with Art. 63(4) of the Ustawa z dnia 29 sierpnia 1997 o komornikach sądowych i egzekucji (tekst jedn. Dz.U. z 2017 r., poz. 1277 ze zm.) (Law of 29 August 1997 on court enforcement officers and enforcement (consolidated version Dz. U., 2017, No 1277, as amended), 'the UKSE') — to adopt the position that the enforcement fees charged by court enforcement officers already include the tax on goods and services (i.e. VAT)?

If the answer to the first question is in the affirmative:

2. In the light of the principle of proportionality, which is a general principle of EU law, is it permissible to adopt the position that a court enforcement officer — as a VAT taxable person in connection with his enforcement activities — does actually possess all the legal instruments in order to perform the tax obligation correctly, assuming that the enforcement fee charged on the basis of the provisions of the UKSE includes the amount of the tax on goods and services (i.e. VAT)?

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<sup>(1)</sup> OJ 2006 L 347, p. 1.

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**Request for a preliminary ruling from the Sąd Okręgowy w Warszawie (Poland) lodged on 16 April 2018 — Kamil Dziubak, Justyna Dziubak v Raiffeisen Bank Polska SA**

**(Case C-260/18)**

(2018/C 259/28)

*Language of the case: Polish*

**Referring court**

Sąd Okręgowy w Warszawie

**Parties to the main proceedings**

*Applicants:* Kamil Dziubak, Justyna Dziubak

*Defendant:* Raiffeisen Bank Polska SA

**Questions referred**

1. Do Articles 1(2) and 6(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts <sup>(1)</sup> make it possible — if the determination of certain contractual provisions which stipulate the manner in which an obligation is to be performed by the parties (its amount) as unfair were to result in the contract being annulled in its entirety, which would be unfavourable to the consumer — to fill gaps in the contract not pursuant to a supplementary provision of law which explicitly replaces the unfair term, but rather pursuant to provisions of national law which provide for supplementing the effects of a legal transaction as expressed in its substance to include the effects arising from the principles of equity (rules of social conduct) or established customs?
2. Should the possible assessment of the consequences for the consumer of the contract being annulled in its entirety be conducted on the basis of the circumstances existing at the time of its conclusion or on the basis of those existing at the time when the dispute arose between the parties concerning the effectiveness of the clause in question (at the time when the consumer claimed that the clause was abusive), and what relevance attaches to the position taken by the consumer in such a dispute?
3. Is it possible to uphold provisions which are unfair contractual terms within the meaning of Directive 93/13/EEC if the adoption of this solution would be objectively beneficial to the consumer at the time when the dispute is being settled?
4. Could declaring certain contractual provisions stipulating the amount and manner of performance of an obligation by the parties to be unfair result in a situation in which the form of the legal relationship determined on the basis of the contract, except for the effects of unfair terms, may differ from that intended by the parties with respect to the parties' main obligation; without limitation, does declaring a contractual provision to be unfair mean that other contractual provisions related to the consumer's main obligation which have not been claimed to be abusive may continue to apply where the form of those provisions (their incorporation in the contract) was inextricably linked to the provision challenged by the consumer?

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<sup>(1)</sup> OJ 1993 L 95, p. 29.

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**Appeal brought on 19 April 2018 by the Slovak Republic against the judgment of the General Court  
(Second Chamber) delivered on 5 February 2018 in Case T-216/15 *Dôvera zdravotná poisťovňa v*  
*Commission***

**(Case C-271/18 P)**

(2018/C 259/29)

*Language of the case: English*

**Parties**

*Appellant:* Slovak Republic (represented by: B. Ricziová)

*Other parties to the proceedings:* Dôvera zdravotná poisťovňa, a.s., Union zdravotná poisťovňa, a.s., European Commission

**Form of order sought**

— set aside the judgment of the General Court of 5 February 2018 in Case T-261/15 *Dôvera zdravotná poisťovňa a.s. v European Commission*, whereby the General Court allowed the action brought by Dôvera;