Questions referred

1. For the purpose of determining the amount of a loan agreement, does wording, such as that of Clauses I/1 and II/1 of the agreement at issue, which gives CHF 64 731 as an indicative amount, whilst mentioning a maximum amount of HUF 8 280 000 as the financing request, and which links determination of the amount of the loan agreement to a declaration having legal effect made by the party contracting with the consumer and to the data recorded in its books, meet the criteria of plain, intelligible language required by Article 4(2) and Article 5 of Directive 93/13/EEC? ([1])

2. If the determination made in Clauses I/1 and II/1 of the agreement does not correspond to the notion of plain, intelligible language and it is possible to examine whether the terms of those clauses are unfair, in the event that they are considered to be unfair, may the entire agreement be declared invalid, given that, in cases in which the subject matter of the agreement is not definite, the legal consequence under national law is the invalidity of the agreement in its entirety?

3. In the event that the agreement may be declared valid, can the amount be determined in the manner most favourable to the consumer?

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

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 15 March 2017 — X-GmbH v Finanzamt Stuttgart — Körperschaften

(Case C-135/17)

(2017/C 221/05)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: X-GmbH

Defendant: Finanzamt Stuttgart — Körperschaften

Questions referred

1. Is Article 57(1) EC (now Article 64(1) TFEU) to be interpreted as meaning that a restriction in a Member State which existed on 31 December 1993 in respect of the movement of capital to and from third countries involving direct investments is not affected by Article 56 EC (now Article 63 TFEU) even if the national law in force at the relevant date restricting the movement of capital to and from third countries essentially applied only to direct investments but was extended after that date to cover also investment holdings in foreign companies below the shareholding threshold of 10 %?

2. If the first question is to be answered in the affirmative: Is Article 57(1) EC to be interpreted as meaning that a national-law restriction in respect of the movement of capital to or from third countries involving direct investments is to be regarded as applicable on the relevant date of 31 December 1993, if later national law substantially corresponding to the restriction in force at the relevant date enters into force, the restriction existing at the relevant date being nevertheless substantially amended for a short time by legislation which formally entered into force but was in practice never applied due to the fact that it was replaced by the legislation at present in force before it could be applied to a specific case for the first time?

3. If either of the first two questions is to be answered in the negative: Does Article 56 EC preclude legislation of a Member State under which the basis of assessment to tax of a taxable person resident in that Member State, which holds at least 1 % of the shares in a company established in another State (in the present case, Switzerland), includes positive income earned by that company derived from capital investments pro rata, in the amount of the shareholding, where such income is taxed at a lower rate than in the Member State?