

Questions referred

Is Article 8, in conjunction with Articles 9 and 2(j), of 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 ⁽¹⁾ to be interpreted as meaning that the use of standard forms for the conclusion of distance contracts relating to the provision of telecommunications services, under which a consumer is required to make the final business decision in the presence of the courier handing over the standard-form contract (general terms and conditions), an aggressive commercial practice by a trader owing to undue influence:

- (a) always, where the consumer, during the courier's visit, is unable freely to take cognisance of the content of the standard-form contract;
- (b) only where the consumer has not previously and individually received all standard forms (for example, at his e-mail address or home address), even if he himself had the opportunity, prior to the courier's visit, to take cognisance of their content on the trader's website;
- (c) only if additional findings were to point to unfair actions on the part of the trader, or on his behalf, for the purpose of restricting the consumer's decision-making freedom in regard to the business decision which he has to make?

⁽¹⁾ OJ 2005 L 149, p. 22.

Request for a preliminary ruling from the Sąd Rejonowy w Siemianowicach Śląskich (Poland) lodged on 9 November 2017 — Powszechna Kasa Oszczędności (PKO) Bank Polski S.A. v Jacek Michalski

(Case C-632/17)

(2018/C 104/16)

Language of the case: Polish

Referring court

Sąd Rejonowy w Siemianowicach Śląskich

Parties to the main proceedings

Applicant: Powszechna Kasa Oszczędności (PKO) Bank Polski S.A.

Defendant: Jacek Michalski

Question referred

Must the provisions of Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, ⁽¹⁾ and in particular Article 6(1) and Article 7(1) thereof, and the provisions of Directive 2008/48/EC of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, ⁽²⁾ and in particular Article 10 and Article 22(1) thereof, be interpreted as precluding the pursuit of a claim by a bank (the creditor) against a consumer (the debtor) on the basis of a banking ledger excerpt, signed by persons authorised to make statements regarding the bank's property rights and obligations and bearing the bank's stamp, and on the basis of proof that a request for payment had been submitted to the debtor in writing, in the context of an order-for-payment procedure as defined in Article 485 § 3 et seq. of the Polish Code of Civil Procedure?

⁽¹⁾ OJ 1993 L 95, p. 29.

⁽²⁾ OJ 2008 L 133, p. 66.