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Request for a preliminary ruling from the Sofiyski rayonen sad (Bulgaria) lodged on 23 May 2025 – 'Profi Credit Bulgaria' EOOD, 'Banka DSK' AD, 'EOS Matrix' EOOD

(Case C-349/25, Banka DSK and Others)

(C/2025/4576)

Language of the case: Bulgarian

Referring court

Sofiyski rayonen sad

Parties to the main proceedings

Applicants in the order for payment proceedings: 'Profi Credit Bulgaria' EOOD, 'Banka DSK' AD, 'EOS Matrix' EOOD

Questions referred

1. Do Article 23 of Directive 2008/48/EC ([1]) on credit agreements for consumers and Article 6(1) and Article 7(1) of Directive 93/13/EEC ([2]) of 5 April 1993 on unfair terms in consumer contracts allow national case-law under which a court, in the context of unilateral order for payment proceedings without the involvement of the debtor, is not permitted to verify the accuracy of the annual percentage rate of charge indicated in a consumer credit agreement by applying arithmetical methods to determine whether the application thereof leads to an outcome that is close to the costs to be expected from multiplying the credit amount by the annual percentage rate of charge, adjusted in proportion to the duration of the contract?

2. Do Article 23 of Directive 2008/48/EC on credit agreements for consumers and Article 6(1) and Article 7(1) of Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts allow national case-law under which, although the national court finds the consumer credit agreement on which the claim is based to be invalid because the cost amount set out therein has been determined incorrectly, the annual percentage rate of charge has been indicated incorrectly and there are inaccuracies in the repayment schedule (calculation errors), the national law nevertheless applies which permits provisional enforcement against the consumer of the amount of the liability as indicated in an account statement provided by the creditor, before the consumer has had the opportunity to oppose the legal act to be enforced and without the possibility of further verification of the accuracy of the amount of the claim indicated in the [provided] account statement before the enforcement is ordered?

3. Do Article 23 of Directive 2008/48/EC on credit agreements for consumers and Article 6(1) and Article 7(1) of Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, interpreted in light of the guidance given in paragraphs 47 to 48 of the judgment of the Court of Justice, *Profi Credit Bulgaria*, C-170/21, ([3]) permit national case-law under which, although the applicant creditor has admitted in unilateral order for payment proceedings without the involvement of the debtor that it received payments as remuneration under a consumer credit agreement and some of these were also based on unfair terms, and the national courts have held that the contract is invalid in its entirety and that the consumer is liable only to repay the net amount received, payments made by the debtor under the invalid terms are not, however, fully offset against the net amount of the credit received under the contract (principal amount) and, despite the existence of special national legislation, interpreted by certain national courts as meaning that the court may act of its own motion, only the receivables attributed to the principal amount by the creditor are offset, the payments made on the basis of the invalid part of the credit agreement being regarded as having been made effectively to amortise the liabilities arising from the principal

([1]) Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ 2008 L 133, p. 66).
([2]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).
([3]) ECLI:EU:C:2022:518.

amount, whereas, in cases where an unpaid outstanding liability of the consumer to the creditor has remained in relation to the principal amount, the national courts unreservedly recognise, on the basis of another similar provision of national law derogating from the general procedural rules, the creditor's right to obtain, despite the invalidity of the contract, a ruling against the consumer in relation to the outstanding principal amount in the same proceedings, without having to make a new application (and that rule is rejected by some of the case-law relating to the offsetting by the debtor)?

4. Do Article 23 of Directive 2008/48/EEC on credit agreements for consumers and Article 6(1) and Article 7(1) of Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, allow national case-law under which, in the context of unilateral legal proceedings, in which a lender is required to provide the text of a consumer credit agreement and the annexes thereto, and has declared that payments have been made under the contract, without indicating the exact amount of those payments, but has merely indicated the unpaid outstanding receivable, an indication of the constituent parts of the contract that give rise to a specific receivable is sufficient to trigger enforcement against a consumer, if the consumer has not lodged an objection within the period prescribed by law, without any judicial review being carried out to determine whether the recognised payment, without any indication of its amount, related to contractual amounts which are based on unfair or invalid terms or which form the basis for incorrect calculation of the annual percentage rate of charge?

5. Must Article 6(1) and Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts be interpreted as requiring that, where a national court is seised, in the context of unilateral proceedings, of an application for an order for payment based on a contract concluded with a consumer providing for regular payments in accordance with a certain schedule (timetable), and the receivable claimed before the national court does not correspond to the total liability arising from the contract concluded with the consumer, certain facts which evidence the amount of the receivable in relation to the agreed payment schedule must be relied on in order to substantiate the receivable, such as the due date of the instalment that is to be recognised, the nature of the service or good received in return for that amount (for example, a price, a repayment, interest or tax) and the amount of the actual instalment, it being understood that it is for the consumer themselves to assess whether they are liable to pay the receivable solely on the basis of the information provided by the creditor before the court and, in the absence of any objection, the court is required to issue an enforcement order for the creditor's receivables?