Questions referred

1. Can Article 8 of Directive 1999/5/EC ([1]) of the European Parliament and of the Council be interpreted as meaning that no obligations apart from those concerning the free movement of radio equipment and telecommunications terminal equipment ('equipment') in the directive may be laid down as regards the marketing of equipment which falls within the scope of the directive and which has had the CE mark affixed by its producer, established in another Member State?

2. Can Article 2(e) and (f) of Directive 2001/95/EC ([2]) of the European Parliament and of the Council be interpreted, as regards obligations relating to marketing, as meaning that an entity may also be regarded as a producer if it markets equipment in a Member State (without being involved in the manufacture of the equipment) and is established in a Member State other than the one where the producer is established?

3. Can Article 2(e)(i), (ii) and (iii), and (f) of Directive 2001/95/EC of the European Parliament and of the Council be interpreted as meaning that the distributor of equipment manufactured in another Member State (who is not the same person as the producer) can be required to issue a declaration of conformity setting out the technical data relating to the equipment?

4. Can Article 2(e)(i), (ii) and (iii), and (f) of Directive 2001/95/EC of the European Parliament and of the Council be interpreted as meaning that an entity which carries out only distribution in one Member State and is established in that State, must also be regarded as the producer of the distributed equipment where the activity of the distributor does not affect the safety characteristics of the equipment?

5. Can Article 2(f) of Directive 2001/95/EC of the European Parliament and of the Council be interpreted as meaning that the distributor as defined in the directive can be required to fulfil the obligations which under the directive are required only of the producer as defined in Article 2(e), such as the issuing of a declaration of conformity as regards technical conditions?

6. Can Article 30 EC (ex-Article 36 EEC) and the so-called mandatory requirements justify an exception to the application of the Dassonville formula, having regard to the principles of equivalence and mutual recognition?

7. Can Article 30 EC (ex-Article 36 EEC) be interpreted as meaning that trade in and import of goods in transit cannot be restricted for any reason other than those listed there?

8. Is the CE mark sufficient to satisfy the principle of equivalence or the principle of mutual recognition and the conditions of Article 30 EC (ex-Article 36 EEC)?

9. Can the CE mark be interpreted as meaning that Member States are not justified in applying any other technical provisions or provisions regarding quality to equipment bearing the mark?

10. Can the provisions of Article 6(1) and of the second sentence of Article 8(2) of Directive 2001/95/EC of the European Parliament and of the Council be interpreted as meaning that, for the purposes of marketing of goods, the producer and the distributor can be considered to be subject to the same obligations, where the producer does not market the products?

([1]) Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ 1999 L 91, p. 10).
([2]) Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ 2002 L 11, p. 4).

Reference for a preliminary ruling from the Budapesti II. és III Kerületi Bíróság (Republic of Hungary) lodged on 7 April 2008 — VB Pénzügyi Lízing Zrt. v Ferenc Schneider

(Case C-137/08)

(2008/C 183/15)

Language of the case: Hungarian

Referring court

Budapesti II. és III Kerületi Bíróság (Hungary)

Parties to the main proceedings

Applicant: VB Pénzügyi Lízing Zrt.

Defendant: Ferenc Schneider

Questions referred

1. Does the consumer protection guaranteed by Council Directive 93/13/EEC of 5 April 1993 ([1]) on unfair terms in consumer contracts require that — irrespective of the type of proceedings and whether they are *inter partes* or not — in the context of the review of their own competences, the national courts are to assess, of their own motion, the unfair nature of a contractual term before them even if not specifically requested to do so?

2. If Question 1 is to be answered in the affirmative, what criteria may the national courts take into account in the context of that review, in particular in the case that the contractual term does not grant jurisdiction to the judicial body corresponding to the registered office of the service provider, but to a different judicial body which is located close to that registered office?

3. Pursuant to the first paragraph of Articl 23 of the Protocol on the Statute of the Court of Justice annexed to the Treaty on European Union, the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community, is the possibility precluded for the national courts to inform the Ministry of Justice of their own Member State that a reference for a preliminary ruling has been made at the same time as making that reference?

([1]) OJ 1993 L 95, p. 29.

Reference for a preliminary ruling from the Fővárosi Ítélőtábla (Hungary) lodged on 7 April 2008 — Hochtief AG, Linde-Kca-Dresden GmbH v Közbeszerzések Tanácsa Közbeszerzési Döntőbizottság

(Case C-138/08)

(2008/C 183/16)

Language of the case: Hungarian

Referring court

Fővárosi Ítélőtábla (Hungary)

Parties to the main proceedings

Applicant: Hochtief AG, Linde-Kca-Dresden GmbH

Defendant: Közbeszerzések Tanácsa Közbeszerzési Döntőbizottság

Intervener: Budapest Főváros Önkormányzata

Questions referred

1. Is the procedure laid down in Article 44(3) of Directive 2004/18/EC, which replaced Article 22 of Council Directive 93/37/EEC ([1]) concerning the coordination of procedures for the award of public works contracts, applicable where the procurement procedure was initiated at a time when Directive 2004/18/EC ([2]) had already entered into force, but the time-limit granted to Member States for implementing that directive had not yet expired, so that the directive had not been incorporated into national law?

2. If the answer to the first question is in the affirmative, this court further asks whether, in the case of negotiated procedures with publication of a contract notice, — having regard to the fact that Article 44(3) of Directive 2004/18/EC provides that '[i]n any event the number of candidates invited shall be sufficient to ensure genuine competition' — the limitation of the number of suitable candidates should be interpreted as meaning that in the second stage — that of awarding the contract — there must invariably be a minimum number of candidates (three)?

3. If the answer to the first question is in the negative, this court further asks the Court of Justice whether the requirement that 'there be a sufficient number of suitable candidates', under Article 22(3) of Council Directive 93/37/EEC concerning the coordination of procedures for the award of public works contracts ('Directive 93/37'), should be interpreted as meaning that where the minimum number of suitable candidates invited to take part is not reached (three), the procedure cannot continue to the stage of invitation to tender?

4. If the Court of Justice replies to the third question in the negative, this court further asks whether the second paragraph of Article 22(2) of Directive 93/37 — in the rules on restricted procedures, according to which '[i]n any event, the number of candidates invited to tender shall be sufficient to ensure genuine competition' — is applicable to two-stage negotiated procedures, governed by Article 22(3)?

([1]) OJ 1993 L 199, p. 54.
([2]) OJ 2004 L 134, p. 114.

Reference for a preliminary ruling from the Oberlandesgericht Karlsruhe (Germany) lodged on 7 April 2008 — Criminal proceedings against Rafet Kqiku

(Case C-139/08)

(2008/C 183/17)

Language of the case: German

Referring court

Oberlandesgericht Karlsruhe