

**Judgment of the Court (First Chamber) of 26 April 2012
(reference for a preliminary ruling from the Pest Megyei
Bíróság (Hungary)) — Nemzeti Fogyasztóvédelmi Hatóság
v Invitel Távközlési Zrt**

(Case C-472/10) ⁽¹⁾

**(Directive 93/13/EEC — Article 3(1) and (3) — Articles 6
and 7 — Consumer contracts — Unfair terms — Unilateral
amendment of the terms of a contract by a seller or supplier
— Action for an injunction brought in the public interest and
on behalf of consumers by a body appointed by national legis-
lation — Declaration of the unfair nature of a term — Legal
effects)**

(2012/C 174/08)

Language of the case: Hungarian

Referring court

Pest Megyei Bíróság

Parties to the main proceedings

Applicant: Nemzeti Fogyasztóvédelmi Hatóság

Defendant: Invitel Távközlési Zrt

Re:

Reference for a preliminary ruling — Pest Megyei Bíróság — Interpretation of Article 3(1), in conjunction with points 1(j) and 2(d) of the annex and Article 6(1), of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29) — Term allowing a seller or supplier to amend unilaterally the terms of a contract without a valid reason and without explicitly describing the method by which prices vary — Unfairness of the term — Legal effects of a finding of unfairness of a term in the context of an action in the public interest

Operative part of the judgment

1. It is for the national court, ruling on an action for an injunction, brought in the public interest and on behalf of consumers by a body appointed by national law, to assess, with regard to Article 3(1) and (3) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, the unfair nature of a term included in the general business conditions of consumer contracts by which a seller or supplier provides for a unilateral amendment of fees connected with the service to be provided, without setting out clearly the method of fixing those fees or specifying a valid reason for that amendment. As part of this assessment, the national court must determine, *inter alia*, whether, in light of all the terms appearing in the general business conditions of consumer contracts which include the contested term, and in the light of the national legislation setting out rights and obligations which could supplement those provided by the general business

conditions at issue, the reasons for, or the method of, the amendment of the fees connected with the service to be provided are set out in plain, intelligible language and, as the case may be, whether consumers have a right to terminate the contract.

2. Article 6(1) of Directive 93/13, read in conjunction with Article 7(1) and (2) thereof, must be interpreted as meaning that:

— it does not preclude the declaration of invalidity of an unfair term included in the standard terms of consumer contracts in an action for an injunction, provided for in Article 7 of that directive, brought against a seller or supplier in the public interest, and on behalf of consumers, by a body appointed by national legislation from producing, in accordance with that legislation, effects with regard to all consumers who concluded with the seller or supplier concerned a contract to which the same general business conditions apply, including with regard to those consumers who were not party to the injunction proceedings;

— where the unfair nature of a term in the general business conditions has been acknowledged in such proceedings, national courts are required, of their own motion, and also with regard to the future, to draw all the consequences which are provided by national law in order to ensure that consumers who have concluded a contract with the seller or supplier to which those general business conditions apply will not be bound by that term.

⁽¹⁾ OJ C 346, 18.12.2010.

**Judgment of the Court (Second Chamber) of 26 April 2012
— European Commission v Kingdom of the Netherlands**

(Case C-508/10) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 2003/109/EC — Status of third-country nationals who are long-term residents — Application for long-term resident status — Application for a residence permit in a second Member State made by a third-country national who has already acquired long-term resident status in a first Member State or by a member of his family — Amount of the charges levied by the competent authorities — Disproportionate charges — Obstacle to the exercise of the right of residence)

(2012/C 174/09)

Language of the case: Dutch

Parties

Applicant: European Commission (represented by: M. Condou-Durande and R. Troosters, acting as Agents)

Defendant: Kingdom of the Netherlands (represented by: C. Wissels and J. Langer, acting as Agents)