

**Judgment of the Court (First Chamber) of 14 June 2012  
(reference for a preliminary ruling from the Audiencia  
Provincial de Barcelona — Spain) — Banco Español de  
Crédito SA v Joaquín Calderón Camino**

(Case C-618/10) <sup>(1)</sup>

**(Directive 93/13/EEC — Consumer contracts — Unfair term  
concerning interest on late payments — Order for payment  
procedure — Powers of the national court)**

(2012/C 227/06)

Language of the case: Spanish

**Referring court**

Audiencia Provincial de Barcelona

**Parties to the main proceedings**

*Applicant:* Banco Español de Crédito SA

*Defendant:* Joaquín Calderón Camino

**Re:**

Reference for a preliminary ruling — Audiencia Provincial de Barcelona — Interpretation of 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), of Art. 11(2) 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 (OJ 2005 L 149, p. 22), of Arts 5, 6(2), 7 and 10 of 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) and of Art. 2 of Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests (OJ 2009 L 110, p. 30) — Consumer credit — Interest rates applicable in the event of late payment — Unfair terms — Order for payment procedure — Powers of the national court

**Operative part of the judgment**

1. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which does not allow the court before which an application for an order for payment has been brought to assess of its own motion, in limine litis or at any other stage during the proceedings, even though it already has the legal and factual elements necessary for that task available to it, whether a term relating to interest on late payments contained in a contract concluded between a seller or supplier and a consumer is unfair, in the case where that consumer has not lodged an objection;

2. Article 6(1) of Directive 93/13 must be interpreted as precluding legislation of a Member State, such as Article 83 of Royal Legislative Decree 1/2007 approving the consolidated version of the General Law for the protection of consumers and users and other supplementary laws (Real Decreto Legislativo 1/2007 por el que se aprueba el texto refundido de la Ley General para la Defensa de los Consumidores y Usuarios y otras leyes complementarias) of 16 November 2007, which allows a national court, in the case where it finds that an unfair term in a contract concluded between a seller or supplier and a consumer is void, to modify that contract by revising the content of that term.

<sup>(1)</sup> OJ C 95, 26.3.2011.

**Judgment of the Court (Second Chamber) of 14 June 2012  
(reference for a preliminary ruling from the Cour de  
cassation — France) — Auto 24 SARL v Jaguar Land  
Rover France SAS**

(Case C-158/11) <sup>(1)</sup>

**(Competition — Article 101 TFEU — Motor vehicle sector —  
Regulation (EC) No 1400/2002 — Block exemption —  
Selective distribution system — Concept of 'specified  
criteria' concerning a quantitative selective distribution  
system — Refusal to grant authorisation as a distributor of  
new motor vehicles — Lack of precise, objective, proportionate  
and non-discriminatory quantitative selection criteria)**

(2012/C 227/07)

Language of the case: French

**Referring court**

Cour de cassation

**Parties to the main proceedings**

*Applicant:* Auto 24 SARL

*Defendant:* Jaguar Land Rover France SAS

**Re:**

Reference for a preliminary ruling — Cour de Cassation (Court of Cassation) — Interpretation of Article 1(1)(f) of Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to vertical agreements and concerted practices in the motor vehicle sector (OJ 2002 L 203, p. 30) — Selective distribution system — Refusal to authorise as a distributor of new Land Rover vehicles — Concept of 'specified criteria' in the context of a quantitative selective distribution system — Lack of precise, objective, proportionate and non-discriminatory quantitative selection criteria