

3. *Reserves the costs.*

(<sup>1</sup>) OJ C 86, 23.3.2013.

**Request for a preliminary ruling from the Fővárosi Közigazgatási és Munkügyi Bíróság (Hungary) lodged on 2 September 2013 — Generali-Providencia Biztosító Zrt. v Közbeszerzési Hatóság — Közbeszerzési Döntőbizottság**

(Case C-470/13)

(2013/C 367/36)

*Language of the case: Hungarian*

#### Referring court

Fővárosi Közigazgatási és Munkügyi Bíróság

#### Parties to the main proceedings

*Applicant:* Generali-Providencia Biztosító Zrt.

*Defendant:* Közbeszerzési Hatóság — Közbeszerzési Döntőbizottság

#### Questions referred

1. May the Member States exclude an economic operator from participating in a procedure for the award of a public contract on grounds other than those listed in Article 45 of Directive 2004/18/EC (<sup>1</sup>) of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (in particular, on grounds that are considered to be justified from the point of view of protecting the public interest, the legitimate interests of the contracting authority or fair competition and the maintenance of lawfulness in competition) and, if so, is the provision of such exclusion in relation to an economic operator that has committed an infringement related to his economic or professional activity and established by court judgment which has the authority of *res judicata* given not more than five years ago compatible with the second recital in the preamble to that directive and with Articles 18 TFEU, 34 TFEU, 49 TFEU and 56 TFEU?
2. If the Court of Justice should answer the first question in the negative, must the first subparagraph of Article 45(2) of Directive 2004/18, in particular points (c) and (d) of that provision, be interpreted as meaning that it is possible to exclude from the procedure for the award of a public contract any economic operator who has committed an infringement established by an administrative or judicial

authority in competition proceedings initiated on account of his economic or professional activity, legal consequences in matters of competition having been applied to the economic operator, as a result of that infringement?

(<sup>1</sup>) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).

**Request for a preliminary ruling from the Gerechtshof Arnhem-Leeuwarden (Netherlands) lodged on 16 September 2013 — F. Faber v Autobedrijf Hazet Ochten BV**

(Case C-497/13)

(2013/C 367/37)

*Language of the case: Dutch*

#### Referring court

Gerechtshof Arnhem-Leeuwarden

#### Parties to the main proceedings

*Applicant:* F. Faber

*Defendant:* Autobedrijf Hazet Ochten BV

#### Questions referred

1. Is the national court, either on the grounds of the principle of effectiveness, or on the grounds of the high level of consumer protection within the European Union sought by Directive 1999/44, (<sup>1</sup>) or on the grounds of other provisions or norms of European law, obliged to investigate of its own motion whether, in relation to a contract, the purchaser is (a) consumer within the meaning of Article 1(2)(a) of Directive 1999/44?
2. If the answer to the first question is in the affirmative, does it also apply if the case file contains no (or insufficient or contradictory) information to enable the status of the purchaser to be determined?
3. If the answer to the first question is in the affirmative, does it also apply to appeal proceedings, where the purchaser has not raised any complaint against the judgment of the court of first instance, to the extent that in that judgment that assessment (of its own motion) was not carried out, and the question of whether the purchaser may be deemed to be a consumer was expressly left open?