



Reports of Cases

Judgment of the Court (Sixth Chamber) of 9 July 2015 — Bucura

(Case C-348/14)¹

(Reference for a preliminary ruling — Consumer protection — Directive 87/102/EEC — Article 1(2)(a) — Consumer credit — Concept of ‘consumer’ — Directive 93/13/EEC — Articles 2(b), 3 to 5 and 6(1) — Unfair terms — Examination by the national court of its own motion — Terms drafted ‘in plain, intelligible language’ — Information which the creditor must provide)

1. *Consumer protection — Consumer credit contracts — Directive 87/102 — Unfair terms in consumer contracts — Directive 93/13 — Concept of consumer — Natural person, who is a co-debtor in a credit contract entered into with a professional — Included — Condition (Council Directives 87/102, Art. 1(2)(a) and 93/13, Art. 2(b)) (see para. 39, operative part 1)*
2. *Consumer protection — Unfair terms in consumer contracts — Directive 93/13 — Obligation for the national court to determine of its own motion whether a clause in a contract that it is examining is unfair — Scope (Council Directive 93/13, Art. 6(1)) (see paras 43, 44, operative part 2)*
3. *Consumer protection — Unfair terms in consumer contracts — Directive 93/13 — Unfair term within the meaning of Article 3 — Assessment of unfair nature by the national court — Criteria (Council Directive 93/13, Art. 3(1) and (3), (4) and (5)) (see para. 66, operative part 3)*

Operative part

The Court:

1. Article 1(2)(a) of Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as amended by Directive 98/7/EC of the European Parliament and of the Council of 16 February 1998, and Article 2(b) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as meaning that a natural person who becomes a co-debtor under a contract concluded with a seller or supplier comes within the concept of ‘consumer’ within the meaning of those provisions, since that person is acting for purposes which can be regarded as outside his trade or profession..

¹ — OJ C 361, 13.10.2014.

2. Article 6(1) of Directive 93/13 must be interpreted as meaning that it is for the national court to examine of its own motion the unfair nature, within the meaning of that provision, of the terms of a contract concluded between a consumer and a seller or supplier, since that court has before it the factual and legal elements necessary for that purpose.

3. Articles 3 to 5 of Directive 93/13 must be interpreted as meaning that, in its assessment of the unfair nature, within the meaning of Article 3(1) and (3) of that directive, of the terms of a consumer credit contract, the national court must take account of all matters surrounding the conclusion of that contract. In that regard, it is for that court to ensure that, in the case at issue, all information which may affect the scale of the consumer's obligations has been communicated to him, enabling him to assess, in particular, the total cost of his loan. Decisive factors in that assessment are, first, the issue as to whether the terms are drafted in plain, intelligible language in such a way as to allow an average consumer, that is to say, a consumer who is reasonably well informed and reasonably observant and circumspect, to assess such a cost and, second, the circumstance linked to the lack of mention in the consumer credit contract of information which, in view of the nature of the goods or services which constitute the subject-matter of that contract, is regarded as being essential, in particular that referred to in Article 4 of Directive 87/102, as amended.