

Request for a preliminary ruling from the Juzgado de Primera Instancia de Cartagena (Spain) lodged on 3 February 2014 — Finamadrid E.F.C, S.A. v Jesús Vicente Albán Zambrano and Others

(Case C-49/14)

(2014/C 135/22)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia de Cartagena

Parties to the main proceedings

Applicant: Finamadrid E.F.C, S.A.

Defendants: Jesús Vicente Albán Zambrano, María Josefa García Zapata, Jorge Luis Albán Zambrano, Miriam Elisabeth Caicedo Merino

Questions referred

- (1) Must Directive [93/13] ⁽¹⁾ be interpreted as precluding national legislation such as that currently governing the Spanish order for payment procedure (Articles 815 and 816 [of the] LEC), which does not mandatorily provide either for the examination of unfair terms or the intervention of the court, except when the Secretario Judicial considers it expedient or the debtors lodge an objection, because that legislation hinders or prevents examination of their own motion by the courts of contracts which may contain unfair terms?
- (2) Must Directive 93/13/EEC be interpreted as precluding national legislation such as the Spanish law that does not permit a court to consider, of its own motion and *[in] limine litis*, during subsequent enforcement proceedings [relating to] an enforceable instrument (a reasoned decision issued by the Secretario Judicial bringing the order for payment procedure to a close), whether the contract giving rise to the reasoned decision whose enforcement is sought contained unfair terms, because under national law the matter is *res judicata* (Articles 551 and 552 in conjunction with Article 816(2) of the LEC)?
- (3) Must the Charter of Fundamental Rights of the European Union ⁽²⁾ be interpreted as precluding national legislation such as that relating to the order for payment procedure and the procedure for the enforcement of judicial instruments, that does not provide for review by the court in every case during the declaratory stages of proceedings and does not permit the court at the enforcement stage to reconsider the reasoned decisions previously taken by the Secretario Judicial?
- (4) Must the Charter of Fundamental Rights of the European Union be interpreted as precluding national legislation that prohibits a court from considering, of its own motion, whether the right to be heard has been observed, because the matter is *res judicata*?

⁽¹⁾ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

⁽²⁾ OJ 2000 C 364, p. 1.

Request for a preliminary ruling from the Juzgado de Primera Instancia Madrid (Spain) lodged on 5 February 2014 — Rafael Villafáñez Gallego and María Pérez Anguio v Banco Bilbao Vizcaya Argentaria, S.A.

(Case C-54/14)

(2014/C 135/23)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 34 de Madrid

Parties to the main proceedings

Applicants: Rafael Villafañez Gallego and María Pérez Anguio

Defendant: Banco Bilbao Vizcaya Argentaria, S.A.

Questions referred

1. On a proper construction of Article 3(1) and (2) of Directive 93/13,⁽¹⁾ must an agreement between a bank and an individual consumer be held to be individually negotiated when, as well as altering the conditions on the limiting of interest rates, it imposes on the consumer the costs of amending the authentic instrument of loan and mortgage executed by the bank and the consumer, and when that agreement was proposed by the bank as one of the possible alternatives for altering the financial terms of the loan and was voluntarily accepted by the consumer following an agreement reached after negotiations between the bank and a mutual society of which the consumer is a member in the interests and to the benefit of the members of that mutual society?
2. If the first question is answered in the negative, is Article 3(1), read in conjunction with Article 6(1) of Directive 93/13/EEC, to be interpreted, with regard to the unfairness of the term, as precluding an agreement such as that described in the first question, having regard to the purpose and object of the agreement between the bank and the mutual society?

⁽¹⁾ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Rechtbank van eerste aanleg te Turnhout (Belgium) lodged on 5 February 2014 — Openbaar Ministerie v Marc Emiel Melanie De Beuckeleer and Others

(Case C-56/14)

(2014/C 135/24)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg te Turnhout

Parties to the main proceedings

Applicant: Openbaar Ministerie

Defendants: Marc Emiel Melanie De Beuckeleer, Michiel Martinus Zeeuws, Staalbeton NV/SA

Question referred

Is the prior declaration requirement for employees imposed under the LIMOSA system, as provided for in Articles 137 to 152 of the Belgian Programme Law of 27 December 2006, incompatible with the freedom to provide services guaranteed by Article 49 EC and Article 56 TFEU?

Request for a preliminary ruling from the Tribunale Regionale di Giustizia Amministrativa di Trento (Italy) lodged on 7 February 2014 — Orizzonte Salute — Studio Infermieristico Associato v Azienda Pubblica di Servizi alla persona ‘San Valentino’ and Others

(Case C-61/14)

(2014/C 135/25)

Language of the case: Italian

Referring court

Tribunale Regionale di Giustizia Amministrativa di Trento