

- (b) If Article 1(l)(a)(ii) refers to the number of dismissals in each individual establishment, what is the meaning of 'establishment'? In particular, should 'establishment' be construed to mean the whole of the relevant retail business, being a single economic business unit, or such part of that business as is contemplating making redundancies, rather than a unit to which a worker is assigned their duties, such as each individual store.
- (2) In circumstances where an employee claims a protective award against a private employer, can the Member State rely on or plead the fact that the Directive does not give rise to directly effective rights against the employer in circumstances where:
- (i) The private employer would, but for the failure by the Member State properly to implement the Directive, have been liable to pay a protective award to the employee, because of the failure of that employer to consult in accordance with the Directive; and
- (ii) That employer being insolvent, in the event that a protective award is made against the private employer and is not satisfied by that employer, and an application is made to the Member State, that Member State would itself be liable to pay any such protective award to the employee under domestic legislation that implements Directive 2008/94/EC of 22 October 2008 on the protection of employees in the event of the insolvency of their employer<sup>(2)</sup>, subject to any limitation of liability imposed on the Member State's guarantee institution pursuant to Article 4 of that Directive?

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<sup>(1)</sup> OJ L 225, p. 16

<sup>(2)</sup> OJ L 283, p. 36

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**Request for a preliminary ruling from the College van Beroep voor het Bedrijfsleven (Netherlands)  
lodged on 18 February 2014 — KPN BV v Autoriteit Consument en Markt (ACM), other parties: UPC  
Nederland BV and Others**

**(Case C-85/14)**

(2014/C 151/14)

*Language of the case: Dutch*

**Referring court**

College van Beroep voor het Bedrijfsleven

**Parties to the main proceedings**

*Appellant:* KPN BV

*Respondent:* Autoriteit Consument en Markt (ACM)

*Other parties:* UPC Nederland BV, UPC Nederland Business BV, Tele2 Nederland BV, BT Nederland NV

**Questions referred**

1. Does Article 28 of the Universal Service Directive<sup>(1)</sup> permit the imposition of tariff regulation, without a market analysis having indicated that an operator has significant market power in regard to the regulated service, although the cross-border selectability of non-geographic telephone numbers is entirely possible from a technical point of view and the only obstacle to access to those numbers lies in the fact that the tariffs charged mean that a call to a nongeographic number is more expensive than a call to a geographic number?
2. If Question 1 is answered in the affirmative, the following two questions arise for the College van Beroep:
  - (a) Does the power to regulate tariffs also apply in the case where the effect of higher tariffs on the call volume to non-geographic numbers is merely limited?

- (b) To what extent do the national courts still have scope to assess whether a tariff-related measure required under Article 28 of the Universal Service Directive is not unreasonably onerous for the transit provider, given the objectives which it seeks to attain?
3. Does Article 28(1) of the Universal Service Directive leave open the possibility that the measures referred to in that provision may be taken by an authority other than the national regulatory authority which exercises the powers referred to in Article 13(1) of the Access Directive, <sup>(2)</sup> with the result that the latter authority would merely have enforcement powers?

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<sup>(1)</sup> Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (OJ 2002 L 108, p. 51).

<sup>(2)</sup> Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (OJ 2002 L 108, p. 7).

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**Request for a preliminary ruling from the Juzgado de Primera Instancia de Miranda de Ebro (Spain)  
lodged on 24 February 2014 — Banco Grupo Cajatres, S.A. v D. Miguel Ángel Viana Gordejuela**

**(Case C-90/14)**

(2014/C 151/15)

*Language of the case: Spanish*

**Referring court**

Juzgado de Primera Instancia de Miranda de Ebro

**Parties to the main proceedings**

*Applicant:* Banco Grupo Cajatres, S.A.

*Defendants:* María Mercedes Manjón Pinilla and joint heirs of D. Miguel Ángel Viana Gordejuela

**Questions referred**

1. Do Articles 6(1) and 7(1) of Council Directive 93/13/EEC <sup>(1)</sup> preclude a provision, such as the Second Transitional Provision of Law No 1/2013 of 14 May, which provides at all events for a reduction of the default interest rate, regardless of whether the term concerning default interest was originally void because it was unfair?
2. Do Articles 3(1), 4(1), 6(1) and 7(1) of Directive 93/13 preclude a provision of national law, such as Article 114 of the Law on Mortgages, which allows the national court, when assessing the unfairness of a term fixing default interest, to examine only whether the agreed interest rate exceeds 3 times the statutory interest rate and no other circumstances?
3. Do Articles 3(1), 4(1), 6(1) and 7(1) of Directive 93/13 preclude a provision of national law, such as Article 693 LEC, which allows a claim to be made for accelerated repayment of the total amount of the loan on the grounds of failure to pay three monthly instalments, without taking into account other factors such as the duration or amount of the loan or any other relevant matters and which also makes the possibility of avoiding the effects of such accelerated repayment dependent on the will of the creditor except in cases in which the mortgage is secured on the mortgagor's permanent residence?

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