

Parties to the main proceedings

Applicant: Aliny Wojciechowski

Defendant: Office national des pensions (ONP)

Question referred

On a proper construction of the principle of sincere cooperation and Article 4(3) TEU, on the one hand, and of Article 34 (1) of the Charter of Fundamental Rights, on the other, is a Member State precluded from reducing or refusing a retirement pension payable to an employed person by virtue of the service performed, in accordance with the legislation of that Member State, where the total number of years worked in that Member State and within the European institutions exceeds the 'occupational record unit' of 45 years referred to in Article 10(a) of Royal Decree No 50 of 24 October 1967 on the retirement and survival pension of employed persons?

**Request for a preliminary ruling from the Juzgado de Primera Instancia No 2 de Santander (Spain)
lodged on 10 September 2014 — Banco Primus, S.A. v Jesús Gutiérrez García**

(Case C-421/14)

(2014/C 421/28)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 2 de Santander

Parties to the main proceedings

Applicant: Banco Primus, S.A.

Defendant: Jesús Gutiérrez García

Questions referredFirst question:

1. Must the Fourth Transitional Provision of Law No 1/2013 be interpreted so as not to constitute an obstacle to the protection of the consumer?
2. Under Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts⁽¹⁾, and in particular Articles 6(1) and 7(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, is a consumer permitted to raise a complaint regarding the presence of unfair terms outside the period specified under national legislation for raising such a complaint, and is the national court required to examine such terms?
3. Under Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Articles 6 (1) and 7(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, is a national court required to assess, of its own motion, whether a term is unfair and to determine the appropriate consequences, even where an earlier decision of that court reached the opposite conclusion or declined to make such an assessment and that decision was final under national procedural law?

Second question:

4. In what way may the quality/price ratio affect the review of the unfairness of non-essential terms of a contract? When conducting an indirect review of such factors, is it relevant to have regard to the limits imposed on prices under national legislation? Is it possible that terms that are valid when viewed in abstract cease to be so where it is found that the price of the transaction is very high by comparison with the market standard?

Third question:

5. For the purposes of Article 4 of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, can circumstances arising after the conclusion of the contract be taken into account if an examination of the national legislation suggests that this is required?

Fourth question:

6. Must Article 693(2) of the LEC [Ley de Enjuiciamiento Civil (Law on Civil Procedure)], as amended by Law 1/2013, be interpreted so as not to constitute an obstacle to the protection of consumer interests?
7. Under Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Articles 6 (1) and 7(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, must a national court, when it finds there to be an unfair term concerning accelerated repayment, declare that that term does not form part of the contract and determine the consequences inherent in such a finding, even where the seller or supplier has waited the minimum time provided for in the national provision?

(¹) OJ 1993 L 95, p. 29.

Request for a preliminary ruling from the Juzgado de lo Social No 33 de Barcelona (Spain) lodged on 12 September 2014 — Christian Pujante Rivera v Gestora Clubs Dir, S.L., Fondo de Garantía Salarial

(Case C-422/14)

(2014/C 421/29)

Language of the case: Spanish

Referring court

Juzgado de lo Social No 33 de Barcelona

Parties to the main proceedings

Applicant: Christian Pujante Rivera

Defendants: Gestora Clubs Dir, S.L., Fondo de Garantía Salarial

Questions referred

1. If temporary workers, whose contracts have been terminated on the lawful ground that those contracts are temporary, are to be regarded as falling outside the scope and protection of Directive 98/59 (¹) on collective redundancies, by virtue of Article 1(2)(a) thereof (judgment on the request for a preliminary ruling in Case C-392/13 pending), would it be consistent with the purpose of the Directive if — conversely — such workers were taken into account for the purposes of determining the number of workers 'normally' employed at an establishment (or, in Spain, an undertaking) in order to calculate the numerical threshold for collective redundancies (10 % or 30 workers) laid down in Article 1(a)(i) of the Directive?
2. The requirement under the second subparagraph of Article 1(1)(b) of Directive 98/59 that 'terminations' be 'assimilated' to 'redundancies' is made subject to the condition 'that there [be] at least five redundancies'. Must that condition be interpreted as relating to the 'redundancies' previously effected or brought about by the employer, as provided for in Article 1(1)(a) of the Directive, and not to the minimum number of 'assimilable terminations' that must exist in order for such assimilation to take place?