

**Judgment of the Court (Fifth Chamber) of 7 December 2017 (request for a preliminary ruling from the Juzgado de Primera Instancia de Jerez de la Frontera) — Banco Santander SA v Cristobalina Sánchez López**

(Case C-598/15) <sup>(1)</sup>

*(Reference for a preliminary ruling — Directive 93/13/EEC — Consumer contracts — Unfair terms — Powers of the national court — Effectiveness of the protection afforded to consumers — Mortgage loan agreement — Extrajudicial enforcement procedure — Simplified declaratory court procedure for recognition of the real rights of the successful bidder)*

(2018/C 052/03)

Language of the case: Spanish

**Referring court**

Juzgado de Primera Instancia de Jerez de la Frontera

**Parties to the main proceedings**

Applicant: Banco Santander SA

Defendant: Cristobalina Sánchez López

**Operative part of the judgment**

Article 6(1) and Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer do not apply to proceedings such as those at issue in the main proceedings, brought by the successful bidder in an auction of immovable property, following extrajudicial enforcement of a mortgage granted over that property by a consumer to a creditor acting in the course of trade, such proceedings having been brought for the purpose of protecting real rights lawfully acquired by the successful bidder, provided that, first, the proceedings are independent of the legal relationship between that creditor and the consumer and, second, the mortgage has been enforced, the immovable property sold, the real rights over that property transferred, and the consumer has not availed himself of the legal remedies provided in that context

<sup>(1)</sup> OJ C 38, 1.2.2016.

**Judgment of the Court (Fourth Chamber) of 14 December 2017 — European Bicycle Manufacturers Association (EBMA) v Giant (China) Co. Ltd, Council of the European Union, European Commission**

(Case C-61/16 P) <sup>(1)</sup>

*(Appeal — Dumping — Regulation (EU) No 502/2013 — Imports of bicycles originating in China — Regulation (EC) No 1225/2009 — Article 18(1) — Cooperation — Definition of ‘necessary information’ — Article 9(5) — Request for individual treatment — Risk of circumvention)*

(2018/C 052/04)

Language of the case: English

**Parties**

Appellant: European Bicycle Manufacturers Association (EBMA) (represented by: L. Ruessmann, avocat, and J. Beck, Solicitor)

Other parties to the proceedings: Giant (China) Co. Ltd (represented by: P. De Baere, avocat), Council of the European Union, (represented by: H. Marcos Fraile, Agent, B. O'Connor, Solicitor, and S. Gubel, avocat), European Commission, (represented by J.-F. Brakeland, M. França, and A. Demeneix, Agents)

**Operative part of the judgment**

The Court:

1. Dismisses the appeal;
2. Orders the European Bicycle Manufacturers Association (EBMA) to bear its own costs and to pay the costs incurred by Giant (China) Co. Ltd;
3. Orders the Council of the European Union and the European Commission to bear their own costs.

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<sup>(1)</sup> OJ C 106, 21.3.2016.

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**Judgment of the Court (Fifth Chamber) of 7 December 2017 (request for a preliminary ruling from the Högsta förvaltningsdomstolen – Sweden) — Boguslawa Zaniewicz-Dybeck v Pensionsmyndigheten**

(Case C-189/16) <sup>(1)</sup>

(Reference for a preliminary ruling — Social security for migrant workers — Regulation (EEC) No 1408/71 — Article 46(2) — Article 47(1)(d) — Article 50 — Guaranteed pension — Minimum benefit — Calculation of pension entitlement)

(2018/C 052/05)

Language of the case: Swedish

**Referring court**

Högsta förvaltningsdomstolen

**Parties to the main proceedings**

Applicant: Boguslawa Zaniewicz-Dybeck

Defendant: Pensionsmyndigheten

**Operative part of the judgment**

1. Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Council Regulation (EC) No 1606/98 of 29 June 1998, is to be interpreted as meaning that, when the competent institution of a Member State calculates a minimum benefit, such as the guaranteed pension at issue in the main proceedings, it is not inappropriate to apply Article 46(2) or Article 47(1)(d) of the regulation. Such a benefit must be calculated in accordance with Article 50 of the regulation, in conjunction with the provisions of national law, without, however, applying national provisions, such as those in the main proceedings, providing for a pro rata calculation;
2. Regulation No 1408/71, as amended and updated by Regulation No 118/97, as amended by Regulation No 1606/98, and in particular Article 50 of that regulation, is to be interpreted as not precluding the legislation of a Member State under which, when calculating a minimum benefit such as the guaranteed pension at issue in the main proceedings, the competent institution must take account of all the retirement pensions which the person concerned actually receives from one or more other Member States.

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<sup>(1)</sup> OJ C 211, 13.6.2016.