Defendants: Partena, Assurances Sociales pour Travailleurs Indépendants ASBL, Institut national d'assurances sociales pour travailleurs indépendants (Inasti), Union Nationale des Mutualités Libres (Partenamut) (UNMLibres)

By order of 5 October 2017, the Court (Eighth Chamber) has declared that the request for a preliminary ruling is manifestly inadmissible.

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 19 July 2017 — Gemeinsamer Betriebsrat EurothermenResort Bad Schallerbach GmbH v EurothermenResort Bad Schallerbach GmbH

(Case C-437/17)

(2017/C 382/34)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: Gemeinsamer Betriebsrat EurothermenResort Bad Schallerbach GmbH

Defendant: EurothermenResort Bad Schallerbach GmbH

Question referred

Are Article 45 TFEU and Article 7(1) of Regulation (EU) No 492/2011 ([1]) on freedom of movement for workers to be interpreted as precluding a national provision such as that in the main proceedings (Paragraph 3(2)(1) in conjunction with Paragraph 3(3) and Paragraph 2(1) of the Urlaubsgesetz (Law on holidays, 'the UrlG')), under which a worker who has a total of 25 years of service, but has not completed these with the same Austrian employer, is entitled to only five weeks of annual holiday, whereas a worker who has completed 25 years of service with the same Austrian employer is entitled to six weeks of holiday per year.

([1]) Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union, OJ 2011 L 141, p. 1.

Request for a preliminary ruling from the Krajský súd v Prešove (Slovakia) lodged on 25 July 2017 — EOS KSI Slovensko, s.r.o. v Ján Danko, Margita Jalčová

(Case C-448/17)

(2017/C 382/35)

Language of the case: Slovakian

Referring court

Krajský súd v Prešove

Parties to the main proceedings

Applicant: EOS KSI Slovensko, s.r.o.

Defendants: Ján Danko, Margita Jalčová

Questions referred

1. In the light of the judgment in Case C-470/12 *Pohotovosť*, and the considerations set out by the Court of Justice of the European Union at paragraph 46 of the grounds too, is a legal provision incompatible with the principle of equivalence under EU law when — in the context of the equivalence of the interests protected by law and the protection of consumer rights against unfair contractual terms — it does not permit, without the defendant consumer's consent, a legal person whose activity involves the collective protection of consumers against unfair contractual terms and is designed to achieve the objective set out in Article 7(1) of Directive 93/13/EEC, ([1]) as transposed by Article 53a(1) and (3) of the Civil Code, to participate as another party (intervener) in legal proceedings from the outset and to make effective use, for the consumer's benefit, of the means of action and defence in court proceedings, in order to secure, in the context of such proceedings, protection from the systematic use of unfair contractual terms; whereas, in other circumstances, another party (intervener), intervening in court proceedings in support of the defendant and having an interest in the definition of the substantive (commercial) law that is the object of the proceedings, does not in fact, unlike a consumer protection association, require the consent of the consumer, on whose behalf it is intervening, in order to take part in the proceedings from the outset and effectively exercise the means of defence and action for the defendant's benefit?

2. In the light also of the findings of the Court of Justice in its judgments in Case C-26/13 and Case C-96/14, must the expression 'in plain intelligible language' appearing in Article 4(2) of Directive 93/13 be interpreted to the effect that a contractual term may be regarded as not being in plain and intelligible language — with the legal consequence that it is [automatically] subject to judicial review of unfairness — even when the legal institute [body of legal rules governing a specific area of civil law (instrument) which it governs is in itself complicated, it is hard for the average consumer to foresee its legal consequences and in order to understand it professional legal advice is generally necessary, the costs of which are disproportionate to the value of the service which the consumer receives under the agreement?

3. When a court takes a decision on the rights deriving from an agreement concluded with a consumer, asserted against a consumer as defendant, on the sole basis of the applicant's claims, by way of an order for payment [issued] in summary proceedings, and the provision in Article 172(9) of the Code of Civil Procedure precluding the issue of an order for payment if a contract concluded with a consumer contains unfair contractual terms is in no way applied in the proceedings, is it not incompatible with EU law for legislation of a Member State, given the brief period allowed for the lodging of an appeal and the possibility that the consumer may be impossible to find or be inactive, not to make it possible for a consumer protection association, qualified and authorised to pursue the objective under Article 7(1) of Directive 93/13/EEC, as transposed by Article 53a(1) and (2) of the Civil Code, effectively to make use, without the consumer's consent (unless the consumer specifically dissents), of the only opportunity of protecting the consumer, in the form of opposition to the order for payment, in circumstances in which the court fails to fulfil its obligation under Article 172(9) of the Code of Civil Procedure?

4. May it be considered relevant, for the purpose of the answers to the second and third questions, that the [national] legal order does not accord the consumer the right to mandatory legal assistance and that, failing legal representation, his lack of knowledge in that area gives rise to a significant risk that he will fail to perceive the unfairness of the contractual terms and will not even act to enable the intervention on his behalf, in court proceedings, of a consumer protection association, qualified and authorised to pursue the objective under Article 7(1) of Directive 93/13/EEC, as transposed by Article 53a(1) and (2) of the Civil Code?

5. Is it not incompatible with EU law, and the requirement that all the circumstances of the case be assessed, in accordance with Article 4(1) of Directive 93/13/EEC, for legislation, such as that on summary proceedings for the issue of an order for payment (Article 172(1) et seq. of the Slovak Code of Civil Procedure), to permit: (1) the seller or supplier to be given the right to a pecuniary benefit with the effects of a judgment, (2) in the context of summary proceedings, (3) before an administrative officer of the court, (4) solely on the basis of the trader's claims, and (5) without evidence being taken and

in circumstances in which (6) the consumer is not represented by a legal professional, (7) and his defence may not be effectively mounted, without his consent, by a consumer protection association, qualified and authorised to pursue the objective under Article 7(1) of Directive 93/13/EEC, as transposed by Article 53a(1) and (2) of the Civil Code?

(1) OJ L 1993, L 95 p. 25.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 4 August 2017 — Funke Medien NRW GmbH v Federal Republic of Germany

(Case C-469/17)

(2017/C 382/36)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Defendant and appellant: Funke Medien NRW GmbH

Applicant and respondent: Federal Republic of Germany

Questions referred

1. Do the provisions of Union law on the exclusive right of authors to reproduce (Article 2(a) of Directive 2001/29/EC [1]) and publicly communicate their works, including the right to make works available to the public (Article 3(1) of Directive 2001/29/EC), and the exceptions or limitations to these rights (Article 5(2) and (3) of Directive 2001/29/EC) allow any latitude in terms of implementation in national law?

2. In which way are the fundamental rights of the Charter of Fundamental Rights of the European Union to be taken into account when ascertaining the scope of the exceptions or limitations provided for in Article 5(2) and (3) of Directive 2001/29/EC to the exclusive right of authors to reproduce (Article 2(a) of Directive 2001/29/EC) and publicly communicate their works, including the right to make works available to the public (Article 3(1) of Directive 2001/29/EC)?

3. Can the fundamental rights of freedom of information (second sentence of Article 11(1) of the Charter) or freedom of the media (Article 11(2) of the Charter) justify exceptions or limitations to the exclusive rights of authors to reproduce (Article 2(a) of Directive 2001/29/EC) and publicly communicate their works, including the right to make works available to the public (Article 3(1) Directive 2001/29/EC), beyond the exceptions or limitations provided for in Article 5 (2) and (3) of Directive 2001/29/EC?

(1) Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10).