

Question referred

Is Article 3(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts ⁽¹⁾ to be interpreted as meaning that a clause contained in a commercial air carrier's general terms and conditions which has not been individually negotiated and under which an electronically concluded contract with a passenger is subject to the law of the Member State applicable where the air carrier has its registered office and which is not identical to the law of the passenger's habitual residence is unfair in so far as it misleads the passenger by not indicating that the choice of a different law in accordance with Article 5(2), subsection 2, of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) ⁽²⁾ is possible only to a limited extent and not any, but only legal provisions referred to in Article 5(2), subsection 2, of the Rome I Regulation may be relied on?

⁽¹⁾ OJ 1993 L 95, p. 29.

⁽²⁾ OJ 2008 L 177, p. 6.

Request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia (Spain) lodged on 13 November 2018 — Agencia Estatal de la Administración Tributaria v SJ

(Case C-705/18)

(2019/C 72/09)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Appellant: Agencia Estatal de la Administración Tributaria

Respondent: SJ

Question referred

Are a provision in a collective agreement and an employer's practice, pursuant to which, for the purposes of remuneration and promotion, the length of service of a part-time female employee whose working hours are 'distributed vertically' over the whole year is to be calculated solely on the basis of time actually worked, contrary to Clause 4(1) and (2) of the Framework Agreement on part-time work [annexed to] Council Directive 97/81/EC of 15 December 1997, ⁽¹⁾ and to Articles 2(1)(b) and 14(1) of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)? ⁽²⁾

⁽¹⁾ Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC (OJ 1998 L 14, p. 9).

⁽²⁾ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ 2006 L 204, p. 23).
