

Questions referred

1. Must Directive 93/13/EEC of 5 April 1993 ⁽¹⁾ and the principle of effectiveness of [EU] law be interpreted as precluding the application of a rule of national law preventing the courts from assessing whether a term in a contract entered into with a trader is unfair, where the trade guarantor guaranteeing performance of the contract informed the debtor/consumer that it was going to proceed to payment and the debtor/consumer did not inform the trade guarantor of the exceptions to be raised?
2. Is the reference in the body of the contract to the fact that the foreign exchange risk lies with the borrower, supplemented by amortisation tables, capable of rendering the term 'plain and intelligible' for the purpose of the directive, where no simulations have been provided illustrating different scenarios, including negative ones, relating to exchange rate movements?
3. Does the burden of proving that the consumer was provided with the necessary information for ensuring that the term at issue was plain and intelligible and of proving that that term was plain and intelligible lie with the trader or the consumer?
4. If the court finds that Articles 1.2.1 to 1.2.9 and 2.8 of the contract are unfair because they were not drafted in sufficiently plain and intelligible language, should all the financial terms, including the term concerning interest, be declared not written? Or should only those terms concerning the variation of the exchange rate and the term concerning currency be declared not written, retaining a fixed-interest rate, in euros? Or should another option be considered?
5. In considering the previous question, is it necessary for the court to satisfy itself that the penalty thus imposed is effective, proportionate and dissuasive?

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

**Request for a preliminary ruling from the tribunal de l'entreprise de Liège (Belgium) lodged on
31 December 2018 — SI, Brompton Bicycle Ltd v Chedech / Get2Get**

(Case C-833/18)

(2019/C 82/21)

Language of the case: French

Referring court

Tribunal de l'entreprise de Liège

Parties to the main proceedings

Applicants: SI, Brompton Bicycle Ltd

Defendant: Chedech / Get2Get

Questions referred

- Must EU law, in particular 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, ⁽¹⁾ which determines, inter alia, the various exclusive rights conferred on copyright holders, in Articles 2 to 5 thereof, be interpreted as excluding from copyright protection works whose shape is necessary to achieve a technical result?

- In order to assess whether a shape is necessary to achieve a technical result, must account be taken of the following criteria:
 - The existence of other possible shapes which allow the same technical result to be achieved?
 - The effectiveness of the shape in achieving that result?
 - The intention of the alleged infringer to achieve that result?
 - The existence of an earlier, now expired, patent on the process for achieving the technical result sought?

(¹) OJ 2001 L 167, p. 10.

Appeal brought on 7 January 2019 by Mylène Troszczynski against the judgment of the General Court (Sixth Chamber) delivered on 8 November 2018 in Case T-550/17, *Troszczynski v Parliament*

(Case C-12/19 P)

(2019/C 82/22)

Language of the case: French

Parties

Appellant: Mylène Troszczynski (represented by: F. Wagner, avocat)

Other party to the proceedings: European Parliament

Form of order sought

The appellant claims that the Court should:

- set aside the judgment delivered by the Sixth Chamber of the General Court of the European Union on 8 November 2018 in Case T-550/17;

and accordingly,

- annul the decision of the European Parliament of 14 June 2017 adopting Report No A8-0218/2017 of the Committee on Legal Affairs on the request for waiver of the immunity and privileges of Mylène Troszczynski, a Member of the European Parliament;
- make an appropriate order as to the amount to be awarded to the appellant in respect of the costs of the proceedings;
- order the European Parliament to pay all costs.

Pleas in law and main arguments

1. The General Court's analysis of the second plea in law

The General Court does not consider that the disputed tweet of Mylene Troszczynski constitutes the expression of an opinion in the performance of parliamentary duties on the ground that it relates to a specific event, deemed to have taken place in France, which cannot be regarded as constituting the taking of a general position on current topical issues or issues dealt with by the Parliament, which are conditions required in order for an opinion to be protected under the Protocol.

The General Court errs manifestly in its assessment, since:

- each Member of Parliament is an elected representative in his country, he represents his electors and must maintain a link with them during his mandate, *inter alia* by making reference to facts that interest or concern them,