

5. Articles 6(1) and 7(1) of Directive 93/13 and the principle of effectiveness must be interpreted as meaning that they preclude a system whereby the consumer may be made to bear part of the costs of proceedings depending on the level of the unduly paid sums which are refunded to him following a finding that a contractual term is void for being unfair, given that such a system creates a substantial obstacle that is likely to discourage consumers from exercising the right to an effective judicial review of the potential unfairness of contractual terms such as that conferred by Directive 93/13.

(¹) OJ C 246, 22.7.2019.

Judgment of the Court (First Chamber) of 16 July 2020 (request for a preliminary ruling from the Tribunalul București — Romania) — JE v KF

(Case C-249/19) (¹)

(Reference for a preliminary ruling — Regulation (EU) No 1259/2010 — Enhanced cooperation in the area of the law applicable to divorce and legal separation — Uniform rules — Article 10 — Application of the law of the forum)

(2020/C 297/20)

Language of the case: Romanian

Referring court

Tribunalul București

Parties to the main proceedings

Applicant: JE

Defendant: KF

Operative part of the judgment

Article 10 of Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation must be interpreted as meaning that the expression ‘where the law applicable by virtue of Article 5 or Article 8 makes no provision for divorce’ applies only where the foreign law applicable makes no provision for divorce in any form.

(¹) OJ C 206, 17.6.2019.

Judgment of the Court (Ninth Chamber) of 16 July 2020 (request for a preliminary ruling from the Tribunal da Relação de Guimarães — Portugal) — MH, NI v OJ, Novo Banco SA

(Case C-253/19) (¹)

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Insolvency proceedings — Regulation (UE) 2015/848 — Article 3 — International jurisdiction — Centre of a debtor’s main interests — Individual not exercising an independent business or professional activity — Rebuttable presumption that the centre of that person’s main interests is his or her habitual residence — Rebuttal of the presumption — Situation in which the debtor’s sole immovable asset is located outside the Member State of habitual residence)

(2020/C 297/21)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Guimarães

Parties to the main proceedings

Applicants: MH, NI

Defendants: OJ, Novo Banco SA

Operative part of the judgment

The first and fourth subparagraphs of Article 3(1) of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings must be interpreted as meaning that the presumption established in that provision for determining international jurisdiction for the purposes of opening insolvency proceedings, according to which the centre of the main interests of an individual not exercising an independent business or professional activity is his or her habitual residence, is not rebutted solely because the only immovable property of that person is located outside the Member State of habitual residence.

⁽¹⁾ OJ C 206, 17.6.2019.

Judgment of the Court (Sixth Chamber) of 16 July 2020 (request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio — Italy) — WWF Italia o.n.l.u.s. and Others v Presidenza del Consiglio dei Ministri, Azienda Nazionale Autonoma Strade SpA (ANAS)

(Case C-411/19) ⁽¹⁾

(Reference for a preliminary ruling — Environment — Directive 92/43/EEC — Article 6 — Conservation of natural habitats and of wild fauna and flora — Special areas of conservation — Construction of a road section — Assessment of the impact of that project on the special area of conservation concerned — Authorisation — Imperative reasons of overriding public interest)

(2020/C 297/22)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicants: WWF Italia o.n.l.u.s., Lega Italiana Protezione Uccelli o.n.l.u.s., Gruppo di Intervento Giuridico o.n.l.u.s., Italia Nostra o.n.l.u.s., Forum Ambientalista, FC and Others

Defendants: Presidenza del Consiglio dei Ministri, Azienda Nazionale Autonoma Strade SpA (ANAS)

Operative part of the judgment

1. Article 6 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as not precluding national legislation which allows a procedure for authorisation of a plan or project, the impact of which on a special area of conservation cannot be mitigated and in respect of which the competent public authority has already expressed a negative opinion, to continue for imperative reasons of overriding public interest, unless there is an alternative solution with fewer disadvantages for the integrity of the area concerned, which it falls to the referring court to verify.
2. When a plan or project has, pursuant to Article 6(3) of Directive 92/43, received a negative assessment of its impact on a special area of conservation and the Member State concerned has nevertheless decided, under Article 6(4), to carry out that project for imperative reasons of overriding public interest, Article 6 of that directive must be interpreted as precluding national legislation allowing that plan or project, after its negative assessment under Article 6(3) and before its final adoption pursuant to Article 6(4), to be supplemented by measures mitigating its impact on that area and for the assessment of its impact on that area to continue. By contrast, Article 6 of Directive 92/43 does not preclude, in the same situation, national legislation allowing compensatory measures in the context of the same decision to be defined, provided that the other conditions for implementing Article 6(4) of that directive are also fulfilled.