

Other parties to the proceedings: European Union Intellectual Property Office, Cinkciarz.pl sp. z o.o.

By order of the Court (Chamber determining whether appeals may proceed) delivered on 28 May 2020, the appeal was not allowed to proceed.

**Request for a preliminary ruling from the Sąd Rejonowy dla Warszawy-Woli w Warszawie (Poland)
lodged on 11 May 2020 — MN, DN, JN, ZN v X Bank S.A.**

(Case C-198/20)

(2020/C 304/06)

Language of the case: Polish

Referring court

Sąd Rejonowy dla Warszawy-Woli w Warszawie

Parties to the main proceedings

Applicants: MN, DN, JN, ZN

Defendant: X Bank S.A.

Questions referred

1. Must Article 2(b) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (⁽¹⁾ Article 3(1) and (2) and Article 4 of Directive 93/13 and its following recitals:

- whereas the consumer must receive equal protection under contracts concluded by word of mouth and written contracts regardless, in the latter case, of whether the terms of the contract are contained in one or more documents;
- whereas the assessment, according to the general criteria chosen, of the unfair character of terms, in particular in sale or supply activities of a public nature providing collective services which take account of solidarity among users, must be supplemented by a means of making an overall evaluation of the different interests involved; whereas this constitutes the requirement of good faith; whereas, in making an assessment of good faith, particular regard shall be had to the strength of the bargaining positions of the parties, whether the consumer had an inducement to agree to the term and whether the goods or services were sold or supplied to the special order of the consumer; whereas the requirement of good faith may be satisfied by the seller or supplier where he deals fairly and equitably with the other party whose legitimate interests he has to take into account;
- whereas contracts should be drafted in plain, intelligible language, the consumer should actually be given an opportunity to examine all the terms and, if in doubt, the interpretation most favourable to the consumer should prevail;

in the light of paragraphs 16 and 21 of the Court's judgment of 3 September 2015, *Costea* (C-110/14, EU: C:2015:538) and points 20 and 26-33 of the Opinion of Advocate General Cruz Villalón delivered on 23 April 2015 (ECLI:EU:C:2015:271),

be interpreted as meaning that every consumer is entitled to the consumer protection conferred by Directive 93/13?

Or, as suggested by paragraph 74 of the Court's judgment of 30 April 2014, *Kásler and Káslerné Rábai* (C-26/13, ECLI: EU:C:2014:282), is consumer protection only available to an average consumer, who is reasonably well informed and reasonably observant and circumspect? In other words, can the national court find the terms of a contract concluded by any consumer to be unlawful or can it only find the terms of a contract concluded by a consumer who can be considered an average consumer, who is reasonably well informed and reasonably observant and circumspect, to be unlawful?

2. If the answer to the first question is that consumer protection under Directive 93/13 is not available to every consumer, but only to an average consumer, who is reasonably well informed and reasonably observant and circumspect, can a consumer who did not read a contract for a mortgage loan indexed to a foreign currency amounting to PLN 150 000, concluded for 30 years, before its conclusion, be considered an average consumer, who is reasonably well informed and reasonably observant and circumspect? Can such a consumer be granted protection under Directive 93/13?
3. If the answer to the first question is that consumer protection under Directive 93/13 is not available to every consumer, but only to an average consumer, who is reasonably well informed and reasonably observant and circumspect, can a consumer who, although he did read a draft contract for a mortgage loan indexed to a foreign currency amounting to PLN 150 000, concluded for 30 years, he did not fully understand it, and yet did not try to understand its meaning before its conclusion, and in particular did not ask the other party to the contract (the bank) to explain its meaning and the meaning of its individual provisions, be considered an average consumer, who is reasonably well informed and reasonably observant and circumspect? Can such a consumer be granted protection under Directive 93/13?

(¹) OJ 1993 L 95, p. 29,

Appeal brought on 12 May 2020 by Claudio Necci against the order of the General Court (Fourth Chamber) delivered on 25 March 2020 in Case T-129/19, Necci v Commission

(Case C-202/20 P)

(2020/C 304/07)

Language of the case: French

Parties

Appellant: Claudio Necci (represented by: S. Orlandi, T. Martin, lawyers)

Other parties to the proceedings: European Commission, European Parliament, Council of the European Union

Form of order sought

The appellant claims that the Court should:

- set aside the order of 25 March 2020 of the General Court of the European Union in Case T-129/19, *Necci v Commission*;
- refer the case back to the General Court of the European Union for it to be adjudged afresh;
- reserve the costs.

Grounds of appeal and main arguments

The appellant seeks to have aside the order of 25 May 2020 in Case T-129/19, by which the General Court of the European Union dismissed his action for annulment as inadmissible and ordered him to pay the costs.

The appellant raises three grounds of appeal in that regard:

The first ground alleges a distortion of the subject matter of the dispute in so far as the General Court of the European Union took the view that the decision of 18 July 2011 adversely affected the appellant.