

In relation to Regulation (EC) No 593/2008 ⁽²⁾ of the European Parliament and of the Council of 17 June 2008:

4. In the case of consumer contracts to which the Rome I Regulation is applicable, is it *compatible with Article 3 of that regulation to conclude that clauses determining the applicable law, which are included in the 'general conditions' of the contract signed by the parties or which are included in a separate document which is expressly referred to in the contract and is shown to have been provided to the consumer, are valid and applicable?*
5. In the case of consumer contracts to which the Rome I Regulation is applicable, is it *compatible with Article 6(1) of that regulation to conclude that it can be relied on by a consumer and by the other party to a contract?*
6. In the case of consumer contracts to which the Rome I Regulation is applicable, is it *compatible with Article 6(1) of that regulation to conclude that, if the conditions laid down therein are satisfied, the law indicated in that provision will in all cases be applied in preference to that indicated in Article 6(3), even though the latter may be more favourable to the consumer in the particular case?*

⁽¹⁾ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1–32).

⁽²⁾ 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) (OJ 2008 L 177, p. 6–16).

**Request for a preliminary ruling from the Audiencia Provincial de Málaga (Spain) lodged on
17 January 2022 — Cajasur Banco, S. A. v JO and IM**

(Case C-35/22)

(2022/C 171/20)

Language of the case: Spanish

Referring court

Audiencia Provincial de Málaga

Parties to the main proceedings

Appellant: Cajasur Banco, S. A.

Respondents: JO and IM

Questions referred

1. Is it contrary to the right to effective judicial protection and Article 47 of the Charter of Fundamental Rights of the European Union to require that, before instituting legal proceedings, the consumer must first have issued an out-of-court demand for payment in order for the declaration as to the invalidity of a particular general condition of contract on grounds of unfairness to give rise to all of the compensatory effects (including the costs of the legal proceedings) associated with such invalidity, pursuant to Article 6(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts? ⁽¹⁾
2. Is it compatible with the right to full compensation and the effectiveness of European Union law and Article 6(1) of the aforementioned directive to make the imposition of costs (including legal fees) subject to a condition based on the existence of a prior out-of-court demand for payment issued by the consumer to the financial institution with a view to the removal of that term?

⁽¹⁾ OJ 1993 L 95, p. 29.