

2. Is Article 81 of the EC Treaty to be interpreted as meaning that it entitles third parties who have a relevant legal interest to rely on the invalidity of an agreement or practice prohibited by that Community provision and claim damages for the harm suffered where there is a causal relationship between the agreement or concerted practice and the harm?
3. Is Article 81 of the Treaty to be interpreted as meaning that for the purposes of the limitation period for bringing an action for damages based thereon, time begins to run from the day on which the agreement or concerted practice was adopted or the day on which the agreement or concerted practice came to an end?
4. Is Article 81 of the Treaty to be interpreted as meaning that where the national court sees that the damages that can be awarded on the basis of national law are lower than the economic advantage gained by the infringing party to the prohibited agreement or concerted practice, should also award of its own motion punitive damages to the injured third party in order to make the compensable amount higher than the advantage gained by the infringing party and deter the adoption of agreements or concerted practices prohibited under Article 81 of the Treaty?

Reference for a preliminary ruling by the Giudice di Pace di Bitonto by order of that court of 30 June 2004 in the case of Nicolò Tricarico against Assitalia Assicurazioni SpA

(Case C-297/04)

(2004/C 251/07)

Reference has been made to the Court of Justice of the European Communities by order of the Giudice di Pace di Bitonto (Magistrates' Court, Bitonto, Italy) of 30 June 2004, received at the Court Registry on 13 July 2004, for a preliminary ruling in the case of Nicolò Tricarico against Assitalia Assicurazioni SpA on the following questions:

1. Is Article 81 of the Treaty to be interpreted as meaning that it renders void an agreement or concerted practice between insurance companies consisting of a mutual exchange of information which makes it possible to increase RC auto insurance policy premiums which are not justified by market conditions, including in view of the fact that undertakings from several Member States took part in the agreement or concerted practice?
2. Is Article 81 of the EC Treaty to be interpreted as meaning that it entitles third parties who have a relevant legal interest to rely on the invalidity of an agreement or practice prohibited by that Community provision and claim damages for

the harm suffered where there is a causal relationship between the agreement or concerted practice and the harm?

3. Is Article 81 of the Treaty to be interpreted as meaning that for the purposes of the limitation period for bringing an action for damages based thereon, time begins to run from the day on which the agreement or concerted practice was adopted or the day on which the agreement or concerted practice came to an end?
4. Is Article 81 of the Treaty to be interpreted as meaning that where the national court sees that the damages that can be awarded on the basis of national law are lower than the economic advantage gained by the infringing party to the prohibited agreement or concerted practice, should also award of its own motion punitive damages to the injured third party in order to make the compensable amount higher than the advantage gained by the infringing party and deter the adoption of agreements or concerted practices prohibited under Article 81 of the Treaty?

Reference for a preliminary ruling by the Giudice di Pace di Bitonto by order of that court of 30 June 2004 in the case of Pasqualina Murgolo against Assitalia Assicurazioni SpA

(Case C-298/04)

(2004/C 251/08)

Reference has been made to the Court of Justice of the European Communities by order of the Giudice di Pace di Bitonto (Magistrates' Court, Bitonto, Italy) of 30 June 2004, received at the Court Registry on 13 July 2004, for a preliminary ruling in the case of Pasqualina Murgolo against Assitalia Assicurazioni SpA on the following questions:

1. Is Article 81 of the Treaty to be interpreted as meaning that it renders void an agreement or concerted practice between insurance companies consisting of a mutual exchange of information which makes it possible to increase RC auto insurance policy premiums which are not justified by market conditions, including in view of the fact that undertakings from several Member States took part in the agreement or concerted practice?
2. Is Article 81 of the EC Treaty to be interpreted as meaning that it precludes the application of a national provision similar to that in Article 33 of Italian Law 287/90 under which a claim for damages for infringement of Community and national provisions for anti-competitive agreements must be made also by third parties before a court other than that which usually has jurisdiction for claims of similar value, thus involving a considerable increase in costs and time?

3. Is Article 81 of the EC Treaty to be interpreted as meaning that it entitles third parties who have a relevant legal interest to rely on the invalidity of an agreement or practice prohibited by that Community provision and claim damages for the harm suffered where there is a causal relationship between the agreement or concerted practice and the harm?
4. Is Article 81 of the Treaty to be interpreted as meaning that for the purposes of the limitation period for bringing an action for damages based thereon, time begins to run from the day on which the agreement or concerted practice was adopted or the day on which the agreement or concerted practice came to an end?
5. Is Article 81 of the Treaty to be interpreted as meaning that where the national court sees that the damages that can be awarded on the basis of national law are lower than the economic advantage gained by the infringing party to the prohibited agreement or concerted practice, should also award of its own motion punitive damages to the injured third party in order to make the compensable amount higher than the advantage gained by the infringing party and deter the adoption of agreements or concerted practices prohibited under Article 81 of the Treaty?

consumer ipso jure, but do so only where an express declaration to that effect is made, that is to say, when they are successfully contested, is found to be unfair?

2. Does it follow from that provision of the Directive, according to which the contract is to continue to bind the parties upon those terms if it is capable of continuing in existence without the unfair terms, that where the unfair terms inserted by a seller or supplier are not binding on the consumer as provided for under national law, but where in the absence of those terms, which form part of the contract, the seller or supplier would not have concluded the contract with the consumer, the validity of the contract as a whole cannot be affected if it is capable of continuing in existence without the unfair terms?
3. From the point of view of the application of Community law, is it relevant that the main dispute arose before the accession of the Republic of Hungary to the European Union, but after the adaptation of its domestic law to the Directive?

(¹) OJ L 95, p. 29.

Reference for a preliminary ruling by the Szombathelyi Városi Bíróság by order of that court of 10 June 2004 in the case Ynos Kft. against János Varga

(Case C-302/04)

(2004/C 251/09)

Reference has been made to the Court of Justice of the European Communities by order of the Szombathelyi Városi Bíróság (Szombathely City Court, Hungary), of 10 June 2004, which was received at the Court Registry on 19 July 2004, for a preliminary ruling in the case of Ynos Kft. against János Varga.

The Szombathelyi Városi Bíróság asks the Court of Justice to give a preliminary ruling on the following questions:

1. May Article 6(1) of Council Directive 93/13/EEC (¹) of 5 April 1993 on unfair terms in consumer contracts, which provides that Member States are to lay down that unfair terms used in a contract concluded with a consumer by a seller or supplier are, as provided for under their national law, not to be binding on the consumer, be interpreted as meaning that it may constitute the basis of a national provision such as Article 209(1) of Law No IV of 1959 on the Civil Code, applicable when a general condition in a contract stating that unfair terms do not cease to bind the

Reference for a preliminary ruling by the Commissione Tributaria Provinciale di Pordenone — Second Chamber — by order of that court of 14 July 2004 in the case of Banca Popolare Friuladria SpA against Agenzia Entrate Ufficio Pordenone

(Case C-336/04)

(2004/C 251/10)

Reference has been made to the Court of Justice of the European Communities by order of the Commissione Tributaria Provinciale di Pordenone (Provincial Tax Commission of Pordenone) (Italy) of 14 July 2004, received at the Court Registry on 2 August 2004, for a preliminary ruling in the case of Banca Popolare Friuladria SpA against Agenzia Entrate Ufficio Pordenone on the following questions:

1. Is Commission Decision 2002/581/EC (¹) of 11 December 2001 (OJ 2002 L 184, p. 27) invalid and incompatible with Community law, in that the provisions of Law 461/98 and the related Legislative Decree 153/99 regarding banks are compatible with the Common Market, contrary to the opinion of the European Commission, or do they in any case fall within the scope of the derogations provided for by Article 87(3)(b) and (c) of the EC Treaty?