



C/2024/4574

29.7.2024

Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 30 April 2024 – CR, TP v Soledil Srl, a company that has entered into a composition agreement with its creditors

(Case C-320/24, Soledil)

(C/2024/4574)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Applicants: CR, TP

Defendant: Soledil Srl, a company that has entered into a composition agreement with its creditors

Question referred

Are Article 6(1) and Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts ⁽¹⁾ and Article 47 of the Charter of Fundamental Rights of the European Union to be interpreted:

- (a) as meaning that they preclude the application of the national procedure principles according to which preliminary questions, including those relating to the nullity of the contract, which have not been raised before the Court of Cassation, and which are logically incompatible with the nature of that court's judgment, cannot be examined in the remitted proceedings or upon the review of legality to which the parties submit the judgment which was handed down by the court to which the case had been remitted;
- (b) also considering the complete passivity on the part of the consumers, where they never challenged the nullity/lack of legal effect of the unfair terms, except by appealing before the Supreme Court of Cassation at the outcome of the proceedings held before the court to which the case had been remitted;
- (c) and this with particular reference to the finding that a manifestly excessive penalty clause is unfair, the adjustment of its reduction according to appropriate criteria (quantum) having been ordered by the Supreme Court of Cassation, also on account of the consumers' failure to argue that the clause is unfair (cause of action) except after the ruling by the court to which the case had been remitted?

⁽¹⁾ OJ 1993, L 95, p. 29.