

Defendant: 'A.' prowadzący działalność za pośrednictwem 'A.' S.A.

Intervener: Rzecznik Praw Obywatelskich

Operative part of the judgment

1. Article 5 of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as meaning that the content of a clause of a loan agreement concluded between a seller or supplier and a consumer that sets the buying and selling prices of a foreign currency to which the loan is indexed must enable a consumer who is reasonably well informed and reasonably observant and circumspect to understand, on the basis of clear and intelligible criteria, the way in which the foreign currency exchange rate used to calculate the amount of the repayment instalments is set, in order that that consumer is able to determine himself or herself, at any time, the exchange rate applied by the seller or supplier.
2. Articles 5 and 6 of Directive 93/13 must be interpreted as precluding the national court, which has found that a term of a contract concluded between a seller or supplier and a consumer is unfair, within the meaning of Article 3(1) of that directive, from interpreting that term in order to remedy its unfairness, even if that interpretation would correspond to the common intention of the parties to that contract.

⁽¹⁾ OJ C 304, 14.9.2020.

Judgment of the Court (Seventh Chamber) of 18 November 2021 (request for a preliminary ruling from the Administratīvā apgabaltiesa, Latvia) — 'Visma Enterprise' SIA v Konkurences padome

(Case C-306/20) ⁽¹⁾

(Reference for a preliminary ruling — Competition — Agreements, decisions and concerted practices — Article 101(1) and (3) TFEU — Vertical agreements — Restriction 'by object' or 'by effect' — Exemption — Registration by the distributor of the potential transaction with the end user — Clause conferring on the distributor 'priority in progressing the sale process' for 6 months from registration — Exception — Objection by the user — Jurisdiction of the Court — Purely internal situation — National legislation consistent with the solutions adopted by EU law)

(2022/C 24/08)

Language of the case: Latvian

Referring court

Administratīvā apgabaltiesa

Parties to the main proceedings

Applicant: 'Visma Enterprise' SIA

Defendant: Konkurences padome

Operative part of the judgment

1. Article 101(1) TFEU must be interpreted as meaning that an agreement between a supplier and a distributor under which the distributor who was first to register the potential transaction with the end user enjoys 'priority in progressing the sale process' for 6 months from the registration of that transaction, unless that user objects, cannot be classified as an agreement which has 'as [its] object' the prevention, restriction or distortion of competition, within the meaning of that provision, unless that agreement, in the light of its wording, its objectives and its context, can be regarded as posing a sufficient degree of harm to competition to be classified thus.

If such an agreement does not constitute a restriction of competition ‘by object’ for the purposes of Article 101(1) TFEU, the national court must examine whether, in the light of all the relevant circumstances of the case in the main proceedings, namely, in particular, the economic and legal context in which the undertakings concerned operate, the nature of the goods or services affected, and the real conditions of the functioning and structure of the market in question, that agreement could be regarded as restricting competition in a sufficiently appreciable manner by reason of its actual or potential effects.

2. Article 101(3) TFEU must be interpreted as meaning that an agreement between a supplier and a distributor under which the distributor who was first to register the potential transaction with the end user enjoys ‘priority in progressing the sale process’ for 6 months from the registration of that transaction, unless that user objects, if it constitutes an agreement which has as its ‘object’ or ‘effect’ the prevention, restriction or distortion of competition within the meaning of Article 101(1) TFEU, may be exempted under paragraph 3 of that article only if it satisfies the cumulative conditions in that provision.
3. Article 101(1) TFEU must be interpreted as meaning that the existence of an agreement prohibited by that provision cannot be ruled out solely on the ground that the authority responsible for implementing that provision carried out a differentiated assessment concerning the attribution to the parties to that agreement of liability for the infringement.

⁽¹⁾ OJ C 304, 14.9.2020.

Judgment of the Court (Eighth Chamber) of 18 November 2021 (request for a preliminary ruling from the Judecătoria Oradea — Romania) — Promexor Trade SRL v Direcția Generală a Finanțelor Publice Cluj — Administrația Județeană a Finanțelor Publice Bihor

(Case C-358/20) ⁽¹⁾

(Reference for a preliminary ruling — Harmonisation of fiscal legislation — Common system of value added tax (VAT) — Directive 2006/112/EC — Right to deduct VAT — Revocation of the VAT identification of a taxable person — Refusal of the right of deduction — Formal requirements)

(2022/C 24/09)

Language of the case: Romanian

Referring court

Judecătoria Oradea

Parties to the main proceedings

Applicant: Promexor Trade SRL

Defendant: Direcția Generală a Finanțelor Publice Cluj — Administrația Județeană a Finanțelor Publice Bihor

Operative part of the judgment

Article 168, Article 213(1), Article 214(1) and Article 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010 and the principle of value added tax (VAT) neutrality, read in the light of the principles of legal certainty, the protection of legitimate expectations and proportionality, must be interpreted as not precluding, where the identification of a taxable person for VAT purposes has been revoked because no taxable transactions have been indicated in the VAT returns filed for six consecutive months but where that taxable person continues his or her activities notwithstanding that revocation, national legislation under which the competent tax authority may require that taxable person to pay the VAT due on his or her taxed transactions, provided that he or she can re-register for VAT purposes and deduct the input VAT paid. The fact that the director of the taxable person is a partner in another company which is the subject to insolvency proceedings cannot, in itself, be put forward to systematically refuse the re-registration of that taxable person for VAT purposes.

⁽¹⁾ OJ C 378, 9.11.2020.