

4. Must Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts be interpreted as precluding a law of a Member State, such as Article 372 et seq. of the former Code of Civil Procedure, from allowing a creditor to seek enforcement of a debt deriving from unfair contractual terms by seizing an asset charged as security through the sale of the immovable property, notwithstanding the consumer's objection, without an independent judge's carrying out an examination of the contractual terms?
5. Does the existence in national law of a provision such as Article 120 of Emergency Decree No 99 of December 2006 on credit institutions and capital adequacy, which recognises the enforceability of the bank credit agreement, prejudice the right to freedom of establishment laid down in Article 49 TFEU and the freedom to provide services laid down in Article 45 TFEU in that it discourages citizens of the Union from establishing themselves in a State in which the same value as an enforceable instrument represented by a judgment is conferred on a bank agreement concluded by a private institution?
6. If the answer to the preceding questions is in the affirmative, can the national court raise of its own motion the non-enforceability of such an instrument pursuant to which the enforcement of a debt stated in a contract is carried out?

⁽¹⁾ OJ 1993 L 95, p. 29.

⁽²⁾ OJ 2008 L 133, p. 66.

Request for a preliminary ruling from the Kúria (Hungary) lodged on 27 February 2014 — Flight Refund Ltd v Deutsche Lufthansa AG

(Case C-94/14)

(2014/C 142/30)

Language of the case: Hungarian

Referring court

Kúria

Parties to the main proceedings

Applicant: Flight Refund Ltd

Defendant: Deutsche Lufthansa AG

Questions referred

1. Is it possible to pursue a claim for compensation based on Article 19 of the Montreal Convention in the context of the European order for payment procedure?
2. In relation to a compensation claim based on Article 19 of the Montreal Convention, are the competence of a notary — treated as a national court — who is authorised to issue a European order for payment, and the competence of a court after proceedings have become contentious once the defendant has lodged a statement of opposition, determined by the jurisdictional rules contained in Regulation (EC) No 1896/2006⁽¹⁾ of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure ('Regulation No 1896/2006'), Council Regulation (EC) No 44/2001⁽²⁾ of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ('Regulation No 44/2001') and/or by the Convention for the Unification of Certain Rules for International Carriage by Air made in Montreal on 28 May 1999 ('the Montreal Convention')? How do these rules of law interrelate?
3. In the event that the jurisdictional rules of the Montreal Convention prevail, can the claimant opt to pursue his claim before a court established in a State Party, even where there is no additional connecting factor, or must the court where his claim is pursued have territorial jurisdiction under the procedural rules of the Member State concerned?

In addition, how should the optional jurisdictional rule under the Montreal Convention be interpreted, which refers to the court in the place where the carrier has a place of business through which the contract was made?

4. Can a European payment order which has been issued in breach of the purpose of the regulation or by an authority which does not have jurisdiction *ratione materiae* be the subject of an *ex officio* review? Or must the contentious proceedings following the lodging of a statement of opposition, where there is a lack of jurisdiction, be discontinued *ex officio* or on request?
5. To the extent that the Hungarian courts have jurisdiction to hear the contentious proceedings, do the national rules of procedure need to be interpreted, in accordance with European Union law and the Montreal Convention, as meaning that they necessarily appoint at least one court which, even where there is no additional connecting factor, is obliged to hear the substance of the contentious proceedings arising from the lodging of a statement of opposition?

⁽¹⁾ OJ 2006 L 399, p. 1.

⁽²⁾ OJ 2001 L 12, p. 1.

Request for a preliminary ruling from the Tribunal de grande instance de Nîmes (France) lodged on 28 February 2014 — Jean-Claude Van Hove v CNP Assurances SA

(Case C-96/14)

(2014/C 142/31)

Language of the case: French

Referring court

Tribunal de grande instance de Nîmes

Parties to the main proceedings

Applicant: Jean-Claude Van Hove

Defendant: CNP Assurances SA

Question referred

Must Article 4(2) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts ⁽¹⁾ be interpreted as meaning that the concept of a term relating to the definition of the main subject matter of a contract which appears in that provision covers a term of an insurance contract intended to ensure that loan repayments payable to the lender will be covered in the event of the borrower's total incapacity for work if that term prevents the insured person from receiving that cover in the event that he is declared capable of carrying on unpaid employment?

⁽¹⁾ OJ 1993 L 95, p. 29.

Request for a preliminary ruling from the Gyulai Közigazgatási és Munkaügyi Bíróság (Hungary) lodged on 3 March 2014 — SMK Kft. v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Adó Főigazgatósága, Nemzeti Adó- és Vámhivatal

(Case C-97/14)

(2014/C 142/32)

Language of the case: Hungarian

Referring court

Gyulai Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: SMK Kft.

Defendants: Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Adó Főigazgatósága, Nemzeti Adó- és Vámhivatal