

Operative part of the order

Article 46 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding national legislation which subjects an appeal against a decision to reject a subsequent application for international protection to a time limit of five days, including public holidays, where the applicant concerned is held in detention, provided, first, that the principle of equivalence is observed and, second, that genuine access for the applicants held in detention to the procedural safeguards granted by EU law to applicants for international protection is ensured within that period.

It is for the national court to ascertain whether the national legislation at issue in the main proceedings meets those requirements.

⁽¹⁾ OJ C 423, 16.12.2019.

Order of the Court (Seventh Chamber) of 4 February 2021 (request for a preliminary ruling from the Audiencia Provincial de Barcelona — Spain) — CDT, SA v MIMR, HRMM

(Case C-321/20) ⁽¹⁾

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court — Consumer protection — Temporal effects of a judgment — Directive 93/13/EEC — Unfair terms in consumer contracts — Powers of the national court when dealing with a term regarded as ‘unfair’ — Accelerated repayment term — Partial removal of the content of an unfair term — Principle of legal certainty — Obligation to interpret in conformity with EU law)

(2021/C 182/32)

Language of the case: Spanish

Referring court

Audiencia Provincial de Barcelona

Parties to the main proceedings

Applicant: CDT, SA

Defendant: MIMR, HRMM

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1. EU law, in particular the principle of legal certainty, must be interpreted as not precluding the national court from refraining from applying a provision of national law enabling it to review an unfair term of a contract concluded between a seller or supplier and a consumer in a situation in which that provision, which was held to be contrary to Article 6(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts by judgment of 14 June 2012, Banco Español de Crédito (C-618/10, EU: C:2012:349), had not yet been the subject of a legislative amendment, in accordance with that judgment, at the time of the conclusion of that contract.
2. The principle of legal certainty must be interpreted as meaning that it does not allow a national court which has found that a contractual term is unfair within the meaning of Article 3 of Directive 93/13 to review the content of that term, with the result that that court is required to disapply it. However, Articles 6 and 7 of that directive do not preclude the national court from substituting a supplementary provision of national law for such a term, provided that the loan agreement in question cannot survive if the unfair term is removed and that the annulment of the agreement as a whole would expose the consumer to particularly unfavourable consequences, which is a matter for the national court to determine.

⁽¹⁾ OJ C 359, 26.10.2020.