



Press and Information

Court of Justice of the European Union

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Judgment in Case C-96/14

Jean-Claude Van Hove v CNP Assurances SA

**An insurance contract must set out transparently, in plain, intelligible language, the functioning of the insurance arrangements, so that that consumer can evaluate the economic consequences which derive from it**

*The fact that the insurance contract is related to loan contracts concluded at the same time may play a role when examining the requirement of transparency of contractual terms, as the consumer is deemed not to exercise the same vigilance regarding the extent of the risks covered*

The Unfair Terms in Consumer Contracts Directive<sup>1</sup> provides that consumers are not bound by unfair clauses that are set out in a contract concluded with a seller or supplier. However, according to that directive, the assessment of the unfair nature of the terms concerns neither the definition of the main subject-matter of the contract nor the adequacy of the price and remuneration, on the one hand, as against the services or goods supplied in exchange, on the other, provided that those terms are drafted in plain, intelligible language.

In 1998, Jean-Claude Van Hove concluded two mortgage loan contracts with a bank for an amount of approximately €68 000. At the time of concluding those loan contracts, he signed a 'group insurance contract' with CNP Assurances in order to guarantee, in particular, 75% cover of the loan repayments in the event of total incapacity for work. Following an accident at work, Mr Van Hove was found to have a permanent partial incapacity rate of 72 % within the meaning of French social security law. The doctor appointed by the insurance company concluded that Mr Van Hove's state of health, although no longer compatible with him returning to his former post, allowed him to carry on appropriate employment on a part-time basis. The company therefore refused to continue to cover the loan repayments in respect of Mr Van Hove's incapacity.

Mr Van Hove brought legal proceedings seeking recognition that the terms of the contract are unfair as regards the definition of total incapacity for work and the conditions under which repayments are covered by the insurance. According to Mr Van Hove, the term relating to total incapacity for work causes a significant imbalance to the detriment of the consumer, especially as its definition is worded in such a way as to be unintelligible to a lay consumer. CNP Assurances considers that the term at issue cannot constitute an unfair term because it concerns the very subject-matter of the contract. Moreover, it contends that the definition of total incapacity for work is clear and precise, even if the criteria which are taken into account for the purposes of fixing the functional incapacity rate are different to those used by the social security authorities. In those circumstances, the French court seised of the dispute (the tribunal de grande instance de Nîmes) asks the Court of Justice if it is possible to assess whether the term in question is unfair.

In today's judgment, the Court states, referring to the nineteenth recital in the preamble to the directive, that, in insurance contracts, terms which clearly define or circumscribe the insured risk and the insurer's liability shall not be subject to an assessment of unfair character, since those restrictions are taken into account in calculating the premium paid by the consumer. Thus, it cannot be ruled out that the term at issue concerns **the very subject-matter of the contract**, in so far as it seems **to circumscribe the insured risk and the insurer's liability while laying down the essential obligations of the insurance contract**. The Court leaves it to the national court to determine this point, indicating that it falls to that court, having regard to the nature, general

<sup>1</sup> Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

scheme and the terms of the contract taken as a whole, as well as its legal and factual context, to determine whether the term lays down an essential component of the contractual framework of which it forms part.

As regards the question whether the term at issue is drafted in plain, intelligible language, the Court points out that the requirement of transparency of contractual terms, laid down by the directive, cannot be reduced merely to their being formally and grammatically intelligible, but that that requirement is to be interpreted broadly. In the present case, the Court does not rule out that the scope of the term defining the concept of total incapacity for work was not understood by the consumer. Thus, it may be that, **in the absence of a transparent explanation of the specific functioning of the insurance arrangements relating to the cover of loan payments in the context of the contract as a whole, Mr Van Hove was not in a position to evaluate, on the basis of precise, intelligible criteria, the economic consequences for him which derive from it.** It is again for the national court to make a finding on that point.

According to the Court, the fact that the insurance contract forms part of a contractual framework with the loan contracts could be also relevant in that context. Thus, the **consumer cannot be required to have the same vigilance regarding the extent of the risks covered by that insurance contract as he would if he had concluded the insurance contract and the loan contracts separately.**

The Court therefore declares that **terms that relate to the main subject-matter of an insurance contract may be regarded as being drafted in plain, intelligible language if they are not only grammatically intelligible to the consumer, but also set out transparently the specific functioning of the insurance arrangements, taking into account the contractual framework of which they form part, so that that consumer is in a position to evaluate, on the basis of precise, intelligible criteria, the economic consequences for him which derive from it.** If not, the national court may assess the possible unfairness of the term at issue.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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