

Joined Cases C-240/98 to C-244/98

Océano Grupo Editorial SA

v

Rocío Murciano Quintero

and

Salvat Editores SA

v

José M. Sánchez Alcón Prades and Others

(Reference for a preliminary ruling
from the Juzgado de Primera Instancia No 35 de Barcelona)

(Directive 93/13/EEC — Unfair terms in consumer contracts — Jurisdiction
clause — Power of the national court to determine of its own motion whether
that clause is unfair)

Opinion of Advocate General Saggio delivered on 16 December 1999 . . . I-4943
Judgment of the Court, 27 June 2000 I-4963

Summary of the Judgment

1. *Approximation of laws — Unfair terms in consumer contracts — Directive 93/13 — Unfair term within the meaning of Article 3 — Meaning — Jurisdiction clause — Inclusion — Criteria*
(Council Directive 93/13, Article 3)

2. *Approximation of laws — Unfair terms in consumer contracts — Directive 93/13 — Power of the national court to determine of its own motion whether a term of a contract is unfair when making its assessment of the contract — Obligation to ensure the effectiveness of the directive when national law is applied*
(Council Directive 93/13, Arts. 6 and 7)

1. Where a jurisdiction clause is included, without being individually negotiated, in a contract between a consumer and a seller or supplier and where it confers exclusive jurisdiction on a court in the territorial jurisdiction of which the seller or supplier has his principal place of business, it must be regarded as unfair within the meaning of Article 3 of Directive 93/13 on unfair terms in consumer contracts in so far as it causes, contrary to the requirement of good faith, a significant imbalance in the parties' rights and obligations arising under the contract, to the detriment of the consumer.

(see para. 24)

2. The protection provided for consumers by Directive 93/13 on unfair terms in consumer contracts entails the national

court being able to determine of its own motion whether a term of a contract before it is unfair when making its preliminary assessment as to whether a claim should be allowed to proceed before the national courts.

The national court is obliged, when it applies national law provisions predating or postdating the said Directive, to interpret those provisions, so far as possible, in the light of the wording and purpose of the Directive. The requirement for an interpretation in conformity with the Directive requires the national court, in particular, to favour the interpretation that would allow it to decline of its own motion the jurisdiction conferred on it by virtue of an unfair term.

(see paras. 29, 32, operative part 1-2)