



An increase in telecommunications charges in accordance with a consumer price index does not allow subscribers to withdraw from their contract

There is no modification to the conditions of a contract where standard terms and conditions provide for the possibility of increasing charges in accordance with an objective consumer price index compiled by a public institution

According to the Universal Service Directive,¹ subscribers to electronic communication services have the right to withdraw from their contract without penalty upon notice of modification to the conditions of the contract.

Proceedings have been brought before the Oberster Gerichtshof (Supreme Court) (Austria) between an Austrian consumer association (Verein für Konsumenteninformation) and A1 Telekom Austria, a provider of telecommunications services in Austria. According to that association, A1 Telekom Austria used unlawful terms in consumer contracts. The standard terms and conditions of A1 Telekom Austria state that subscribers may not withdraw from their contract where the charges are adjusted in accordance with an objective annual consumer price index compiled by the Austrian Institute for Statistics (Statistik Österreich).

Against that background, the Oberster Gerichtshof wishes to know whether such an adjustment in charges constitutes a modification to the conditions of the contract within the meaning of the directive which, if so, would give subscribers the right to withdraw from their contract.

In today's judgment, the Court of Justice holds that that is not the case.

According to the Court, the EU legislature recognised that undertakings providing electronic communication services may have a legitimate interest in being able to adjust the prices and charges for their services.

The Court notes, in addition, that the term at issue contained in A1 Telekom Austria's standard terms and conditions provides for an adjustment of charges in accordance with changes in an objective annual consumer price index compiled by a public institution.

A price adjustment clause thus provided for, which is based on a clear, comprehensive and easily accessible method of indexation, resulting from State decisions and mechanisms, does not place end-users in a contractual situation any different from that which arises from a contract formed by standard terms and conditions that contain such a price adjustment.

Consequently, where such a change in charges occurs, that change cannot be characterised as a modification to the conditions of the contract within the meaning of the directive.

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

¹ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ 2002 L 108, p. 51), as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 (OJ 2009 L 337, p. 11).

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.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355