

Case C-168/05

Elisa María Mostaza Claro

v

Centro Móvil Milenium SL

(Reference for a preliminary ruling from the
Audiencia Provincial de Madrid)

(Directive 93/13/EEC — Unfair terms in consumer contracts — Failure to raise the unfair nature of a term during arbitration proceedings — Possibility of raising that objection in the context of an action brought against the arbitration award)

Opinion of Advocate General Tizzano delivered on 27 April 2006 I - 10423
Judgment of the Court (First Chamber), 26 October 2006 I - 10437

Summary of the Judgment

*Approximation of laws — Unfair terms in consumer contracts — Directive 93/13
(Council Directive 93/13, Arts 3(1)(t) and 6(1))*

Directive 93/13, concerning unfair terms in consumer contracts, must be interpreted as meaning that a national court seised of an action for annulment of an arbitration award must determine whether the arbitration agreement is void and annul that award where that agreement contains an unfair term, even though the consumer has not

pleaded that invalidity in the course of the arbitration proceedings, but only in that of the action for annulment.

(see para. 39, operative part)