

**Closure of the multiple complaint CHAP(2021)00759 concerning the alleged infringement of Directive 93/13/EEC on unfair terms in consumer contracts and the case law of the Court of Justice of the European Union (CJEU) through the judgments of the Spanish Supreme Court of 12 November 2020 concerning the IRPH index**

On 2 March 2021, the European Commission published on this website a text acknowledging receipt of numerous complaints received concerning this subject-matter and registered under the single reference CHAP(2021)00759. In the same document, the Commission services presented their assessment of these complaints, explaining why, in their view, it would not be appropriate to open infringement proceedings at this stage against Spain in accordance with Article 258 of the Treaty on the Functioning of the European Union (TFEU). Accordingly, the Commission informed complainants that it intends to close CHAP(2021)00759 in the near future, giving them, however, the opportunity to submit, within four weeks, additional information suggesting that Spain is infringing the Union law.

Within this four-week period and up to the date of this communication, one complainant provided additional comments on the intended closure of complaint CHAP(2021)00759. However, these additional comments do not provide new information and do not call for a different position regarding the closure of this complaint.

In particular, while it is correct that the Commission is the guardian of the Treaty and has the power to act against Member States which, through their legislation or administrative or judicial practice violate EU law, the Commission uses this power strategically, as outlined in its Communication ‘EU law: Better Results through Better Application’<sup>1</sup>. In line with this approach, since, in the present case, the relevant questions regarding the interpretation of Directive 93/13/EEC on unfair terms in consumer contracts in this matter have been raised in pending requests for a preliminary ruling under Article 267 TFEU and infringement proceedings would not significantly accelerate the resolution of the case, the Commission services consider it appropriate to wait for the clarification of these legal questions by the CJEU. The Commission will, of course, ensure appropriate follow up of preliminary rulings where the Court of Justice has established non-compliance with EU law.

Therefore, complaint CHAP(2021)00759 has now been closed.

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<sup>1</sup> C(2016)8600, OJ C 18/02 of 19.1.2017.