Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

8 December 2016 *

(Reference for a preliminary ruling — Services provided by Procuradores de los Tribunales — Tariff — Jurisdictions — Derogation impossible)

In Joined Cases C-532/15 and C-538/15,

REQUESTS for preliminary rulings under Article 267 TFEU brought by the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza, Spain) and by the Juzgado de Primera Instancia de Olot (Court of First Instance, Olot, Spain), by decisions of 22 and 18 September 2015, received by the Court on 9 and 15 October 2015 respectively, in the proceedings

**Eurosaneamientos SL,**

**Entidad Urbanística Conservación Parque Tecnológico de Reciclado López Soriano,**

**UTE PTR Acciona Infraestructuras SA**

v

**ArcelorMittal Zaragoza SA,**

intervening party:

**Consejo General de Procuradores de España** (C-532/15),

and

**Francesc de Bolós Pi**

v

**Urbaser SA** (C-538/15),

THE COURT (First Chamber),

composed of R. Silva de Lapuerta, President of the Chamber, E. Regan, J.-C. Bonichot, A. Arabadjiev and S. Rodin (Rapporteur), Judges,

Advocate General : M. Wathelet,

Registrar: X. Lopez Bancalari, Administrator,

* * Language of the case: Spanish.

having regard to the written procedure and further to the hearing on 15 September 2016,

after considering the observations submitted on behalf of:

— Eurosaneamientos SL, by J. García-Gallardo Gil-Fournier, A. Guerrero Righetto and A. Rada Pumariño, abogados, and by J. Issern Longares, procurador,

— Mr de Bolós Pi, by J. García-Gallardo Gil-Fournier, A. Guerrero Righetto and A. Figueras Sabater, abogados, and by F. de Bolós Pi, procurador,

— Urbaser SA, by J. Badía Armengol and L. Ruz Gutiérrez, abogados, and by J. Pons Arau, procurador,

— the Consejo General de Procuradores de España, by A. Guerrero Righetto and J. García-Gallardo Gil-Fournier, abogados, and by J. Estévez Fernández-Novoa, procurador,

— the Spanish Government, by S. Centeno Huerta and M. García-Valdecasas Dorrego, acting as Agents,

— the Netherlands Government, by M. Bulterman, M. de Ree and C. Schillemans, acting as Agents,

— the Austrian Government, by C. Pesendorfer, acting as Agent,

— the European Commission, by H. Tserepa-Lacombe and by C. Urraca Caviedes and J. Rius, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

## Judgment

1 These requests for preliminary rulings concern the interpretation of Article 4(3) TEU, Articles 56 TFEU and 101 TFEU, Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter') and Articles 4 and 15 of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, p. 36).

2 The requests have been made in two disputes between, firstly, Eurosaneamientos SL, Entidad Urbanística Conservación Parque Tecnológico de reciclado López Soriano and UTE PTR Acciona Infraestructuras SA and ArcelorMittal Zaragoza SA and, secondly, Mr Francesc de Bolós Pi and Urbaser SA concerning the fees of Procuradores de los Tribunales (legal representatives; 'procuradores').

### Legal context

*EU law*

3 Article 7(3) of Directive 2006/123 is worded as follows:

'For the purpose of this Directive:

…

(8) "overriding reasons relating to the public interest" means reasons recognised as such in the case-law of the Court of Justice, including the following grounds: public policy; public security; public safety; public health; preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; fairness of trade transactions; combating fraud; the protection of the environment and the urban environment; the health of animals; intellectual property; the conservation of the national historic and artistic heritage; social policy objectives and cultural policy objectives;

…'

4 Under Article 15(2)(g), and (3) of that directive:

'2. Member States shall examine whether their legal system makes access to a service activity or the exercise of it subject to compliance with any of the following non-discriminatory requirements:

…

(g) fixed minimum and/or maximum tariffs with which the provider must

…

3. Member States shall verify that the requirements referred to in paragraph 2 satisfy the following conditions:

(a) Non-discrimination: requirements must be neither directly nor indirectly discriminatory according to nationality nor, with regard to companies, according to the location of the registered office;

(b) Necessity requirements must be justified by an overriding reason relating to the public interest;

(c) Proportionality: requirements must be suitable for securing the attainment of the objective pursued; they must not go beyond what is necessary to attain that objective and it must not be possible to replace those requirements with other, less restrictive measures which attain the same result.

…'

*Spanish law*

5 The profession of procurador de los tribunales (legal representative; 'procurador') is governed, principally, by the Ley Orgánica 6/1985 del Poder Judicial (Framework Law 6/1985 on the judiciary) of 1 July 1985 (BOE No 157 of 2 July 1985) and their participation in proceedings is governed by the Ley 1/2000 de Enjuiciamiento Civil (Law 1/2000 establishing the code of civil procedure) of 7 January 2000 (BOE No 7 of 8 January 2000; 'the Code of civil procedure'). A procurador's functions are, in essence, to represent the parties to the proceedings and to work efficiently with the courts to facilitate the proper progress of the proceedings. Those functions are separate from and incompatible with those performed by abogados (lawyers; 'abogados').

6 Article 242(4) of the Code of Civil Procedure provides:

'The rights of officials, procuradores and professionals shall be governed by the fee schedules to which they are subject.'

7 Real Decreto No 1373/2003 por el que se aprueba el arancel de derechos de los procuradores de los tribunales (Royal Decree No 1373/2003 approving the fee tariff applying to procuradores de los tribunales) of 7 November 2003 (BOE No 278 of 20 November 2003), as amended by Real Decreto No 1/2006 (Royal Decree No 1/2006) of 13 January 2006 (BOE No 24 of 28 January 2006; 'Royal Decree No 1373/2003'), makes the fees of procuradores subject to a predetermined mandatory amount, which may be negotiated between the procurador and his client, but which may not result in a reduction or increase of or greater than 12% and sets the ceiling per case according to the amount involved in the dispute. Following legislative changes made during 2010, the overall ceiling of the fees received by a procurador in a single case, for a single document or in a single procedure is set at EUR 300 000.

8 Directive 2006/123 was transposed into Spanish law by Ley 17/2009 sobre el libre acceso a las actividades de servicios y su ejercicio (Law 17/2009 on free access to service activities and their exercise) of 23 November 2009 (BOE No 283 of 24 November 2009).

## The disputes in the main proceedings and the questions referred for a preliminary ruling

*Case C-532/15*

9 Following proceedings between Eurosaneamientos, Entidad Urbanística Conservación Parque Tecnológico de reciclado López Soriano and UTE PTR Acciona Infraestructuras ('Eurosaneamientos and Others') and ArcelorMittal Zaragoza concerning non-contractual liability, the latter company was ordered to pay the costs. At the request of Eurosaneamientos and Others, the Registrar of the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza, Spain) proceeded to tax the costs.

10 ArcelorMittal Zaragoza disputed that taxation on the grounds that the fees of the procurador who represented Eurosaneamientos and Others were improper and that the fees of the abogado of those companies were improper and excessive. The Registrar of the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza) reduced the costs to the sum of EUR 17558.70, including value added tax (VAT), in respect of the abogado's fees and to the sum of EUR 2793.56, including VAT, in respect of the procurador's fees.

11 Eurosaneamientos and Others brought an action against the decision of the Registrar before the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza).

12 On 12 February 2015, that court delivered three orders in the taxation of costs proceedings dismissing the objections raised by Eurosaneamientos and Others in so far as they concerned the abogado's fees and requested the parties to give their views on instituting the procedure provided for in Article 267 TFEU as regards the costs relating to the procuradores' services, more specifically the tariff which sets the amount of those costs.

13 The Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza) is doubtful as to the compatibility of the system of procuradores' fees in Spain with EU law. More specifically, that court notes that the judgments of the Court of Justice of 19 February 2002, Arduino (C-35/99, EU:C:2002:97), and of 5 December 2006, Cipolla and Others (C-94/04 and C-202/04, EU:C:2006:758) appear to indicate that the conditions to which the absence of conduct contrary to the competition rules is subject are, firstly, that the State has not waived its power to decide or verify the implementation of the tariff in question and, secondly, that the courts may, in certain circumstances, derogate from the limits.

14 In that regard, that court considers that the judicial review is limited to verifying the strict application of the tariff set in Royal Decree No 1373/2003 without it being possible, in exceptional circumstances and by a duly reasoned decision, either to derogate from the limits set by that tariff or to ascertain

whether the amount claimed is proportionate to the service rendered. It also notes that it is apparent from the case-law of the Tribunal Constitucional (Constitutional Court, Spain) that an adjustment of the fees of procuradores by the national courts constitutes an interpretation *contra legem* of national law.

15 Furthermore, the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza) asks, while being of the view that it is for the Court of Justice to interpret the notions of 'overriding reason in the public interest', 'necessity' and 'proportionality' appearing in Directive 2006/123, whether national courts are authorised to verify, where a framework of rules laid down by the State governs the tariff of services and includes a tacit declaration as regards the existence of an overriding reason in the public interest, whether such a restriction on the freedom to provide services is justified by public interest. In the absence of such justification, it also asks whether the national courts are authorised not to apply that tariff or to adjust the amounts stated therein, despite the fact that it is apparent from the case-law of the Tribunal Constitucional (Constitutional Court) that a decision by the national courts to that effect constitutes an interpretation *contra legem*.

16 Finally, the referring court is of the view that the mandatory setting of the price of certain services, regardless of the work actually carried out and any particular features of the case other than the amount in dispute, could constitute an infringement of the right to a fair trial for the purposes of Article 6 of the European Convention on Human Rights, signed at Rome on 4 November 1950 ('the ECHR') and of Article 47 of the Charter, in so far as, by the costs, a party to the dispute could find himself required to pay predetermined charges without being able to ensure that they are proportionate or justified, which is a factor likely effectively to constitute an obstacle to bringing proceedings the outcome of which is uncertain or open to doubt.

17 In those circumstances the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'1. Is the fact that there is a legal provision laid down by the State that requires State control in the fixing of the fees of procuradores, by means of rules setting the exact and mandatory amount of those fees, and conferring authority on the courts, in particular in the event of an order for costs, in each particular case to fix those costs subsequently, although that authority is limited to ensuring the strict application of the tariff without the possibility of departing, in exceptional cases and by way of a reasoned decision, from the limits set in the legal provision on tariffs consistent with Articles 4(3) TEU and 101 TFEU?

2. Does the definition of the concepts "overriding reasons relating to the public interest", "proportionality" and "necessity" in Articles 4 and 15 of Directive 2006/123 as applied by the EU courts, allow the courts of the Member States, in circumstances where there is State regulation in relation to the fixing of fees and there is an implied declaration, in the absence of any rules in the implementing legislation, that there is an overriding reason relating to the public interest, although its inconsistency with EU case-law does not allow it to be upheld, to hold in a particular case that there is a limitation which is not in the public interest and, therefore, to disregard or to amend the legal provision imposing rules on the remuneration of procuradores?

3. Is the application of a legal provision of that nature contrary to the right to a fair trial as defined by the EU courts?'

*Case C-538/15*

18 Mr de Bolós Pi, a Spanish procurador, brought an action for payment of the sum of EUR 66912.73 together with the appropriate interest at the legal rate and costs, covering professional fees earned by him in connection with his acting in two administrative law actions which he instituted.

19 Urbaser argues that the fees claimed by Mr de Bolós Pi are excessive due to the fact that they are disproportionate to the workload which the abovementioned proceedings had imposed on him, given that in one case he had done no more than submit nine written documents and in the other three. Urbaser is also of the opinion that the courts ought to be able to set the fees of procuradores in proportion to the work carried out, whereas the setting of the fees on the sole basis of the amount provided for in Royal Decree 1373/2003 infringes the principle of free competition and, accordingly, Article 4(3) TEU and Directive 2006/123, which justifies requesting a preliminary ruling from the Court of Justice.

20 Urbaser also alleges that an unwritten agreement existed between the parties, under which the procurador's fees were limited to EUR 2 000. However, according to Urbaser, Mr de Bolós Pi decided not to comply with that agreement, which was confirmed to the referring court by the abogado responsible for the cases which gave rise to the fees claimed.

21 By order of 23 July 2015, the Juzgado de Primera Instancia de Olot (Court of First Instance, Olot, Spain) requested the parties to submit their observations as regards the possibility of making a request for a preliminary ruling to the Court of Justice.

22 The Juzgado de Primera Instancia de Olot (Court of First Instance, Olot), like the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza), firstly, is doubtful as to the compatibility of Royal Decree No 1373/2003 with Article 101 TFEU, read in conjunction with Article 4(3) TEU, having regard to the case-law of the Court of Justice. In particular, that court notes that Article 245(2) of the Code of Civil Procedure does not allow the national courts to derogate from the limits set by the tariff established by Royal Decree. Secondly, it is doubtful as to the compatibility of that Royal Decree with Directive 2006/123 which provides that minimum tariffs for services may not be introduced, save where they are necessary, and that they must be justified by an overriding reason in the public interest and proportionate. Thirdly, that court is of the view that the fact that it is impossible to challenge the amounts set in that tariff on the ground that they are disproportionate, excessive or do not bear any relation to the work carried out could be incompatible with the ECHR, namely the right to a fair trial.

23 In those circumstances, the Juzgado de Primera Instancia de Olot (Court of First Instance, Olot) decided to stay its proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. Is Article 101 TFEU, read in conjunction with Article 10 and Article 4(3) TEU, compatible with rules laid down in the regulation on the tariff applying to procuradores, namely Royal Decree 1373/2003, which provides that their remuneration is subject to a minimum tariff or scale, which can be varied, upwards or downwards, only by 12% and when it is impossible for the authorities of the Member State, including the courts, to depart from those minima even in exceptional circumstances?

2. For the purpose of applying the abovementioned statutory scale without applying the minimum levels laid down therein: may the fact that the amount of fees payable under the scale is disproportionate to the work actually done be regarded as exceptional circumstances?

3. Is Article 56 TFEU compatible with Royal Decree 1373/2003?

4. Does Royal Decree 1373/2003 meet the requirements of necessity and proportionality referred to in Article 15(3) of Directive 2006/123?

5. Does Article 6 of the European Convention on Human Rights include the right to defend oneself properly in a situation in which the figure at which the fees of a procurador are set is disproportionately high and does not correspond to the work actually carried out?'

24 By order of the President of the Court of 5 November 2015, Cases C-532/15 and C-538/15 were joined for the purposes of the written and oral procedure and of the judgment.

## Consideration of the questions referred

### *Admissibility*

25 The Consejo General de Procuradores de España (General Council of Procuradores of Spain) contends that the two requests for a preliminary ruling are inadmissible and the Spain Government and Mr de Bolós Pi contend that the request for a preliminary ruling in Case C-538/15 is inadmissible on the ground, in essence, that, having regard to the national law, an interpretation of EU law is not necessary in order to resolve the disputes in the main proceedings. In Case C-532/15, it is for the national courts alone to rule on the application of the principle of proportionality. As regards Case C-538/15, the provisions of Royal Decree No 1373/2003 referred to by the referring court are not applicable, in their view, to the dispute in the main proceedings because it is governed exclusively by the agreement concluded between a procurador and his client.

26 It is appropriate to note that, in accordance with settled case-law, the procedure provided for by Article 267 TFEU is an instrument of cooperation between the Court of Justice and national courts by means of which the former provides the latter with interpretation of such Community law as is necessary for them to give judgment in cases upon which they are called to adjudicate (see judgment of 6 September 2016, *Petruhhin* , C-182/15, EU:C:2016:630, paragraph 18 and the case-law cited).

27 In the context of that cooperation, it is solely for the national court hearing the case, which must assume responsibility for the subsequent judicial decision, to determine, with regard to the particular aspects of the case, both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it refers to the Court. Consequently, where the questions submitted concern the interpretation of EU law, the Court is in principle bound to give a ruling (see judgment of 6 September 2016, *Petruhhin* , C-182/15, EU:C:2016:630, paragraph 19 and the case-law cited).

28 It follows that questions on the interpretation of EU law referred by a national court in the factual and legislative context which that court is responsible for defining and the accuracy of which is not a matter for the Court to determine, enjoy a presumption of relevance. The Court may refuse to rule on a question referred by a national court only where it is quite obvious that the interpretation of EU law that is sought is unrelated to the actual facts of the main action or its object, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (see judgment of 6 September 2016, *Petruhhin*, C-182/15, EU:C:2016:630, paragraph 20 and the case-law cited).

29 In that regard, it is not quite obvious from the files before the Court that the interpretation of EU law requested is unrelated to the actual facts of the main actions or their objects.

*Substance*

Preliminary observations

30 It should be observed as a preliminary point that, according to settled case-law, in the procedure laid down by Article 267 TFEU, providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the referring court with an answer which will be of use to it and enable it to determine the case before it. With this in mind, the Court of Justice may, where necessary, have to reformulate the questions referred to it (see, to that effect, judgment of 28 April 2016, *Oniors Bio* , C-233/15, EU:C:2016:305, point 30 and the case-law cited).

31 It is necessary to do so in the context of these references for a preliminary ruling.

The first question in Case C-532/15 and the first and second questions in Case C-538/15

32 By the first question in Case C-532/15 and the first and second questions in Case C-538/15, the referring courts ask, in essence, whether Article 101 TFEU, read in conjunction with Article 4(3) TEU, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which makes the fees of procuradores subject to a tariff which may be increased or decreased only by 12%, in respect of which the national courts merely check its strict application without being in a position, in exceptional circumstances, to derogate from the limits set by that tariff.

33 As a preliminary point, contrary to the arguments of Eurosaneamientos and Others, the Consejo General de Procuradores de España (General Council of Procuradores of Spain) and the Austrian Government, it must be noted that the fees set by Royal Decree No 1373/2003, applicable to the whole territory of a Member State, are likely to affect trade between Member States within the meaning of Article 101(1) TFEU and Article 102 TFEU (see, to that effect, order of 5 May 2008, *Hospital Consulting and Others* , C-386/07, not published, EU:C:2008:256, paragraph 18 and the case-law cited).

34 Although it is true that Articles 101 TFEU and 102 TFEU are concerned solely with the conduct of undertakings and not with laws or regulations emanating from Member States, those articles, read in conjunction with Article 4(3) TEU, which lays down a duty to cooperate, nonetheless require Member States not to introduce or maintain in force measures, even of a legislative or regulatory nature, which may render ineffective the competition rules applicable to undertakings (see, to that effect, order of 5 May 2008, *Hospital Consulting and Others*, C-386/07, not published, EU:C:2008:256, paragraph 19 and the case-law cited).

35 It is clear from settled case-law that Article 101 TFEU and Article 4(3) TEU are infringed where a Member State requires or encourages the adoption of agreements, decisions or concerted practices contrary to Article 101 TFEU or reinforces their effects, or where it divests its own rules of the character of legislation by delegating to private economic operators responsibility for taking decisions affecting the economic sphere (judgment of 5 December 2006, *Cipolla and Others*, C-94/04 and C-202/04, EU:C:2006:758, paragraph 47 and the case-law cited).

36 In order to ascertain whether the Kingdom of Spain has divested the legislation at issue in the main proceedings of its character as a State measure, it is necessary to examine, firstly, whether it delegated the drafting of the tariff of procuradores' charges to private operators, in this case to the professional associations of procuradores (see, to that effect, judgments of 19 February 2002, *Arduino* , C-35/99, EU:C:2002:97, paragraph 36; of 5 December 2006, *Cipolla and Others* , C-94/04 and C-202/04, EU:C:2006:758, paragraph 48; and order of 5 May 2008, *Hospital Consulting and Others* , C-386/07, not published, EU:C:2008:256, paragraph 21) and, secondly, whether the determination of the fees remains under State control (see, to that effect, judgments of 19 February 2002, *Arduino*, C-35/99,

EU:C:2002:97, paragraph 42; of 5 December 2006, *Cipolla and Others*, C-94/04 and C-202/04, EU:C:2006:758, paragraph 51; and order of 5 May 2008, *Hospital Consulting and Others*, C-386/07, not published, EU:C:2008:256, paragraph 24).

37 In that regard, it is clear from the order for reference in Case C-532/15 that Royal Decree No 1373/2003 is a legal provision enacted by the State. Furthermore, in its written observations, the Spanish Government points out that that decree was not drafted by the professional associations of procuradores, but that it is a State measure approved by the Spanish Council of Ministers, in accordance with the usual procedure for drafting decrees.

38 Furthermore, with regard to the procedure for taxation of procuradores' fees, it is apparent from the orders for reference that that procedure falls within the jurisdiction of the national courts. In that regard, the referring courts note that a national court is bound by the amounts set in the tariff established by Royal Decree No 1373/2003 when taxing the fees and that it is not permitted either to derogate from that tariff in exceptional cases or to check that the amounts of the fees are proportionate to the service rendered.

39 It is also apparent from the orders for reference that Royal Decree No 1373/2003, firstly, provides that a procurador and his client may derogate from the amounts of the fees laid down by that Royal Decree upwards or downwards by 12% and, secondly, sets an overall ceiling for the fees received by a procurador in a single case. It is apparent from the written observations of the Spanish Government that the Royal Decree also provides for the possibility of derogating, exceptionally and after authorisation given by a court, from the maximum amounts provided for by that decree and for the client's right to challenge, in the procedure for the taxation of the costs, unnecessary, optional, superfluous or unlawful costs and costs which were not incurred as part of litigation.

40 In such circumstances, the Kingdom of Spain cannot be criticised, merely because the national courts are bound, when taxing the costs of procuradores, to comply with the provisions of national legislation, drafted and promulgated by that Member State in accordance with the ordinary regulatory procedure, for having delegated the power to draft that legislation or its implementation to the professional associations of procuradores.

41 On the grounds set out in paragraphs 37 to 39 of this judgment, that Member State cannot be criticised for either requiring or encouraging the conclusion, by the professional associations of procuradores, of agreements contrary to Article 101 TFEU or for increasing the effects of such abuses or for requiring or encouraging abuses of a dominant position contrary to Article 102 TFEU (see, to that effect, order of 5 May 2008, *Hospital Consulting and Others* , C-386/07, not published, EU:C:2008:256, paragraph 26 and the case-law cited).

42 It is apparent from all the foregoing observations that the answer to the first question in Case C-532/15 and to the first and second questions in Case C-538/15 is that Article 101 TFEU, read in conjunction with Article 4(3) TEU, must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which makes the fees of procuradores subject to a tariff which may be increased or decreased only by 12%, in respect of which the national courts merely check its strict application without being in a position, in exceptional circumstances, to derogate from the limits set by that tariff.

The second question in Case C-532/15 and the third and fourth questions in Case C-538/15

43 By the second question in Case C-532/15 and the third and fourth questions in Case C-538/15, the referring courts ask, in essence, whether Article 56 TFEU must be interpreted as precluding national legislation, such as that at issue in the main proceedings, in so far as the national courts consider that

it cannot be justified by an overriding reason in the public interest within the meaning of point 8 of Article 4 of Directive 2006/123 and that it does not satisfy the conditions of proportionality and necessity within the meaning of Article 15(2)(g) and (3) of that directive.

44 It must be borne in mind that, by virtue of the settled case-law of the Court of Justice, the Court may decline to rule on a question referred for a preliminary ruling by a national court only where, inter alia, it is quite obvious that the provision of EU law referred to the Court for interpretation is incapable of applying (see order of 12 May 2016, *Security Service and Others* , C-692/15 to C-694/15, EU:C:2016:344, paragraph 22 and the case-law cited).

45 In that regard, in so far as the requests for a preliminary ruling concern the compatibility of the requirements in question with the provisions of the TFEU on freedom to provide services, it should be observed that they are not applicable in a situation all the elements of which are confined within a single Member State (see, to that effect, order of 12 May 2016, *Security Service and Others*, C-692/15 to C-694/15, EU:C:2016:344, paragraph 23 and the case-law cited, and judgment of 15 November 2016, *Ullens de Schooten*, C-268/15, EU:C:2016:874, paragraph 47).

46 The Court has held that the specific factors that allow a link to be established between the articles of the FEU Treaty on freedom to provide services and the subject or circumstances of a dispute, confined in all respects within a single Member State, must be apparent from the order for reference (see, to that effect, judgment of 15 November 2016, *Ullens de Schooten*, C-268/15, EU:C:2016:874, paragraph 54).

47 Consequently, in a situation such as that at issue in the main proceedings which is confined in all respects within a single Member State, it is for the referring court to indicate to the Court, in accordance with the requirements of Article 94 of the Rules of Procedure of the Court, in what way the dispute pending before it, despite its purely domestic character, has a connecting factor with the provisions of EU law on the fundamental freedoms that makes the preliminary ruling on interpretation necessary for it to give judgment in that dispute (see, to that effect, judgment of 15 November 2016, *Ullens de Schooten*, C-268/15, EU:C:2016:874, paragraph 55).

48 It is in no way clear from the requests for a preliminary ruling that there are factors connected either with the parties to the proceedings before the national courts or with those parties' activities which are not confined within that single Member State. Moreover, the referring courts do not indicate in what way the disputes pending before them, despite their purely domestic character, have a connecting factor with the provisions of EU law on the fundamental freedoms that makes the preliminary ruling on interpretation necessary for them to give judgment in those disputes.

49 In those circumstances, it is clear that the requests for a preliminary ruling do not provide specific factors that allow it to be established that Article 56 TFEU may apply to the facts of the disputes in the main proceedings.

50 Having regard to the foregoing considerations, it must be held that the Court does not have jurisdiction to answer the second question in Case C-532/15 and the third and fourth questions in Case C-538/15 referred by the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza) and the Juzgado de Primera Instancia de Olot (Court of First Instance, Olot) respectively.

The third question in Case C-532/15 and the fifth question in Case C-538/15

51 By the third question in Case C-532/15 and the fifth question in Case C-538/15, the referring courts wish to know, in essence, whether Article 47 of the Charter must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which does not allow clients effectively to contest the fees of a procurador when those fees are disproportionate and do not correspond to the service actually performed.

52 It is the settled case-law of the Court that the fundamental rights guaranteed in the legal order of the European Union are applicable in all situations governed by EU law, but not outside such situations. In this respect the Court has already observed that it has no power to examine the compatibility with the Charter of national legislation lying outside the scope of EU law. However, if such national legislation falls within the scope of EU law, the Court, when requested to give a preliminary ruling, must provide all the guidance as to interpretation needed in order for the national court to determine whether that legislation is compatible with the fundamental rights the observance of which the Court ensures (see, to that effect, judgment of 26 February 2013, *Åkerberg Fransson* , C-617/10, EU:C:2013:105, paragraph 19 and the case-law cited).

53 In consequence, it is necessary to consider whether the legal situations which gave rise to the main proceedings fall within the scope of EU law.

54 In the context of the present requests for a preliminary ruling, the national legislation at issue in the main proceedings governs, in general, certain fees connected with the administration of justice. It is not intended to implement provisions of EU law. In addition, EU law does not contain any specific rules in that area or any which are likely to affect that national legislation (see, to that effect, judgment of 27 March 2014, *Torralbo Marcos* , C-265/13, EU:C:2014:187, paragraph 32).

55 It is not apparent from the orders for reference that the subject matter of the disputes in the main proceedings fall within the scope of EU law (see, by analogy, judgment of 22 December 2010, *DEB*, C-279/09, EU:C:2010:811, paragraphs 28 and 29, and, to that effect, order of 28 November 2013, *Sociedade Agrícola e Imobiliária da Quinta de S. Paio* , C-258/13, EU:C:2013:810, paragraph 23).

56 In those circumstances, it is clear that the Court does not have jurisdiction to answer the third question in Case C-532/15 and the fifth question in Case C-538/15 referred by the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza) and the Juzgado de Primera Instancia de Olot (Court of First Instance, Olot) respectively.

## Costs

57 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

1. **Article 101 TFEU, read in conjunction with Article 4(3) TEU, must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which makes the fees of procuradores subject to a tariff which may be increased or decreased only by 12%, in respect of which the national courts merely check its strict application without being in a position, in exceptional circumstances, to derogate from the limits set by that tariff.**

**2. The Court of Justice of the European Union does not have jurisdiction to answer the second and third questions in Case C-532/15 and the third to fifth questions in Case C-538/15 referred by the Audiencia Provincial de Zaragoza (Provincial Court, Zaragoza, Spain) and the Juzgado de Primera Instancia de Olot (Court of First Instance, Olot, Spain) respectively.**

[Signatures]