

EU Case Law

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European Consumer Protection Law in the Context of Compulsory Schooling and Private School Contracts

A Case Note of CJEU, Judgement 30 April 2025, *St Kliment Ohridski Primary Private School EOOD v QX*, C-429/24

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Abstract: The Court of Justice of the European Union's judgement of 30 April 2025, on consumer protection in the context of private school contracts, centres on a triangular relationship between parents and private schools as contracting parties, and pupils as service recipients. The court classified parents as consumers while denying this status to pupils despite them being primary beneficiaries of the contract. Fundamental information asymmetries emerge as parents assume contractual obligations without comprehensive knowledge of daily educational delivery, while pupils remain legally invisible here despite being most affected by the service quality. The private schools' informational advantage enables potential exploitation through fee inflation via unrequested services. This decision therefore highlights tensions between public law obligations and private consumer protection law.

Keywords: consumer rights directive; private schools; service contract; unsolicited services; information asymmetry

1 Introduction

The present judgement of the Court of Justice of the European Union (CJEU) dated 30 April 2025¹ addresses the doctrinal classification of contracts between private schools

1 CJEU, Judgement 30 April 2025, *St Kliment Ohridski Primary Private School EOOD v QX*, C-429/24, ECLI:EU:C:2025:301.

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and the parents of pupils. The decision warrants discussion for several reasons. On the one hand, it involves the intersection of compulsory education as a matter of public law and European Union consumer protection law as a matter of private law. On the other hand, the CJEU provides important interpretations of the autonomous concepts of ‘consumer’, ‘service contract’ and ‘unsolicited services’. As such, this decision significantly contributes to the development of a coherent system of European private and contract law.²

1.1 Facts of the Case

The facts underlying the judgement took place in Bulgaria. Under Bulgarian law, and similarly in several other EU Member States,³ children are subject to compulsory education from age 7 to 16. This obligation can be fulfilled either by attending a public school or by entering into a contract with a private school. In the present case, the parents of two school-aged children entered into two contracts, one for each child, with a duly registered private school for full-day education over the course of a school year. The contracts provided that they could be terminated by written notice with a one-month notice period. However, if the final monthly payment had not yet been made, a contractual penalty roughly equivalent to one month’s fee would become due upon termination. Eventually, the parents terminated the contracts in order to transfer their children to another educational institution. The private school subsequently brought an action before a national court seeking payment of the contractual penalty.

1.2 Legal Issues of the Case

The parents argued before the national court that the contractual penalty was immoral and resulted in the unjust enrichment of the private school. Since the court would be obliged to apply consumer protection provisions *ex officio* if the parties were classified as consumers and the contract qualified as a service contract, four legal questions arose. These were referred by the national court to the CJEU for a preliminary ruling under Article 267(1) of the Treaty on the Functioning of the European Union (TFEU): First, whether the term ‘consumer’ within the meaning of Article 2(1) of Directive 2011/83

² On the phenomenon of ‘System Building’ in European Private Law, see: S. Grundmann, ‘Inter-Instrumental-Interpretation – Systembildung durch Auslegung im Europäischen Unionsrecht’ *Rabels Zeitschrift für ausländisches und internationales Privatrecht* (75) 2011, 882.

³ In France, the *Jules Ferry Law* of 28 March 1882, introduced compulsory education for children aged 3 to 16, see article L131-1 of the French Education Code; for Germany, compulsory schooling starts at age 6 and ends at age 16 and is regulated by the states (*Länder*), see, for instance § 42 (1) Berlin School Act (*Schulgesetz Berlin*).

should be interpreted as including a parent who concludes a school contract with a private school, registered as a commercial company, for the purpose of their child receiving compulsory education. Second, whether the term ‘consumer’ within the meaning of Article 2(1) of Directive 2011/83 also includes a pupil who attends compulsory education at a private school based on a fee-based contract concluded between the parent and the school. Third, whether the term ‘service contract’ within the meaning of Article 2(6) of Directive 2011/83 should be interpreted as including a school contract concluded between a parent and a private school for the provision of compulsory education, where the financing is provided by the parent through the payment of tuition fees. Fourth, if one or more of the preceding questions are answered in the affirmative, whether Article 27 of Directive 2011/83 (Inertia selling) should be interpreted to mean that the pupil or parent may be released from the obligation to pay tuition fees if they either did not request instruction in a particular subject or were dissatisfied with the instruction, even though the subject in question is a compulsory subject under national education standards.

In its response, the CJEU grouped the first two questions concerning consumer classification. It affirmed consumer status for the parent, as the contracting party, but denied this status to the pupils. The Court also answered the third question in the affirmative, stating that a private school contract qualifies as a service contract. Finally, the CJEU rejected the fourth question, finding that the situation does not constitute an inertia selling (here, more precisely, an unsolicited service) and therefore does not justify exemption from payment for instruction in a compulsory subject.

2 Analysis of the CJUE’s Interpretations

This judgement, therefore, deals with three core concepts of consumer protection law: ‘consumer’, ‘service contract’, and ‘unsolicited service’. It is thus appropriate to begin by outlining their common origin and interrelation before examining the CJEU’s interpretation of each individually.

2.1 Common Origin and Interrelation of the Concepts

All three terms are found in Directive 2011/83/EU⁴ (hereinafter referred to as the Consumer Rights Directive), which is also decisive for the outcome of the present judgement. The Consumer Rights Directive was implemented into the national

⁴ Directive 2011/83/EU of the European Parliament and of The Council of 25 October 2011 on consumer rights, amending Directive 93/13/ EEC of the Council and Directive 1999/44/EC of the European

private law of all EU Member States in accordance with Article 288(3) TFEU.⁵ Although the Directive was amended in 2015 and again in 2019, the terms at issue here have remained unchanged.⁶ The Consumer Rights Directive represents the central legal instrument of the EU in the area of consumer protection, alongside numerous other provisions.⁷ Not only is the EU's consumer protection policy globally unique, but its enforcement is also well established across Member States and at the EU level, as this case itself demonstrates.⁸ The importance of consumer protection law within the EU is also reflected in its primary law, notably in Article 4 (2)(f) and Articles 12, 114, and 169 TFEU. As the EU legislator has provided legal definitions for the terms 'consumer,' 'service contract,' and 'unsolicited service,' these must be interpreted in accordance with the principle of autonomous EU law interpretation.⁹ This means that the concepts are to be interpreted independently of national Member State's law. This is significant not only at the Member State level, where national courts must align their interpretations with that of the CJEU, but also on the European level more broadly. This approach underpins the methodological basis of the present judgement.

2.2 The Conceptual Understanding of 'Consumer'

2.2.1 General Legal Context

The term 'consumer' is legally defined in Article 2(1) of the Consumer Rights Directive. According to this provision, a consumer is any natural person acting for purposes outside their trade, business, craft, or profession in relation to contracts within the Directive's scope. The concept of the consumer is of fundamental importance

Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.

5 In France through Articles L 111-1 *et seq* and L 221-1 *et seq* of the French Consumer Code (*Code de la consommation*); in Germany through §§ 312 *et seq* of the German Civil Code (*Bürgerliches Gesetzbuch*).

6 2015 by Directive (EU) 2015/2302 of The European Parliament and of the Council of 25 November 2015, and in 2019 by Directive (EU) 2019/2161 of The European Parliament and of the Council Text with EEA Relevance of 27 November 2019.

7 *European Commission*, Consumer Rights Directive, 'The Consumer Rights Directive gives consumers the same strong rights across the EU. It aligns and harmonises national consumer rules [...]', available at: https://commission.europa.eu/law/law-topic/consumer-protection-law/consumer-contract-law/consumer-rights-directive_en, accessed 12 September 2025.

8 The importance of the enforcement of consumer protection law in the EU is shown by the Consumer Protection Cooperation Regulation (EU 2017/2394).

9 On autonomous interpretation of EU Secondary Law: K. Riesenhuber, *European Legal Methodology* (Cambridge: Intersentia, 2017) 249 *et seq*.

both for EU law and for its transposition into national law. The scope of the Consumer Rights Directive is only triggered if a contract is concluded between a consumer and a trader, as set out in Article 3(1) of the Directive. Besides the Consumer Rights Directive, many other EU legal acts depend on consumer status for their applicability, such as rules on unfair commercial practices in the internal market.¹⁰ Despite the legal definition, the CJEU has clarified the scope and nature of the consumer concept in numerous rulings.¹¹ In its interpretation, the Court follows the traditional methods of legal interpretation, including textual, systematic, and teleological approaches, especially relying on the recitals of the Consumer Rights Directive.¹² From the CJEU's extensive case law, a functional and objective understanding of the term 'consumer' has emerged.¹³ In particular, and this is the CJEU's flexible criterion, the concept of the consumer is to be interpreted broadly.¹⁴ This wide interpretation serves the goal of safeguarding the effectiveness of consumer protection across the EU.¹⁵ As a result, the CJEU has consistently adopted a highly consumer-friendly approach in its application of the law.¹⁶ The present decision also relies on this established interpretation of the consumer concept.

2.2.2 Interpretation by the CJEU

In addressing the question of whether the parents or the pupils qualify as consumers, the CJEU had to consider various nuances in interpretation. The central issue in this context was whether a legal obligation, one that can be fulfilled through the conclusion of a private-law contract, precludes the qualification as a consumer. In this regard, the distinction between the contracting parties (parents) and the beneficiaries of the contract (pupils) is relevant.

¹⁰ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005, concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive) (Text with EEA relevance).

¹¹ To only name a few (more recent judgements), see: CJEU, Judgement of 3 September 2015, *Costea*, C-110/14, EU:C:2015:538; CJEU judgement of 21 March 2019, *Pouvin and Dijoux*, C-590/17, EU:C:2019:232; CJEU, Judgement of 8 June 2023, *YYY*, C-570/21, ECLI:EU:C:2023:456.

¹² With further references on the rich body of case law, see: CJEU, Judgement of 8 June 2023, *YYY*, C-570/21, EU:C:2023:456, para 40.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ CJEU, Judgement of 24 October 2024, *Zabitoń*, C-347/23, EU:C:2024:919, para 28.

¹⁶ See on this conclusion: Dictionnaire Permanent Droit des Affaires Dalloz 2025, chapter 4, para 38.

2.2.2.1 The Consumer Status of Parents

The Court first turned to the question of whether the parents of the pupils could be considered consumers (paras 31 *et seq.*). Referring to the legal framework discussed earlier, the CJEU argued that the motives behind entering into the contract are irrelevant to determining consumer status, as long as Article 3 of the Consumer Rights Directive applies (para 41). Since private school contracts are not excluded from the scope of the Directive, the purpose of fulfilling a legal obligation, in this case, compulsory education, does not affect the classification of the contract (*ibid*). Accordingly, parents who enter into private school contracts on behalf of their children are to be classified as consumers.

Abstracting from this case, the CJEU clarifies that a public law obligation fulfilled through a private law contract remains within the scope of consumer protection law. This outcome is to be welcomed. However, from a methodological standpoint, the CJEU could have reinforced its reasoning more systematically by drawing analogies to other public obligations that may also be fulfilled by private contracts. One such example is the legal obligation to have health insurance. In many EU-countries, individuals are required by law to join a health insurance scheme.¹⁷ In Germany, for instance, this requirement can be fulfilled by entering a private insurance contract with a private insurer. Private medical insurance contracts are presumed to be consumer contracts, thereby making EU consumer protection rules applicable to those relationships as well.¹⁸ In this light, the Court's classification of parents as consumers in the context of private school contracts aligns well with existing case law and systematics.

2.2.2.2 The Consumer Status of Pupils

By contrast, the CJEU reached a different conclusion on the consumer status of pupils. Since they are not direct contracting parties with the private school, they cannot be considered consumers (para 42). Although this conclusion is formally and doctrinally correct, since pupils have no payment obligations, it overlooks that the arrangement resembles a 'contract for the benefit of third parties', as pupils are the primary

¹⁷ For France, see the French Social Security Code (*Code de la Sécurité Sociale*), particularly Art L 111-1 and L 161-1, which establish the general regime and the right to health coverage for all residents; For Germany, see § 5 of the Social Security Code (*SGB*) Book V – Statutory Health Insurance (*Sozialgesetzbuch (SGB) Fünftes Buch (V) – Gesetzliche Krankenversicherung*).

¹⁸ On this: S. Thomson/E. Mossialos, 'EU law and regulation of private health insurance' *Health Economics, Policy and Law* 2007, 117. While in France the mandatory health insurance is of public nature, one can enter into a complementary private insurance which are also qualified as consumer contracts, see: *Recommandation de la Commission des clauses abusives n° 2017-01 relative aux contrats d'assurance complémentaire santé*.

beneficiaries of the contract's performance.¹⁹ This legal institute, the 'contract for the benefit of third parties', is a national private law matter in the EU Member States.²⁰ Article 3(5) of the Consumer Rights Directive clarifies that national rules on validity, formation, or the effect of a contract remain unaffected, insofar as such aspects are not regulated by the Directive. The Directive doesn't set out rules on this form of a 'contract for the benefit of third parties', ie leaving it to the private laws of the Member States. However, it is remarkable that the CJEU didn't elaborate further on this question of third parties as consumers because national courts have done so.

In France, the *Cour de cassation*²¹ has held that when a credit institution (*établissement de crédit*) subscribes to a group insurance contract (*assurance de groupe*) with an insurer, and individuals adhere to that contract as third-party beneficiaries (*stipulation pour autrui*), a direct and reciprocal contractual relationship is established between the adherent and the insurer upon the insurer's acceptance. Although the contract is initially concluded between two professionals (the insurer and the credit institution), it is considered, with respect to the adherents, to be a consumer contract. Accordingly, the adherents are regarded as consumers and may benefit from the protective provisions of consumer law. Although this compared case is different from the present one, the CJEU could have therefore taken a similar dogmatic approach as the *Cour de Cassation* on this question instead of only relying on the formal contracting parties.

Moreover, pupils are already in a subordinate position vis-à-vis the private school and are effectively dependent on its services. The private school pupil's status in the triangle of pupil, parents and private school is therefore not clarified by the CJEU but leaves room for further questions. At the very least, the CJEU could have acknowledged this reality, in order to better protect the legal position of pupils as the *de facto* contractual beneficiaries.

2.3 The Conceptual Understanding of the 'Service Contract'

2.3.1 General Legal Context

The term 'service contract' is defined in Article 2(6) of the Consumer Rights Directive. It is defined negatively in contrast to a sales contract, encompassing any agreement

¹⁹ See on this consideration of third parties not to be qualified as consumers in German Private Law: G. Bachmann, in F.J. Säcker *et al* (eds), *Münchener Kommentar zum Bürgerlichen Gesetzbuch*, Band 1 (10th ed, Munich: C H Beck, 2025) § 13 BGB, para 257.

²⁰ In France this concept is called '*Stipulation pour autrui*' and is provided in Art 1205 of the French Civil Code (*Code Civil*); In Germany this concept is called '*Vertrag zugunsten Dritter*' and is provided in the §§ 328 *et seq.* of the National Private Law Code (*BGB*).

²¹ Cass 1re civ, 22 January 2002, n° 98-22.408.

that is not a sales contract, under which the trader performs or undertakes to perform a service for the consumer, and the consumer pays or undertakes to pay the price. While this definition is somewhat circular, it poses no major issues, as the concept of a contract for services is well-established in the contract law systems of the Member States.²² Moreover, the notion of what constitutes a service in general is well developed throughout the EU's legislation, namely through the rich body of jurisprudence for Article 56 TFEU and the Services Directive.²³ Schools, public as well as private, undoubtedly provide some form of 'service'. But of what nature exactly?

2.3.2 Interpretation by the CJEU

The CJEU very quickly classifies the private school contract as a service contract (para 46). Its reasoning is limited to stating that no goods are being transferred under the private school contract. While the result is convincing, it is questionable why the Court did not offer a more detailed explanation, particularly to distinguish the contract from a public-law relationship. After all, the private law contract in question fulfils a public-law obligation: compulsory schooling. In many cases, private schools may also be vested with public authority powers, which can blur the nature of the relationship between the school, the pupils, and the parents.²⁴ The CJEU could at least have acknowledged this complexity to provide clearer guidance for the national court's fact-finding and legal assessment, as well as for future cases.

2.4 The Conceptual Understanding of 'Unsolicited Services'

2.4.1 General Legal Context

According to Article 27 of the Consumer Rights Directive, where goods, water, gas, electricity, district heating, digital content, or services are supplied unsolicitedly, in breach of Article 5(5) and Annex I No 29 of Directive 2005/29, the consumer is exempt

²² In France through the Art 1710 *et seq* of the *Code Civil*; in Germany through the §§ 611 *et seq* of the *Bürgerliches Gesetzbuch*.

²³ On the case law of the freedom of services: A. Randelzhofer / U. Forsthoef, in E. Grabitz/M. Hilf/M. Nettesheim (eds), *Das Recht der Europäischen Union – Band 1 EUV/AEUV* (Munich: C H Beck, 85. EL 2025) AEUV Art 56, Art 57; Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

²⁴ On this possibility of vesting a private school with public authority powers in Germany, see the decision of an administrative court: VG Düsseldorf Beschluss vom 21 May 2021 – 29 L 1079/21, BeckRS 2021, 11653.

from any obligation to provide consideration. In such cases, the consumer's silence shall not be deemed as consent. This provision is of paramount importance in consumer law.²⁵ It ensures that consumers are not forced to accept services imposed upon them by traders. No contract may ultimately be forced upon a consumer. The significance of this rule is also reflected in the fact that several Member States, including Germany and France, structure its transposition differently within their legal systems.²⁶ Nevertheless, it remains heavily disputed due to its far-reaching consequences.²⁷ Throughout the years, the concept of unsolicited services has been given clear contours through CJEU case law and can be interpreted teleologically with the help of the recitals of the Directive.²⁸

2.4.2 Interpretation by the CJEU

The CJEU clarified that the provision of compulsory education mandated by the state, even when delivered by a private school, does not constitute an unsolicited service (para 53). Dissatisfaction with the quality of the instruction does not change this classification (para 55). According to the Court, such matters fall within the scope of national contract law (*ibid*). This highlights the core tension in this case: the conflict between a public law obligation and consumer protection law. The CJEU's cautious wording indicates that, in principle, educational services provided by private schools could be seen as unsolicited in certain circumstances. This raises concerns about potential abuse. Private school contracts are often concluded as package deals covering comprehensive educational services. This opens the door to the inflation of school fees through the inclusion of services not required or foreseen by the state educational curriculum. Private schools often distinguish themselves through diverse and unique educational concepts, and it is not unusual for these to include instructional content that was not expressly 'ordered' by the parents. Since the services are directed primarily at the pupils, and the parents as contracting parties may not be fully aware of them, this issue becomes all the more significant. One can even go so far as to say that there is a

²⁵ Even in 1975 the *European Communities* acknowledged the importance of regulating the phenomenon of unsolicited services, see: OJ of the European Communities, vol 18, no C 92, 25 April 1975, para 19 and 24.

²⁶ In Germany the Directive's transposition through § 241a BGB is systematically placed 'outside' of Consumer Law Contracts and is inserted in the general provisions of contract; in France this provision is transposed in the *Code de la consommation*, ie in Art L 121-12.

²⁷ With further references on the German literature: J. Fritzsche, in B. Gsell (ed), *Beck-online, Großkommentar zum Zivilrecht: BeckOGK* (Munich: C H Beck, 2025) § 241a BGB, para 1.

²⁸ See for example: CJEU, Judgement of 5 December 2019, *EVN Bulgaria Toplofikatsia and Toplofikatsia Sofia*, C-708/17 and C-725/17, EU:C:2019:1049, para 63.

fundamental doubled ‘information asymmetry’ between the contracting parties. Information asymmetries arise when one party to a contract knows more about the quality of the subject matter than the other.²⁹ In this case here, this is true in a double sense: Since private school contracts are set out for the long term and are factually addressed to pupils who are not formally considered parties to the contract by the CJEU, this can lead to a severe lack of knowledge on the part of the parents on what services are actually being provided. The school is *de facto* in a position to unilaterally decide what and how to teach. Therefore, the CJEU’s deliberately cautious formulation in this case is to be welcomed, as it acknowledges the potential for private schools to offer unsolicited services in practice.

3 Conclusions

In conclusion, the CJEU further shapes the notions of ‘consumer’, ‘service contract’ and ‘unsolicited services’ in the context of compulsory education fulfilled via private law contracts. Although the outcomes of all three interpretations are convincing, the Court’s reasoning could have been more thoroughly articulated to provide clearer precedent for similar future cases. A comparison of private school contracts with, for example, insurance contracts would have been more thorough. Moreover, the triangular relationship between pupil, parents, and school should have been more prominently acknowledged to address the underlying issue of information asymmetry. This decision aligns well with the broader system of EU consumer law. It therefore constitutes one more step towards the harmonisation of European private and contract law in general.

²⁹ On this phenomenon, see: G. Downing, ‘The Origin of Asymmetric Information: Revisiting the Rationale for Regulation’ *Oxford Journal of Legal Studies* 44 (2024) 28.