

**Question for written answer P-005654/2018  
to the Commission**

Rule 130

**Ernest Urtasun (Verts/ALE)**

Subject: Possible breach of Directive 93/13/EEC in the judgment handed down by the Spanish Supreme Court regarding mortgage tax

In 2015, the Spanish Supreme Court, acting in accordance with the provisions of Directive 93/13/EEC, declared unfair the expenses clause written into some mortgages. A recent judgment established that the expenses of the mortgage tax (Tax on Documented Legal Acts or IAJD) should be assumed by the banks. The president of the Third Chamber of the Supreme Court stayed this judgment due to the 'enormous economic and social repercussions' of the collapse of banks' shares on the stock market. In an unusual decision, the Chamber decided to correct the judgment and provide that the customers should pay the tax. This decision takes up again a measure included a clause that had previously been declared unfair by the Supreme Court itself and was contrary to European law, notably Directive 93/13/EEC. The financial bodies in question will not be penalised in any way, despite having applied a clause that had been ruled unfair. In view of the repeated judgments of the CJEU that demonstrate the lack of legal protection of the persons with mortgages, and the exceptional procedure involved in this case, will the Commission say:

- 1) Does it consider that the independence of the judiciary enshrined in Article 47 of the Charter of Fundamental Rights of the European Union has been safeguarded during this process?
- 2) What measures will it take to ensure that mortgages with expenses clauses, including the IAJD, which have been declared unfair, comply with Directive 93/13/EEC ?