

Jurisprudență

Detalii privind cazul

ID național: Court of Appeal, Bucharest, Judgment 406 A

Statul membru: România

Denumire comună: N/A

Tipul de decizie: Decizie a Curții care face obiectul unui recurs

Data deciziei: 20/02/2018

Instanța: Court of Appeal, Bucharest

Obiect:

Reclamantul:

Pârâtul:

Cuvinte-cheie: consumers, professionals, injunctions, injunction for the cessation of illegal practices

Articole din directivă

Injunctions Directive, [Article 1](#) Injunctions Directive, [Article 2](#) Injunctions Directive, [Article 3](#) Injunctions Directive, [Article 3](#)

Notă preliminară

Dispute between an association of consumers and a bank, in which the association requested an injunction for the cessation of an alleged unfair commercial practice of the bank (contractual clauses providing for the reimbursement of the credit contracted in foreign currencies to the rate of conversion from the date of each payment) and a decision obliging the bank to respect the exchange rates RON/CHF from the moment of the conclusion of the contract for all the monthly instalments to be paid by the consumers.

Fapte

Dispute between an association of consumers and a bank, in which the association requested an injunction for the cessation of an alleged unfair commercial practice of the bank (contractual clauses providing for the reimbursement of the credit contracted in foreign currencies to the rate of conversion from the date of each payment) and a decision obliging the bank to respect the exchange rates RON/CHF from the moment of the conclusion of the contract for all the monthly instalments to be paid by the consumers.

Chestiune juridică

Injunction for the cessation of an alleged unfair commercial practice and a decision obliging to respect the exchange rates RON/CHF from the moment of the conclusion of the contract for all the monthly instalments to be paid by the consumers.

One of the issues discussed in appeal concerned the locus standi of the association.

Hotărârea

The court refers to the declared purpose of the association (defence and protection of rights and interests of consumers) and considered that it satisfies the requirements of the law. The Court refuses the submissions of the appellants, according to which only the associations recognised by the Romanian Government as being “associations of public utility” may intervene in the termination of alleged infringements; it considers that such a requirement is imposed only for specific actions (different from those at issue in the current dispute) and it cannot be extended to situations (actions) not expressly referred to by the legislator.

The second relevant issue discussed in appeal concerned the admissibility of the action brought by the association. The Court considered that the remedy requested by the claimant in the main action – the obligation for the bank to cease to apply the contractual clauses and to respect the exchange rates RON /CHF from the moment of the conclusion of the contract for all the monthly instalments to be paid by the consumers – was not provided by the law 363/2007 on the unfair commercial practices; this law also reserves expressly the application of the legal provisions on contracts.

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Cazuri conexe

Nu există rezultate disponibile

Doctrină

Nu există rezultate disponibile

Rezultat

The Court considered as inadmissible the legal action brought by the association of consumers aiming to obtain the non-application of the contractual clauses providing for the reimbursement of the credit contracted in foreign currencies at the conversion rate from the date of each payment.