

## Case law

### Case Details

**National ID:** 1111

**Member State:** Italy

**Common Name:** Telecom Italia S.p.A. v. Codacons

**Decision type:** Other

**Decision date:** 24/01/2003

**Court:** Corte di cassazione (Supreme court)

**Subject:**

**Plaintiff:**

**Defendant:**

**Keywords:**

### Directive Articles

Injunctions Directive, [Article 1](#), 1. Injunctions Directive, [Annex I](#)

### Headnote

1. The Corte di cassazione stated that the consumers' association has not the right to intervene in the proceeding. Upon the fulfilment of certain requirements, such right has been provided by the enforcement Law no. 281 of 30 July 1998 that is not applicable to this case (i.e. at the time of the facts, the Law no. 281 of 30 July 1998 was not entered into force).

### Facts

A consumer, Mrs. Donatella Rosellini, has sued Telecom Italia S.p.A. before the Giudice di Pace of Rome claiming for the damages on the 25 February 1997. The plaintiff claimed that she has paid an undue amount of money for certain phone services that she has never received from Telecom Italia S.p.A. The Codacons, one of the leading Italian consumers' associations, has asked to intervene in support of the claims of Mrs. Donatella Rosellini against the telephone company (i.e. "intervento adesivo"). Telecom Italia S.p.A. has appealed before the Corte di cassazione the decision by which the first judge has agreed with the plaintiff's demand and has recognized to the Codacons the right to intervene in the proceeding.

### Legal issue

In this decision, the Corte di cassazione discussed the nature of the interest of the consumers' associations to intervene in the proceedings between a consumer and a professional. As for the Court, in this specific case (i.e. intervento adesivo), the right to intervene should be based on the existence of a connection between the rights of the parties and the ones of the consumers' association. So that the latter may suffer a damage to its rights from the decision of the Court. Accordingly, the Corte di cassazione denied the right to intervene of Codacons.

This right has been provided by the Law no. 281 of 30 July 1998 ("Disciplina dei consumatori e degli utenti" in the Gazzetta Ufficiale 14 August 1998 no.189), that entered into force after the facts considered in this case. The Law has implemented in the Italian Law the Directive 98/27/EC of the European Parliament and of the Council of 18 May 1998 on injunctions for the protection of consumers' interests.

The Law n. 281 of 30 July 1998 concerns the rights of consumers and users and inter alia provides that the consumers' associations, acting to protect the collective interests, may request from the judge: a) an injunction for acts and behaviours prejudicing the rights of consumers; b) the adoption of measures to correct and eliminate the damaging effects of infringements ascertain; and c) the order to publish the measure in one or more daily newspapers at a national or local level in order to contribute to the correction or elimination of the effects of said infringements.

### Decision

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### Related Cases

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### Legal Literature

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### Result