

## Case Details

### Case Details

National ID	link
Member State	Italy
Common Name	G. De Gaetanis v. SARA Assicurazioni S.p.A.
Decision type	Other
Decision date	30/01/2003
Court	Giudice di pace (Others, Lecce)
Subject	
Plaintiff	
Defendant	
Keywords	

### Directive Articles

Unfair Contract Terms Directive, [Article 2](#) Unfair Contract Terms Directive, [Article 3, 1.](#)

### Headnote

The Giudice di Pace di Lecce stated that a cartel in breach of competition rules may damage the economic interests of the consumers, whether or not they are competitors of the collusive members of the cartel.

The Justice of Peace affirmed he had jurisdiction over the case because it involved the protection of the consumers' rights (this interpretation has been rejected by the leading decision of the Corte di Cassazione no. 2207/2005).

### Facts

Accordingly with the Italian Antitrust Authority, a cartel between a large number of competing insurance companies - that entered into a complex horizontal agreement aimed at the "extended and pervading" exchange of strategic, sensitive, commercial information - infringe the article 2 of the Law 10 October 1990 no. 287.

As a consequence of the above, Mr. De Gaetanis sued the insurer company, SARA Assicurazioni S.p.A. before the Giudice di Pace di Lecce.

He claimed that as to the AGCM assertion the cartel has gained a large premium advantage by its anticompetitive acts and, then, asked for the reimbursement of the 20% of the premium paid to SARA Assicurazioni S.p.A.

The Justice of Peace agreed with the arguments of the consumer and the plaintiff obtained a reimbursement of Euro 613, 57.

### Legal issue

The Giudice di Pace di Lecce agreed that the consumers are affected directly by an unlawful agreement which eliminates the consumers' right to choose effectively among competitive products.

In particular, he stated that the Justices of Peace have jurisdiction over the case because it involved the protection of the consumers' rights.

In this way, the Giudice di Pace di Lecce has not applied the provision of the article 33(2) of the Law 10 October 1990 no. 287, upon which the Corte di Appello is solely competent to hear claims based upon national competition law, independently of the amount of damages claimed and of the nature of the plaintiff.

This interpretation has been recently rejected by the decision of the Corte di Cassazione no. 2207/2005 (also reported).

The Italian Supreme Court has been clear in clarifying that, accordingly with the article 33 (2), the Corte di Appello serves as sole arbiter of all issues of fact or law and its decisions are binding and not subject to judicial review other than by appeal to the Corte di Cassazione.

#### Decision

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#### Related Cases

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#### Legal Literature

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#### Result

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