

Case Details

Case Details

National ID	36229/2003
Stato membro	Italia
Common Name	link
Decision type	Altro
Decision date	28/06/2003
Organo giurisdizionale	Tribunale
Oggetto	
Attore	
Convenuto	
Parole chiave	

Directive Articles

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

Headnote

The Tribunale di Roma has rendered an articulated decision on the interpretation of the Law no. 281 of 30 July 1998. In particular, The Court confirmed that the consumers' associations may ask for an urgent injunction (i.e. "inibitoria urgente) only to prevent urgent and irreparable damages to the consumers' interests. A term providing an excessive penalty for the delay to pay the parking tickets is unfair under the provisions of the Law no. 281 of October 10, 1990 and, thus, it should be considered null and void.

Facts

The consumers associations, Federconsumatori and Adusbef, sued Unione Park Coop a.r.l. and Società Consortile Parcheggi Pubblici a.r.l. before the Tribunale di Roma. They consumers associations were seeking an urgent injunction to inhibit the implementation of a term of the general conditions of parking adopted by the public-owned companies. They also asked for the publication of the decision in the newspapers. As to the plaintiffs, the article 5 of the general conditions of parking contained an unfair term providing an excessive penalty for the delay to pay the parking tickets. And consequently, the consumers associations claimed that such clause was in contrast with the provisions of the Law no. 281 of October 10, 1990.

Legal issue

Decisione

The decision concerned the interpretation of the Law no. 281 of 30 July 1998 ("Disciplina dei consumatori e degli utenti" in the Official Journal 14 August 1998 no. 189). The Law no. 281 implemented the Directive 98/27/EC of the European Parliament and the Council of 18 May 1998 on injunctions for the protection of consumers' interests. As to the decision, a clause providing an excessive penalty (see the article 1382 of the Italian Civil Code on penalty clauses) for the delay to pay the parking tickets. is unfair under the provisions of the Law no. 281 of 30 July 1998

and thus it should be considered null and void.

In this case, the Tribunale di Roma confirmed the standing of the plaintiffs, Federconsumatori and Adusbef, to seek an urgent injunction (i.e. inibitoria urgente).

The urgent injunction is needed only to prevent urgent and irreparable damages to the consumers' interests.

It - as in our case - is usually granted on a temporary basis, that is, until the court hears all the arguments of the both parties in full at a final hearing.

The Court granted an urgent injunction to the plaintiffs to inhibit the adoption of the contested term and agreed to publish an abstract of the decision in some newspapers. The publication aims to contribute to the correction or elimination of the effects of said infringements.

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