

Case Details

Case Details

National ID	link
Stato membro	Italia
Common Name	San Paolo IMI s.p.a. v. Codacons
Decision type	Altro
Decision date	01/03/2005
Organo giurisdizionale	Corte di Appello
Oggetto	
Attore	
Convenuto	
Parole chiave	

Directive Articles

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

Headnote

1. The Corte di Appello di Torino decided a leading case concerning the interpretation of the Law no. 281 of 30 July 1998.

The decision stated that the injunction provided under the Law no. 281/1998 has the scope to correct and eliminate the infringements of the consumers' interests.

Consequently, the injunction may not be claimed by the plaintiff to ascertain the unlawful act or behaviour of the defendant, or to obtain from the court the reimbursement for the benefit of the consumers.

Facts

The consumer association Codacons sued before the Tribunale di Torino the bank San Paolo IMI s.p.a. The association acted to obtain an injunction under the Law no. 281 of 30 July 1998 and, particularly, to obtain a declaration about the unlawful behaviour of the bank and then the reimbursement of the consumers. Accordingly to the plaintiff, the bank has violated the consumers' rights by calculating "interests over interests" to the detriment of the clients.

The Tribunale di Torino rejected the claim of Codacons because, as to the judge's interpretation of such Law, the subject of the demand does not fall within the scope of the Law no.281 of 30 July 1998.

The Court of Appeal confirmed the arguments of the Tribunale di Torino in the judgment herewith reported.

Legal issue

Decisione

The Corte di Appello rendered a decision about the scope of the Law no. 281 of 30 July 1998 ("Disciplina dei consumatori e degli utenti" in the Gazzetta Ufficiale 14 August 1998 no. 189).

The Law no. 281 implemented 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. In particular, it provides that the consumers' associations, acting to protect the collective interests, may request from the judge:

- an injunction for acts and behaviours prejudicing the rights of consumers;
- 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.

In this case, the court rejected the demand of the plaintiff by stating that the demands concerning the declaration of the unlawful behaviour of the defendant and the reimbursement of the consumers do not fall within the scope of the Law.

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