

**Giurisprudenza****Dettagli del caso****ID nazionale:** No. 14602**Stato membro:** Italia**Nome comune:** Galletto c. Assoc. Com. Area Reggio Nord**Tipo di decisione:** Altro**Data della decisione:** 22/06/2007**Organo giurisdizionale:** Corte di cassazione**Oggetto:****Attore:****Convenuto:****Parole chiave:****Articoli della direttiva**Distance Selling Directive, [Article 4, 1.](#)**Nota introduttiva**

The Italian Supreme Court confirmed that the professional, who carries on advertising and marketing practices on the premises in which the consumer is present, even on a temporary basis, for reasons of work, study, or treatment, should be clearly identifiable by a tag. The company is deemed responsible, together with the salesman, in case of lack of compliance with this provision.

**Fatti**

The case arises from the complaints of a group of municipalities within the province of Reggio Emilia ("Associazione dei Comuni Area Reggio Nord", hereinafter also "Municipalities") against a professional (Mrs. Galletto) who was carrying on advertising and marketing practices about packaged travel services offered by Verano Vacaciones S.r.l. in a Golf Club without being identifiable by the consumers present on that premise. Mrs. Galletto acted before the Justice of Peace of Correggio in opposition to the order issued by the Municipalities for violation of the Artt. 19-20 of the Legislative Decree no. 114 of 31.03.1998.

**Questione giuridica****Decisione**

The reasoning of the Court was based on the provisions of the Art. 20 of the Legislative Decree no. 114 of 31.03.1998 "Riforma della disciplina relativa al settore del commercio, a norma dell'articolo 4, comma 4, della legge 15 marzo 1997, n. 59", in OJ 24.04.1998, no. 95 - Ordinary Supplement no. 80. The Decree specifically requires that the professional makes clear the commercial purpose of his/her activity by showing the tag (Please See: Attachment 1). According to the Art. 19, par. 6, of the Decree the tag should include the name and surname of the professional, his/her photo, the registered office (or the principal place of business), the products and/or the services offered, the company and the employee who is responsible for the advertising and marketing practices in question and his/her signature. The professional should clearly show the tag to the consumers present in the place of his/her activities. The judges noted that this requirement for advertising and marketing practices on the premises in which the consumer is present applies in parallel with the provisions of the Italian Consumer Code about consumer protection before the conclusion of distance selling contracts. In particular, the article 52 of the Consumer Code clearly states, inter alia, that "In good time prior to the conclusion of any distance contract, the consumer shall be provided with the following information: a) the identity of the seller and, for contracts requiring payment in advance, the address thereof; omissis". As to the Consumer Code (Art. 52, par. 2), the information shall be required to be provided in a clear and comprehensible manner in any way appropriate to the means of distance communication used, and especially with due regard to the principles of good faith and integrity in commercial transactions, assessed in accordance with the protection requirements of particularly vulnerable categories of consumers. For example, for telephone communications, the identity of the professional and the commercial purpose of the call shall be required to be made explicit at the beginning of any telephone calls to consumers. Failure to observe this shall invalidate any contract. If e-mail is used, the regulations provided for at Article 9 of Legislative Decree no. 70 of 9.04.2003 shall apply.

Testo integrale: [Testo integrale](#)**Casi correlati**

Nessun risultato disponibile

**Dottrina**

Nessun risultato disponibile

**Risultato**