

Case Details

Case Details

National ID	link
Member State	Italy
Common Name	Associazione Consumatori Utenti Onlus v. Trenitalia S.p.A, Legambiente Calabria
Decision type	Other
Decision date	16/07/2006
Court	Tribunale (Court of first instance, di Lamezia Terme)
Subject	
Plaintiff	
Defendant	
Keywords	

Directive Articles

Injunctions Directive, [Article 3](#)

Headnote

The judgment confirms that consumer' associations have standing to protect the collective interests of the consumers only under the Art. 140 of the Italian Consumer Code. Generally, the consumer associations do not have a right of action in cases involving the collective or the public interests.

Facts

The Associazione Consumatori Utenti Onlus sued Trenitalia S.p.A. on behalf of a group of citizens resident close to the railway station of Sant'Eufemia (Lamezia Terme). According to the claimants the railway pollution represents a source of nuisance to the people living near the tracks and, more important, it has adverse effects on the human health of the people living in that area. The consumer association brought the case before the Tribunal of Lamezia Terme by asking the judge an injunction to prohibit Trenitalia S.p.A. to pollute.

Legal issue

The judgment recognizes the fundamental rights of consumers and users are: a) health protection; b) the safety and quality of products and services; c) adequate information and correct advertising; d) consumer education; e) fairness, transparency and equity in contractual relations; f) the promotion and development of free, voluntary and democratic associations between consumers and users; g) the supply of public services according to standards of quality and efficiency (Art. 2 Italian Consumer Code).

The point at issue concerns, in particular, the standing of consumer organisations to protect the health of a group of citizens.

According to this interesting judgment, a claimant has standing to pursue an environmental complaint only where he or she has a right conferred by statute, or a special interest in the subject matter that is equivalent, in nature, to a private, proprietary or economic interest.

Under the Artt. 139-140 of the Italian Consumer Code, consumer organizations are qualified, under certain conditions, to act to protect the collective interests of consumers and users by applying to a Court for - a prohibition order against actions damaging to the interests of consumers and users; - suitable measures to remedy or eliminate the damaging effects of any breaches; - orders to publish measures in one or more national or local daily

newspapers where publicising measures may help to correct or eliminate the effects of any breaches. In this case, the judge noted that the association were not bringing a suit to protect the interests of the “consumers” (i.e. natural persons who are acting for purposes which are outside their trade, business or profession) but, more generally, the interests of a group of citizens. On such basis, the judge concluded that the Art. 140 is not applicable to this case and the consumer associations do not have a (general) right of action in cases involving the collective or the public interests.

Decision

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