

Case Details

Case Details

National ID	2491
Stato membro	Italia
Common Name	Movimento Cittadinanza Onlus v. Acqualatina S.p.A.
Decision type	Altro
Decision date	13/07/2006
Organo giurisdizionale	Tribunale
Oggetto	
Attore	
Convenuto	
Parole chiave	

Directive Articles

Injunctions Directive, [Article 2, 1](#). Injunctions Directive, [Article 3](#)

Headnote

The judgment held that consumers' associations pursuant to the Art. 37 of the Italian Consumer Code (associations representing professionals, and Chambers of Commerce, Industry, Crafts and Agriculture) may bring proceedings against any professional or professional association that uses or recommends the use of contractual terms drawn up for general use, and may request the competent court to grant orders preventing the use of terms that have been found unfair.

Facts

Movimento Cittadinanza Onlus, a consumer association, brought an action to abolish a number of unfair terms inserted in the standard term contract of the defendant, Acqualatina S.p.A.

Legal issue

Decisione

The judgment of the Tribunal of Latina clarified, again, that the unfairness of a contractual term shall be assessed, taking into account the nature of the goods or services for which the contract was concluded and by referring, at the time of conclusion of the contract, to all the circumstances attending the conclusion of the contract and to all the other terms of the contract or of another contract on which it is dependent.

On such basis, consumers' associations may bring proceedings against any professional or professional association that uses or recommends the use of contractual terms drawn up for general use, and may request the competent court to grant orders preventing the use of terms that have been found unfair.

The injunction may be granted, when there are fair grounds of urgency, pursuant to Articles 669-bis et followings of the Italian Civil Procedure Code.

In case here examined, the Tribunal of Latina also decided for the publication of the order in one newspaper, distributed nationally.

Finally, the court confirms that, for all matters not covered by the Art. 37 of the Italian Consumer Code (referring specifically to the case of Unfair Terms), the provisions of Artt. 139-140 applies to the actions for injunctions brought by consumers' associations.

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