

## Case law

### Case Details

**National ID:** n. 27005

**Member State:** Italy

**Common Name:** Amati and others v. Soc. Cassa risp. della Spezia

**Decision type:** Other

**Decision date:** 12/11/2008

**Court:** Corte di cassazione (Supreme court)

**Subject:**

**Plaintiff:**

**Defendant:**

**Keywords:**

### Directive Articles

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

### Headnote

No Headnotes available.

### Facts

The bank (Cassa di Risparmio della Spezia) was granted by the President of Tribunale della Spezia (Court of La Spezia) an executive title ("ingiunzione") dated of 5/10/1196 for the amount of Lire 344,967,986, as well as interest against AL, Am.An., A.A. and F.A., guarantors of the company ORED s.r.l. for two bank accounts, in relation to the debts of the company towards the institute.

The defendants argued, among other things, that they were only members of the company Ored s.r.l. (Ltd.) and as such they should be considered consumers and that the fact that the principal debtor was a company had no relevance.

### Legal issue

Although the guaranty ("fideiussione") in itself may not be understood as a contract for the sale of goods or provision of services between a professional and a consumer, as stated in art. 1469-bis Civil Code in the wording before the Act no. 526 of 21 December 1999, however, even in the previous version, the regulation on unfair terms introduced by Act no. 52 of 6 February 1996 applies for guaranty ("fideiussione") that access to banking contracts (objective requirement). In case of guaranty ("fideiussione"), in order to value if the contract is a B2C contract, man has to consider the main debtor.

### Decision

Full text: [Full text](#)

### Related Cases

No results available

### Legal Literature

No results available

### Result