

Teismų praktika**Bylos aprašymas**

Nacionalinis numeris: I-878-815/2010

Valstybė narė: Lietuva

Bendrinis pavadinimas: N/A

Sprendimo rūšis: Teismo sprendimas, pirmoji instancija

Sprendimo data: 27/05/2010

Teismas: Vilniaus apygardos administracinis teismas (Vilnius)

Tema:

Ieškovas: UAB "Baltijos reklamos projektai"

Atsakovas: State Consumer Rights Protection Authority

Raktažodžiai: average consumer, misleading commercial practices, product characteristics, proportionality

Direktivos straipsniai

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2., \(a\)](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6, 1., \(b\)](#) Unfair Commercial Practices Directive, [Chapter 4, Article 13](#)

Ižanginė pastaba

A consumer is misled regarding the main characteristics of a product when a trader sells tickets for a musical event at a certain date, but does not inform the consumer that the musical event will actually take place at a later date, even when the delay and the correct date of the event are widely publicised in the media.

Faktai

The plaintiff, an event organizer, was selling tickets to a music performance.

The plaintiff was eventually informed that the artist delayed the performance. Afterwards, the plaintiff continued to sell tickets for six more days.

The defendant investigated the above situation and concluded that the plaintiff had provided consumers with false information in relation to the main characteristics of the product (the date of the event), as the date of the event is material. Accordingly, it argued that providing inaccurate information about the date of the event was likely to materially distort the economic behaviour with regard to the product of the average consumer. Therefore, the defendant imposed a fine of LTL 3,000 (about 857 EUR) for misleading actions.

The plaintiff appealed the defendant's decision before the Vilnius Regional Administrative Court, arguing that its actions were not misleading because information about the delay of the event was promptly publicised in media.

Teisės klausimas

Is it a misleading commercial practice to sell tickets for a musical event at a certain date without informing the consumer that the musical event will actually take place at a later date, taking into account that the delay and the correct date of the event were widely publicised in the media?

Sprendimas

The court upheld the defendant's position, and stated that the plaintiff's practice amounted to a misleading practice in relation to the main characteristics of the product. It further noted that it is irrelevant whether the plaintiff publicised information about the delay of the event in the media, because it was primarily obliged not to publicise potentially misleading information at its points of commercial activities, i.e. at the website. Moreover, it was stated that an average consumer does not have to search for information in other sources, such as the media.

However, taking into account that (1) there were no complaints by the consumers, (2) the misleading actions did not last for a long time, (3) the plaintiff was cooperating with the defendant in good faith, (4) the plaintiff ensured repayment for the tickets, and (5) the plaintiff had violated the Lithuanian Law on Prohibition of Unfair Business-to-consumer Commercial Practices for the first time and unintentionally, the court decreased the fine imposed on the defendant to the minimum level, i.e. LTL 1.000 (about 286 EUR). The court additionally noted that there were no grounds for imposing a warning instead of the fine, because the violation was made via the internet website and, thus, was not minor.

Visas tekstas: [Visas tekstas](#)

Susijusios bylos

Rezultatų nėra

Teisinė literatūra

Rezultatų nėra

Rezultatas

The plaintiff's appeal was partially granted. The amount of fine imposed on the plaintiff by the defendant was decreased.