

Teismų praktika**Bylos aprašymas**

Nacionalinis numeris: 3K-3-372-690/2015

Valstybė narė: Lietuva

Bendrinis pavadinimas: N/A

Sprendimo rūšis: Aukščiausiojo Teismo sprendimas

Sprendimo data: 12/06/2015

Teismas: Lietuvos Aukščiausiasis Teismas

Tema:

Ieškovas: R.M.

Atsakovas: UAB "SEB investicijų valdymas"

Raktažodžiai: contract law, elderly, national law, presumption of conformity, social services, unfair terms

Direktivos straipsniai

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

Ižanginė pastaba

The provision of a pension accumulation agreement, establishing the consumer's obligation to purchase a pension annuity, cannot be considered as an unfair term of the consumer agreement, as long as such an obligation arises from mandatory requirements of national law and therefore was included in the consumer pension accumulation agreement.

Faktai

The plaintiff and the defendant concluded the pension accumulation agreement, under which the plaintiff chose to accumulate the part of his retirement pension by investing the part of a state social insurance tax into a conservative investment fund, managed by a private entity. The plaintiff's obligation to purchase a pension annuity if the sum of a pension annuity, accumulated by the plaintiff under the said agreement, was higher than half of a basic state social insurance pension was included in the pension accumulation agreement due to national mandatory laws.

After the plaintiff retired he applied to the defendant regarding payment of the accumulated pension. The defendant then explained to the plaintiff that he did not have to purchase a pension annuity and could have signed a one-time payment agreement, under which the whole accumulated sum would have been paid to the plaintiff, since the accumulated pension did not exceed half of the basic state social insurance pension.

The following day the plaintiff arrived to the defendant to conclude a one-time payment agreement, and the defendant explained to the plaintiff that SODRA (Lithuanian social insurance institution) transferred additional amount to the plaintiff's pension fund, therefore the aggregated amount exceeded half of a basic state social insurance pension, consequently, the plaintiff had to purchase a pension annuity and a one-time payment agreement could not have been concluded.

The plaintiff sued the defendant and requested the court to oblige the defendant to conclude a one-time payment agreement.

Teisės klausimas

Can the provision of a pension accumulation agreement, establishing the consumer's obligation to purchase a pension annuity, when such a provision was included into the pension accumulation agreement based on mandatory requirements of national law, be considered as an unfair term of the consumer pension accumulation agreement?

Sprendimas

The court explained that the obligation to purchase a pension annuity was established in the consumer pension accumulation agreement due to mandatory requirements provided for in the Law on Pension Accumulation. The court stated that the control of unfair terms of consumer agreements was aimed at and the scope thereof limited to contractual provisions agreed upon by the parties, and not to those provisions which arose out of mandatory requirements of national law. Therefore, the court concluded that under Directive 93/13/EEC, contractual terms which reflect mandatory statutory or regulatory provisions fall out of the scope of the control of unfair terms under Directive 93/13/EEC. Based on that, the court emphasized that provisions reflecting mandatory rules, adopted by competent legislative institutions, must be presumed as being just and fair.

Based on the said arguments the court concluded that the provision of the consumer pension accumulation agreement, establishing the plaintiff's obligation to purchase a pension annuity, cannot be considered as an unfair term.

URL: <http://eteismai.lt/byla/117713154332587/3K-3-372-690/2015>

Visas tekstas: [Visas tekstas](#)

Susijusios bylos

Rezultatų nėra

Teisinė literatūra

Rezultatų nėra

Rezultatas

The court rejected the plaintiff's claim.