

Case law**Case Details****National ID:** C-580/11**Member State:** Bulgaria**Common Name:**link**Decision type:** Supreme court decision**Decision date:** 24/01/2012**Court:** Supreme Court of Cassations**Subject:****Plaintiff:** CEZ Razpredelenie Bulgaria AD**Defendant:** Bulgarian Consumer Protection Commission**Keywords:** cessation order, collective action, qualified entity**Directive Articles**Injunctions Directive, [Article 3, \(a\)](#)**Headnote**

The right of a qualified entity to bring a class action results from its very existence as a legal entity established to protect the rights of a particular category of consumers (class) without being preconditioned by proving the personal and direct interest of particular persons comprised by the same category.

Facts

The defendant filed a class action with the Sofia District Court against the plaintiff for establishing the invalidity of certain of the provisions in the plaintiff's general terms and conditions.

The Sofia District Court awarded the claim and in addition ordered: (i) cessation on the application of the invalid provisions and (ii) publication of the decision. The plaintiff submitted for further review the first instance court decision to the Sofia Court of Appeals but the second instance court denied the plaintiff's appeal.

As the last resort, the plaintiff submitted an appeal to the Supreme Court of Cassations.

Legal issue

In order to file an admissible class action, a qualified entity is not required to prove that at least two consumers sustained damages. In class action proceedings, the claimant's party comprises a group of persons who are not nominally defined (as to the number of persons in it or as to their particular identity), but only identifiable by particular features. Only the persons who bring the claim on behalf of the class must be individualized and meet the characteristics determining their belonging to the class. Those persons are not considered the claimant but the claimant is only the group entity (the "class"), as a group of persons meeting certain characteristics. That said, the requirement for individualization is not applicable in the case in hand when the relevant class is represented by an entity qualified for protection against violations of collective interests of consumers. The right of the defendant to file the class action is based on Article 186, Alinea 3 of the Consumers Protection Act (which implements Article 3, subparagraph a) of the Injunctions Directive).

Decision

Is the right of a qualified entity to bring a class action preconditioned by proving the personal and direct legal interest of particular persons comprised by the category of consumers (class) whose rights the same qualified entity is established to protect?

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Result

The court upheld the second instance court's judgment and rejected the plaintiff's cassation appeal.