

Съдебна практика**Данни за случая**

Национален идентификатор: Supreme Court, Judgement C-3276/15

Държава-членка: България

Общоприето наименование: N/A

Вид решение: Решение на върховния съд

Дата на решението: 30/12/2015

Съд: Върховния касационен съд

Заглавие:

Ищец: Consumer Legal Aid Association

Ответник: Energo-Pro Grid AD and Energo-Pro Sales AD

Ключови думи: collective action, qualified entity

Членове от директивата

Injunctions Directive, [Article 3, \(b\)](#)

Уводна бележка

In class action proceedings, the mere fact that the plaintiff is included in the list of the qualified entities under Article 164, Alinea 1, point 7 of the Consumer Protection Act is sufficient evidence for the capacity of the same plaintiff to protect the relevant consumers' collective interests and to meet the court expenses.

Факти

The plaintiff filed a class action with the Varna District Court against the defendants on the cessation or prohibition of certain defendants' unfair commercial practices.

The Varna District Court considered the action inadmissible and ruled termination of proceedings. According to the court the plaintiff did not present evidences for its capacity to protect the consumers' collective interests and to meet the court expenses.

The plaintiff submitted for further review the first instance court ruling to the Varna Court of Appeals but the second instance court denied the plaintiff's appeal.

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

Правен въпрос

Is the mere fact that the plaintiff is included in the list of the qualified entities under Article 164, Alinea 1, point 7 of the Consumer Protection Act sufficient evidence for the capacity of the plaintiff to protect the relevant consumers' collective interests and to meet the court expenses in class actions proceedings?

Решение

In order to file an admissible class action, a qualified entity is not required to provide evidences that it has the capacity to protect the consumers' collective interests and to meet the court expenses. Said requirement (embodied in Article 380, Alinea 3 of the Code of Civil Procedure) is not applicable when it comes to class actions filed by a qualified entity. The legal interest of the plaintiff to file the class action is based on Article 186, Alinea 1 of the Consumers Protection Act (which implements Article 3, subparagraph b) of the Injunctions Directive). The inclusion of the plaintiff in the list approved according to Article 164, Alinea 1, point 7 of the Consumer Protection Act evidences the capacity of the plaintiff to protect the consumers' collective interests and to meet the court expenses. The inclusion in this list is ordered by the Minister of the Economy after examination whether the same entity meets the relevant qualification criteria and if it is financially independent.

URL: http://www.vks.bg/vks_p03.htm

Пълен текст: [Пълен текст](#)

Свързани случаи

Няма налични резултати

Правна литература

Няма налични резултати

Резултат

The court awarded the plaintiff's cassation appeal, repealed the second instance court's resolution and sent the case to the Varna District Court for continuation of the class action proceedings.