

Case law

Case Details

National ID: C-3276/15

Member State: Bulgaria

Common Name:link

Decision type: Supreme court decision

Decision date: 30/12/2015

Court: Supreme Court of Cassations

Subject:

Plaintiff: Consumer Legal Aid Association

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

Keywords: collective action, qualified entity

Directive Articles

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

Headnote

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.

Facts

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.

Legal issue

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.

Decision

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?

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

Full text: [Full text](#)

Related Cases

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Legal Literature

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Result

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.