

Νομολογία**Στοιχεία της υπόθεσης****Εθνικός αναγνωριστικός αριθμός:** Decision no. 525/2014**Κράτος μέλος:** Ελλάδα**Κοινή ονομασία:** N/A**Είδος απόφασης:** Προσβαλλόμενη δικαστική απόφαση**Ημερομηνία απόφασης:** 11/07/2014**Δικαστήριο:** Εφετείο Πειραιά**Θέμα:****Ενάγων:** Unknown**Εναγόμενος:** Unknown**Λέξεις-κλειδιά:** consumer, doorstep selling**Άρθρα της οδηγίας**Doorstep Selling Directive, [link](#)**Περίληψη**

The concept of consumer in the provision of Article 1 of Law 2251/1994, which attempted to incorporate the substantive provisions of Community law for Consumer protection is different and wider than that of Article 13 of the Lugano and Brussels Conventions. This definition does not include those who acquire goods to transfer them or to give up their use or to use on behalf of third parties, and includes the one who acquires the product as an end-user even when using it for his / her business needs. However, the intention of the national legislator to extend the concept of consumer, as it is understood and protected by the respective directives, in particular by Directive 85/577 / EEC on consumer protection in the conclusion of contracts negotiated away from business premises, 87/102 (as amended by 90/88 / EU) on "Consumer Credit" and 99/44 / EC on "Aspects of the Sale of Consumer Goods", which is identical to the above concept of the Brussels and Lugano Conventions. It is clear that the above Law endeavors to enlarge the concept of consumer beyond the protection threshold of the Brussels Convention and Community law (that is to say, the party considers the "consumer" and the professional trader or professional end-user in the preceding analysis) reflects only national law and, to that end, the protection granted to such a "consumer" can not prevail, in accordance with Article 28 of the Constitution, the rules of the Lugano or New York Convention. Therefore, only contracts concluded to meet the private consumption needs of a person at a private level fall within the provisions protecting the consumer as a financially weaker party. The special protection sought by those provisions is not justified in the case of contracts which are intended for professional activity and when the trade attempted by traders and freelancers is functionally linked to the exercise of their profession, there is no question of their protection under the envisaged regulations.

Πραγματικά περιστατικά

The plaintiff (a ship-owner company supplying oil to vessels) had filed a claim against the defendant (which trades oil) before the Court of First Instance of Piraeus, which referred the case to arbitration (decision no. 5821/2009). The dispute arose when the defendant had failed to provide the plaintiff with the quantity of oil sold on time and therefore this delay caused damages to the plaintiff against which the plaintiff sought compensation. Following that, the plaintiff filed an appeal against the defendant and the decision of first instance before the Court of Appeal of Piraeus.

Νομικό ζήτημα

What is the definition of consumer according to Directive 85/577/EEC, especially in relation to national law and the Lugano and Brussels Conventions? Following this definition, do the provisions that protect the consumer as a financially weaker party apply in case of contracts intended for professional activity?

Απόφαση

The Court ruled that the plaintiff's professional status with respect to the purchased quantities of oil at issue did not comply with the meaning of "Consumer" under the Lugano Convention, nor is in accordance with Community law (in contrast with the status of consumer under domestic law). Consequently, it cannot invoke the nullity of the arbitration agreement based on the provision of Article 2 of the law 2251/94 and on the grounds that the relevant clauses were unilaterally imposed as General Terms of Transactions. As a result, the Court of First Instance, which silently rejected the specific objection to the invalidity of the arbitration clause as being essentially unfounded, did not err in the interpretation and application of the law.

Πλήρες κείμενο: [Πλήρες κείμενο](#)**Συναφείς υποθέσεις**

Δεν υπάρχουν αποτελέσματα

Νομική βιβλιογραφία

Δεν υπάρχουν αποτελέσματα

Αποτέλεσμα

The plaintiff's appeal was dismissed.