

Case law

Case Details

National ID: 165

Member State: Italy

Common Name: link

Decision type: Administrative decision, first degree

Decision date: 07/01/2017

Court: Regional Administrative Court of Lazio (Rome)

Subject:

Plaintiff: CODACONS

Defendant: BANCA D'ITALIA, MINISTERO DELLO SVILUPPO ECONOMICO, MINISTERO DELLA GIUSTIZIA, CONSOB

Keywords: abusive behaviour, adequate powers, consumer, legal actions

Directive Articles

Injunctions Directive, [Article 2](#) Injunctions Directive, [Article 3, \(b\)](#)

Headnote

Art. 140 of the Consumer Code provides for a fixed list of actions that the associations referred to in art. 137 can undertake in order to protect consumers and users interests, and these are: a) inhibition of acts and behaviours that harm consumers' and users' interests; b) adoption of the appropriate measures for the rectification or removal of the detrimental effects of the ascertained infringements; and c) ordering of the publication of the decision on one or more newspaper with a local or national distribution in case the publication of the decision may contribute to rectify or remove the effects of the ascertained infringements.

Facts

The plaintiff as well as other 249 subjects brought an action before the court requesting the invalidity declaration of several decisions issued by defendant (among which decisions of 21 November 2015 n. 554/2015, n. 553/2015, n. 555/2015 and n. 556/2015) that disposed the resolution of Banca Popolare dell'Etruria e del Lazio, Banca delle Marche S.p.a., Cassa di Risparmio di Ferrara S.p.a. and Cassa di Risparmio della Provincia di Chieti S.p.a. The 249 plaintiffs, owners of said banks' shares, requested the decisions' annulment based on abuse of power of defendant, and a compensation for damages suffered as a consequence of the resolution proceedings that depreciated thier shares value. The defendant claimed the illegality of Codacons standing to bring the action at issue in court.

Legal issue

The list of actions referred to in art. 140 of the Consumer Code is rigidly fixed and exhaustive, and it is not possible to find in the wording of said article an interpretation that may allow for the associations referred to in art. 137 to bring into court an action of annulment even if it is for the protection of consumers' and users' interests.

Decision

Can the action for annulment be comprised in the meaning of art. 140 of the Consumer Code, that lists the actions that can be undertaken by the associations referred to in art. 137 for the protection of consumers' and users' interest?

URL: [N/A](#)

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Result

The regional administrative tribunal rejected the plaintiff complaint and declared it inadmissible.