

**Case C-429/05**

**Max Rampion and Marie-Jeanne Rampion, née Godard**

**v**

**Franfinance SA and K par K SAS**

(Reference for a preliminary ruling  
from the Tribunal d'instance de Saintes)

(Directive 87/102/EEC — Consumer credit — Right of the consumer to pursue remedies against the lender for non-performance or performance not in accordance with the contract relating to the goods or services financed by the credit — Conditions — Indication in the offer of credit of the goods or service being financed — Credit facility enabling the credit granted to be used on a number of occasions — Possibility for the national court to raise of its own motion the right of the consumer to pursue remedies against the lender)

Opinion of Advocate General Mengozzi delivered on 29 March 2007 . . . . I - 8020  
Judgment of the Court (First Chamber), 4 October 2007 . . . . . I - 8050

**Summary of the Judgment**

- 1. Approximation of laws — Protection of consumers in consumer credit matters — Directive 87/102  
(Council Directive 87/102, as amended by Directive 98/7, Art. 11(2))*

2. *Approximation of laws — Protection of consumers in consumer credit matters — Directive 87/102*  
(Council Directive 87/102, as amended by Directive 98/7, Arts 11(2) and 14)
3. *Approximation of laws — Protection of consumers in consumer credit matters — Directive 87/102*  
(Council Directive 87/102, as amended by Directive 98/7, Art. 11(2))

1. Article 11(2) of Directive 87/102 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as amended by Directive 98/7, concerning the right of the consumer to pursue remedies against the lender, applies both to credit designed to finance a single transaction and a credit facility allowing the consumer to use the credit granted on a number of occasions.

Moreover, the aim of Article 11(2) of Directive 87/102 can be achieved only if that provision applies also where the credit may be put to a variety of uses. That provision, read in the light of the 21st recital of Directive 87/102, is designed to confer upon the consumer, in the circumstances there defined, rights vis-à-vis the lender which are in addition to his normal contractual rights against him and against the supplier of the goods or services.

Moreover, the said Article 11(2) allows the protection offered to the consumer to take various forms, in order to take account of the specific characteristics of a credit facility as compared with tied credit, granted for a single purchase.

There is nothing in the wording of Article 11(2) of Directive 87/102 to suggest that that provision does not apply to credit facilities. Whilst Article 11(3) of that directive makes express provision for an exception to the application of Article 11(2), it is not credit facilities which are thus generally excluded.

(see paras 39, 40, 42-44)

2. Articles 11 and 14 of Directive 87/102 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as amended by Directive 98/7, are to be interpreted as precluding the right to pursue remedies, provided for in Article 11(2) of Directive 87/102, which the consumer enjoys against the lender, from being made subject to the condition that the prior offer of credit must indicate the goods or services being financed.

down by that directive and their strict application. Moreover, Article 14(2) specifically precludes national legislation from enabling the lender to avoid facing an action brought by the consumer under Article 11(2) of that directive simply because there is no indication of the goods or services being financed.

(see paras 46, 48-50, operative part 1)

The second sentence of Article 11(2) of Directive 87/102, which provides that Member States are to determine to what extent and under what conditions remedies against the lender are to be exercisable, cannot be interpreted as allowing Member States to make the consumer's right to pursue remedies subject to conditions over and above those exhaustively listed in the first sentence of Article 11(2) of Directive 87/102. That interpretation is corroborated by Article 14 of Directive 87/102, which generally emphasises the importance placed by the Community legislature on the protective provisions laid

3. Directive 87/102 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as amended by Directive 98/7, is to be interpreted as allowing national courts to apply of their own motion the provisions transposing Article 11(2) thereof, concerning the right of the consumer to pursue remedies against the lender, into national law.

(see para. 69, operative part 2)