

Judgment of the Court (First Chamber) of 10 April 2008 (reference for a preliminary ruling from the Oberlandesgericht Stuttgart) — Annelore Hamilton v Volksbank Filder eG

(Case C-412/06) ⁽¹⁾

(Consumer protection — Contracts negotiated away from business premises — Directive 85/577/EEC — First paragraph of Article 4 and Article 5(1) — Contract for long-term credit — Right of cancellation)

(2008/C 128/16)

Language of the case: German

Referring court

Oberlandesgericht Stuttgart

Parties to the main proceedings

Applicant: Annelore Hamilton

Defendant: Volksbank Filder eG

Re:

Reference for a preliminary ruling — Oberlandesgericht Stuttgart — Interpretation of Articles 4 and 5 of Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises (OJ 1985 L 372, p. 31) — Cancellation of a loan contract, negotiated away from business premises, to finance the acquisition of shares in a real property fund — National legislation under which the right of cancellation expires one month after both parties have performed in full their contractual obligations, even where a consumer has not been informed of that right

Operative part of the judgment

Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises must be interpreted as meaning that the national legislature is entitled to provide that the right of cancellation laid down in Article 5(1) of the directive may be exercised no later than one month from the time at which the contracting parties have performed in full their obligations under a contract for long-term credit, where the consumer has been given defective notice concerning the exercise of that right.

⁽¹⁾ OJ C 310 of 16.12.2006.

Judgment of the Court (Second Chamber) of 10 April 2008 — Commission of the European Communities v Italian Republic

(Case C-442/06) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 1999/31/EC — Landfill of waste — National legislation concerning existing landfill sites — Incorrect transposition)

(2008/C 128/17)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: D. Recchia and M. Konstantinidis, Agents)

Defendant: Italian Republic (represented by: I.M. Braguglia, Agent, G. Fiengo, avocat)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ 1999 L 182, p. 1) — National legislation which does not comply with the directive

Operative part of the judgment

The Court:

1. Declares that, by adopting and maintaining in force Legislative Decree No 36 of 13 January 2003, as amended, which transposes Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste into national law,

— in so far as that legislative decree does not provide for the application of Articles 2 to 13 of Directive 1999/31 to landfills authorised subsequent to the date of expiry of the period for transposition of that directive and prior to the date of the entry into force of the legislative decree, and

— in so far as it does not secure the transposition of Article 14(d)(i) of that directive, the Italian Republic has failed to fulfil its obligations under Articles 2 to 14 of Directive 1999/31;

2. Orders the Italian Republic to pay the costs.

⁽¹⁾ OJ C 326, 30.12.2006.