



Reports of Cases

Case C-357/16

'Gelvora' UAB

v

Valstybinė vartotojų teisių apsaugos tarnyba

(Request for a preliminary ruling
from the Lietuvos vyriausiasis administracinis teismas)

(Reference for a preliminary ruling — Unfair commercial practices — Directive 2005/29/EC — Scope — Debt collection agency — Consumer credit — Assignment of debt — Nature of the legal relationship between the agency and the debtor — Article 2(c) — Concept of 'product' — Recovery measures taken in parallel to the intervention of a bailiff)

Summary — Judgment of the Court (Tenth Chamber), 20 July 2017

Consumer protection — Unfair business-to-consumer commercial practices — Directive 2005/29 — Scope — Debt of a defaulting debtor under a consumer credit agreement transferred to a debt collection company — Legal relationship between that company and the defaulting debtor — Included — Concept of 'product' — Debt recovery measures taken by that company in parallel with the intervention of a bailiff — Included

(European Parliament and Council Directive 2005/29, Art. 2(c))

Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') must be interpreted as meaning that the legal relationship between a debt collection agency and the debtor, who has defaulted under a consumer credit agreement and whose debt has been assigned to that agency, falls within the material scope of the directive. The practices in which that agency engages in order to recover that debt fall within the concept of 'product' within the meaning of Article 2(c) of that directive. In that regard, the fact that the existence of the debt was confirmed by a court decision, and that that decision was passed to a bailiff for enforcement, is without consequence.

Aside from the fact that initiating such measures in parallel to official enforcement proceedings through a bailiff is liable to mislead the debtor as to the nature of the procedure which he faces, the effectiveness of the protection provided to the consumer by the Unfair Commercial Practices Directive requires that the trader, which decided to act unilaterally in order to recover the debts, be subject to the provisions of that directive in respect of the measures which it adopts unilaterally, in parallel to enforcement proceedings.

(see paras 30, 31, operative part)