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By PwC Deutschland | 24. Mai 2023

ECJ: Failure to inform of the right of withdrawal exempts consumer from payment

In a most recent judgment, the European Court of Justice decided that a consumer is exempt from any payment obligation if he or she withdraws from a service contract concluded off-premises and which had already been performed. The entrepreneur must therefore bear the costs incurred by him due to the performance of the contract during the withdrawal period.

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A consumer concluded a service contract with an undertaking for the renovation of the electrical installations in his house. However, the undertaking had failed to inform him of the right of withdrawal, which was available to that consumer, in principle, for a period of 14 days due to the fact that the contract had been concluded away from the undertaking's business premises. After he had finished his works, the undertaking provided the consumer with the respective invoice. The consumer did not pay it but withdrew from the contract.

By its judgment, the ECJ decided that a consumer is exempt from any obligation to pay for the services provided pursuant to an off-premises service contract, where the trader concerned did not inform the consumer in advance of his or her right of withdrawal and that the latter exercised his or her right of withdrawal after the fulfillment of that contract.

The right of withdrawal is designed to protect the consumer in the context of concluding an off-premises contract. In that context, the consumer may, to a greater degree, be under psychological pressure or be confronted with an element of surprise. Therefore, the information concerning the right of withdrawal is of fundamental importance for the consumer, enabling him or her to make an informed decision on whether to conclude the contract.

Source:

ECJ judgment of 17 May 2023 in the case **C-97/22** *DC (Rétractation après l'exécution du contrat)*. – ECJ **PRESS RELEASE No 79/23** of 17 May 2023.

Schlagwörter

services to consumers