

**Case law****Case Details**

**National ID:** ECLI:NL:GHARL:2015:7448

**Member State:** Netherlands

**Common Name:** link

**Decision type:** Court decision in appeal

**Decision date:** 06/10/2015

**Court:** Court of appeal Arnhem-Leeuwarden

**Subject:**

**Plaintiff:** Unknown

**Defendant:** Unknown

**Keywords:** complaints, notification, poor quality, presumption of conformity, reasonable time

**Directive Articles**

Consumer Sales and Guarantees Directive, [link](#) Consumer Sales and Guarantees Directive, [Article 5, 2](#).

**Headnote**

A member state, and thus also a seller of certain goods, cannot require a consumer - either e.g. through general conditions or a national rule/law - to complain about a non-conformity (only) through a registered letter.

**Facts**

In January 2013, the defendant agreed with the plaintiff to provide them with three hair pieces. The plaintiff agreed to pay EUR 3.795 for this. The defendant's general conditions were applicable. The plaintiff's insurance company paid EUR 1.393 to the defendant; the plaintiff would pay the rest in installments. In March 2013, one of the hair pieces was delivered. In August 2013, the plaintiff's lawyer complained by letter to the defendant about the provided hair piece and the plaintiff did not pay the rest of the agreed installments. The defendant claims the rest of the purchase price and the plaintiff claims termination of the agreement and EURO 1.725,50. The first instance court granted the plaintiff's request, to which the defendant appealed.

**Legal issue**

The general conditions of seller stated that the buyer could only complain through a registered letter. The court decides that a member state, and thus also a seller through his general conditions, cannot require a consumer to complain (only) through sending a registered letter in a national rule/law.

**Decision**

May a consumer be required, e.g. by the general conditions of the other party, to complain about a defect only through a registered letter?

URL: <http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:GHARL:2015:7448>

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**Result**

The court upheld the first instance court's judgment.