

Case Details

Case Details

National ID	link
Mitgliedstaat	Deutschland
Common Name	link
Decision type	Supreme court decision
Decision date	16/03/2016
Gericht	Bundesgerichtshof (BGH)
Betreff	
Kläger	Unknown
Beklagter	Unknown
Schlagworte	distance contracting, right of withdrawal

Directive Articles

Consumer Rights Directive, [Chapter 3, Article 11](#) Consumer Rights Directive, [Chapter 3, Article 11, 1.](#)

Headnote

(1) Whether and for what reasons a consumer asserts its right to revoke in a distance contract is left up to the consumer's free will.

(2) Exclusion of a consumer's right of revocation due to abuse of law (§ BGB § 242 BGB) can only be considered in exceptional circumstances with regard to the business's special need for protection, for instance in the case of fraudulent or malicious behavior by the consumer (confirmation and continuation of the Senate judgment of 25.11.2009 - BGH reference number VIII ZR 318/08 [= MMR 2010, MMR year 2010 page 174], paragraph MMR page 174 recital 17, MMR page 174 paragraph 20).

Facts

On 14 January 2014, the plaintiff ordered two spring mattresses for the price of €417.10 (including delivery) via the website of the defendant, which promised a "lowest price guarantee". The mattresses were delivered on the 24th and 27th of January 2014 and paid for by the plaintiff. The plaintiff then discovered a better offer from another supplier (€ 192.06 per mattress plus 10 € for delivery) and asked the defendant to reimburse the difference in price. The defendant did not do this and no agreement was reached between the parties. The plaintiff then revoked the purchase contract via e-mail dated 2 February 2014 and returned the two mattresses. The defendant argued that the plaintiff abused the law when it revoked the contract to pressure the defendant to enforce plaintiff's claim for the "lowest price guarantee". The action for reimbursement of the purchase price of € 417.10 plus interest was successful in the lower courts.

Legal issue

(1) May a consumer's right of revocation be excluded or denied based upon the reason provided by the consumer for the revocation?

(2) Under which circumstances may a consumer's right of revocation be excluded or denied?

Entscheidung

The court held that a consumer is not obliged to provide a reason for exercising the right of revocation and therefore cannot be penalized, whatever its motive.

URL: <http://openjur.de/u/880360.html>

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Result

The defendant's appeal was rejected. The defendant must bear the costs of the auditing procedure.
