

Case Details

Case Details

National ID	link
Država članica	Slovenija
Common Name	link
Decision type	Court decision in appeal
Decision date	15/07/2015
Sodišče	Višje sodišče v Ljubljani (civilni oddelek)
Zadeva	
Tožnik	Unknown
Toženec	Unknown
Ključne besede	consumer, inaccurate information, plain, intelligible language, proof of loss

Directive Articles

Unfair Contract Terms Directive, [Article 6, 1.](#)

Headnote

The unclear provision of standard terms cannot be binding for consumers and is void.

Facts

Because the defendant did not perform its obligations under the contract on operative leasing, the contract was terminated. The plaintiff therefore expected to be compensated the damages for termination of the contract. The dispute arose because the contract did not include clear provisions as to what the plaintiff may claim upon termination of the contract. The defendant claimed that as the standard terms under this contract are unclear in terms of calculating the damages in the event of termination of the contract, they are not binding for him as the consumer.

Legal issue

Is the provision of standard terms binding for the consumer, even though it is unclear?

Odločba

The court found that the financial-mathematical model set out in the provision that covered termination of the contract was not precisely determined and did not allow for calculation of damages in the event of termination of the contract. As the way of calculation under the contract pursuant, which in the present case formed the substantive law, was not clear, the matter was returned back to the first instance. The first instance should then pay attention to the fact that the way of calculation under the contract is unclear and thus void, therefore only the actual loss can be determined.

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Result

The plaintiff's request was granted.
