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Judgment of the Court in Joined Cases C-38/21, C-47/21 and C-232/21 | BMW Bank and Others

A consumer who concludes a car leasing agreement without an obligation to purchase does not have a right of withdrawal

By contrast, a consumer who has concluded a credit agreement in order to purchase a car without being properly informed of his or her rights and obligations may withdraw at any point so long as he or she has not received complete and correct information, provided that the withdrawal occurs before the agreement is performed in full

The Court explains consumer rights as regards leasing and car loans. In the case of a car leasing agreement without an obligation to purchase, a consumer's right of withdrawal does not stem from EU law. By contrast, in the case of a credit agreement concluded in order to purchase a car, a consumer may, without committing an abuse of rights, exercise his or her right of withdrawal at any point so long as he or she has not received complete and correct information on his or her rights and obligations and provided that the agreement is still being performed, namely, typically, before the final repayment.

A number of consumers have submitted, before the Regional Court of Ravensburg (Germany), that they validly withdrew from leasing agreements or credit agreements concluded with banks linked to car manufacturers (BMW Bank, Volkswagen Bank and Audi Bank). Those agreements concerned a car leasing without an obligation to purchase and the financing of a second-hand car, respectively.

In the case of the leasing agreement, the consumer had visited the premises of a car dealer authorised to provide information on the agreement, which was then concluded directly between that consumer and the bank by way of a means of distance communication. In the case of the credit agreements, the car dealers acted as intermediaries for the banks.

All of those consumers withdrew several months, or even years, after the conclusion of the agreement; however, one of them exercised his right of withdrawal after the credit had been repaid in full. They consider that the 14-day withdrawal period provided for under EU law has not started to run because they were not sufficiently informed of their rights and obligations when the agreement was concluded. As regards the banks, they submit that, in any event, a withdrawal after such a length of time must be classified as abusive.

The Regional Court of Ravensburg has referred questions to the Court of Justice on this matter.

The Court rules that **a consumer who concludes a leasing agreement for a car ordered in accordance with his or her specifications does not have, on the basis of EU law^{1 2 3}, a right of withdrawal where the agreement stipulates that he or she is under no obligation to purchase the car at the end of the leasing period.** That applies even when the agreement was concluded at a distance or away from commercial premises.

As regards **credit agreements**⁴, the Court finds that **the 14-day withdrawal period provided for such agreements does not start to run if the information which the trader must provide when the agreement is concluded is incomplete or incorrect to the point of affecting the consumer's assessment of the scope of his or her rights and obligations and to the point of affecting his or her decision to conclude the agreement.** In such a case, **the exercise of the right of withdrawal after the 14-day period has elapsed cannot under any circumstances be regarded as abusive, even if that right is exercised long after the agreement was entered into.** The Court states, however, that **once the credit agreement has been performed in full, the consumer may no longer exercise his or her right of withdrawal.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, the abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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¹ [Directive 2002/65/EC](#) of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services. A leasing agreement without an obligation to purchase is, rather, treated as rental agreement and therefore does not concern a financial service under the directive.

² [Directive 2008/48/EC](#) of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers. That directive does not apply to a leasing agreement without an obligation to purchase.

³ [Directive 2011/83/EU](#) of the European Parliament and of the Council of 25 October 2011 on consumer rights. A leasing agreement concluded for a specific period for a car meeting the consumer's specifications comes under the exception to the right of withdrawal, which is aimed at protecting the trader against the risk of not being able to put that car to an alternative use without suffering significant financial loss.

⁴ Under Directive 2008/48.