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Judgment of the Court in Case C-97/22 | DC (Withdrawal after performance of the contract)

Failure to provide information on the right of withdrawal: a consumer is exempt from any payment obligation if he or she withdraws from a service contract concluded off-premises which has already been performed

The trader must therefore bear the costs which he, she or it has incurred due to the performance of the contract during the withdrawal period

A consumer had 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.

Having performed the contract, the undertaking provided the consumer with the related invoice. The consumer did not pay it, but withdrew from the contract. He contends that, based on the failure of the undertaking to provide him with information on his right of withdrawal, and on account of the fact that the works had been carried out before the expiry of the withdrawal period (which, in the event of such failure, is extended by one year), the undertaking had no right to payment of the price.

The German court before which the dispute regarding that claim was brought considers that, under the provisions of German law adopted in order to transpose the Directive on consumer rights, a consumer is to bear no cost for the service supplied before the expiry of the withdrawal period, where the trader has failed to provide the consumer with information on his or her right of withdrawal.

However, the German court is uncertain as to whether that directive precludes any right of the trader to 'compensation', including in a situation where that consumer exercised his or her right of withdrawal only after the performance of an off-premises contract. Indeed, that would allow the consumer to obtain an enhancement of his or her assets, which would contravene the general principle of EU law relating to the prohibition of unjust enrichment. That court therefore requested that the Court of Justice interpret the abovementioned directive in this respect.

By its judgment delivered today, the Court's answer is that **a consumer is exempt from any obligation to pay for performance provided pursuant to an off-premises service contract, where the trader concerned did not inform the consumer of his or her right of withdrawal and that consumer exercised his or her right of withdrawal after the performance of that contract.**

The right of withdrawal is designed to protect the consumer in the particular 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 or not to conclude the

contract.

Regarding the issue of enhancement of assets thus obtained by the consumer and the prohibition of unjust enrichment, the Court recalls that the objective of the directive is to provide a high level of consumer protection. However, that objective would be undermined if it were possible that a consumer, following his or her withdrawal from a service contract concluded off-premises, could incur costs not expressly provided for by the directive.

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.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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