

RUSSIAN DESK

New practice of the Supreme Court on the protection of consumer rights

On 17 October 2018 the Presidium of the RF Supreme Court adopted an Overview of Current Practice on the Consideration by Courts of Cases on Disputes on the Protection of Consumer Rights Related to the Acquisition of Goods and Services. The overview contains a number of important clarifications for organisations that sell goods and provide services to consumers.

JURISDICTION OF THE RUSSIAN FEDERATION

The activities of foreign companies involving the sale of goods in Russia are subject to the jurisdiction of the Russian Federation even if they do business through companies that effectively perform the functions of a branch/representative office, and not accredited branches/representative offices, namely subsidiaries or third parties that have been assigned the right to sell products in the Russian Federation.

SCOPE OF REGULATION OF THE CONSUMER PROTECTION LAW

The dispute is a consumer dispute, not only by virtue of its participants – the consumer against an organisation or individual entrepreneur. The goal of the conclusion of the contract between the indicated persons is also important. The intention of the consumer to receive the goods, work or services for personal needs, and not business needs, is particularly important. The Supreme Court pointed out to lower-instance courts that they must determine and verify the goal underlying the acquisition of the goods by the consumer. At the same time, the purchase of a large number of technically complex products may confirm the business goal of the acquisition, which rules out accordingly the possible application of the Consumer Protection Law.

TERMINATION OF A SALE AND PURCHASE AGREEMENT IN CONNECTION WITH PRODUCT DEFECTS

The Supreme Court confirmed the right of the consumer to terminate a sale and purchase agreement if it is discovered that a product has a manufacturing defect within 15 days of the date when the product was transferred to the consumer, regardless of whether such a defect is classified as material (an irremediable defect or a defect identified more than once).

LIMITATION ON THE PROVISION OF BANKING SERVICES

In accordance with the position of the Supreme Court, banks are entitled, if they identify suspicious transactions, to place restrictions on the bank services provided to the client. This position corresponds to amendments to legislation which entered into legal force on countering embezzlement, stipulating that credit institutions are vested with powers to suspend operations in the event of indicia of embezzlement, and also anti-money laundering legislation.

The full text of the Overview has been posted on the official website of the Supreme Court: <http://www.supcourt.ru/documents/the-matics/27257/>.



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Imprint

This publication is issued by

BEITEN BURKHARDT

Rechtsanwaltsgesellschaft mbH

Ganghoferstrasse 33 | D-80339 Munich

Registered under HR B 155350 at the Regional Court Munich/
VAT Reg. No.: DE811218811

For more information see:

<https://www.beiten-burkhardt.com/en/imprint>

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