

/ Poland: Effective consumer complaint without a receipt

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The Polish Court of Consumer and Competition Protection ruled that contractual provisions containing warnings that without an official fiscal receipt the purchased goods cannot be returned constitute unlawful clauses.

According to the judgment of the Court of Consumer and Competition Protection given on 2 June 2016 (file reference no.: **XVII Amc 695/16**), making the possibility to accept the return of the goods claimed to be defective by the seller dependent on showing the fiscal receipt is contrary to good practice and grossly violates the customer's interests. The President of the Office of Competition and Consumer Protection entered the clause in question into the register of unlawful clauses.

According to the Court's decision the lack of a cash register receipt does not entitle the entrepreneur to refuse to accept the return of goods, since apart from presenting the cash register receipt there are also other ways for the consumers to prove that they purchased the given goods, including printouts from the payment terminal or account statements. The consumer cannot be deprived of the possibility to initiate a complaint procedure regarding purchased goods even in the case of loss of the fiscal receipt or lack of any other document. The Court held that product liability lies with the seller and the consumer cannot assume the responsibility for the goods purchased.

The discretion in setting the rules of complaint procedures is restricted by Art. 385¹ § 1 of the Civil Code. The Article states that provisions of a contract executed with a consumer which have not been agreed individually are not binding on the consumer if his rights and obligations are set forth in a way that is contrary to good practice, grossly violating his interests (unlawful contractual provisions).

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