



Consumer Protection in Austria

General consumer protection in Austria

- 1979 Consumer Protection Act (Konsumentenschutzgesetz, KSchG) came into force in Austria
 - right of withdrawal
 - special rules for general terms and conditions, which causes a significant imbalance
 - Liability of cost estimate
 - Rules for defects, liability, warranty
 - Strict rules for acceleration (so-called „Terminsverlust“, i.e. premature immediate due-date)
 - Against consumers only valid if there is a delay of at least 6 weeks although the consumer has been reminded and given 14 days of grace



Lugano Convention

on jurisdiction, the recognition and enforcement of judgements in civil an commercial matters

- Revision entered into force on January 1, 2010
- Concerning consumer contracts the new version of **Art 16** of the Lugano Convention is quite interesting

jurisdiction over consumer contracts

→ ...court of that place **where the consumer is domiciled**



Current decision of the Austrian Supreme Court (OGH)

- Does a “constitutive acknowledgment” (“konstitutives Anerkenntnis”) may establish jurisdiction pursuant to Art 16 of the Lugano Convention?
- Decision 5Ob213/12b (06.06.2013) OGH (Supreme Court)
 - OGH:Yes (if there is a business relation between the consumer and the businessman, in the concrete case there was none, however)
- Austria is a party of the EU, consequential this decision is based on the Brussels I Convention (EuGVVO)
- EuGVVO basically identical to Lugano Convention
 - it is very likely that also in the scope of the Lugano Convention the court would come to the same solution!



Thank you for your Attention!

