

Ich verstehe nicht - I don't understand

by Joerg Modellmog

[Ignorance of the law (or of the language) is no excuse...]

In Germany, oral contracts are binding and enforceable right away. According to German law, and unlike American contract law, there is no requirement for consideration in the formation of a contract. All you need is a meeting of the minds based on an offer and acceptance. You do not even need to address all issues of the deal because sometimes the written law will fill in the gaps.

Written contracts are preferable. Under oral contracts, parties tend to remember their obligations a little differently after a while. Oral contracts are only useful for on the spot transactions. Under a written contract, the contractual parties know their obligations and warranty claims can be more easily asserted.

However, signing contracts drafted in German can be risky unless you are familiar with the language. It is almost impossible to get out of a contract simply because you did not know or understand what you signed. Instead of relying on the seller's interpretation and summarization of the German contractual terms, you should consult

an unbiased person who knows the language and/or the law. The best advice is to consult with a German attorney at your Legal Assistance Office **before** you sign a contract.

Another further timesaving alternative is to write down in the contract the translation that the seller gave you when you negotiated the contract and inquired about the contractual terms and conditions. Have the seller sign the translation before you sign the contract, so that the two of you have identical copies of the contract. Don't be afraid to ask the seller to stand by his or her translation. You should always ask for a copy of the contract.

Please note, any unjustified attempt to get out of a contract concluded with a businessperson will most likely result in a claim for damages (loss of profit) on the part of the seller. Generally, the sum demanded in damages for loss of profit amounts to 25% of the purchase value! It is a flat percentage rate that is due without any further proof. In fact, legal fees may be added where the buyer refuses to pay a justified claim for damages.

The following examples are **not** sufficient reasons to terminate a contract:

- I did not understand the language
- I did not know what I was signing
- I saw something cheaper somewhere else
- I really can't afford it
- The seller had no USAREUR Solicitation Permit

If you can sufficiently prove that someone deceived you or maliciously tricked you then you have a good reason to terminate the contract. The same is true if the seller breaches his or her warranty obligations or fails to perform the promised act.

If you are looking for more information on commercial solicitation or consumer law, please feel free to pick up one of our handouts covering that area of law. If you still have questions concerning your specific case, schedule an appointment with our German attorney.

If you wish to make an appointment, call DSN 483-8848 or Commercial 0631-411-8848.

Some shots from the 21st TSC OSJA Summer Hail & Farewell



21st TSC attorneys and paralegals from as far away as Stuttgart came to say farewell to departing members of the OSJA team.



JAG wives Genevieve Chicka and Teresa Wiley bid farewell to Margot Arnold, spouse of the departing SJA.



COL Wollschlaeger presents a souvenir of Germany to the Arnold family as they head for Big Red One country in Kansas.