



**Judgment of the Court (Fifth Chamber) of 5 March 2026 (request for a preliminary ruling from the
Kammergericht Berlin – Germany) – Eisenberger Gerüstbau GmbH v JK**

(Case C-564/24, ⁽¹⁾ Eisenberger Gerüstbau)

(Reference for a preliminary ruling – Consumer protection – Directive 2011/83/EU – Distance contract concluded between a consumer and a trader – Concept of ‘consumer’ – Contact established between the consumer and the trader by another trader commissioned by the consumer – Article 2(7) – Right of withdrawal of the consumer – Article 9(1) – Abuse of rights)

(C/2026/2496)

Language of the case: German

Referring court

Kammergericht Berlin

Parties to the main proceedings

Appellant: Eisenberger Gerüstbau GmbH

Respondent: JK

Operative part of the judgment

1. Article 2(7) of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council,

must be interpreted as meaning that the fact that a consumer is assisted, before and at the time of the conclusion of a contract between him or herself and a trader, by another trader of that consumer's choice, who took the initiative to establish the contact between the consumer and the first trader and who influenced key parts of the content of that contract, is not relevant for the purpose of categorising that contract as a 'distance contract' within the meaning of that provision.

2. Article 2(7) of Directive 2011/83

must be interpreted as meaning that, where the parties to a contract that cannot be categorised as a 'distance contract', within the meaning of that provision, conclude, using exclusively means of distance communication, an addendum to that contract regarding additional services that are of secondary importance in relation to the services under that contract, that addendum constitutes a 'distance contract' within the meaning of that provision, as long as the conditions laid down in that provision are satisfied.

3. Directive 2011/83

must be interpreted as meaning that, where a consumer has withdrawn from a distance contract at the end of the withdrawal period as extended in accordance with Article 10(1) of that directive and at a time when the services which are the subject of that contract and which are non-recoverable have already been provided, the trader may legitimately claim that that consumer has exercised, on account of that consumer's own conduct, the right of withdrawal in an abusive manner, if it is apparent from all the circumstances that, first, the exercise by the consumer of his or her right of withdrawal is not in line with the objectives pursued by that directive of ensuring that consumers are informed and secure in transactions with traders, and second, the consumer seeks, by his or her conduct, to obtain an advantage in an abusive manner to the detriment of the trader.

⁽¹⁾ OJ C, C/2024/6916.