



## **Cancelling life insurance policies: Instruction on cancellation is decisive**

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Düsseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London - [www.grprainer.com/en](http://www.grprainer.com/en) conclude: Within the space of a few weeks, the German Federal Court of Justice (BGH) twice had to rule on the right of withdrawal with respect to life insurance policies. A consequence of the BGH's case law is that properly informing the policyholder is decisive in determining whether the insurance policy can still be rescinded after the actual cancellation period has expired.

Both cases in Karlsruhe dealt with life insurance policies that had been concluded between 1994 and 2007 in accordance with the so-called "policies model?• (Policenmodell). The essence of this model was that the right of withdrawal expires no later than one year following payment of the first premium - even if the policyholder's possibilities of withdrawal had not been properly explained to him. However, the BGH put an end to this arrangement with its judgment of May 7, 2014 (IV ZR 76/11), declaring the clause to be null and void on the basis that it also did not comply with European law. According to the case law of the BGH, the policyholder retains his right of withdrawal if his possibilities of cancellation have not been properly explained to him. In these cases, withdrawal is still possible if the policy has already been terminated.

In another case dated July 16, the BGH ruled in favour of the insurers. This time a policyholder wanted to withdraw from his life insurance policy, concluded in 1998 in accordance with the "policies model?•, which had since been terminated. Pursuant to the "policies model?•, it was typical for the entire documentation to be sent only after the contract had been concluded. The plaintiff took the view that the contract was null and void due to the delay in the provision of information and had to be rescinded. This view was not shared by the Karlsruhe judges. If the policyholder had been belatedly yet properly informed about his possibilities of cancellation, the policy could not be retrospectively cancelled. After the certificate of insurance was dispatched, the contract could have been cancelled within a period of 14 days. Furthermore, the BGH did not consider European law to have been breached.

If policyholders have not been properly informed about their possibilities of cancellation, they are still able to cancel their life insurance policies. A lawyer versed in the field of insurance law can examine whether cancellation is possible in individual cases.

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Anlage: Bild

