

# Eurojuris IBG Meeting – Basel

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## **Workshop „Lugano-II Convention“**

**Basel, 06.09.2013**

Referent:

Rechtsanwalt Dr. Marcus Pilla

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Glock Liphart Probst & Partner Rechtsanwälte  
Marienplatz 26 • 80331 München

**Glock**  
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# Workshop „Lugano-II Convention“

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## Overview:

- I. Case of OLG München, 19.06.2012 – the „story“
- II. The basics
- III. Main legal issues of the case
- IV. Some practical hints

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## I. The „story“ of the case (OLG München)

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- German Bank agrees on a contract regarding a credit in favour of a (German) consumer
- Years after the agreement, the German consumer moves to Switzerland
- Finally the German consumer stops paying the installments with regard to the credit

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## II. The basics (definitions)

1. Consumer
2. Consumer related matters Schutzrechte
3. Contracts according to Art. 15 LugC-II
4. Consider: It's not longer a condition for application of Art. 15 LugC-II that consumer has acted in the Member State of his residence when signing the contract
5. Application of LugC-II on Swiss banks acting in other Member States: „acting“ – broadest meaning (eg through agent)

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## III. Main legal issues of the case

1. A waiver according to Art. 24 LugC-II can be effected by a consumer only when represented by a lawyer
2. LugC-II is applicable even if both parties have their residence in the same Member State at the moment of the agreement (reference to a similar case of the ECJ) - even with regard to Art. 15 para. 1 lit. c), 2nd alt. LugC-II
3. With regard to Art. 15 para. 2 LugC-II, the relevant moment is that of the conclusion of the agreement

(SWISS) BANKERS  
& every entrepreneur's

***DREAM ...***

*Swiss courts and Swiss law applicable!*

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## IV. Some practical hints

- 1) considering consumer protection laws of other Member States when drafting contract
- 2) agree on Swiss jurisdiction in contracts with consumers whose residence is in Switzerland at the time of the agreement
- 3) agree on applicability of Swiss law
- 4) Consider Homepages (promotion or invitation to sign a contract?)



**Thank you**

**for your**

**Attention!**



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