

Contracts for the online and other distance sales of goods

2015/0288(COD) - 26/03/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 629 votes to 29, with 6 abstentions, a legislative resolution on the amended proposal for a directive of the European Parliament and of the Council on certain aspects concerning contracts for the sales of goods, amending Regulation (EC) No 2006/2004 of the European Parliament and of the Council and Directive 2009/22/EC of the European Parliament and of the Council and repealing Directive 1999/44/EC of the European Parliament and of the Council.

The position of the European Parliament adopted at first reading under the ordinary legislative procedure has amended the Commission proposal as follows:

Objective and scope

The directive would aim to ensure a high level of consumer protection by establishing common rules on certain requirements for sales contracts between sellers and consumers, in particular rules on the conformity of goods with the contract, remedies for lack of conformity, the procedures for exercising such remedies and commercial guarantees.

The directive would apply to sales contracts concluded between a consumer and a seller as well as to products with digital elements (such as intelligent refrigerators).

Conformity of goods

In order to comply with the sales contract, the goods should in particular, where applicable:

- be of the description, type, quantity and quality and possess the functionality, compatibility, interoperability and other features as required by the sales contract;
- be fit for any particular purpose for which the consumer requires them and which the consumer made known to the seller at the latest at the time of the conclusion of the sales contract, and in respect of which the seller has given acceptance;
- be delivered with all accessories and instructions, including on installation, as stipulated by the sales contract; and
- be supplied with updates as stipulated by the sales contract.

In the case of goods incorporating digital elements, the seller should ensure that the consumer is informed of updates, including safety updates, that are necessary to maintain the conformity of such goods and receives them within the period that the consumer can reasonably expect depending on the type of products and their purpose.

Seller's liability

The seller would be liable if a defect appears within two years of the delivery date of the product. However, Member States could introduce or maintain a longer guarantee period in their national legislation.

Burden of proof

Any lack of conformity which becomes apparent within one year from the time when the goods were delivered shall be presumed to have existed at the time of delivery of the goods, unless proven otherwise or unless this presumption is incompatible with the nature of the goods or the nature of the lack of conformity. Member States could maintain or introduce a period of two years from the time the goods were delivered.

Consumer's recourse for lack of conformity

In the event of lack of conformity, the consumer would be entitled to have the goods brought into conformity or to receive a proportionate reduction in the price, or to terminate the contract. In order to have the goods brought into conformity, the consumer may choose between repair and replacement.

The seller could refuse to bring the goods into compliance if repair and replacement is impossible or would impose costs that would be disproportionate.

The consumer would not be entitled to rescind the contract if the lack of conformity is only minor. The burden of proof as to whether or not the lack of conformity is minor would be on the seller. The consumer would have the right to suspend payment of the balance of the price or part thereof until the seller has fulfilled his obligations.

Repair or replacement of goods

A repair or replacement should be carried out: (a) free of charge; (b) within a reasonable time after the seller has been informed by the consumer of the lack of conformity; and (c) without any significant inconvenience to the consumer, taking into account the nature of the goods and the purpose for which the consumer required the goods. The seller should take back the replaced goods at his own expense. The consumer would not be required to pay for the normal use he made of the replaced goods in the period prior to their replacement.

Commercial guarantees

The text includes provisions on additional durability guarantees for consumers, going beyond the legal guarantee which remains mandatory for two years.

Consumer information

Member States should take measures to ensure that information on consumer rights under the directive, and on how to enforce these rights, is available to consumers.