

Basic information	
1996/0161(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Consumers' protection: sale of consumer goods and associated guarantees Amended by 2008/0196(COD) Subject 4.60.06 Consumers' economic and legal interests	

Key players			
European Parliament	Former committee responsible		Former rapporteur
	ENVI Environment, Public Health and Consumer Protection		KUHN Annemarie (PSE) 25/09/1996
	ENVI Environment, Public Health and Consumer Protection		KUHN Annemarie (PSE) 12/10/1998
	Former committee for opinion		Former rapporteur for opinion
	ECON Economic and Monetary Affairs, Industrial Policy		WATSON Sir Graham (ELDR) 10/10/1996
	JURI Legal Affairs, Citizens' Rights		AÑOVEROS TRIAS DE BES Julio (PPE) 29/10/1996
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	Council configuration		Meetings
			Date
Council of the European Union	Economic and Financial Affairs ECOFIN		2160
	Competitiveness (Internal Market, Industry, Research and Space)		2117
	Agriculture and Fisheries		2178
	Consumers		2038
	Consumers		1969
	Consumers		2084

Key events			
Date	Event	Reference	Summary
05/12/1995	Additional information		Summary
18/06/1996	Legislative proposal published	COM(1995)0520 	Summary
05/09/1996	Committee referral announced in Parliament, 1st reading		
25/11/1996	Debate in Council		
03/11/1997	Debate in Council		
21/01/1998	Vote in committee, 1st reading		Summary
21/01/1998	Committee report tabled for plenary, 1st reading	A4-0029/1998	
09/03/1998	Debate in Parliament		Summary
31/03/1998	Modified legislative proposal published	COM(1998)0217 	Summary
24/09/1998	Council position published	09393/2/1998	Summary
09/10/1998	Committee referral announced in Parliament, 2nd reading		
26/11/1998	Vote in committee, 2nd reading		Summary
26/11/1998	Committee recommendation tabled for plenary, 2nd reading	A4-0469/1998	
16/12/1998	Debate in Parliament		
08/02/1999	Parliament's amendments rejected by Council		
18/03/1999	Formal meeting of Conciliation Committee		Summary
18/03/1999	Final decision by Conciliation Committee		
08/04/1999	Joint text approved by Conciliation Committee co-chairs	3604/1999	
19/04/1999	Report tabled for plenary, 3rd reading	A4-0224/1999	
04/05/1999	Debate in Parliament		
17/05/1999	Decision by Council, 3rd reading		
25/05/1999	Final act signed		
25/05/1999	End of procedure in Parliament		
07/07/1999	Final act published in Official Journal		

Technical information	
Procedure reference	1996/0161(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amended by 2008/0196(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095

Stage reached in procedure	Procedure completed
Committee dossier	CODE/4/10767

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0029/1998 OJ C 056 23.02.1998, p. 0004	21/01/1998	
Text adopted by Parliament, 1st reading/single reading		T4-0116/1998 OJ C 104 06.04.1998, p. 0019-0039	10/03/1998	Summary
Committee recommendation tabled for plenary, 2nd reading		A4-0469/1998 OJ C 098 09.04.1999, p. 0006	26/11/1998	
Text adopted by Parliament, 2nd reading		T4-0752/1998 OJ C 098 09.04.1999, p. 0196-0226	17/12/1998	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A4-0224/1999 OJ C 279 01.10.1999, p. 0010	19/04/1999	
Text adopted by Parliament, 3rd reading		T4-0401/1999 OJ C 279 01.10.1999, p. 0163-0195	05/05/1999	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	09393/2/1998 OJ C 333 30.10.1998, p. 0046	24/09/1998	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1995)0520  OJ C 307 16.10.1996, p. 0008	18/06/1996	Summary
Modified legislative proposal	COM(1998)0217  OJ C 148 14.05.1998, p. 0012	31/03/1998	Summary
Commission communication on Council's position	SEC(1998)1553 	25/09/1998	Summary
Commission opinion on Parliament's position at 2nd reading	COM(1999)0016 	20/01/1999	Summary
Follow-up document	COM(2007)0210 	24/04/2007	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
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EESC	Economic and Social Committee: opinion, report	CES1387/1996 OJ C 066 03.03.1997, p. 0005	27/11/1996	Summary
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3604/1999	08/04/1999	

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act	
Directive 1999/0044 OJ L 171 07.07.1999, p. 0012	Summary

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 31/03/1998 - Modified legislative proposal

The Commission amended proposal incorporates 26 amendments of the 40 adopted by Parliament at first reading. The amendments accepted by the Commission aim in particular to: - provide a more precise definition of the terms 'consumer', 'consumer goods' and 'manufacturer', - include a definition of the 'manufacturer's representative', - state that contracts for the delivery of goods to be manufactured or produced are to be equated with purchase contracts, - state that the quality and performance of goods must correspond to the consumer's expectations, - limit the exclusion of the seller's responsibility only to cases where the consumer was actually aware of the lack of conformity at the time of the sale, - provide that any lack of conformity resulting from incorrect installation of the goods by the consumer due to following incorrect instructions supplied by the seller is to be considered equivalent to lack of conformity of the goods with the contract, - provide for a single guarantee period of two years, - introduce a change with regard to the remedies available to sellers, who are authorised to take action against the persons liable for the defect, - with regard to commercial guarantees, provide more information to the consumer, particularly requiring that the guarantee documents state that the consumer has legal rights and that the guarantee does not affect those rights in any way, - include in the directive's field of application contracts to supply replacement goods of a different value to the purchase price. The Commission has also taken account of amendments concerning: - the hierarchy of consumer rights, - the seller's responsibility for any costs incurred as a result of defective goods (transport, travelling, labour or materials), - payment by instalments (payment suspended until the defect is remedied), - suspension of the guarantee period until the seller's obligations are fulfilled, - consumer information on the national law adopted to transpose the directive.

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 25/09/1998 - Commission communication on Council's position

The Commission has endorsed the political agreement, representing a global compromise on the part of the qualified majority of the Member States. Its decision on the common position is based on a comparison of the pros and cons of the text under discussion. The Commission lists as the main merits: - harmonisation of the concept of lack of conformity, - a practicable system of consumer rights attuned to existing commercial realities, - a single two-year guarantee period, - reversal of the burden of proof, - an incipient regulation of commercial guarantees providing for a certain degree of consumer protection as regards transparency. As a disadvantage it notes that Member States are still free to introduce a notification requirement that consumers must comply with if they want to avoid forfeiting their rights, a provision which is difficult to reconcile with the idea of a minimum standard of consumer rights. As the merits outweigh the disadvantages, the Commission endorses the common position.

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 18/06/1996 - Legislative proposal

OBJECTIVE: following the consultations which the Commission held in 1993 through its Green Paper on guarantees for consumer goods and after-sales services, the proposal for a directive seeks to provide EU consumers with a minimum set of rights in the event of the purchase of faulty goods. SUBSTANCE: the proposal for a directive has two strands: the first deals with the legal guarantee (a fundamental right, guaranteed by law, which seeks to ensure that consumer goods are in conformity with the contract of sale), and the second concerns the commercial guarantee (which stems

from the contractual relationship between the consumer and the trader or manufacturer). The proposal is based on the principle that goods must be in conformity with the contract and makes the seller liable for any shortcomings. It has two aims: - provide consumers with a legal guarantee of the conformity of consumer goods for a two-year period as from the date of supply, regardless of the Member State in which the purchase was made. During this period, consumers who have bought faulty goods would have the right to request from the seller either the repair of the goods concerned, at no charge, or a price reduction. During the first year, consumers may request the termination of the sales contract or the replacement of the goods concerned. At all events, consumers must inform the seller of the fault within one month of its identification or else forfeit their rights; - lay down the principles of transparency and information in connection with commercial guarantees for consumer goods. All such guarantees must feature in a written document setting out clearly the essential particulars necessary for making claims under the guarantee, notably the duration and territorial scope of the guarantee and the name and address of the guarantor. In the areas covered by the proposal, Member States remain free to adopt or retain stricter rules designed to offer consumers a higher level of protection. Finally, it should be noted that after-sales services as such, i.e. services in connection with the use, maintenance and repair of goods, are not covered by the proposal.

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 24/04/2007 - Follow-up document

This Report is made up of two parts. The first concerns the implementation of Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees. The second part considers the case for introducing direct liability of producers, in EU legislation. The report takes account of the Green Paper on the Review of the Consumer Acquis, in which the Commission has presented a number of cross-cutting issues for public consultation including issues relating to gaps and regulatory shortcomings.

All of the EU Member States have transposed Directive 1994/44/EC into national law. This report examines, article by article, the implementation of the Directive as well as examining the case for introducing the direct liability of producers. The Report also examines the use made by the Member States of the option to introduce a time limit (Article 5 (2)).

Part I: Implementation: In summary, the report finds that the transposition of the Directive in the Member States has raised a number of problems. The Commission is of the opinion that many of these problems may be due to regulatory gaps in the Directive. Others, on the other hand, can be directly attributed to the incorrect transposition of the Directive. The transposition checks reveal significant divergences between national laws (stemming from the use of minimum clauses) and the various regulatory options provided by the Directive. It is unclear, as yet, to what extent these divergences affect the proper functioning of the Internal Market and consumer confidence. The outcome of the consultation in the Green Paper will provide information that will assist in determining whether there is a need for revising the Directive.

Part II: Direct Producers' Liability (DPL): The second part of the report then goes on to examine direct producers' liability. The existing Directive allows consumers to claim remedies for lack of conformity of goods against the seller – but it does not provide for the direct liability of producers. The Directive does, however, require the Commission to examine the case for introducing DPL and, if appropriate, to submit a proposal.

For the purpose of determining the legal situation in the EU, the Commission sent a questionnaire to the Member States seeking their input on national laws in this respect. The questionnaire also sought Member States' views on what impact DPL may have on the level of consumer protection and on the internal market. Stakeholders were forwarded a similar questionnaire.

The results of the questionnaire reveal a set of diverging views. A majority of the Member States and a number of stakeholders consider that DPL actually, or potentially, increases consumer protection as well as providing a redress for consumer in case the seller is not able (or willing) to resolve the consumer complaint. It acts as a consumer "safety net". A minority of Member States and stakeholders, on the other hand, are of the opinion that DLP will not increase consumer protection causing instead uncertainty as to the applicable law and delay in the resolution of consumer complaints.

A similar picture emerges vis-à-vis cross border shopping. A number of respondents consider that DPL would encourage consumers to shop cross-border as it would make it easier for them to turn to the producer's domestic representative compared with a seller in another country. Other respondents consider that DPL will not influence consumers' attitudes to the internal market as they are influenced by economic factors. Further, an important number of stakeholders and a number of the Member States consider that DPL would cause a significant burden for businesses since producers would need to develop systems for handling complaints and make financial provision for exposure to this liability.

In its conclusion, the report states that the existence of diverging regimes of DPL constitutes a potential problem for the internal market. However, the Commission is unable, at this stage, to draw final conclusions. Not enough evidence exists to determine whether the lack of EU rules on DPL has a negative effect on consumer confidence in the internal market. For these reasons, the Commission has decided not to submit a proposal. Instead it will explore this issue further in the context of the Green Paper.

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 20/01/1999 - Commission opinion on Parliament's position at 2nd reading

In presenting its amended proposal, the Commission has incorporated those of the European Parliament's amendments relating to the following: - adding a recital which recognises that the Community contributes to the protection of consumers' economic interests through the measures it adopts in the context of the internal market; - extending the provision that any lack of conformity resulting from incorrect installation of the goods shall be considered to be equivalent to lack of conformity of the goods with the contract to include cases where incorrect installation by the consumer is due to a lack of conformity in the written installation instructions; - with regard to the right of redress of the final seller against the person or persons liable in the contractual chain, deleting reference to the final seller's option to waive such a right; - making provision for measures to inform consumers of these new rights; - supplementing the Annex to Directive 98/27/EC on injunctions for the protection of consumers' interests to include a reference to this proposed Directive. The Commission rejected European Parliament amendments in the following areas: - supplementing the proposed directive's legal

basis with Article 129a of the Treaty, in particular paragraph 1(a); - widening the scope of the proposed directive; - amendments (other than the one mentioned above) relating to the conformity of goods with the contract; - including a reference to the recital explaining the specific nature of second hand goods in Article 3 of the proposed directive; - making extra provision for bringing goods into conformity free of charge; - providing that, in the case of contracts for the sale of works of art, collectors' items or antiques, Member States may provide that the parties may contractually waive all liability on the seller's part; - amendments (other than the one mentioned above) relating to the producer's obligations; - amendments (other than those mentioned above) relating to final provisions.

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 17/12/1998 - Text adopted by Parliament, 2nd reading

In adopting the recommendation of Ms. Annemarie KUHN (D, PES) for the second reading, the European Parliament approved, with some amendments, the Commission's proposal for a Directive on certain aspects of the sale of consumer goods and associated guarantees. The Parliament and the Council agree on a Union-wide minimum guarantee period for goods and in accepting that any defect apparent within six months of the delivery of goods should be presumed to have existed at the time of delivery. In the amendments, Council provisions obliging the consumer to inform the seller of a defect within two months of detecting it were deleted. Also deleted were provisions that would exclude defects from the scope of the directive if, at the time the contract was concluded, the buyer could not reasonably be unaware of them or if the circumstances showed that the buyer did not rely on the explanations of the seller. The Parliament also sought the right of redress in the event of the incorrect installation of goods by a consumer given faulty instructions and insisted that manufacturers of consumer goods sold in several Member States must enclose a list indicating at least one claims office in those countries. There were also several amendments adopted designed to strengthen consumer rights (improved information and legal remedies). Lastly, the Parliament called for the proposal be based on both Articles 100 A and 129 A of the EC Treaty (instead of simply on Art. 100 A).

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 10/03/1998 - Text adopted by Parliament, 1st reading/single reading

By 320 votes to 128, with 59 abstentions, the European Parliament amended the report by Mrs Annemarie KUHN (PSE, D) on the proposal for a Directive on the sale of consumer goods and associated guarantees. Parliament deleted part of the amendment requiring the vendor to inform the consumer if he was unable to provide adequate after-sales service. It also rejected the amendments tabled by the rapporteur and the Environment Committee which had the purpose of: - reinstating the obligation on the consumer to notify the seller of any lack of conformity within a period of one month from the date on which he detected it; - requiring sellers, if they are unable to provide appropriate after-sales service, to inform consumers accordingly before the conclusion of the contract. Parliament's amendments to the proposal: - specified the rights of the consumer when the seller is informed of a lack of conformity: the consumer is not obliged to accept an offer of repair if it would entail a reduction in the value of the goods; moreover, if the fault is not repaired, the consumer has the right to demand a reduction in the sales price or rescission of the sales contract; - stated what information must be provided to the consumer where goods are sold in several Member States: in this case, the producer must provide a contact address in each Member State that can provide consumers with relevant information for asserting their claims when they have notified a lack of conformity; - gave the consumer the right to suspend payment, where payment is by instalments, until the lack of conformity is remedied. Parliament also called for: - Member States to take measures to inform consumers about the national provisions adopted to transpose the Directive; - the Commission to report to the European Parliament and the Council on the application of the Directive two years after the deadline for transposition; - the Member States, in cooperation with consumer associations and industrial and professional organizations, to devise complaints systems which guarantee the independent, impartial and effective processing of complaints. As regards the legal basis, Parliament wished the Directive to be based on Articles 100a and 129a of the EC Treaty.

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 05/05/1999 - Text adopted by Parliament, 3rd reading

The Decision on the joint text, approved by the Conciliation Committee, for a European Parliament and Council Directive on certain aspects of the sale of consumer goods and associated guarantees was approved by the Parliament (Rapporteur : Ms. Annemarie KUHN (PES, D)).

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 27/11/1996 - Economic and Social Committee: opinion, report

For consumers, the single market can only be deemed to be functioning properly if, when buying goods in a Member State other than their own, they can be sure of a comparable degree of protection against faulty goods as they enjoy at home. As the law stands at the moment, many consumers are wary of purchasing items abroad for fear of encountering difficulties when exchanging them or having repairs carried out. To remedy this deplorable state of affairs, which has come in for particular criticism from consumer groups, legislation has to be harmonized on the basis of a Directive passed under Article 100 a of the EEC Treaty. It must be remembered that, while systems of private law are in many ways similar, they are each built on very differing concepts. Complete harmonization of legal and commercial guarantee systems therefore would not appear advisable, or indeed necessary to provide consumers with a minimum degree of rights. Legal guarantees The time limit of two years set for the legal guarantee corresponds to the time limit set under UN law of sale and represents a compromise among the existing, very different time limits set in the Member States. This time limit would appear acceptable from the point of view of consumer protection, given that the objective here is to guarantee a minimum degree of harmonization. The Committee notes that the time limit pursuant to Article 3(1), within a claim has to be lodged on a defect which was present from the

outset, but only became apparent at a later stage, does not prejudice the time limits set for commercial guarantees. Unlike legal guarantees, commercial guarantees usually comprise all defects which arise within a certain period after buying the product, regardless of whether they were present at the time of delivery. Commercial guarantees In its opinion on the green paper, the Committee explicitly rejected full-scale harmonization of the commercial guarantee and noted the possibility of a code of conduct in this field. The Committee backs the Commission approach. The idea of "advantage" propounded in Article 5(1) helps protect consumers from being misled and also enhances honourable trade practices.

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 25/05/1999 - Final act

PURPOSE : to approximate the laws, regulations and administrative provisions of the Member States on certain aspects of the sale and associated guarantees of consumer goods, with the view to ensuring a minimal uniform protection of consumers in the internal market framework. **COMMUNITY MEASURE :** Directive 1999/44/EC of the European Parliament and of the Council on certain aspects of the sale of consumer goods and associated guarantees. **CONTENT :** the main elements of the Directive are as follows : - the field of application : consumer goods are defined as any tangible movable item with the exception of goods sold by way of execution or otherwise by authority of law, water and gas where they are not put up for sale in a limited volume or set quantity, electricity; - the rights of the consumer : in case of lack of conformity of a product, 4 possibilities are provided for : repair of the good or replacement of the good or a reduction of the price or the contract rescinded with regard to that good. In the first instance, the consumer has the right to demand the seller the repair of the goods or their replacement, in either case free of charge, unless this is impossible or disproportionate. Any repairs or any replacement shall be completed within reasonable time and without major inconvenience to the consumer. If the consumer does not have the right to demand repair or a replacement, or if the seller does not give him satisfaction in a reasonable time limit, he is entitled to demand a reduction appropriate to the price of the good or can rescind the contract. - time limits : the Directive lays down a time limit of two years as from the delivery of the goods, in which a lack of conformity (existing at the date of delivery) must manifest itself in order for the seller's liability to come into play. The liability of the seller will not be engaged if, at the time that the contract is concluded, the consumer was aware, or could not reasonably be unaware of, the lack of conformity. In the case of second-hand goods, the seller and consumer may agree contractual terms or agreements which have a shorter time period for the liability of the seller. This shorter time limit cannot be less than a year. The Member States may provide that the consumer must, in order to benefit from his rights, inform the seller of the lack of conformity within a period of two months from the date on which he detected the lack of conformity. - guarantees : in order to ensure transparency for the consumer and also to avoid that any errors arise, the Directive requires that the guarantee shall be legally binding on the offerer under the conditions laid down in the guarantee statement and the associated advertising. It shall state that the consumer has legal rights under applicable national legislation governing the sale of consumer goods and make clear that those rights are not affected by the guarantee, as well as set out in plain intelligible language the contents of the guarantee and the essential particulars necessary for making claims under the guarantee, notably the duration and territorial scope of the guarantee, as well as the name and address of the guarantor; on request by the consumer, the guarantee shall be made available in writing or feature in another durable medium available and accessible to him. The Commission shall, not later than 07/07/2006, review the application of this Directive and submit a report to the European Parliament. **ENTRY INTO FORCE :** 07/07/1999. **DEADLINE SET FOR ITS TRANSPOSITION :** 01/01/2002.

Consumers' protection: sale of consumer goods and associated guarantees

1996/0161(COD) - 24/09/1998 - Council position

The common position of the Council takes account of a number of amendments made by the European Parliament and departs from the Commission proposal. The main points on which the Council commented were as follows: a) definitions: the Council introduced a number of exceptions to the definition of "consumer goods" by excluding all goods sold following seizure or some other procedure by the judicial authorities, water and gas which are not packaged in a specified volume or of a specific quality and electricity. Provision is also made to allow Member States to exclude auctions of second-hand goods, provided that the consumer is present at the sale. The definition of the term "repair" is also introduced; b) hierarchy of consumer rights: on this point, the Council opted for its own model, while coming into line with the principle used for the solution proposed by the European Parliament. According to the common position, the consumer will first have a choice between free repair or replacement of the defective item and may then demand a reduction in the sales price or cancellation of the sales contract if either of the first two options is impractical or disproportionate or is not carried out within a reasonable period of time and at no major inconvenience to the consumer. However, cancellation of the sale cannot be requested if the defect is minor. It is also stipulated that compensation is considered disproportionate if it forces the seller to bear costs which, in comparison with an alternative solution, are unreasonable, given the value of the item or size of the defect, and taking account of the fact that the compensation proposed does not represent a major inconvenience to the consumer. c) implementation of consumer rights: the common position stipulates that, in the case of a refund of the purchase price, Member States may make provision for the refund to be reduced in order to take account of use which the consumer has already made of the item. Concerning the right to cancel the contract, the methods of exercising this right will be determined under national transposition legislation and replacement will not generally be possible for second-hand goods. The seller and the consumer may in all cases reach an amicable settlement to their dispute and Member States may provide for the warranty period to be suspended or interrupted in the case of repair, replacement or negotiation between the parties to find an amicable settlement. The Council also gave its opinion on several other important points: - a single warranty period of two years, with the possibility for the parties to reduce this period to one year for second-hand goods; - the possibility for Member States to introduce a provision obliging the consumer to inform the seller of a defect within two months of detecting it in order to avoid forfeiting these rights; - the deadline of three years granted to Member States for the transposition of the Directive; - and, finally, a Commission report on the application of the Directive, in which it will study the question of the introduction of the manufacturer's direct liability towards the consumer.