

Basic information	
<p>2007/0113(COD)</p> <p>COD - Ordinary legislative procedure (ex-codecision procedure) Directive</p>	Procedure completed
<p>Protection of consumers: timeshare, long-term holiday products, resale and exchange contracts</p> <p>Repealing Directive 94/47/EC 1992/0419(COD)</p> <p>Subject</p> <p>4.50 Tourism 4.60.06 Consumers' economic and legal interests</p>	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	IMCO Internal Market and Consumer Protection		MANDERS Antonius (ALDE)	16/07/2007
	Committee for opinion		Rapporteur for opinion	Appointed
	TRAN Transport and Tourism		FERNANDES Emanuel Jardim (PSE)	03/07/2007
	JURI Legal Affairs		LÓPEZ-ISTÚRIZ WHITE Antonio (PPE-DE)	10/09/2007
Council of the European Union	Council configuration		Meetings	Date
	Competitiveness (Internal Market, Industry, Research and Space)		2832	2007-11-22
	Competitiveness (Internal Market, Industry, Research and Space)		2820	2007-09-28
	Agriculture and Fisheries		2917	2008-12-18
European Commission	Commission DG		Commissioner	
	Health and Food Safety		KUNEVA Meglena	

Key events			
Date	Event	Reference	Summary
07/06/2007	Legislative proposal published	COM(2007)0303 	Summary

21/06/2007	Committee referral announced in Parliament, 1st reading		
28/09/2007	Debate in Council		
22/11/2007	Debate in Council		Summary
19/05/2008	Vote in committee, 1st reading		Summary
04/06/2008	Committee report tabled for plenary, 1st reading	A6-0195/2008	
22/10/2008	Decision by Parliament, 1st reading	T6-0511/2008	Summary
22/10/2008	Results of vote in Parliament		
22/10/2008	Debate in Parliament		
18/12/2008	Act adopted by Council after Parliament's 1st reading		
14/01/2009	Final act signed		
14/01/2009	End of procedure in Parliament		
03/02/2009	Final act published in Official Journal		

Technical information	
Procedure reference	2007/0113(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 94/47/EC 1992/0419(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/6/50580

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE398.606	07/01/2008	
Amendments tabled in committee		PE402.647	25/02/2008	
Committee opinion	TRAN	PE396.763	27/02/2008	
Committee opinion	JURI	PE400.443	28/03/2008	
Committee report tabled for plenary, 1st reading/single reading		A6-0195/2008	04/06/2008	
Text adopted by Parliament, 1st reading/single reading		T6-0511/2008	22/10/2008	Summary
Council of the EU				
Document type	Reference	Date	Summary	

Draft final act	03701/2008/LEX	14/01/2009		
European Commission				
Document type	Reference	Date	Summary	
Legislative proposal	COM(2007)0303 	07/06/2007	Summary	
Document attached to the procedure	SEC(2007)0743 	07/06/2007		
Document attached to the procedure	SEC(2007)0744 	07/06/2007		
Commission response to text adopted in plenary	SP(2008)6664	12/11/2008		
Follow-up document	COM(2015)0644 	16/12/2015	Summary	
Other institutions and bodies				
Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1445/2007	24/10/2007	

Additional information		
Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Directive 2008/0122 OJ L 033 03.02.2009, p. 0010	Summary

Protection of consumers: timeshare, long-term holiday products, resale and exchange contracts

2007/0113(COD) - 16/12/2015 - Follow-up document

This report provides an assessment of the application of Directive 2008/122/EC (the **Timeshare Directive**) in Member States and evaluates its effects.

This report is based on several resources on information:

- **detailed checks** of the transposition into national legislations of Directive 2008/122/EC, carried out by the Commission since August 2013;
- **complaints** received by the Commission directly from consumers;
- **an external study** conducted in 2014, including an online survey, followed by interviews with individual stakeholders, and five regional workshops.

Results of the study: since the application of the 2008 Directive, complaints recorded by ECC-Net across the EU have **decreased**, from an average of 2150 a year in 2008-11 to an average of 1820 in 2012-13. The decrease in number of complaints coincides with the entry into application of the Directive, and therefore suggests that — overall — **the Timeshare Directive has had a positive impact.**

The results of the study mainly show that:

- 38.5% of consumers who experienced problems still reported they were unable to exercise their **right of withdrawal**;
- 70% of the consumers who concluded a contract after the application of the Directive, and experienced problems, felt they were **not sufficiently informed** about the contract's terms;
- only 7% (as opposed to 9% previously) of consumers surveyed received pre-contractual information in a **language they did not understand**;
- 80.8% of the consumers who bought timeshare or related products in or after 2012 and experienced problems, were asked to make **payments before the end of the withdrawal period**;
- the percentage of problems faced by traditional timeshare owners has significantly dropped since the application of the Timeshare Directive;
- timeshare owners often face **increases in maintenance or service fees** for no objective reason;
- during the period 2007-13, 29.2% of all complaints registered by ECC-Net on timeshare and similar products were linked to **unfair commercial practices**;
- **terminating** the timeshare contract is one of the most problematic issues for consumers, since the procedures and conditions for terminating timeshare contracts vary across Member States;
- the number of problems experienced by consumers in relation to **long-term holiday products** has greatly increased from 11.9% pre-Directive to 57.2% post-Directive;
- the percentage of problems linked to **holiday exchange schemes** has significantly dropped since the application of the Timeshare Directive, from 31% to 5.7%;
- the percentage of complaints related to **resale problems** has remained stable and relatively low both prior to and after the entry into force of the Directive (around 10%).

The research also highlights consumer detriment associated with new products, such as short-term discount **holiday clubs** (membership of less than 1 year) and leisure credit schemes that often seem designed to circumvent the Directive. It also noted:

- **problems with the application of the Directive depending on the country** of the consumer and the professional ;
- **penalties** available to enforcement authorities in case of breaches of the Directive vary significantly among the Member States — from administrative fines of EUR 1500 to fines in excess of EUR 100000;
- in some Member States, **investigating and prosecuting** fraudulent traders involved in consumer scams does not seem to be a priority. The effectiveness of the measures taken by law enforcement authorities (police, prosecution services, courts) strongly depend on the successful functioning of the established criminal law cooperation between the competent authorities of Member States.

The Commission's conclusions: based on these findings, the Commission draws the following conclusions concerning the application of the Directive:

- at this stage, there seems to be **no need to modify either the scope or the provisions** of the Directive;
- regarding aspects of the timeshare, long-term holiday product, resale and exchange contracts falling within its scope, the Timeshare Directive appears overall to be a **useful tool** in protecting consumers in this specific holiday sector;
- regarding aspects falling outside its scope (such as **termination of contracts**) problems still occur. However, the analysis shows that these aspects can be successfully addressed through targeted interventions at national level, efficient self regulatory measures and a better enforcement of other relevant EU consumer law instruments;
- specific attention must be given to **legal constructions and practices aimed at circumventing the Directive**. The [Consumer Rights Directive](#), Directive 93/13/EEC on unfair contract terms and the [Unfair Commercial Practices Directive](#) can all help to address such circumventions;
- in order to render the Directive more effective, national enforcement authorities should **focus on certain business practices and traders**. This is particularly the case for Spain, which is involved in half of all complaints reported to European Consumer Centres across the EU, Iceland and Norway;
- where conduct points towards **criminal law**, law enforcement authorities should be quickly informed with a view to launching criminal investigations;
- the **cross-border dimension** of fraudulent practices could be addressed more effectively by better use of the measures on criminal law cooperation, established between the law enforcement authorities of the Member States. Existing EU instruments for cooperation in criminal matters already provide a comprehensive legal framework for this purpose;
- possible alternative ways of addressing existing problems, e.g. **awareness-raising campaigns, self-regulation and alternative dispute resolution mechanisms**, all of which could also have a positive impact;
- **more comprehensive strategies** for national consumer protection authorities could raise consumer awareness so as to ensure that citizens are more informed about potential scams.

The Commission will also exercise its powers whenever a Member State fails to comply with its enforcement obligations. For this reason, the Commission services have **begun a dialogue with Spain** regarding the correct enforcement of the Directive. It will encourage Member States, where appropriate, to step up their enforcement actions, including through the Consumer Protection Cooperation network, and ensure the Directive's provisions are complied with in all Member States.

Protection of consumers: timeshare, long-term holiday products, resale and exchange contracts

The Council held an exchange of views and took note of a report reflecting the state of the work conducted within the Council under the Portuguese Presidency since the presentation of the proposal for a Directive.

The report points out that revision of Directive 94/47/EC has become a priority given the problems faced by consumers in relation to resale and new products, such as timeshare-like products (e.g. holiday stays in movable property, like boats or caravans) or long term holiday products (e.g. discount holiday clubs) which are not covered by the present Directive.

The ministerial debate focused on the relationship of the draft Directive with the future framework Directive on consumer contractual rights, in particular on the extent of and appropriate time for harmonisation of the modalities and effects of the right of withdrawal.

The European Parliament first-reading opinion is expected in Spring 2008.

Protection of consumers: timeshare, long-term holiday products, resale and exchange contracts

2007/0113(COD) - 22/10/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 674 votes to 16 with 10 abstentions, a legislative resolution amending the proposal for a directive of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday products, resale and exchange.

The report had been tabled for consideration in plenary by Toine **MANDERS** (ALDE, NL) on behalf of the Committee on the Internal Market and Consumer Protection.

The amendments are the result of a compromise agreement between Parliament and Council. It was agreed that certain aspects of the marketing, sale and resale of timeshare and long-term holiday products as well as exchange of timeshare should be fully harmonised. Parliament agreed to revert to the 14 days withdrawal period, and the Council consented to standardised forms for pre-contractual information.

The main amendments – made in 1st reading of codecision procedure – are as follows:

Advertising: if any timeshare, long-term holiday product, resale or exchange contract is to be offered to a consumer in person at a promotion or sales event, the trader shall in the invitation clearly indicate the commercial purpose and the nature of the event. The pre-contractual information must be available to the consumer at any time during the event. A timeshare or long-term holiday product shall not be marketed or sold as an investment.

Pre-contractual information: in good time before the consumer is bound by any contract, the trader shall provide the consumer with written information in a clear and comprehensible manner with accurate and sufficient information on the issues listed in the text. The information will be provided on a standard information form, the contents of which are found in Annexes I-V. The information form contains 3 parts. The first part contains key information on property, price etc information that has to be filled in by the trader. The second part contains important general information, including on the right of withdrawal and the ban on advance payment. The third part contains additional information to which the consumer is entitled and where it can be obtained specifically (for instance, under which chapter of a general brochure) if not provided in the form itself. The information must be provided by the trader on paper or another durable medium easily accessible to the consumer and it shall be free of charge.

If pre-contractual information, including the standard information form set out in Annexes I to IV, has not been provided to the consumer, the right of withdrawal shall expire after 3 months and 14 calendar days.

Language: the Member States shall ensure that the pre-contractual information is drawn up in the language or one of the languages of the Member State in which the consumer is resident or in the language or one of the languages of the Member State of which he is a national provided it is an official language of the Community, at the consumer's choosing. The same applies to the contract itself. However, a Member State in which the consumer is resident may, in relation to the contract, require the contract be provided to the consumer in all cases in its language or one of its languages. In the case of a time-share property, it may ask that the consumer be provided with a certified translation of the contract in the language(s) of the Member State in which the property is situated. The text sets out other provisions on the appropriate language.

Right of withdrawal: the contract must include a separate standard withdrawal form, as set out in Annex V, intended to facilitate the exercise of the right of withdrawal. The consumer will have a period of 14 calendar days to withdraw from the timeshare, long-term holiday product, resale or exchange contract, without giving any reason. The text sets out the calculation for the period of withdrawal. If a completed standard withdrawal form has not been provided to the consumer in writing, on paper or another durable medium, the period of withdrawal shall expire after 1 year and 14 calendar days. However, if other pre-contractual information, including the standard information form set out in Annexes I to IV, has not been provided to the consumer, the right of withdrawal shall expire after 3 months and 14 calendar

Effects of exercising the right of withdrawal: the exercise of the right of withdrawal by the consumer terminates the obligation of the parties to perform the contract. Where the consumer exercises the right of withdrawal, he shall neither bear any cost nor be liable for any value corresponding to the service which may have been performed until withdrawal.

Parliament introduced a clause on the modalities of exercising the right of withdrawal.

Ban on advance payments: Parliament maintained the ban on advance payment for timeshare, long-term holiday products and exchange contracts.

Specific provisions relating to long-term holiday products: a new Article has been inserted to ensure that for long-term holiday product contracts, payment shall be made according to a staggered payment schedule. The payments, including any membership fee, shall be divided into yearly instalments, each of which shall be of equal value. The trader shall send a written request for payment, on paper or another durable medium, at least fourteen calendar days in advance of each due date.

Codes of conduct: the Commission shall encourage the drawing up at Community level, particularly by professional bodies, organisations and associations, of codes of conduct aimed at facilitating the implementation of this Directive in conformity with Community law. It shall also encourage traders and their branch organisations to inform consumers of any such codes, including, where appropriate, by means of a specific marking.

Imperative nature of the Directive and application in international cases: if the law applicable to the contract is the law of a Member State, the consumer may not waive his rights, conferred on him by this Directive. If the applicable law is that of a third country, the consumer shall not be deprived of the protection granted by this Directive, as implemented in the Member State of the forum: if the immovable property is situated in the EU; or if, in the case of a contract not directly related to immovable property, the trader pursues his commercial activities in a Member State, or by any means, directs such activities to a Member State and the contract falls within the scope of such activities.

Out-of-court redress: Member States shall encourage the setting up or development of adequate and effective out-of-court complaints and redress procedures for the settlement of consumer disputes under this Directive and shall encourage, where appropriate, traders and their branch organisations to inform consumers of any such out-of-court complaints and redress procedures

Review: 3 years (rather than 5) after the date of application of the national provisions transposing the Directive.

Protection of consumers: timeshare, long-term holiday products, resale and exchange contracts

2007/0113(COD) - 07/06/2007 - Legislative proposal

PURPOSE: to provide consumer protection in respect of certain timeshare aspects, long-term holiday products, resale and exchange.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: Council Directive 94/47/EC "on the protection of purchasers in respect of certain aspects of contract relating to the purchase of the right to use immovable properties on a timeshare basis" has been the subject of a review process in order to examine the impact of major new developments in the market place. Since the adoption of Directive 94/47/EC a number of new products, that are similarly marketed and which, economically speaking, are broadly similar to timeshare, have sprung up. These new products, however, fall outside the scope of the existing timeshare Directive. The fact that these new products are not adequately regulated has resulted in a rise in consumer complaints. Legitimate timeshare business have also complained that the new "timeshare" products are not properly regulated.

CONTENT: following an impact assessment, a Green Paper and taking into account the views and opinions of interested parties, the Commission is proposing the adoption of a new Directive the purpose of which is to provide consumer protection in relation to resale and new products such as holiday discount clubs. Upon adoption, the new Directive will replace Directive 94/47/EC with a modern, simplified and coherent framework.

In summary, the proposed Directive will include the following provisions:

Scope: the proposal will replace Directive 94/47/EC with a modern, simplified and coherent framework that covers timeshare, long-term holiday products as well as exchange and resale mediations. It will be applicable to all products that are listed under "definitions". A derogation from full harmonisation is included (since horizontal issues will be addressed under an overall review of the *acquis*). The proposed Directive also allows Member States to maintain national provision on early termination.

Definitions: the following terms are defined: timeshare; long term holiday product; resale; exchange; trader; consumer; and ancillary contract. Under the new definition of "time-share" products which are equivalent to timeshare, but where one or more of the criteria of the current definition are not necessarily fulfilled, will be included under the terms of the revised definition. Since the proposed definition will no longer be linked exclusively to immovable property, contracts for accommodation in canal boats, caravans or cruise ships will be covered. It will not, however, cover things such as multi-annual reservation of a hotel room. The definition of "long term holiday products" includes products such as discount holiday clubs. "Resale" is defined as contracts for mediation concluded between the consumer who wishes to sell or buy a timeshare, long-term holiday product and resale agent. An "ancillary contract" is defined as a contract which is subordinate to another contract – for example, an exchange in relation to timeshare.

Pre-contractual information and advertising: the proposed provisions would ensure that the consumer receives all relevant information allowing him/her to make an informed decision. Provisions have also been included that ensure a consumer's attention is drawn to the right of withdrawal.

Right of withdrawal: this broadly corresponds to existing provision but the withdrawal period is extended to 14 days and it will be harmonised across the EU. Further, the provision on extending the period of withdrawal, in case of lack of fulfilment, has been clarified.

Advance payment: this proposal broadly reproduces the ban on deposits during the withdrawal period but it has clarified provisions on the ban. For example, the ban will include, not only payments, but consumer (and not just trader) concerns. It will apply as long as the withdrawal period has not expired. In addition, if the withdrawal period has been extended (due to the non-fulfilment of information requirements) the ban will be extended.

Termination of ancillary contracts: this provision prescribes the cancellation of any ancillary contracts if the consumer withdraws from the main contract. The proposed provisions will include certain agreements linked to credit.

Sanctions, enforcement, consumer information and redress: the proposed provisions are broadly similar to the ones set out in recent consumer protection Directives. The European Consumer Centres will assist in transmitting cross-border complaints to the relevant alternative dispute resolution bodies. Article 10 of the proposed Directive encourages the setting up of such bodies.

The proposed Directive will contribute toward the simplification of existing legislation by employing clearer and more transparent legislative language; definitions and an extended scope. The proposal has no implications on the Community budget.

Protection of consumers: timeshare, long-term holiday products, resale and exchange contracts

2007/0113(COD) - 14/01/2009 - Final act

PURPOSE: to enhance the protection of consumers in respect of timeshare and longterm holiday product contracts.

LEGISLATIVE ACT: Directive 2008/122/EC of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, longterm holiday product, resale and exchange contracts.

CONTENT: the supply of timeshare goods (for example, holiday stays in movable rather than immovable property, such as boats or caravans) has changed considerably over the past few years, and new long-term holiday products (holiday clubs at preferential rates, in particular) have appeared on the market. These new products and certain transactions associated with the use of timeshare goods have not hitherto been covered by Community legislation.

Following an agreement reached with the Parliament at first reading, this Directive lays down the commercial conditions associated with the use of timeshare goods and longterm holiday products (of a duration of more than one year), and with resale and exchange, in order to give consumers the possibility to acquaint themselves with the precontractual information, the rights and obligations under the contracts and possibilities of withdrawal, in a clear and comprehensible manner.

The main elements of the Directive are as follows:

Precontractual information: in good time before the consumer is bound by any contract or offer, the trader shall provide the consumer, in a clear and comprehensible manner, with accurate and sufficient information in the case of a timeshare contract, a longterm holiday product contract, a resale contract and an exchange contract. This information shall be provided, **free of charge**, by the trader **on paper or on another durable medium** which is easily accessible to the consumer, by means of the standard information forms as set out in Annexes I to IV of the Directive.

Member States shall ensure that the information is drawn up in the **language** or one of the languages of the Member State in which the consumer is resident or a national, at the choice of the consumer, provided it is an official language of the Community.

Right of withdrawal: the consumer shall be given a period of **14 calendar days** to withdraw from the contract, without giving any reason. The period may be extended if the relevant information has not been provided by the trader.

The exercise of the right of withdrawal by the consumer terminates the obligation of the parties to perform the contract. Where the consumer exercises the right of withdrawal, the consumer shall **neither bear any cost nor be liable for any value** corresponding to the service which may have been performed before withdrawal. Moreover, the expiration of the withdrawal period does not preclude consumers from seeking remedies for breaches of the information requirements.

Advance payment: Member States shall ensure that, in relation to contracts, any advance payment, provision of guarantees, reservation of money on accounts, explicit acknowledgement of debt or any other consideration to the trader or to any third party by the consumer before the end of the withdrawal period, is prohibited.

For **longterm holiday product contracts**, payment shall be made according to a staggered payment schedule. Any payment of the price specified in the contract otherwise than in accordance with the staggered payment schedule shall be prohibited.

Consumer information and out-of-court redress: the Commission shall encourage the drawing up at Community level, particularly by professional bodies, organisations and associations, of codes of conduct aimed at facilitating the implementation of this Directive, in conformity with Community law. It shall also encourage traders and their branch organisations to inform consumers of any such codes, including, where appropriate, by means of a specific marking.

Moreover, Member States shall encourage the setting up or development of adequate and effective out-of-court complaints and redress procedures for the settlement of consumer disputes.

Application in international cases: (a) Member States shall ensure that, where the law applicable to the contract is the law of a Member State, consumers may not waive the rights conferred on them by this Directive; (b) where the applicable law is that of a third country, consumers shall not be deprived of the protection granted by this Directive, as implemented in the Member State of the forum if: (i) any of the immovable properties concerned is situated within the territory of a Member State; or (ii) in the case of a contract not directly related to immovable property, the trader pursues commercial or professional activities in a Member State or, by any means, directs such activities to a Member State and the contract falls within the scope of such activities.

Review: the Commission shall review this Directive and report to the European Parliament and the Council no later than 23 February 2014. If necessary, it shall make further proposals to adapt it to developments in the area.

ENTRY INTO FORCE: 23/02/2009.

TRANSPOSITION AND APPLICATION: from 23/02/2011.