

# Health & Consumer Protection Directorate General

## Croatia and Turkey Explanatory Screening

### Directive 1999/44/EC

## on the sale of consumer goods and associated guarantees

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consumer protection legislation*

# The Directive

- **The scope of application**
- **Key rules**
- **Requirements of the proper implementation**
- **The Directive in context**

# The scope of application

## ■ Business to consumer sale

- The definition of consumer
- Definitions of seller and producer

## ■ Sale of consumer goods

- Definition of goods: tangible, movable items
- Exceptions:
  - Goods sold by authority of law
  - Water/gas where not put up for sale in a limited volume or set quantity
  - Electricity

# The scope of application

- Goods which are:
  - not in the conformity with the contract
  - at the moment of delivery (defective goods)
- Contracts for the supply of consumer goods to be manufactured or produced are covered by the Directive.
- Exemption:
  - Second-hand goods sold at public auctions where consumers have the opportunity of attending in person may be exempted (option for the MS)

## Key rules – part I

- The seller must deliver goods to the consumer which are in the conformity with the contract
- Presumption of conformity (art 2)
- The importance of the public statements of the seller and the producer
- A lack of conformity resulting from incorrect installation is equal to the lack of conformity of goods

## Key rules – part II

- If the goods were defective at the time of delivery the consumer may ask the seller for:
  - Repair or replacement of goods  
*if these remedies were not completed within reasonable time and without significant inconvenience then the consumer may ask for:*
  - Reduction of price or termination of the contract
- The seller is liable where the lack of conformity becomes apparent within two years as from delivery of the goods.
- During the first six months from the time of delivery reversal of burden of proof that the goods were defective.

## Key rules – part III

- Rules on (commercial) guarantees:
  - The definition of guarantee
  - A guarantee (commercial) is binding upon guarantor
  - Requirements of transparency
- Right of redress
  - The seller can claim a remedy against any party responsible in the chain (B2B relation)
  - within limits of national law.

# Requirements of proper implementation

- Minimum harmonization clause: MS may maintain more stringent provisions as long as these are compatible with the Treaty.
- Legislative options within the Directive:
  - Exempting second-hand goods sold at public auctions where consumers have the opportunity of attending in person
  - Providing that the consumer must inform the seller of the lack of conformity within a period of two months from the moment he detected the lack of conformity
  - Providing for a language requirement of the (commercial) guarantee
  - Providing shorter time period for the liability of the seller in case of second-hand goods (minimum one year).



# Requirements of proper implementation

- The importance of the consistent use of terminology (e.g. consumer, seller).
- The need to achieve coherence between implementing measures and existing contract law.

# The Directive in context

The following may apply as well:

## ■ Rules on selling methods:

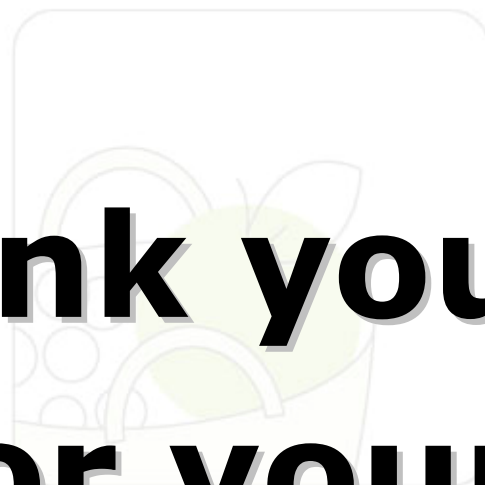
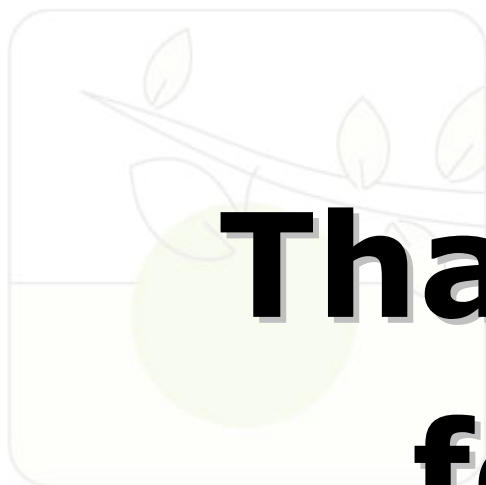
- Door to Door Selling Directive  
(85/577/EC)

- Distance Selling Directive (97/7/EEC)

## ■ Rules on terms of contract:

- Directive on Unfair Contract Terms  
(93/13/EEC)

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**Thank you  
for your  
attention**