

Case law

Case Details

National ID: Decision no. 1348/2014

Member State: Romania

Common Name: link

Decision type: Court decision in appeal

Decision date: 13/11/2014

Court: Bucharest Tribunal

Subject:

Plaintiff: Unknown

Defendant: Unknown

Keywords: guarantee, proof of damage

Directive Articles

Consumer Sales and Guarantees Directive, [Article 3, 1](#). Consumer Sales and Guarantees Directive, [Article 5, 3](#).

Headnote

(1) Directive 1999/44/EEC (implemented into Romanian law by the provisions of Law no. 449/2003 on the sale of goods and associated guarantees) establishes a legal presumption in favor of consumers, meaning that until proven otherwise, the lack of conformity which becomes apparent within 6 months from the delivery of the product is presumed to have existed at the time of its delivery.

(2) In analyzing the conformity of the product, the court takes into account its purchase price.

Facts

The plaintiff was sanctioned with a warning for committing the offence provided by Directive 1999/44/EEC, for lack of conformity of products at the time they were delivered and requested the annulment of the minutes ascertaining the sanction.

Legal issue

Given the very short time from the purchase of the products to the moment the damage occurred, there is an obvious lack of conformity of products that existed at the date of delivery, meaning that the products delivered did not correspond to the purposes for which products of the same type are normally used and to quality parameters to which the consumer can reasonably expect, no consumer expecting footwear products to deteriorate only after one wearing, 3 days after purchasing it.

In analyzing the conformity of the product, the court took into account its purchase price. For an expensive product, the consumer can expect some quality parameters, while for a lower price, the consumer can expect lower quality parameters. In these circumstances, the consumer can reasonably expect to a raise in the quality parameters and not to a deterioration of products in the first days from purchase.

Decision

(1) Does Directive 1999/44/EEC establish a legal presumption in favor of consumers that the lack of conformity of a product existed at the time of its delivery, if the lack of conformity becomes apparent within 6 months from the delivery of the product ?

(2) Does the court take into account the purchase price, when analyzing the conformity of the product ?

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Result

The plaintiff's appeal was rejected.