

Doctrină

Informații despre doctrină

Statul membru: România

Titlu: Regimul juridic al termenelor in materia garantiei de conformitate

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Cuvinte-cheie: conformity with the contract, guarantee

Articole din directivă

Consumer Sales and Guarantees Directive, [Article 2, 1](#). Consumer Sales and Guarantees Directive, [Article 2, 2](#). Consumer Sales and Guarantees Directive, [Article 2, 2., \(a\)](#) Consumer Sales and Guarantees Directive, [Article 2, 2., \(b\)](#) Consumer Sales and Guarantees Directive, [Article 2, 2., \(c\)](#) Consumer Sales and Guarantees Directive, [Article 2, 2., \(d\)](#) Consumer Sales and Guarantees Directive, [Article 5, 1](#). Consumer Sales and Guarantees Directive, [Article 5, 2](#).

Notă preliminară

The actions a buyer can take are subject to a series of terms, the number and function of which vary (terms of lapse, statutes of limitation, trial periods etc.), following the complex model of the guarantee itself. The most important aspects analysed are the following:

- The lack of conformity must become apparent within 2 years from delivery. Such term may not be modified by the parties (by stipulating that the lack of conformity must also be discovered and notified to the seller within this term or by reducing it), as such modification shall be considered an abusive clause, as regulated by Law no. 193/2000 on unfair terms in consumer contracts. By way of exception, the term may be reduced to 1 year from handover of the good provided that the good is used and that such reduction has been agreed by the parties.
- Government Ordinance no. 21/1992 on consumer protection provides a case of extension of the guarantee term and it is also applicable in the situation regulated by Law 449/2003 on the sale of goods and associated guarantees. If the fault generated a downtime of over 10% of product warranty period, the seller is obliged to replace the product or refund the buyer. Moreover, the duration of the warranty period shall be extended by the duration of downtime. The latter is determined as the length of time between the moment of notification of the seller to repair / replace and the return the product in the state of normal use.
- The term of 2 months for informing the seller about the lack of conformity. For interrupting the term of two months, the buyer shall report the fault to the seller. The law provides no special form of informing the latter so that it can be done by any means, as long as they can be proven.
- The terms for invoking the conformity guarantee provided by Law no. 449/2003 on the sale of goods and associated guarantees, by their nature, are not applicable to consumer sales of food or other perishable goods.

Notă generală

This article was published in Romanian Private Law Review, no. 4/2007 and refers to Law no. 449/2003 which transposes the provisions of Directive 1999/44 /EC..

Cazuri conexe

Nu există rezultate disponibile