

What is the aim of this directive? (Art. 1)

It seeks to increase consumer protection by harmonising several key aspects of national legislation on contracts between customers and sellers. It encourages trade between EU countries, particularly for consumers buying online.

Scope of applicaton (Art. 1)

Other than some exceptions such as package travel and holidays or financial services, such as consumer credit and insurance, this directive covers contracts between traders and consumers on the sale of goods, services (such as the supply of water, gas, electricity and heating), and online digital content. to any contract concluded between a trader and a consumer where the consumer pays or undertakes to pay the price. It shall apply to contracts for the supply of water, gas, electricity or district heating, including by public providers, to the extent that these commodities are provided on a contractual basis. Directive (EU) 2019/2161 on the better enforcement and modernisation of EU consumer protection rules amends Directive 2011/83/EU. The amendments increase protection for EU consumers in several areas such as purchases through online marketplaces, transparency of price personalisation* and ranking of online offers and consumer rights when using 'free' online services. Because of that, after the amendment, this Directive shall also apply where the trader supplies or undertakes to supply digital content which is not supplied on a tangible medium or a digital service to the consumer and the consumer provides or undertakes to provide personal data to the trader, except where the personal data provided by the consumer are exclusively processed by the trader for the purpose of supplying the digital content which is not supplied on a tangible medium or digital service in accordance with this Directive or for allowing the trader to comply with legal requirements to which the trader is subject, and the trader does not process those data for any other purpose.

Key points

1. Information obligations (Chapter II)

Before concluding a contract, traders must provide to consumers, in clear, understandable language, information, such as (Art. 5):

their **identity and contact details**,

the **product's main characteristics**, and

the **conditions that apply**, including payment terms, delivery time, performance and duration of the contract and termination conditions.

In **shops**, only information which is not already obvious must be provided.

Information requirements, particularly on the right of withdrawal, are **more detailed** for postal, telephone or online contracts and off-premises purchases, where a trader visits a consumer's home (Art. 6).

Amending Directive (EU) 2019/2161 adds to the directive specific information requirements for contracts concluded on online marketplaces. Online marketplaces must (Art. 6 bis):

inform consumers whether a third-party supplier is a trader or non-trader (i.e. another consumer);

warn the consumer that EU consumer protection rules don't apply to contracts concluded with non-traders; and

explain who is responsible for the performance of the contract: the third-party trader or the online marketplace itself.

Also, amending Directive (EU) 2019/2161 requires traders to inform consumers when the offered price is personalised on the basis of automated decision-making.

2. Right of withdrawal (Art. 9 to 16)

Consumers can withdraw from distance and off-premises contracts within 14 days of the goods' delivery or conclusion of the service contract, subject to certain exceptions, without any explanation or cost. A standard withdrawal form provided by the seller suffices. If the consumer is not made aware of their rights, the withdrawal period is extended by 12 months.

Exemptions apply for rapidly perishable goods, sealed goods opened by the consumer which cannot be returned for health or hygiene reasons, and hotel reservations or car rentals which are tied to specific dates.

3. No unjustified payment costs or additional charges (Art. 19 to 22)

Traders must not charge consumers fees that are more than the cost to the trader of the type of payment involved.

When phoning a trader to enquire or complain about a contract, the consumer must not pay more than the basic telephone rate.

Traders must have a consumer's express consent when offering additional paid-for services. Pre-ticked boxes on an order form may not be used for such payments.

4. Penalties (Art. 24)

Directive 2011/83/EU requires Member States to introduce effective, proportionate and dissuasive penalties applicable to infringements of national rules transposing the directive.

Amending Directive (EU) 2019/2161 introduces a list of criteria to be applied when imposing the penalties. It also requires Member States to provide for the possibility to impose fines up to at least 4% of the trader's annual turnover, or €2 million where information about the trader's turnover is unavailable. Such fines must be available when Member States' authorities act together on major cross-border infringements affecting consumers in several Member States in the context of the consumer protection cooperation network regulation.

From when does the Directive apply?

It has applied from 12 December 2011 (Art. 34). EU countries had to incorporate it into national law by 13 December 2013 (Art. 28). The directive applies to contracts concluded after 13 June 2014 (Art. 28).

Amending Directive (EU) 2019/2161 had to become law in Member States by 28 November 2021 and applies from 28 May 2022.

Background

For more information, see '[The Directive on Consumer Rights](#)' on the European Commission's website.

Act

Directive [2011/83/EU](#) of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, pp. 64–88)

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