



Consumer market study on the functioning of legal and commercial guarantees for consumers in the EU

Country fiche: Hungary

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1. Hungary

1.1 Regulatory background

This section describes the transposition of Directive 1999/44/EC on Consumer Sales into the Hungarian legislative system. This Directive was transposed via the Civil Code and Governmental Decree 151/2003. (IX. 22.), 22nd September, on Guarantees in the Sale of Durable Consumer Goods¹. This Governmental Decree was latterly amended four times, on 16 May 2008², on 04 July 2012³, on 09 April 2014⁴ and on 15 September 2014⁵ – which represents the current version.

The transpositions outside of the aforementioned Governmental Decree are effected mainly in the Civil Code, where laws and legal elements of consumer protection are defined in the 6th book of the new Civil Code, 15th March 2014.⁶ They are addressed in the passage about defective fulfilment⁷ and are further detailed – amongst others – by laws on product liability⁸ as well as by laws on hidden and latent liability issues⁹.

A second Government Decree 45/2014. (II. 26.), 26th February 2014, on the detailed rules of contracts between consumer and businesses, also includes a minor amount of transpositions.¹⁰

An additional decree, the Ministry of National Economy's Decree 19/2014. (IV. 29.) NGM, 29th April 2014¹¹, specifies administrative details to be respected when dealing with guarantees in the scope of sales transactions between consumers and businesses.

A number of other laws and decrees exist, regulating various aspects of consumer protection. An important example is the Consumer Protection Law¹².

1.1.1 Transposition of Directive 1999/44/EC

The state of the transposition of Directive 1999/44/EC in the Hungarian Law can be considered to be complete. Table 13 in the next pages shows how each article has been

¹ Kormány Rendelet az egyes tartós fogyasztási cikkekre vonatkozó kötelező jótállásról 151/2003. (IX. 22.), 22nd September, Magyar Közlöny num. 109, 22-09-2003, pp. 8065-8066

² Effected amendments are documented on the homepage of the Hungarian National Archive of Legal Measures – Nemzeti Jogszabálytár http://njt.hu/cgi_bin/njt_doc.cgi?docid=76566.107290

³ Effected amendments are documented on the homepage of the Hungarian National Archive of Legal Measures – Nemzeti Jogszabálytár http://njt.hu/cgi_bin/njt_doc.cgi?docid=76566.222971

⁴ Effected amendments are documented on the homepage of the Hungarian National Archive of Legal Measures – Nemzeti Jogszabálytár http://njt.hu/cgi_bin/njt_doc.cgi?docid=76566.261675

⁵ Effected amendments are documented on the homepage of the Hungarian National Archive of Legal Measures – Nemzeti Jogszabálytár http://njt.hu/cgi_bin/njt_doc.cgi?docid=76566.261676

⁶ Polgári Törvénykönyv 2013. évi V. törvény, 15th March 2014, Magyar Közlöny num. 31, 26-02-2013, pp. 2382-2666

⁷ Book 6, Chapter XXIV, Polgári Törvénykönyv 2013, http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=159096.239298

⁸ Book 6, Chapter XXIV, num. 3, 6:168 – 6:170, Polgári Törvénykönyv 2013

⁹ Book 6, Chapter XXIV, num. 3, 6:159 – 6:167, Polgári Törvénykönyv 2013.

¹⁰ Kormány Rendelet a fogyasztó és a vállalkozás közötti szerződések részletes szabályairól, 45/2014. (II. 26.), 26th February 2014, Magyar Közlöny num. 30, 26-02-2014, pp. 2936-2949, http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=167547.260043

¹¹ Nemzetgazdasági Miniszter Rendelet a fogyasztó és vállalkozás közötti szerződés keretében eladott dolgokra vonatkozó szavatossági és jótállási igények intézésének eljárási szabályairól, 19/2014. (IV. 29.) NGM, 29th April 2014, Magyar Közlöny num. 60, 29-04-2014, pp. 8732-8734

¹² 1997. évi CLV. törvény a fogyasztóvédelemről, http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=30909.256011

accommodated in the national legislation. There are nonetheless some departures from the original provisions at the EU level regarding definitions and conformity.

Definitions

The definitions contained in Article 1 of Directive 1999/44/EC are not entirely transposed.

The concept of “consumer good” used to exist in the form of an indirect definition in the old Civil Code, which was in force before March 2014. The new Civil Code has done away with this definition and now “consumer good” is defined by means of exclusion in the Government Decree 45/2014. This decree treats consumer rights and consumer goods and defines to which type of product the decree has to be applied to.¹³

A further departure from the definition of “consumer good” is to be found in the definitions of Government Decree 151/2003.¹⁴ A list of the types of consumer goods is published in the decree. The groups of goods covered are¹⁵:

- Household appliances at more than 10 000 HUF selling price;
- Kitchen Appliances (electrically powered) at more than 10 000 HUF selling price;
- Gas appliances at more than 10 000 HUF selling price;
- Motorized and non-motorized gardening tools at more than 10 000 HUF selling price;
- Power tools at more than 10 000 HUF selling price;
- Medical appliances and equipment, as well as sunglasses at more than 10 000 HUF selling price;
- Health care products and tools at more than 10 000 HUF selling price;
- Means of transport at more than 10 000 HUF selling price;
- Motorized vessels at more than 10 000 HUF selling price;
- Childcare articles at more than 10 000 HUF selling price;
- Child surveillance equipment at more than 10 000 HUF selling price;
- Children's swings, slides and similar activity toys for children for indoor and outdoor use at home at more than 10 000 HUF selling price;
- Lighting products at more than 10 000 HUF selling price;
- Security alarm and signalling devices at more than 10 000 HUF selling price;
- Electronic communications equipment at more than 10 000 HUF selling price;
- Telecommunication devices at more than 10 000 HUF selling price;
- Information technology equipment at more than 10 000 HUF selling price;
- Office equipment at more than 10 000 HUF selling price;
- Overhead projectors and film equipment at more than 10 000 HUF selling price;
- Optical devices at more than 10 000 HUF selling price;
- Musical instruments at more than 10 000 HUF selling price;
- Watches and jewellery at more than 10 000 HUF selling price;
- Indoor and outdoor furniture at more than 10 000 HUF selling price;
- Measuring tools, generators, power supplies at more than 10 000 HUF selling price;
- Firearms at more than 10 000 HUF selling price;

¹³ Art. 2 and 4 § (12), Government Decree 45/2014,
http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=167547.260043

¹⁴ The exact list is to be found in the Annexes of Government Decree 151/2003,
http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=76566.261676

¹⁵ At 31st May 2015- 1 EUR represents approximately 300 HUF

- Sports equipment, hunting and fishing related equipment at more than 10 000 HUF selling price;
- Beauty tools (electrically-powered) at more than 10 000 HUF selling price;
- Precious and semi-precious clothing made of fur or skin at more than 50 000 HUF selling price;
- Components and accessories of the above mentioned product at more than 10 000 HUF selling price.

Whilst in earlier versions of the Government Decree this list was an exclusive one, meaning that only products expressly mentioned on it were regarded as consumer goods benefiting of consumer good guarantees, now the list has groups of products and includes all products of one product type. The list still gives examples of products concerned by each product type, however these are no longer binding.

As is visible in the list above, Government Decree 151/2003 also mentions a minimum sales price for each product group, for it to be considered a consumer product benefiting of the special consumer good guarantees. The Hungarian lawmaker did not expressly justify these measures.

Another notable difference is the term “guarantee”. Hungarian lawmakers differentiated between three guarantee concepts, with the term generally used for “Guarantee” being a separate concept known under the term “*jótállás*”¹⁶. This is the guarantee concept treated in Government Decree 151/2003 and it is to this guarantee concept only to which minimum sales prices are applied to. The “*jótállás*” guarantee concept attributes extended rights to the consumer in comparison to the other two guarantee concepts of Hungarian law – “the product liability” and “hidden and latent liability issues”. It is for this reason that the “*jótállás*” has additional requirements and limits. Apart from being limited to certain defined product groups and imposing minimal sales prices, it also limits this extended type of guarantee to one year only.¹⁷

The EU Directive requirements are therefore only partially transposed or fulfilled by the Government Decree 151/2003. The two other above mentioned guarantee concepts are however complying with the points of the EU Directive where the “*jótállás*” concept is an infraction. None of the two other guarantee concepts have limits in terms of minimal selling prices or product types or product groups. Additionally the guarantee period is 2 years.¹⁸ The burden of proof for the two guarantee concepts excluding “*jótállás*” is with the seller or manufacturer, as long as the defect is signalled within the legal time frame (two months from noticing the defect), with the burden of proof on the seller for the first six months.

For “*jótállás*” the burden of proof is with the consumer and it is he who must prove that the defect existed at the time of the fulfilment of the contract (this is similar to the ‘hidden defect’ concept present in Belgian and French law).¹⁹ The concept of product liability equals the concept of commercial guarantees in Hungarian law and accords the consumer the above mentioned guarantee rights with the manufacturer of the consumer good (i.e. the consumer can claim off the manufacturer).

Conformity with the contract

The definitions contained in the Directive are not transposed. Hungarian lawmakers kept the more onerous interpretation of their own law, which obliges the seller or producer to

¹⁶ Concept to be found in Government Decree 151/2003 and the Civil Code Art. 6:171 – 6:173

¹⁷ Art. 2. § (1), Government Decree 151/2003, http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=76566.261676

¹⁸ Art. 6:163 § (2), Polgári Törvénykönyv 2013

¹⁹ Art. 6:163 § (2), Polgári Törvénykönyv 2013

provide a good or service in the way and state as specified in the contract between customer and seller or producer. Defects must be signalled immediately by the consumer. Defects signalled within a two months period after their discovery are regarded as being signalled immediately. The consumer may demand the replacement of the defective good, its repair or a price reduction corresponding to the reduced value of the consumer good²⁰.

Remedies

Remedies in the Hungarian market are standard, being²¹:

- repair or replacement, according to the consumer's wishes, within a reasonable time frame and free of charge.
- reduction of the purchase price if the consumer can repair the defect her/himself or have it repaired at the seller's expense, or
- a refund if repair or replacement is impossible, but only under certain conditions.

The seller must try to carry out repairs or provide a replacement within 15 days.

In the case of a replacement, a new 2-year legal guarantee period starts. The same applies in the case of replacement of product components. The guarantee is suspended while the product is being repaired²².

1.1.2 Table of the transposition

The next page displays the articles from Directive 1999/44/EC on Consumer Sales and their transposition into the Hungarian legislative system. Not all the articles have been transposed, and some of them are less detailed or more onerous (for the seller) than the scope provided by the European legislation. Also transposition is not necessarily effected in a homogenous legal measure but many different legal measures such as different types of decrees or chapters in the Civil Code are used. This is briefly described in the table ("Comment").

²⁰ECC net country fiche for Hungary (undated) accessed 27th November at http://www.europe-consommateurs.eu/fileadmin/user_upload/eu-consommateurs/PDFs/PDF_EN/REPORT-_GUARANTEE/country_fact_sheets/Country_fiche_HU.pdf

²¹ Chapter VI § 159, Hungarian Civil Code, Polgári Törvénykönyv 2013, http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=159096.239298

²²ECC net country fiche for Hungary (undated) accessed 27th November at http://www.europe-consommateurs.eu/fileadmin/user_upload/eu-consommateurs/PDFs/PDF_EN/REPORT

Table 1: Transposition of Directive 1999/44/EC in the Hungarian legislation				
Areas	Art.	Content	Legislation	Comment*
Scope and definitions	1.1	Purpose	Government Decree 151/2003 1§(1)	<i>Direct transposition</i> - The purpose being to ensure a uniform minimum level of consumer protection
	1.2.a	Def. Consumer goods	Government Decree 45/2014 2 and 4§(12)	Not directly transposed. The old Civil Code (replaced with the new Civil Code in 2014) had an exact but indirect transposition. The new Civil Code makes no reference and the consumer good is now defined by way of exclusion (exclusion to which products the decree is not applicable) in the Governmental Decree, as well as by definition of the term "Product" in the same decree.
	1.2.b	Def. Consumer	Civil Code 8:1. § (1) 3rd paragraph	<i>Direct transposition</i> - Meaning any natural person acting for purposes not related to his trade, business or profession
	1.2.c	Def. Seller	Civil Code 8:1. § (1) 4th paragraph	<i>Direct transposition</i> - Seller being any natural or legal person who sells consumer goods
	1.2.d	Def. Producer	Civil Code 6:123. § (3)	<i>Direct transposition</i> - Producer being the manufacturer or importer of the good, or purporting to be so via trademark
	1.2.e	Def. Guarantee	Civil Code 6:159. § (2)	Indirect via the definitions of hidden and latent liability issues in the Civil Code. Paragraphs of the Civil Code treating "Guarantee" directly refer to the content of the paragraphs treating hidden and latent liability issues.
	1.2.f	Def. Repair		Not transposed
	1.3	Exclusion second hand	Ministry of National Economy Decree 19/2014 1§(2)	<i>Direct transposition</i> - Exclusion of second-hand goods sold at a public auction which the consumer can attend
	1.4	Contracts of sale types		Not transposed
Conformity with the contract	2.1	Conformity requirement		Not transposed
	2.2	Good conformity		Not transposed
	2.3	Lack of conformity		Not transposed
	2.4	Seller statements		Not transposed
	2.5	Installation	Civil Code 6:157 § (1)	<i>Direct transposition</i> - Incorrect installation considered equivalent to lack of conformity if installation formed part of the sale or if the installation instructions created the shortcomings
Rights of the consumer	3.1	Liability	Civil Code 6:159 § (2)a and b	Two separate paragraphs are treating the article.
	3.2	Remedies	Civil Code 6:159 § (2)a and (4)	Two separate paragraphs are treating the article.

	3.3	Conditions	Civil Code 6:166. § (1)	"Costs of measures are to be borne by the legally bound. If lack of maintenance by consumer or other factors by consumer contribute to failure, the costs are to be shared proportionally by both parties "
	3.4	Free of charge	Civil Code 6:159 § (2)b	<i>Direct transposition</i> - "Free of charge" referring to the necessary costs incurred to bring the goods into conformity, including postage
	3.5	Reduction of the price	Civil Code 6:159 § (3)	<i>Direct transposition</i> - Right to price reduction or contract rescission if the consumer is not entitled to the other remedies, or if the seller has not completed them within a reasonable time or without significant inconvenience to the consumer
	3.6	Contract rescission		Not transposed
Right of redress	4	Final seller liability	Civil Code 6:163 § (2)	The legal concept of a guarantee ("jótállás") has a limited time period of one year only. However the legal concepts of product liability as well as the concept of hidden and latent liability issues have two year time periods if the transaction is between a consumer and a business and assure compliance with the Directive, as they are legal guarantee concepts.
Time limits	5.1	Time period	Civil Code 6:162. § (2)	Two months
	5.2	Defect confirmation	Civil Code 6:158.	Six months
	5.3	Reversed burden	3/2014. Art. 125.1.	Direct, merges article 6.1. and partially 1.2.(e) of the Directive
Guarantees	6.1	Legally binding	Government Decree 151/2003 3§ (4)	<i>Direct transposition</i> - Stating that the guarantee will be legally binding on the offerer of the guarantee under guarantee statement and conditions
	6.2	State rights and contents	Government Decree 151/2003 3§ (4) a - f	<i>Direct transposition</i> - The guarantee shall state that the consumer has legal rights under applicable national legislation, make clear that those rights are not affected by the guarantee; give the guarantee details and process for claiming, plus name, address of guarantor plus scope and duration.
	6.3	Written contract	Government Decree 151/2003 3§ (1)	With the durable consumer good a guarantee ticket must be delivered to the customer. The guarantee ticket must be produced in a way which ensures readability throughout the time period of the guarantee.
	6.4	Language of guarantees	Government Decree 151/2003 3§ (2)	Must be in Hungarian
	6.5	Respect 6.2-4	Government Decree 151/2003 4§ (2)	<i>Direct transposition</i> - Specifying the validity of the guarantee contract for consumer even if it infringes on the above three paragraphs
Binding nature	7.1	Restricted rights	Civil Code 6:163. § (2)	<i>Direct transposition</i> - Stating that previously agreed conditions between seller and consumer which are agreed before a lack of conformity is known will not be binding if they reduce the consumer rights under this Directive.
	7.1	Reduced period (2nd hand)	Civil Code 6:163. § (2) 2nd Phrase	One year at least for second-hand products
	7.2	Measures of protection		Indirect via the Civil Code

National law and minimum protection	8.1	Supplementary rights		
	8.2	National rules retain		
Information	9	Inform of the rights		
Modification	10	Directive 98/27/EC		
Transposition	11.1	Date		
	11.2	Provisions		
Review	12	Jul-06		
Entry into force	13	Day of publication		
Address	14	To Member States		
Recitals	15	Period-of-use deduction		Not transposed. The two year period is in force.
	18	Suspension 2-year period	Civil Code 6:163. § (4)	During repair

* The mention of "direct" means a direct transposition, disregarding the fact that the sentences can be placed differently or paraphrased relative to the Directive formulation

Legend

	Articles at the discretion of the Member State (not mandatory)
	Rules on procedures to transpose
	Recitals –at the discretion of the Member State

1.1.3 Additional rights

The additional rights available to the Hungarian Consumer and User are contained in a number of different legal measures. The 1997 yearly CLV. Law on consumer protection²³, defines a number of key consumer rights and measures to ensure and enforce consumer protection. The 2008 yearly XLVII. Law on the ban of unfair commercial practices with consumers²⁴ provides additional important measures for consumer protection and rights.

It is also to be noted that multiple decrees – governmental and ministerial – are also in force and play an important role regarding consumer rights. Additional rights are also either derived from or directly attributed by the Civil Code.

As Hungarian lawmakers have not opted for a consolidation of consumer rights e.g. in one chapter of the Civil Code or in one consolidated legal measure, consumer rights are not bundled and the resolution of questions of consumer rights may need elements from multiple legal measures. As an example consumer rights in e-commerce are governed by multiple legal instruments. The 2001 yearly CVIII. Law on questions of e-commerce and services regarding the information society²⁵ attributes some but not all rights to consumers when it comes to e-commerce. Government Decree 45/2014, on the detailed rules of contracts between consumer and businesses, also includes important chapters on e-commerce rights. Government Decree 45/2014 also regulates the consumer rights for off-business-premises transactions, such as by telephone or catalogue.

Right of withdrawal

The right of withdrawal²⁶ is legislated in numerous chapters of the Civil Code²⁷ and – with exception of e-commerce and other types of off-premise contracts between consumers and businesses – the rights are the same for consumers as for any other type of contractual party. As a result, consumers must follow the standard contractual laws when engaging in on premise transactions and do not benefit from any advantages or simplifications. A withdrawal outside of the scope of off-premise transactions is therefore only possible if the underlying contract's conditions have not been honoured by at least one contractual party.

The withdrawal rights²⁸ attributed to consumers when engaging in e-commerce or other off-premise transactions are governed by the Government Decree 45/2014 and differ from the definitions of the Civil Code. The decree allows a one-sided withdrawal by the consumer within 14 calendar days after the purchase of the product or service. In this case the vendor is obliged to refund the consumer's payment entirely.²⁹

The same governmental decree also governs the right to cancellation³⁰. This comes into effect if the consumer has asked the vendor to start offering the purchased service before the termination of the 14 calendar day withdrawal period. In this case the withdrawal is replaced by cancellation, also respecting a 14 calendar day time period. The difference is

²³ See footnote 12

²⁴ 2008. évi XLVII. Törvény a fogyasztókkal szembeni tisztességtelen kereskedelmi gyakorlat tilalmáról, 28th June 2008, Magyar Közlöny num. 95, 28-06-2008, pp. 5782-5813

²⁵ 2001. évi CVIII. Törvény az elektronikus kereskedelmi szolgáltatások, valamint az információs társadalommal összefüggő szolgáltatások egyes kérdéseiről

²⁶ "If as a result of the breach of contract the beneficiary has lost the reason to fulfil the said contract, he may withdraw from the contract,..., unless otherwise stated in this law." (Art. 6:140 § (1) Polgári Törvénykönyv 2013)

²⁷ Chapter XXII, XIII, XXIII, Polgári Törvénykönyv 2013

²⁸ "In case of contracts engaged off-business-perimeters and engaged between absentees the consumer has the right to withdraw from the contract without any specific reason within the time limit defined in the introduction"(Art. 20 § (1) 1st Phrase, Government Decree 45/2014)

²⁹ Art. 23 § (1), Government Decree 45/2014

³⁰ Art. 20 § (1) 2nd Phrase, Government Decree 45/2014

that as the customer has asked the vendor to start delivering the purchased service, the vendor has the right to reduce the refunded purchase price on a pro-rata basis.³¹

1.2 Enforcement and redress

In case of a problem with a consumer good, consumers should address their claim to the seller (i.e. seller liability)³² or at an entity specified on the obligatory guarantee ticket that comes with every consumer product³³. The seller might have a department to deal with consultation and claims, but these services are not an obligation for the seller in the case of consumer goods³⁴. Large size businesses must have a customer service referent, who monitors the way customer complaints are handled within the company.³⁵ The way consumer complaints must be handled is extensively legislated in Ministerial Decree 19/2014 and 45/2014 and the Chapter VI of the 1997 Yearly Consumer Protection Law. This legislation does not result in any extension of rights as it mainly treats formal and administrative complaints handling issues, such as the details to documents in case of complaints different type of complaints (name, address, details of the complaint, etc. with differences for complaints by phone, mail, in person, etc.)

Conciliation bodies

This system is the instrument available to consumers and users to resolve claims that arise with respect to goods and services (not necessarily limited to consumer goods). The system of conciliation is governed by law and represents the official national instance for out-of-court dispute settlements between consumers and sellers or producers.³⁶ The conciliation is free of charge for any consumer, however a conciliation case can only be opened if the customer can prove that he has already addressed the case with the seller or producer.

The cases handled by the bodies are³⁷:

- product quality and product safety,
- application of product liability rules,
- quality of service,
- disputes concerning the conclusion of the contract between the parties and the fulfilment of those contracts.

The Conciliation system is made of up of independent bodies entitled to intervene in this process. The Conciliation bodies function on two levels. On the first level the Conciliation body will try to mediate between the parties of the dispute to reach an amicable result satisfying consumer rights. If such a result cannot be obtained, the Conciliation body's panel will treat the case and will impose a judgement to settle the case on a second level.

The decisions by the Conciliation system are binding only if both parties of the dispute agree to participate in the mediation process. The seller or producer may also declare that the Conciliation body's decision will not be accepted as binding. In this case the judgement of the body is a simple recommendation. If however both parties accept the process as binding, the decisions have the effect of judgments. After this process if still not satisfied, consumers and users can opt for a court settlement filing claims within the ordinary legal system.

³¹ Art. 26 § (1), Government Decree 45/2014

³² Art. 4. § (1), Ministry of National Economy'sl Decree 19/2014

³³ Art. 5 § (1), Governmental Decree 151/2003

³⁴ Obligatory Consumer Attention Services are found in the case of electricity, gas, water, telecommunications, financial services and public services including postal services etc., Art. 17/B. § 48 (1), Consumer Protection Law, http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=30909.256011

³⁵ Art. 17/D § (1), Consumer Protection Law

³⁶ See Chapter VI., Consumer Protection Law for the legal framework of the Conciliation system

³⁷ Art. 18 § (1), Consumer Protection Law

Arbitration

In 1994, as a result of democratic changes to Hungary's political system, the new Act LXXI of 1994 on Arbitration (Hungarian Arbitration Act) was introduced³⁸. The Hungarian Arbitration Act is supplemented by Section 376 of Act CXX of 2001 on the Capital Market (Capital Markets Act), which came into force on 1 January 2002, providing the framework for the establishment of the Permanent Court of Arbitration of the Money and Capital Markets. The jurisdiction of the Arbitration Court encompasses the settlement of all disputes where:

- At least one of the parties deals professionally with economic activity, and the legal dispute is in connection with this activity,
- The parties may freely dispose of the subject-matter of the proceedings, and
- The jurisdiction of the arbitration court was stipulated in an arbitration agreement or is required by an international convention.

There are no special provisions regarding arbitral proceedings involving consumers³⁹. Nevertheless, it should be noted that an arbitration clause sought to be applied by the business party of a consumer contract, where the contract has not been individually negotiated but is incorporated into the general terms and conditions, may be null and void, if such clause is unfair. This is the case if it is contrary to the requirements of good faith, or if it causes significant and unjustifiable imbalance of the parties' rights and obligations arising under the contract. Nullity may only be referred to for the benefit of the consumer.

Court settlements

The consumer and user also have the right to claim through a court.

The principle Law involved under this process is the Civil Code. Other than administrative requirements (such as written documentation of the claim etc.) there are no particular requirements for consumers who wish to use the jurisdiction. In some cases legal representation may be an obligation.

The law allows users to file for claims with courts free of charge (i.e. legal costs are covered by the state) if persons do not have the necessary financial resources to pursue their claim in court.

Cases

There have been a number of court cases dealing with conflicts with regard to guarantees for consumer rights in Hungary. Two cases are summarized in the next box, with their respective interpretation of the law.

Box 1: Court case on the right of withdrawal due to repair charges and repair delays, 2004⁴⁰

According to the judgement BH2004.182 of the Hungarian Highest Court of Justice, a customer has the right to withdraw from a contract without any detriment - if the bought good needs repair which would cost a considerable amount and if the repair cannot be assured within a short timeframe. This is especially the case if the default of the bought good cannot be repaired, if the seller or producer is unwilling to bear the charges

³⁸ Available in English at: <http://www.mkik.hu/en/magyar-kereskedelmi-es-iparkamara/act-lxxi-of-1994-on-arbitration-2074>

³⁹ Zsolt Okányi and Péter Bibók, (Undated), Arbitration in Hungary, available at https://eguides.cmslegal.com/pdf/arbitration_volume_I/CMS%20GtA_Vol%20I_HUNGARY.pdf

⁴⁰ Source: fogyasztok.hu website and ofe.hu website

of the repair or if the repair of the default is not possible within a short timeframe without a reduction of the value of the concerned good and without infringement of the customer's interests.

Box 2: Court case on the right of withdrawal of a customer due to long repair delays⁴¹

According to the judgement BH2010.214 of the Hungarian Highest Court of Justice, a customer may exercise his right to withdraw from a contract if the seller is unable to repair a product default which limits the functionality of the product over a prolonged period (multiple months), even though the seller is continuing to assure all customer guarantee rights for the remaining guarantee period. The limited functionality of the product over a prolonged period makes the product unusable for its proper purpose and the customer can claim that the product is unable to serve its purpose. The withdrawal from the contract is therefore legal, even though the product has been bought a considerable timespan ago (multiple months).

⁴¹ Source: *fogyasztok.hu* website and *ofe.hu* website

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