



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

Country fiche: Lithuania

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TABLE OF CONTENT

1. Lithuania	6
1.1 Regulatory background	6
1.1.1 Transposition of Directive 1999/44/EC	6
1.1.2 Table of the transposition	7
1.1.3 Additional rights	11
1.2 Enforcement and redress	11
2. Bibliography	13

TABLES

Table 1: Transposition of Directive 1999/44/EC in the Lithuanian legislation	8
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BOXES

Box 1: Case 1. No 2A-134-372/08	12
Box 2: Case 2. No 2A-649-567/2009	12
Box 3: Case 4. No 2A-350-42/2009	12

1. Lithuania

1.1 Regulatory background

Consumer rights protection, created to protect the rights as well as the social and economic interests of consumers in their purchases of goods and services, is a quite new area in the Lithuanian legislation. Before adopting the Law on Consumer Protection on 10th November 1994, the aforementioned interests were regulated by the Civil Code¹ of the Republic of Lithuania (hereinafter – the Civil Code) and other legal acts (e.g. Rules on Retail Trade, approved by the 11 June 2001 Resolution No. 697 of the Government of the Republic of Lithuania; The 1 June 1999 Law No. VIII-1206 of the Republic of Lithuania on Product Safety; 18 July 2000 Law No. VIII-1871 of the Republic of Lithuania on Advertising). Since the Republic of Lithuania became member of the EU (effective from 1 February 1998) the legislation of the Republic of Lithuania required harmonization with the Community acquis². Therefore, a new version of the Law on Consumer Protection³ (hereinafter – Law on Consumer Protection), enacted on 27 April 2004, implemented various EU Directives, including Directive 99/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees⁴ (hereinafter – Directive).

In Lithuania, consumer goods and associated guarantees are regulated primarily by articles 6.335, 6.338, 6.353, etc., of the Civil Code and the Law on Consumer Protection. As is detailed in the following section, all the basic principles regulating the legal and commercial guarantees are transposed in the Lithuanian legislative system.

1.1.1 Transposition of Directive 1999/44/EC

The Directive is considered as fully transposed into Lithuanian law by the Law on Consumer Protection in 2004 and the Civil Code. Nonetheless, in the area of consumer rights, the scope of the Law on Consumer Protection is broader than the aspects covered by Directive 1999/44/EC because, apart from the Directive, which is the subject of this paper, six other EU regulations⁵ are also transposed.

Scope and definitions

All definitions contained in Article 1 of the Directive are transposed to the Lithuanian legislation. In addition, some of them are even expanded. For instance, 'consumer goods' (the Law on Consumer Protection, Art. 2 (11)) definition covers electricity and heating energy. Also, Lithuanian legislation slightly expands the definition of the producer by integrating additional characteristics (for example recognising that "...part of the supply chain can make an impact on the quality and safety of the good" (the Law on Consumer Protection, Art. 2 (3))).

The greatest difference from the definition provided in the Directive is regarding guarantees. The definition of 'commercial guarantees' in Lithuanian law (the Civil Code, Art 6.228.(14)) is extended by including the condition that the consumer has a right to

¹ Civil Code of The Republic of Lithuania (Valstybes zinios, 2000, No. VIII-1864). Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494571. Accessed on 4th of May, 2015.

² Mechanism for collective evaluation of the application by applicant countries of the European Union acquis. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1430829323163&uri=URISERV:I33057>. Accessed on 4th of May, 2015.

³ Law on Consumer Protection (Valstybes zinios, 2007, No. 12-488). Available at: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=464257. Accessed on 4th of May, 2015.

⁴ Directive 1999/44/EC of the European Parliament and of the Council of May 1999 on certain aspects of the sale of consumer goods and associated guarantees) // Official Journal L 171, 1999, p.12-16

⁵ Directive 98/27/EC ; Directive 2002/65/EC; Directive 2007/64/EC ; Directive 2007/64/EC ; Directive 2008/122/EC; Directive 2011/83/EU ; and Regulation (EC) No 2006/2004.

the protection of a commercial guarantee even if the guarantee was set up in violation of the legal requirements for commercial guarantees (i.e. the protection offered is not invalidated).

Conformity with the contract

The second article of the Directive is directly transposed with few exceptions. Firstly, there is no information about paragraph 4 (i.e. seller statements) of the Article 2 of Directive 1999/44/EC related to the guarantee transmission. Simultaneously, paragraph 1 Directive 1999/44/EC regarding the conformity requirement is extended in the Law on Consumer Protection (Art. 14 (1)) mentioning that “the quality and safety of consumer goods and services are regulated by the Civil Code, the Law on Products Safety, the Law on Food and other law”. Thus, Lithuanian legislation obliges the seller to comply not only with the contract but also explicitly with the quality and safety requirements set down in other laws.

Remedies

The remedies are extensively legislated in the Lithuanian Civil Code and the legislation retains the hierarchy between remedies. Once the consumer discovers the defect, this has to be informed to the seller within a reasonable time frame; following the claim the consumer has a right to receive either repair or replacement (the Civil Code, Art 6.362.1-2) within 14 days. If both repair and replacement are impossible or unreasonable, the consumer may demand a price reduction or the termination of the contract (the Civil Code, Art 6.363.8) unless the defect is insignificant. However, it should be considered that the Lithuanian Civil Code gives no hints on how to calculate a price reduction for a returned product.

In all cases the consumer shall provide proof of purchase that the item has been acquired from the seller (the Civil Code, Art. 6.362.3). Regarding proof of the defect, the reversal burden of proof concept is in place in Lithuania, meaning that within the first 6 months the seller is automatically liable, while after 6 months the consumer must prove the seller was liable (i.e. that the defect was there at the time of purchase) (the Civil Code, Art 6.363.11).

1.1.2 Table of the transposition

Table 1 presents how each article of the Directive has been transferred into the Lithuanian legislation. Nonetheless, in regard with certain articles, there are some extensions/variations. Each of them is commented on below.

Table 1: Transposition of Directive 1999/44/EC in the Lithuanian legislation				
Areas	Art.	Content	Legislation	Comment*
Scope and definitions	1.1	Purpose	LCP: Art. 1.	<i>Extended:</i> objectives and nature of the law
	1.2.a	Def. Consumer goods	LCP: Art. 2.11/ CC: Art. 6.228.3	<i>Extended:</i> electricity is in scope of the definition
	1.2.b	Def. Consumer	LCP: Art. 2.15/ CC: Art. 6.228.1	<i>Direct transposition</i> - Meaning any natural person acting for purposes not related to his trade, business or profession
	1.2.c	Def. Seller	LCP: Art. 2.5/ CC: Art. 6.228.2	<i>Direct transposition</i> - Seller being any natural or legal person who sells consumer goods
	1.2.d	Def. Producer	LCP: Art. 2.1	<i>Extended:</i> additional characteristics of the Producer.
	1.2.e	Def. Guarantee	CC: Art. 6.228.14	<i>Extended:</i> the Consumer has a right to commercial guarantee even if the guarantee does not comply with the requirements defined in this article.
	1.2.f	Def. Repair		
	1.3	Exclusion second hand	-	Not transposed
	1.4	Contracts of sale types	CC: Art. 6.228.1	<i>Direct transposition</i> - Contracts for the supply of consumer goods shall be deemed contracts of sale
Conformity with the contract	2.1	Conformity requirement	LCP: Art. 14.1/ CC: Art. 6.363.2	<i>Extended:</i> the Consumer goods should be in the conformity not only with the contract, but also with additional regulations.
	2.2	Good conformity	CC: Art. 6.333.4, Art. 6.363.3	<i>Direct transposition</i> - Stating that goods will be in conformity with the contract if they comply with a set of conditions (e.g. compliant with the description given by the seller; fit for purpose; quality and performance similar to goods of the same type)
	2.3	Lack of conformity	CC: Art. 6.228	<i>Direct transposition</i> - Disregarding lack of conformity if the consumer was aware of the fault, or if the lack of conformity had its origin in materials supplied by the consumer
	2.4	Seller statements	-	<i>Not-transposed.</i>
	2.5	Installation	LCP: Art. 14.3	<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	CC: Art. 6.363.1	<i>Direct transposition</i> - Establishes that the seller is liable for any lack of conformity which exists at the time the good is delivered

	3.2	Remedies	CC: Art. 6.363.4	<i>Direct transposition</i> - Stating that the consumer has the right to have non-conforming goods brought into conformity free of charge, or to receive an appropriate discount in price, or to contract rescission
	3.3	Conditions	CC: Art. 6.363.8	<i>Direct transposition</i> - Repair or replacement offered first and free of charge, unless implying disproportionate costs for the seller. Repair or replacement to be completed within a reasonable time taking into account the value of the good; the significance of the lack of conformity, or whether the remedy can be completed without inconvenience to the consumer
	3.4	Free of charge	CC: Art. 6.363.7	<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	CC: Art. 6.363.7	<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	CC: Art. 6.364.7	<i>Extended: the Consumer can have the contract rescinded.</i>
Right of redress	4	Final seller liability	CC: Art. 6.363.2	<i>Direct transposition</i> - The seller is entitled to pursue remedies against the previous sellers, intermediaries or producer in the contractual chain if the lack of conformity originated there
Time limits	5.1	Time period	CC: Art. 6.338.2	Two years
	5.2	Defect confirmation	CC: Art. 6.327.5	Within a reasonable time
	5.3	Reversed burden	LCP: Art. 14.2	Six months
Guarantees	6.1	Legally binding	LCP: Art. 16.1	<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	LCP: Art. 16.2	<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	LCP: Art. 16.3	<i>Direct transposition</i> - On request by the consumer, the guarantee shall be made available in writing or another accessible durable medium
	6.4	Language of guarantees	-	Not transposed
	6.5	Respect 6.2-4	LCP: Art. 16.4	<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	Right restrictions	-	Not transposed
	7.1	Reduced period (2nd hand)	-	Not transposed

	7.2	Measures of protection	-	Not transposed
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		
	18	Suspension 2-year period		

* 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

Together with the transposition of the Article 3 ('Rights of the consumer') of the Directive to the Civil Code (Art 6.363), the Law on Consumer Protection (Article 3), offers an additional protection regarding Lithuanian consumers rights:

Consumers shall have the right to:

- freely purchase and use goods and services;
- purchase goods and services that meet recognised quality and safety standards;
- request relief for the infringement of consumer rights, including compensation for losses;
- obtain information on goods and services and on procedures for protection or restoration of consumer rights;
- form consumer associations;
- obtain assistance of State and municipal institutions in cases of breach of consumer rights;
- education in the sphere of consumer protection.

In addition, the protection of Lithuanian consumer rights has increased after the transposition of Directive 2011/83/EU of the European Parliament and of the Council on consumer rights⁶ (hereinafter – the Directive on Consumer Rights). The Directive on Consumer Rights has entered into force in the Lithuanian legislation system on 13th of June 2014. All articles⁷ of the Directive on Consumer Rights were transposed through the Law on Consumer Rights Protection and Civil Code.

1.2 Enforcement and redress

In case of a defective or non-conforming good, a consumer firstly should contact the seller (Law on Consumer Protection, Article 20)⁸. In case of disagreement on the quality of the product, the seller must apply to the State Non-Food Products Inspectorate under the Ministry of Economy on the quality of product evaluation. The seller must immediately report the decision to the consumer. If the seller fails to comply with the above requirements, the consumer himself can apply to the State Non-Food Products Inspectorate for the product quality assessment (the Law on Consumer Protection, Article 21).

In addition, the Article 30 of the Law on Consumer Protection states that public interests of consumers may only be protected by three types of subjects:

- Firstly, by the State Consumer Rights Protection Authority.
- Secondly, by certain consumer associations meeting the following conditions: they are registered in the Register of Legal Entities, their purpose of activities (indicated in their founding documents) is representation and protection of consumer rights and lawful interests, there are at least 20 members and the associations are independent of business interests and other interests which are not related to the protection of consumer rights (the Law on Consumer Protection, Article 31). An association, upon filing a claim or a petition

⁶ 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 Text with EEA relevance. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0083>. Accessed on 4th of May, 2015.

⁷ The table of compliance of the Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights and national legislation of the Republic of Lithuania.

⁸ Law on Consumer Protection (Valstybes zinios, 2007, No. 12-488). Available at: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=464257. Accessed on 4th of May, 2015.

- (complaint) for the protection of public interests of consumers, must present to the court the evidence that it corresponds to the conditions referred to above.
- Thirdly, other state and municipal institutions and legal entities, but only in cases laid down by law. Furthermore, it should be noted that consumer associations have a right to apply to the State Consumer Rights Protection Authority concerning infringements of the Law on prohibition of unfair business-to-consumer commercial practices. The Law on Consumer Protection states that the plaintiff has an obligation to apply to the seller or service provider before bringing the claim before the court.

Cases

More complex cases in terms of quality of goods are the subject of the State Consumer Rights Protection Service under the Ministry of Justice or the Court. There have been a number of court cases dealing with conflicts regarding guarantees for consumer goods in Lithuania. The boxes below summarize several courts cases and decisions.

Box 1: Case 1. No 2A-134-372/08⁹

A consumer bought granite slabs for the countertops. However, one of the slabs had slightly different colour thus the consumer requested compensation. Simultaneously, the seller stated that granite slabs are in conformity with the agreement and the qualitative requirement for this type of product. The court approved the appeal of the consumer referring that the consumer could have expected to have the same colour of all slabs. This case demonstrates that goods might be considered as of good quality, however, they should also comply with the contract.

Box 2: Case 2. No 2A-649-567/2009¹⁰

A consumer purchased a computer which he considered to be defective. In order to have it fully repaired the consumer had to come back to the seller on a number of times. Therefore, the consumer claimed for repayment of the travel related expenses. The court has rejected the appeal of the consumer referring that there was not enough proof. This case demonstrates that additional expenses which are not included in the contract should be proved, for example by fuel-receipts.

Box 3: Case 4. No 2A-350-42/2009¹¹

The court rescinded a contract under the request of the consumer because of lack of quality of the purchased computer. The seller appealed against this decision referring that the lack of conformity with the contract was minor. The court has rejected the appeal of the seller referring that even a minor unconformity with the contract is the subject of the law. This case demonstrates that the consumer may have a right to have a contract rescinded in any case of lack of conformity.

⁹ Pakruojis District Court 01/12/2008 decision in the civil case V. D. vs JSC „Meresta“, No 2A-134-372/08

¹⁰ Vilnius District Court 25/06/2009 decision in the civil case J. K. vs JSC „Microworld Technologies“, No 2A-649-567/2009. Available at: <http://eteismai.lt/byla/93666636034365/2A-649-567/2009>. Accessed on 4th of May, 2015.

¹¹ Kaunas District Court 23/03/2009 decision in the civil case R. Č. vs JSC „BMS Megapolis“, No 2A-350-42/2009. Available at: <http://eteismai.lt/byla/174399649787218/2A-350-42/2009>. Accessed on 4th of May, 2015.

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