

Unofficial English translation

Croatia

Notification Art. 33 CRD

National provisions going beyond Art. 5(1) to (3) and Art. 7(1) of Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees

Civil Obligations Act (NN Nos 35/5, 41/08 and 125/11).

Article 400

'(3) It shall be presumed that a defect arising within six months following the transfer of risk existed at the time of transfer of risk unless the seller provides evidence to the contrary or this arises from the nature of the goods or the nature of the defect.'

Article 403

'(4) As regards consumer contracts, the consumer, as a customer, shall not be bound to inspect goods or have them inspected, but shall notify the seller of any visible defects within a period of two months from the day when he discovered the defect, and no later than two years after the risk was transferred to the consumer.'

Article 404

'(1) Where, after the customer receives goods, it becomes apparent that the goods have a defect that could not have been discovered by usual inspection when delivery was taken, the customer shall, in order not to lose the right, notify the seller thereof within a period of two months from the day when he discovered the defect, or without delay in the case of a commercial contract.'

'(2) The seller shall not be liable for defects arising more than two years after the goods were delivered, or six months in the case of a commercial contract.'

'(3) Where second-hand goods are sold the contracting parties may agree a time period of one year, or a shorter time period in respect of commercial contracts.'

'(4) The time limits referred to in paragraphs (2) and (3) of this Article may be extended by contract.'

Article 405

'When, due to a defect, goods have been repaired, other goods have been delivered, parts have been replaced, etc., the time periods referred to in the two foregoing articles shall run as from the moment the repaired goods have been delivered, parts have been replaced, etc.'

Article 407

'A customer shall not lose the right to invoke a defect even in the event that he failed to perform his obligation of inspecting goods without delay or notifying the seller of the

existence of a defect within a set period of time, or that such defect appeared after more than two years after the goods were delivered, or six months in the case of a commercial contract, if the seller was aware or could not have been unaware of such defect.'

Article 408

'(2) A contract term which limits or excludes liability for defects of goods shall be null and void if the seller was aware of the defect and failed to notify the customer thereof, if the seller imposed such a term by making use of his monopolistic position, or in the case of a consumer contract.'

Article 422

'(1) The rights of a customer who has notified a seller of the existence of a defect in due time shall cease to apply after two years, counting from the day the notification was sent to the seller, unless the seller deceived the customer into failing to exercise his rights.'

Other provisions of Directive 1999/44/EC not subject to notification according to Article 33 of the CRD:

'Rights of the customer

Article 410

(1) A customer who notified the seller of a defect properly and in due time may choose:

- 1) to require the seller to rectify the defect, or
- 2) to require the seller to provide him with alternative goods with no defects, or
- 3) to require a decrease in the price, or
- 4) to have the contract rescinded.

(2) In each of the foregoing cases, the customer shall also be entitled to the repair of damage in accordance with the general rules on liability for damage, including the damage caused by such defect to his other property.

(3) Where a defect is negligible, the customer may not have the contract rescinded; however, he shall be entitled to the other rights related to liability for material defects, including the right to have damage repaired.

(4) The costs of removing the defect and supplying other goods with no defects shall be borne by the seller.

Non-performance of a contract within a reasonable period of time

Article 411

If a customer does not receive the requested performance of the contract within a reasonable period, he shall retain the right to have the contract rescinded or to decrease the price.

Cases in which a customer may have a contract rescinded

Article 412

(1) A customer may have a contract rescinded only after having allowed the seller an appropriate additional period of time to perform the contract.

(2) A customer may have a contract rescinded even without allowing for an additional period if the seller, after having been notified of the defects, informs the customer of his intention not

to perform the contract or if the circumstances of the particular case render it obvious that the seller will not be able to perform the contract even within the additional period, as well as in the case where the customer due to delay by the seller cannot achieve the purpose for which he entered into the contract.

(3) Where the repair of a defect or the sale of alternative goods with no defects would present considerable disadvantages for a customer, the customer shall have the right to have the contract rescinded or require that the price be decreased in proportion to the defect.

Rescission of a contract by operation of law
Article 413

(1) If the seller fails to perform the contract within the additional time period, the contract shall be rescinded by operation of law, but the customer may maintain it if he intimates to the seller without delay that the contract is to remain in force.

(2) The same shall apply in the case of defective performance of an obligation whose performance within a specified period constitutes an important provision of the contract.'