

LEGAL GUARANTEE OF TWO YEARS FOR CONSUMER GOODS IN FRANCE

With the decree 2005-137 and the ordinance 2005-136 from 16 and 17 February 2005 France has finally transposed into national law the European directive 99/44/EC on “certain aspects of the sale of consumer goods and associated guarantees”.

They have found entrance in the “Code de la consommation” (French code on consumer protection) in the newly created articles L 211-1 to 211-18 according to which the seller should be held liable for any lack of conformity of the product as soon as the product is handed over to the consumer (given to him personally or delivered).

When is the conformity given?

For a product to be conform at least one of the following conditions has to be fulfilled:
the product fits the purpose for which goods of the same type are normally used
the product corresponds to the characteristics laid down in a mutual agreement between seller and buyer.

The seller is also liable for defects caused during the packaging or because of assembling and installation instructions provided they were at his charge.

Who has the burden of proof?

Any defect that emerges within six months after the delivery of the product is presumed to have existed in the moment of the purchase or the delivery. The consumer is not obliged to prove the defect. The professional can still prove the contrary.

Limitation of action

Within a delay of two years after the day of the delivery the consumer has redress to his rights arising out of the guarantee of conformity of the product.

Rights of the consumer

In general the buyer can decide if he wishes a replacement or a repair of the defective product. The seller may, however, impose one of these two options if:
the fulfilment of the consumer’s choice is impossible,
the costs for the option chosen by the consumer is disproportionate to the value of the product.

A reimbursement is possible when:

repair or replacement are impossible,
repair or replacement present an unreasonable inconvenience for the buyer,
the product is not replaced or repaired within one month after the client has stated his claim.
The consumer may then ask for a complete reimbursement or keep the product and demand a price reduction.

In any case the consumer has not to bear any costs and may even demand additional compensation when he has suffered damage.

Commercial guarantee

In the case that the seller wants to offer a commercial guarantee in addition to the legal guarantee he has to submit a written document to the consumer stating in all details the

content of the guarantee and pointing out that it does not deprive the consumer of his legal guarantee.

The guarantee for conformity of the product completes the right to redress in case of latent defects which continues to exist but can now be redressed not “within a short delay” but within the period of two years from the discovery of the defect.

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