

Ref.: BEUC-X-2018-105/MGO/CSC/rs

23 November 2018

Re.: Proposal for a Directive on the Sales of Goods and Associated Legal Guarantees –Preparation for a General Approach – COREPER 28th November.

Dear Permanent Representative,

I am writing on behalf of BEUC, the European Consumer Organisation, in view of the Council's discussion on the amended proposal for a Directive on certain aspects concerning contracts for the sales of goods (COM(2017)637 final).

With this letter we would like to stress that the availability of key legal guarantee rights is one of the most important factors for consumers when deciding to buy a product. For this reason, only a high level of protection will meet the consumer's expectations.

We acknowledge the efforts by the Bulgarian and Austrian Presidency to safeguard national legal guarantee periods and to protect consumers in case they buy goods with digital elements.

Nevertheless, whatever the final position of the Council will be, it must ensure that Member States do not have to lower the current level of protection provided under national laws. We call on you and on all Member States representatives to avoid a situation whereby a European law would reduce well-established and appreciated national consumers rights.

I refer in particular to the reversal of the **burden of proof-period**. Currently, 75m consumers in Portugal and France can trust their national law, which foresees a two-year period during which sellers must demonstrate that a defect did not exist from the start. If that period were to be set at a significantly lower level (as stipulated in the draft text in Article 8b, namely of only 1 year) it would preclude national rights. This will send a wrong signal to the affected European citizens who do not expect and will not understand that important, well-established rights are removed or diminished through a new EU law.

The same holds true for the system of **remedies** if something goes wrong. Millions of consumers in Member States such as Portugal, Greece, Slovenia, and Latvia are entitled to expect the EU legislator to protect their rights. However, we understand that in the pending draft text (Article 9) only a restricted hierarchy of remedies would be at the disposal of the consumer, so that more flexible national systems would have to reduce their protection standard.

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Such negative changes will be difficult to explain to European citizens in the affected countries. The concrete loss of people's rights is not justified compared to the theoretical benefit of a fully harmonised law.

Thank you very much for taking these concerns into account when deciding on this essential piece of consumer law next week. Please do not hesitate to contact us if you would require any further information.

Yours sincerely,

Monique Goyens
Director General