

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)

CHAPTER I

SUBJECT MATTER, DEFINITIONS AND SCOPE

Article 1

Subject matter

The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by approximating certain aspects of the laws, regulations and administrative provisions of the Member States concerning contracts concluded between consumers and traders.

Article 2

Definitions

For the purpose of this Directive, the following definitions shall apply:

- (1) ‘consumer’ means any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his trade, business, craft or profession;
- (2) ‘trader’ means any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession in relation to contracts covered by this Directive;
- (3) ‘goods’ means any tangible movable items, with the exception of items sold by way of execution or otherwise by authority of law; water, gas and electricity shall be considered as goods within the meaning of this Directive where they are put up for sale in a limited volume or a set quantity;
- (4) ‘goods made to the consumer’s specifications’ means non-prefabricated goods made on the basis of an individual choice of or decision by the consumer;
- (5) ‘sales contract’ means any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;
- (6) ‘service contract’ means any contract other than a sales contract under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price thereof;

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- (7) ‘distance contract’ means any contract concluded between the trader and the consumer under an organised distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded;
- (8) ‘off-premises contract’ means any contract between the trader and the consumer:
- (a) concluded in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader;
 - (b) for which an offer was made by the consumer in the same circumstances as referred to in point (a);
 - (c) concluded on the business premises of the trader or through any means of distance communication immediately after the consumer was personally and individually addressed in a place which is not the business premises of the trader in the simultaneous physical presence of the trader and the consumer; or
 - (d) concluded during an excursion organised by the trader with the aim or effect of promoting and selling goods or services to the consumer;
- (9) ‘business premises’ means:
- (a) any immovable retail premises where the trader carries out his activity on a permanent basis; or
 - (b) any movable retail premises where the trader carries out his activity on a usual basis;
- (10) ‘durable medium’ means any instrument which enables the consumer or the trader to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- (11) ‘digital content’ means data which are produced and supplied in digital form;
- (12) ‘financial service’ means any service of a banking, credit, insurance, personal pension, investment or payment nature;
- (13) ‘public auction’ means a method of sale where goods or services are offered by the trader to consumers, who attend or are given the possibility to attend the auction in person, through a transparent, competitive bidding procedure run by an auctioneer and where the successful bidder is bound to purchase the goods or services;
- (14) ‘commercial guarantee’ means any undertaking by the trader or a producer (the guarantor) to the consumer, in addition to his legal obligation relating to the guarantee of conformity, to reimburse the price paid or to replace, repair or service goods in any way if they do not meet the specifications or any other requirements not related to conformity set out in the guarantee statement or in the relevant advertising available at the time of, or before the conclusion of the contract;
- (15) ‘ancillary contract’ means a contract by which the consumer acquires goods or services related to a distance contract or an off-premises contract and where those goods are supplied or those services are provided by the trader or by a third party on the basis of an arrangement between that third party and the trader.

Article 3

Scope

1 This Directive shall apply, under the conditions and to the extent set out in its provisions, to any contract concluded between a trader and a consumer. It shall also apply to contracts for the supply of water, gas, electricity or district heating, including by public providers, to the extent that these commodities are provided on a contractual basis.

2 If any provision of this Directive conflicts with a provision of another Union act governing specific sectors, the provision of that other Union act shall prevail and shall apply to those specific sectors.

3 This Directive shall not apply to contracts:

- a for social services, including social housing, childcare and support of families and persons permanently or temporarily in need, including long-term care;
- b for healthcare as defined in point (a) of Article 3 of Directive 2011/24/EU, whether or not they are provided via healthcare facilities;
- c for gambling, which involves wagering a stake with pecuniary value in games of chance, including lotteries, casino games and betting transactions;
- d for financial services;
- e for the creation, acquisition or transfer of immovable property or of rights in immovable property;
- f for the construction of new buildings, the substantial conversion of existing buildings and for rental of accommodation for residential purposes;

[^{F1}g on packages as defined in point 2 of Article 3 of Directive (EU) 2015/2302 of the European Parliament and of the Council⁽¹⁾.

Article 6(7), Article 8(2) and (6) and Articles 19, 21 and 22 of this Directive shall apply *mutatis mutandis* to packages as defined in point 2 of Article 3 of Directive (EU) 2015/2302 in relation to travellers as defined in point 6 of Article 3 of that Directive;]

- h which fall within the scope of Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts⁽²⁾;
- i which, in accordance with the laws of Member States, are established by a public office-holder who has a statutory obligation to be independent and impartial and who must ensure, by providing comprehensive legal information, that the consumer only concludes the contract on the basis of careful legal consideration and with knowledge of its legal scope;
- j for the supply of foodstuffs, beverages or other goods intended for current consumption in the household, and which are physically supplied by a trader on frequent and regular rounds to the consumer's home, residence or workplace;
- k for passenger transport services, with the exception of Article 8(2) and Articles 19 and 22;
- l concluded by means of automatic vending machines or automated commercial premises;
- m concluded with telecommunications operators through public payphones for their use or concluded for the use of one single connection by telephone, Internet or fax established by a consumer.

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4 Member States may decide not to apply this Directive or not to maintain or introduce corresponding national provisions to off-premises contracts for which the payment to be made by the consumer does not exceed EUR 50. Member States may define a lower value in their national legislation.

5 This Directive shall not affect national general contract law such as the rules on the validity, formation or effect of a contract, in so far as general contract law aspects are not regulated in this Directive.

6 This Directive shall not prevent traders from offering consumers contractual arrangements which go beyond the protection provided for in this Directive.

Textual Amendments

- F1** Substituted by [Directive \(EU\) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation \(EC\) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC.](#)

Article 4

Level of harmonisation

Member States shall not maintain or introduce, in their national law, provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection, unless otherwise provided for in this Directive.

- (1) [^{F1}Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1).]
- (2) OJ L 33, 3.2.2009, p. 10.

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