THE NEW RULES OF PRODUCT WARRANTY

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A fundamental right of consumers in case of new products is the commercial guarantee (product warranty), on the basis of which, in case of lack of conformity of the product, the consumer has the right to demand from the obligor of the warranty to have the product repaired, replaced, or in a given case to reduce or refund its price.

Unfortunately, under the current rules, many consumers are faced with a rejection of their request to replace of the product, or the repair of the product takes unreasonably long, as a result of which the consumer protection authority receives many complaints in connection with warranty claims. In an attempt to remedy this problem and alleviate the dissatisfaction of consumers, the amendment of the provision concerning the mandatory warranty for consumer durables (Government Decree 151/2003. (IX. 22.), hereinafter: the Decree), was promulgated in issue 2020/140 of the Official Gazette (Magyar Közlöny).
The amendments will enter into effect on 1 January 2021, providing ample time for businesses to prepare, since they need to introduce many changes for the application of the new, rather strict rules.

The most important change, affecting both consumers and distributors, is that from 1 January 2021, the mandatory warranty period will change, and instead the currently uniform period of 1 year, it will depend on the purchase price of the product, as follows:

- between HUF 10,000 and 100,000: 1 year;
- between HUF 100,000 and 250,000: 2 years;
- above HUF 250,000: 3 years.

Of course, as before, it is possible to depart from this rule in the favour of consumers, and distributors may also undertake a longer warranty period, which they usually do for a surcharge. However, specifying a shorter warranty period than those above is null and void in case of contracts with consumers, which means that these lengths of time will apply in such cases.

The warranty period starts at the time when the product is received by the consumer, or in case the installation is done by the distributor or its agent, then on the day of the installation, except in case the consumer has the product installed more than six months after receiving it, in which case the starting date of the warranty period is the date of receipt. The business is required to make the warranty card available to the consumer together with the product, in such a form that ensures the clear legibility of the warranty card until the end of the warranty period.
An important change in connection with the above is the introduction of e-warranty cards. Under the new rules, from 1 January 2021, the warranty card can also be provided for the consumer electronically, not later than on the day following the receipt or installation of the product.
In this case, it is worth sending the e-warranty card to the consumers directly by e-mail, since in case it is made available in the form of a download link, then the e-warranty card must remain accessible for the entire duration of the warranty period (that is, in a given case, for 3 years).

It is important, however, that the incorrect issuance of the warranty card or the failure to make it available to the consumer does not affect the validity of the warranty. In case the warranty card is not made available to the consumer, the conclusion of the contract must be considered as completed in case the consumer presents the accounting voucher (the invoice or receipt issued on the basis of the VAT Act) evidencing the payment of the purchase price. In this case, the warranty rights can be enforced with the voucher evidencing the payment of the purchase price.
A favourable change from the point of view of consumers – and one that will make everyday life easier – is that the seller cannot require the buyer the keep the original packaging to enforce a warranty claim. This means that the often impossible task of keeping the large-sized cardboard boxes for years will no longer be necessary.
Furthermore, from 1 January 2020, the claim for the repair of the product under warranty can be enforced not only at the service point indicated on the warranty card, but also at the registered seat, or any branch or business premises of the business. In other words, it will be task of the business to ensure that the product is then delivered from any of the above locations to the service point.

Pursuant to the amendment of the related ministerial decree, which will also enter into force from 2021, businesses must strive to ensure that the repair or the replacement of the product takes place within 15 days; otherwise, they must inform the consumer of the expected date of the repair or replacement. What will make this possible is that the service point – in contrast with the practice so far – will be required to inform the business if the product is repairable, and if so, what the expected completion date of the repair is.
Furthermore, when it turns out during the first repair attempt that the given consumer product cannot be repaired, it must be automatically replaced within 8 days. If replacement is not possible, the purchase price must be refunded within 8 days on the basis of the invoice or the receipt. Automatic replacement is also the rule if the product becomes defective again after three repairs, and the consumer rejects the proportion reduction of the price or the repair of the product. If the product cannot be replaced, the purchase price must be refunded within 8 days on the basis of the invoice or the receipt.

There is also a new provision under which, in case the repair is not completed within 30 days, the product must be replaced within 8 days after the elapse of the above period, or in case replacement is not possible, the purchase price must be refunded.

It should be mentioned here that it would not be reasonable to enforce these rules for all consumer durables, and therefore, the decree provides that the new provisions do not apply to the repair, replacement, or the refunding of the purchase price of e-bikes, e-scooters, quads, motorcycles, mopeds, cars, campers, caravans, trailer caravans or trailers, as well as the types of motorboats specified by the decree.

At the same time, the price-dependant warrant periods will also be applicable to these products.

As before, the provisions apply to a certain list of consumer durables over the value of HUF 10,000; however, following the development of technology, some new items have now been added to the list, which now also includes doors and windows, intercom systems, alarm systems, garage doors, shower cabins, bathtubs, solar collectors and drones.

It is important to emphasize that these new provisions will enter into effect on 1 January 2020, and will therefore only be applicable to contracts concluded between consumers and businesses after that date.
By way of summarizing, all of the amendments introduced are significant new provisions protecting consumers, who do not currently have much opportunity to enforce their claims on the basis of the currently existing provisions, and the new strict deadlines are also clearly favourable for consumers. The price-depended warranty periods are even very favourable in European comparison, since they mean that consumers will be able to purchase a more expensive mobile phone or computer with up to 3 years of warranty. The new regulations will clearly have some economic impacts as well, but it is too early to say whether they will lead to the disappearance of certain brands or perhaps a decrease in prices.

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