CERHA HEMPEL CEE NEWSLETTER
Hungary

New amendments to Hungarian Mandatory Guarantee Regulations to take effect on 1 January 2021

The rules applicable to mandatory guarantees in Hungary are set out in the Hungarian Civil Code (Act V of 2013) and Government Decree No. 151/2003. (IX.22.), which transposed into Hungarian law the provisions of EU Directive 1999/44 (25 May 1999) on certain aspects of the sale of consumer goods and associated guarantees. **The latter piece of legislation enabled Member States to adopt more stringent rules in favour of consumers.** Hungary used this option and adopted rules that are more stringent: since 2003, certain products may only be sold to consumers with a mandatory one-year guarantee. Now, even this mandatory one-year guarantee could be extended depending on the purchase price. The **latest amendments to the relevant legislation will take effect on 1 January 2021 and extend (i) the applicable guarantee period, (ii) consumer rights, and (iii) the obligatory content of the guarantee documentation, plus (iv) the list of products subject to statutory guarantee.** Depending on the purchase price of a consumer good, one or two or even three years of mandatory guarantee will have to be granted to consumers. The new rules will apply to all of the products listed in the extended Annex of the Government Decree.

As mentioned above, the current regulation in force sets out a one-year statutory guarantee period for all products if their price exceeds HUF 10,000 (approx. EUR 30/USD 32). **From 1 January 2021,** if the price of a product is more than HUF 10,000 but less than HUF 100,000 (approx. EUR 300/USD 320), the mandatory guarantee period will be one year. If the price is between HUF 100,000 and HUF 250,000 (approx. EUR 725/USD 813), the statutory guarantee period will be two years, and a **three-year statutory guarantee period will be applicable if the price of the product exceeds HUF 250,000.**

Businesses should keep in mind that the statutory guarantee is a more stringent liability than the warranty: If a defect in a product is discovered within the guarantee period [1, 2 or 3 years from the date of purchase], it is presumed that the defect already existed at the time of the sale. The retailer will only be released from the mandatory guarantee if it proves that the cause of the defect occurred after the sale. The burden of proof is with the retailer, and therefore consumers can easily enforce their rights regarding repair, replacement, price reduction or a refund of the purchase price if the retailer cannot prove that the defect was caused by the consumer. Therefore, the amendments will have long-term economic effects not only on retailers, but on manufacturers and importers as well.

Consequently, businesses are well advised to **review the quality of the products offered for sale**, as expensive goods with poor quality could land on retailers' desks due to guarantee claims for up to 3 years from the date of purchase. **Service capacities will have to be updated as well** because if it becomes apparent that a product cannot be repaired, **the retailer will have to replace it or refund the purchase price** – and whichever option is chosen, it will have to be done within 8 days. Moreover, the retailer will be obliged to replace the product within 8 days (unless the consumer has a different preference) or, if replacement is not possible, refund the purchase price within 8 days in cases where the product has already been repaired three times. Furthermore, changes to Decree No. 19/2014. (IV. 29.) issued by the Minister for the National

Economy (also effective from 1 January 2021) on repair services oblige retailers to notify consumers of the expected duration of replacement or repair if it exceeds 15 days.

Besides, certain **changes will apply to the documentation pertaining to mandatory guarantees:** guarantee certificates may be issued in an electronic form, but must be equipped with an e-signature. Furthermore, retailers will be allowed to issue the guarantee certificate as part of the invoice if all obligatory details of the guarantee certificate are included in the invoice itself. An electronic guarantee certificate can be directly sent to the consumer or can be made available for download via a link. In the latter case, the link will have to be functional until the end of the applicable guarantee period. In both cases, retailers will have to be able to prove that the guarantee certificate has been handed over to the purchaser. On the other hand, certain products are exempt from the amendments: the abovementioned additional remedy alternatives do not apply, for example, to electric bikes and scooters, motorcycles, cars, trailers and motorised watercraft.

Although the statutory guarantee rules apply to retailers, which have direct contractual relationships with consumers, other entities in the supply chain will also be affected: **(i) all manufacturers will be affected indirectly, and will need to update their mandatory guarantee-related product documentation (and voluntary guarantees, if any) to ensure compliance with the abovementioned Hungarian laws, (ii) additional resources will have to be allocated to repair and replacement of defective products for not only one but up to three years, (iii) B2B retailer supply agreements should be reviewed and amended accordingly, and (iv) repair services and retailers will have to adopt adequate internal processes to manage upcoming consumer claims properly.**

We highly recommend that all retailers and manufacturers active on the Hungarian market should pay immediate attention to the upcoming changes related to Hungarian mandatory guarantees. To avoid penalties in 2021, certain compliance work performed in advance is a must.

We are delighted to advise our Clients on all aspects of this matter.

Please do not hesitate to contact us.

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