



consumer protection - legal changes published in July 2023

Law No. 205/2023 approving Government Emergency Ordinance No. 140/2021 on certain aspects of contracts for the sale of goods ("Law No. 205/2023") was published in the Official Gazette, Part I No. 616 on 6 July 2023 and entered into force on 9 July 2023.

With the above-mentioned regulation, changes are made to the range of corrective measures in the event of a consumer's complaint of a non-conformity of the good. This calls for new protective measures for consumers in their dealings with traders.

Specifically, the new provisions establish that when consumers discover a lack of conformity shortly after delivery of the goods, not exceeding 30 calendar days, they will be entitled to a direct replacement. Thus, to be entitled to the replacement of the goods, the following conditions must be met:

1. There is a non-conformity of the good;
2. This non-conformity must be observed by the consumer as soon as possible after delivery of the goods;
3. Reporting of non-conformity must not exceed the maximum term of 30 calendar days as of delivery.

Interpreting in extenso the entire Article 11 of Law no. 205/2023, we note that in relation to the new amendments, the following assumptions exist:

- **The non-conformity is established within a maximum of 30 calendar days from the delivery of the goods**, in which case the consumer benefits from all 3 remedies, namely (i) bringing the goods into conformity (by repair or by replacement), (ii) proportional reduction of the price or (iii) termination of the contract and
- **Non-conformity is established 30 calendar days after delivery of the goods**, in which case the consumer benefits from: (i) bringing the goods into conformity (in this case this can only be done by repair), (ii) proportional reduction of the price or (iii) termination of the contract.

In both cases, according to Art. 11 para. (3) of GEO 140/2021, the seller may refuse to bring the goods into conformity if repair or replacement is impossible or would impose disproportionate costs, taking into account all the circumstances, including those set out in para. (2)(a) and (b).

However, we do not hesitate to point out the uncertainties that may arise in practice as a result of these newly imposed regulations, when consumers insist on replacing the goods after a long period of time after delivery.