

Digital Conference “Drei-Länder-Treffen 2021” hosted by DGRI

On 17 and 18 June 2021 the conference “Drei-Länder-Treffen 2021” hosted by the “Deutsche Gesellschaft für Recht und Informatik” (DGRI) took place online. Prof. Dr. Susanne Augenhofer, LL.M. (Yale) presented the Austrian implementation draft of the Sale of Goods Directive and the Digital Content Directive.

Professor Augenhofer outlined the critical provisions of the draft – the so-called “Gewährleistungsrichtlinien-Umsetzungsgesetz” (GRUG) – which was published only one day before the event, on 16 June 2021. Like numerous other Austrian laws, the core element of the draft, a statute called “Verbrauchergewährleistungsgesetz” (VGG), regulates B2C relationships only. The (undesirable) result of this implementation technique, so Professor Augenhofer, is a further fragmentation of Austrian consumer law.



The VGG applies both to the sale of goods and to the supply of digital content. The latter is also covered by the VGG when the consumer provides his or her personal data in return for the digital content or service. In addition to the contractually agreed (subjective) characteristics, the seller is also liable for the objective requirements of the goods or digital services under the new law. The VGG establishes a two-year warranty period which is then followed by a three-month limitation period. Unfortunately, the legislator did not consider the longevity of certain goods when determining the warranty periods. In the case of digital services that are to be provided over a certain period of time, the seller shall be liable for all lacks of conformity that emerge during this provision period. The reversal of the burden of proof in favor of the consumer will be one year under the new law. Concerning goods with digital elements and digital services, the VGG provides for update obligations (which are still unclear in detail). To the detriment of sellers, the legislator misses the opportunity to introduce a direct consumer claim against the manufacturer. Considering the above-mentioned critique, Professor Augenhofer concluded that the Austrian draft will further enhance the fragmentation of Austrian consumer law and fails to address issues of sustainability.

([Hans Strasser](#))