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Abstract:

The Member States should adopt and publish measures necessary to implement Directive 2019/771 on the sale of goods by 1 July 2020 and apply these from 1 January 2022. The Polish Government Legislation Centre published a draft act implementing both Directive 2019/770 and Directive 2019/771 in late December 2020. The proposal was widely criticized by the judiciary, consumer organizations and legal scholars. During a series of open seminars by the Jagiellonian University an academic proposal of an act implementing both directives was prepared.

First, the article focuses on the implementation of Directive 2019/771. It aims at presenting the main weaknesses of the ministerial project which render the eventual adoption of this draft act detrimental both for private law subjects (equally consumers and sellers) and for the Polish private law system. The key objection concerns the decision to implement the directive in a separate act (Act on consumer rights of 30 May 2014) rather than within the Civil Code. The apparent obstacles for the implementation of the directive within the Civil Code are challenged.

Second, the core ideas behind the academic draft are discussed, focusing on why and how Directive 2019/771 should be implemented within the Civil Code.