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Romania – Transposition of the Omnibus Directive

In May, the Romanian Government issued two normative acts that aim to transpose into national law Directive (EU) 2019/2161 as regards the better enforcement and modernisation of Union consumer protection rules (**Omnibus Directive**). Government Emergency Ordinance No. 58/2022 amending and supplementing the consumer legislation (**GEO 58/2022**) and Government Decision No. 686/2022 (**GD 686/2022**) entered into force on 28 May 2022 and updated the following normative acts:

- Law no 363/2007 on combating unfair business-to-consumer commercial practices and harmonising regulations with European consumer protection legislation (**Law 363/2007**).
- Law no 193/2000 on unfair terms in contracts concluded between professionals and consumers (**Law 193/2000**).
- Government Emergency Ordinance no 34/2014 regarding consumer rights in contracts concluded with professionals as well as for the amendment and completion of certain normative acts (**GEO 34/2014**).
- Government Decision No. 947/2000 on the method of indicating the prices of products offered for sale to consumers (**GD 947/2000**).

We present below the key amendments introduced by the new regulations.

Unfair commercial practices

Consumers impacted by unfair commercial practices will be entitled to remedies to eliminate all effects of such unfair commercial practices free of charge as follows:

- (i) Replacement, price reduction or termination of the contract and refund of the consideration for the product or service, as appropriate.
- (ii) Compensation for the harm suffered by the consumer.
- (iii) If defects are found within the first 30 days of purchase of the product or service, direct replacement will be ordered.

Consumer reviews

- Traders will provide consumers with access to all product reviews and indicate whether and how the traders ensure that the published reviews come from consumers who have actually used or purchased the product, such being considered essential information.

Double standard products

- Any activity of marketing of a good, as being identical to a good marketed in other Member States of the European Union, while that good has a significantly different composition or characteristics, unless such is justified by legitimate and objective factors evidenced with conclusive documents, will be regarded as a misleading action.

New misleading commercial practices

Annex No 1 of Law 363/2007 is supplemented with four new misleading commercial practices, consisting of:

- Providing search results in response to a consumer's online search query without clearly mentioning any paid advertisement or payment specifically for achieving a higher ranking of products within the search results.
- Reselling event tickets to consumers if the trader acquired them by using automated means to circumvent any limit imposed on the number of tickets that a person can buy or

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any other rules applicable to the purchase of tickets.

- Stating that reviews of a product are submitted by consumers who have actually used or purchased the product without taking reasonable and proportionate steps to check that they originate from such consumers.
- Submitting or commissioning another legal or natural person to submit false consumer reviews or endorsements, or misrepresenting consumer reviews or social endorsements, in order to promote products.

Announcement of price reductions

A new article, 4¹, is introduced to GD 947/2000. It provides that the following rules apply when announcing price reductions:

- Any announcement of a price reduction will indicate the prior price applied by the seller within the same sales area for a determined period of time, prior to the application of the price reduction. The prior price is defined as the lowest price charged by the seller in the same sales area during the last 30 days before the date of the application of the price reduction.
- For products which are liable to deteriorate or expire rapidly, the prior price will be considered the lowest price charged by the seller in the same sales area during the last 10 days before the date of application of the price reduction.
- In case of products which have been on the market for less than 30 days, the prior price represents the lowest price charged by the seller in that period before the date of the price reduction, whereas the seller will indicate in a clear, legible and easily identifiable

manner the period in which the prior price was applied.

- Moreover, if the price reduction is gradually increased, during the same price reduction campaign, the prior price is considered to be the price without reduction before the first application of the price reduction.

Increased sanctions

The new regulations tighten the sanctioning regime and introduce, in the field of consumer protection, the possibility of applying penalties calculated based on turnover. Thus, according to the new regulations, traders may be fined between 0.1% and 4% of the trader's annual turnover achieved in the financial year preceding the sanction, on Romanian territory.

Finally, the concept of commercial record is introduced. The National Authority for Consumer Protection will record the actions and sanctions applied to traders, resulting in the assessment of the information contained in the commercial record by the authority when determining the sanctions applied for infringements of consumer protection regulations.

For more information

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