

Law on the Repression of Unfair Competition

ANNEX II

MONITORUL OFICIAL AL ROMANIEI, Partea I-a, Nr. 24 din 30 ianuarie 1991

(The Official Gazette of Romania, Part I. No. 24 of January 30, 1991)

(UNOFFICIAL TRANSLATION)

PARLIAMENT OF ROMANIA

THE DEPUTIES' ASSEMBLY

THE SENATE

The Parliament of Romania adopts this Law.

Art. 1. - Traders shall pursue their activity in good faith and in compliance with fair practices.

Art. 2. - Any act or fact contrary to fair practices in the industrial or commercial activities shall constitute unfair competition for the purposes of this Law.

Art. 3. - Infringement of the obligation stipulated in [Art. 1](#) shall entail the civil, contravening or criminal liability under this Law.

Art. 4. - The following acts shall constitute contravention, unless they have been committed under such circumstances as to be considered offence according to criminal law:

a) infringement by natural persons of the interdictions stipulated in [Art. 36](#) of Law 15/1990 concerning reorganization of state-run enterprises as "régies autonomes" and trading companies;

b) offering services to a competitor or accepting such an offer, by a trader's exclusive employees;

c) divulgence of secret information on a trader's business to a competitor, by a trader's employees;

d) conclusion of contracts whereby a trader undertakes to deliver goods or perform services advantageously, provided that the client supplies further buyers with whom the trader would conclude similar contracts;

e) conclusion of contracts whereby the buyer would receive an award which exclusively depends upon a drawing of lots or hazard;

f) public communication or dissemination, by a trader, of allegations regarding his enterprise or its business, intended to mislead and put him in a favourable position to the detriment of his competitors;

g) communication or dissemination, by a trader, of false allegations regarding a competitor or his goods which are liable to prejudice the normal course of the competitor's business.

Confidential communications shall be deemed to constitute an act of unfair competition only when the communicator was aware of the untruthfulness of his allegations;

h) offering, promising or giving, gifts or other advantages, directly or indirectly, to a trader's employees or representatives, so that by unfair conduct one may get information about the trader's

industrial processes, may get know of, or use the trader's clients, or obtain any other advantages for oneself or for another person to the detriment of a competitor;

i) attracting a trader's clients, availing oneself of the relationships established with such clients within the duties previously performed for the trader in question;

j) dismissing a trader's employees in order to set up a competing company intended to attract the competitor's clients or hiring a trader's employees for the purpose of disorganizing that trader's business.

Contravention stipulated under [subsection a\)](#) shall be sanctioned by fines from Lei 5,000 to 20,000, those under [subsections b\) to e\)](#) by fines from Lei 10,000 to 40,000, and those under [subsection f\) to j\)](#) by fines from Lei 20,000 to 60,000.

The sanctions may be applied to legal persons as well.

Contravention shall be acknowledged, upon receipt of the injured party's notice, by employees specially authorized by the local chambers of commerce and industry or by the State Body for Trade Inspection. The agents acknowledging contravention shall impose fines at the same time when they acknowledge the contravention.

Contravention stipulated in [paragraph 1](#) shall be subject to the provisions of Law No. 32/1968 on setting down and sanctioning contravention.

Art. 5. - The following shall constitute unfair competition offence and are punishable by imprisonment from one month to two years or by fines from Lei 20,000 to 100,000:

a) making use of a firm, emblem or special designations or packaging likely to cause confusion with those legitimately employed by another trader;

b) manufacturing in any manner, importation, exportation, storage, selling or offering for sale goods bearing deceptive indications regarding patents of inventions, origin and characteristics of the goods, and regarding the producer's or the trader's names as well, for the purpose of misleading other traders and consumers.

Any mention liable to induce people to believe that the goods have been manufactured in a certain place, in a certain territory or in a certain country shall be deemed deceptive indications of source.

It shall not be deemed to constitute a deceptive indication of source on goods the denomination of a product that has become a generic name and only indicates its nature within the trading business, except where the denomination is accompanied by a mention which could induce people to believe it has that origin.

Art. 6. - The trader who has committed an act of unfair competition shall be obliged to discontinue committing the wrong or to remove it and, as the case may be, to pay damages for the prejudice caused.

Art. 7. - Legal actions arising in connection with unfair competition acts shall come under the competence of the local court of the area where the act has been committed or under whose jurisdiction the defendant's place of business comes; in the absence of a place of business the competence shall belong to the court under whose jurisdiction the defendant's domicile comes.

Art. 8. - In the cases provided for in [Art. 5](#) the penal action shall be commenced upon receipt of the injured party's complaint or upon notification by the local Chamber of Commerce and Industry or by another professional organization.

Art. 9. - Should any of the facts provided for in [Articles 4](#) or [5](#) cause patrimonial or moral damage, the injured party shall be entitled to request an appropriate civil action to be commenced with the competent court.

If the facts stipulated by this law have been committed by an employee in the course of exercising his duties the trader shall be liable jointly and severally with the employee for the damage caused, except for the cases where he is able to prove that, in accordance with practices, he was not in a position to prevent the perpetration of the fact.

The persons who caused the prejudice together shall be jointly and severally held responsible for the unfair competition acts or facts committed.

In order to take measures that cannot be delayed, the provisions of [Art. 581](#) and [582](#) in the code of civil procedure may be applied.

Art. 10. - Through the decision on the merits of a case, the court may order the goods put under distraint to be sold after the deceptive indications have been destroyed.

The amount resulted from the sale shall first cover the damages which have been fixed.

Art. 11. - Concurrently with the pronouncement of the conviction or the obligation to discontinue committing the wrong or to carry out remedies for damage, the court may order the decision to be published in the media at the wrongful party's expense.

Art. 12. - The right to start an action as provided for in [Art. 9](#) shall be lost by prescription within one year of the date on which the injured party learnt or should have learnt of the damage and the person who caused it, but no later than three years as of the date on which the fact was committed.

Art. 13. - The provisions of this Law shall be completed by the provisions of the code of civil procedure or, as the case may be, the code of criminal procedure.

Art. 14. - The provisions of this Law shall also apply to foreign natural or legal persons who commit acts of unfair competition in the territory of Romania.

Art. 15. - This Law shall come into force on the date of its publication in the Official Gazette of Romania.

This law was adopted by the Senate in the session of January 23 rd, 1991.

PRESIDENT OF THE SENATE

ALEXANDRU BIRLADEANU

This law was adopted by the Deputies' Assembly in the session of 28 January, 1991.

PRESIDENT OF THE DEPUTIES' ASSEMBLY

MARTIAN DAN

On the basis of [Art. 82 m\)](#) of the Decree-Law No. 92/1990 on the election of the Parliament and of the President of Romania,

We promulgate the Law on the Repression of Unfair Competition and order its publication in the official gazette of Romania.

PRESIDENT OF ROMANIA

ION ILIESCU

Bucharest, 29 January, 1991

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