

CMS | Romania adopts anti-speculative law to avert financial crisis



To ward off a probable post-pandemic financial crisis fueled by the conflict in Ukraine (which could lead to rapidly increasing prices and hyperinflation), the Romanian Government adopted Emergency Government Ordinance no. 84/2022 (EGO 84) on 20 June 2022.

EGO 84 regulates anti-speculative measures, and amends Law no. 11/1991 on unfair competition and Government Ordinance no 21/1992 on consumer protection, introducing relevant changes to the legal framework of unfair competition, with sanctions for breaches increased by up to RON 500,000 (EUR 100.000).

Regulating anti-speculative measures

□ Pursuant to EGO 84, to protect consumers and the proper functioning of the internal market, the Government has the authority in exceptional circumstances (e.g. war, curfew, state of emergency, state of alert) to nominate that certain products be subject to “speculative risk” and consumer protection measures□.

“Speculative risk” occurs in cases of unjustified price increases or where a major imbalance exists between supply and demand in the market.

For products or services identified as prone to “speculative risk”, EGO 84 lists the following as “speculative actions”:

- setting unreasonably high prices;□
- □ unreasonably limiting production or sales;□
- □ accumulating goods on the foreign or domestic market in order to create a deficit on the Romanian market for the purposes of subsequent resale at an unjustified high price.□

Certain criteria will be considered speculative actions, including:

- profit margins or mark-ups if there is a disproportionate increase in prices compared to costs;□
- □ sale prices as compared to prices charged over the preceding 12 months if the differences are not objectively justified;□
- artificial increases in production costs in order to mask an unjustified increase in the price of the final product or service;□
- □ unjustified limitation of production or sales, resulting in a significant reduction in supply in the internal market, if there are no economic or other justifying factors.□

The National Authority for Consumer Protection and the Romanian Competition Council are designated the competent authorities in the field.

Changes to the unfair competition rules

EGO 84 introduces new cases of unfair competition and higher fines for breaches.

The key amendments pertain to regulating unfair competition during times of crisis. Under EGO 84, unfair competition is defined as exploiting an undertaking's negotiating position/leverage vis-à-vis another undertaking, thus causing significant harm to the latter and/or affecting competition on the market. Such practices may be manifested through actions or inactions, such as:

- ◆ unjustified refusal to supply or purchase goods or services;
- ◆ non-observance of contractual clauses regarding payment, supply or acquisition;
- ◆ imposition of unreasonably onerous or discriminatory conditions; and
- ◆ unjustified modification or termination of commercial relations with the partner enterprise.□

This type of conduct will result in fines ranging from RON 50,000 (EUR 10,000) to RON 500,000 (EUR 100,000) for acts committed by undertakings, and between RON 5,500 (EUR 1,100) and RON 11,000 (EUR 2,200) for acts committed by individuals.

Changes to consumer protection rules

EGO 84 introduces new provisions on consumer protection during times of crisis. Failure to respect the newly implemented provisions will lead to fines between RON 50,000 (EUR 10,000) and RON 500,000 (EUR 100,000).

EGO 84 will enter into force fully on 20 July 2022.

For more information on EGO 84 and market protection rules in Romania, contact your CMS client partner or local CMS experts: **Cristina Popescu**.