



LATEST CHANGES IN THE LEGISLATION ON CONSUMER PROTECTION

1. Background

Law no. 12/1990 on the protection of the population against illicit production, trade or services ("Law 12/1990") was adopted during Romania's transition from a socialist economy to a market economy. Thus, the Romanian State was then still involved in the forming of retail prices, as the pattern of forming these prices in accordance with a market economy was not yet well established. However, 30 years have passed and Romania has developed to a full-sized market economy, where prices are formed based on demand and supply.

One of the main purposes of the initial draft of Law no. 220/2020 for the repeal of Law no. 12/1990 on the protection of the population against illicit production, trade or services and for the amendment and completion of Government Ordinance no. 21/1992 on consumer protection ("Law 220/2020") was to simplify bureaucratic procedures regarding commercial surcharge.

In addition, the initial draft of Law 220/2020 aimed to repeal a number of provisions of Law 12/1990, as they had been encompassed in more recent normative acts.

Furthermore, seen the fact that Law 12/1990 was considered to be rather outdated and even incompatible with a market economy, a lot of retailers have been under the impression that it had been tacitly repealed or they had little knowledge of its existence. This led to the competent authorities imposing fines for breaching legal provisions that should normally no longer have been in force in the modern market economy.

As a consequence of the above, the initial draft of Law 220/2020, if enacted, would have made Law 12/1990 close to irrelevant, as the updated version would have only regulated a number of two contraventions.

Therefore, both for legislative clarity, as well as for the simplification of relevant procedures for interested parties, the draft law suffered a complete modification by the Romanian Senate. Law 12/1990 was thus completely repealed with the two still relevant contraventions being encompassed in Government Ordinance no. 21/1992 on consumer protection (“**GO 21/1992**”).

2. Foreseen Changes

While Law 220/2020 does not, in itself provide for any substantive changes, it does enable a clearer and easier implementation of the provisions regarding customer protection. At the same time, the repeal of Law 12/1990 also takes steps to fully bring the consumer protection sanctions regime in line with a modern market economy.

One of the most significant changes is the repeal of the obligation of economic operators to submit a statement to the fiscal bodies before applying the commercial and commission additions. While this provision was indeed useful around the time Law 12/1990 was adopted, in the current economic climate of Romania it is superfluous.

Eight other provisions that were initially targeted by the initial draft of Law 220/2020 are already covered in GO 21/1992 or in Government Ordinance no. 99/2000 on the trade of market products and services (“**GO 99/2000**”). These provisions make reference, amongst others, to: (i) street vending of products in unauthorized places, (ii) the sale of some products conditioned by the purchase of other products, (iii) the trade of goods without specifying their expiration dates or (iv) the accumulation of goods on the internal market for the sole purpose of creating a deficit in the market and their subsequent resale or the elimination of competition.

The two remaining contraventions initially provided under Law 12/1990 are now covered by GO 21/1992 and refer to the prohibition of:

- the trade of products or provision of services that do not meet the conditions established by law;
- the trade of goods or products whose provenance cannot be proved in accordance with the law.

Compared to other sanctions provided under GO 21/1992, the sanctioning regime applicable to the above-mentioned contraventions is more lenient, fines between RON 2,000 (approximately EUR 410) and RON 20,000 (approximately EUR 4,100) being applied compared to fines ranging between RON 3,000 (EUR 615) and RON 30,000 (EUR 6,150) applied for other contraventions.

3. Conclusion

The adoption of Law 220/2020 will save economic operators time and expenses by eliminating outdated bureaucratic procedures, incompatible with a full market economy. Furthermore, its adoption offers a clearer and more transparent insight regarding the obligations of retailers, as to ensure that their activity is carried out in accordance with the rule of law.



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