

**Law No. 193 of 6 November 2000 on unfair terms in consumer contracts**  
**published in the Romanian Official Journal No. 560 of 10 November 2000**  
**(L193/2000)**

THE ROMANIAN PARLIAMENT

The Romanian Parliament has adopted this law.

CHAPTER I  
**General Provisions**

**Article 1.** – (1) Any contract concluded between sellers and consumers for the sale of goods or the provision of services shall have clear, unambiguous terms, for the understanding of which no special knowledge is required.

(2) If in doubt, the interpretation most favourable to the consumer should prevail.

(3) Sellers are forbidden to stipulate unfair terms in the contracts concluded with consumers.

**Article 2.** – (1) For the purposes of this Law, ‘consumer’ means any natural person or groups of natural persons, represented by associations, as well as any legal person who purchases and uses or consumes products obtained from sellers under a contract or who benefits from their services.

(2) For the purposes of this Law, ‘seller’ means any natural or legal person who runs an authorised business, subject to the law.

**Article 3.** – The scope of this law extends to the contracts concluded between sellers and consumers, including certificates of warranty, order forms, invoices, delivery slips or orders, bills and tickets which contain provisions on or references to pre-established general terms.

CHAPTER II  
**The Rights and Obligations of the Parties to the Contract**

**Article 4.** – (1) A contractual term which has not been directly negotiated with the consumer shall be regarded as unfair if, by itself or together with other contract provisions, it causes a significant imbalance between the rights and the obligations of the parties to the contract, which is detrimental to the consumer and contrary to the requirement of good faith.

(2) A contractual term shall always be regarded as not having been directly negotiated with the consumer if it was decided upon without giving the consumer any possibility to influence its nature, such as the standard contracts or the general selling terms applied by sellers on the market of the respective product or service.

(3) The fact that certain aspects of the contractual terms or only one of the terms has been directly negotiated with the consumer shall not exclude the application of the provisions of this Law to the rest of the contract if an overall assessment of the contract shows that the

contract was unilaterally pre-established by the seller. If a seller claims that a standard term was directly negotiated with the consumer, the burden of proof falls upon him.

(4) The list in the annex, which is an integral part of this law, sets forth, by way of example, the terms that are regarded as unfair.

**Article 5.** – (1) In the case of standard contracts, the seller shall send a copy of the contract to any person concerned, upon request.

(2) In the case of standard contracts, concluded between sellers who provide services that constitute a natural or legal monopoly and consumers, the opinion of the Office for Consumer Protection and the Competition Office shall first be sought so that the contract may have legal effects.

**Article 6.** – Unfair terms included in the contract and established either personally or through the competent authorities shall not bind the consumer and the contract shall be further performed, with the consumer's consent, provided it is capable of continuing in existence without the unfair terms.

**Article 7.** – Insofar as the contract can no more produce its effects after the removal of the terms considered unfair, the consumer shall be enabled to demand that the contract be terminated and may claim for damages, as the case may be.

### CHAPTER III

#### **The Competent Bodies Establishing Penalties and Settling Disputes**

**Article 8.** – Compliance with the provisions of this law shall be supervised by representatives of the Office for Consumer Protection, as well as by authorised experts of other bodies of public administration.

**Article 9.** – The control bodies shall intervene at the request of the damaged persons referred to in Article 2 (1) or *ex officio*.

**Article 10.** – The sellers shall make the original contracts concluded with the consumers available to the appropriate control bodies.

**Article 11.** – The appropriate control bodies shall draw up a report where the facts established during their control, as well as the law provisions infringed by the seller shall be laid down.

**Article 12.** – The report shall be referred, as the case may be, to the court of first instance within the jurisdiction of which lies the area where the infringement was committed or the area where the perpetrator of the infringement has his residence or business office, as the case may be.

**Article 13.** – (1) Where it finds that the contract contains unfair terms, the court shall impose the penalty according to Article 15 and shall order, at the risk of the seller's being liable for damages, the amendment of the contract terms, insofar as the contract remains in force, or the termination of the contract and the award of damages, as the case may be.

(2) Otherwise, the court shall annul the report drawn up.

**Article 14.** – The consumers who have suffered prejudice on account of contracts that fail to comply with the provisions of this Law shall be enabled to bring an action in court according to the provisions of the Civil Code and of the Code of Civil Procedure.

#### CHAPTER IV **Penalties**

**Article 15.** – (1), Insofar as the fact does not come within the scope of criminal law and is consequently not regarded as an offence, the infringement of the interdiction set out in Article 1 (3) is a contravention, being subject to penalties of ROL 2,000,000 to ROL 10,000,000.

(2) The provisions of this law shall be complemented by the provisions of Law No. 32/1968 on establishing penalties, except for Articles 25 to 27.

**Article 16.** – The standard contracts infringing the provisions in Article 5 (2) shall be declared null and void.

#### CHAPTER V **Final Provisions**

**Article 17.** – This Law shall come into force 30 days after its publication in the Romanian Official Journal, Part I. As of the same date any contrary provisions shall be repealed.

This Law was passed in the Chamber of Deputies in its session of 3 October 2000, with due observance of the provisions in Article 74 (2) of the Constitution of Romania.

for PRESIDENT OF THE CHAMBER OF DEPUTIES, VASILE LUPU

This Law was passed in the Senate in its session of 25 September 2000, with due observance of the provisions in Article 74 (2) of the Constitution of Romania.

for PRESIDENT OF THE SENATE, DORU IOAN TĂRĂCILĂ

Bucharest, 6 November 2000

#### ANNEX

##### LIST of terms regarded as unfair

Unfair terms shall be those contract provisions which:

- a) enable the seller to alter the terms of the contract unilaterally, without a valid reason specified in the contract and accepted by the consumer at date of signature of the contract;
- b) bind the consumer to terms which he had no real opportunity of becoming acquainted with before the conclusion of the contract;
- c) bind the consumer to fulfil his contract obligations even in cases where the seller does not perform his;

- d) enable the seller to automatically extend a contract of fixed duration where the consumer does not indicate otherwise, when the deadline fixed for the consumer to express this desire not to extend the contract is unreasonably early;
- e) enable the seller to alter unilaterally, without the consumer's agreement, the terms referring to the characteristic features of the products and services to be provided or the time of delivery of a product or service;
- f) enable the seller to establish unilaterally compliance of the supplied products and services with the contract provisions;
- g) give the seller exclusive right to interpret the contractual terms;
- h) limit or cancel the consumer's right to claim for compensation in case the seller fails to fulfil his own contractual obligations;
- i) bind the consumer to pay disproportionately high sums of money in case of his failure to comply with his contract obligations, commensurate with the damage caused to the seller;
- j) limit or deny the consumer's right to terminate the contract, in the following cases:
- the seller has unilaterally altered the terms referred to in letter (e);
  - the seller has failed to fulfil his contract obligations;
- k) exclude or limit the seller's liability in case of the consumer's injury or death as a result of an action or omission by the seller with regard to the utilisation of the supplied products and services;
- l) exclude the consumer's right to take legal action or exercise any other legal remedy, whilst imposing on him the settlement of disputes, especially by arbitration;
- m) allow in an unjustified way to impose restrictions on the acceptance of obvious evidence that the consumer is in possession of, or to demand evidence which, by law, is the subject-matter of a different part of the contract;
- n) enable the seller to transfer his contract obligations to a third party – middleman, agent, etc. -, without the consumer's consent, where this may serve to reduce the guarantees or other liabilities towards the consumer;
- o) forbid the consumer to offset a debt owed to the seller against any claim which the consumer may have against him;
- p) allow for the price of goods to be determined at the time of delivery or allow an increase in price upon delivery, as compared to the price level agreed upon when the contract was signed, insofar as the consumer is not enabled to cancel the contract when he considers the price too high, as compared to the one fixed initially;
- r) allow the seller to claim money from the consumer, in case the latter fails to perform or to complete the contract, without providing for compensation in an equivalent amount for the consumer, in case of failure to perform the contract by the seller;

s) enable the seller to cancel the contract unilaterally, where the consumer does not have the same right;

t) enable the seller to terminate the contract of indeterminate duration without prior notice, except for a valid reason, accepted by the consumer at the date of signature of the contract.