

**ORDINANCE No. 86 of 25 August 1998**  
**amending the Government's Ordinance no. 23 / 1995 on the introduction of the marking**  
**system for cigarettes, tobacco and alcoholic products**  
**(GO86/1998)**

ISSUED BY: THE ROMANIAN GOVERNMENT  
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By virtue of Article 107 (1) and (3) from the Romanian Constitution and of Article 1 point 4 d) of Law No.148/1998 on Government's competence to issue ordinances,

The Romanian Government has issued the following ordinance:

*Article 1*

Government's Ordinance No. 23/1995 on the introduction of the marking system for cigarettes, tobacco and alcoholic products, passed and modified through Law No. 132/1995, republished in the Romanian Official Journal, Part I, No. 374 of 23 December 1997, shall be amended as follows:

1. Article 4 shall read as follows:

*'Article 4*

The domestic manufacturer or the importer must apply the stamp, the ribbon or the label on the packing of each product, namely on the packet, box or bottle, so that opening the package should deteriorate the marking.

The importer shall dispatch the markers to the foreign manufacturer, so that they are actually applied on the contracted goods.

Irrespective of the country of origin, the marked imported products shall have labels also bearing Romanian inscriptions.

The inscription must be complete, accurate, precise and explicit. It must include the name of the product, the producer's brand, the possible foreseeable risks, as well as other characteristics, depending on each case.

The labeling of the domestic alcoholic products shall be carried out in accordance with the legal provisions in force.

The goods subject to marking – unmarked or with forged marking – which have become state property according to the law, shall bear special markers, produced in the unit authorized by the Ministry of Finance to print them. The Ministry of Finance shall designate the unit that is to apply these markers.

The special markers referred to in paragraph 6 shall only be applied on the products that meet the due quality requirements.

The goods that do not meet these requirements shall be destroyed, in keeping with the legal provisions.’

2. Article 5 shall read as follows:

*‘Article 5*

The responsibility of marking the goods for the purpose of trading devolves on the domestic manufacturers or importers, who own the licence certifying their right to mark.

The licences certifying the marking right are issued for the domestic manufacturers on the basis of the manufacturing licence issued by the Ministry of Food and Agriculture.

The licences certifying the marking right for importers also certify the right to carry out the import and are issued on the basis of the contracts signed directly with the foreign manufacturer or with his representative.

Licences certifying the marking right are not issued for domestic manufacturers or importers who are indebted to the state budget.

The Ministry of Finance issues the licences certifying the marking right, in accordance with the provisions established in the methodological norms issued for the application of this ordinance.

The licences certifying the marking right, both for domestic manufacturers and importers, are valid until the 31 of December of each year when they are issued.

For the products subject to marking, which have become state property according to the law, the responsibility of marking devolves on the unit authorised by the Ministry of Finance for applying these markers.

The products marked with deteriorated stamps, ribbons or labels, or marked otherwise than as specified in Article 3 and Article 4 (1) shall be considered unmarked.

Selling cigarettes by the item, from unsealed packets or loose, is forbidden.’

3. Article 8 (3) is modified and shall read as follows:

‘The specialised unit, authorised to print the markers, shall sell the stamps, ribbons or labels directly to the domestic manufacturers or to the importers.’

4. Article 10 shall read as follows:

*‘Article 10*

The specialised unit, authorised to print, nominally, for each economic operator, on the basis of the approved orders, shall issue the stamps, ribbons or labels. In the case of importers, the markers are issued under customs supervision.

Each order of stamps, ribbons or labels is approved by the authority issuing the licence certifying the marking right.

In the case of imported goods subject to marking, each order of stamps, ribbons or labels is approved by the authority issuing the licence certifying the marking right, provided that the importer proves that they have effected the payment to the state budget of a sum equivalent to the amount of the excise taxes, corresponding to the quantity of goods for which marking has been requested.

The stamps, ribbons or labels cannot be resold by the domestic manufacturer or by the importer to other economic operators.’

5. Article 11 shall read as follows:

*‘Article 11*

The domestic manufacturers and the importers must keep a close record of the purchase, use and return of stamps, ribbons and labels.

The economic operators specified in paragraph 1 must forward by the 15 of every month the seal utilisation statement to the authority issuing the licence certifying the marking right.’

6. Article 12 shall read as follows:

*‘Article 12*

With a view to importing cigarettes, tobacco and alcoholic products, the stamps, ribbons and labels, procured by the importers, are posted to the foreign manufacturer, who must apply them on the goods. The markers must be posted within maximum 15 days after the authorised unit has executed the printing order.

After the expiry of this deadline, the importers must return to the specialized unit, authorized to print, with a view to destroying them, the markers not used by failing to be sent to the external partners as a temporary export.

The markers must be sent to the foreign partners only as unaccompanied luggage, and a customs declaration of temporary export must be lodged at the customs office. The customs declaration shall be accompanied by the following documents:

- a) the international transport document, which should specify that the addressee is the manufacturer of the goods to be imported;
- b) a copy of the contract concluded by the Romanian importer and the foreign manufacturer or the latter’s representative;
- c) a copy of the licence certifying the marking right;
- d) the evidence of payment made to the state budget tantamount to the excise taxes corresponding to the quantity of goods that are to be imported, corresponding also to the

quantity of markers exported. This amount shall be calculated at the exchange rate for one ECU, valid for the week when the payment is made; when the import is actually carried out, the amount shall be adjusted corresponding to the exchange rate, established and communicated by the Romanian National Bank, valid for the week when the customs clearance procedures are effected.

Upon the import, along with the import customs declaration, a customs re-import declaration is lodged, for the markers applied, with a view to concluding the procedure entered for upon their temporary export.'

7. After Article 12 Article 12<sup>1</sup> shall be introduced, which shall read as follows:

*'Article 12<sup>1</sup>*

The following deeds represent contraventions, if, according to criminal law, they are not considered criminal offences:

- a) trading on the Romanian territory the products specified in Article 1, without being marked, unduly marked or with forged markers;
- b) economic operators possessing goods subject to marking, which are not marked or marked with forged markers;
- c) individuals purchasing goods subject to marking which are not marked;
- d) the domestic manufacturer or importer reselling to other economic operators the stamps, ribbons and labels, as well as purchasing them in these circumstances;
- e) the unit authorised to print selling the stamps, ribbons and labels to other individuals or to legal bodies other than those owning the licence certifying the marking right;
- f) using deteriorated stamps, ribbons and labels;
- g) selling cigarettes by the item, out of opened packs or without packs;
- h) failure to keep a close record of purchasing, utilizing and returning the stamps, ribbons and labels;
- i) failure to present, observing the legal deadline, the authority issuing the licence certifying the marking right with the statement regarding the utilization of the markers;
- j) failure of the domestic manufacturers to return the markers which have not been used before the expiry of the validity of the licence certifying the marking right;
- k) failure to repatriate, before the legal deadline, the markers temporarily exported.

The contravention referred to in paragraph 1 a) is sanctioned with a fine between 50,000,000 and 100,000,000 lei, the confiscation of the goods that are not marked or marked improperly and,

depending on the situation, with the annulling, by the issuing authority, of the licence certifying the marking right.

The contravention referred to in paragraph 1 b) is sanctioned with a fine between 15,000,000 and 30,000,000 lei, the confiscation of the goods that are not marked or marked improperly and, depending on the situation, with the annulling, by the issuing authority, of the licence certifying the marking right.

The contravention referred to paragraph 1 c) is sanctioned with a fine between 100,000 and 1,000,000 lei.

The contravention referred to in paragraph 1 d) is sanctioned with a fine between 10,000,000 and 50,000,000 lei, the confiscation of the goods already marked by the buyer, as well as with the annulling, by the issuing authority, of the licence certifying the marking right.

The contravention referred to in paragraph 1 e) is sanctioned with a fine between 1,000,000 and 10,000,000 lei and the withdrawal of the printing licence of the specialised unit.

The contravention referred to in paragraph 1 f) is sanctioned with a fine between 1,000,000 and 10,000,000 lei, the confiscation of the markers and of the goods that are marked improperly and, depending on the situation, with the annulling, by the issuing authority, of the licence certifying the marking right.

The contravention referred to in paragraph 1 g) is sanctioned with a fine between 100,000 to 1,000,000 lei.

The contravention referred to in paragraph 1 h) is sanctioned with a fine between 5,000,000 and 20,000,000 lei.

The contravention referred to in paragraph 1 i) is sanctioned with a fine between 5,000,000 and 20,000,000 lei.

The contravention referred to in paragraph 1 j) is sanctioned with a fine between 10,000,000 and 20,000,000 lei. Concomitantly, the domestic manufacturers will transfer to the state budget a sum tantamount to the value of the excise tax and the value-added tax due to the goods corresponding to the amount of markers not used.

The contravention referred to in paragraph 1 k) is sanctioned with a fine between 10,000,000 and 20,000,000 lei. Concomitantly, the domestic manufacturers shall transfer to the state budget a sum tantamount to the value of the excise tax and the value-added tax due to the goods corresponding to the amount of markers not repatriated.

The sanctions can also be applied to legal bodies.

The ascertaining of the contraventions and the enforcing of the fines specified in this Article are carried out by the specialised personnel in the Ministry of Finance and in its territorial units, authorised for this purpose.

The Government, at the proposal of the Ministry of Finance, may update the level of the fines specified in this Article, function of the evolution of the inflation rate.

In the event of the licence certifying the marking right being cancelled, the issuing authority may issue a new licence for the domestic manufacturer or importer, but only after a deadline of 30 days after the cancellation, meeting the conditions established through the methodological norms issued for the application of this ordinance.'

### *Article 2*

The economic operators in the commercial network, including restaurants, hotels, tourist units and other similar units, which, at the date when this ordinance comes into effect, possess stocks of alcoholic drinks not marked, shall make a quantitative and value inventory of these stocks by 15 September 1998, in the presence of a representative of the territorial fiscal authority.

The representative of the territorial fiscal authority must verify on the basis of supporting documents both the reality and the origin of the stock being recorded. The inventory lists shall be made out separately, depending on the origin of the goods, namely domestic or imported. These lists shall be forwarded to the public finance and state financial audit directorates in the county or in Bucharest, in order to be approved by the directors. The lists made out for imported whisky, gin, vodka, liquor, brandy shall also be forwarded for approval to the Customs General Directorate.

The economic operators specified in paragraph 1 who, according to the inventory lists, have stocks of alcoholic drinks above the quantitative limit of 1,000 bottles or above the value limit of 50,000,000 lei, may request ribbons from the territorial fiscal authorities to mark these products. In this case, specially printed ribbons shall be used, which will have the word 'stock' printed above the marking code.

The procedure of printing and releasing the special ribbons shall be established through the methodological norms issued for the implementation of this ordinance.

The provisions of Article 1 point 8 in this ordinance are also applicable to the economic agents referred to in paragraph 1.

### *Article 3*

Government Ordinance No. 23 / 1995 on establishing the marking system for cigarettes, tobacco and alcoholic products, passed and amended through Law No. 132/1995, republished, with the amendments and supplements introduced by this ordinance, shall be republished in the Romanian Official Journal, Part I, with a new numbering for the texts.

Within 30 days from the ordinance being republished in the Romanian Official Journal, the Methodological Norms issued by the Ministry of Finance for the application of Government Ordinance No. 23 / 1995 shall be duly modified and completed. The Methodological Norms, with the modifications and additions introduced, shall be republished in the Romanian Official Journal, Part I.

PRIME MINISTER

RADU VASILE

Countersigned by:  
Minister of Finance,  
Daniel Dăianu