

LAW ON TRADE

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I BASIC PROVISIONS

Scope

Article 1

This law regulates the conditions and manner of conducting and promoting trade in the single market of the Republic of Serbia, as well as the protection of the market, protection against unfair competition and supervision.

Trade is conducted under conditions and in the manner prescribed by this Law and other regulations that regulate the trade of goods and services, as well as by good business practices and business ethics.

Meaning of Certain Terms

Article 2

Certain terms in this Law have the following meanings:

- 1) **Selling** is a set of all primary and supporting business activities in connection with purchase and sale of goods and services;
- 2) **Trader** is a legal or natural person who fulfills requirements to conduct sale of goods, or services, as prescribed by this Law;
- 3) **Market** is institutionally regulated relationship between agents of supply and demand with the aim of trade in goods and services;
- 4) **Sales Facility** is a place that makes a unique physical, functional, technical and technological unit of a permanent or temporary construction character, of closed or open type (sales lot, sales box, etc.) equipped in the prescribed manner, intended or may be intended for conducting trade;

5) **Point of Sale** is a sales facility or other place outside the sales facility where conducting trade is provided and approved, in accordance with the law and other regulations;

6) **Consumer** is a natural person who purchases goods or services to meet the personal needs or the needs of the household;

7) **Competitor** is a trader that sells goods or services that are by their characteristics, purpose and price, interchangeable with the goods or services of another trader in the same market area;

8) **Manufacturer** is a legal person, sole trader, or a natural person that manufactures a product, or represents himself in this capacity by affixing to the product his business name, name or designation, trademark, or other distinctive mark, or manner;

9) **Control** is a set of activities or actions in the procedure of inspection supervision that are undertaken at merchant's premises, in the sales facility or elsewhere where trade is conducted;

10) **Market Surveillance** is a set of activities and measures conducted by state authorities and other holders of public powers, to ensure compliance of goods and services in trade with the requirements stipulated in this Law and special regulations;

11) **Trade Network** is a set of sales facilities in the territory of the Republic of Serbia.

II TRADE

1. Notion of Trade

Term

Article 3

Trade is a set of business activities involving the exchange of goods or services (hereinafter: goods/services) with the aim of gaining profit, as well as othersocio-economic objective.

2. Trade Principles

Free Trade Principle

Article 4

Trade is conducted freely on the market.

Restrictions on freedom of conducting trade are prohibited.

Exceptionally, restriction on the freedom of trade may be temporarily introduced in the manner and under conditions prescribed by law.

Principle of Equality and Prohibition of Discrimination

Article 5

Traders are equal and have the same legal status on the market.

Every form of discrimination in terms of requirements to conduct trade or breach of equality of traders in the market is prohibited.

Principle of a Single Market

Article 6

The market of the Republic of Serbia is single and whole.

Exceptionally, acts or actions in accordance with law, aimed at encouraging regional development of underdeveloped areas, for certain socially vulnerable categories of the population, for manufacturing and selling of goods/services that are of existential importance for the population, as well as for development of certain activities that are of public interest, or protection of certain goods of special importance, are allowed.

Principle of Honesty

Article 7

Traders shall act honestly in the market competition, in a way that is not aimed at harming other traders, or customers, as well as the public interest, and in accordance with business ethics and good business practice.

Principle of Stability and Supply

Article 8

Traders shall appropriately provide the conditions for keeping the market stable and supplied, especially in terms of goods/services of existential importance for the population.

Undertaking acts that provoke instability and disturbance of supply of the market is prohibited.

Principle of Proportionality

Article 9

State bodies and organizations that are authorized by law or other regulations to adopt acts or undertake actions to limit trade, as well as to engage in market surveillance, shall in respect of the scope, manner and duration of such limitations, or surveillance, proceed in proportion to reasons for limitation, or to the aim of market surveillance.

Principle of Cooperation

Article 10

All competent state bodies and holders of public authority shall mutually cooperate in the activities of market surveillance.

3. Trader

Trader Capacity

Article 11

Legal persons and sole traders that conduct trade have the capacity of a trader in terms of this Law.

Natural persons have also the capacity of trader in terms of this Law, unless this Law or special regulation stipulates otherwise, and especially the following natural persons:

- 1) Farmers, registered in accordance with the regulations governing agriculture, in terms of agricultural products that are subject to registration;
- 2) Persons that market the caught wild game, fish, mushrooms, wild flora and fauna, and other forest fruits, in accordance with special regulations on hunting, fish stock, veterinary, protection of nature and forests;
- 3) Natural persons who, as their occupation, perform the activity of professional service arranged by special regulations.
- 4) *(Deleted)*

III TYPES OF TRADE

1. Basic Division

According to Manner of Conduct

Article 12

Trade is conducted as wholesale or retail.

Wholesale

Article 13

Wholesale (resale, distribution) is a set of all business activities related to the sale of goods/services to persons who buy for further sale or usage in business purposes.

Retail

Article 14

Retail (consumer level sale) is sale of goods/services to consumers in order to fulfill their personal needs or needs of the household.

2. According to the Place of Trade

Trade in a Sales Facility

Article 15

Trade is regularly conducted in a sales facility, in different trade formats.

Trade formats are organizational-technical shapes of conducting trade that have a specific strategy of sale according to the buyers and competitors (for ex. supermarket, hypermarket, discount store, shopping mall, cash and carry center and so on).

The minister in charge of trade (hereinafter: the minister) regulates in detail the classification of trade formats.

Trade Outside of the Sales Facility

Article 16

Trade may also be conducted outside of the sales facility.

Retail may be conducted outside of the sales facility, especially in the following manner:

- 1) Remote retail;
- 2) Direct selling;
- 3) Other retail outside of the sales facility.

Remote Retail

Article 17

Remote retail is sale of goods/services conducted by the trader via communication media, to the consumer who is not directly present.

Remote retail is especially electronic trade, catalogue sale, as well as TV sale, trade via mail, printed letters, advertising materials with an order form, telephone, textual or multimedia messages in mobile telephony and automated machines.

Electronic trade is regulated by a special law.

Direct Selling

Article 18

Direct selling is a retail conducted by a trader by offering goods or services directly to the consumer who did not ask for an offer, but who is personally present at the place of offer, outside of the sales facility.

Direct selling is especially conducted in the form of:

- 1) "Door to door" activity of travelling salesperson;
- 2) Activity of organizing special promotional-sale gatherings (promotions, demonstrations, tastings and similar);
- 3) Trade from a bag or other portable equipment (so called peddlers, colporteurs and similar);
- 4) Trade by personally calling the consumer.

Direct selling is conducted in appropriate time and in manner that does not represent inappropriate harassment of the person towards whom the offer is directed.

Agricultural and food products shall not be sold by direct selling, except in special promotional-sales meetings in accordance with the requirements stipulated in special regulations.

Proxy and the Statement on Trade by Direct Selling

Article 19

Direct selling may be conducted personally, or through a proxy who does not have to meet the trader requirements stipulated under Article 11 of this Law.

Trader, as well as his proxy, shall possess a written statement on conducting trade by direct selling which especially contains the data on: business name of the trader, name and the personal number of the proxy, description of goods/services that are the subject of selling, data on the period, manner and area on which the trade will be conducted, as well as other necessary data.

Trader shall keep the statement referred to in paragraph 2 of this Article, signed and certified by his seal, posted in plain sight in the place of offer, or he shall let it be inspected by the person to whom the offer is directed in the moment of their first communication

Minister shall prescribe in detail the contents and the form of the statement referred to in paragraph 2 of this Article.

Other Retail outside of the Sales Facility

Article 20

Other retail outside of the sales facility is conducted as the trade:

- 1) In portable objects such as a kiosk, counter, booth or other means or equipment that is relatively tied to a specific place;
- 2) From the movable means or equipment (ambulance trade).

Competent body of local government determines, or approves by an act the point of sale whereon the trade under paragraph 1, item 1) is conducted, or the time and manner of trade under paragraph 1, item 2) of this Article.

If the trade under paragraph 1, item 2) of this Article is conducted by direct selling, the provisions of this Law that govern direct selling shall apply.

3. Special Market Institutions

Notion and Types

Article 21

Special market institutions are special, regulated market forms that organize gatherings between sellers and buyers of goods/services in order to sell them or promote them.

Special market institutions are as follows:

- 1) Commodity market;
- 2) Fair, other commercial exhibitions and traditional events;
- 3) Retail market and wholesale market;
- 4) Auction house and public bidding.

Special market institutions may participate neither as sellers nor as buyers in buying/selling organized by them.

Minister shall regulate in detail special trade requirements prescribed for special market institutions under paragraph 2 of this Article, in accordance with the provisions of Art. 23 to 28 of this Law.

Commodity Market

Article 22

Commodity market is a special market institution which organizes gatherings of buyers and sellers of standardized and interchangeable (fungible) goods.

Commodity market and market business are regulated by special law.

Fair

Article 23

Fair is a special market institution that organizes commercial exhibitions in fairs, as well as provision of related services, especially renting, designing and preparing exhibition booths in the exhibition space, storage of goods or renting warehouse space, organizing or carrying out the transport of goods for exhibitors, loading, unloading and packaging of goods, marketing, catering and other services related to the organization of commercial exhibitions in fairs.

Fair is a legal person, registered for carrying out the activity of organization of fair exhibitions, in accordance with the regulations of registration of commercial companies, and which carries out that activity in the specifically intended exhibition space (fairground).

Fair exhibition under paragraph 1 of this Article represents a display of goods at a precisely defined period of time, in the area of special purpose (exhibition space, fairground) by the designated exhibitor, in order to present and inform the interested buyers about the goods or services offered by that exhibitor.

Fair may also organize other cultural and sports shows and events.

Other Business Exhibitions and Traditional Events

Article 24

Other business exhibitions are exhibitions of goods/services of temporary or occasional character, outside the fair ground.

Traditional events are kermises, festivals and other events in which, within the scope of cultural, musical, sport and other social activities, certain goods are sold, in accordance with the customs related to those activities and that area (for example “days” of certain local products, assemblies, and similar).

Local government is in charge of regulating the organization of other business exhibitions and traditional events.

Retail Market

Article 25

Retail market is a special market institution that organizes retail by arranging, maintaining and renting specialized space for carrying out sale of goods on the retail market, as well as by providing related services.

Retail market sale involves the sale of goods, particularly on counters, in booths or special sales facilities, notably fresh agricultural and food products, homemade products and artisanal handicrafts, other consumer goods, as well as provision of related services.

Retail market is a legal person, registered for carrying out the activity of organization of retail market sale, in accordance with the regulation on registration of commercial companies.

Traders conduct selling on the retail market.

Retail market shall:

- 1) Clearly mark and separate the retail market space from the neighboring space, as well as to clearly display the days and time of retail market trade days;
- 2) Provide a scale whereon the check of the mass of the goods bought is carried out (control scale), clearly mark the place where it stands and provide an easy access to that scale;
- 3) Secure that the persons selling the goods in the retail market have the capacity of a trader;
- 4) Provide conditions for presence and work of authorized inspections throughout the period of retail market trade.

Location, equipment and maintenance of the retail market, the manner of renting the retail market space, opening hours and other questions of importance for the operation of the retail market are regulated by an act of the competent organ of the local government.

Wholesale Market

Article 26

Wholesale market is a special market institution which organizes wholesale by arranging, maintaining and renting specialized space for display and sale of fruit, vegetables and other agricultural and food products, other consumer goods, as well as by providing related services, particularly storage of goods, its finishing, processing, packing and other services related to handling and transport.

Wholesale market is a legal person, registered for organizing the activity of wholesale trade, in accordance with the regulations on registration of commercial companies.

Traders conduct selling on the wholesale market.

Wholesale is carried out in the wholesale market and as exception retail also, under conditions prescribed for the market.

Auction House

Article 27

The auction house is a special market institution which organizes sale of non-standardized goods, on behalf of others and through public auction.

The auction house is a commercial company, registered for carrying out the activity of organization of trade through public auction, in accordance with the regulations on registration of commercial companies.

Public Auction

Article 28

Trade through public auction is the sale of goods to a buyer who placed the highest bid to the seller, concerning his public invitation, in relation to other participants in the auction.

Trade through public auction may be conducted by any trader for his needs.

Rules on termination of the contract due to excessive damage inflicted to the seller or buyer shall not apply to the trade through public auction, except in case of a fraud.

Collusion in participation in the auction is prohibited.

Invitation for sale is public if it is carried out in a manner that a number of undetermined persons are in position to learn about it, and if it contains description of goods, initial price and other selling conditions.

It is considered that public auction is also the auction based on the seller's public invitation to place the highest bid possible, starting from the conditions described in the invitation (auction through collection of bids).

Rules on the public auction for the purpose of selling shall be applied mutatis mutandis to the public auction for the purpose of buying.

Minister prescribes in detail the manner of organization and rules of trade through public auction.

Article 29

(Deleted)

IV CONDITIONS FOR TRADING

1. General Trading Conditions

Conditions to Perform Trade

Article 30

Trade may be conducted by persons who have the capacity of a trader in accordance with this Law.

Conditions prescribed by this Law, as well as by special regulations (hygienic-sanitary, conditions of safety and health at work, environmental protection conditions, prescribed technical requirements, and so on), have to be fulfilled in order to carry out trade.

Persons under paragraph 1 of this Article shall hold in the sales facility, or while trading out of the sales facility, the evidence on the capacity of a trader, or fulfillment of conditions under paragraph 2 of this Article.

Minimal Technical Requirements

Article 31

Minimal technical requirements which must be fulfilled in order to conduct trade relate to:

- 1) Space, equipment and devices;
- 2) External characteristics of the space;
- 3) Manner of sale of goods/services;
- 4) Manner, equipment and devices for storage of goods;
- 5) Type of goods/services according to their properties, or characteristics.

Minimal technical requirements under paragraph 1 of this Article are regulated in more detail by the minister.

Article 32

(Deleted)

Place of Trade

Article 33

Trade is regularly conducted by offering goods/services in sales facilities.

Trade may be conducted outside the sales facilities too, in accordance with this Law and special regulations.

Properties of Goods

Article 34

Goods placed on the market must meet the requirements of health and general safety, technical requirements, packing conditions (packaging), labeling, environment protection, or other requirements stipulated by this Law and separate regulations.

Documents that Accompany Goods

Article 35

Trader shall possess the documents on production, or procurement, transport, storage and selling of goods (invoice, customs document, dispatch note, warehouse warrant and similar), as well as the documents confirming the fulfillment of conditions in regard to the properties of goods when this is stipulated by separate regulations.

Goods in transport shall be accompanied by the documents under paragraph 1 of this Article which are in direct connection to their transport.

Documents under paragraph 1 shall be in original or in copy, i.e. in written or electronic form.

Trader shall possess the documents on selling of services, as well as the documents which according to separate regulations accompany provision of certain services.

Price

Article 36

In terms of this Law, the price is the pecuniary amount for which the trader offers his goods/ service to the buyer.

Forming of prices on the market is free, except for the goods/services for which the law prescribes a different manner of forming prices.

In conditions of free forming of prices on the market, the Government uses the measures of economic policy to secure the stability of market and prices.

Ministry responsible for trade affairs (hereinafter: the ministry) conducts expert and other activities in regard to the prices, particularly:

- 1) Monitoring and analyzing the movement of prices of certain products and services of special importance for the standard of living of the population;
- 2) Analyzing the effect of the measures of economic policy on level of prices, the relation of prices and market supply, and proposing the measures of economic policy for maintaining the stability of market and prices;

3) Proposing the temporary measures in cases of disturbances in production, provision of services and selling of certain goods, or services.

If the law prescribes that the Government gives consent to the prices of certain goods/services, defines the criteria for their formation or forms them by its decree, the Government decides on those matters upon a proposal of the minister and the ministry responsible for the adequate domain.

Selling Records

Article 37

Trader shall keep the records on procurement, selling and selling price of the goods, as well as other records on delivery, or transport of goods.

Records described in paragraph 1 of this Article shall be available at the sales facility, or outside of the sales facility, in the place which shall be reported to the ministry.

For trade outside of the sales facility, the records are kept based on the overall selling conducted by that trader during trade outside of the sales facility in the market of the Republic of Serbia.

The records described in paragraph 1 of this Article are kept based on the documents under Article 35 of this Law, as well as other documents on selling of goods/services.

Minister shall prescribe in detail the contents, form, manner of keeping and place of keeping of the records under paragraph 1 of this Article.

Trade of Agricultural Products and Domestic Animals

Article 38

Trade in agricultural products and domestic animals, including breeding material, seeds and planting material, is conducted in buying centers, retail markets, wholesale markets, special economic exhibitions (agricultural and live stock shows, exhibitions and contests), and in other points of sale, in accordance with special regulations.

Buying center is a specialized wholesale store for agricultural products and domestic animals, in which organized buying of agricultural products and domestic animals from agricultural producers is conducted for further sale or carrying out of other business activities of buyers.

Minimal technical requirements for trade in buying centers are consensually prescribed in detail by the minister and the minister responsible for agriculture affairs

Marks of Special Properties

Article 39

Marks of special properties are marks of goods/services that distinguish them from other offers of the same kind, and which are based on the conducted independent testing.

Conditions of issuance of the mark of special properties, or the criteria for assessing the properties of goods/services and issuance of the mark are determined by a study drafted by the issuer of the mark.

The conditions under paragraph 2 of this Article have to be directly connected with the mark's name, its meaning and scope of goods/services that it may relate to, as well as adequate in regard to the criteria and manner of issuance, and verifiable through independent control of conducted examination.

Issuer of the special mark may not be the trader of the mark/service in question.

Marks of special properties do not correspond to the marks of recognized quality standards, conformity marks, and marks of geographic origin, as well as advertisement messages that emphasize the features of the goods/services without claim that they are based on conducted examinations.

Issuer of the special mark or the trader of the goods/service in question shall make available the study under paragraph 2 of this Article to each interested person, at the point of sale, via internet, or in some other manner which allows simple and free of charge access to that document.

2. Requirements to Conduct Retail

Declaration

Article 40

Goods in retail shall have a declaration containing the data on the name and kind of goods, content and quantity, as well as other data in accordance with special regulations and the nature of goods, and especially data on the producer, country of production or import, production date and expiration date, importer, quality (class), as well as warning about potential danger or hazard of the goods.

Declaration shall be posted on the goods, or on its packaging (including pendant, label, ring, wrapper), or directly next to the goods at the points of sale (e.g. bulk goods), in accordance with special properties of goods, noticeably displayed, or in the catalogue or other material attached to the offer of that goods which is available to consumers free of charge at the point of sale, prior to purchase.

All data under paragraph 1 shall be stated in clear, easy to see and readable manner, in Serbian language, in Cyrillic or Latin alphabet.

Declaration may also contain data in foreign languages, as well as a trade mark, GTIN identification (barcode) and other data that identifies in detail the goods and its properties.

European Union (EU) may be stated as the country of origin in terms of paragraph 1 of this Article if the goods are produced in or imported from a country that is an EU member.

Price Displaying

Article 41

Trader shall in a clear, doubtless, easily noticeable and readable manner display the selling price of goods/services offered in retail.

Selling price is the total, final price per unit of goods, or given amount of goods, or final price of the service, including all taxes and duties.

Trader shall, apart from the selling price, also indicate the unit price for the prepackaged products.

Unit price is the selling price, calculated by a kilogram, liter, meter, square meter, cubic meter, or other unit of measurement that is usually used in selling of certain goods/services.

Prepackaged products are products that were packed without the presence of the buyer, and whose volume may not be changed without the change of packaging or without opening of the packaging that leaves a visible damage.

If the goods is not packed and is measured in the presence of the consumer, the trader shall display only the unit price of the goods.

Unit price does not have to be separately displayed if it is identical to the selling price.

Provisions of paragraphs 1 to 4 of this Article shall not be applied to the sale through public auction, as well as to the sale of artworks and antiquities.

In the sales facility in which retail is conducted alongside wholesale, the trader shall clearly, in conspicuous manner display the selling (retail) price first, and then the wholesale price for all goods that are offered for selling.

During provision of services the trader shall display in a visible place only the unit price of services (e.g. per hour, kilometer, kilowatt-hour, and similar), in the manner described in paragraph 1 of this Article.

Price is displayed in the official currency used in payment transactions.

Exceptionally, the price may be displayed in foreign currency, with the indication of the exchange rate, in trade of tourist services that are in direct connection with abroad, vehicles, i.e. in accordance with the special regulations.

Minister shall prescribe in detail the manner and conditions of displaying the unit price for certain kinds of products.

Business Name

Article 42

Trader shall have a visibly displayed business name, or a name or a shortened business name in the point of sale.

Besides the data referred to in paragraph 1 of this Article, the trader shall also have displayed the basic information on that sales facility, especially the kind of trading format, in accordance with the prescribed classification.

Working Hours

Article 43

Retailer independently determines working hours, in accordance with this Law and a special regulation.

Retailer shall display, in a clear, doubtless and easily noticeable manner the working hours on the sales facility, or on other point of sale, and to adhere at each moment to the indicated working hours.

In case of extraordinary changes, cessation or other forms of temporary stoppage of conducting trade in a certain point of sale, the trader shall mark those changes in the manner described in paragraph 2 of this Article, before the stoppage of conducting trade.

Unit of local government prescribes the conditions for determination of working hours for trade conducted on its territory, for trade formats or shapes of trade out of the sales facility, by designating the total duration of working hours and their time schedule (daily, weekly, monthly and yearly); time of selling of certain types of goods whose usage may essentially influence public order (alcoholic beverages and beer, pyrotechnic devices and similar); obligation of keeping certain sales facilities open during holidays and other non-working days, or obligation of introduction of on call duty on those days, keeping in mind the type of goods that are sold in them, consumer needs and locations of those facilities.

Retailer is free to work overtime, unless otherwise stipulated by special regulations adopted in accordance with this Law.

Minister may specify in detail the criteria for determining general working hours for certain trading formats referred to in paragraph 4 of this Article.

Sales Incentives

Article 44

Trader may offer good/services with special sales incentives (sale, discount, clearance sale, promotion and similar), i.e. under more favorable conditions in comparison to regular or previous offer, particularly at a lowered price, special selling or delivery conditions, or other incentives, with a promised prize, participation in sweepstakes, attached gifts, or other incentives, in accordance with the law.

If the reason for the sales incentive is a possible decrease in usage value of goods (faulty goods, damaged goods, goods near the expiration date, and similar) that reason must be displayed clearly.

It is forbidden to offer sales incentives for the goods available in such a small quantity that it is obvious that the intention is to attract buyers in order to lead them to purchase other goods.

Sales incentive offer shall contain:

- 1) Determination of the kind of incentive (discount, attached gift, participation in sweepstakes, or some other incentive);
- 2) Precise and clear determination of goods/services that it pertains to;
- 3) Duration of the incentive with indicated date of beginning;
- 4) All possible special conditions related to exercising the right on an incentive;
- 5) Total expenses related to receipt or takeover of goods, including delivery, i.e. note on expenses charged to the consumer.

If the incentive relates to a discount or another kind of a price stimulus, beside the data under paragraph 3 of this Article, the offer shall also include a comparison, i.e. display of selling price in relation to the previous selling price.

Provisions of the law that regulates advertising shall apply mutatis mutandis to the conditions under paragraph 4 of this Article which relate to the comparison and display of prices.

Voucher, coupon or other supporting evidence issued for exercising the right to an incentive, shall contain, besides the data referred to in paragraph 3 of this Article, the data on the issuer, and on pecuniary value or amount of discount.

If, according to the nature of things, it is not possible to simultaneously provide all data under paragraph 3, items 2) to 5) of this Article in the offer, the trader shall provide that data free of charge in some other manner prior to purchase of goods from that offer.

Article 45

(Deleted)

V PROTECTION OF THE MARKET

Temporary Measures of Market Protection

Article 46

In order to prevent market disturbances or eliminate harmful consequences of market disturbances in terms of supply of goods and services of vital importance for life and health of people and work of economic entities, institutions and other organizations of public interest, the Government may order temporary measures that relate to certain kind of goods and services, certain trader or consumer category, to the need of implementing obligations undertaken under an international agreement, to the prices, as well as other conditions to conduct trade, except the measures related to the import and export of goods.

The Government shall order temporary measures under paragraph 1 of this Article, as well as the time period of their application, proportionally to the objective and expected results, which shall not be longer than six months from the day the temporary measure was ordered, and the longest until fulfillment of the obligations in case when implementation of obligations was undertaken by an international agreement.

VI TRADE ENHANCEMENT

Trade and Market Monitoring

Article 47

Ministry collects, manages, monitors and analyzes data on trade, market and retail network, especially its structure, in order to initiate and monitor the effects of economic policy measures in the field of market and trade and measures to enhance trade.

If the data referred to in paragraph 1 of this Article is available to other state bodies or holders of public powers, within records they manage or data they collect, especially through statistical surveys, those data shall be submitted upon request to the ministry.

Data collected for individual traders have the status of confidential information pursuant to the regulations governing the confidentiality of data.

In order to monitor trade, market and trade network, particularly in respect of goods and services referred to in Article 46 of this Law, the minister may order the submission of data on price, stocks, certain selling conditions or other relevant data.

Art. 48 and 49

(Deleted)

VII UNFAIR MARKET COMPETITION

Prohibition of Unfair Market Competition

Article 50

Unfair market competition (unfair competition), is an act of the trader directed against other trader, or competitor, that violates codes of business ethics and good business practices, and which causes or may cause damage to other trader (competitor), and in particular:

- 1) By presenting false and offensive statements about the other trader;
- 2) By presenting information about the other trader or his goods or services which are aimed at damaging the reputation and business of that trader;
- 3) By selling goods with labels, data or shape which creates justifiable confusion among consumers regarding the origin, quality and other characteristics of that goods;
- 4) By acquiring, using and disclosing trade secret without the consent of its holder, in order to aggravate his position on the market;
- 5) A promise of, or giving gifts of greater value, property or other benefits to other traders, in order to ensure that their giver secures an advantage over competitors.

Unfair market competition is prohibited.

Trader who suffers damage due to acts of unfair competition is entitled to compensation of that damage.

Court Protection

Article 50a

Complaint for unfair market competition (unfair competition) may contain the demand for determination of unfair market competition acts, the prohibition of its further exercise, the elimination of generated consequences, as well as compensation for damages.

Injured trader (competitor) is entitled to compensation for material damage as well as non-material damage due to violation of business reputation.

Court shall award fair pecuniary compensation if it finds that the circumstances of the case justify it, especially the character, duration and intensity of the violation, the effect of the violation to the operations of the plaintiff, the importance of the violated right and the aim of the compensation, as well as that the compensation does not favor aspirations incompatible with its nature and social purpose.

Complaint may be filed within the time period of six months of learning of the action and the perpetrator, and no later than the time period of three years from the completion of the action.

Court may order that the judgment upholding the claim is published in the "Official Herald of the Republic of Serbia", at the expense of the perpetrator.

Proceedings involving the complaint for unfair market competition shall be urgent.

Illegal Speculation

Article 51

Acts of the trader whose aim, or consequence is a considerable market disturbance, as well as prevention or hampering of implementation of the prescribed restriction of trade conduct referred to in Article 46 of this Law, and especially by hiding certain goods, limiting or suspending their sale, concluding simulated contracts on trade of certain goods which considerably change the offer or demand and price level on the market (illegal speculation) are prohibited.

Ban on Pyramid Trading

Article 52

It is forbidden to organize, conduct, advertise and incite pyramid trading.

Pyramid trading, in terms of this Law, represents trading which enables the buyers to purchase goods or services exclusively from persons included in the chain or network for resale of goods or services (members of the network), and especially when the seller conditions the purchase:

- 1) With the obligation of payment of the membership or other fee to the organizer of the network or to another member of the network;
- 2) With the obligation of purchase of the same or other goods in quantity or value for which the seller knows or should know that is unreasonably high;
- 3) With the obligation of finding other persons who shall resell the goods offered by the seller, if the right on a bonus for finding those persons is conditioned with prepayment or giving a special fee to the seller;
- 4) With renouncing the right to return the purchased goods/services under reasonable conditions, even when the purchaser is in a position to return them in the state in which he received them.

Condition under paragraph 2, item 4) of this Article shall exist even when the seller fails to inform the buyer on his right to return the goods at the latest in the moment of conclusion of the sale contract.

VIII MONITORING

Notion

Article 53

Monitoring the implementation of this Law and regulations adopted on the basis of this Law shall be conducted by the ministry in charge of trade, as well as other state organs in accordance with their responsibilities prescribed by particular regulations.

Monitoring Authority

Article 54

Monitoring the implementation of this Law and regulations adopted on the basis of this Law shall be conducted by:

- 1) The ministry, through market inspectors;
- 2) The unit of local government, through communal inspectors in the field of monitoring the trade outside of sales facility, except for remote trading, as well as in terms of display and adhering to opening hours and display of business name;
- 3) The other state organs in accordance with their scope of duty, pursuant to special regulations.

The tasks referred to in paragraph 1, item 2) of this Article, the units of local government perform as assigned tasks.

Chief Market Inspector manages the affairs of inspection monitoring performed by market inspectors, as well as coordinating activities, or exchange of information related to the carrying out of market monitoring.

Person who carries out the activities of market inspector must have a degree in high education at the second level of studies (graduate academic studies - master, specialist

academic studies, specialist professional studies), or in basic studies lasting at least four years, or to fulfill other conditions stipulated by law that governs the rights and duties of civil servants, by other regulation and act on internal organization and systematization of work positions in the ministry, as well as a passed special professional exam for a market inspector.

Chief Market Inspector, apart from the conditions referred to in paragraph 4 of this Article, shall meet the requirements for the work in office, in accordance with the law that governs the rights and duties of civil servants.

Communal inspector who carries out the monitoring tasks under paragraph 1, item 2) of this Article shall have a passed special professional exam for a market inspector.

Program and manner of taking the special professional exam for a market inspector shall be regulated by the minister.

Powers of a Market Inspector

Article 55

While conducting inspection monitoring, the market inspector is authorized to:

- 1) Inspect the business premises, or the space where trading is conducted;
- 2) Inspect the business books, records, documents, electronic documents, as well as other documentation related to trading;
- 3) Copy the business books, records, documents and electronic documents that are under inspection;
- 4) Identify the persons that conduct trading, by inspecting their identification document or other public document containing a photograph;
- 5) Obtain written and oral statements of persons that conduct trading, or of witnesses or other officials, as well as summon these persons to give statements on questions of importance for subject of inspection;
- 6) Take a photo or make a video of the space in which the inspection is conducted, or of goods and other objects being inspected;
- 7) Inspect the vehicle in case it is learned that such vehicle is used for carrying out trade;
- 8) Order, or take samples of goods and other objects;
- 9) Collect data of relevance for the subject of inspection;
- 10) Order the inventory of goods, or drafting of selling records;
- 11) Request a court search warrant for an apartment or an auxiliary space in case it is learned that illicit trading is conducted in that space;

12) Request assistance from the police or communal police, if it is adequately assessed that it is necessary according to the circumstances of a certain case;

13) Undertake other actions in accordance with the law.

Business premises under paragraph 1, item 1) of this Article shall include an apartment, auxiliary space or some other housing space registered as the seat or as a place in which business is conducted, in accordance with the regulations on registration of commercial companies, or other regulations defining particular activities.

Duties of the Market Inspector

Article 56

During inspection monitoring, the market inspector shall:

1) Carry out monitoring conscientiously and carefully, beware not to inflict unneeded damage to the subject of inspection;

2) At the competent authority, press charges or file a request to initiate misdemeanor proceedings, for crimes or misdemeanors prescribed by this Law;

3) Safeguard as a trade secret any information on operations of the subject of inspection that he learned during inspection monitoring;

4) Prior to the beginning of control, display his official identification document, as well as the official order to perform control;

5) Act professionally, in accordance with the code of conduct for civil servants, treating the persons involved in the inspection monitoring procedure with respect, as well as to observe the principle of proportion regarding the manner in which the procedure is led;

6) Take actions during monitoring and particularly during control at the subject of monitoring, in a manner which disturbs the business operations only to the extent necessary.

Breach of duties of the market inspector prescribed by this and a special law, shall represent a severe breach of duty in terms of disciplinary responsibility.

The minister shall prescribe the shape and contents of the identification document referred to in paragraph 1, item 4) of this Article.

Powers and Duties of the Communal Inspector

Article 57

While conducting activities under Article 54, paragraph 1, item 2) of this Law, the communal inspector shall have the same powers and duties as the market inspector, in accordance with this Law.

Measures in the Procedure of Inspection Monitoring

Article 58

During inspection monitoring, in case of established breach of the law, the market inspector shall be authorized to issue an order prescribing the following measures:

- 1) Elimination of the established irregularity;
- 2) Temporary ban on sale of certain goods, or providing certain service;
- 3) Temporary closure of a sales facility;
- 4) Temporary ban on conducting trade outside of a sales facility;
- 5) Confiscation of goods.

Expenses related to execution of the prescribed measures shall be borne by the person against who they were prescribed.

Elimination of Irregularities

Article 59

In case of established breach of law, the market inspector shall order the elimination of established irregularity, within an adequate time period for complying with the order, which may not be shorter than 24 hours, or longer than two months, unless this Law or a special law stipulates otherwise for the established irregularity or breach of law.

The measure of eliminating irregularity shall not exclude concurrent application of other measures prescribed by law.

Temporary Selling Ban

Article 60

Market inspector shall order the measure of temporary ban on sale of certain goods, or for provision of a certain service, if it is established the prescribed requirements for selling of that goods or service were not fulfilled.

The ban referred to in paragraph 1 of this Article contains an order to recall goods or a prohibition to sell them, which includes offering, displaying, delivering and making the goods available, or in other way preventing the sale of goods that are the subject of the ban.

The goods that are subject of the ban may be identified by kind, series, item, quantity or by other ways of identification of the goods not fulfilling the prescribed selling requirements.

The ban referred to in paragraph 1 of this Article contains the order to suspend provision of a certain service, or ban to initiate provision of a certain service that is the subject of the ban, including the ban on selling goods which accompanies the provision of the service.

Temporary Closure of a Sales Facility

Article 61

Market inspector shall order the measure of temporary closure of a sales facility:

- 1) If the sales facility does not fulfill the prescribed conditions for trade that is conducted in it;
- 2) If it does not fulfill the requirements referred to in Article 30, para. 1 and 2 of this Law;
- 3) If the order for eliminating irregularities under Article 59 of this Law is not observed in the given time period, regarding the sales facility in which those irregularities were noted;
- 4) If it acts contrary to the measure of ban on selling of certain goods under Article 60 of this Law, regarding the goods subject to the ban.

The measure from paragraph 1 of this Article may be ordered by the Chief Market Inspector, if there is no real possibility for conducting control in that facility, or if the acting market inspector is prevented or hindered in carrying out control.

Temporary closure of a sales facility shall be in force until the established irregularity is eliminated, or until the control in terms of paragraph 1, item 3) of this Article is carried out, and not later than up to six months.

The measure referred to in paragraph 1 this Article shall be carried out by closing of the sales facility, displaying the order which prescribes the measure, and by sealing the entry to that facility.

Temporary Ban on Conducting Trade outside of a Sales Facility

Article 62

Market inspector shall order a measure of temporary ban on conducting trade outside of a sales facility, if a breach of the prescribed conditions for conducting this trade was detected.

The ban under paragraph 1 of this Article may pertain to a certain kind of trade outside of a sales facility, a certain kind of goods, area, persons who conduct trade, or other conditions in relation to which the breach of this Law was detected.

The measure under paragraph 1 of this Article shall be ordered to last until the prescribed conditions are fulfilled, but not longer than six months.

Confiscation of Goods

Article 63

Market inspector shall confiscate the goods belonging to a person:

- 1) Who was found while conducting trade, and who has no capacity of a trader in terms of this Law;

2) Who conducts trade outside of a sales facility contrary to the measure of a temporary ban on conducting trade outside of the sales facility referred to in Article 62 of this Law.

The target of the measure under this Article are the goods found on the place and in the time of performed control, especially the goods put in sale, or prepared for putting in sale (stored, prepared and similar), which is in possession of the person referred to in paragraph 1 of this Article, regardless of data on ownership of those goods and other data from the documents that accompany goods.

A special receipt containing data on kind and quantity of confiscated goods shall be issued during confiscation of goods.

The goods found in the place of control, which is obviously abandoned, shall be removed under the capacity of confiscated goods, on which a special order shall be rendered.

Sale and Giveaway of Confiscated Goods

Article 64

Confiscated goods that meet the conditions for sale, upon finality of the confiscation order, shall be sold in public auction by the organ whose inspectors confiscated the goods.

Funds gathered by sale of goods, under paragraph 1 of this Article, upon deduction of expenses, shall be paid into the budget of the Republic of Serbia, if the goods were confiscated by market inspectors, or into the budget of local government, if the goods were confiscated by communal inspectors.

Government or the competent authority of local government, may give away for humanitarian purposes the goods under paragraph 1 of this Article, and the goods whose sale is not possible, to state organs, institutions of social care, education institutions, culture institutions, humanitarian organizations, and other users of humanitarian aid, as well as for other justified purposes.

Destroying Confiscated Goods

Article 65

If it is assessed that the sale of confiscated goods is not economically justifiable or if the sale of those goods is not realistically or legally possible for some other reasons, or if destroying the confiscated goods is prescribed by special regulations, they are to be destroyed in the manner and under conditions which provide efficiency and safety of conduct, upon finality of the confiscation order.

Government shall regulate in more detail the manner and conditions of sale, giveaway or destruction of confiscated goods.

Amendment and Termination of the Measure

Article 66

The order prescribing the measure under Article 58, paragraph 1, items 1) to 4) of this Law shall be cancelled if it is established that the reasons for issuing the order were eliminated.

If the reasons for issuing the order on prescribing the measure in terms of paragraph 1 of this Article were not eliminated completely, or if they are changed or partially eliminated, a new order shall be issued on the basis of a new factual situation.

The order prescribing the measure shall terminate by operation of law after expiry of the longest legal time period for a specific measure.

Initiation of the Inspection Monitoring Procedure

Article 67

Inspection monitoring in terms of this Law is conducted ex officio and is initiated by any first act of the market inspector in the procedure of inspection monitoring.

Reported breaches of law, or other information, grievances, submissions and requests filed in order to initiate the inspection monitoring, shall have the effect of an initiative for initiation of the procedure, and the applicant of such initiatives shall not have the status of a party in the procedure that may be initiated on the basis of that initiative.

Control is conducted on the basis of official warrant issued by an authorized person that especially contains information about the acting market inspector, time, or period of control, as well as the immediate area and the subject of control.

Record

Article 68

Market inspector shall make a record of all actions in the procedure of inspection monitoring that are of importance for establishing the factual situation.

The record must be clear and legible, and it is made in written or electronic form.

Statements of persons in the procedure of inspection monitoring, as well as remarks on the contents of the record, shall be given in a separate document, signed by the person who gave the statement.

The market inspector shall make an official note on issues that are not of direct importance for establishment of factual situation.

Copy of the record is issued to the party immediately upon completion of the procedural act, and if this is not possible, at the latest within three days from the day the procedural act took place.

Digitalization of Case Files

Article 69

Inspection monitoring case files, as well as certain documents in files (record, statements, copies of the documentation that is the subject of monitoring, and similar)

may be kept in the form of an electronic document in accordance with the law governing electronic document.

Securing Evidence

Article 70

In order to secure the evidence, a market inspector may temporarily seize certain objects (things, equipment, documents and similar) that are directly connected with establishing the factual situation in the procedure of inspection monitoring, and until the moment the seized object are presented for proving, and the latest until the end of the procedure.

Securing evidence is part of a separate order against which a separate appeal is allowed, without a stay in the procedure.

Deadline for Adopting a Decision

Article 71

If a breach of the law is established, the market inspector shall adopt and render a decision in accordance with his authority, within five days from the day the record was rendered.

The market inspector may, at the time and place of the control, adopt a temporary decision which shall be repealed by the decision under paragraph 1 of this Article, i.e. shall cease to be valid by the expiry of the term for adopting the decision referred to in paragraph 1 of this Article.

No separate appeal shall be allowed against the temporary decision.

Appeal

Article 72

Appeal against the decision of the market or communal inspector is allowed if submitted to the minister within the term of eight days from the day of reception.

The decision of the minister is final in the administrative procedure, and is subject to judicial review.

The appeal shall not postpone the enforcement of the decision.

Damages

Article 73

Trader is entitled to damages in case the order that prescribed a specific measure was repealed, in amount of the real suffered damage, plus the expenses involving implementation of the measure.

Claim for damages may be submitted to the ministry, in order to reach an out of court settlement.

The ministry shall, within the term of 60 day from the day of receipt, express its decision answering the claim under paragraph 2 of this Article.

Out of court settlement upon claim under paragraph 2 of this Article may be concluded on the basis of an assessment by an expert appraiser and with consent of the republic's public attorney.

IX PENAL PROVISIONS

Article 74

A fine ranging from 100,000.00 to 1,000,000.00 dinars shall be imposed for a misdemeanor on a legal person if:

- 1) It fails to keep the selling records in a complete and prescribed manner (Article 37);
- 2) It sells the goods with improper or illegal declaration (Article 40);
- 3) It fails to display the prices, or fails to display the prices in a prescribed manner (Article 41);
- 4) It fails to display the business name or basic data about the sales facility, beginning from the day of conducting trade (Article 42);
- 5) It fails to display the working hours or fails to comply with the displayed working hours, or if it establishes the working hours contrary to the prescribed requirements (Article 43);
- 6) It fails to submit the data in accordance with the Article 47 of this Law.

A natural person or an official of a legal person shall be punished for the actions under paragraph 1 of this Article with a fine ranging from 5,000.00 to 50,000.00 dinars.

A sole trader shall be punished for the actions under paragraph 1 of this Article with a fine ranging from 10,000.00 to 100,000.00 dinars.

Article 75

A fine, ranging from 500,000.00 to 2,000,000.00 dinars shall be imposed for a misdemeanor on a legal person if:

- 1) *(Deleted)*
- 2) It conducts trade by direct selling contrary to the provisions of Art. 18 and 19 of this Law and Article 20 paragraph 3 of this Law;
- 3) It conducts other retail outside of the sales facility, in a place which is not chosen or approved by the competent organ of the local government (Article 20, paragraph 2);
- 4) It conducts the activity of commodity market, fair, organizer of other business exhibitions and traditional events, retail market, wholesale market, public auction or auction house, contrary to the Art. 21 to 28 of this Law;

- 5) It fails to possess the appropriate documents that accompany goods in a prescribed manner (Article 35);
- 6) It fails to respect the Government's decision on prices under Article 36, paragraph 5;
- 7) It fails to keep the selling records (Article 37);
- 8) It conducts trade of agricultural products and domestic animals contrary to the prescribed conditions (Article 38);
- 9) It uses the marks of special properties contrary to the Article 39 of this Law;
- 10) It sells goods without declaration (Article 40);
- 11) It offers goods, or services with special sales incentives contrary to the Article 44 of this Law;
- 12) It fails to respect temporary measures of market protection in accordance with the Article 46 of this Law;
- 13) It conducts illegal speculation (Article 51);
- 14) It organizes, conducts, advertises and incites pyramid trade (Article 52);
- 15) It acts contrary to the measure of temporary selling ban on certain goods, or provision of certain service (Article 60);
- 16) It acts contrary to the measure of temporary closure of a sales facility (Article 61).

A natural person or an official of a legal person shall be punished for the actions under paragraph 1 of this Article with a fine ranging from 50,000.00 to 150,000.00 dinars.

A sole trader shall be punished for the actions under paragraph 1 of this Article with a fine ranging from 50,000.00 to 500,000.00 dinars.

Along with the misdemeanor fine referred to in paragraph 1 of this Article, a protection measure of conducting certain business activity may be imposed on a legal person in the duration from six months to two years, as well as a protection measure of public release of the judgment.

Along with the misdemeanor fine referred to in paragraph 2 of this Article, a protection measure involving prohibition of performing certain jobs in the duration from three months to one year may be imposed on an official of a legal person.

Along with the misdemeanor fine referred to in paragraph 1 of this Article, a protection measure involving prohibition of conducting a certain business activity in the duration from six months to two years may be imposed on a sole trader.

Article 76

A fine ranging from 50,000.00 to 150,000.00 dinars shall be imposed on a natural person if:

1) He performs selling of goods/services, without the capacity of a trader (Art. 11 and 30);

2) He performs trade by direct selling contrary to the Article 19 of this Law.

Along with the misdemeanor fine referred to in paragraph 1 of this Article, a protection measure involving prohibition of performing certain business activity in the duration from six months to two years may be imposed on a natural person.

X TRANSITIONAL AND FINAL PROVISIONS

Article 77

Until the beginning of operation of the Center for Development of Trade, the affairs of the Center shall be conducted by the ministry.

Article 78

In cases of inspection monitoring that were not finalized up to the date this Law entered into force the provisions of the law that was in force in the moment of their initiation shall apply.

Article 79

Provisions of this Law that pertain to the market inspector and the Chief Market Inspector eligibility requirements, as well as to the operations of inspection monitoring that were entrusted to the units of local government, and the requirements that the communal inspectors have to fulfill in order to perform those duties, shall apply starting from January, 1st 2012.

Until the provisions of this Law that relate to the duties of inspection monitoring entrusted to the units of local government in accordance with paragraph 2 of this Article begin to apply, those affairs shall be conducted by the ministry through market inspectors.

Article 80

On the day this Law starts applying the following regulations shall be repealed:

1) Law on trade ("Official Gazette of the FRY", Nos. 32/93, 50/93, 41/94, 29/96 and 37/02 - oth. law and "Official Herald of RS", No. 101/05 - oth. law and 85/05 - oth. law);

2) Law on conditions for selling goods, providing services in sale of goods, and inspection monitoring ("Official Herald of RS", Nos. 39/96, 20/97, 46/98, 34/01 - oth. law, 80/02 - oth. law and 101/05 - oth. law);

3) Law on prices ("Official Herald of RS", number 79/05).

Bylaws adopted prior to the day this law entered into force, except for their provisions contrary to this Law, shall apply until the new bylaws authorized by this Law are adopted.

Article 81

This Law shall enter into force on the eighth day of the day of its publication in the "Official Herald of Republic of Serbia", and shall apply from January 1 st, 2011.

Independent Article of the Law amending the Law on Trade

(*"Off. Herald of RS", No. 10/2013*)

Article 28

This Law shall enter into force on the eighth day of the day of its publication in the "Official Herald of Republic of Serbia".

- regulation published in „Official Herald of the RS”, Nos 53/2010 from 29th July 2010, entered into force on 6th August 2010

- last correction published in „Official Herald of the RS”, Nos 10/2013 from 30th January 2013, entered into force on 7th February 2013

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