

I. ADMINISTRATIVE ENFORCEMENT

Which administrative mechanisms are available to enforce the Directives?

In Romania:

- the Directive 1999/44/EC is implemented by the Law no. 449/2003 on the sale of goods and associated guarantees ("**Law no. 449/2003**")
- the Directive 2011/83/EU on consumer rights is implemented by the Government Emergency Ordinance no. 34/2014 on consumer rights ("**GEO no. 34/2014**")
- the Directive 98/6/EC on consumer protection in the indication of the prices of products offered to consumers is implemented by the Decision no. 947/2000 on the indication of the prices of products offered to consumers for sale ("**Decision no. 947/2000**")
- the Directive 93/13/EEC on unfair terms in consumer contracts is implemented by Law no. 193/2000 on unfair terms in consumer contracts ("**Law no. 193/2000**")
- the Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market is implemented by the Law no. 363/2007 on fighting against unfair practices of traders in relation to the consumers and on the harmonization of regulations with the European legislation on consumer protection ("**Law no. 363/2007**")
- the Directive 2008/122/EC on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts is implemented by the Government Emergency Ordinance no. 14/2011 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts ("**GEO no. 14/2011**")
- the Directive 90/314/EEC on package travel, package holidays and package tours is implemented by the Government Ordinance no. 107/1999 on the sale of packages travel ("**GO no. 107/1999**")
- the Directive 2006/114/EC concerning misleading and comparative advertising is implemented by the Law no. 158/2008 concerning misleading and comparative advertising ("**Law no. 158/2008**")

The general enforcement of the Romanian consumer protection legislation is handled by the National Authority for Consumer Protection (NACP) (in Romanian: Autoritatea Nationala pentru Protectia Consumatorului), which is a specialised authority in the central administration, under Government authority and co-ordinated by the Ministry of Economy, Trade and the Business Environment. The NACP acts also as a regulating body with respect to consumer protection and is also competent for receiving administrative complaints. The general website of the NACP can be found at <http://www.anpc.gov.ro/anpc/index.php>

Regarding the violation of the GEO 34/2014 on consumer rights, on top of the general competence of the NACP, the National Authority for Administration and Regulation in Communications is also competent in relation to infringements of the provisions of this emergency ordinance.

As regards the GEO 14/2011, on top of the general competence of the

	<p>NACP, The Ministry of Regional Development and Tourism is competent to withdraw the tourism license, and may ascertain and inflict administrative sanctions.</p> <p>As concerns the GO no. 107/1999, on top of the general competence of the NACP, the control of compliance with the legal provisions is also made by the speciality authorities within the Ministry for Small and Medium Sized Enterprises, Trade, Tourism and Liberal Professions.</p> <p>As regards the Law no. 158/2008, on top of the general competence of the NACP, the Ministry of Public Finance is also competent in relation to infringements of the provisions of the law.</p>
<p>Who can file administrative complaints? Can investigations be initiated ex officio?</p>	<p>As a general rule, the administrative complaints can be filed by the consumers who were prejudiced through the violation of the legal provisions. Furthermore, the competent authorities can initiate investigations ex officio.</p> <p>Under the GEO no. 34/2014 and the Law no. 363/2007, the complaints can be filed by any natural persons or by the organizations who have a legitimate interest. Competitors can also file a complaint to the competent authorities.</p> <p>Under the Law no. 158/2008, the traders, the associations and organisations holding a legitimate interest may notify the Ministry of Public Finances or, as the case may be, the National Audio-visual Council. For compliance with the provisions on comparative advertising, the consumer may notify NACP.</p>
<p>Do any specific procedural requirements apply to filing administrative complaints?</p>	<p>There is no template administrative complaint available. The claimant can transmit its complaint in writing to the competent authorities either via e-mail, post or personal submission.</p>
<p>Do the administrative authorities have an obligation to investigate the complaint?</p>	<p>The aforementioned Romanian legislation transposing the EU Directives on the consumer protection does not contain specific provisions regarding the obligation of the authorities to investigate the complaint.</p> <p>However, according to the Romanian legislation, all complaints duly filed with a public authority must be registered, investigated and analysed under all aspects and solved within 30 days.</p>
<p>Are there any specific requirements regarding the provision of evidence to the competent authorities?</p>	<p>Generally, the aforementioned Romanian legislation transposing the EU Directives on the consumer protection does not contain specific provision regarding the provision of evidence to the competent authorities.</p> <p>However, there are certain exceptions. Pursuant to the Law no. 363/2007, traders must produce evidence of the accurate affirmations about the commercial practice exercised and are compelled, upon request of NACP or courts of law, to make available to them the documents proving what they asserted. In case the documents are not produced within the term established by the claimants or if deemed insufficient, the said affirmations are believed inaccurate.</p> <p>Furthermore, pursuant to Law no. 158/2008, the Ministry of Public Finances or, as the case may be, the NACP, by their representatives, will request the trader advertising itself to provide all necessary proofs</p>

	about the accuracy of the affirmations, indications or presentations in the advertisement. Should the trader fails to produce the requested proofs, or in case such proofs are deemed incomplete or insufficient, the affirmations in that advertisement will be deemed inaccurate
II. ENFORCEMENT THROUGH COURT ACTION	
Which court actions are available to enforce the Directives?	<p>A general claim for civil damages can be filed before the competent civil courts.</p> <p>Aside from the aforementioned actions, under the Law no. 193/2000 the consumer protection associations can request the competent courts to order the traders to cease the use of unfair terms in their contracts, as well as the amendment of the existing contracts by removing the unfair terms. Furthermore, under same law, the consumer are entitled to request the competent courts to ascertain the nullity of the unfair terms.</p> <p>In addition, under the Law no. 363/2007, an action for cease-and-desist can be filed.</p>
Who can start a court action?	The court action can be initiated by any person or organization that proves a legitimate interest.
Can court actions be initiated by competitors?	The aforementioned Romanian legislation transposing the EU Directives on the consumer protection does not cover this aspect. Based on general civil procedural rules, a competitor must prove its direct and legitimate interest in order to initiate a court action.
Can the case be handled through an accelerated procedure?	Under the Law no. 363/2007, the action for cease-and-desist is handled through an accelerated procedure. As such, if it is deemed necessary and taking into account all involved interests, in particular the public interest, the court can decide urgently, even without evidence of loss or effective damage or the trader's intent or negligence: (i) cease and desist of unfair practices; (ii) prohibition of unfair practices even if such practices have not yet been carried out, but are imminent; or (iii) send to the National Audiovisual Council of the identification data of the legal or moral person involved in making misleading advertising.
Are there any specific requirements regarding the provision of evidence to the court?	There is no specific legal provision in this respect in the aforementioned Romanian legislation transposing the EU Directives on the consumer protection. The general rules of evidence under the Romanian legislation are applicable. As such, any person bringing an action before the competent courts must prove their claims.
Are there specific procedural reliefs for consumers or consumer associations?	The aforementioned Romanian legislation transposing the EU Directives on the consumer protection does not contain provisions on this matter.
III. SANCTIONS	
What are the possible civil sanctions and remedies for the infringement of the provisions of the Directives?	<p>The competent civil court can award damages in the framework of a claim for civil damages based on the Romanian Civil Code. These damages, however, should rather be interpreted as indemnifying measure than as sanctions.</p> <p>Furthermore, under the GEO 14/2011, where the consumer exercises the right to withdraw from the timeshare or long-term holiday product contract, any exchange contract ancillary to it or any other ancillary contract is automatically terminated, at no cost to the consumer.</p>
What are the possible criminal sanctions for the	There are no criminal sanctions provided for the infringement of the aforementioned Romanian legislation transposing the EU Directives on

infringement of the Directives' provisions?	the consumer protection.
What are the possible administrative sanctions for the infringement of the Directives' provisions?	<p>The violations of the provisions of the laws transposing the EU Directives on the consumer protection constitute misdemeanours punishable with administrative fines and other complementary measures, irrespective of the nature of the trader (natural or legal persons).</p> <p>As regards the administrative fines, the national laws provide that the amounts of the fines are revenues to the state or local budget.</p> <p>As a general rule, the sanctions imposed by the competent bodies must be proportional to the level of social danger of the perpetrated actions. Certain specific criteria are provided under Law 363/2007, pursuant to which the individualisation of the sanction is made according to the gravity and duration of the action, and the sanction must be proportional to the level of social danger of the perpetrated action, taking into consideration the circumstances of the perpetrated action, the manner and means for its perpetration, its purpose, consequence and the other data in the minutes.</p> <p>In particular:</p> <ul style="list-style-type: none">• under the Law 449/2003 - the infringements of the legal provisions shall be sanctioned by NACP as follows:<ul style="list-style-type: none">a) failure to observe the provisions of article 20 and 21 shall be sanctioned with a fine of RON 1,000 to RON 2,000;b) failure to observe the provisions of article 9,11 and 19 shall be sanctioned with a fine of RON 5,000 to RON 25,000;• Under GEO 34/2014 - the infringements of the legal provisions shall be sanctioned by NACP as follows:<ul style="list-style-type: none">a) failure to comply with the request to provide information in a clear and comprehensible manner, pursuant to the introduction to article 4 para. (1) shall be sanctioned with a fine of RON 2,000 to RON 5,000.b) failure to comply with the pre-contractual information provided at article 4 para. (1) let. a)-j) shall be sanctioned with a fine of RON 2,000 to RON 5,000.c) failure to comply with the request to include pre-contractual information also in contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium, pursuant to article 4 para. (2), shall be sanctioned with a fine of RON 2,000 to RON 5,000.d) failure to comply with the request to include pre-contractual information in the contract, pursuant to article 4 para. (4), shall be sanctioned with a fine of

RON 2,000 to RON 5,000.

- e) failure to comply with the request to provide information in a clear and comprehensible manner, pursuant to the introduction to article 6 para. (1), shall be sanctioned with a fine of RON 2,000 to RON 5,000.
- f) failure to comply with the provisions of article 6 para. (1) let. a)-t) regarding pre-contractual information shall be sanctioned with a fine of RON 2,000 to RON 5,000.
- g) failure to comply with the provisions of article 6 para. (4) regarding the correct filling in of the model instructions on withdrawal set out in part A of the annex, when required, shall be sanctioned with a fine of RON 2,000 to RON 5,000.
- h) failure to comply with the provisions of article 6 para. (5) regarding inclusion of pre-contractual information in the contract and regarding alteration of such information shall be sanctioned with a fine of RON 1,000 to RON 4,000.
- i) failure to comply with the provisions of article 6 para. (6) regarding the case when the trader has not complied with the information requirements shall be sanctioned with a fine of RON 1,000 to RON 4,000.
- j) failure to comply with the provisions of article 6 para. (7) regarding presentation of information in Romanian, in an accessible form so as to ensure that such information is easily understood by the consumer, shall be sanctioned with a fine of RON 1,000 to RON 4,000.
- k) failure to comply with the provisions of article 7 para. (1) regarding information, with the provisions of article 7 para. (2) regarding the contract, and with the provisions of article 7 para. (3) regarding the request to initiate performance of services shall be sanctioned with a fine of RON 1,000 to RON 4,000.
- l) failure to comply with the provisions of article 7 para. (4) regarding information, as well as the provisions of article 7 para. (4) let. b) regarding confirmation of contract shall be sanctioned with a fine of RON 2,000 to RON 5,000.
- m) failure to comply with the provisions of article 8 para. (1)-(7) regarding information, and of the article 8 para. (8) regarding the requirement to make an express request shall be sanctioned with a fine of RON 1,000 to RON 4,000.
- n) failure by the trader to comply with the provisions of article 9 para. (1) - (2) regarding the right of withdrawal and of the provisions of article 9 para. (3) regarding the

contractual obligations during the withdrawal period shall be sanctioned with a fine of RON 2,000 to RON 5,000.

- o) failure to observe the right of withdrawal under article 10 shall be sanctioned with a fine of RON 2,000 to RON 4,000.
- p) failure to comply with the provisions of article 11 para. (3) regarding the acknowledgement of receipt of the withdrawal form shall be sanctioned with a fine of RON 1,000 to RON 4,000.
- q) failure to comply with the provisions of article 12 to terminate the obligations of the contractual parties in case of exercise of the right of withdrawal shall be sanctioned with a fine of RON 2,000 to RON 5,000.
- r) failure to comply with the provisions of article 13 para. (1) and (2) regarding the obligations of the trader in the event of withdrawal as well as with article 13 para. (4) regarding the postponement of reimbursement shall be sanctioned with a fine of RON 2,000 to RON 5,000.
- s) failure to comply with the obligations under article 14 in case the consumer observed his obligations shall be sanctioned with a fine of RON 1,000 to RON 4,000.
- t) failure to comply with the provisions of article 15 regarding the consumer rights in case of exercise of the right of withdrawal on ancillary contracts shall be sanctioned with a fine of RON 1,000 to RON 4,000.
- u) failure to comply with the provisions of article 18 regarding delivery shall be sanctioned with a fine of RON 1,000 to RON 4,000.
- v) failure to comply with the provisions of article 20 regarding the risk of loss of or damage to the goods shall be sanctioned with a fine of RON 2,000 to RON 5,000.
- w) failure to comply with the provisions of article 21 regarding payment of the basic rate in case of telephone communications shall be sanctioned with a fine of RON 2,000 to RON 4,000.
- x) failure to comply with the provisions of article 22 regarding additional payments and of article 24 para. (3) regarding the terms shall be sanctioned with a fine of RON 2,000 to RON 4,000.
- additionally, the National Authority for Administration and Regulation in Communications may impose sanctions in case of offences established at let. e)-k), m)-u) and w)-x) above, when they consist of acts

related to contracts concluded by the consumers for services of access and connection to public electronic communications networks or electronic communication services for the public.

- **under the Decision no. 947/2000** - the infringements of the legal provisions shall be sanctioned by NACP as follow:
 - a) failure to indicate the unit price pursuant to art. 4-7, art. 10 and 11 shall be sanctioned with a fine ranging from RON 500 to RON 2,500
- **under the Law no. 193/2000** - the infringements of the legal provisions shall be sanctioned by NACP as follows:
 - a) failure to comply with the interdiction mentioned at art. 1 para. (3) shall be sanctioned with a fine ranging from RON 200 to RON 1,000
- **under the Law no. 363/2007** - the infringements of the legal provisions shall be sanctioned by NACP as follows:
 - a) the use of unfair commercial practices by a trader shall be sanctioned as follows:
 - by fine from RON 2,000 to RON 100,000 for using unfair commercial practices defined at art. 4 para. (1) and (2);
 - by fine from RON 5,000 to RON 100,000 for using misleading commercial practices defined at art. 6 and 7, as well as for using either practice mentioned in annex no. 1 at paragraph "Misleading commercial practices";
 - by fine from RON 2,000 to RON 100,000 for using aggressive commercial practices defined at art. 8 and 9, as well as for using either practice mentioned in annex no. 1 at paragraph "Aggressive commercial practices".
 - b) failure to observe the actions under the order or decision mentioned at art. 12 para. (1) is sanctioned by fine from RON 50,000 to RON 100,000.
 - c) once the sanction consisting in the administrative fine is inflicted, the inspection agent may propose, as complementary sanction:
 - the suspension of activity until the unfair commercial practice ceases
 - the refund of the value of the product or service, as the case may be, within at most 15 days after the offender has seen the minutes related to the offence (failure to observe this

measure is sanctioned by fine from RON 5,000 to RON 50,000).

d) the sanctions mentioned at let. a, bullets 1 and 3 above are inflicted as follows:

- from RON 2,000 to RON 10,000 for traders with up to 9 employees and a net annual turnover of up to the equivalent in RON of EUR 2 million;
- from RON 3,000 to RON 50,000 for traders with 10 to 49 employees and a net annual turnover of up to the equivalent in RON of EUR 50 million;
- from RON 5,000 to RON 100,000 for traders with more than 50 employees and a net annual turnover exceeding the equivalent in RON of EUR 50 million.

e) the sanctions mentioned at let. a, bullet 2 above are inflicted as follows:

- from RON 5,000 to RON 15,000 for traders with up to 9 employees and a net annual turnover of up to the equivalent in RON of EUR 2 million;
- from RON 6,000 to RON 50,000 for traders with 10 to 49 employees and a net annual turnover of up to the equivalent in RON of EUR 50 million;
- from RON 7,000 to RON 100,000 for traders with more than 50 employees and a net annual turnover exceeding the equivalent in RON of EUR 50 million.

- **under the GO no. 107/1999** - the infringements of the legal provisions shall be sanctioned by NACP and the the Ministry for Small and Medium Sized Enterprises, Trade, Tourism and Liberal Professions as follows:

a) failure to comply with the provisions of art. 6, 7, 9, 10, 11, 12, 14, 15, art. 16 letter c), art. 19, art. 20 para. (1), art. 23 and 25 shall be sanctioned with a fine ranging from RON 400 to RON 1,000

- **under the Law no. 158/2008** - the infringements of the legal provisions shall be sanctioned by NACP and the Ministry of Public Finances as follows:

a) failure to comply with the provisions of art. 4 and 6 shall be sanctioned with fine from RON 3,000 to RON 30,000.

b) the following complementary measures can be imposed

along with inflicting sanctions:

- the cessation of misleading advertising or unlawful comparative advertising;
 - the prohibition of misleading advertising or comparative advertising that is in breach of provisions hereof, if the same has not yet been published, but publication is imminent.
- c) additionally, with a view to eliminating the continuing effects of misleading advertising or unlawful comparative advertising, the cessation, respectively the prohibition of which has been ordered by a findings and sanction report related to the offence, which was not disputed, or by a final and irrevocable court decision ordering such measure, the Ministry of Public Finances or, as the case may be, the NACP, by their authorised representatives, will request the concerned trader:
- to publish the findings and sanction report related to the offence or the court decision, in full or in excerpt;
 - to publish a corrective statement containing the offending trader's identification data, the offence committed, the date when this was committed, as well as the measures ordered.
- d) failure to observe the measures provided at art. 12, as well as the obligation provided at art. 9 shall be sanctioned with fine from RON 6,000 to RON 60,000
- **Under GEO 14/2011** - the infringements of the legal provisions shall be sanctioned by NACP as follows:
 - a) failure to comply with art. 6-10 shall be sanctioned with a fine from RON 4,000 to RON 40,000.
 - b) failure to comply with art. 11-16 and of art. 22-29 is shall be sanctioned with fine from RON 8,000 to RON 80,000.
 - c) failure to comply with the consumer's right to withdraw from the contract, according to art. 17, shall be sanctioned with a fine from RON 8,000 to RON 80,000.
 - d) the trader's failure to observe the method for calculating the period within which the consumer may exercise his right of withdrawal, pursuant to art. 18-20 shall be sanctioned with fine from RON 8,000 to RON 80,000.
 - e) the trader's failure to observe the moment from which the right of withdrawal has effect, pursuant to art. 21 para. (3) shall be sanctioned with fine from RON 8,000

	<p>to RON 80,000.</p> <p>f) when inflicting the sanction by fine, the inspection agent may order the following complementary administrative sanctions:</p> <ul style="list-style-type: none"> ▪ immediate observance of the contractual clauses that have been breached; ▪ refund of the amounts collected without a legal ground, within at most 15 calendar days; ▪ amending the contract in compliance with the legal provisions, within at most 15 calendar days; ▪ remedy the irregularities ascertained under the report, within at most 15 calendar days <p>g) failure to accomplish the complementary administrative sanctions or the recurrence within 3 months after the first ascertainment of one of the offences mentioned at points a-e above shall be punished with a fine from RON 80,000 to RON 100,000</p> <ul style="list-style-type: none"> ▪ in addition, The Ministry of Regional Development and Tourism may withdraw the tourism license, may ascertain and inflict administrative sanctions.
<p>What are the contractual consequences of an administrative order or a judgment on an individual transaction under the Directives?</p>	<p>Under the Law no. 363/2007, unfair commercial practices can be terminated by initiating a cease and desist procedure. If this procedure is initiated by a competitor who is not a party to the individual transaction with the consumer, the individual transaction will not be affected by a cease and desist decision, since a judicial decision only produces effects between the parties to the procedure.</p> <p>Nevertheless, a procedure can also be initiated under the general rules by the consumer who contemplates that the contract is void because he has concluded the contract with a mistaken consent. He will thus allege that this mistaken consent originates from <i>inter alia</i> error, fraud or violence. If a competent court concludes that the vendor has conducted an aggressive or misleading commercial practice, the consumer will be able to prove the origin of his mistaken consent and thus his contract will be declared void.</p>
<p>Can authorities order the trader to compensate consumers who have suffered harm as a result of the infringement?</p>	<p>Consumers have the possibility of filing a claim for civil damages before the competent courts. Such claim for damages is subject to the general civil rules.</p> <p>Furthermore, the organizations representing consumers interests may file a request with competent courts. However, the decisions/ judgments issued in such circumstances are only applicable in the case at hand, and thus, cannot be relied upon by other third parties (e.g. consumers who might also have been affected by the sanctioned practice). Even in such case, damages are awarded on an individual basis.</p>

	<p>However, the possibility of organizations to file actions on behalf of consumers does not affect their individual rights. From a procedural standpoint, it is possible for more plaintiffs to file a common court action if the object of such action is a common obligation or if the plaintiffs' rights and obligations have the same cause. Nevertheless, their claims must be individual and the court will award such claims individually.</p>
<p>Can the administrative authorities or the courts require the publication of their decisions?</p>	<p>Under the Law no. 158/2008 and Law no. 363/2007 both the courts and the NACP can require the publication of their decisions in a widely-circulated newspaper.</p>
<p>IV. OTHER TYPES OF ENFORCEMENT</p>	
<p>Are there any self-regulatory enforcement systems in your jurisdiction that deal with aspects of the Directives?</p>	<p>An example of such self-regulatory enforcement system is the National Audio-Visual Council (in Romanian: Consiliul National al Audiovizualului). The NAVC is an independent regulatory body under Parliamentary control which regulates the field of commercial practices in mass-media. The NAVC ascertains and sanctions the use of unfair commercial practices in mass-media.</p>
<p>Are there any out-of-court dispute settlement bodies available that deal with aspects of the Directives (e.g. mediation, conciliation or arbitration schemes ombudsmen)?</p>	<p>While the Government Decision on the organization and functioning of the NACP provides that one of the NACP's attributes is to "support the founding of mediating services with respect to consumer protection", so far such mediating services have not been created.</p>