

Original: English/French

**Council for Trade-Related Aspects
of Intellectual Property Rights**

NOTIFICATION OF LAWS AND REGULATIONS
UNDER ARTICLE 63.2 OF THE AGREEMENT

Romania

Addendum

By means of a communication from its Permanent Mission, dated 4 July 1997, Romania has made a supplementary notification concerning Annex II of document IP/N/1/ROM/1. This notification of "other laws and regulations" under Article 63.2 of the Agreement concerns the following:

Code of Penal Law, as published in Monitorul Oficial Gazette, No. 65/16 April 1997

The laws and decrees amending the Code of Penal Law (as mentioned in Annex II of document IP/N/1/ROM/1) have been incorporated in the Code on the occasion of its entire republication in Monitorul Oficial, No. 65/16 April 1997.¹

In addition to the brief description of Articles 299 to 301 of the Code, as reproduced in Annex II of document IP/N/1/ROM/1, Romania has notified French translations of Articles 196 and 298 to 301, which are attached to the present document (Annex I).

Code of Civil Procedure²

Romania has notified French translations of Articles 2 to 4 and 121 of the Code, which are attached to the present document (Annex IV).

Law on the Organization of Courts, No. 92 of 4 August 1992, published in Monitorul Oficial, No. 197 of 13 August 1996

A French translation of Article 93 as notified is attached to the present document (Annex V).

¹According to the procedures for the notification of laws and regulations under Article 63.2 (document IP/C/2), texts of "other laws and regulations" are, normally, not circulated in WTO documents. Copies of these laws and regulations are available in the WTO Secretariat for consultation by interested delegations.

²By means of a communication, dated 27 January 1998, Romania has complemented the notification of this law by submitting a non-official consolidated version of the Code of Civil Procedure, published in 1997, incorporating amendments made until February 1997 to the original text which entered into force on 1 December 1865.

Law on the Repression of Unfair Competition, No. 11 of 29 January 1991, published in Monitorul Oficial, No. 24 of 30 January 1991

The law was amended by the Law on Competition, No. 21 of 10 April 1996, published in Monitorul Oficial, No. 88 of 30 April 1996.

In addition to the brief description of the Law of 29 January 1991, as reproduced in Annex II of document IP/N/1/ROM/1, Romania has notified English translations of that law as well as of Articles 1 and 73 of the Law of 10 April 1996, which are attached to the present document (Annexes II and III).

ANNEX I

ROUMANIE (traduction non-officielle)

Code pénal

Divulgarion du secret professionnel

Article 196

La divulgation, sans droit, de renseignements par la personne à laquelle on les a confiés ou qui en a pris connaissance, en vertu de sa profession ou de sa fonction, si le fait est de nature à apporter des préjudices à une personne, est sanctionnée avec emprisonnement de trois mois à deux ans ou avec une amende.

L'action pénale est engagée sur plainte préalable de la partie lésée.

La réconciliation des parties évince la responsabilité pénale.

Divulgarion du secret économique

Article 298

La divulgation de renseignements ou d'informations qui ne sont pas destinés à la publicité par la personne qui les détient en vertu de ses attributions de service, si le fait est de nature à produire des dommages-intérêts, est sanctionnée avec emprisonnement de deux à sept ans.

Si le fait prévu à l'alinéa précédent est accompli par une autre personne, quel qu'il soit la manière par laquelle elle est arrivée à connaître les renseignements ou les informations respectifs, la sanction est l'emprisonnement de six mois à cinq ans.

ROUMANIE
(traduction non-officielle)

Code pénal

Contrefaçon de l'objet d'une invention

Article 299

La contrefaçon ou l'usage, sans droit, de l'objet de l'invention est sanctionné d'un emprisonnement de six mois à deux ans ou d'une amende.

Mise en circulation des produits contrefaits

Article 300

La mise en circulation des produits réalisés suite à la contrefaçon ou à l'usage, sans droit, de l'objet d'une invention est sanctionnée d'un emprisonnement de trois mois à deux ans ou d'une amende.

Concurrence déloyale

Article 301

La fabrication ou la mise en circulation des produits sur lesquels sont apposées des appellations d'origine ou des indications de provenance fausses, ainsi que l'apposition sur les produits mis en circulation des mentions fausses concernant les brevets d'invention, ou l'usage de certains noms commerciaux ou des dénominations des organisations commerciales ou industrielles dans le but d'induire les bénéficiaires en erreur, sont sanctionnés d'un emprisonnement d'un mois à deux ans ou d'une amende.

ANNEX II

**MONITORUL OFICIAL AL ROMANIEI,
Partea I-a, Nr. 24 din 30 ianuarie 1991**

(The Official Gazette of Romania, Part I. No. 24 of January 30, 1991)
(UNOFFICIAL TRANSLATION)

PARLIAMENT OF ROMANIA

THE DEPUTIES' ASSEMBLY

THE SENATE

L A W

on the Repression of Unfair Competition

The Parliament of Romania adopts this Law.

Art.1. - Traders shall pursue their activity in good faith and in compliance with fair practices.

Art.2. - Any act or fact contrary to fair practices in the industrial or commercial activities shall constitute unfair competition for the purposes of this Law.

Art.3. - Infringement of the obligation stipulated in Art.1 shall entail the civil, contravening or criminal liability under this Law.

Art.4. - The following acts shall constitute contravention, unless they have been committed under such circumstances as to be considered offence according to criminal law:

a) infringement by natural persons of the interdictions stipulated in Art. 36 of Law 15/1990 concerning reorganization of state-run enterprises as "régies autonomes" and trading companies;

b) offering services to a competitor or accepting such an offer, by a trader's exclusive employees;

c) divulgence of secret information on a trader's business to a competitor, by a trader's employees;

d) conclusion of contracts whereby a trader undertakes to deliver goods or perform services advantageously, provided that the client supplies further buyers with whom the trader would conclude similar contracts;

e) conclusion of contracts whereby the buyer would receive an award which exclusively depends upon a drawing of lots or hazard;

f) public communication or dissemination, by a trader, of allegations regarding his enterprise or its business, intended to mislead and put him in a favourable position to the detriment of his competitors;

g) communication or dissemination, by a trader, of false allegations regarding a competitor or his goods which are liable to prejudice the normal course of the competitor's business.

Confidential communications shall be deemed to constitute an act of unfair competition only when the communicator was aware of the untruthfulness of his allegations;

h) offering, promising or giving, gifts or other advantages, directly or indirectly, to a trader's employees or representatives, so that by unfair conduct one may get information about the trader's industrial processes, may get know of, or use the trader's clients, or obtain any other advantages for oneself or for another person to the detriment of a competitor;

i) attracting a trader's clients, availing oneself of the relationships established with such clients within the duties previously performed for the trader in question;

j) dismissing a trader's employees in order to set up a competing company intended to attract the competitor's clients or hiring a trader's employees for the purpose of disorganizing that trader's business.

Contravention stipulated under subsection a) shall be sanctioned by fines from Lei 5,000 to 20,000, those under subsections b) to e) by fines from Lei 10,000 to 40,000, and those under subsection f) to j) by fines from Lei 20,000 to 60,000.

The sanctions may be applied to legal persons as well.

Contravention shall be acknowledged, upon receipt of the injured party's notice, by employees specially authorized by the local chambers of commerce and industry or by the State Body for Trade Inspection. The agents acknowledging contravention shall impose fines at the same time when they acknowledge the contravention.

Contravention stipulated in paragraph 1 shall be subject to the provisions of Law No. 32/1968 on setting down and sanctioning contravention.

Art. 5. - The following shall constitute unfair competition offence and are punishable by imprisonment from one month to two years or by fines from Lei 20,000 to 100,000:

a) making use of a firm, emblem or special designations or packaging likely to cause confusion with those legitimately employed by another trader;

b) manufacturing in any manner, importation, exportation, storage, selling or offering for sale goods bearing deceptive indications regarding patents of inventions, origin and characteristics of the goods, and regarding the producer's or the trader's names as well, for the purpose of misleading other traders and consumers.

Any mention liable to induce people to believe that the goods have been

manufactured in a certain place, in a certain territory or in a certain country shall be deemed deceptive indications of source.

It shall not be deemed to constitute a deceptive indication of source on goods the denomination of a product that has become a generic name and only indicates its nature within the trading business, except where the denomination is accompanied by a mention which could induce people to believe it has that origin.

Art. 6. - The trader who has committed an act of unfair competition shall be obliged to discontinue committing the wrong or to remove it and, as the case may be, to pay damages for the prejudice caused.

Art. 7. - Legal actions arising in connection with unfair competition acts shall come under the competence of the local court of the area where the act has been committed or under whose jurisdiction the defendant's place of business comes; in the absence of a place of business the competence shall belong to the court under whose jurisdiction the defendant's domicile comes.

Art. 8. - In the cases provided for in Art. 5 the penal action shall be commenced upon receipt of the injured party's complaint or upon notification by the local Chamber of Commerce and Industry or by another professional organization.

Art. 9. - Should any of the facts provided for in Articles 4 or 5 cause patrimonial or moral damage, the injured party shall be entitled to request an appropriate civil action to be commenced with the competent court.

If the facts stipulated by this law have been committed by an employee in the course of exercising his duties the trader shall be liable jointly and severally with the employee for the damage caused, except for the cases where he is able to prove that, in accordance with practices, he was not in a position to prevent the perpetration of the fact.

The persons who caused the prejudice together shall be jointly and severally held responsible for the unfair competition acts or facts committed.

In order to take measures that cannot be delayed, the provisions of Art.581 and 582 in the code of civil procedure may be applied.

Art.10. - Through the decision on the merits of a case, the court may order the goods put under distraint to be sold after the deceptive indications have been destroyed.

The amount resulted from the sale shall first cover the damages which have been fixed.

Art.11. - Concurrently with the pronouncement of the conviction or the obligation to discontinue committing the wrong or to carry out remedies for damage, the court may order the decision to be published in the media at the wrongful party's expense.

Art.12. - The right to start an action as provided for in Art.9 shall be lost by

prescription within one year of the date on which the injured party learnt or should have learnt of the damage and the person who caused it, but no later than three years as of the date on which the fact was committed.

Art.13. - The provisions of this Law shall be completed by the provisions of the code of civil procedure or, as the case may be, the code of criminal procedure.

Art.14. - The provisions of this Law shall also apply to foreign natural or legal persons who commit acts of unfair competition in the territory of Romania.

Art.15. - This Law shall come into force on the date of its publication in the Official Gazette of Romania.

This law was adopted by the Senate in the session of January 23 rd, 1991.

PRESIDENT OF THE SENATE
ALEXANDRU BIRLADEANU

This law was adopted by the Deputies' Assembly in the session of 28 January, 1991.

PRESIDENT OF THE DEPUTIES' ASSEMBLY
MARTIAN DAN

On the basis of Art. 82 m) of the Decree-Law No.92/1990 on the election of the Parliament and of the President of Romania,

We promulgate the Law on the Repression of Unfair Competition and order its publication in the official gazette of Romania.

PRESIDENT OF ROMANIA
ION ILIESCU

Bucharest, 29 January, 1991

No 11

ANNEX III

MONITORUL OFICIAL AL ROMANIEI

Partea I-a Nr. 88 din 30 aprilie 1996

(The Official Gazette of Romania, Part I. No. 88 of 30 April, 1996)

UNOFFICIAL TRANSLATION

PARLIAMENT OF ROMANIA

THE DEPUTIES' ASSEMBLY

THE SENATE

LAW ON COMPETITION

(EXCERPTS)

The Parliament of Romania adopts this Law.

CHAPTER I

General Provisions

Art. 1.- The purposes of this Law are the protection, maintenance and stimulation of competition and of a normal competitive environment, with a view to promoting the consumers' interests.

.....

Art. 73. - (1) This Law shall come into force nine months after its publication in the Official Gazette of Romania, except for the provisions regularizing the establishment and organization of the Council of Competition and of the Office of Competition, which shall come into force on the date of the publication of the Law in the Official Gazette of Romania.

(2) On the date of the entry into force of this Law, Articles 36 to 38 of Law No. 15/1990 on the Reorganization of State-run Enterprises as "Régies Autonomes" and Trading Companies, Article 4, paragraph a) of Law No. 11/1991 on the Repression of Unfair Competition and any other contrary provisions shall be abrogated.

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Bucharest, 10 April, 1996.

ANNEX IV

ROUMANIE
(traduction non-officielle)

Code de procédure civile

Titre I - Compétence matérielle

Article 2

Les tribunaux jugent:

1. en première instance:

a) les procès et les demandes en matière commerciale à l'exception de ceux dont l'objet a une valeur jusqu'à 10 millions lei compris;

b) les procès et les demandes concernant les droits et les obligations qui découlent des rapports juridiques civils dont l'objet a une valeur de plus de 150 millions lei;

c) les procès et les demandes en matière de contentieux administratif à l'exception de ceux donnés à la compétence des Cours d'Appel;

d) les procès et les demandes en matière de création intellectuelle et de propriété industrielle;

e) les procès et les demandes en matière d'expropriation;

f) les demandes concernant le consentement des adoptions;

g) les demandes concernant l'interdiction, la déclaration de la disparition et du décès;

h) les demandes concernant la nullité du mariage, la nullité ou l'annulation de l'adoption et celles concernant la déchéance des droits paternels;

i) les demandes concernant la réparation des préjudices causés par des erreurs judiciaires commises dans les procès pénaux;

j) les demandes concernant la reconnaissance ainsi que celles concernant l'approbation de l'exécution forcée des décisions données dans des pays étrangers;

2. en tant qu'instances d'appel, les appels énoncés contre les décisions prononcées par les tribunaux civils en première instance;

3. en tant qu'instances de recours, les recours énoncés contre les décisions prononcées par les tribunaux civils en dernière instance;

4. dans toutes autres matières données par la loi à leur compétence.

Article 3

Les Cours d'Appel jugent:

1. En première instance, les procès et les demandes en matière de contentieux administratif concernant les actes qui sont de la compétence des autorités de l'administration publique centrale, des préfectures, des services publics décentralisés à niveau départemental, des ministères et des autres organismes centrales, des autorités publiques départementales et de Bucarest.

2. en tant qu'instances d'appel, les appels énoncés contre les décisions prononcées par les tribunaux en première instance;

3. en tant qu'instances de recours, les recours énoncés contre les décisions prononcées par les tribunaux en appel, ainsi que dans d'autres procès prévus par la loi;

4. dans d'autres matières données par la loi à leur compétence.

Article 4

La Cour Suprême de Justice juge:

1. les recours énoncés contre les décisions des cours d'appel et des autres décisions, dans les procès prévus par la loi;

2. les recours dans l'intérêt de la loi;

3. les recours en annulation;

4. dans toutes autres matières données par la loi à sa compétence.

ROUMANIE
(traduction non-officielle)

Code de procédure civile

Titre II - Dispositions générales de procédure
Chapitre II - Les séances et leur déroulement

Article 121

Les séances sont publiques, si la loi ne dispose autrement.

L'instance peut disposer que les débats se déroulent en séance secrète, si le débat publique pouvait endommager l'ordre, la morale publique ou les parties. Dans ce cas, les parties peuvent être accompagnées, à l'exception de leurs défenseurs, par deux personnes, au plus, designées par celles-ci.

La décision se prononce toujours en séance publique.

ANNEX V

ROUMANIE
(traduction non-officielle)

Loi no.92 du 4 août 1992 sur l'organisation judiciaire
Publiée dans le Journal officiel de Roumanie no.197 du 13 août 1992

Article 93

Les magistrats rendent compte, par voie disciplinaire, pour le non-respect des obligations de service ainsi que pour les comportements qui préjudicient l'intérêt de service ou le prestige de la justice.