

# THE CONSUMERS' PROTECTION IN ROMANIA – AUTHORITIES' PERMANENT PREOCCUPATION

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*The realization of the necessary balance between the interest to create and consolidate a multinational unique market and to insure the consumer's protection is a hard task for any state and multinational authority. Its critical point consists of the ways through which a certain country succeeds in reconciling its need to open its borders with that of protecting the consumers, in the conditions in which the ensemble of national laws, usually, tend to restrain free commerce, presenting differences in the protection levels in different countries. In what concerns the Consumers' protection policy elaborated for Romania, respectively the law alignment to the community's aquis from this domain, we can say that that it registers slow progress, although, in the purpose of the EU joining, Romania has opened and closed the chapter regarding the consumer's protection since July 2001, without needing to ask for a transition period or derogations from the community's aquis.*

*Key words: consumer protection, National Authority for the Consumers' Protection, consumers' protection policy.*

As an important side of the policy which needs to be promoted by a democratic society and a base component of the social protection programs, **the consumers' protection** represents an ensemble of dispositions regarding the public or private initiative, destined to continuously insure and dampen the consumers' respecting.

Given the size of such a notion, the consumers' protection embarks an important series of aspects; the normal human, in his consumer quality and, especially, in his quality of buyer which has become a market agent, confronts with several problems related to: the structure of the products destined to insure the consumption, the prices at which he can buy the diverse goods and services, their quality, the products' commercialization system, the commercial services' quality, the insurance of the respective products' quality.

Can be appreciated as important problems, up to date, which can form the object of consumers' protection programs initiated by the governmental organs or by a series of non-governmental organizations from Romania, the following:

## **The improvement of the population's consumption**

With the consumers' protection programs, the improvement of the population's consumption refers to, especially, to the state's responsibility to insure through its social policy, in stages, the realization conditions, for the constant growth of the consumption's physical volume, as well as for its structural improvement.

## **The realization of a corresponding quality for the goods and services offered to the consumers through the market**

The consumers' protection programs have the purpose of promoting a refreshing of the quality preoccupations. It is necessary that these preoccupations are generalized under all the aspects and implicate absolutely all the economic agents present in the products' circuit.

**The assuring of a prices system in concordance with the products' quality, the market's requirements and the income level**

**The organization of an useful information system for the consumers, which will assure the market's transparency**

**The defending of the consumers against an aggressive marketing policy promoted by the offering economic agents, present within the market.**

In conformity with the *Amsterdam Treaty*, the consumers' interests must be reflected better by the other EU policies, as well. In art. 153 (129a) from it, it is stipulated that: "*The community will contribute to the protection of the health, safety and economic interests of the consumers, as well as to the promoting of their right to be informed and educated and to organize themselves in the purpose of defending their own interests.*" Moreover, there is mentioned that any EU member state can maintain and/or introduce measures much more drastic than the ones stipulated, as long as they are compatible with the treaty.

Currently, in the Consumers' protection policy elaborated at EU level are included domains as: Deceiving publicity; Comparative advertisement; The producers' responsibility regarding the products with defects/not in conformity with the specifications; Dangerous imitations; Home and away sales; Consumption credits; Tourist packages, including holiday tours; Non-corresponding terms which are found in the consumers' contracts; The contracts regarding the house property in an indivision regime for a limited time; The guarantees for the consumption goods' sales; The actions of stopping of the illicit practices in the purpose of protecting the consumers' interests; The consumers' representative.

At April 8<sup>th</sup> 1985, the UN have adopted through the Resolution nr.39.248 "***The director principles for the consumers' protection***", document which states that "*the governments of all the countries must develop, harden and maintain a strong consumers' protection policy, taking in account the declare director principles*".

The objective principles on which it is necessary to concentrate the governmental and non-governmental profile organisms from each country are:

- The consumers' protection against the dangers which affect their safety and health;
- The promoting and protection of the consumers' economic interests;
- The creation of a consumers' education system, respectively their effective education;
- The facilitation of the production and distribution of products which correspond to the consumers' needs and requirements;
- The encouraging of high ethic levels to those employed in the production and distribution of the consumption goods to the consumers;
- The assurance of the keeping under control, through all the national and international organizations, of the abusive commercial practices which affect the consumers;
- The establishment of corresponding organisms, which create and apply, in conformity with the current legislation, consumers' protection policies at the whole population's level, but, also, for certain categories/situations characterized as special;
- The promoting of an international cooperation in the field of consumers' protection;
- The taking into consideration, at the elaboration of consumers' protection policies, of the positive potential of the education and research institutions;
- The encouraging of the development of market conditions which assure the consumers a large array of products at prices suitable for them;
- The establishment of a priority system regarding the consumer's protection from each country, in conformity with the economic and social circumstances specific for the reached development level, as well as for needs characteristic to the respective state's population;
- The obligation of the economic organizations to abide to the laws and reglementations regarding the consumers' protection from all the countries that have businesses, to respect the statements of the international standards/norms regarding the consumers' protection;
- The assurance of the consumers' access to correct information, which allow them a choice in conformity with the personal desires and necessities;

- The consumers' information regarding the compensation situations/modalities and the assurance of the possibility of an effective compensation for the consumer in the case of the appearance of damage generated by purchasing of non-conform products/services;
- The assurance of the consumers' liberty to organize themselves in associations/groups/organizations etc. and to designate their leaders, which will express their opinions in the processes of decision taking and to represent their interests.

The non-governmental organisms implicated in the consumers' protection assurance, also, have several fundamental rights, like:

- To be sustained and supported by the administrative, public, central, regional and local institutions in their objectives' reaching;
- To be consulted with the occasion of elaborating standards/specifications which define the technical and quality characteristics of the goods and services destined to the consumers;
- To request the competent authorities to take measures regarding the stopping of the production or pulling out of the goods that do not assure the quality minimum prescribed in the documents established by the law or which endanger the consumers' health, safety or life;
- To request the realization of products and services in the purpose of satisfying the needs of the consumers with special needs (persons with different forms of handicap, third age persons, persons with different illnesses etc.);
- To inform the public opinion regarding the quality deficits of some products/services, as well as of the bad consequences of them on the consumers (usually, through mass-media);
- To introduce actions in justice for defending their members' legitimate rights and interests;
- To request the accredited laboratories to effectuate analyses and trials of the products destined to the consumers, as well as the right to publish the obtained results;

At the same time, these non-governmental organisms act in the following directions:

- The following/evolution of the products' and services' prices;
- The marketing, prospecting and organization of the market; study effectuating and market correction;
- The quality promotion, of the TQM within the production and commerce firms;
- The following/assurance of the products' design and esthetics;
- The supplying and opening of the goods; the training of the presenting and selling agents;
- The organization of the systems of presentation, assessment and sale of the products, respectively their packaging, labeling and marking;
- The carrying out of the advertisement and publicity actions of the products and services;
- The consumers' behavior;
- The behavior of the product and/or service suppliers.

### **The Romanian National Authority for the Consumers' Protection**

Currently, in Romania there exists only one association for the consumers' protection recognized as being a public utility, and that is the Romanian National Authority for the Consumers' Protection (RNACP/ANPCR).

NACP/ANPC is a specialty organ of the central public administration, with justice personality, under the Government and in the coordination of the secretary for Small and Middle Enterprises, Commerce, Tourism and Liberal Professions, which coordinates and realizes the strategy and policy of the Government in the consumers' protection fields, acts for preventing and combating against the practices which harm the consumers' life, health, safety and economic interests.

Currently, the ANPC commands 42 Offices for the Consumers' Protection (one in each county, including Bucharest municipal), as well as the National Centre of Product Trial and Expertise LAREX Bucharest, the Laboratory for the Quality Analysis of Wines and Alcoholic Drinks (works in the structure of OPC Bucharest), own laboratories for analyses and trials organized within OPC Bacau, Vrancea, Neamt, Braila and Suceava.

In each county of the country, as in Bucharest, there have appeared numerous associations and other types of non-governmental organisms (over 140) which have as main activity object the consumers' protection.

In order to harden the market surveillance system, ANPC participates, along with the central and east-European countries, at the Transnational rapid information exchange system regarding the dangerous products destined for the consumers –RAPEX. From April 1999, ANPC was designated as RAPEX System National Contact Point. Within this system, the ANPC specialists follow the detecting of dangerous products with a high risk level for the consumers' life, health and safety; in this purpose, there have been signed collaboration conventions between ANPC, the Public Health Minister, Agriculture, Forests, Waters and Environments Minister.

Through the O.G. no. 88/2000 there has been created the justice frame for the establishment of the Consumers' Consulting and Informing Committee, organism which carries out its activity around the ANPCR Bucharest.

Starting with August 2001., around the ANPC functions the Interministerial Committee for the Surveillance of the Products' and Services' Market and the Consumers' Protection, organisms whose main attribution is the assurance of the collaboration between the central public administration's authorities, as well as the collaboration between these authorities and the civil structures regarding the perfecting of the legal frame, of the acceleration of the harmonization process between the national legislation and the EU.

In the completing of the institutional frame we mention the existence of the Consultative councils for the consumers' protection, which group the representatives of the state authorities, economic agencies and consumer groups, at a local level, as well as at national level, councils organized in conformity with HG 251/1994.

Keeping in view the statements of the 19<sup>th</sup> Chapter – The Consumers' Protection Policy within "The 2005-2008 Governing Program", in the date of the 10<sup>th</sup> of October 2006 there was established the Consumption National Institute's Association, as a non-governmental non-profit organization. Through the carried out activities (the training of consumers' protection associations formers, the effectuation of comparative tests, studies and publications), the institute contributes to the realization of major objectives of the EU strategy regarding the consumers' policy (2007-2013). As a result of the request received from the Consumption National Institute Association, the ANPC accords the necessary consultancy to this non-governmental organization and supports this association in the purpose of obtaining the public use status.

In the purpose of creating the legal instruments necessary for the protection of the consumers' rights and interests, the ANPC has been permanently preoccupied by the development of the legislative frame from the consumers' protection field, based on the specific European directives. At the same time, for the efficient and unitary application of the law, it has elaborated around 100 specific control procedures on product and services groups.

Keeping in view the statements of the art. 19 align. (1) from the O.U.G. nr. 25/2007 regarding the establishment of measures for the reorganization of the work apparatus of the Government, the need to assure a more efficient management through the bureaucracy's lowering and the assure of a better coordination, avoiding the eventual overrides of the activities of compartments existent within the ANPC, it is necessary to reorganize the institution's activity on regions, the modifying the attributions of the leadership organs and changing their names. In this sense, there has been elaborated a Decision Project regarding the organization and functioning of the ANPC starting with 2007-2008, in which there is stipulated:

1. the authority coordinates and realizes the strategy and policy of the Government in the consumers' protection field, acts for the preventing and combating of the practices which harm the consumers' life, health, safety and economic interests;
2. the authority assures the harmonizing of the national law frame with the reglementations from the European Union in the consumers' protection field;
3. the authority carries out its activity for informing and educating the citizens about their rights as consumers;
4. the authority evaluates the market effects of the surveillance systems of the products and services destined to the consumers;
5. the authority carries out activities of analysis and marking of the precious metals and their alloys and expertise of them and the precious metals;
6. the authority authorizes the physical and justice personas, in the law's conditions, to effectuate operations with precious metals, their alloys and precious stones;
7. The authority is the authority designated for applying the Kimberley process attesting process.

In conformity with those written in the mentioned document, the ANPC has in view:

1. The organizing of 11 regional structures with justice personality, names Regional Consumers' Protection Inspectorates – IRPC. In its suborder there are constituted the County Consumers' Protection Offices as structures without justice personality;
2. A more efficient monitoring and evaluation of the control activity of those 11 Regional Consumers' Protection Inspectorates regarding the 42 currently existing offices. This is possible through:
  - ◆ The efficientization of the council and control activities as a result of the growth of the number of persons with council and control attributes resulted from the redistribution of the existent personnel and from the increasing of the personnel number with 11 posts;
  - ◆ The improvement of the activity of collaboration with the business circles;
  - ◆ The improvement of the activity of collaboration with consumer O.N.G.'s and the according of a more efficient support for them;
  - ◆ The establishment of a direction within the authority, which will coordinate the activity of counseling, supervising and control, for products, as well as for services destined to the consumers, thus assuring a better coordination and correlation of the activities and avoiding possible overrides.

In the purpose of our country's joining in the European Union, in the year of 2006 the European Commission, through DG Enterprise and DG Enlargement, there has been filed a *Report regarding the surveillance activities of the existent product and services market in Romania*.

In this Report there was pointed out the fact that, through the Government's policy regarding the consumers' protection, in Romania there was realized a considerable progress in the field of supervising of the products and services market, through the implementation of the national laws, which is harmonized with the European one, as well as through the hardening of the administrative capacity in this direction. Moreover, the European Commission recognizes the ANPC as being the Romanian institution responsible for the surveillance of the products and services market surveillance and the consumers' protection. Referring to the actions enterprised by the ANPC, the European Commission appreciates that an important role was played by the administrative cooperation. In this sense, there was pointed out the activity of the Interministerial Committee for the surveillance of the products and services market and the consumers' protection, whose leadership functions (president or secretary) are assured by the ANPC.

An important side of the preoccupations referring to the enriching of the legislation in the consumers' protection field consists of the fact that, aside from the arsenal of laws and normative acts which permit the consumer to be defended in a useful manner from a pecuniary point of view, there must be elaborated laws or other reglementations which solve a series of moral aspects. The responsibility of acting in justice and, especially, the supporting of the costs generated by the solving of such situations must be put on the back of state institutions or, depending on the case, on the back of consumers' associations, because only such a procedure mode can contribute to the blocking of practices which lowers the social-moral state of the consumers, the respective institutions having the professionalism necessary to find the problems in cause, as well as the financial capacity of supporting the costs generated by the launching of justice actions, thus avoiding, procedures disliked by the consumers and useless fines.

In the last years, in several countries there have been established institutes and national research centers in the field of studying of the consumers' behavior in general, and of the consumers' protection especially, institutes which are called to accord specialty assistance to all the consumer categories. These institutions are in permanent connection with the diverse organisms of the state, with non-governmental organizations which have as activity object the consumers' protection and, not last, with the education institutions. The conclusions/results of the actions enterprised by these research centers'/institutes' specialists are materialized in product monographies, technical notes, fliers, communicates etc., all of these are put to the consumers' disposition.

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