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on electronic commerce

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Law no. 230 of 10.12.2015 – Official Gazette of the Republic of Moldova, 2016, no. 2-12, Article 19; in force 15.07.2016

Law no. 140 of 28.07.2011 – Official Gazette of the Republic of Moldova, 2011, no. 146, Article 446; in force 01.01.2012

Law no. 280-XVI of 14.12.2007 – Official Gazette of the Republic of Moldova, 2008, no. 94-96, Article 349; in force 30.05.2008.

The Parliament has adopted this organic law.

This law transposes Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), published in the Official Journal of the European Union L 178 of 17 July 2000.

Chapter I GENERAL PROVISIONS

Article 1. Purpose and objectives of the law

(1) The purpose of this law is to ensure a favourable regulatory framework for the provision of information society services.

(2) This law sets the principles of regulation of electronic commerce, the conditions for providing information society services, the liability of service providers and intermediaries, as well as the principles of supporting cooperation between the Republic of Moldova and other states in the process of providing information society services.

Article 2. Scope of the law

(1) This law applies to information society services, except for the following:

- a) professional activities in the justice sector, insofar as they involve the exercise of public power prerogatives;
- b) activities of legal representation before courts and criminal investigation bodies;

- c) games of chance that involve stakes in cash, with the exception of contests and promotional games that aim to encourage the sale of goods or services and for which payments, if made, serve only for the purchase of the goods or services promoted;
- d) the contractual relationship between an employee and his employer;
- e) the sale of personal property by natural persons not registered as an entrepreneur;
- f) governmental electronic services.

(2) Delivery of goods as such or provision of services without the use of the Internet (off-line services), as well as the use of electronic mail or other equivalent individual means of communication by natural persons acting for purposes not covered by their commercial or professional activities, including the use of these means for the conclusion of contracts between such persons, do not fall under the scope of this law.

(3) The provisions of this law are supplemented with the provisions of Law no. 133/2011 on the protection of personal data, Law no. 114/2012 on payment services and electronic money, Law no. 91/2014 on electronic signature and electronic document, Law no. 105/2003 on consumer protection and Law no. 8/2016 on consumer rights when concluding contracts.

(4) This law is without prejudice to the level of protection, in particular in matters of public health and consumer interests, established by other legislative acts.

(5) This law is without prejudice to measures taken at national level in order to promote cultural and linguistic diversity and to ensure the defence of pluralism of opinion.

Article 3. Application of this law in the case of information society services

(1) This law applies to service providers registered and/or established in the Republic of Moldova and to the services offered by them. The provisions of this law regarding consumer protection, in particular those in Article 11, Article 12, Article 21 (2)-(5) and Article 23, apply accordingly to the service providers that direct their activity towards the Republic of Moldova or towards several states, including the Republic of Moldova.

(2) A service provider whose activity is presented on his website or on the website of an intermediary is considered as directing his activity towards the Republic of Moldova if, before the eventual conclusion of a contract with a consumer domiciled on the territory of the Republic of Moldova, the web pages and the overall activity of the service provider clearly indicate that the latter intended to enter into business relations in particular with consumers domiciled in the Republic of Moldova or in several states, including the Republic of Moldova.

(3) The following elements, the list of which is not exhaustive, may constitute indications that, at least two at once, make it possible to consider that the activity of the service provider is directed towards the state of the consumer's domicile:

- a) the international nature of the activity;
- b) mentioning of itineraries with the starting point in other states for traveling to the place where the service provider has its registered office;
- c) use of the language or currency commonly used in the state of the consumer, provided that it is different from the language or currency commonly used in the state in which the service provider is established, with the possibility to make and confirm reservation in this different language;
- d) incurring expenses for an online referencing service in order to facilitate the access of persons in the state where the consumer is domiciled to the website or to the services of the service provider or of the intermediary;
- e) the use of a top-level domain name different from that of the state in which the service provider has its registered office.

(4) The following indications are insufficient to consider that the activity of the service provider is directed towards the state of the consumer's domicile:

- a) simple accessibility of the website and/or of the services of the service provider or of the intermediary in the state where the consumer is domiciled;
- b) mentioning of an electronic address and other contact details;
- c) the use of a language or currency commonly used in the state in which the service provider has its registered office.

Article 4. Main terms

For the purposes of this law, the following notions shall bear the following meanings:

“electronic commerce” – the entrepreneurial activity of natural and legal persons for the sale of goods, execution of works or provision of services, performed with the use of electronic communications and/or electronic contracts;

“electronic communication” – information in electronic form that is not an electronic document and is sent, received and stored with the help of electronic means;

“commercial communication” – any form of communication intended to promote, directly or indirectly, the goods, services or image of a company, organisation or person pursuing a commercial, industrial or craft activity or exercising a regulated profession.

The following are not commercial communications:

a) information allowing direct access to the activity of the company, organisation or person, in particular a domain name or an electronic mail address;

b) communications relating to goods, services or image of the company, organisation or person, compiled in an independent manner, particularly when this is without financial consideration;

“electronic contract” – the totality of electronic documents that constitute a civil law contract, aimed at establishing, modifying or ceasing some civil rights and obligations, the object of which may be goods, works or services;

“consumer” – any natural person who is acting for purposes other than those of commercial activity;

“recipient of services” – any natural or legal person who uses information society services for commercial, professional, personal or other purposes, in particular for the purpose of seeking information or making it accessible;

“service provider” – a natural or legal person that carries out entrepreneurial activity and makes available information society services to a definite or indefinite number of persons;

“service provider established in a state” – a service provider that has a permanent establishment on the territory of a state and effectively carries out an economic activity using that establishment for an indefinite period. The place where the technical means and technologies necessary for the provision of the service are located and used, as well as the place where the site through which the service is provided can be accessed, are not decisive in determining the provider’s establishment. If a service provider has several offices, the office from which the service is provided shall be taken into account, and if it is difficult to establish from which office the service was provided, the office in which the provider has the center of activities for the service in question shall be taken into account;

“intermediary in electronic commerce” – a natural or legal person that provides other subjects of electronic commerce with services related to the organisation and management of information systems and networks within electronic commerce, including the transmission, obtaining and storage of information in electronic form;

“electronic mail” – any message – text, voice or containing sounds or images – sent through a public electronic communications network, which can be stored in the network or in the terminal equipment of the recipient until it is opened by him;

“information society service” – any service provided for the purpose of obtaining remuneration, at a distance, by electronic means and at the individual request of a recipient of the service, including sales of goods online. Information society services are not limited to services that lead to conclusion of online contracts, but, to the extent that they represent an economic activity, cover services that are not remunerated by their recipients, such as services that provide online information or commercial communications or those that provide tools for searching, accessing and retrieving data. Information society services are also services that consist of the transmission of information through an electronic communications network, provision of access to an electronic communications network or hosting of information provided by a recipient of the service. Services transmitted point-to-point, such as video-on-demand or the provision of commercial communications by electronic mail, are also information society services.

The following activities are not information society services in the sense of this law:

- a) services provided in the physical presence of the provider and the recipient, even if this involves the use of electronic equipment;
- b) services with a material content, even if they are provided by means of electronic devices;
- c) services provided without the use of the Internet (offline services), such as the distribution of software on storage devices;
- d) services that are not provided through electronic data processing and storage systems, such as:
 - services of voice telephony, fax/telex;
 - services provided through voice telephony or fax;
 - direct sale by phone/fax;
- e) services provided through the transmission of data, without individual request, for the purpose of simultaneous reception by an unlimited number of individual recipients (point-to-multipoint transmission), such as:
 - transmission or retransmission of audiovisual program services;
 - teletext;

“service provided at a distance” – service provided without the parties being present simultaneously;

“service provided at the individual request of the recipient of services” – service provided by transmitting data upon individual request;

“service provided by electronic means” – service that is initially transmitted and received at the destination by means of electronic equipment for processing (including digital archiving) and storage of data and which is transmitted, transferred and received entirely by cable, radio, optical means or other electromagnetic means.

Article 5. Basic principles of electronic commerce

- (1) The activity of service providers and service recipients is not subject to any prior authorisation and is carried out in accordance with the principles of free and fair competition, in compliance with the legislation.
- (2) Natural and legal persons have equal rights with regard to the provision of information society services. Granting certain priorities or limiting the rights and interests of service providers and service recipients, except as provided by law, is not permitted.
- (3) The activity of natural and legal persons providing information society services is not limited to certain territories or categories of goods, works or services, unless the contract or the law provides otherwise.
- (4) The activity of service providers and intermediaries established in other states providing services to recipients in the Republic of Moldova shall be carried out under the conditions of international treaties to which the Republic of Moldova is a party and the legislation of the state where those service providers and intermediaries are located.
- (5) The provision of information society services by a service provider established in another state may not be restricted in the Republic of Moldova if the provider complies with the provisions of national law.
- (6) The provisions of paragraph (5) shall not apply to:
 - a) copyright and related rights, as well as industrial property rights;
 - b) issuance of electronic money;
 - c) advertising for collective investment undertakings in securities;
 - d) insurance activities;
 - e) the freedom of the parties to choose the law applicable to their contract;
 - f) contractual obligations arising from contracts concluded by consumers;
 - g) the formal validity of the contracts that create or transfer rights over real estate, in case these contracts are subject to some imperative formal requirements from the legislation of the state in which the real estate is located;
 - h) authorisation of unsolicited commercial communications by electronic mail.

(7) The competent public authorities may take measures derogating from the provisions of paragraph (5) in cases where they are necessary for the maintenance of public order; for prevention, investigation and detection of crimes; for the conduct of criminal investigation; for protection of minors; for combatting any form of inciting hatred on the grounds of race, sex, religion or nationality and any harm to human dignity; for the protection of public health, national defence and security; for the protection of consumers and investors. Those measures shall apply, in accordance with laws and other regulations in force, against any information society service which prejudices these objectives or which poses a serious and grave risk of prejudice to these objectives, and they must be proportionate to these objectives.

Article 6. Contracts in electronic commerce

(1) Contracts in electronic commerce may be concluded:

- a) in the form of an electronic contract, in accordance with the provisions of Law no. 91/2014 on electronic signature and electronic document;
- b) in another form, with the use of electronic means.

(2) Civil legislation shall apply to the contracts concluded within the framework of electronic commerce.

Chapter II

SUBJECTS AND OBJECTS OF ELECTRONIC COMMERCE

Article 7. Subjects of electronic commerce

(1) The subjects of electronic commerce may be natural and legal persons, including foreigners, regardless of the type of property and form of legal organisation, as well as the state as a subject of law, participating in electronic commerce as:

- a) service providers;
- b) recipients of services;
- c) intermediaries in electronic commerce.

(2) The subjects of electronic commerce obtain and realise rights and fulfil obligations in accordance with concluded contracts and with legal provisions.

(3) Participation in electronic commerce may not serve as the grounds for establishing additional requirements, procedures or restrictions in entrepreneurial activity, unless the contract or law provides otherwise.

Article 8. Objects of electronic commerce

(1) For the purposes of this law, objects of electronic commerce are:

- a) the goods that can be alienated according to legal provisions;
- b) works;
- c) services.

(2) Laws may establish restrictions on the use in electronic commerce of certain types of goods, works or services.

Article 9. Procedure for initiating the activity of service providers

(1) The right to act as a service provider is not conditioned by obtaining special authorisations or fulfilling requirements with similar effect.

(2) The provisions of paragraph (1) are without prejudice to the authorisation or licensing regimes which do not specifically and exclusively apply to information society services or which are regulated by the Law on electronic communications no. 241/2007.

(3) The right to carry out electronic commerce is obtained from the moment when the legal person or individual entrepreneur is registered with the State Registration Chamber under the conditions of Law no. 220/2007 regarding the state registration of legal persons and individual entrepreneurs.

(4) If a license is required for the sale of goods, execution of works or provision of services, electronic commerce may be carried out from the moment of obtaining the license for practicing

the respective type of activity under the conditions of Law no. 451/2001 on the regulation of entrepreneurial activities by licensing.

(5) Service providers shall use or capitalise on intellectual property objects in accordance with the legislation in the field of intellectual property.

Article 10. Personal data protection

(1) When processing personal data, service providers must comply with the data confidentiality regime and take the necessary organisational and technical measures to protect personal data against illegal or accidental access, destruction, modification, blocking, copying, illegal or unauthorised dissemination, as well as other illegal actions.

(2) Service providers must make public the terms and conditions for the processing of personal data and provide detailed information on:

- a) the registration number as a personal data controller;
- b) the categories of information collected from the consumer, the purpose of its collection and the way of processing personal data;
- c) the rights of the consumer as a subject of personal data, in particular the right of intervention and opposition, the manner of exercising these rights;
- d) the cases in which personal data may be disclosed to third parties;
- e) the contact point for consumer requests regarding personal data concerning them;
- f) the mechanisms and manner of monitoring the online activities of the consumer (cookies) for marketing purposes, the procedure of obtaining consent for such practices;
- g) the right to refuse the collection of personal data by the service provider;
- h) the manner of withdrawal of consent.

The service provider shall also provide general information on the organisational and technical measures taken to protect the personal data of consumers.

(3) If it is necessary to process personal data for the prevention, investigation and detection of frauds related to information society services, this shall be done without the consent of the person to whom the data relate.

(4) If a consumer considers that his rights to personal data protection have been violated, he may file a complaint with the national personal data protection authority which, without prejudice to the attributions of other public authorities, checks the legality of personal data processing and informs the consumer concerned in accordance with the provisions of Article 27 of Law no. 133/2011 on personal data protection.

Article 11. Recipients of services

Recipients of services are liable in accordance with the law for the content of information transmitted and stored at their request by service providers through electronic communication networks.

Article 12. Informing the recipients of services

(1) A service provider must ensure to the recipients of services and state supervisory authorities easy, direct and permanent access to authentic information about himself in electronic format, in the Romanian language. On his own initiative, he may additionally present information in another widely used language. The information shall include the following data:

- a) full name, including the form of legal organisation – in the case of a legal person; name and surname – in the case of a natural person registered as an individual entrepreneur;
- b) the state identification number (IDNO) of the legal person or of the individual entrepreneur;
- c) legal address, electronic mail address of the person, contact telephone number;
- d) the number and term of validity of the authorisation (if authorisation is required to carry out the activity), as well as the name of the public administration authority that issued the authorisation;
- e) as regards regulated professions – the professional title, professional body or similar institution to which the provider is registered, a reference to the professional rules applicable to that profession and to the ways to access them;
- f) VAT code;

- g) data regarding the shipping conditions, as well as the prices of the goods intended for sale, tariffs of the works to be executed or of the services to be provided;
 - h) prices of goods, tariffs of works or services, which must be indicated with the specification of discounts, inclusion or non-inclusion of taxes in prices and tariffs;
 - i) inclusion or non-inclusion in prices and tariffs of delivery costs and/or other expenses, as well as their value, if applicable;
 - j) the contact telephone number and address of the official website of the Agency for Consumer Protection and Market Surveillance;
 - k) payment terms;
 - l) the validity period of the offer and the price;
 - m) other data to be submitted in accordance with the contract between the parties and legislative acts or upon the decision of service providers and recipients of services.
- (2) The offers or information regarding the goods, works or services offered by the service provider must be presented in electronic form in such a way as to allow the reproduction of the information without distortions and the formation of a clear image about the service provider, the works and services offered by him, their prices and tariffs and the conditions of sale, execution or provision.
- (3) The service provider is liable, in accordance with the law, for the presentation of untrue information to the state supervisory authorities or to the subjects of electronic commerce, as well as for the use of unfair commercial practices.

Article 13. Intermediation in electronic commerce

- (1) In order to ensure the exchange of electronic documents and electronic communications, the subjects of electronic commerce may use, on a contractual basis, the services of an intermediary in electronic commerce related to the organisation and management of the respective information systems and networks.
- (2) An intermediary in electronic commerce must ensure the integrity and confidentiality of the communications transmitted through the public electronic communication networks operated by the intermediary and of the information on the electronic communications services provided to the public by the intermediary, except for the cases provided by law.
- (3) An intermediary in electronic commerce shall not have the right to:
- a) disclose the information contained in electronic documents or communications;
 - b) transmit to third parties electronic documents, communications or copies thereof, including the information contained therein, unless the contract concluded with the participants in electronic commerce or the law provides otherwise;
 - c) modify the content of electronic documents or communications or their use, unless the contract concluded with the participants in electronic commerce or the law provides otherwise.
- (4) An intermediary in electronic commerce is not obliged to control or verify the authenticity of communications, information and documents transmitted, received and stored, as well as their compliance with the legislation, unless the contract concluded with the service provider or service recipient provides otherwise.

Chapter III

LIABILITY OF SERVICE PROVIDERS

Article 14. General principles

- (1) The violation by service providers of the provisions of this law shall entail civil, criminal or contravention liability, as the case may be, according to the law.
- (2) Service providers are responsible for the information provided on their own initiative or on their behalf.
- (3) Service providers do not have the obligation to supervise the information they transmit or store when providing the services described in Articles 15–17 nor the obligation to actively seek facts or circumstances from which it results that the activities are illegal.

Article 15. Intermediation by simple transmission

(1) If an information society service consists in the transmission through an electronic communication network of information submitted by a recipient of the service or in the provision of access to the electronic communication network, the service provider shall not be liable for the information transmitted, provided that he:

- a) does not initiate transmission;
- b) does not select the recipient of transmission;
- c) does not select or modify the content of the information that is the object of transmission.

(2) The activities of transmitting information and ensuring access to electronic communication networks, defined in paragraph (1), include the automatic, intermediate and transitory storage of the transmitted information as long as the storage serves exclusively for the execution of transmission through the electronic communication network and provided that the duration of storage does not exceed the reasonable time required for transmission.

(3) The provisions of paragraphs (1) and (2) do not affect the possibility for a court or a competent public authority to take measures to prevent or stop an infringement, in accordance with legal provisions.

Article 16. Temporary storage of information

If an information society service consists in the transmission through an electronic communication network of the information submitted by a recipient of the service, the service provider shall not be liable for the automatic, intermediate and temporary storage of the transmitted information, carried out exclusively to make more efficient transmission of information to other recipients of the service, at their request (forms of storage called ‘caching’), as long as the service provider:

- a) does not modify the information;
- b) meets the conditions for access to information;
- c) complies with the standards regarding the updating of the information, as they are widely known and applied in the field;
- d) does not prevent the lawful use of technology, widely recognised and used in the field, in order to obtain data on the use of information;
- e) acts promptly to delete the information he has stored or to block access to it as soon as he becomes aware that the information originally transmitted has been removed from the network or that access to it has been blocked, or that a court or the competent public authority has ordered, in accordance with legal provisions, that the respective information be deleted or that access to it be blocked.

Article 17. Permanent storage of information

(1) If an information society service consists of storing information submitted by a recipient of the service, the service provider shall not be liable for the information stored at the request of that recipient (storage forms called hosting), as long as the service provider is not aware that the activity or information stored is illegal and, with regard to actions for damages, is not aware of facts or circumstances which show that the activity or information in question is manifestly illegal.

(2) As soon as a service provider becomes aware that the activity or information stored is illegal, he must act promptly to remove the information or to block access to it.

(3) A service provider is deemed aware of the fact that the activity or information stored is illegal or of facts or circumstances that show that the activity or information in question is manifestly illegal if he:

- a) receives a written order from a court or a competent public authority, issued in accordance with legal provisions, which confirms the illegal nature of the activity or of the specific information stored on the servers of the service provider or those that are under his control and demands the respective web page to be deleted or access to it be blocked;
- b) receives a written notification (in original) from an interested person stating, on his own responsibility, that a specific activity or information stored on the servers of the service provider

or on those under his control is illegal and requesting the respective web page to be deleted or access to it be blocked.

(4) The notification provided for in paragraph (3) letter b) shall be deemed valid if it contains the following data:

a) the date of notification;

b) name, surname, domicile address, citizenship, date and place of birth, place of work if the notifying party is a natural person; name, form of legal organisation, address of the registered office, name and surname of the administrator (manager) if the notifying party is a legal person;

c) name, surname and domicile address of the addressee of the notification or, in the case of a legal person, the name and address of its registered office;

d) description of the disputed facts and their location;

e) the reasons why the information must be deleted or blocked, including the statement and the evidence proving the alleged facts;

f) copy of the correspondence addressed to the author or publisher of the disputed information or activity, requesting the deletion or blocking of the information, or the evidence to prove that the author could not be contacted.

(5) After receiving the notification referred to in paragraph (3) letter b), the service provider, without undue delay, shall send the notification to the recipient of services to whom it provides the services of storage of the respective web page. The recipient of services, without undue delay, shall notify the service provider in writing of his agreement or disagreement with the request. If the service provider has received the disagreement of the recipient of the respective service within 10 working days from the sending of the notification referred to in paragraph (3) letter b), it is exempted from the obligation to delete the respective web page or block access to it. At the request of the person concerned, the court may oblige the service provider to delete the respective web page or to block access to it. If the service provider has received the written consent of the recipient of that service or has not received a reply within 10 working days from the sending of the notification referred to in paragraph (3) letter b), the service provider is obliged to delete or block that web page without delay.

(6) The provisions of paragraph (1) shall not apply when the recipient of the service acts under the authority or control of the service provider.

Chapter IV

LEGAL REGIME OF ELECTRONIC COMMUNICATIONS

Article 18. Electronic communication

(1) Electronic communication in terms of legal and probative force is equivalent to information in written form.

(2) If the law provides for the information to be presented in writing, this requirement shall be deemed possible by electronic communication, as long as the information contained therein is accessible for repeated use.

(3) Electronic communication may not be devoid of legal or probative force solely because it is made in electronic form.

(4) Responsibility for the content of electronic communication is borne by the person who prepared the electronic communication, unless the contract or the law provides otherwise.

(5) The manner of access to the information contained in electronic communication and its protection is established by law.

Article 19. Subjects of electronic communication

(1) The subjects of electronic communications are the composer, the recipient and the intermediary.

(2) The composer of electronic communication is the person who composed and sent electronic communication or on whose behalf the electronic communication was composed or sent.

(3) The recipient of electronic communication is the person to whom electronic communication was sent.

(4) The intermediary between the sender and the recipient of electronic communication is the person who ensures on their behalf the sending, receiving and storage of electronic communication or provides other services in connection with these actions.

Article 20. Storage of electronic communication

(1) The subjects of electronic commerce are not obliged to store the electronic communications created by them, unless the contract or the law provides otherwise.

(2) If the contract or law provides for the storage of certain electronic communications, this requirement shall be met in compliance with the following conditions:

a) the information contained in the electronic communication shall be accessible for subsequent use;

b) an electronic communication shall be stored in the form in which it was composed, sent or received or in a form that ensures the veracity of its content;

c) the information that enables establishing the origin and destination of an electronic communication, as well as of the date and time of its sending or receiving, shall be kept.

(3) The obligation to store electronic communication according to paragraph (2) does not apply to the information intended to make it possible to send or receive the respective communication.

Article 21. Sending and receiving of electronic communication

(1) An electronic communication is deemed to be the communication of the composer if it has been sent:

a) directly by the composer;

b) by the person authorised to act on behalf of the composer of the electronic communication, including an intermediary in electronic commerce;

c) through the information system of the composer or, on his behalf, through a system that operates in automatic regime.

(2) The recipient of an electronic communication has the right to request the confirmation of the fact that the electronic communication belongs to the composer, in the manner and within the terms previously agreed with the composer of the electronic communication.

(3) Unless the parties that are not consumers agree otherwise, the service provider must make available to the recipient of the services, before the latter places the order, the following information, worded clearly, unequivocally and in accessible language:

a) the technical steps to be followed in order to conclude the contract;

b) whether the contract, once concluded, will be stored or will not be stored by the service provider and whether it will be accessible or will not be accessible;

c) the technical means that the service provider makes available to the recipient of the services for the identification and correction of errors occurred when entering data before placing the order;

d) the languages in which the contract may be concluded;

e) the relevant codes of conduct to which the service provider subscribes, as well as information on how these codes can be consulted by electronic means;

f) any other conditions imposed by the legal provisions in force.

(4) The contractual clauses and general conditions provided to the recipient of services shall be made available in a way that allows him to store and reproduce them.

(5) The provisions of paragraph (3) shall not apply to contracts concluded exclusively by exchanges of messages through electronic mail or by equivalent individual communications.

Article 22. Commercial communications

(1) Commercial communications may not be sent by electronic mail, unless the recipient previously expressed his consent to receive such communications. Any person has the right to refuse to receive commercial communications.

(2) Commercial communications must meet at least the following requirements:

a) to be clearly identifiable;

- b) the person in whose name they are made to be clearly identifiable;
- c) promotional offers, such as discounts, prizes and gifts, to be clearly identifiable, and the conditions that must be met to obtain them to be clearly presented and accessible;
- d) competitions and promotional games to be clearly identifiable, and the conditions for participation to be clearly presented and accessible;
- e) other requirements provided by the legislation.

Chapter V

LEGAL REGIME OF THE CONTRACT CONCLUDED BY ELECTRONIC MEANS

Article 23. Placing the order

- (1) If the recipient of services places the order by electronic means, the following conditions are observed:
 - a) the service provider must confirm, without undue delay, by electronic means, the receipt of information regarding the order, including the acceptance or rejection of the order placed by the recipient of services;
 - b) the information regarding the order, including the confirmation of its receipt, is deemed accessed when the parties to whom it is addressed have exchanged affirmative information.
- (2) The service provider shall make available to the recipient of services ways to use adequate, efficient and accessible electronic means to allow him to identify and correct the errors occurred when entering data before placing the order.
- (3) The service provider may derogate from the provisions of paragraphs (1) and (2) only if he has agreed otherwise with the recipient of services, as long as neither party has the status of consumer.
- (4) The provisions of paragraph (1) letter a) and of paragraph (2) shall not apply to contracts concluded exclusively by exchange of messages through electronic mail or by equivalent individual communications.

Article 24. Legal regime of contracts concluded by electronic means

- (1) A contract concluded by electronic means consists of offer and acceptance.
- (2) A contract is not without effect or legal validity because of its conclusion by electronic means.
- (3) For the contracts concluded by electronic means to be valid, the prior consent of parties on the use of electronic means is not required.
- (4) In terms of legal force, a contract concluded by electronic means is equivalent to a contract drawn up in written form and signed by the parties, including authentication with the stamps of the parties.
- (5) Contracts concluded by electronic means shall be subject to the general provisions regarding contracts, stipulated in the Civil Code of the Republic of Moldova.
- (6) In terms of probative force, a contract concluded by electronic means is equivalent to a contract drawn up in written form.
- (7) The following contracts may not be concluded by electronic means:
 - a) contracts under which property rights over real estate appear or are transferred, except for lease or rental contracts;
 - b) contracts whose conclusion, according to the law, requires the participation of courts, public administration authorities or representatives of professions that involve the exercise of public authority in order to produce effects on third parties, as well as contracts requiring notarial authentication;
 - c) suretyship contracts or contracts of immovable or movable guarantees (mortgage, pledge) offered by persons acting for purposes not related to their commercial or professional activity;
 - d) contracts that are regulated by family law or inheritance law.

Chapter VI

SUPERVISION AND CONTROL OF INFORMATION SOCIETY SERVICES

Article 25. Obligations of service providers

(1) Providers that offer Internet access services or permanent information storage services must make available to the public an easily accessible and visible tool (means) that allows any person to bring to the notice of the respective service providers information regarding the conduct by the recipients of services, through these services, of the activities that constitute crimes under Articles 140, 1751, 2081, 2792 and 346 of the Criminal Code. Service providers must promptly notify the competent public authority about the illegal activities that are carried out by the recipients of services, through these services, after such information is reported to them.

(2) Service providers must promptly communicate to the competent public authorities, at their request, information that would allow the identification of the recipients of services with which these providers have concluded contracts on the permanent storage of information. The information may be requested by competent public authorities, according to their competences, only if they have evidence that leads to the conclusion that the services offered by the provider are used by the recipients of services for carrying out illegal activities, including for providing illegal information.

(3) The competent public authority to which service providers must communicate the information described in paragraph (1) is the Ministry of Internal Affairs, and the competent public authorities to which service providers must communicate the information described in paragraph (2) are the Ministry of Internal Affairs, the Information and Security Service and the General Prosecutor's Office.

Article 26. Competent authorities

(1) The supervision and control of the observance of the rules regarding consumer protection in the process of selling goods and services by electronic means shall be performed by competent authorities with functions of control in the field of consumer protection, according to the areas of competence established in Law no. 105/2003 on consumer protection.

(2) The control of the legality of personal data processing in the field of electronic commerce shall be performed by the National Centre for Personal Data Protection.

(3) Control in the field of electronic commerce shall also be performed by other authorities within the limits and in accordance with the competencies established by law. The state control of the persons carrying out entrepreneurial activity in the field of electronic commerce shall be planned, carried out and registered in accordance with the provisions of Law no. 131/2012 on state control over entrepreneurial activities.

(4) The Agency for Consumer Protection and Market Surveillance, as well as other authorities with functions of control in the field of consumer protection, shall cooperate with the competent authorities of other states in order to effectively exercise supervision and control over the activity of service providers.

Article 27. Codes of conduct

(1) Employers' associations or public associations whose fields of activity include the protection of consumers, minors or persons with disabilities, in collaboration with the Ministry of Economy and the competent authorities nominated in Article 26, may elaborate codes of conduct in order to properly apply the provisions of this law.

(2) Service providers shall inform service recipients, in accordance with Article 21, about the relevant codes of conduct developed to which service providers subscribe, as well as about how these codes can be consulted by electronic means.

Chapter VII FINAL PROVISIONS

Article 28.

(1) This law enters into force after the expiration of 3 months from its publication in the Official Gazette of the Republic of Moldova.

(2) The Government, within 3 months:

a) shall present to the Parliament proposals on harmonising the legislation in force with this law;

b) shall harmonise its regulatory acts with this law;

c) shall ensure the harmonisation of departmental regulatory acts with this law.

(3) Until the current legislation is harmonised with this law, it shall be applied in the part that does not conflict with this law.

PRESIDENT OF THE PARLIAMENT Eugenia OSTAPCIUC

Chisinau, 22 July 2004.

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