

Amendments and supplements to Law no. 321/2009 on marketing of food products

18 July 2016

In brief

Law no. 150/2016 amending and supplementing Law no. 321/2009 on marketing of food products (“**Law 150/2016**”) has been published.

In detail

The main amendments and supplements to Law no. 321/2009 on marketing of food products (“Law 321/2009”) are:

1. New definitions have been expressly provided, including: Romanian meat, fresh food product, frozen food product, Romanian product (taken from EU Regulation 1669/2011), commercial contract, channel of agro-food product, inter-professional agreement (taken from EU Regulation 1305/2013), production cost, acquisition price (taken from Government Ordinance no. 99/2000 and which replaces “acquisition cost” from Law 321/2009), sale in loss, sale price to consumer, short procurement chain (taken from EU Regulation 1305/2013).
2. A separate chapter has been added stating traders’ obligations:
 - on exposition spaces;
 - on labelling formalities;
 - on the procurement of a minimum of 51% from the short food chain; the short food chain involves a limited number of economic operators engaged in cooperation and local economic development activities, as well as closed geographical and social relationships between producers, processors and consumers) for traders with turnovers equal to or higher than EUR 2 million, except for exotic fruits imported from other countries.
 - on organisation of promotion events and sale of Romanian food products.
3. The wording in the provisions from Law 321/2009 which mention “it is forbidden for any trader to request or to charge from the supplier the payment of services which are not directly related to the sale” is replaced with “it is forbidden for any trader to request the invoicing / re-invoicing and to charge from the supplier taxes and services”.
4. The 24-hour term within which a trader is able to refuse to receive goods due to the non-fulfilment of the legal conditions has been modified to the “moment of delivery”. The term for transmission of the receipt confirmation (for cases where the contract provides for later receipt) has also been reduced from 48

hours following the moment the goods arrive to 24 hours following their arrival. Later reception of goods and invoices cannot be provided for by contract in the case of fresh food products.

5. The payment term for supplier products which was subject to negotiation under Law 321/2009 has been replaced by a term of 30 calendar days. The payment term for fresh food products is now seven calendar days.
6. Sanctions for the following acts of non-observance are:
 - (i) traders may not request invoicing / re-invoicing of, nor charge suppliers for, taxes and services – fines from RON 100,000 to RON 150,000. In the case of repeated irregularities – the suspension of the functioning authorisation for a period of six months;
 - (ii) traders' obligation to procure certain product categories (a minimum of 51% of the shelf volume)

from the short food chain – fines from RON 100,000 to RON 150,000; (iii) the payment term – fines from RON 50,000 to RON 100,000.

[Source: Law no. 150/2016 amending and supplementing Law no. 321/2009 on marketing of food products, as published in the Official Gazette of Romania no. 534 dated 15 July 2016]

The takeaway

The main Law 150/2016 amendments and supplements include:

- Traders are not allowed to request invoicing / re-invoicing, nor charge suppliers for taxes and services;
- Traders' obligation to procure products in the following categories (a minimum of 51% from the shelf volume) from the short food chain (methodology for the short food chain should be approved by Government Decision): meat, eggs, vegetables, fruits, honey, dairies and pastry;
- The payment term for fresh food products should not exceed seven calendar days.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:



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