

Law No.2004/18

ON INTERNAL TRADE

The Assembly of Kosovo,

Pursuant to Regulation No. 2001/9 of May 15, 2001 on the Constitutional Framework for Provisional Institutions of Self-Government in Kosovo, Chapters 5.1. (d), 5.7, 9.1.1 and 9.1.26 (a),

For the purpose of promoting a healthy economic development of a free internal market in Kosovo,

Approves:

LAW ON INTERNAL TRADE

**CHAPTER ONE
GENERAL PROVISIONS**

Article 1

This Law regulates requirements for the development of internal market trade, wholesale, retail sale, auction, mediation in trade, restrictive practices and protection measures for the development of trade activity, illegal competition, supervisory measures, administrative measures, and punitive provisions.

Definitions and the meaning of terms

Article 2

Whenever used in the present law, each of the following terms shall have the indicated meaning unless the context within which such term appears clearly intends another meaning.

“Fraudulent Trade Policy” -shall mean distortion of any material evidence with the purpose of deceiving the customers during purchase or sale of goods in the internal market;

“Natural person” - shall mean an individual and a natural person as an owner of the enterprise, registered as individual business;

“Legal person” - shall mean a joint-stock company, partnership (companies with limited and unlimited liabilities) socially owned enterprise or publicly owned enterprise;

“Minister”- means the Minister of Trade and Industry;

“Ministry” - means the Ministry of Trade and Industry, established with UNMIK Regulation No. 2001/19;

“Seller or supplier”- means any natural or legal person who, in contracts covered by this Law, acts for purposes relating to his trade, business or profession, whether publicly owned or privately owned;

“Producer” means the manufacturer of consumer goods, the importer of consumer goods into the territory of the Community or any person purporting to be a producer by placing his name, trade mark or other distinctive sign on the consumer goods;

“Commercial transactions” means transactions between undertakers or between undertakers and public authorities which lead to the delivery of goods or the provision of services for remuneration;

"Trader" means a natural or legal person who, for the transaction in question, acts in his commercial or professional capacity, and anyone acting in the name or on behalf of a trader;

"Consumer" means any natural person who, in contracts covered by this Law, is acting for purposes which are outside his trade, business or profession;

"Product" means any good or service including immovable property;

"Commercial practices" means any act, omission, course of conduct or representation, commercial communication including advertising and marketing, by a trader, directly connected with the promotion, sale or supply of a product to consumers;

"To materially distort the economic behavior of consumers" means using a commercial practice to significantly impair the consumer's ability to make an informed decision and thereby causing the consumer to take a transactional decision that he would not have taken otherwise;

"Code of conduct" means an agreement which defines the behavior of the traders who undertake to be bound by the code in relation to one or more particular commercial practices or business sectors;

"Code owner" means any entity, including a trader or group of traders, which is responsible for the formulation and revision of a code of conduct and/or for monitoring compliance with the code by those who have undertaken to be bound by it;

"Professional diligence" means the measure of special skill and care exercised by a trader commensurate with the requirements of normal market practice towards consumers in his field of activity in the internal market;

"Invitation to purchase" means a commercial communication which indicates the main characteristics of the product and the price in a way appropriate to the means of the commercial communication used and thereby enables the consumer to make a purchase;

"Undue influence" means exploiting a position of power to apply pressure, without using physical force, in a way which significantly limits the consumer's ability to make an informed decision.

Article 3

3.1. The internal market in Kosovo is unique and is governed by this Law.

3.2. All persons engaged in commercial activities shall be treated without any discrimination or privileges and in accordance with the provisions of this Law.

Article 4

A trader shall carry out all activities permitted by the law.

Article 5

5.1. Unfair competition by traders is prohibited in accordance with Article 31.

5.2. Except when determined by law, central and local bodies may not by law or other regulations restrict the right to participation in the market, prohibit free market competition or create unequal positions for certain traders and consumers.

CHAPTER TWO CONDUCT OF TRADE ACTIVITY

Article 6

A trader may carry out all trade activities for which it has been registered, if not determined otherwise by other applicable laws or regulations.

Article 7

Prior to registration a trader may perform such commercial activities as are necessary to effect the registration.

Article 8

8.1. Without prejudice to 3.2, the following activities are covered by this law:

- a. public enterprises and civic initiatives that sell certain goods in order to accomplish their tasks, in compliance with their acts,
- b. natural and legal persons registered for carrying out production activities, when placing their products in the market,
- c. public enterprises, civic initiatives which, in order to accomplish their aims, in compliance with their acts (their statutes), sell certain goods,
- d. natural persons dealing with agricultural production, when placing their products in the market,
- e. natural persons which in accordance with the contract made with the registered trader, without establishment of employment, execute retail sale to the account of the trader.

8.2. The Ministry of Trade may determine by regulation the activities to be covered by Article 8.1.
Wholesale

Article 9

A wholesaler is an intermediate in the distribution chain that buys the product in mass quantity from the manufacturer and sells in smaller quantities to distributors or retailer

Article 10

10.1. Wholesale trade shall be exercised in specific facilities or warehouses for sale, wholesale markets, other locations that fulfill prerequisites, and in transit.

10.2. Wholesale trade in transit means purchase and sale of goods without being stored and kept in wholesale warehouses.

Article 11

11.1. The Ministry of Trade and Industry may issue Administrative Instruction determining, the conduct of wholesale trading in specific premises or warehouses.

11.2. Administrative Instruction made under Paragraph 1 of this Article may determine special conditions for facilities, and warehouses, and conditions for storing the goods in order to ensure protection of life, health and environment.

Article 12

12.1. Wholesale trading may be conducted also in commodity exchange markets, fairs, exhibitions and auctions.

12.2. Establishment and operation of commodity exchange markets, fairs and similar forms shall be regulated by special law.

Retail sale

Article 13

Retail sale means purchase of goods from a wholesale trader, with the aim of selling them to the last consumer.

Article 14

Retail sales shall be conducted in trade facilities (herein in the text: stores) and outside of them, if specific requirements for such sales have been fulfilled.

Article 15

15.1. Sale of goods outside the stores shall be considered sale in retail markets, including through mail, in stands, planks, in purchasing premises, through machines, through mass media and the mobile sale (street salesmen).

15.2. Sale of goods outside the stores in occasional sales such as: fairs, exhibitions, organized events and the like shall also be considered retail sales.

15.3. Sale of goods outside the market: in stands, planks, machines, mobile sale or occasional sale may be conducted in locations previously determined by relevant authorities.

Article 16

16.1. Only those traders with a valid license may exercise trade activity and sale of products.

16.2. Natural persons dealing with agricultural production may freely sell their products, in accordance with specific provisions, without having to register.

16.3. The market inspector may prohibit natural and legal persons from trading after giving adequate notice

Auctions

Article 17

17.1. Auction (public auction) is a special form of conducting wholesale and retail.

17.2. Auction is an organized sale of goods to the highest bidder, based on the publicly advertised auction at a certain time and place.

17.3. Auctions may be permanent and temporary.

17.4. Conditions for organizing the auction, registration of goods to be sold in auctions, manner of business and the procedure of sale through auction shall be determined by regulations made by the Minister of Trade and Industry.

Commercial mediation

Article 18

18.1. For the purposes of this Law 'commercial agent' shall mean a self-employed intermediary who has continuing authority to negotiate the sale or the purchase of goods on behalf of another person, hereinafter called the 'principal', or to negotiate and conclude such transactions on behalf of and in the name of that principal.

18.2. A commercial agent shall be understood within the meaning of this Law as not including in particular:

- a. a person who, in his capacity as an officer, is empowered to enter into commitments binding on a company or association,
- b. a partner who is lawfully authorized to enter into commitments binding on his partners,
- c. a receiver, a receiver and manager, a liquidator or a trustee in bankruptcy.

Article 19

This Law shall not apply to:

- a. commercial agents whose activities are unpaid,
- b. commercial agents when they operate on commodity exchanges or in the commodity market

Rights and obligations

Article 20

20.1. In performing his/her activities a commercial agent must look after his principal's interests and act dutifully and in good faith.

20.2. In particular, a commercial agent must:

- a. make proper efforts to negotiate and, where appropriate, conclude the transactions he is instructed to take care of;
- b. communicate to his principal all the necessary information available to him;
- c. comply with reasonable instructions given by his principal.

Article 21

21.1. In his/her relations with the commercial agent, the principal must act dutifully and in good faith.

21.2. A principal must in particular:

- a. provide his commercial agent with the necessary documentation relating to the goods concerned;
- b. obtain for his commercial agent the information necessary for the performance of the agency contract, and in particular notify the commercial agent within a reasonable period once he anticipates that the volume of commercial transactions will be significantly lower than that which the commercial agent could normally have expected.

21.3. A principal must, in addition, inform the commercial agent within a reasonable period of his acceptance, refusal, and of any non-execution of a commercial transaction which the commercial agent has procured for the principal.

Article 22

The parties may not derogate from the provisions of Articles 20 and 21.

Article 23

23.1. In the absence of any agreement on this matter between the parties, a commercial agent shall be entitled to the remuneration that commercial agents appointed for the goods forming the subject of his agency contract are customarily allowed in the place where he carries on his activities. If there is no such customary practice a commercial agent shall be entitled to reasonable remuneration taking into account all the aspects of the transaction.

23.2. Any part of the remuneration which varies within value of business transactions shall be deemed to be commission within the meaning of this Law.

23.3. Articles 18 to 23 shall not apply if the commercial agent is not remunerated wholly or in part by commission.

Article 24

24.1. A commercial agent shall be entitled to commission on commercial transactions concluded during the period covered by the agency contract:

- a. where the transaction has been concluded as a result of his action; or
- b. where the transaction is concluded with a third party whom he has previously acquired as a customer for transactions of the same kind.

24.2. A commercial agent shall also be entitled to commission on transactions concluded during the period covered by the agency contract:

- a. either where he is entrusted with a specific geographical area or a group of customers,
- b. or where he has an exclusive right to a specific geographical area or group of customers, and where the transaction has been entered into with a customer belonging to that area or group.

Article 25

A commercial agent shall be entitled to commission on commercial transactions concluded after the agency contract has terminated:

- a. if the transaction is mainly attributable to the commercial agent's efforts during the period covered by the agency contract and
- b. if the transaction was entered into within a reasonable period after that contract terminated; or
- c. if, in accordance with the conditions mentioned in Article 24, the order of the third party reached the principal or the commercial agent before the agency contract terminated.

Article 26

A commercial agent shall not be entitled to the commission referred to in Article 24, if that commission is payable, pursuant to Article 25, to the previous commercial agent, unless it is equitable because of the circumstances for the commission to be shared between the commercial agents.

Article 27

27.1. The commission shall become due as soon as and to the extent that one of the following circumstances obtains:

- a. the principal has executed the transaction; or
- b. the principal should, according to his agreement with the third party, have executed the transaction; or
- c. the third party has executed the transaction.

27.2. The commission shall become due at the latest when the third party has executed his part of the transaction or should have done so if the principal had executed his part of the transaction, as he should have.

27.3. The commission shall be paid not later than on the last day of the month following the quarter in which it became due.

27.4. Agreements to derogate from paragraphs 2 and 3 to the detriment of the commercial agent shall not be permitted.

Article 28

28.1. The right to commission can be extinguished only if and to the extent that:

- a. it is established that the contract between the third party and the principal will not be executed, and
- b. that fact is due to a reason for which the principal is not to blame.

28.2. Any commission which the commercial agent has already received shall be refunded if the right to it is extinguished.

28.3. Agreements to derogate from paragraph 1 to the detriment of the commercial agent shall not be permitted.

Distance selling

Article 29

29.1. 'For the purposes of this Law "distance contract" means any contract concerning goods or services concluded between a supplier and a consumer under an organized distance sales or service-provision scheme run by the supplier, who, for the purpose of the contract, makes exclusive use of one or more means of distance communication up to and including the moment at which the contract is concluded;

29.2. "means of distance communication" means any means which, without the simultaneous physical presence of the supplier and the consumer, may be used for the conclusion of a contract between those parties.

29.3. "operator of a means of communication" means any public or private natural or legal person whose trade, business or profession involves making one or more means of distance communication available to suppliers

Exemptions

Article 30

This part of this law shall not apply to contracts:

- a. relating to financial services
- b. concluded by means of automatic vending machines or automated commercial premises,
- c. concluded with telecommunications operators through the use of public payphones,
- d. concluded for the construction and sale of immovable property or relating to other immovable property rights, except for rental,
- e. concluded at an auction,
- f. to contracts for the supply of foodstuffs, beverages or other goods intended for everyday consumption supplied to the home of the consumer, to his residence or to his workplace by regular rounds men,
- g. to contracts for the provision of accommodation, transport, catering or leisure services, where the supplier undertakes, when the contract is concluded, to provide these services on a specific date or within a specific period.

Restrictions on the use of certain means of distance communication.

Article 31

For the use by a supplier of the following means requires the prior consent of the consumer:

- a. automated calling system without human intervention (automatic calling machine),
- b. facsimile machine (fax).

Door-to-door selling

Article 32

32.1. This Law shall apply to contracts under which a trader supplies goods or services to a consumer and which are concluded: - during an excursion organized by the trader away from his business premises, or-during a visit by a trader:

- a. to the consumer's home or to that of another consumer;
- b. to the consumer's place of work; where the visit does not take place at the express request of the consumer.

32.2. This Law shall also apply to contracts for the supply of goods or services other than those concerning which the consumer requested the visit of the trader, provided that when he requested the visit the consumer did not know, or could not reasonably have known, that the supply of those other goods or services formed part of the trader's commercial or professional activities

32.3. This Law shall also apply to contracts in respect of which an offer was made by the consumer under conditions similar to those described in paragraph 1 or paragraph 2 although the consumer was not bound by that offer before its acceptance by the trader.

32.4. This Law shall also apply to offers made contractually by the consumer under conditions similar to those described in paragraph 1 or paragraph 2 where the consumer is bound by his offer.

Article 33

In the case of transactions within the scope of Article 32, traders shall be required to give consumers written notice of their right of cancellation within the period laid down in Article 34, together with the name and address of a person against whom that right may be exercised. Such notice shall be dated and shall state particulars enabling the contract to be identified. It shall be given to the consumer:

- a. in the case of Article 32.1, at the time of conclusion of the contract;
- b. in the case of Article 32.3, not later than the time of conclusion of the contract;
- c. in the case of Article 32.1 and 32.4, when the offer is made by the consumer

Article 34

34.1. The consumer shall have the right to renounce the effects of his undertaking by sending notice within a period of not less than seven days from receipt by the consumer of the notice referred to in Article 4, in accordance with the procedure laid down by national law. It shall be sufficient if the notice is dispatched before the end of such period.

34.2. The giving of the notice shall have the effect of releasing the consumer from any obligations under the cancelled contract.

Article 35

The consumer may not waive the rights conferred on him by this Law.

Article 36

If the consumer exercises his right of renunciation, the legal effects of such renunciation shall be governed by national laws, particularly regarding the reimbursement of payments for goods or services provided and the return of goods received.

Article 37

This Law shall not prevent further provisions adopting or maintaining more favorable provisions to protect consumers in the field which it covers.

Conditions for exercising trade activity

Article 38

38.1. In order for trading take place, Administrative Instructions to cover the following will be made by the Minister of Trade:

- a. minimal technical requirements that must be fulfilled by business premises, equipment and means through which trade activity is carried on, as well as other requirements, depending on the form and manner in which trade activity is exercised,

- b. general health and sanitary conditions that must be fulfilled by premises in which trading takes place, the conditions to be met if the trading is outside, and standards of hygiene to be met by personnel carrying out the trading.

38.2. The Ministry of Trade shall make Administrative Instructions concerning which products may only be sold from specified outlets and/or they carry detailed information on the place and date of production, the last date on which it should be consumed and details concerning its composition and weight.

38.3. The competent municipal authority will issue licenses under the conditions and terms mentioned in Article 38.1.

38.4. The license within the context of this article is permanent.

38.5. Fees and commission charges applied to license are unique and are appropriated as income of the Kosovo Consolidated Budget.

38.6. If the municipal authority has not issued the license to the owner, in the cases when all terms and conditions are satisfied, the Inspector of the MTI has the right to order the licensing.

38.7. In the cases when working license is not issued, even after the order of the Inspector of the MTI, the latter shall issue a valid working license.

38.8. Complaints against the inspectorate order do not impede the execution.

Article 39

39.1. Persons conducting certain commercial business must fulfill minimum professional conditions.

39.2. Minimum conditions under Paragraph 1 of this Article and educational qualification shall be defined by the Minister.

Article 40

Business hours, determination of daily and weekly business hours of stores and other premises, business hours for holidays and weekends during which the vendor is obliged to work, business hours for markets, fairs and exhibitions of local character and other forms of conducting trade activity shall be determined by the local administration, in compliance with the provisions issued by the Minister of Trade and Industry.

Article 41

41.1. During the conduct of trade activity, the wholesaler is obliged to keep a record of registration, purchases, sales, prices, commercial mediations, certification and working permits, in all selling premises and warehouses.

41.2. During the conduct of trade activity, the retailer is obliged to keep a record of registration, purchases, sales, prices, commercial mediations, certification and working permits, in all stores in certain locations.

41.3. The Minister shall make Administrative Instructions to determine the form, content and the manner of recording, keeping of books and recording updating (on a daily basis) the accounts of the business as well as an annual stocktaking of all the assets and debts of the business.

Restrictions in conducting trade activity

Article 42

42.1. The Government may, by special act, temporarily restrict conduct of trade activity in cases of:

- a. elementary and natural disasters when there is or may be inflicted disruption in trade, in supplying the population, or disruptions in the region that jeopardize residents' health and safety,
- b. considerable disruption in the internal market such as: lack of reproductive goods for production, processing and for ensuring the livelihood of residents,
- c. war state or imminent threat of war,
- d. where there is a threat to the supply of, raw material or material of strategic importance.

42.2. The Government shall determine the restrictions on the conduct of trade activity under Paragraph 1 of this Article, only if disruptions cannot be avoided by other measures, or if needs cannot be met from the goods reserve, imports or other measures of economic policy.

Article 43

In the cases described in Article 40 of this Law, the Government may determine:

- a. restriction of trade or restriction of certain goods, as well as special requirements for trade with certain goods,
- b. restriction of import or export of certain goods, or special requirements for import and export of certain goods,
- c. prohibition of selling certain goods
- d. obligation of the trader to supply and sell specified types and quantities of goods, as well as selling the goods to certain consumers, based on the foreseen ranking;
- e. obligation of some traders to keep a specific type and quantity of goods.

Unfair competition

Article 44

44.1. Unfair competition means activities of traders that contravene the good business practice in the market competition. In transactions of a commercial, industrial and agricultural nature all acts aiming at competition which are in conflict with best commercial practices are prohibited.

44.2. Unfair competition as defined by Article 42-is prohibited.

Article 45

Unfair competition in Article 42 means :

- a. advertising, or offering goods and services by using data or expressions which impact unfairly on the business of another trader by exploiting the name of the other trader, or his or her products or services,
- b. advertising, or offering of goods and services by which the other trader is insulted or underestimated on ethnic, racial, political and religious grounds,

- c. offering data or spreading rumours about another trader,, if that data harms or may harm the image or business of the other trader unless the information is true,
- d. selling of goods with marks and data that may cause confusion concerning the origin, productivity, quantity, quality or other features of goods,
- e. concealment of defects or errors of commodities and services, or infliction of other confusion on consumers,
- f. actions of the trader leading to the termination of business relations between other traders or, making business relationships between traders impossible or difficult,
- g. unreasonable non-implementation or termination of contract with certain traders in order to make the same or a more favorable contract with another trader,
- h. contracting of goods and services for export with lower prices at the time when the other trader has already made a contract for the same goods and services at a higher price, which in this case harms this trader,
- i. unauthorized use of trade name, brand or other signs of another trader,
- j. public announcement of incorrect statements over the quality, origin, means of manufacture, pricing of products, source of supply, endorsements of products, reason for the sale or the amount of stock capable of producing the false impression of a favorable offer to consumers,
- k. giving or promising gifts, material or other benefits to the other trader, his/her employee or to the person working for the trader, if the giver is then granted an advantage over other traders,
- l. unauthorized use of the services of commercial agent, commercial representative, or the representative of the other trader,
- m. adoption of the purchaser' goods or users' services, by giving or promising remunerations or other material profits, the value of which exceeds the realistic value of goods and services,
- n. illegal disclosure of business secrets by a trader, employees or trainees of that trader to another trader, for the purpose of giving an advantage to that other trader or any other misuse of a trader's confidential business secrets.

Article 46

46.1. This law shall apply to unfair commercial practices, as defined below in Article 47, before and after a commercial transaction in relation to any product.

46.2. This law is without prejudice to the rules on the validity, formation or effect of a contract.

46.3. This law is without prejudice to the determination of the types of damage which may be caused by an unfair commercial practice and their quantification.

Unfair commercial practices

Article 47

47.1. Unfair commercial practices are prohibited.

47.2. A commercial practice shall be regarded as unfair if: it is contrary to the requirements of professional diligence, and it materially distorts or is likely to materially distort the economic behavior with regard to the product of the average consumer whom it reaches or to whom it is

addressed, or of the average member of the group when a commercial practice is specifically directed to a particular group of consumers.

47.3. In particular, commercial practices shall be regarded as unfair that are misleading, or are aggressive as defined below in this law.

Misleading actions

Article 48

48.1. A commercial practice shall be regarded as misleading which in any way, including overall presentation, causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise because it deceives or is likely to deceive him in relation to:

- a. the main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, after-sale customer assistance and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin or the results to be expected from its use, or the results and material features of tests or checks carried out on the product;
- b. any statement or symbol in relation to direct or indirect sponsorship or approval of the trader or the product;
- c. the price or the manner in which the price is calculated, or the existence of a specific price advantage (lithe need for a service, part, replacement or repair);
- d. the nature, attributes and rights of the trader or his agent, such as his identity and assets, his qualifications, status, approval, affiliation or connection and ownership of industrial, commercial or intellectual property rights or his awards and distinctions;
- e. claims about the product which the trader cannot substantiate;
- f. the consumer's rights or the risks he may face.

48.2. A commercial practice shall also be regarded as misleading where, in its factual context, taking account of all its features and circumstances, it thereby causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise, and it involves:

- a. any marketing of a product, including comparative advertising, which creates confusion with any products, trade marks, trade names and other distinguishing marks of a competitor;
- b. non-compliance by the trader with commitments contained in codes of conduct by which the trader has undertaken to be bound, where:
 - i the commitment is firm and is capable of being verified, and
 - ii information specifying the traders to whom the code applies and the content of the code are publicly available;
 - iii non-compliance with a commitment given to a public authority to cease an unfair commercial practice under this Directive.

Misleading omissions

Article 49

49.1. A commercial practice shall be regarded as misleading which, in its factual context, taking account of all its features and circumstances, omits material information that the average consumer needs, according to the context, to take an informed transactional decision and thereby causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise.

49.2. It shall also be regarded as a misleading omission when a trader hides or provides in an unclear, unintelligible, ambiguous or untimely manner such material information or fails to identify the commercial intent of the commercial practice.

49.3. For commercial practices before a commercial transaction a misleading omission may occur only if a trader makes an invitation to purchase. In the case of an invitation to purchase, the following information shall be regarded as material, if not already apparent from the context:

- a. the main characteristics of the product;
- b. the trading name of the trader and, where applicable, the trading name of the trader on whose behalf he is acting;
- c. the price inclusive of taxes, as well as, where appropriate, all additional freight, delivery or postal charges or, where these charges cannot reasonably be calculated in advance, the fact that additional charges may be payable;
- d. the arrangements for payment, delivery, performance and the complaint handling policy, if they depart from the requirements of professional diligence;
- e. for products and transactions involving a right of withdrawal or cancellation. the existence of such a right.

Aggressive commercial practices

Article 50

50.1. A commercial practice shall be regarded as aggressive if, in its factual context, taking account of all its features and circumstances, by harassment, coercion or undue influence, it significantly impairs or is likely to significantly impair the average consumer's freedom of choice or conduct with regard to the product and thereby causes him or is likely to cause him to take a transactional decision that he would not have taken otherwise.

50.2. In determining whether a commercial practice uses harassment, coercion or undue influence account shall be taken of:

- a. its timing, nature or persistence;
- b. the use of threatening or abusive language or behavior;
- c. the use by the trader of any specific misfortune or circumstance of such gravity as to impair the consumer's judgment, of which the trader is aware, to influence the consumer's decision with regard to the product;
- d. any onerous or disproportionate non-contractual barriers established by the trader where a consumer wishes to exercise rights under the contract, including rights to terminate a contract or to switch to another product or another trader;
- e. any threat to take any action that cannot legally be taken.

Article 51

51.1. Damage caused by prohibited actions of illegal competition shall be indemnified by legal procedure.

51.2. The claim under Paragraph 1 of this Article may be filed by the injured trader, the Chamber of Commerce and other forms of trader's unions.

51.3. The right to sue from Paragraph 1 of this Article shall be prescribed within one year from the day the legal representative has been informed on the act and its perpetrator, and the latest three years after the day the act has taken place.

CHAPTER THREE SUPERVISION AND ADMINISTRATIVE MEASURES

Article 52

Implementation of the provisions of this Law shall be supervised by the Central Inspectorate, other inspections and customs services, in compliance with authorizations determined by special laws.

Article 53

53.1. If the authorized inspector ascertains that the trade activity was not registered or had no working permit, he/she may temporarily prohibit the trade activity until such irregularities are eliminated.

53.2. Complaint against the decision shall not impede its execution.

Article 54

54.1. If during inspection, the inspector discovers irregularities whereas wholesale trade of certain goods is not conducted in relevant premises or warehouse, or if certain goods are purchased in contravention of the determined requirements, he/she may temporarily prohibit by decision the conduct of trade activity until irregularities are eliminated.

54.2. Complaint against the decision shall not impede its execution.

Article 55

55.1. If during inspection, the inspector ascertains that:

- a. The selling premises do not fulfill the determined minimal technical and other requirements,
- b. Requirements for sale outside the premise have not been fulfilled,
- c. Specific requirements for the supply of the store have not been fulfilled,
- d. Specific requirements for the manner of selling the goods have not been fulfilled,
- e. The trader does not keep records on purchase and sale, price of the goods and services, as determined,

55.2. the trader shall by decision, be temporarily prohibited conduct of trade activity until irregularities ascertained during inspection are eliminated,

55.3. Complaint against the decision shall not impede its execution.

Article 56

56.1. If the authorized inspector determines that sale of certain goods may cause harm, endanger health, life and environment, prohibition of selling certain goods may be imposed by decision.

56.2. Complaint against the decision shall not impede its execution.

Article 57

57.1. If the authorized inspector during inspection ascertains that the person does not fulfill requirements stipulated by Article 38, or that the trader does not respect the determined business hours based on Article 40, he/she may impose by decision:

- a. Prohibition of continuation of work by the person without relevant professional qualification,
- b. Prohibition the trader's business in contravention of determined business hours.

57.2. Complaint against the decision shall not impede its execution.

Article 58

58.1. The complaint against the municipal inspector, according to Articles 53, 54, 55, 56, 57, and 59 of this Law shall be addressed to MTI's inspectorate office, within the timeframe of 15 days from the date that the inspector issues its decision.

58.2. The decision of the inspectorate of the Ministry of Trade and Industry shall be issued within 60 days of the time that it filed the complaint and may be appealed to the court of competent jurisdiction.

Punitive provisions

Article 59

59.1. A fine of 5.000 to 15.000 € shall be imposed on any natural or legal person who:

- a. fails to comply with the restrictions imposed on conducting trade activities pursuant to Articles 42 and 43, and
- b. Engage in unfair commercial practices pursuant to Articles 47, 48, 49, and 50.

59.2. For actions mentioned in Paragraph 1 of this Article, the responsible person shall be fined for offense with an amount from 500 to 1.500 €.

Article 60

60.1. A fine of 3.000 Euro to 9.000 Euro shall be imposed on any natural or legal person who:

- a) engages in trade activities for which it has not been registered pursuant to article 6;
- b) conducts wholesale trade under circumstances not authorized in article 10;
- c) conducts retail sale under circumstances that are not authorized in article 14 and 15;

- d) engages in trade activities without a valid license or in violation of Article 16;
- e) conducts an auction in a manner contrary to the conditions prescribed in article 17;
- f) engages in trade activities in violation of the minimal technical requirements or health and sanitary conditions that will be established to Article 38.1;
- g) violates the rules established by the Ministry of Trade and Industry pursuant to Article 38.2;
- h) conducts certain commercial business without fulfilling the minimum professional conditions or the educational qualifications required pursuant to Article 39.1;
- e) fails to keep the books and records required pursuant to Article 41.

60.2. For actions mentioned in Paragraph 1 of this Article, the responsible person shall be fined with an amount from 300 to 900 €.

Article 61

61.1. A fine of 2.000 to 6.000 € shall be imposed on the natural or legal person if they sell goods in an open environment and are not registered, respectively, they don't have permission to conduct trade activity or selling of goods, which according to special provisions, may not be sold in an open environment. Article 16.1.

61.2. A fine of 5.000 to 15.000 € shall be imposed for offense to natural or legal persons who administer the open environment if they allow selling of goods in this environment after receiving a warning from the inspector.

61.3. A fine of 1.000 to 3.000 € shall be imposed for offense to natural or legal persons if they engage employees in contradiction with Article 39.1.

61.4. A fine of 1.000 to 3.000€ shall be imposed for offense to natural or legal persons if do not restrain working time based on Section 40.1.

61.5. For actions mentioned in Paragraph 1 to 4 of this Article, the responsible person shall be fined with an amount from 200 to 600 €.

Article 62

All payments that result from the application of the provisions of this Law shall be made to the Kosovo Consolidated Budget.

Final provisions

Article 63

Acts under Articles 8.2, 11.2, 14.1, 17.4, 38.1; 38.2; 39.2; 40 and 41.3, shall be issued within one month from the day when this Law enters into force.

Article 64

Upon entry into force, this Law shall supersede provisions of applicable laws that regulate the cope of internal trade.

Article 65

This Law shall enter into force after its approval by the Assembly of Kosovo and its promulgation by the SRSG.

20.10.2004

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