

# TRADE LAW

1.60

## WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Elimination of legal gaps in the regulatory framework, including, without limitation, by introducing above proposed amendments (defining the merchant, related merchants, extending the duration of the promotional sale)	2023			√
Harmonize Article 34 of the Law on Trade with the Food Safety Law and by-laws;;	2023			√
Devote attention to by-laws;	2023		√	
Harmonization with EU regulations and standards is further needed;	2023		√	
Simplification of the importation procedures;	2023		√	

## CURRENT SITUATION

The Law on Trade (Zakon o trgovini, Official Gazette of the RoS, no. 52/2019) (the “Law on Trade”) currently in force, which occupies a central place among the regulations governing the trade of goods and services, has been applicable since 30 July 2019. On the same date the Amendments to the Law on Electronic Trade (Official Gazette of the RoS, no. 52/2019) entered into force.

While novelties introduced by the cited laws contributed to increase of legal certainty and the entire economic ecosystem in the Republic of Serbia, there is still room for improvement, which is why it is crucial that the Serbian Parliament adopts the new Law on Trade as soon as practically possible. Simultaneously, through adoption of the new Law on Trade, the relevant legal framework could be additionally harmonized with EU regulations and standards. As this area has been constantly developing and adjusting to overall progress of technologies and trade, it is important that the Serbian regulatory framework keeps pace with current trends.

## POSITIVE DEVELOPMENTS

Positive steps were taken by adopting the cited laws, including, particularly:

- Better definition of sales incentives (by defining clear rules applicable for each type of sales incentives);
- introduction of definitions of types of distant trade;
- additional obligations concerning labelling requirements (i.e., making mandatory labelling data directly and permanently available);

- lifting the obligation of publishing the retail format (the traders are free to choose whether they will publish the retail format or not);
- introduction of concealed shopping as an additional mean of fighting the illegal trade;
- introduction of the concept of electronic store and electronic platform (which is particularly significant from the consumer rights protection point of view - because it should be clear to the buyer from whom he buys goods, with whom he enters into a contractual relationship, and whom he should refer to in the event of a complaint);
- introduction of the possibility to display product prices in foreign currencies as well (which is particularly important considering that it makes it easier for domestic traders to open their offer to foreign markets – not only to regional markets, but also to other developed markets);

Furthermore 2023, merchants who organize and advertise sales incentives in electronic commerce continued to be controlled.

Among those who engage in fraud, the majority are those who sell goods through social networks, particularly Facebook and Instagram, whereas the National Consumer Organization of Serbia (NOPS) keeps publishing a blacklist of traders on these networks based on consumer reports.

In addition to legal instruments, education and raising public awareness about smart and safe online shopping are key to strengthening consumer awareness. In this regard, the relevant Ministry makes media campaigns aimed at

consumer education, together with the introduction and implementation of new legal solutions.

Notwithstanding unquestionable progress driven by the adoption of the Law on Trade (as well the Amendments to the Law on Electronic Trade), further improvement of the regulatory framework is necessary to reach a satisfying level of legal certainty.

## REMAINING ISSUES

The last few years have seen a significant increase in e-commerce traffic. The growth was certainly influenced by the increase in the number of merchants engaged in online commerce. On the other hand, there are also frequent abuses associated with this type of trade (including, among other things, sales carried out by entities that do not have the status of a trader (legal subjectivity, prominent company, etc.), and which, accordingly, do not provide customers with guarantees in the domain of regulations on product safety, consumer protection, advertising, etc.)

The Law on Trade has laid the foundations and greatly improved legal solutions regarding the circulation of goods and services, but there is still room for additional improvement and filling in the gaps.

The work on the draft of the new Law on Trade is underway, and we believe that this is the right moment to improve certain solutions for the benefit of the entire Serbian economy.

Firstly, there is the existence of a legal gap due to the absence of a definition of a trader – i.e. subject that performs trade activities and to which this law primarily applies.

Also, there is a need to introduce a definition of related traders - primarily in the context of disabling the avoidance of liability for unfair market competition when these actions are carried out by affiliated company of a trader that is active on a market where its competitor (against whom the actions of unfair market competition are aimed) is not active.

To suppress the gray economy, it is necessary that the goods that are placed on the market, transported or used for the provision of services, at the time of inspection, are accompanied by prescribed documents that are directly related to their production, procurement, sale and transportation.

The need to extend the allowed duration of promotional sales to two months is identified - we believe that such a step forward would benefit both consumers and merchants. In addition, minimal time period between two promotional sales should be defined, as there is a gap in the Law on Trade in this sense.

It is also particularly important to harmonize the relevant provisions of the Law on Trade (primarily Article 34) with the Law on Food Safety and by-laws.

Moreover, it is necessary to work even harder on the education of consumers (majority of which do not have legal education) by publicly advocating and elaborating on their rights granted by the Law on Trade and associated laws (such as Consumer Protection Law) – we think that the Ministry could and should even more engage in media campaigns, thematic workshops and similar activities (such as regular publishing of newsletters or similar editions covering trade and consumer-related topics) aimed at strengthening consumer awareness and consumer education.

## FIC RECOMMENDATIONS

- Elimination of legal gaps in the regulatory framework, including, without limitation, by introducing above proposed amendments (defining the merchant, related merchants, extending the duration of the promotional sale, defining the minimal time period between two promotional sales);
- Harmonize Article 34 of the Law on Trade with the Food Safety Law and by-laws;
- Further engagement of the Ministry on strengthening consumer awareness and consumer education;
- Simplification of the importation procedures.