



Stimati colaboratori,

**Legea nr. 28/27.03.2020** pentru modificarea si completarea Legii nr. 321/2009, privind comercializarea produselor alimentare a fost publicata in M. Of. nr. 274/01.04.2020 („Legea nr. 28”).

Legea nr. 28 va intra in vigoare de la data de 16 mai 2020.

Se abroga art. 2 alin. (2), punctele 3, 6, 11, 12 și 18 , art. 11, art. 13, art. 20, art. 21 din Legea nr. 321/2009

Redam mai jos principalele noutati introduse prin Legea nr.28/2020:

1. Beneficiarii acestei legi sunt toate persoanele fizice si juridice care desfasoara relatii comerciale cu produse alimentare.
2. Prin contract comercial se intelege acel document care stabileste conditiile colaborarii dintre furnizor si comerciant, cu respectarea prevederilor Codului civil.
3. Prin parteneriat direct se intelege relatia comerciala directa dintre comerciant si cooperativele agricole, asociatiile de producatori agricoli, societatile comerciale agricole de productie, producatori agroalimentari si distribuitori, intre care se incheie un contract comercial pentru minimum 12 luni.

Dear collaborators,

**Law no. 28/27.03.2020**, amending and supplementing Law no. 321/2009, on the marketing of food products, was published in the Official Gazette no. 274/01.04.2020 ('Law no. 28').

Law no. 28 will enter into force on May 16-th, 2020.

Article 2(2), points 3, 6, 11, 12 and 18, Article 11, Article 13, Article 20, Article 21 of Law no 321/2009 are repealed.

We present below the main news introduced by Law no. 28/2020:

1. The beneficiaries of this law are all natural and legal persons who have commercial relations with food products.
2. A commercial contract means a document that establishes the terms of cooperation between the supplier and the trader, in accordance with the provisions of the Civil Code.
3. Direct partnership means the direct commercial relationship between the trader and agricultural cooperatives, agricultural producer associations, agricultural production companies, agri-food producers and distributors, between which a commercial contract is concluded for at least 12 months.

4. Potrivit Legii nr. 321/2009, facturarea/refacturarea si incasarea de taxe si servicii de catre comerciant erau interzise. Prin Legea nr. 28/2020 sunt interzise oricarui comerciant sa solicite facturarea/refacturarea si sa incaseze de la furnizor taxe si servicii, **daca acestea nu sunt legate de actul comercial**. Serviciile legate direct de actul comercial sunt incluse in contractul dintre parti.
5. Serviciile privind extinderea retelei de distributie a comerciantului, amenajarile spatiilor de vanzare si evenimentele de promovare a activitatii si imaginii comerciantului **nu sunt** legate de actul comercial.

**Exceptie:** serviciile solicitate de cumparator de la furnizor pentru operatiunile de promovare, de marketing si de publicitate daca acestea au fost convenite anterior de catre furnizor si cumparator printr-un acord clar si lipsit de ambiguitate, in conformitate cu Directiva (UE) 2019/633 a Parlamentului European si a Consiliului din 17 aprilie 2019.

6. Este interzis oricarui comerciant sa ofere sau sa vanda produse in pierdere, cu exceptia situatiilor prevazute de legislatia in vigoare.
7. Termenul de plata al comerciantului catre furnizor pentru produsele contractate si livrate se stabileste prin negocierea contractului, conform prevederilor legislatiei in vigoare, eliminandu-se astfel termenul de 30 de zile calendaristice stipulat prin Legea nr. 321/2009.

4. According to Law no. 321/2009, invoicing / re-invoicing and collection of taxes and services by the trader were prohibited. By Law no. 28/2020, any trader is prohibited from requesting invoicing/reinvoicing and from receiving fees and services from the supplier **if they are not related to the commercial act**. Services directly related to the commercial act are included in the contract between the parties.
5. The services concerning the extension of the distribution network of the trader, the facilities of the sales premises and the events promoting the trader's activity and image are not linked to the commercial act.

**Exception:** Services requested by the buyer from the supplier for promotion, marketing and advertising operations if they have been previously agreed by the supplier and the buyer through a clear and unambiguous agreement in accordance with Directive (EU) 2019/633 of the European Parliament and of the Council of April 17<sup>th</sup>, 2019.

6. It is forbidden for any trader to offer or sell products at a loss, except in the situations provided by the legislation in force.
7. The payment term of the trader to the supplier for the products contracted and delivered shall be determined by negotiation of the contract, in accordance with the provisions of the legislation in force, thus abolishing the 30 calendar day period stipulated by Law no. 321/2009.



**Excepție:** Produsele alimentare proaspete, prevazute in anexa, la care termenul de plata nu poate fi mai mare de 14 zile lucratoare de la data receptionarii marfii de catre beneficiar.

8. Comerciantul poate acorda, prin intelegerea partilor, spatii distincte de expunere si semnalizare la raft pentru fiecare produs alimentar, in functie de tara de origine.
9. S-a abrogat prevederea privind etichetarea carnilor comercializate pe teritoriul Romaniei.
10. Comerciantul persoana juridica autorizata care desfasoara activitati de comercializare pentru produse alimentare poate dispune ca produsele din cantitatea de marfa intrata sa corespunda gradual fiecarei categorii de produse alimentare, provenite din parteneriate directe, pentru a asigura accesul consumatorului la produse proaspete.
11. Categoriile de alimente carora li se aplica aceasta prevedere: carne, oua, legume, fructe, miere de albine, lapte si produse de panificatie.
12. A fost eliminata prevederea din Legea nr. 321/2009 potrivit careia comerciantul trebuia sa achizitioneze cel puțin 51% din volumul de marfa pe raft, corespunzator fiecarei categorii de produse alimentare, provenite din lanțul alimentar scurt.
13. Metodologia de desfasurare a parteneriatelor directe se aproba prin ordin al ministrului agriculturii si

**Exception:** Fresh food goods listed in the Annex, on which the time limit for payment may not exceed 14 working days from the date of receipt of the goods by the contracting authority.

8. The trader may, by agreement of the parties, grant separate shelf-display and signage spaces for each food good, depending on the country of origin.
9. The provision on labeling of meat marketed in Romania has been repealed.
10. The trader authorized legal person who carries out marketing activities for food goods may order that products of the quantity of goods entered into correspond gradually to each category of food, coming from direct partnerships, in order to ensure that consumers have access to fresh products.
11. Categories of food to which this provision applies: meat, eggs, vegetables, fruit, honey, milk and bakery products.
12. The provision in Law no. 321/2009 that the trader had to purchase at least 51 % of the volume of goods on the shelf corresponding to each category of food from the short food chain was removed.
13. The methodology for direct partnerships shall be approved by order of the Minister for Agriculture and Rural Development.



dezvoltarii rurale.

- |   |  |
|---|--|
| <p>14. Necesarul de produse alimentare <b>nu mai poate</b> fi completat cu produse din afara lantului scurt de aprovizionare.</p> <p>15. Comerciantul persoana juridica autorizata care desfasoara activitati de comercializare pentru produsele alimentare poate organiza evenimente de promovare a produselor alimentare, cu respectarea legislatiei sanitar- veterinare in vigoare.</p> <p>16. Sanctiuni:</p> <ul style="list-style-type: none"><li>• amenda de la 100.000 lei la 150.000 lei pentru nerespectarea dispozitiilor art. 3-6 din Legea nr. 28</li><li>• amenda de la 150.000 lei la 200.000 lei pentru nerespectarea dispozitiilor art. 7 alin. (1) si (2), art. 8 si art. 18 alin. (2) din Legea nr. 28</li><li>• amenda de la 200.000 lei la 250.000 lei pentru nerespectarea dispozitiilor art. 12 din Legea nr. 28</li><li>• <u>Prin Legea nr. 28/2020 a fost eliminata sanctiunea suspendarii autorizatiei de functionare a comerciantului pentru o perioada de pana la 6 luni in caz de abatere repetata;</u></li></ul> <p>17. Contractele in desfasurare vor fi modificate corespunzator prevederilor Legii nr. 321/2009 privind comercializarea produselor alimentare, in termen de 6 luni de la data intrarii in vigoare a Legii nr. 28/2020.</p> <p>18. Normele metodologice pentru aplicarea prevederilor Legii nr. 321/2009 se aproba</p> | <p>14. The food requirement <b>can no longer be filled</b> with products outside the short supply chain.</p> <p>15. The trader authorized legal person carrying out marketing activities for food may organize food promotion events in accordance with the veterinary legislation in force.</p> <p>16. Sanctions:</p> <ul style="list-style-type: none"><li>• fine from 100.000 lei to 150.000 lei for non-compliance with the provisions of Article 3-6 of the L Law no. 28</li><li>• fine from 150.000 lei to 200.000 lei for failure to comply with the provisions of Article 7(1) and (2), Article 8 and Article 18(2) of Law no. 28</li><li>• fine from 200.000 lei to 250.000 lei for failure to comply with the provisions of Article 12 of Law no. 28</li><li>• <u>Law no. 28/2020 removed the sanction to suspend the trader's authorization for a period of up to 6 months in case of repeated misconduct</u></li></ul> <p>17. The ongoing contracts will be modified in accordance with the provisions of Law no. 321/2009 on the marketing of food goods, within 6 months from the date of entry into force of Law no. 28/2020.</p> <p>18. The methodological norms for the implementation of the provisions of Law</p> |
|---|--|

prin hotarare a Guvernului, la propunerea Ministerului Agriculturii si Dezvoltarii Rurale, in termen de 30 de zile de la intrarea in vigoare a Legii nr. 28/2020.

no 321/2009 are approved by Government Decision, upon proposal of the Ministry of Agriculture and Rural Development, within 30 days after the entry into force of Law no. 28/2020.

**Contact:**

Florentina Susnea  
Managing Partner  
florentina.susnea@pkffinconta.ro

Maria Popa  
Tax Manager  
maria.popa@pkffinconta.ro

