

UDC 342.1

DOI <https://doi.org/10.24144/2788-6018.2024.01.47>

UNFAIR COMPETITION – AN ATTACK ON THE PATRIMONIAL RIGHTS OF NATURAL AND LEGAL PERSONS

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Ursu V., Musteața E. Unfair competition – an attack on the patrimonial rights of natural and legal persons.

The subjects of the economic activity, whether they are natural persons or legal entities, are obliged to exercise their activity in good faith, according to honest usages, respecting the interests of consumers and the requirements of fair competition.

Based on the principles of freedom of trade and freedom of competition, any merchant has the right to attract the clientele of his competitors. Thus, the act of competition, even if it causes damage to some economic agents, is not illegal by itself, but only if the means, acts or facts used to attract customers are unfair.

A basic principle/inherent condition of the market economy is the competition between the companies carrying out economic activity on the respective market, of course when this competition is by the customs and provisions governing the rivalry of competitors.

The present study is intended to analyze the phenomenon of competition through the legislation of the Republic of Moldova that regulates competitive relations, including, addressing issues related to the identification and responsibility of the actors/subjects of competitive relations, the types of legal liability, and the impact of unfair competition on the competitive environment in general and, on the rights and interests of natural and legal persons, but also of the society in particular.

The authors analyzed the provisions of competition legislation to identify the regulatory framework's quality and its deficiencies. For this purpose, the authors analyzed the provisions of the competition law no. 183/2012 and the Republic of Moldova's administrative, contraventional, and criminal Code.

The conclusions reached by the authors revealed a series of legislative loopholes, but also

new research directions that would constitute the basis for certain recommendations and proposals for improving the analyzed normative framework.

Key words: competition, unfair competition, market economy, protection of competition, acts of unfair competition, subjects of unfair competition, competitors, legal liability for unfair competition, anti-competitive practices, limitation of competition.

Урсу В., Мустеата Е. Недобросовісна конкуренція – посягання на майнові права фізичних та юридичних осіб.

Суб'єкти господарювання, фізичні чи юридичні особи, зобов'язані здійснювати свою діяльність добросовісно, відповідно до чесних звичаїв, поважаючи інтереси споживачів та вимоги добросовісної конкуренції.

Виходячи з принципів свободи торгівлі та свободи конкуренції, будь-який торговець має право залучати клієнтуру своїх конкурентів. Таким чином, акт конкуренції, навіть якщо він завдає шкоди деяким економічним агентам, не є незаконним сам по собі, але лише якщо засоби, дії чи факти, використані для залучення клієнтів, є несправедливими.

Основним принципом/невід'ємною умовою ринкової економіки є конкуренція між компаніями, які здійснюють економічну діяльність на відповідному ринку, звичайно, коли ця конкуренція відбувається за звичаями та положеннями, що регулюють суперництво конкурентів.

Дане дослідження має на меті проаналізувати явище конкуренції через законодавство Республіки Молдова, яке регулює конкурентні відносини, включно з вирішенням питань, пов'язаних з ідентифікацією та відповідальністю суб'єктів/суб'єктів конкурентних відносин, видами юридичної відповідальності та вплив недобросовісної конкуренції на конкурентне середовище в цілому

та на права та інтереси фізичних та юридичних осіб, а також суспільства зокрема.

Автори проаналізували положення конкурентного законодавства з метою виявлення якості нормативно-правової бази та її недоліків. З цією метою автори проаналізували положення Закону про конкуренцію № 10. 183/2012 та Адміністративний, протиправний та кримінальний кодекс Республіки Молдова.

Висновки, зроблені авторами, виявили низку законодавчих прогалин, а також нові напрями досліджень, які стануть основою для певних рекомендацій і пропозицій щодо вдосконалення аналізованої нормативної бази.

Ключові слова: конкуренція, недобросовісна конкуренція, ринкова економіка, захист конкуренції, діяння недобросовісної конкуренції, суб'єкти недобросовісної конкуренції, конкуренти, юридична відповідальність за недобросовісну конкуренцію, антиконкурентні дії, обмеження конкуренції.

Introduction. The Constitution of the Republic of Moldova establishes the fundamental principles regarding property, declaring that in the Republic of Moldova property is public and private, consisting of material and intellectual goods, and that it cannot be used to the detriment of human rights, freedoms, and dignity.

At the same time, the supreme law establishes that the market, free economic initiative, and fair competition are the basic factors of the economy.

In other words, competition is the quintessence of the market economy. It involves and provides the possibility to choose from several alternatives to the offered products or services. Where there is competition, a more efficient allocation of resources is achieved because the producer constantly monitors the ratio between them and the related expenses. However, the producer does not influence the market by himself, but only through the competition relations with other producers which always cause a decrease in prices and implicitly an increase in the market by stimulating purchases.

Competition changes the value system of consumers in the sense of increasing demands, the need for information, and the speed of reorientation towards other providers. In the fight to conquer the market, companies focus on the application of principles and strategies that would allow them to gain dominant market shares in the segments in which they operate, including, to focus on the economic branches that involve the use of high technologies and the reduction gradual of the activities in the declining fields, to raise the quality of the products or offers delivered to the market and to increase the productivity and economic efficiency.

Therefore, the protection of competition is of particular interest at the level of the national and European economy which has faced and is continuously facing the abuse of a dominant position, anti-competitive agreements and concentrations, and unfair practices which result in the deterioration of the competitive environment.

The general content. Considering the above mentioned, the local legislator provided through the provisions of the Constitution of the Republic of Moldova that the economy of the Republic of Moldova is a market economy, of social orientation, based on private property and public property, engaged in free competition. At the same time, the state must ensure the freedom of trade and entrepreneurial activity, the protection of fair competition, and the creation of a favorable framework for the exploitation of all production factors.

As mentioned above, out of the desire to obtain a dominant position in the market, to attract as many customers as possible, and to eliminate current and potential competitors, companies may engage in a series of illegal actions that harm the economic and competitive environment. Unfortunately, these effects are felt not only by other competitors but also by the consumers and even society as a whole. Therefore, all these illegal acts are sanctioned by law.

The requirement for ensuring the protection of fair competition was achieved through the adoption of Competition Law no. 183 of 11.07.2012 (with subsequent amendments and additions) which establishes the legal framework for the protection of competition, including the prevention and countering of anti-competitive practices and unfair competition, of the realization of economic concentrations on the market, establishes the legal framework regarding the activity and competence of the Competition Council and the responsibility for the violation of the legislation in the field of competition. The purpose of this law is to regulate the relations related to the protection, maintenance, and stimulation of competition to promote the legitimate interests of consumers (par. (2) of art.1). At the same time, the state ensures the freedom of entrepreneurial activity, the protection of fair competition and the defense of the rights and interests of businesses and citizens against anti-competitive practices and unfair competition (paragraph (1) of art.3).

From the cited provisions we will draw the conclusion that the mentioned legislation ensures the promotion and protection of the legitimate rights and interests of both consumers (defined in the law as a user, directly or indirectly, of products, including a manufacturer that uses products for processing, a wholesaler, a retailer or final consumer), as well as of businesses (presumed competitors and which are defined as an independent business that

is active on a relevant market, including potential competitors), both targeted subjects being natural persons as well as legal entities. In the indicated scenarios, we assume the "passive" subjects of unfair competition, in other words, natural and legal persons who bear unfavorable consequences, whose rights and legitimate interests are the object of the protection of the above-mentioned law, and who are affected/prejudiced by competition practices and actions/inactions unfair, including those of restricting, preventing or distorting competition, in general.

The law defines the notion of **competition** as an economic rivalry, existing or potential, between two or more independent enterprises on a relevant market, when their actions effectively limit the possibilities of each of them to unilaterally influence the general conditions of circulation of products on that market, stimulates technical-scientific progress and the increase of consumer welfare, **unfair competition** representing any action, carried out by enterprises in the process of competition, which is contrary to honest practices in the economic activity.

All actions or inactions that have as their object or have or may have the effect of restricting, preventing, or distorting competition, as well as actions of unfair competition, fall under the scope of the mentioned law. More than that, the provisions of this law also apply to the listed acts committed on the territory of the Republic of Moldova, as well as those committed outside the territory of the country when they produce or can produce effects on the territory of the Republic of Moldova.

Analyzing the above provisions, we can conclude that as active subjects of competition, implicitly and unfairly, enterprises are identified (physical and legal entities, taking into account the civil legislation of the Republic of Moldova in force, defined in law no. 183/2012 as any entity that carries out an economic activity, regardless of its legal status and the way it is financed) and which in the process of its economic activity enters into competition reports, also has the status of a competitor.

Thus, a company competitor can present itself either as a passive subject (in the sense described in the text above) or as an active subject of unfair competition. In the first case, it is assumed that the subject practices honest economic activity under customs and is disadvantaged by another enterprise that commits acts of unfair competition, the latter having the aforementioned quality of the active subject.

The analyzed law expressly indicates the active subjects (as we called them) in art. 2 which establishes its scope, namely:

a) legal entities registered in the Republic of Moldova or other states, as well as natural persons;

b) authorities of the central or local public administration, to the extent that they, through decisions issued or acts adopted, intervene on the market, directly or indirectly influencing competition, except for situations when such measures are taken in the application of other laws or for the defense of a major public interest.

Under the scope of this law also fall the persons assimilated to the public authorities who exercise public powers or use the public domain, being empowered by law to provide a service of public interest (para. (2) of art. 2) and the enterprises to which the task has been assigned to manage the services of general economic interest and the enterprises that have the character of a tax monopoly are subject to the provisions of this law and, in particular, to the competition rules to the extent that the application of these provisions do not prevent, in law or fact, the fulfillment of the special mission that they were entrusted (par. (3) of art. 2).

A basic principle of competition consists in the fact that it is forbidden for businesses to exercise their rights to restrict competition and harm the legitimate interests of the consumer (para. (2) of art. 3). To comply with it, the law expressly lists the actions or inactions of public authorities that are prohibited and have or may have the effect of restricting, preventing or distorting competition. Thus, the following actions or inactions expressly provided for in para. (2) of Art. 12 of the competition law:

a) limiting the rights of procurement or marketing enterprises;

b) establishing discriminatory conditions or granting privileges for the activity of enterprises, if they are not provided for by the law;

c) the establishment of prohibitions or restrictions, not provided for by the law, for the activity of enterprises;

d) imposing, directly or indirectly, enterprises to associate or concentrate in any form.

The actions or inactions provided for in paragraph be carried out. (2) can be carried out under the terms of Law no. 212/2004 regarding the state of emergency, siege, and war regime.

For the existence, operation, and consolidation of a true market economy, which ensures the progress of society, the development, and modernization of production and distribution, it is very important to create and exist in a functional competitive environment, the latter representing the essential condition for the former. The basic goal of the market economy is to satisfy the interests, first of all, of consumers, competition policy being only a means to achieve the stated goal. Therefore, it is necessary to respect the loyal behaviors of enterprises (competitors) that tend to gain more favorable positions in the market, promote their products and services, raise their turnover, etc.

From this point of view, competition can be defined as the set of relationships between economic agents generated by their desire to obtain the best possible place on the market and the most advantageous price. Seen from an economic point of view, competition is always related to market transactions, supply and demand, and the exchange process.

Thus, competition is closely related to freedom of choice. Competition is the most important force that animates the market economy and gives it viability and movement.

Private property generates free initiative, competition is the active form of free initiative, which constitutes, in turn, an essential feature of the market economy, whose mechanism is competitive. It represents the open confrontation, the rivalry between economic agents, sellers, and bidders to attract customers to their side. At the same time, competition expresses the specific interested behavior of all the subjects on the property, behavior that is carried out differently, depending on the competitive framework and the particularities of the various markets."

If we are to define competition policy, we will say that it is a set of regulations, objectives, and institutions that act to ensure a normal competitive climate, in which economic agents can express themselves freely, based on their own decisions and oriented behaviors systematically to obtain value advantages, as an expression of the efficiency of their activity on the considered market.

Exercising competition is a right of all economic agents. Like any right recognized and protected by law, the right to competition must be exercised in good faith and according to honest customs without infringing the rights and freedoms of economic agents as well as citizens.

Therefore, the indicated subjects may commit acts that have or may have the effect of restricting, preventing, or distorting competition, as well as acts of unfair competition.

The first set of acts that the law prohibits is committed in the "legal" field, that is, in the conditions when competing enterprises operate according to the established rules, only that certain subject (indicated, both in the law and by us) pursue the goal of restricting, prevent or distort competition and for this purpose commit, in some cases abuse of power or service, in other cases - excess of power or exceeding the duties of the service.

Acts of unfair competition, forbidden to be committed, also fall under the scope of law no. 183, these being described in articles 14-19. Thus, the following facts will constitute unfair competition:

1. Discrediting competitors (art. 15);
2. Instigating the termination of the contract with the competitor (art. 16);
3. Obtaining and/or illegal use of the competitor's commercial secret (art. 17);
4. Misappropriation of the competitor's clientele (art. 18);
5. Confusion (art. 19).

Those acts are prohibited from being committed and their commission will be punished according to the mentioned law. At the same time, criminal legislation also provides for liability and criminal punishment for crimes committed in the field of competition.

Thus, art. 246 of the Criminal Code establishes liability and criminal punishment for limiting free competition and art. 2461 of the Civil Code punishes acts of unfair competition.

The provision of art. 2461 of the Civil Code provides that any act of unfair competition, including:

- a) creating, by any means, confusion with the enterprise, with the products, or with the industrial or commercial activity of a competitor;
- b) spreading, in the trade process, false statements that discredit the company, products, or entrepreneurial activity of a competitor;
- c) misleading the consumer regarding the nature, manufacturing method, characteristics, usability, or quantity of the competitor's goods;
- d) using the company name or trademark in a way that confuses with those used legitimately by another economic agent;
- e) comparing for advertising purposes the goods produced or sold by an economic agent with the goods of other economic agents

are punished with a fine from 3000 to 4000 conventional units or with imprisonment of up to 1 year, with a fine, applied to the legal person, from 3500 to 5000 conventional units with the deprivation of the right to exercise a certain activity for a period of at 1 to 5 years.

We note that the list of actions that constitute unfair competition is listed in the provision of art. 2461 of the Civil Code is not exhaustive, if we refer to the interpretation of the norm, because the legislator uses the phrase "price *act of unfair competition, including*". Therefore, the necessary conclusion is that the legislator has described in the provision of the legal-penal norm only the most important, or the most widespread factual ways of committing unfair competition. That is, the perpetrator can commit any act of unfair competition, including those listed in the provision. What are the facts prohibited by law no. 183, I have indicated in the text above, and for a better understanding of their essence, we will present them in the following table, comparing them with those described in art. 2461 hp.

<p>Art. 15 Discrediting competitors, i.e. defaming or endangering their reputation or credibility by:</p> <p>a) the spread by an enterprise of false information about its activity, about its products, intended to create a favorable situation for it about some competitors;</p> <p>b) the spreading by an enterprise of false statements about the activity of a competitor or about its products, statements that harm the activity of the competitor.</p> <p>Article 16 instigating, in the interest or the interest of third parties, the unjustified termination of the contract with the competitor of another company, the failure to fulfill or the improper fulfillment of the contractual obligations towards the respective competitor by granting or offering, directly or indirectly, material rewards, compensations or other advantages to the company party to the contract.</p>	<p>b) spreading, in the trade process, false statements that discredit the company, products, or entrepreneurial activity of a competitor;</p>
<p>Art.17 is the obtaining and/or use by an enterprise of the information that constitutes the competitor's trade secret, without his consent, if they have or may harm the legitimate interests of the competitor.</p>	
<p>Art.18 diversion of the competitor's clientele carried out by enterprises by misleading the consumer regarding the nature, method, and place of manufacture, the main characteristics, including the use, the quantity of the products, the price, or the method of calculating the price of the product.</p>	<p>c) misleading the consumer regarding the nature, manufacturing method, characteristics, usability, or quantity of the competitor's goods;</p>
<p>Art. 19. Confusion, i.e. any actions or facts that are likely to create, by any means, a confusion with the enterprise, products, or economic activity of a competitor, carried out by:</p> <p>a) the illegal, full, or partial use of a trademark, service emblems, company names, an industrial design or model, or other objects of industrial property likely to create confusion with those used legally by another enterprise ;</p> <p>b) illegal copying of the shape, packaging, and/or external appearance of a company's product and placing that product on the market, illegal copying of a company's advertising, if this has or may harm the competitor's legitimate interests.</p>	<p>a) creating, by any means, confusion with the enterprise, with the products, or with the industrial or commercial activity of a competitor;</p> <p>d) using the company name or trademark in a way that confuses with those used legitimately by another economic agent;</p> <p>e) comparing for advertising purposes the goods produced or sold by an economic agent with the goods of other economic agents</p>
<p>Competition Law no. 183/2012</p>	<p>Criminal Code, art. 2461</p>

It is easy to see that the legislator was not consistent when he adopted the invoked normative acts, the content of the norms not being identical. In addition, the criminal law describes the composition of the crime from art. 246¹ of the Criminal Code as a formal one, the criminal liability occurring from the moment when the perpetrator committed one of the actions described in the provision and does not condition the criminal liability with the occurrence of damages of a certain degree and nature, caused either to competing businesses or to consumers.

It is not clear when the subjects of the competition reports will bear responsibility according to competition law no. 183 and when they will be liable for criminal liability according to the criminal legislation of the Republic of Moldova and who these subjects are.

Article 12 of law no. 183 provides that they prohibited any actions or inactions of the public authorities that restrict, prevent, or distort competition and under the scope of this article fall the public authorities defined in the sense of the provisions of the Administrative Code (the Administrative Code defines a public authorities according to art.7 according to which "public

authority is considered any organizational structure or body established by law or by another normative act, which acts as a public authority to achieve a public interest").

Likewise, in art. 12 of the competition law it is provided that the powers of public authorities are carried out contrary to the provisions of para. (2) constitute violations of the present law (par. (4) art. 12) and that the persons with responsibility within the public authorities are liable by the provisions of the Contravention Code (par. (5) art. 12).

At the same time, paragraph (5) of art. 67 of the law no. 183 provides "By way of derogation from the Contravention Code, the fines for the violation of the competition legislation are established according to this law."

Article 14 of law no. 183 prohibits actions of unfair competition and provides that in case of detection of unfair competition actions, by decision of the Plenary of the Competition Council, the enterprise is sanctioned according to this law and/or obliged to cease the respective actions (par. (9) art. 14).

At the same time, art. 77 of law no. 183 regulates the disclosure of unfair competition

establishing that “through the derogation from the criminal law, committing the acts of unfair competition prohibited in art. 15-19 of this law are sanctioned by the Competition Council with a fine of up to 0.5% of the total turnover achieved by the company in question in the year preceding the sanction and the basic level of the fine for unfair competition is determined in depending on the gravity and duration of the act”.

Regarding the subject of criminal liability, the criminal law admits the criminal liability of legal entities, except for public authorities (par. (3) art. 21), while law no. 183 recognizes public authorities as they are defined in the administrative code (Criminal Code does not contain a definition of the notion of public authorities), as subjects of liability, because they can commit acts aimed at limiting competition but also actions of unfair competition.

Finally, we will state some general conclusions that we reached in the process of perfecting this article, namely:

1. Competition is the essence of the market economy, therefore it must and is protected by adopting a legal framework in force which has been partially analyzed in this study. The state, through the provisions of the invoked legislation, aims to stimulate free competition that would effectively limit the possibilities of companies (natural and legal persons) operating on the market to unilaterally influence the general conditions of circulation of products on the respective market, would stimulate technical-scientific progress and growth consumer welfare, including, to protect by available means free competition and to sanction unfair competition and anti-competitive practices;

2. Legal liability occurs for the following activities committed by competitors on the market, but also for public authorities (named as such in competition law no. 183):

- **Anti-competitive practices are defined** as “anti-competitive agreement, the decision of the association of enterprises, concerted practice, abuse of a dominant position, action or inaction of public authorities to restrict competition prohibited by law”. Anti-competitive agreements, in particular those that: establish, directly or indirectly, the purchase or sale prices or any other trading conditions; limit or control production, marketing, technical development, or investment; divide markets or sources of supply; participate with rigged bids in auctions or any other form of bid competition; applies, in relations with commercial partners, unequal conditions for equivalent services, thus creating a competitive disadvantage for them; conditions the conclusion of contracts for acceptance by the partners of additional services which, by their nature or under commercial usages, are not related to the subject of these contracts, including, anti-competitive agreements of minor importance are prohibited.

- **any actions or inactions of public authorities that restrict, prevent, or distort competition**, such as: limiting the rights of procurement or marketing companies; establishing discriminatory conditions or granting privileges for the activity of enterprises, if they are not provided for by law; the establishment of prohibitions or restrictions, not provided for by law, for the activity of enterprises; imposing, directly or indirectly, enterprises to associate or to concentrate in any form.

- **Unfair competition actions**, including, discrediting competitors; initiating the termination of the contract with the competitor, obtaining and/or illegal use of the competitor’s commercial secret, diverting the competitor’s clientele, and confusion.

3. Subjects who commit the actions/inactions listed above will bear liability that we will conventionally call administrative, including contraventional and criminal:

- **administration**, for the reason that according to art. 32 paragraph (2) of the competition law, the Competition Council is vested with the power of decision, regulation, prohibition, intervention, inspection, and sanctioning, within the limits established by the legislation, respectively, it can apply sanctions in the form of a fine through the decisions of the Plenary of the Competition Council (art. 46 of the law (decision Plenary being an administrative act)), the fine as a sanction is also established and calculated by the Competition Council, by way of derogation from the Contravention Code (art. 67 of the Competition Law). More than that, the decisions by which the Plenary of the Competition Council applied a fine or a compulsory penalty can be challenged directly in court, under the provisions of the Administrative Code, without observing the prior procedure (par. (1) art. 78).

- The criminal code contains a general norm, namely art. 3305 which provides contraventional liability for violation of competition legislation, establishing that the actions or inactions of persons with responsibility within central and local public administration authorities and institutions, of members of collegial bodies, of restricting, preventing or distorting competition, established by the decision of the Competition Council, are sanctioned with fine from 100 to 150 conventional units applied to the natural person, with fine from 100 to 300 conventional units applied to the person with a responsible position.

- Regarding criminal liability, this is established by art. 2461 of the Civil Code. At the same time, according to art. 77 of the competition law by derogation from the criminal law, committing the acts of unfair competition prohibited in art. 15-19 of this law are sanctioned by the Competition Council with a fine of up to 0.5% of the total turnover achieved by the company in question in the year preceding the sanctioning. The basic level

of the fine for unfair competition is determined according to the gravity and duration of the act.

- At the same time, according to para.(2) of art. 77 the damage caused as a result of the actions found as unfair competition is to be repaired, per the provisions of the Civil Code, by the company that caused it. We can state that the subjects will also bear civil liability for the commission of unfair competition actions because the settlement of the case will also be carried out according to the rules of civil procedure. Article 80 para. (3) provides that if any of the unfair competition actions cause patrimonial or moral damages, the injured party has the right to address the competent court with an appropriate civil liability action.

4. I mentioned that according to the competition law, the subjects of unfair competition actions and anti-competitive practices are designated, among other enterprises registered in the Republic of Moldova or other states and natural persons, central or local public administration authorities defined under the provisions of the Administrative Code (according to art. 7 of the Administrative Code "Public authority is considered any organizational structure or body established by law or by another normative act, which acts as a public power to achieve a public interest"). At the same time, both the Contraventional Code and the Criminal Code exempt public authorities as potential subjects of crimes or contraventions, implicitly, of contraventional or criminal liability (art. 21 CP and Art. 17 Ccontr). Both in the case of the Criminal Code and the contraventional Code, the legislator considers legal entities (except for public authorities), noting that the criminal liability of the legal person does not exclude the liability of the natural person for the crime committed, similarly -the contraventional liability of the legal person does not exclude the liability of the natural person or, as the case may be, of the person with the responsibility function for the committed contravention.

5. Another identified conclusion would be the fact that the analyzed law (no. 183/2012) recognizes public authorities as subjects of anti-competitive practices, including unfair competition, or the latter do not participate in economic relations as competitors. The legislation in force empowers the public authorities with other powers, including, ensuring the monitoring of the market and economic activity, compliance with the legislation, including, in the field of competition, the granting of support to loyal competitors, the allocation of subsidies and the regulation of investments, etc. If the public authorities favor certain competitors through the actions described in the law, they pursue the goal of limiting competition by restricting, preventing, or distorting competition, while, according to its law, they should ensure the protection of competition, the stimulation of "healthy", fair competition. We

believe that the law must be amended in the sense of exempting public authorities from any type of liability, or in this case, the legislator would not be consistent in promoting the policy in the matter of the legal liability of the mentioned subjects. Accordingly, it would be necessary to make appropriate changes in other normative acts, including those analyzed by us.

6. We believe that the mentions of the legislator in the law no. 183/2012 regarding the derogations from the contravention or the criminal code refer to the pecuniary sanctions applicable to the subjects of the acts of unfair competition or anti-competitive practices, in this case to the amounts of the fines and their calculation method (legislation criminal and misdemeanor fines provide for other limits of the fine as a criminal or misdemeanor penalty, etc.) and that the respective derogations do not concern the general and special principles of the individualization of punishments, the subjects of misdemeanor and criminal liability or other legal institutions. Otherwise, the general and special principles of criminal and misdemeanor law will be flagrantly violated.

The general conclusion is that the anti-competitive legislation in force is not without shortcomings and imperfections and that additional studies are needed to identify certain recommendations and proposals for the improvement and adjustment of the corresponding regulatory framework.

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5. Competition Law no. 183 of 11.07.2012 (with subsequent amendments and additions), published according to art. II para. (4) of Law no. 199/2023, Official Gazette of the Republic of Moldova, 2023, no. 322-324, art. 575; in force 18.09.2023; (https://www.legis.md/cautare/getResults?doc_id=139070&lang=ro#).