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**Global Forum on Competition**

**Competition in the Food Supply Chain – Contribution from Romania**

**- Session IV -**

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This contribution is submitted by Romania under Session IV of the Global Forum on Competition to be held on 2-3 December 2024.

More documentation related to this discussion can be found at: [oe.cd/gfc24](https://oe.cd/gfc24).

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## *Competition in the Food Supply Chain*

### *- Contribution from Romania –*

1. The Romanian Competition Council (RCC) has been actively addressing anti-competitive practices in key food markets and providing oversight on new regulatory initiatives:

- **Price-fixing investigations:** The competition authority launched investigations into alleged price-fixing in the sunflower oil, butter, and sugar production markets. Major players, including Bunge Romania, Expur, and Lactalis-affiliated companies, faced dawn raids, with certain companies (Lactalis) fined for obstructing access to requested information.
- **Temporary measure to combat excessive price increases (OUG 67/2023):** To curb excessive food price increases, RCC supervised the Government initiative (of the Ministry of Agriculture) on the implementation of a maximum cumulative mark-up regulation on certain food products. Extended to December 2024, this measure allows for balanced price-setting across the distribution chain and is closely monitored by the RCC.
- **Ongoing Oversight Tools:** Through its Price Monitor platform, the RCC continuously tracks retail food prices to support transparency and to ensure market stability.
- Additionally, RCC applies the **Unfair Trading Practices legislation** to prevent abusive practices in agricultural and food supply chains, actively responding to inquiries from businesses and professionals.
- RCC is analyzing the acquisition of Profi by Mega Image, one of the **biggest transitions in the retail market**. Following this merger, the parties will have to implement a series of structural and behavioral commitments.

### **1. Investigations into possible price-fixing agreements in the sunflower oil, butter, and sugar production markets**

2. The RCC has initiated three investigations into possible price-fixing agreements in the production markets for sunflower oil, butter, and sugar.

3. As part of these investigations, dawn raids were conducted at the headquarters and branches of several companies in the sunflower oil production and retail market, including Bunge Romania SRL, Expur SA, Prutul SA, and Ardealul SA. Dawn raids also took place in the production and retail market for butter, targeting companies such as Albalact, Covalact, and Dorna Lactate (part of the Lactalis group), Friesland Romania SA, Lacto Food SRL, and Fabrica de Lapte Braşov (Olympus).

4. The RCC fined Albalact, Covalact, and Dorna Lactate (part of the Lactalis group) 14,335,002.70 lei (approximately 2.9 million euros) for refusing access to certain information during the dawn raids, which were part of an investigation into potential price-fixing in the butter production market.

5. These penalties were imposed because the companies did not grant inspectors access to certain email accounts or correspondence used by employees or company representatives during the dawn raid conducted in March 2023.

6. In the sugar production market, dawn raids were conducted at Agrana Romania SRL, Pfeifer & Langen Romania SRL, and Lucsor Impex SRL.

RCC is currently analyzing the documents collected during the dawn raids as part of specific procedures.

## **2. Emergency Ordinance No. 67/2023, concerning the introduction of a temporary measure to combat excessive price increases for certain agricultural and food products**

7. To combat excessive price increases, in June 2023, the Romanian government issued an emergency ordinance that capped the mark-up on certain food products, to a specific threshold.

8. To guide stakeholders and ensure compliance with competition regulations following the implementation of Emergency Ordinance provisions, the RCC has organized several meetings with representatives from the food processing industry and major commercial chains in Romania. Representatives from other authorities, such as the National Agency for Fiscal Administration (ANAF) and the Ministry of Agriculture and Rural Development, also participated in these discussions.

9. With the intent to provide the business environment with clarifications regarding the potential application of the provisions of Emergency Ordinance No. 67/2023 in a manner consistent with competition rules, the RCC requested the Ministry of Agriculture and Rural Development's assistance for an accurate interpretation of the ordinance.

10. The Ordinance sets a maximum level of mark-up at the retail level, but also at the distribution level.

11. Since the Emergency Ordinance No. 67/2023 sets a maximum level for the cumulative trade markup across the entire distribution chain regardless of the number of distributors, the RCC has issued clarifications on how this markup should be distributed among the distribution chain participants. This guidance aims to ensure that no limitations are imposed on resellers' ability to set their sale prices, nor are unnecessary competition restrictions applied beyond those required to achieve the ordinance's objective. These clarifications were made available on the competition authority's website.

12. The RCC is actively monitoring shelf price trends for food products affected by the provisions of Emergency Ordinance No. 67/2023.

13. Specific responsibilities for oversight, investigation, and sanctions are shared between the National Agency for Fiscal Administration and the RCC. ANAF is the designated authority for oversight, while the RCC monitors price trends in retail for products covered by the ordinance and publishes findings based on its analyses. Additionally, the RCC has actively collaborated with ANAF, sharing detailed pricing data at the retail level with the designated control authority.

14. Currently, this temporary measure to combat excessive price increases for certain agricultural and food products has been extended until the end of 2024, following the approval of Law No. 63/2024, which amended and supplemented Emergency Ordinance No. 5/2024 and Ordinance No. 67/2023.

15. The following table compares the price changes for basic food products in major retail chains from June 2023 to June 2024, when the ordinance was in effect.

**Table 2.1. Price changes for basic food products in major retail chains from June 2023 to June 2024**

Food products	June 2024 vs. June 2023
Onion	-38.24%
Flour	-36.75%
Cornmeal	-33.80%
Carrots	-30.94%
Sugar	-24.58%
Bread	-24.01%
Oil	-20.03%
Potatoes	-19.67%
Telemea Cheese	-18.89%
Chicken Parts	-15.06%
Bianca Peppers	-14.75%
Pork Shoulder	-13.94%
Chicken Legs	-11.79%
Tomatoes	-10.25%
Beans	-7.11%
Chicken Wings	-7.08%
Yogurt	-6.39%
Cucumbers	-6.07%
Eggs	-5.11%
Pork Leg (boneless)	-4.74%
Pork for Processing	-4.74%
Milk	-4.62%
Pork Leg (with bone)	-2.27%
Grapes	-1.79%
Grill Chicken	-0.61%
Plums	+0.30%
Golden Apples	+1.00%
Capia Peppers	+1.55%
Red Apples	+16.90%

### 3. Price Monitor

16. The RCC places significant focus on monitoring food product prices within major retailers through its online platform, "www.monitorulpreturilor.info" (Price Monitor). This platform tracks prices on all food items found in major retail stores, providing consumers with transparent access to price data.

17. Following the enactment ordinance 67/2003, which caps the mark-up on certain food products, RCC enhanced the platform. A new functionality now enables users to access information on capped-margin products.

18. Through the Price Monitor platform, users can visit the "Food Products" section and find a new menu, "Products with Capped Margin." Based on user-selected criteria and location, the platform displays the specific prices for each retailer, updated directly by the retailers, allowing consumers to make informed purchasing decisions based on price and availability.

#### 4. Law 81/2022 – UTP (Directive 633/2019)

19. The RCC is responsible for enforcing Law No. 81/2022 on unfair trade practices (UTPs) among businesses within the agricultural and food supply chains. This law regulates commercial relationships between suppliers and buyers to prevent unfair practices related to the sale of agricultural and food products.

20. Since its implementation, Law No. 81/2022 has marked a significant phase in RCC's efforts to apply and enforce the new rules. During this time, the RCC received numerous requests from business and legal professionals for clarification on interpreting and applying the specific legal framework. Each request underwent detailed analysis, and responses were provided to the respective parties. Additionally, to address the common questions, RCC published a guide on its website titled *Guidance and Clarifications on Interpreting and Applying Provisions of Law No. 81/2022*, which will be updated as necessary.

21. RCC is also conducting an analysis of the law's impact on suppliers and buyers within the agricultural and food supply chain. This study addresses challenges faced by small producers and suppliers in their interactions with retailers. To gather data, the authority distributed questionnaires with targeted questions related to the issues under review.

22. Moreover, RCC has initiated an in-depth investigation into a potential violation of this law by PROFI ROM FOOD SRL in the food retail market. This investigation is due to be finalized by using the mediation procedure.

#### 5. Mega Image/ Profi merger

23. RCC is analyzing the acquisition of Profi Food by Mega Image (Delhaize), one of the biggest transitions in the retail market in Romania. Following this merger, the parties will have to implement a series of structural and behavioral remedies.

24. **The structural downstream** remedies consist of selling a number of 87 stores situated in areas where Mega Image will reach high market shares, both by value and by number of stores. These commitments should be combined with a behavioral one, providing an obligation for Mega Image not to block access to owned or leased premises, within problematic markets.

25. **The behavioral upstream remedies** offer a level of protection to the producers that have a high dependency on Mega/Profi after the transaction (over 20% of their sales through those stores). Also, they provide general guidelines of listing/delisting applicable to all suppliers (dependent or non-dependent).

26. Some of them are:

- The dependent suppliers must have a protection regarding delisting, with reasonable exceptions, written in an internal procedure.

- The listing/delisting criteria should give suppliers the right to appeal a delisting decision.
- Mega Image should allow the dependent suppliers to maintain the commercial terms more favorable to them.
- Mega Image should provide the dependent suppliers with an estimate of the quantities/volumes purchased during the collaboration.