

# **THE LEGAL ENVIRONMENT OF ROMANIAN E-COMMERCE: A CRITICAL ANALYSIS AND RECOMMENDATIONS FOR IMPROVEMENT**

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## **Abstract**

Romania has been experiencing rapid growth in internet accessibility and E-commerce. The nation has enacted three E-commerce statutes: the Electronic Signature Law (“ESL”) is third-generation with no exclusions from coverage, and contains an extensive list of penalties for Certification Service Providers (“CSP”) who violate the ESL or other laws; the E-Commerce Law (“ECL”) is distinguished by the fact that consent of all parties is not required to have a valid E-contract, its provisions pertinent to out-of-court settlement as well as court action, and a range of civil and criminal penalties provided for unlawful E-commerce sellers; and the Cyber-Crime Law establishes a list of computer crimes relating to crime prevention, data confidentiality, computer tampering and online child pornography. Those statutes provide a satisfactory legal foundation for Romanian E-commerce, but they need to be calibrated and supplemented. Recommended changes and additions to Romanian E-commerce law include: enactment of a comprehensive Electronic Transactions Law which will incorporate all laws pertinent to E-commerce, including E-contract rules; recognition of the validity of the electronic form in compliance with several additional requirements of other statutes, including notarization; addition of rules for electronic automated contracts and electronic carriage contracts; more consumer protections for E-buyers; establishment of Information Technology Courts for resolution of E-commerce disputes; creation of long-arm jurisdiction over foreign E-commerce parties; designation of the Romanian Post Office as an accredited CSP; adoption of a National ID Card containing a digital signature which can be activated by an accredited CSP, including the Post Office; and enactment of a new computer crime, Intentional Injection of a Virus into a Computer System, with onerous penalties for offenders.

**Keywords:** Electronic Signature Law, Certification Service Providers, E-Commerce Law, Cyber-Crime Law.

**JEL Classification:** K1.