

# Legal Bulletin

June 2008

Commercial law	1
Insurance	4
Intellectual property	6
Social Security	8
Money laundering	9
Public health	10
Public law	11
State aid	12
Tax law	13
Transport law	15

June 2008

# Legal Bulletin

## Commercial law

### 1 Performance of the payment obligations resulting from commercial agreements

Name of the enactment	Law No. 118/2008 for the approval of Government Emergency Ordinance No. 119/2007 on the measures for fighting against the delay in the performance of the payment obligations resulting from commercial agreements (“ <b>Law No. 118/2008</b> ”)
Publication	Official Gazette of Romania, Part I, No. 410/02.06.2008
Entry into force	5 June 2008
Main provisions	<p>G.E.O. No. 119/2007 applies to commercial contracts concluded among traders or between them and a contracting authority, having as object supplying of goods or providing of services for a price consisting in an amount of money.</p> <p>Law No. 118/2008 approves with amendments G.E.O. No. 119/2007.</p> <p>The main amendments brought by Law 118/2007 are:</p> <ul style="list-style-type: none"><li>• the definition of “contracting authority” is reworded from the version before the amendment and is completed with the following two new hypotheses:</li><li>• “[...]”</li><li>• <i>d) any public enterprise which carries out one or more of the activities provided under chapter VIII section 1 of Government Emergency Ordinance No. 34/2006 on awarding public procurement agreements, public works concession agreements and service concession agreements, approved with amendments and completions by Law No. 337/2006, as further amended and completed, when it awards public procurement agreements or concludes framework agreements meant for the performance of said activities;</i></li><li>• <i>e) any entity, other than those provided under letters a)-d) [the previous hypotheses, our observation], which carries out one or more of the activities provided under chapter VIII section 1 of Government Emergency Ordinance No. 34/2006, approved with amendments and completions by Law No. 337/2006, as further amended and completed,</i></li></ul>

*further to a special or exclusive right, as defined under Article 3 letter k) of the abovementioned ordinance, granted by a competent authority, when it awards public procurement agreements or concludes framework agreements meant for the performance of said activities.”*

- it establishes the special competence of administrative claims courts to rule on the claims concerning the payment receivable resulting from a public acquisition agreement, a public works concession agreement or a service concession agreement;
- it establishes the 10 days' term after the communication of the payment order during which such order can be challenged by a debtor through a cancellation request;
- it specifies that the cancellation request is dealt with by the court competent for ruling on the merits of the case in the first instance (in the version prior to the amendment, such request had been dealt with by the court which issued the order for payment).

Author

[maxim.dogoter@tuca.ro](mailto:maxim.dogoter@tuca.ro)

## 2 Economic-financial measures for state companies

Name of the enactment

Emergency Ordinance No. 79/2008 of 18 June 2008 on economic-financial measures for certain business entities (“**G.E.O. No. 79/2008**”)

Publication

Official Gazette of Romania, Part I, No. 465/23.06.2008

Entry into force

23 June 2008

Connections with other enactments

Company Law No. 31/1990, republished, as further amended and completed (“**Law No. 31/1990**”)

Main provisions

G.E.O. No. 79/2008 have been passed in order to meet the necessity of removing the unjustified possibility of operating in parallel two systems of managing business entities, the first one applicable to companies, established by Law No. 31/1990, according to which the executive management is delegated to managers who exercise their prerogatives based on a mandate agreement, and the second one, applicable to *regies autonome*, national companies and enterprises, as well as companies in which the state or an administrative authority is a majority shareholder established by G.E.O. No. 79/2001 on the strengthening of economic-financial discipline and other financial provisions, according to which the management powers are exercised by managers based on a performance

agreement attached to the individual employment agreement.

G.E.O. No. 79/2008 applies to *regies autonome*, national companies and enterprises and companies in which the state or an administrative-territorial unit is sole or majority shareholder, as well as to their subsidiaries (“**Business entities**”).

According to G.E.O. No. 79/2008, the management of Business entities is ensured by the managers thereof based on a mandate agreement concluded under the general conditions provided by Law No. 31/1990 and the specific conditions provided by G.E.O. No. 79/2008.

The specific conditions provided by G.E.O. No. 79/2008 mainly refer to criteria for reducing the monthly remuneration of the managers of Business entities and to the obligations of public institutions which have Business entities under their orders, authority, coordination or in their portfolio.

Due to the regulated characteristic of certain domains of activity, the provisions of G.E.O. No. 79/2008 do not apply to financial-banking and insurance companies, or to the company “Fondul Proprietatea” - S.A.

Repealed enactments

Government Emergency Ordinance No. 79/2001 on the strengthening of the economic-financial discipline and other financial provisions, approved with amendments by Law 59/2002, as further amended and completed.

Author

[maxim.dogoter@tuca.ro](mailto:maxim.dogoter@tuca.ro)

### **3 Statutory audit of annual financial statements**

Name of the enactment

Emergency Ordinance No. 90/2008 on the statutory audit of annual financial statements and of consolidated annual financial statements („G.E.O. No. 90/2008”)

Publication

Official Gazette of Romania, Part I, No. 481/30.06.2008

Entry into force

30 June 2008

Connections with the  
Community legislation

Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC

Main provisions

Statutory audit is the audit of the annual financial statements or of the consolidated annual financial statements, as provided by the Community law, transposed in the national regulations.

G.E.O. No. 90/2008 regulates the statutory audit of annual financial statements

and of consolidated annual financial statements.

G.E.O. No. 90/2008 establishes specific rules in respect of the performance of the statutory audit activity (the conditions for granting and withdrawing the authorizations of individuals/audit companies, the continuous professional training, the obligation to register statutory auditors and audit companies in a public registry, the observance of the independence and objectivity obligations, of confidentiality and professional secrecy). G.E.O. No. 90/2008 expressly provides for the possibility to approve the statutory auditors which are authorized in another Member State of the European Union. Also, G.E.O. No. 90/2008 establishes the audit standards and the quality ensuring systems, as well as the fines and sanctions applied by the Romanian Chamber of Financial Auditors to statutory auditors and audit companies.

G.E.O. No. 90/2008 establishes the Council for Public Supervision of the Statutory Audit Activity, which will operate as an autonomous public institution.

Author

[iulia.ciobotaru@tuca.ro](mailto:iulia.ciobotaru@tuca.ro)

## Insurance

### 1 Supervision of insurance/reinsurance companies

Name of the enactment

Order No. 9/2008 of the President of the Insurance Supervision Commission for the application of the Norms on the supplementary supervision of insurance/reinsurance companies which form part of an insurance/reinsurance group (“**Order No. 9/2008**”)

Publication

Official Gazette of Romania, Part I, No. 460/19.06.2008

Entry into force

19 June 2008

Connections with other enactments

Law No. 32/2000 on insurance activity and insurance supervision

Connections with the Community legislation

Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group, as further amended and completed

Main provisions

Order No. 9/2008 regulates the supplementary supervision of an insurance/reinsurance company which owns shares in at least one insurance/reinsurance company.

The supplementary supervision has to take into account: (i) the companies affiliated to the insurance/reinsurance company; (ii) the companies owning shares in the insurance/reinsurance company; (iii) the companies affiliated to the

company which owns shares in the insurance/reinsurance company.

Also, Order 9/2008 provides for the obligation of insurance/reinsurance companies which form the object of the supplementary supervision to make available to the Insurance Supervision Commission or, if applicable, to other competent authorities of the Member States all the useful information for the purpose of exercising the supplementary supervision.

The Insurance Supervision Commission also exercises the general supervision of intra-group transactions. Such transactions mainly concern:

- loans;
- guarantees and transactions not included in the balance sheet;
- eligible elements for the solvability margin;
- investments;
- reinsurance and retrocession operations;
- agreements on the allocation of costs.

Insurance/reinsurance companies have the obligation to report half-yearly to the Insurance Supervision Commission the performed significant transactions. Moreover, for the purpose of identifying, monitoring and controlling intra-group transactions, insurance/reinsurance companies have the obligation to hold adequate procedures for risk management and the internal control, including reporting and accounting procedures.

Order No. 9/2008 also provides for the methodology of calculating the adjusted solvability of insurance/reinsurance companies.

Repealed enactments

- Order No. 3113/2005 of the President of the Insurance Supervision Commission for the application of the Norms on the additional supervision of insurance companies that are part of insurance group;
- Order No. 3114/2005 of the President of the Insurance Supervision Commission for the application of the Norms on the calculation of the adjusted solvability of insurance companies.

## 2 Credit insurance

Name of the enactment

Order No. 10/2008 of the President of the Insurance Supervision Commission for the application of the Norms on credit insurance ("**Order No. 10/2008**")

Publication	Official Gazette of Romania, Part I, No. 460/19.06.2008
Entry into force	19 June 2008
Connections with other enactments	Law No. 32/2000 on insurance activity and insurance supervision (“ <b>Law No. 32/2000</b> ”)
Main provisions	<p>Order No. 10/2008 establishes the procedure of establishment of the equalization reserves by insurance/reinsurance companies which subscribe risks included in class 14 – “credit insurance”. The abovementioned class includes the following risks: (i) insolvability; (ii) export credit; (iii) sale by installments; (iv) mortgage credit and (v) agricultural credit.</p> <p>According to the provisions of Law No. 32/2000, the equalization reserve is a technical reserve created in the years with good technical results for establishing sources for covering the damages in the years with bad technical results. The establishment of the equalization reserve is mandatory for such insurance/reinsurance companies only if, during a financial year, the value of the gross premiums subscribed for credit insurance reaches a certain value (either (i) it is at least equal to 4% of the value of gross premiums subscribed for general insurance; or (ii) it is at least equal to the RON equivalent of EUR 2,500,000, calculated as per the rate communicated by the National Bank of Romania in the last business day of the reporting period).</p> <p>Insurance/reinsurance companies which no longer subscribe risks of the class 14 and no longer hold exposures for such risks can release the equalization reserve. The release of the equalization reserve can occur only with the prior consent of the Insurance Supervision Commission.</p> <p>Insurance/reinsurance companies have the obligation to send annually to the Insurance Supervision Commission reports presenting the method of calculating the technical result and the equalization reserve for credit insurance.</p>
Repealed enactments	Order No. 113109/2006 of the President of the Insurance Supervision Commission for the application of the Norms on loan insurance, published in the Official Gazette of Romania, Part I, No. 370/28.04.2006
Author	<a href="mailto:ciprian.timofte@tuca.ro">ciprian.timofte@tuca.ro</a>
Name of the enactment	<b>Intellectual property</b> Government Decision No. 547/2008 (“ <b>G.D. No. 547/2008</b> ”) for the approval of the Regulation for the application of Law No. 64/1991 on invention patents (the

Publication	Official Gazette of Romania, Part I, No. 456/18.06.2008
Entry into force	18 June 2008
Connections with other enactments	Law No. 64/1991 on invention patents (" <b>Law No. 64/1991</b> ")
Main provisions	<p>The Regulation repeals the old regulation for the application of Law No. 64/1991. Considering the republication in 2007 of Law No. 64/1991, a large number of its articles renumbered, there has been a need to pass the Regulation for a correspondence with the provisions of Law No. 64/1991, republished. Therefore, the Regulation mainly reiterates the text of the old regulation, with some amendments.</p> <p>Among the main provisions of the Regulation, the following should be mentioned:</p> <ul style="list-style-type: none"><li>• it details the procedure for the submission and examining of the invention patent requests. For example, the submission of the invention patent request ("<b>Request</b>") is made either on paper, or, according to the regulation, through electronic means (removing the possibility of submission by mail provided by the previous regulation), and the requirements concerning the registration of the request by electronic means and its processing are established by instructions of the general manager of the State Office for Inventions and Trademarks ("<b>OSIM</b>"), published in the Official Gazette;</li><li>• it provides for the publication conditions of a Request, as well as for the conditions under which the publication of a Request can be made within a shorter term than the one provided by Law 64/1991;</li><li>• it provides for the terms for all the procedural stages related to the procedure of patenting an invention with OSIM, to the extent such terms are not provided by Law No. 64/1991;</li><li>• it details the procedure for solving the contestations and the revocation requests, and it also provides for the prerogatives of the reexamination commission which solves them;</li><li>• it provides extensive details on the concept of "biotechnological invention", conditions for and exceptions from the patentability for this type of inventions, most of such provisions being taken from the</li></ul>



old regulation for the application of Law No. 64/1991;

- it details aspects in relation to the transfer or licensing of the rights conferred through an invention patent;
- it details the notion of "*employee's invention*", evidencing the particulars in the case of an invention created by an employee as part of carrying out their work.

Repealed enactments

Government Decision No. 499/2003 for the approval of the Regulation for the application of Law No. 64/1991 on invention patents.

Author

[maxim.dogoter@tuca.ro](mailto:maxim.dogoter@tuca.ro)

## Social Security

Name of the enactment

Government Emergency Ordinance No. 83/2008 for the amendment and completion of Law No. 19/2000 on the public pension system and other social insurance rights ("**G.E.O. No. 83/2008**")

Publication

Official Gazette of Romania, Part I, No. 471/26.06.2008

Entry into force

26 June 2008

Connections with other enactments

Law No. 19/2000 on the public pension system and other social insurance rights, as further amended and completed.

Main provisions

G.E.O. No. 83/2008 regulates the manner in which the National House of Pensions and Social Insurance ("**CNPAS**") will be entitled to access the civil status data of all Romanian citizens, of EU citizens and of Member States of the European Economic Space and of foreigners who have their residence/stay registered in Romania, as well as of persons for whom CNPAS draws up payment documentations and/or makes the payment of certain social dues.

All such data will be provided to CNPAS, free of charge, by the Ministry of Interior and Administration Reform, through the National Center of Administration of the Data Bases concerning the evidence of Persons or through the Romanian Immigration Office.

The justification of the amendments brought by G.E.O. No. 83/2008 was that of avoiding the situations where, for lack of relevant information concerning the beneficiaries, CNPAS or the pension houses in the territory were unable to make the payments to the beneficiaries, as well as the risk that CNPAS may make groundless payments.

Author

[mihai.anghel@tuca.ro](mailto:mihai.anghel@tuca.ro)

## Money laundering

Name of the enactment

Government Decision No. 594/2008 on the approval of the Regulation for the application of the provisions under Law No. 656/2002 for the prevention and sanctioning of money laundry, as well as for establishing certain measures for the prevention and fighting against the financing of terrorist acts (“**G.D. No. 594/2008**”)

Publication

Official Gazette of Romania, Part I, No. 444/13.06.2008

Entry into force

13 June 2008

Connections with other enactments

Law 656/2002 for the prevention and sanctioning of money laundry, as well as for establishing certain measures for the prevention and fighting against the financing of terrorist acts (“**Law No. 656/2002**”)

Main provisions

G.D. No. 594/2008 establishes a number of standard measures for knowing the client base (“**Standard measures**”), as well as the situations where such measures have to be applied. In principle, the purpose pursued by G.D. No. 594/2008 is to establish the obligation incumbent on certain individuals and legal entities to report suspect clients and financial transactions in all areas.

G.D. No. 594/2008 establishes the categories of individuals and legal entities who have the obligation to apply the Standard measures and to report suspect transactions. The Standard measures shall be compulsory applied in the following situations:

- in establishing a business relation;
- in performing occasional transactions of at least EUR 15,000 or equivalent, regardless of whether the transaction is made through a single operation or several seemingly related operations;
- when there are suspicions that the operation concerned is for money laundry or the financing of terrorist acts, regardless of the value of the operation or the applicability of the provisions derogatory from the obligation to apply the Standard measures, established in Law No. 656/2002 and in G.D. No. 594/2008;
- if there are doubts concerning the veracity or pertinence of the identification information already held about the client;
- upon purchasing or exchanging in casinos chips whose minimal value is

the RON equivalent of EUR 2,000.

The Standard measures will be applicable to all new clients, as well as, depending on the risk, in the case of all existing clients.

Also, the G.D. No. 594/2008 provides, as exception, for certain situations which can involve simplified measures for knowing the client base. For exemplification purposes, such measures shall be applied in case of life insurance policies, if the insurance premium or the payment installments are lower than or equal to the RON equivalent of EUR 1,000 or the sole insurance premium paid is worth up to the RON equivalent of EUR 2,500 and the case of acts of accession to pension funds or in certain situations related to electronic payments.

According to G.D. No. 594/2008, the reports on the prevention and sanctioning of money laundry, as well as those concerning the fight against financing terrorist acts are sent to the National Office of Prevention and Fight against Money Laundry. The Office will establish, through its own internal methodology, a system for the performance of financial analyses, which will be adapted periodically depending on the risk indicators identified.

Author

[andreea.pascaru@tuca.ro](mailto:andreea.pascaru@tuca.ro)

## Public health

Name of the enactment

Emergency Ordinance No. 93/2008 for the amendment and completion of Law No. 95/2006 on health reform (“**G.E.O. No. 93/2008**”)

Publication

Official Gazette of Romania, Part I, No. 484/30.06.2008

Entry into force

30 June 2008

Connections with other enactments

Law No. 95/2006 on health reform (“**Law No. 95/2006**”)

Connections with the Community legislation

- Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for pediatric use;
- Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products.

Main provisions

The main amendments brought by G.E.O. No. 93/2008 refer to:

- the performance of national health programs, the extension of the discount price from medicines to sanitary materials and medical devices contained in such programs;
- measures for covering the under-privileged areas by qualified

personnel;

- the reorganization of the Ministry of Public Health (“MPH”) and the commencement of the devolution through the outsourcing of operative activities in MPH, so a large number of prerogatives and obligations are transferred from MPH to the National Agency of Medication, at the same time health programs are no longer approved by MPH but by the Government upon the proposal of MPH;
- increasing the powers conferred to institutions with prerogatives in the public health control;
- the clarification of several provisions concerning primary medicine, in accordance with the European provisions, introducing the concept of “medicine for advanced therapy”;
- regulating the retail distribution of medicines, considering the lack of an appropriate regulating frame – Law No. 95/2006 in its prior version specifically regulating only the wholesale medication distribution.

Author

[maxim.dogoter@tuca.ro](mailto:maxim.dogoter@tuca.ro)

## Public law

Name of the enactment

Emergency Ordinance No. 92/2008 on the statute of the public servant appointed as public manager (“**G.E.O. No. 92/2008**”)

Publication

Official Gazette of Romania, Part I, No. 484/30.06.2008

Entry into force

30 June 2008

Connections with other enactments

- Law No. 188/1999 on the status of public servants, republished;
- Government Ordinance No. 6/2007 on certain measures for the regulation of the salary rights and other rights of the public servants until the enforcement of the law on the unitary salary system and other rights of public servants, as well as the salary rises granted to public servants in 2007, approved with amendments by Law 232/2007, as further amended (“**G.O. No. 6/2007**”);
- Government Decision No. 1.516/2004 repealing the Methodological Norms for the application of Law No. 157/2004 on establishing the special scholarship “The Romanian Government” for the training of public sector managers, as further amended and completed.

Main provisions

G.E.O. 92/2008 has been passed in view of strengthening the administrative

capacity of the Romanian public administration and of accelerating the public administration reform in general, by developing a coherent system of public managers, based on merit and performance. G.E.O. No. 92/2008 – a more complex and detailed enactment – replaces Government Emergency Ordinance No. 56/2004 on creating the special status of the public servant appointed as public manager.

G.E.O. No. 92/2008 regulates the status of public servants appointed in a specific public position of public manager.

G.E.O. No. 92/2008 establishes specific rules concerning recruiting, selecting, training programs, the assessment, appointment, salary (it provides for a salary level higher than the basic salary provided by G.O. No. 6/2007) and the fast promotion (in theory, the highest professional step can be reached within 2 years after the appointment as public manager) of public managers.

Repealed enactments

Government Emergency Ordinance No. 56/2004 on the creation of the special status of the public servant appointed as public manager, approved with amendments and completions by Law 452/2004, as further amended and completed

Author

[maxim.dogoter@tuca.ro](mailto:maxim.dogoter@tuca.ro)

## State aid

Name of the enactment

Government Emergency Ordinance No. 85/2008 on stimulating investments (“G.E.O. No. 85/2008”)

Publication

Official Gazette of Romania, Part I, No. 474/27.06.2008

Entry into force

27 June 2008

Connections with other enactments

Government Decision No. 651/2006 on the approval of the Policy in the state aid field for the period 2006-2013

Main provisions

The purpose aimed in passing G.E.O. No. 85/2008 was mainly to establish a general legislative framework that allows granting supporting measures for stimulating investments, in observance of the Community law in the state aid field.

Thus, G.E.O. No. 85/2008 regulates:

- the principles underlying the granting of facilities for the purpose of stimulating investments (equal treatment, transparency, efficiency of using the facilities, etc.);

- the sectors of activity taken into consideration for the granting of facilities (generation and supply of electricity and thermal energy, the protection and improvement of environment quality, IT and communications, research activities, development and innovation or development of new product, etc.);
- the conditions for the eligibility of investments and investors;
- the types of facilities which can be granted for the purpose of stimulating investments;
- the procedure for requesting the granting of facilities.

In addition, G.E.O. No. 85/2008 provides for the obligation to establish a new authority in the field, i.e. the Romanian Agency for Investments. This authority will fulfill the role of contact and intermediation point among investors and central or local authorities, its main purpose being to grant to investors, upon request, technical assistance / instruction in relation to the existing schemes as part of which they may request financing from the competent authority.

Repealed enactments

Law no. 332/2001 on the promotion of direct investments significantly impacting the economy, published in the Official Gazette of Romania, Part I, No. 356 of 3 July 2001, as further amended, except for Article 18.

Author

[ciprian.timofte@tuca.ro](mailto:ciprian.timofte@tuca.ro)

## Tax law

Name of the enactment

Government Emergency Ordinance No. 91/2008 for the amendment and completion of Fiscal Code Law No. 571/2003 (“**G.E.O. No. 91/2008**”)

Publication

Official Gazette of Romania, Part I, No. 480/30.06.2008

Entry into force

1 January 2009

Main provisions

G.E.O. No. 91/2008 brings a number of amendments to the Fiscal Code especially in respect of the taxing of profits from interests and dividends obtained by non-residents in Romania, with the particularities imposed by the need to align the national law to the European legislation.

The main amendments brought by G.E.O. No. 91/2008 concern the following issues:

- the recovery of the fiscal losses for a period of 7 years:
- starting as of the fiscal year 2009, losses will be recovered from the

taxable profits obtained during the following 7 years, as compared to the 5 years provided until 2008;

- the 7 year period for the recovery of the fiscal losses also applies to micro enterprises that adopt the regime of taxation on the profit obtained.
- the taxing applied to the profit obtained from trading securities (Capital Market)
- the Fiscal Code provided before being amended that the profit obtained from the trading of state securities and of municipal bonds was not taxable. The amendment extends the scope of the state authorities issuers of bonds from the municipal ones to the administrative-territorial ones;
- also, it is expressly stated that not only the profit obtained from the trading of such titles but also the profit resulting from the mere holding thereof will be exempted from the obligation to pay the profit tax.
- the profit made by non-residents
- the 10% quota applied to profits from royalties and interests where the beneficiary is a legal entity from a Member State becomes applicable to non-resident legal entities benefiting from such profits if they form part of one of the states of the European Association of Free Exchange, namely Iceland, Liechtenstein or Norway. Starting 1 January 2011, such profit shall be exempted from tax for the above-mentioned beneficiaries if they hold more than 25% of the share capital of a Romanian legal entity for a continuous period of 2 years;
- G.E.O. No. 91/2008 reduces the quota applicable to the dividends paid by a Romanian legal entity to one residing in an EU State from 16% to 10%. The same quota becomes applicable to residents in Iceland, Liechtenstein or Norway. It extends to beneficiaries of such dividends in the listed states the tax as of Romania's accession to the EU under the same conditions as those established for the beneficiaries in the EU states: participation in the share capital of a Romanian legal entity of at least 15% for a continuous period of 2 years. Starting as of 2009, the participation must be of at least 10%;

- G.E.O. No. 91/2008 details the category of non-taxable profit obtained by non-residents concerning the financial instruments issued by the public authorities by including those issued by NBR and by excluding the obligation to guarantee them by the Romanian Government in order to be included in the category of non-taxable profits.

Author

[roxana.chirita@tuca.ro](mailto:roxana.chirita@tuca.ro)

## Transport law

Name of the enactment

Emergency Ordinance No. 74/11.06.2008 for the amendment and completion of Government Emergency Ordinance No. 109/2005 on road transports (“**G.E.O. No. 74/2008**”)

Publication

Official Gazette of Romania, Part I, No. 451/17.06.2008

Entry into force

17 June 2008

Connections with other enactments

Government Emergency Ordinance No. 109/2005 on road transports (“**G.E.O. No. 109/2005**”)

Connections with the Community legislation

Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus

Main provisions

G.E.O. No. 74/2008 brings clarifications to the meaning of certain terms used by G.E.O. No. 109/2005, including by amending some of the definitions provided under Article. 3 of G.E.O. No. 109/2005.

Also, it amends the provisions of G.E.O. No. 109/2005 on the regime of road vehicles and of the documents necessary for the transport operator. Thus, according to the new provisions, the true copies of transport licenses / transport certificates on own account will be personalized, by inscribing on them the registration number of the vehicle for which they were issued. Moreover, in the case of transport operators that perform public transport of persons, road vehicles will have to have onboard, in addition to the trajectory license, the traffic schedule.

The validity duration of the program for public transport of persons by regulated services in intra-county traffic is adjusted to 5 years.

G.E.O. No. 74/2008 establishes rules meant to facilitate the control on the activity of driver schools and of car instructors. Thus, according to the new regulations, car instructors have the obligation, like the driver schools, to keep the record of course attendants and of the practical trainings hours, under sanction of fines.



G.E.O. No. 74/2008 prohibits car instructors to perform the practical training with a view to obtain the driving license with persons who did not perform the theoretical training in a school with which that authorized instructor has a contract.

In the end part, G.E.O. No. 74/2008 incriminates a number of facts in a rather general manner, so that the scope of fines provided by G.E.O. No. 109/2005 is substantially enlarged.

Author

[bogdan.halcu@tuca.ro](mailto:bogdan.halcu@tuca.ro)



Contact details:  
Victoriei Square  
4-8 Nicolae Titulescu Avenue  
America House, West Wing, 8<sup>th</sup> Floor  
Sector 1  
011141 Bucharest  
Romania

 (40-21) 204 88 90

 (40-21) 204 88 99

 office@tuca.ro

 www.tuca.ro

#### Disclaimer

This material is for reference only. It does not seek to provide final legal Advice, which may be requested according to each specific legal issue.

For details and clarifications on any of the topics dealt in our Legal Bulletin, please contact the following lawyers:

Florentin Țuca, Managing Partner (florentin.tuca@tuca.ro)

Cornel Popa, Partner (cornel.popa@tuca.ro)

Cristian Radu, Senior Associate (cristian.radu@tuca.ro)