

Legal Bulletin

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Legal Bulletin

Banking Law

1 Obligation to report the level of the own funds incumbent on the credit institutions

Name of the enactment	Order No. 8/2007 of the National Bank of Romania on reporting the own funds of credit institutions (" NBRO 8/2007 ")
Publication	Official Gazette of Romania, Part I, No. 382/06.06.2007
Entry into force	6 June 2007
Connections with other enactments	Regulation No. 18/23/2006 of the National Bank of Romania and of the National Securities Commission on own funds of credit institutions and of investment companies, approved by Order No. 15/112/2006 of the National Bank of Romania and of the National Securities Commission
Main provisions	<p>According to the provisions of NBRO 8/2007, banks, real estate savings and credit banks, mortgage credit banks, central houses of credit cooperatives and issuers of e-currency, all Romanian legal entities, have the obligation to send to the National Bank of Romania – the Supervision Department, the form for the computation and reporting of the own funds: (i) within at most 25 calendar days as of the end of the month for which the form is filled in (if the communication is made through the inter-bank communication network); (ii) within at most 28 calendar days as of the end of the month for which the form is filed in (if the communication is made by a letter).</p> <p>In the case of central houses of credit cooperatives, the reporting of the equity will be made both individually and at the level of the credit cooperative network of which those credit cooperatives are a part.</p> <p>The standard form for the computation and reporting of equity is provided in the appendix integral to NBRO 8/2007.</p> <p>The failure to observe the provisions set forth by NBRO 8/2007 in respect of the computation and reporting of equity will result in the application of the measures and/or sanctions provided under Articles 226 and 229, respectively, of Government</p>

Emergency Ordinance 99/2006 on credit institutions and capital adequacy.

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2 Additional supervision measures concerning the companies from the financial sector

Name of the enactment

Law No. 152/2007 for the approval of Government Emergency Ordinance No. 98/2006 on the additional supervision of credit institutions, of insurance and/or reinsurance companies, of financial investment service companies and of investment management companies in a financial conglomerate (“**Law 152/2007**”)

Publication

Official Gazette of Romania, Part I, No. 388/08.06.2007

Entry into force

11 June 2007

Connections with other enactments

Government Emergency Ordinance No. 98/2006 on the additional supervision of credit institutions, of insurance and/or reinsurance companies, of financial investment service companies and of investment management companies in a financial conglomerate (“**GEO 98/2006**”)

Main provisions

GEO 98/2006 implemented a number of rules for the additional supervision of credit institutions, of insurance or reinsurance companies, of investment service companies or of investment management companies authorized in Romania or in another Member State and which are comprised in a financial conglomerate, as the latter is defined under Article 2 para. 1, item 5 of the Ordinance.

Law 152/2007 brings a number of amendments and completions to GEO 98/2006. Such amendments and completions refer in particular to the sanctions for the breaches of specific provisions of the Ordinance. Thus:

- Law 152/2007 provides for the coordinators’ obligation to appoint the persons who will ascertain the breach of the requirements provided by the Ordinance on, inter alia, the adequacy of the capital, the concentration of the risks, the intra-group transactions, etc. As defined under GEO 98/2006, a coordinator is the competent authority in Romania or in another Member State which authorized one of the relevant members of the financial conglomerate. The criteria for determining the coordinator are provided under Article 26 of GEO 98/2006.
- also, Law 152/2007 provides new elements in respect of the challenge procedures against the sanctioning measures taken by a coordinator. Thus, the contestation of the actions ordered by the coordinator is

made by the management body thereof, within 15 days as of communication. The coordinator will issue his opinion on the contestation by a grounded decision, within 30 days as of the notification. Furthermore, the coordinator's decision can be challenged at the High Court of Cassation and Justice, within 15 days as of communication. However, it is important to note that the above-mentioned challenge procedures (i.e. the contestation and the application for legal action filed to the High Court of Cassation and Justice) do not result in the suspension of the coordinator's actions.

- Law 152/2007 sets forth special provisions regarding the prescription of the right to sanction the breach of the provisions of GEO 98/2006. In this respect, according to Article 501 of Law 152/2007, the application of the sanctions provided by GEO 98/2006 will be prescribed within one year after the deed has been ascertained, but no more than 3 years as of the perpetration.

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Civil Procedure

1 Implementation of Community Regulations

Name of the enactment	Law No. 191/2007 for the approval of Government Emergency Ordinance 119/2006 on certain measures required for the application of Community Regulations after Romania's accession to the European Union
Publication	Official Gazette of Romania, Part I, No. 425/26.06.2007
Entry into force	29 June 2007
Connections with other enactments	The enactment approves Government Emergency Ordinance No. 119/2006 on certain measures required for the implementation of certain Community Regulations after Romania's accession to the European Union
Connections with the Community legislation	The enactment establishes a number of rules for the implementation of the following Community Regulations: Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning

	jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility
Main provisions	<p>The enactment establishes rules of procedure for the settlement of the applications for certification of enforcement orders, made under the Romanian law, in respect of the payment of an uncontested amount of money.</p> <p>If the enforcement order consists in a court decision, the competence for the certification is incumbent on the issuing court.</p> <p>If the enforcement order consists in an authenticated document, the competence is incumbent on the court with local jurisdiction over the issuer of the document.</p> <p>The court decision admitting the application for the certification is not subject to any challenge procedure; the decision rejecting the application for certification can be challenged by an appeal.</p> <p>The above procedure is also applicable to the applications filed for the release of a new certificate attesting the termination, suspension or limitation of the enforceability of the enforcement order, as well as to the application for the release of a new replacement certificate and to the application for the rectification of the certificate already released.</p> <p>The enactment provides for distinct rules in relation to the settlement of the application for the withdrawal of the certificate issued in breach of the provisions of Regulation 805/2004.</p> <p>The decision admitting the application can be challenged by an appeal.</p> <p>The enactment provides for norms of procedure regarding the applications for acknowledging and approving the forced execution in Romania of civil and commercial decisions issued in another Member State.</p> <p>The competence for the settlement is incumbent on the tribunal and the decision issued by the latter can be challenged by an appeal.</p> <p>The applications for acknowledgement and execution of decisions in matrimonial matters and parental responsibility issued in another state can be challenged by an appeal.</p>
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	2 Writing-off of Debts to the State Budget
Name of the enactment	Order No. 486/2007 approving the Procedure for the writing-off of debts in taxes, duties and other revenues owed to the state budget and/or of the debts in social

	contributions managed by the Ministry of Economy and Finance by transferring real estate assets of the debtors to the public state property
Publication	Official Gazette of Romania, Part I, No. 420/22.06.2007
Entry into force	25 June 2007
Main provisions	<p>The debts to the state budget can be written off by <i>datio in solutum</i>, upon the request of the debtor legal entity, by transfer of an immoveable asset to the public state property.</p> <p>The application can be filed, starting the first day after the deadline, to the competent fiscal body and it must contain the information and appendices provided in the Order. After reviewing the application and the appendix, the competent fiscal body will send it, together with the documentation, to the County/Bucharest General Department of Public Finance, to the General Department for Administration of Major Tax-Payers or to the National Customs Authority, appending the necessary documents. The authority will provide, in completion to the documentation, the request to take over the relevant real estate and it will also provide the report of the applicant public institution, issuing in its turn a report on the appropriateness of such action.</p> <p>The entire documentation will be sent to the commission established inside the Ministry of Economy and Finance, by the relevant department of ANAF. The commission makes its opinion known through a decision. The decisions are communicated to the debtor, to the competent fiscal body, including the local customs department, and to the applicant public department. The application can be rejected if the real estate assets are not of public use or interest.</p> <p>If the decision was to approve the request, the competent fiscal body will, after its receipt, draw up the protocol for commissioning the real estate to the public state property. The decision can be revoked if it is ascertained that the asset is encumbered by real rights or other liens, or that it forms the object of disputes, requests or agreements.</p> <p>Upon the drafting of the protocol, the amount of the outstanding fiscal debts, of the accessories and of the performance expenses will be updated. The real estate will be evaluated and the debt will be written off as per the lower value of the inventory value and that which results further to the evaluation.</p> <p>The commissioning will be ordered through a Government Decision.</p> <p>If the real estate assets were claimed by and restituted to third parties, the</p>

competent fiscal body will proceed to the re-debiting by the amounts representing the debts for which the writing-off was applied for, upon the restitution of the assets, except for the VAT related to the *datio in solutum*.

The commission can be notified within the term for the prescription of the execution of fiscal debts on new issues which were not known upon the reviewing of the application; the commission can decide to revoke the decision, in full or in part, in the cases provided under the law.

Anyone who considers themselves wronged by the issuance of the decisions made by the commission can file a contestation within 30 days as of the communication, under sanction of revocation. The sanction will be filed to the commission of MEF, through the relevant department of ANAF.

The decision issued by the commission is defined in the system of administrative challenge procedures, but it can be challenged before the competent court of administrative claims.

For debtors legal entities on which the special administration was enforced during the privatization, the above procedure can be applied only with the approval of the special administrator.

In the case of debtors governed by Insolvency Law 85/2006 ("**Law 85/2006**"), the order provides for special conditions in which the *datio in solutum* procedure can be applied. One of such conditions is that the writing-off will be made as per the value of the asset established in accordance with Law 85/2006.

Repealed enactments

The enactment repeals:

- the provisions of Order No. 656/2004 of the Ministry of Public Finance approving the Procedure of writing off the debts in taxes, duties and other revenues owed to the state budget and/or of the debts in social contributions managed by the Ministry of Public Finance through the transfer to the public state property of real estate assets subject to the forced execution, published in the Official Gazette of Romania, Part I, No. 948/15.10.2004;
- the provisions on the form, as well as on the typing characteristics, the procedure for disseminating, using and keeping the standard form "Protocol for the transfer to the public state property of the real estates subject to the forced execution – MFP-ANAF code 14.13.37.99", contained in Order No. 585/2005 of the Minister of Public Finance approving some standard forms used for the collection of fiscal debts,

published in the Official Gazette of Romania, Part I, No. 443/25.05.2005, as further amended and completed.

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Company Law

Name of the enactment

Government Emergency Ordinance No. 82/2007 for the amendment and completion of Company Law No. 31/1990 and other applicable enactments

Publication

Official Gazette of Romania, Part I, No. 446/29.06.2007

Entry into force

29 June 2007

Main provisions

The need to amend Company Law 31/1990 (“**Law 31/1990**”), as a result of the numerous issues which are ambiguous or which have not been settled by the latest amendment thereof in December 2006, was voiced at various levels by traders and their consultants.

The main amendments/completions brought to this emergency ordinance are:

- it eliminates the obligation to establish an audit committee within the board of directors by the companies the financial statements whereof are audited;
- an attempt was made at clarifying the status of labor agreements for directors and managers to whom management prerogatives have been delegated. Thus, if the labor agreements were concluded in connection with certain activities other than those involving the exercise of a management position, the suspension thereof is provided, while those concluded strictly for a management position are terminated *de jure* upon the coming into force of this emergency ordinance or, if the mandate was accepted after its enforcement, upon the acceptance of the mandate;
- likewise, the enactment sets forth provisions purported to clarify the method of taxing managers’ emolument. Thus, it is stated that the emolument granted to managers based on a mandate agreement is assimilated fiscally to the revenues from salaries and is taxable under the applicable fiscal law. This norm is completed by a provision according to which the emolument is assimilated to the salary, from the perspective of the obligations incumbent on the manager and on the company in accordance with the laws on the public pension system and other social rights. The new provisions do not clarify whether all the social contributions related to salary revenues are applicable nor

do they specify the person who has the obligation to pay such contributions (i.e. the manager or the company with which it has a mandate agreement);

- the provisions of Law No. 31/1990 on financial audit, internal audit and censors have also been significantly amended. For example, it is provided that stock companies whose majority capital is held by the state should have a censor representing the Ministry of Economy and Finance;
- the internal audit will be organized by the companies the financial statements whereof are subject to the financial audit according to the norms issued by the Romanian Chamber of Financial Auditors (which are reviewed in this legislative bulletin);
- it is strictly provided that the sole shareholder of a limited liability company can be an employee, but this capacity is no longer contingent on the interdiction to hold a director position in the company the sole shareholder whereof he/she is;
- it is expressly stated that the provisions on the administration of stock companies are not applicable to limited liability companies, regardless of whether or not they are subject to the audit obligation;
- the enactment introduces the express possibility for limited liability companies to increase their share capital by contribution in shareholders' debts to the relevant company.

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Competition – State Aid

Name of the enactment

Order No. 175/2007 of the Competition Council on the application of the Regulation on the procedures for monitoring state aids

Publication

Official Gazette of Romania, Part I, No. 436/28.06.2007

Entry into force

1 July 2007

Connections with other enactments

Competition Law 21/1996, republished

Government Emergency Ordinance No. 117/2006 on national procedures in the state aid field, approved with amendments and completions by Law 137/2007

Connections with the Community legislation

The Treaty establishing the European Community – Articles 87, 88, 89 on state aid

The derived Community legislation based on Articles 87, 88, 89 of the Treaty establishing the European Community

Main provisions

The Regulation provides for details on the monitoring obligations provided by Government Emergency Ordinance 117/2006 to the Competition Council:

- drawing up and updating the **list of state aids** granted by Romania, based on the information provided by state aid suppliers or by beneficiaries;
- drafting the **annual Report on state aids** granted in Romania as well as any other reports required for a Member State to comply with its obligations;
- the **permanent supervision** of the compliance with the provisions of the enactments or administrative deeds establishing aids, as well as with the decisions authorizing the aids.

The monitoring by the Competition Council applies both to the state aids subject to notification to the European Commission and to the aids exempted from the notification obligation.

The standard forms based on which the state aid suppliers must send the relevant information are appended to the Regulation.

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Electricity

Name of the enactment

Government Decision No. 553/2007 on the amendment and completion of the Regulation for granting the licenses and authorizations in the electricity field, approved by Government Decision 540/2004

Publication

Official Gazette of Romania, Part I, No. 404/15.06.2007

Entry into force

15 June 2007

Main provisions

The main amendments brought by this government decision in the electricity field are:

- it is necessary to obtain the set-up authorization for plants producing electricity/ electricity and heating in cogeneration or for (a) new production capacity/capacities in such a unit, if the installed electricity of that unit, or of the production capacity/capacities which is being established, is higher than 1 MW (as opposed to 10 MW, as before such amendments);
- the activity of managing centralized electricity markets is included in the category of those required to obtain a license;
- the validity duration of the supply license was extended to 10 years (as

- opposed to the previous duration of 8 years);
- it is expressly provided that the re-sale of electricity to the users of electricity networks operated by an individual/ legal entity can be carried out in absence of a supply license of the latter;
 - the electricity supply on the relevant Romanian market can be carried out by a foreign legal entity in absence of the license granted by the National Authority for Regulation in the field of Energy (ANRE), as long as the following conditions are cumulatively met:
 - between the Romanian State and the State where the relevant legal entity is registered as a license holder there is an agreement in force concluded for the mutual acknowledgement of the validity of the licenses granted for the performance of commercial activities in the electricity field in the national territory; and
 - the foreign legal entity holds a valid license for the activity, granted by the relevant authority of the State engaged, which authority confirms in writing that the titleholder of that license is not sanctioned for having breached the regulations applicable in the electricity field of that State.
 - in addition, there are amendments/completions regarding the procedures for the requesting and granting of authorizations and licenses, the conditions under which they are amended, as well as the procedure for suspending and withdrawing the authorizations. Such amendments are generally of an administrative nature and refer to the direct relation between applicants/ holders of authorizations/licenses and ANRE.

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Environmental Protection

1 Genetically Modified Organisms (1)

Name of the enactment

Government Emergency Ordinance No. 43/2007 on the deliberate release in the environment and the putting on the market of genetically modified organisms

Publication

Official Gazette of Romania, Part I, No. 435/28.06.2007

Entry into force

28 June 2007

Connections with other enactments

Government Emergency Ordinance No. 195/2005 on environmental protection

Government Ordinance No. 49/2000 on the regime of obtaining, testing, using

Connections with the
Community legislation

and selling organisms genetically modified through modern biotechnology techniques, as well as products resulting therefrom

Government Ordinance No. 44/2007 on the contained use of genetically modified microorganisms

Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms

Main provisions

In view of the harmonization of the Romanian law with the Community law, this emergency ordinance is purported to ensure the required legal and institutional framework, so that the activities involving genetically modified organisms should be carried out in observance of the precaution principle. The enactment contains regulations regarding:

- the ensuring of the institutional framework for the deliberate release in the environment and the putting on the market of genetically modified organisms;
- the authorization of the deliberate release in the environment of genetically modified organisms;
- the authorization of the putting on the market of genetically modified organisms, as such or in the composition of products;
- the labeling and packaging of genetically modified organisms;
- the importation of genetically modified organisms;
- the exportation and transit of genetically modified organisms.

According to the provisions of the emergency ordinance, it is prohibited to deliberately release any genetically modified organism in the environment, for research purposes or any purpose other than putting on the market, without an authorization issued by the competent authorities (the National Agency for Environmental protection) or without the observance of the conditions set forth by the authorization.

Likewise, it is prohibited to put genetically modified organisms on the market without an authorization or to put them on the market in breach of the provisions of the authorization or of the norms on the labeling and packaging of genetically modified organisms.

The law largely regulates the procedures for obtaining the authorizations for the deliberate release in the environment and for putting on the market genetically

	modified organisms.
Repealed enactments	Chapter I, except for letter a) of Article 1, Chapters II, IV-VI, VI ¹ , VII and VIII, Appendices No. 1 and 2, Appendices No. 8 – 12, 12 ¹ , 12 ² and 13 to Government Ordinance No. 49/2000 on the regime of obtaining, testing, using and selling organisms genetically modified through modern biotechnology techniques, as well as products resulting therefrom.
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	2 Genetically Modified Organisms (2)
Name of the enactment	Government Emergency Ordinance No. 44/2007 on the contained use of genetically modified microorganisms
Publication	Official Gazette of Romania, Part I, No. 438/28.06.2007
Entry into force	28 June 2007
Connections with other enactments	Government Emergency Ordinance No. 195/2005 on environmental protection Government Emergency Ordinance No. 43/2007 on the deliberate introduction in the environment and the putting on the market of genetically modified organisms Government Ordinance No. 49/2000 on the regime of obtaining, testing, using and selling organisms genetically modified through modern biotechnology techniques, as well as products resulting therefrom
Connections with the Community legislation	Council Directive 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on trans-boundary movements of genetically modified organisms
Main provisions	The purpose of this emergency ordinance is to establish the bio-security measures required for the contained use of genetically modified microorganisms. The enactment sets forth regulations regarding: <ul style="list-style-type: none">• the establishment of an institutional framework for the contained use of genetically modified microorganisms;• the assessment of the risk and the authorization of the contained use of genetically modified microorganisms;• the importation and exportation of genetically modified microorganisms meant solely for the contained use;• the labeling and packaging of genetically modified microorganisms;

- the measures to follow in case of accidents.

According to the provisions of the emergency ordinance, the contained use of genetically modified microorganisms is prohibited in the absence of the authorization issued by the National Agency for Environmental protection (the “Agency”) or in breach of the conditions for authorization. For the purpose of obtaining the authorization, the users notify the Agency on the contained use of genetically modified microorganisms. The authorization procedure is public, the notification communicated by users being published by the Agency on its website so that the public can send proposals or comments.

The record of the activities of contained use of genetically modified microorganisms is kept by the National Agency for Environmental protection in a specialized register.

Repealed enactments

Article 1, letter a), chapter III, Appendices 3, 4 and 5 of Government Ordinance No. 49/2000 on the regime of obtaining, testing, using and selling organisms genetically modified through modern biotechnology techniques, as well as products resulting therefrom

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3 Liability for Environmental Damage

Name of the enactment

Emergency Ordinance No. 68/2007 on the environmental liability related to the prevention and remedying of environmental damage

Publication

Official Gazette of Romania, Part I, No. 446/29.06.2007

Entry into force

29 June 2007

Connections with other enactments

Government Emergency Ordinance No. 195/2005 on environmental protection

Connections with the Community legislation

Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage

Main provisions

The purpose of this emergency ordinance is to regulate the legal liability for environmental damage based on the principle “the polluter pays”.

The enactment sets forth provisions regarding the preventive measures that need to be taken in the case of an imminent threat of environmental damage and the relevant remedies in the case of such damage.

The determination of the preventive measures and the remedies falls under the competence of the county agencies for environmental protection. They are

implemented by the titleholder of the business which caused the damage or, as the case may be, the threat of environmental damage. Exceptionally, the application of the remedies/ preventive measures is made by the County Agency for environmental protection in the following situations:

- the titleholder did not announce the county agency for environmental protection on the environmental damage/ the impending threat of such or it did not take the required measures;
- the titleholder cannot be identified;
- the titleholder does not have the obligation to bear the costs of the preventive or remedying actions.

As a principle (the enactment regulates certain liability-exonerating causes), the costs of the preventive or remedying actions are the responsibility of the titleholder of the business even if they were paid by the County Agency for environmental protection. In this latter case, for the purpose of recovering the costs, the agency is entitled to take insuring measures (mortgage and garnishment) on the assets held by the titleholder of the business.

The emergency ordinance establishes the principle of joint operators' liability where the occurrence of the environmental damage/ threat of such was caused by several operators.

The liability towards the persons damaged by the occurrence of an environmental damage or as a result of an impending threat of such is not regulated by the emergency ordinance, as this kind of situations is regulated by the ordinary law.

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Fiscal Law

Name of the enactment

Order No. 5465/2007 for the approval of the Norms on the simplified customs procedures

Publication

Official Gazette of Romania, Part I, No. 377/04.06.2007

Entry into force

4 June 2007

Connections with other enactments

Law No. 86/2006 On the Customs Code of Romania

Government Decision No. 707/2006 for the approval of the Regulation for the application of the Customs Code of Romania

Connections with the

Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the

Community legislation

Community Customs Code

Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92

Main provisions

This Order was issued for the purpose of implementing some Community regulations in the customs field, and it introduces the incomplete statement procedure, the simplified statement procedure and the domicile customs procedure. The enactment sets forth provisions on:

- the authorization of the use of simplified procedures;
- the conditions under which the simplified customs procedures can be used;
- the products exempted from the application of the simplified procedures;
- the simplified customs procedures for putting on the free market (the incomplete statement procedure, the simplified statement procedure, the domicile customs procedure);
- the simplified customs procedures for the customs repository regime;
- the simplified customs procedures for the active enhancement regimes, transformation under the customs control and temporary admittance;
- simplified customs procedures for the passive enhancement regime;
- simplified customs procedures for exportation; and
- the procedure in the case of requesting the extension of the use of a procedure provided hereunder to another customs office or for other categories of products.

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Internal Audit

Name of the enactment

Decision No. 88/2007 of the Romanian Chamber of Auditors for the approval of the Internal Audit Norms

Publication

Official Gazette of Romania, Part I, No. 416/21.06.2007

Entry into force

21 June 2007

Connections with other enactments

Company law No. 31/1990

Government Emergency Ordinance No. 75/1999 on the financial audit activity

Main provisions

This decision was issued for the purpose of establishing the standards and procedures related to the general framework for the performance of the

financial audit activity. Such are mandatory for the companies the annual financial statements whereof are subject to the financial audit under the law or as per the shareholders' option.

The audit standards are a set of rules related to: the purpose of the internal audit, the independence and objectivity of the internal audit activity, the professional competence and scrupulousness, the professional training of internal auditors, the quality of the internal audit service, the planning, the management and coordination of internal audit activities, etc.

Audit standards are classified as follows: (i) qualification standards, (ii) performance standards and (iii) implementation standards. The qualification standards and the performance standards are applicable to all internal audit services, while implementation standards are applicable to the specific types of missions.

According to the internal audit standards, the audit activity is carried out by persons having the proper education, independently and objectively. The manager of the internal audit department has to have a level of authority allowing him to comply with the responsibilities of the internal audit activities.

The procedures regarding the framework for the performance of internal audit missions are rules that internal auditors have to observe in view of carrying out various missions.

The enactment provides that the internal audit can be organized either in a distinct compartment inside the entity subject to the audit or based on a contract, by outsourcing the internal audit service.

Repealed enactments

Decision No. 35/2004 of the Council of the Romanian Chamber of Financial Auditors on the establishment of the Internal Audit Department

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Labour Law

A New Regime of Work Permits

Name of the enactment

Government Emergency Ordinance No. 56/2007 on the instatement and secondment of foreign citizens in Romania ("GEO 56/2007")

Publication

Official Gazette of Romania, Part I, No.424/26.06.2007

Entry into force

26 June 2007

Main provisions

GEO 56/2007 was issued for the purpose of ensuring a unitary regulation which

would not create lacks in the management of ancillary issues, i.e. the regulation of the right of stay and the regulation of the right to work of foreign citizens in Romania.

To this effect, GEO 56/2007 replaces the prior legal provisions regarding the right to work of foreign citizens in Romania, repealing Law No. 203/1999 on work permits, as well as the Methodological Norms for the application of this law, approved by Government Decision No. 1873/2005.

GEO 56/2007 regulates the instatement and secondment of foreign citizens in Romania. GEO 56/2007 applies solely to citizens belonging to states other than the members of the European Union or of the European Economic Area.

According to GEO 56/2007, foreign citizens can be hired in Romania, based on a work authorization, by employers who operate under the law, subject to the cumulative compliance with the following conditions:

- the vacancies cannot be occupied by Romanian citizens, by citizens of the members of the EU or of the EEA or by permanent residents in Romania;
- the foreign citizens comply with the special conditions of professional training, experience in the activity and authorization, requested by the employer in accordance with the laws in force.
- the foreign citizens prove that they are medically fit and that they do not have any criminal record which would be incompatible with the activity to be carried out;
- the positions are contained in the annual chart approved by Government Decision;
- the Romanian employers have paid up to date the liabilities to the state budget.

According to GEO 56/2007, hiring a foreign citizen who does not have a work permit or whose work permit has expired constitute misdemeanors and are sanctioned by fines of RON 1,500 – 2,000, for each foreign citizen; however, the aggregate amount of the fine cannot exceed RON 100,000.

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Public Finance

Name of the enactment

Government Emergency Ordinance No. 46/2007 completing Article 63 of Law No. 273/2006 on local public finance

Publication	Official Gazette of Romania, Part I, No. 374/01.06.2007
Entry into force	1 June 2007
Main provisions	<p>This enactment completes Law No. 273/2006 on public finance in respect of the conditions for contracting and guaranteeing loans by administrative-territorial units.</p> <p>In consideration of the problems facing administrative-territorial units with low financial capacity in ensuring the co-financing and/or the pre-financing of projects benefiting from non-reimbursable financial assistance from the EU, the new regulation provides for the exemption thereof from the provisions of Law 273/2006, according to which administrative-territorial units are denied access to loans or to the guarantee of any type of loan, if the aggregate of the annual debts representing the due installments for the contracted and/or guaranteed loans, the interests and commissions related thereto, including to the loan to be contracted and/or guaranteed that year, exceeds the threshold of 30% of the aggregate revenues.</p> <p>As a consequence, according to the new legal text, administrative-territorial units are entitled to contract and/or guarantee loans for ensuring the pre-financing and/or co-financing the projects benefiting from pre-accession and post-accession non-reimbursable funds from the European Union.</p>
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