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Attorneys at law

Legal Bulletin

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Consumer Protection

Name of the enactment	Government Emergency Ordinance No. 174/2008 amending and supplementing several enactments on consumer protection
Publication	Official Gazette of Romania, Part I, No. 795/27.11.2008
Entry into force	27 December 2008
Connections with other enactments	Law No. 449/2003 on the sale of goods and associated guarantees; Government Ordinance No. 21/1992 on consumer protection; Law No. 289/2004 on the legal framework applicable to consumption loan agreements for individuals; Law No. 190/1999 on mortgage loan for real estate investments; Government Ordinance No. 130/2000 on consumer protection upon the execution and performance of distance agreements.
Connections with the Community laws	Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees; Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts.
Main provisions	This enactment amends and supplements rules in the field of consumer protection for the purpose of correcting certain errors in the implementation of relevant European Directives as well as for the purpose of consolidating the internal legal framework as per fields which are very sensitive at present, i.e. real estate and loan market. In respect of the amendment and supplementation of Law No. 449/2003 on the sale of products and associated guarantees, we note the introduction of the seller's liability for lack of conformity beyond the two-year period as of the delivery of the product. This liability is applicable for the average use duration of the product if during such period the product cannot be used for the purpose for which it was manufactured due to hidden vices. The amendments and supplementations brought to Government Ordinance No. 21/1992 on consumer protection mainly refer to financial

services and real estate intermediation services.

In respect of the financial services, it is expressly regulated that the consumer is entitled to be accurately informed, as of the pre-contractual stage, in respect of all the contractual conditions, and the financial services provider has the obligation by law to communicate to the consumer, in writing or on a durable support, the aggregate costs to be borne thereby as well as a copy of the draft loan agreement.

In order to avoid partial advertisement and the misleading of consumers, the new regulation establishes strict rules concerning the minimal information that needs to be provided in the case of advertisement concerning loan agreements, insisting on the aggregate cost of the loan, the type of fixed or variable interest and the actual annual interest.

Another important rule, meant to defend consumers' position and support in fully informing them in respect of the financing costs, is the financial services provider's obligation to expressly mention in the agreement the interest as well as all the commissions, duties, tariffs, bank fees or any other costs related to the granting and carrying out of the loan without referring to the general business conditions, a list of tariffs and commissions or any other written document, subject to the condition that the provider cannot increase the commissions, duties, tariffs, bank fees or any other costs related to the loan mentioned in the agreement and cannot introduce new ones.

The regulation also attempts to settle the issue of loan interests by requiring financial services providers, as stated above, to state expressly the type of interest, fixed or variable and, in the case of the variable one to state the reference indices, the formula for the calculation of the variation and periodicity.

A final mention in respect of the amendments brought in the financial services field is the fact that the providers are not allowed to amend the agreements unilaterally, but have the obligation to send a prior notice to the consumer and conclude an addendum to the agreement.

The amendments brought to Government Ordinance No. 21/1992 on consumer protection also refer to real estate intermediation services and establish rules on the obligation to fully inform the consumer as of pre-agreement stage.

Moreover, the enactment establishes the minimal clauses that need to be included in real estate intermediation agreements.

The enactment also amends and supplements Law No. 289/2004 on the legal framework of consumer credit agreements for individuals, as well as Law No. 190/1999 on mortgage loan for real estate investments, introducing provisions that are similar to those mentioned above as amendments and supplementations to Government Ordinance No. 21/1992 on consumer protection.

The purpose of the amendments is the accurate and full information of the consumer, as of the pre-agreement stage, in respect of the latter's rights and obligations provided in the loan agreement, in respect of all the costs thereof, as well as the guarantees that need to be set up.

Last but not least, the enactment clarifies that the National Authority for Consumer Protection is the authority competent to supervise and control the activity of creditors and credit intermediaries in respect of consumer protection.

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Corporate Law

Name of the enactment	Law No. 284/2008 on the approval of Government Emergency Ordinance No. 52/2008 for the amendment and supplementation of Company Law No. 31/1990 and for the supplementation of Trade Registry Law No. 26/1990 (**"Law 248/2008"**)
Publication	Official Gazette of Romania, Part I, No. 778/20.11.2008
Entry into force	23 November 2008
Connections with Community norms	Directive 2006/68/EC of the European Parliament and of the Council of 6 September 2006 amending Council Directive 77/91/EEC as regards the formation of public limited liability companies and the maintenance and alteration of their capital;
Main provisions	Law 248/2008 attempts to clarify certain procedural issues in connection to the share capital decrease operation. Thus, in the context of the opposition that the company's creditors may file against the share capital decrease decision, the share capital decrease is not effective and no payments are made to the shareholders' until the court rejected the creditors' request as inadmissible or, considering that the company offered

adequate guarantees to creditors or that, taking into consideration the company's assets, the guarantees are not necessary, it rejected the creditors' request as ungrounded, and the court decision became irrevocable.

We consider that the concept of "inadmissibility" was introduced for the case where the opposition is filed by creditors which do not fall within the scope of protection under art. 208 paragraph 3, e.g. by creditors whose receivables are either due before the publication date of the share capital decrease decision or after the publication.

Also, a provision is added according to which, upon the request of the company's creditors whose receivables are dated prior to the publication of the decision, the court may order the company to grant adequate guarantees if it may be reasonably considered that the decrease of the share capital reduces the chances to cover the receivables, and the company has not granted any guarantees to the creditors, according to the applicable legal provisions.

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Electronic Communications

Name of the enactment	Law No. 298/2008 on the retention of data generated or processed by providers of electronic communication services meant for the public or of public communication networks, and for the amendment of Law No. 506/2004 on the processing of personal data and the protection of the private life in the electronic communications field ("**Law 298/2008**")
Publication	Official Gazette of Romania, Part I, No. 780/21.11.2008
Entry into force	20 January 2009 for general purposes; 15 March 2009 in respect of the retention of the traffic and locating data corresponding to the internet access services, electronic mail and internet telephony.
Connections with other enactments	Law No. 677/2001 for persons' protection concerning personal data processing and the free circulation of such data, as further amended and supplemented; Law No. 506/2004 on personal data processing and the protection of private life in the electronic communications field, as further supplemented; Law No. 39/2003 on preventing and combating organized crime ("Law No. 39/2003"); Law No. 535/2004 on preventing and combating terrorism ("Law No. 535/2004");

	Law No. 15/1968 – The Romanian Criminal Code, republished, as further amended and supplemented ("Criminal Code").
Connections with the Community laws	Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC.
Main provisions	Law 298/2008 was passed in order to create a legal framework for maintaining and making available to the competent authorities data and information required in the process of investigating serious misdemeanors related to organized crime, terrorism and state security. Law No. 298/2008 meets the concerns in this respect which also exist at the level of the European Union and materialized by passing Directive 2006/24/EC. The generic objective of Law 298/2008 is to establish the obligation of providers of public networks of electronic communications / electronic communications services meant for the public to retain certain data generated or processed in carrying out their activity of electronic communications services supply, for the purpose of making such data available to the authorities with competence for the investigation of serious misdemeanors. The data subject to the above-mentioned obligation are the traffic and locating data of individuals or legal entities and the related data necessary for identifying the subscriber or registered user. Please note that the obligation of providers of public networks of electronic communications /electronic communications services meant for the public does not refer to the content of the communication or the information consulted during the use of an electronic communications network, and it is prohibited to intercept and retain them in applying the provisions of Law 298/2008. The data that fall within the scope of the retaining obligation have to be kept for a period of 6 months from the communication. After the expiry of such period the data, except for the data made available to the competent authorities according to the provisions of the law and kept thereby, have to be irreversibly destroyed by automated procedures. The provisions of Law 298/2008 also establish the modalities of implementing the data retention obligation incumbent on providers of public networks of electronic communications / electronic communications services meant for the public.

Thus, the providers have the obligation to ensure the creation and administration of an electronic database, for the purpose of retaining the data provided by the law, data classified as per several criteria and provided in detail by Law 298/2008 (e.g., (i) data necessary for tracking and identifying the source of a communication, (ii) for the identification of the purpose of a communication, (iii) for determining the date, time and duration of the communication, (iv) for identifying the type of the communication, (v) the communication equipment of the user or of the devices which serve the user as equipment or (vi) the location of the mobile communications equipment). Law 298/2008 expressly provides the tax-deductible nature of the expenses related to the creation and administration of the database.

The data retained by the providers of public networks of electronic communications / electronic communications services meant for the public are made available only (i) in the case of investigating certain misdemeanors and only (ii) to the competent authorities.

The misdemeanors that may justify the making available of the data are the misdemeanors related to organized crime, provided by Law 39/2003, those related to terrorism, provided by Law 535/2004 and those against state safety, provided under title I of the special part of the Criminal Code.

The competent authorities entitled to receive the data retained are the Ministry of Interior and Administrative Reform, the Public Ministry, the Romanian Information Service and the Exterior Information Service.

The data retained are made available only if the criminal prosecution has been started and if there are solid data or indices concerning the preparation or perpetration of a serious misdemeanor.

The data retained are made available based on an authorization issued by the president of the court which would have jurisdiction over the case in first instance or from the court with the same degree as the latter, with local jurisdiction over the headquarters of the prosecutor's office of the prosecutor who supervises the criminal prosecution, upon the request of the latter. In certain exceptional situations, regulated by Law 298/2008, the data retained may also be made available based on a grounded ordinance issued by the prosecutor, but the latter has the obligation to provide to the court, within 48 hours after the issuance of the authorization, the reasons which grounded its issuance, and the court pronounces its decision in respect of the legality and grounded nature of the

ordinance within at most 48 hours.

The validity of the authorization is of at most 15 days.

The provisions of Law 298/2008 also provide the sanctions applicable for the breach of its provisions. *Inter alia*, we need to mention that the deliberate accessing or the unauthorized data transfer constitute a misdemeanor and are punished with imprisonment from 1 to 5 years, and the deliberate prevention of the making the retained data available to the competent authorities is sanctioned by imprisonment from 6 months to one year.

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Employment

1. Work accidents and professional sicknesses

Name of the enactments	Law No. 258/2008 amending and supplementing Law No. 346/2002 on work accidents and professional sicknesses ("**Law 258/2008**")
Publication	Official Gazette of Romania, Part I, No. 757/10.11.2008
Entry into force	13 November 2008
Main provisions	According to the former wording of Law No. 346/2002 on work accidents and professional sicknesses ("**Law 346/2002**"), the reimbursement of costs for medical services, reconversion or compensation measures is made by the insurer (*i.e.* the house for pensions and other social security rights), if the employee suffers from a sickness or disability caused by the work environment. The connection between the sickness and its cause, i.e. the work environment, was established further to specialized medical tests. Before the entry into force of Law 258/2008, the former wording of Law 346/2002 did not provide for the concrete manner of reimbursing the costs for the medical services of investigation and diagnosis made on the cases which were not confirmed as professional sicknesses or work accidents. In this respect, Law 258/2008 supplements Law 346/2002 by establishing the insurer's obligation to reimburse the costs for the medical services of investigation and specialized laboratory tests necessary for determining whether the sicknesses are professional sicknesses or not, including in the cases where the existence of professional sicknesses or work accidents is not confirmed.

2. Work books

Name of the enactment	Government Emergency Ordinance No. 148/2008 for the amendment of Law No. 53/2003 – Labor Code ("**GEO 148/2008**")
Publication	Official Gazette of Romania, Part I, No. 765/13.11.2008
Entry into force	13 November 2008
Main provisions	According to the former wording of Article 296 of the Labor Code, the delivery-receipt of work books by territorial work inspectorates at territorial pension houses for the purpose of registering the data in the work books, for the purpose of proving the employees' seniority, should have been completed by 30 June 2008. Also, further to the completion of the delivery-receipt of work books in accordance with the above, according to the former wording of Article 298 of the Labor Code, Decree No.92/1976 on work book, as further amended, would have been repealed on 1 January 2009. However, taking into consideration that the delivery-receipt of work books by territorial work inspectorates to the territorial work houses was not yet completed, GEO 148/2008 extended the delivery-receipt deadline by two years. Thus, this delivery-receipt operation shall have to be completed by 30 June 2011. Also, Decree No.92/1976 on work book is to be repealed on 1 January 2011.

3. Farmers' pension system

Name of the enactment	Law No. 263/2008 on the pension system and other social security rights of farmers ("**Law 263/2008**")
Publication	Official Gazette of Romania, Part I, No. 775/19.11.2008
Entry into force	1 January 2010
Connections with other enactments	Law No. 19/2000 on the public pension system and other social security rights
Main provisions	Law 263/2008 establishes a system of pensions and other social security rights meant exclusively for farmers. The farmers' pension system will operate in accordance with the mutuality principle according to which the state participates along with the farmers and on their behalf in the farmers' pension system, with contributions pro rata to the individual ones. According to Law 263/2008, "farmer" means a Romanian, foreign or stateless individual, for the period during which they have, according to the law, their

domicile or residence in Romania, in the rural environment.

According to Article 5 paragraph (1) of Law 263/2008 the farmers with ages from 16 to 63 years who fall within one of the following cases are insured on a mandatory basis, according to the law:

- exploit, under any title, agricultural lands or are owners of forestry lands, fishery exploitations, animals, bee hives;
- carry out agricultural activities in their own household, as well as private activities not compensated by a salary in the agricultural, forestry, animal, fishery, apicultural, silk worm breeding and other fields;
- are members of agricultural companies or other forms of association in agriculture.

The pension system regulated by Law No. 263/2008 cannot insure the persons insured in the system regulated by Law No. 19/2000 on the public pension system and other social security rights or the persons who benefit from one of the pension categories granted from the public pension system or from other pension systems.

As opposed to the persons insured in the public pension system regulated by Law 19/2000, where the standard retirement age is different for men than for women (i.e. 60 years old for women and 65 years old for men), the standard retirement age in the pension system and other social security rights of farmers is of 63 years, for women as well as for men.

The contribution quotas are not different either, as they are the same for women and for men. Thus, the minimal contribution quota in the pension system and other social security rights of farmers is of 15 years, while the maximal quota is of 30 years.

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Energy Law

1. Legislation concerning the promotion of energy generation from renewable sources

Name of the enactment	Law No. 220/2008 establishing the system for promoting energy generation from renewable sources (**"Law 220/2008"**)
Publication	Official Gazette of Romania, Part I, No. 743/03.11.2008

Entry into force	6 November 2008
Main provisions	As a first element of novelty, Law 220/2008 establishes two alternative systems for promoting the electricity generation from renewable sources, i.e. (i) the system of mandatory quotas, combined with the trading of green certificates and (ii) the "fixed price" system. The promotion of one of the abovementioned systems will be approved by a Government decision, upon the proposal of the National Authority for Energy Regulation ("**ANRE**"), within 90 days from the enforcement of Law 220/2008. As opposed to the mandatory quotas system which was applicable until the entry into force of this law, the "fixed price" system is a novelty element for the Romanian energy market. Mention should be made that Law 220/2008 establishes principles only in respect of the application of system of mandatory quotas. It is important to note that, while the former regulation granted to energy producers a green certificate for each 1 MW of electricity from renewable sources generated and delivered in the power grid, the number of green certificates is, according to Law 220/2008, distinguished depending on the renewable source of energy used, as follows: • a green certificate for each 1 MW generated and delivered in the power grid in new hydroelectric plants / groups or hydroelectric plants / groups of maximum 10 MW, upgraded; • a green certificate for each 2 MW delivered in the power grid from hydroelectric plants with an installed power of 1 to 10 MW, which are not new or upgradeable; • two green certificates for each 1 MW delivered in the power grid from hydroelectric plants with an installed power of up to 1 MW/unit; • two green certificates, until 2015, and one green certificate, starting from 2016, for each 1 MW delivered in the power grid by wind power electricity producers; • three green certificates for each 1 MW delivered in the power grid by producers of electricity from biomass, biogas, bio-liquid, wastes fermentation gas, geo-thermal energy and related combustible gases; and • four green certificates for each 1 MW delivered in the power grid by solar energy electricity producers.

Law 220/2008 amends the mandatory annual quotas of green certificates valid for the 2008-2020 period, which are going to be increased gradually from 5.26% (in 2008) by 16.8% (in 2020).

It is important to note that Law 220/2008 substantially increases the trading value of green certificates, so that, during the 2008-2014 period, the minimal trading value will be of EUR 27 /certificate and the maximal value will be of EUR 55 /certificate (according to the former regulation, the trading value ranged between EUR 24 /certificate and EUR 42 /certificate).

Suppliers of electrical power are oblige to acquire a number of green certificates equal to the yearly mandatory quotas multiplied by the total quantity of energy supplied (MW). In case of failure to do so, the supplier shall pay the value of the missing green certificates at a value of 70 EUR/certificate (while the former legislation set the value of 84 EUR/certificate).

As concerns the allocation of the amounts paid by providers for un-purchased green certificates, while the amounts were, according to the former regulation, either redistributed to the producers (depending on the type of the technology used and the number of certificates sold) or used for the purchase of the un-purchased certificates from producers, Law 220/2008 provides that such amounts are allocated annually by ANRE, based on transparent and objective criteria, for investments, for the purpose of facilitating the access to producers from renewable sources to the transportation/distribution network.

While, until the enforcement of this law, the renewable source electricity producers' connection to the power grid was made based on a regulation applicable to all the users, Law 220/2008 announces the issuance by the Ministry of Economy and Finance, in collaboration with ANRE, within 60 days from the entry into force of the law, of a regulation applicable only to such producers. Law 220/2008 maintains the principle according to which transportation and distribution tariffs are non-discriminatory between the energy generated from renewable energy sources and the one generated from conventional energy sources.

It is important to note that, for the purpose of stimulating investments for the energy generation from renewable sources, Law 220/2008 introduces a number of facilities for such investments, such as the guaranteeing of at most 50% from the value of loans on average - or long-term, ensuring the transportation infrastructure and the utilities required for starting and developing the investment, exemptions from or reductions of taxes and duties for the reinvested

	profit, for a period of 3 years from the commissioning of the investment and granting financial contributions from the state budget for new jobs.
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	2. Amendment of the Electricity Law
Name of the enactment	Government Emergency Ordinance No. 172/2008 amending and supplementing Electricity Law No. 13/2007
Publication	Official Gazette of Romania, Part I, No. 787/25.11.2008
Entry into force	25 November 2008
Connections with the Community laws	Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment, published in the Official Journal of the European Union (JO) No. 33 of 4 February 2006.
Main provisions	The main purpose of the ordinance is to impose on the competent authorities and the transportation and system operator certain obligations meant to guarantee the safety of the supply of electricity, such as: • the obligation of the National Authority for Energy Regulation ("**ANRE**") to monitor the electricity market for the purpose of evaluating the level of efficiency, transparency and competition thereof, of the continuity in supply, based on own regulations, and to provide annual reports to the prime-minister and to the relevant minister concerning the issues notified and the solutions implemented; • the obligation of the transport and system operator to collaborate with ANRE in the issuance of the abovementioned report; • the obligation of ANRE to issue and send to the prime-minister and to the relevant minister a report concerning the measures passed for the compliance with the universal service and public service obligations, including those concerning consumer protection and the environmental protection and the possible result thereof on the competition at national and international level; • the obligation of the Competition Council to issue, further to consultation with ANRE, and send to the responsible elements a report concerning the dominant position on the market and the speculation and anti-competition behavior, as this report has to include an analysis

of the changes in ownership and of the practical measures passed at national level to ensure a sufficient number of the players on the market or of the practical measures meant to increase interconnection and competition;

- the obligation of the transportation and system operator to propose to the relevant ministry the passing of safety measures, in the case of unexpected crisis situations on the energy market and in case the persons' physical safety or security is threatened, of the equipments or installations or the integrity of the system, and such measures have to affect as little as possible the proper operation of the European domestic market and to be strictly limited to remedying the crisis situation which generated them;
- the obligation for the restrictions in the electricity supply in emergency cases to observe pre-defined criteria as concerns the management of unbalances by the transportation and system operator and for any safety measure to be taken in close collaboration and with the consultation of other operators of the transportation networks involved, in observance of the applicable bilateral agreements, including the agreements concerning the exchange of information;
- the transportation and system operator's obligation to draw up a report every 3 months concerning the physical balances of electricity which were carried out in the imports of electricity from countries which are not EU members during the last 3 months before the date of the report, which is sent to ANRE and the relevant ministry for the purpose of informing the European Commission.

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Insolvency Procedures

Name of the enactment	Government Emergency Ordinance No. 173/2008 amending and supplementing of Law No. 85/2006 on the insolvency procedure (the "GEO 173/2008")
Publication	Official Gazette of Romania, Part I, No. 792/26.11.2008
Entry into force	26 November 2008
Connections with other enactments	Law No. 85/2006 on the insolvency procedure; Law No. 254/2007 approving Government Emergency Ordinance No. 86/2006 on

the organization of the activity of insolvency practitioners;

Law No. 359/2004 on the simplification of the formalities for the registration with the trade registry of individuals, family associations and legal entities, their registration with the tax authorities, as well as for the authorization of the operation of legal entities, as further amended and supplemented.

Main provisions

GEO 173/2008 contains new provisions on matters related to summoning or communications of procedural documents during the insolvency proceedings.

The general rule is that the summoning of parties and the communications of procedural documents is made through the Insolvency Official Gazette. However, the first communication of procedural documents to persons against whom a suit is filed shall be made in accordance with the provisions of the Civil Procedure Code (i.e. transmission of summons at the headquarters or domicile of the party).

GEO 137/2008 sets forth the obligation to take over 1.5% of the amounts recovered within the procedure and deposit the respective amounts in the liquidation account of the National Union of Insolvency Practitioners in Romania to cover the procedure related expenses. The result consists in the corresponding reduction of the amounts to be distributed to creditors, since the application of this deduction is done with priority before any other categories of receivables.

The creditor holding at least 50% of the aggregate value of the claims on the assets of the debtor has the right to appoint directly the official receiver of the debtor. In the former legislation, the official receiver was appointed by the vote of the creditors' meeting, which allowed also the minority creditors to express their position.

The valuation of debtor's assets shall be made both in aggregate (meaning the valuation of all of debtor's assets or the valuation of operational sub-units) and per individual item. Operational sub-units are defined as the debtor's assets which ensure jointly the realization of a finite independent product or allow the performance of an autonomous business. A sub-unit shall be deemed operational in case it has access to public roads and utilities.

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Insurance

Name of the enactment

Law No. 260/2008 on the mandatory insurance of dwellings against earthquakes, land slides or floods

Publication	Official Gazette of Romania, Part I, No.757/10.11.2008
Entry into force	10 March 2009
Connections with other enactments	Law No. 32/2000 on the insurance and insurance supervision activity
Main provisions	This enactment establishes the obligation to insure the dwellings owned by individuals or legal entities against natural disasters by executing an annual insurance policy (PAD). The insurance does not cover the appurtenances that are not structurally attached to the building where the dwelling is located, or the assets in the dwelling. The concept of disaster includes: earthquakes, land slides and floods. In order to manage this new type of mandatory insurance, the Natural Disasters Insurance Pool (PAID) is established, a commercial company with participation from the insurance companies authorized by the Insurance Supervision Commission to practice this type of insurance. All types of buildings have to be insured, regardless of their ownership or of its type. For the purposes of this law, the dwellings are classified into two types depending on the quality of the materials of which they are made, i.e.: • type A – a building with resistance structure of armed concrete, metal or wood with exterior walls of stone, burnt brick or any other materials resulting further to thermal and/or chemical treatment; • type B – the building with exterior walls of non-burnt brick or of any other materials not subject to thermal and/or chemical treatment. The level of the mandatory premiums and the level of the mandatory insured amounts are established depending on the type of the dwelling. Thus, for A type buildings, the level of the mandatory premium is of EUR 20 and the mandatory insured amount is of EUR 20,000, while for B type dwellings the level of the mandatory premium is of EUR 10 and the mandatory insured amount is of EUR 10,000. The level of the mandatory premiums and the level of the mandatory insured amounts can be changed annually by a Government decision. For the first insurance year, the individuals or legal entities shall have to insure their dwelling within maximum 1 year from the issuance of the implementation

regulations by the Insurance Supervision Commission.

For the individuals that benefit from social security, the mandatory premium is taken from the budgets of the local authorities.

In case of the sale of the dwellings for which a PAD was concluded, it shall remain valid for the initial period.

If, however, a dwelling is purchased for which there is no PAD in force, the acquirer has the obligation to execute the mandatory insurance within 5 days from the acquisition.

The failure to execute the PAD constitutes a misdemeanor and is sanctioned with a fine of RON 100 to 500 and, in addition, the owner of the dwelling does not benefit from any indemnity paid from public funds in case the insured risk occurs

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Pharmacy Law

Name of the enactment	Law No. 266/2008 – Pharmacy Law (**"Pharmacy Law"**)
Publication	Official Gazette of Romania, Part I, No. 765/13.11.2008
Entry into force	12 January 2009
Connections with other enactments	Law No. 95/2006 concerning the reform in the health system, as further amended and completed
Main provisions	Upon the entry into force of Pharmacy Law, the prerogative to issue the operation authorizations for community pharmacies will be incumbent on the National Agency of Medication (according to Order 626/2001, this prerogative is incumbent on the Ministry of Public Health). The operation authorizations for drugstores shall continue to be issued by the Ministry of Public Health, through the Pharmacy Division. One of the documents that need to be submitted in order to obtain the operation authorization of the community pharmacy is the advisability endorsement concerning the opening of the unit, which is issued by the Ministry of Public Health through the public health authorities, based on the consultative endorsement of the Pharmacists' College of Romania, the advisability endorsement being non-transferable. The advisability endorsement is issued as per the demographic criterion, as follows: • in the urban environment, a community pharmacy may be established

for minimum 3,000 inhabitants in Bucharest City, for minimum 3,500 inhabitants in county capitals and for minimum 4,000 inhabitants in the other towns (the same criterion as in Order 626/2001, except that the term "minimum" is introduced);

- in the rural environment, a community pharmacy can be established for minimum 4,000 inhabitants in towns of over 4,000 and maximum one pharmacy in towns of over 4,000 (Order 626/2001 does not provide for any demographic criterion in the case of establishing community pharmacies in the rural environment).

By exception from the demographic criterion, one pharmacy can be established in train stations and air stations, as well as in commercial centers with a commercial surface of at least 3,000 m^2 in which public food retailing activities are carried out, located in a single building which uses the same infrastructure and adequate utilities.

The provisions concerning the obtaining of the advisability endorsement are applicable until 31 December 2010 inclusive.

The procedure for obtaining the operation authorization for the community pharmacy includes the same stages as the ones established by Order 626/2001, i.e.:

- submitting a specific documentation to the Ministry of Public Health;
- the performance of the inspection by the Pharmacy Division of the Ministry of Public Health, through the public health authorities;
- In the case of a favorable inspection report, the operation authorization will be issued within maximum 15 days after the inspection.

As opposed to Order 626/2001, the Pharmacy Law provides that the operation authorization includes the sanitary authorization for operation purposes, the authorization for holding and handling toxic substances and products, narcotics, psychotropic substances and precursors, used for medical purposes.

As concerns the organization of the community pharmacy, Pharmacy Law establishes a number of rules, among which:

- the premises of the pharmacy will have a useful surface of minimum 50 m^2, excluding from this surface the hallways and the restrooms;
- the pharmacy operates only in the presence of at least one pharmacist,

who exercises his profession personally, and cannot be replaced by another person having a different profession.

The pharmacy headquarters can be relocated only in the same town, and the Ministry of Public Health and the Pharmacists' College will be notified in respect of the relocation. The activity at the new headquarters can begin only after having obtained the operation authorization for the new headquarters.

The community pharmacy terminates its activity by cancellation of the operation authorization in the following cases:

- upon the titleholder's request;
- the dissolution of the company which operates the pharmacy;
- the withdrawal of the operation authorization;
- bankruptcy;
- suspension of the activity for a period of over 180 days.

The community pharmacies and drugstores established before the entry into force of Pharmacy Law remain established and shall continue their activity, having the obligation to be, within 3 years after the entry into force, reauthorized and registered in the National Registry of pharmacies or in the National Registry of drugstores.

Repealed enactments

Order No. 626/2001 approving the Norms for establishing and authorizing pharmacy units, and the conditions for the organization and operation thereof

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