

Legal Bulletin

August 2011

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Accounting

Name of the enactment	Order No. 2382/2011 of the Minister of Public Finances on the supplementation of accounting regulations (“ Order No. 2382/2011 ”)
Publication	Official Gazette of Romania, Part I, No. 563 of 8 August 2011
Entry into force	8 August 2011
Connections with other enactments	Accounting regulations compliant with the 4 th Directive of the European Economic Communities, as provided in the appendix to Order No. 3055/2009 of the Minister of Public Finance for the approval of the Accounting Regulations compliant with the European directives (the “ Accounting Regulations ”)
Main provisions	<p>According to Order No. 2382/2011, the Accounting Regulations shall be also applicable to the business interest groups.</p> <p>As regards the registration of the operations performed by business interest groups in the accounting books, Order No. 2382/2011 provides for the following rules:</p> <ul style="list-style-type: none">• Business interest groups shall record their operations in the accounting books in compliance with the provisions of the agreements they concluded;• For the operations made by the business interest group <u>on its own name</u>, the group will record the income and expenses according to the nature thereof;• For the operations made <u>on behalf of the members</u> of the business interest group, the latter shall record as income only the possible fee that is owed to it, while the operations are to be recorded in the accounting books by the relevant third parties;• The business interest groups shall draft annual financial statements, having the components provided at item 3 (1) of the Accounting Regulations (i.e. total assets, turnover, average number of employees) and shall fill in such statements by reference to the appropriate information on their operations.

Author

ruxandra.frangeti@tuca.ro

Competition Law – Economic Concentrations

Name of the enactment	Order No. 624/2011 of the president of the Competition Council on the implementation of the Guidelines for the amendment and supplementation of the Guidelines for the implementation of art. 32 of Competition Law No. 21/1996, as republished, as further amended and supplemented, on the calculation of the economic concentration authorization fee, implemented by Order No. 400/2010 of the Competition Council President (“ Order No. 624/2011 ”)
Publication	Official Gazette of Romania, Part I, No. 559 of 5 August 2011
Entry into force	5 August 2011
Main provisions	<p>Guidelines for the implementation of art. 32 of Competition Law No. 21/1996, as republished, as further amended and supplemented, on the calculation of the economic concentration authorization fee, implemented by Order No. 400/2010 of the Competition Council President, published in the Official Gazette of Romania, Part I, No. 591 of 20 August 2010.</p> <p>Order No. 624/2011 provides clarifications on how to calculate the economic concentration authorization fee owed by the undertakings which notify the acquisition of control over one or several target undertakings.</p> <p>Thus, the fee is to be calculated by reference to the turnover of the target undertaking during the year preceding the economic concentration operation. Depending on the type of transaction, several scenarios may be identified:</p> <ul style="list-style-type: none">• When the economic concentration operation is made by acquisition of control, the turnover of the target undertaking (i.e. the undertaking on which control is acquired) shall be taken into account.• When the economic concentration is made by acquisition of joint control over a preexisting undertaking or business, the turnover of the preexisting undertaking or business shall be taken into account.• When the economic concentration is made by acquisition of joint control over a new company, the sum of the turnovers earned by the undertakings acquiring joint control over the new company shall be taken into account.• If the person / undertaking / undertakings acquiring control over the new company is/are the official owner of the rights, but it acts/they act as a “vehicle”, the turnover of the undertaking/person having in fact the power to control the new company shall be taken into account.

- If the economic concentration operations by acquiring control over a new company involve one or more individuals, the turnover of all undertakings directly or indirectly controlled in Romania by such individual(s) shall be taken into account.
- If control is acquired by purchase of assets, the turnover generated by the purchased assets shall be taken into account.
- In the transactions involving the outsourcing of services by transfer of a business (no matter how it is organized), the turnover shall be calculated on the basis of the previous internal turnover generated by the respective business.

For the purpose of determining the authorization fee, the book value of the exports made directly or by agent, including intra-community deliveries shall be deducted from the net turnover.

The turnover taken into account is the one earned in Romania, during the fiscal year preceding the authorization of the economic concentration. The fiscal year corresponds to the calendar year commencing on 1 January and ending on 31 December.

By reference to the turnover earned by the target undertaking, the authorization fee shall be determined as per the table below:

Authorization fee (EUR)	Turnover of the target undertaking
10,000	4,000,000 - 15,000,000
12,500	15,000,001 - 25,000,000
15,000	25,000,001 - 50,000,000
17,500	50,000,001 - 75,000,000
20,000	75,000,001 - 150,000,000
22,500	150,000,001 - 250,000,000
25,000	More than 250,000,000

Author

anca.jurcovan@tuca.ro

Consumers' Protection

1 GD No. 723/2011

Name of the enactment	Government Decision No. 723/2011 on setting the necessary legal framework for the implementation of Regulation (EC) No. 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods ("GD No. 723/2011")
Publication	Official Gazette of Romania, Part I, No. 546 of 2 August 2011
Entry into force	2 September 2011
Connections with other enactments	Regulation (EC) No. 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (" Regulation No. 1924/2006 ")
Main provisions	<p>The purpose of GD No. 723/2011 is to set the necessary legal framework for the implementation of Regulation No. 1924/2006 in view of an efficient operation of the market and to ensure a high level of consumers' protection.</p> <p>According to GD No. 723/2011, food products having labels with nutrition and health claims already approved under Regulation No. 1924/2006 must be notified to the Ministry of Health by submitting the label template within 6 months as of the entry into force of GD No. 723/2011.</p> <p>The Ministry of Health, through the National Institute for Public Health, shall draft and update, by posting on the webpage of the institution, the National Registry of Nutrition and Health Claims made on foods (the "National Registry").</p> <p>To implement the provisions of Regulation No. 1924/2006, the Inter-Ministry Commission for health claims made on food products (the "Commission") shall be established.</p> <p>The individual or legal entity seeking to place on the market food products with health claims on the label that have not been authorized under Regulation No. 1924/2006 in another EU Member State may go through the authorization procedure in Romania. To this end, the individual or legal entity shall submit to the technical secretariat of the Commission the file whereby it requests the authorization of the health claim(s), including the authorization request in the form provided by Regulation No. 1924/2006.</p> <p>The Commission shall acknowledge in writing receipt of the file, it shall assess its compliance with the requirements of Regulation No. 1924/2006 and shall send it</p>

to the Ministry of Health in order to be submitted to the European Food Safety Authority.

After authorization of the requested health claim by the European Commission, the Ministry of Health, by the technical secretariat of the Commission, shall record in the National Registry all information on the applicant and the authorized health claim.

The enactment provides for misdemeanor fines up to RON 6,000 for failure to comply with the legal provisions on nutrition and health claims provided by Regulation No. 1924/2006.

2 GD No. 795/2011

Name of the enactment	Government Decision No. 795/2011 for the amendment and supplementation of Government Decision No. 1553/2004 on certain methods for the cessation of unlawful practices in relation to the protection of consumers' collective interests (" GD No. 795/2011 ")
Publication	Official Gazette of Romania, Part I, No. 573 of 11 August 2011
Entry into force	11 August 2011
Connection with other enactments	<ul style="list-style-type: none">• Government Decision No. 1553/2004 on certain methods for the cessation of unlawful practices in relation to the protection of consumers' collective interests ("GD No. 1553/2004");• Directive 2009/22/EC on injunctions for the protection of consumers' interest ("Directive 2009/22/EC").
Main provisions	<p>Many amendments are rather formal, being meant to ensure a better harmonization of GD No. 1553/2004 with the enactments existing at the European level. Besides the purely formal aspects, the most significant amendments may be summarized as follows:</p> <ul style="list-style-type: none">• GD No. 795/2011 provides that the competent authorities have 20 days to settle the injunctions on the perpetration of unlawful deeds in relation to the protection of consumers' collective interests and to take measures and/or misdemeanor sanctions for the cessation, mitigation or elimination of the effects caused by the unlawful practice.• Before such amendment, art. 6 of GD No. 1553/2004 provided that, if consumers' collective interests were damaged by a Romanian undertaking, the qualified entities from a EU Member State which represented such interests had the obligation, prior to filing for

injunction before the competent authority, to first consult with the defendant and the Romanian entity authorized by the law to protect consumers' collective rights. The Romanian entities did not have the obligation to first consult with the defendant (*i.e.* in the event that they defended consumers' collective interest damaged by a Romanian undertaking). Further to the amendment, Romanian qualified entities are now under this obligation.

Author

bogdan.halcu@tuca.ro

Gambling

Name of the enactment

Government Decision No. 823/2011 amending and supplementing Government Decision No. 870/2009 for the approval of the Methodological Norms related to the application of Government Emergency Ordinance No. 77/2009 on the organization and operation of gambling activities ("GD No. 823/2011")

Publication

Official Gazette of Romania, Part I, No. 616 of 31 August 2011

Entry into force

31 August 2011

Connection with other enactments

- Government Emergency Ordinance No. 77/2009 on the organization and operation of the gambling activities ("GEO No. 77/2009")
- Government Decision No. 870/2009 for the approval of the Methodological Norms related to the application of Government Emergency Ordinance No. 77/2009 on the organization and operation of the gambling activities

The main amendments brought by GD No. 823/2011 refer to the online gambling activities. This type of games was first regulated by Law No. 246/2010, published in the Official Gazette of Romania, Part I, No. 854 of 21 December 2010, amending and supplementing GEO No. 77/2009.

GD No. 823/2011 is considered to be a fundamental enactment for the application of the primary legislation related to the gambling activities in Romania.

The Ministry of Public Finances, through the Commission for the authorization of the gambling activities (the "**Commission**") is the competent authority to issue the license and the authorization to operate online gambling activities, based on the documents itemized at Appendices 2 and 3 to GD No. 823/2011.

The general conditions for licensing and authorizing online gambling activities operators include the following:

- The operator must be a legal entity established under the Romanian

laws, having as main scope of business the activity of “gambling and betting activities”, NACE code 9200 and having a subscribed and paid-up share capital of at least RON 1,000,000. This provision raises a series of issues as regards the compliance with the principle of the free movement of services, as laid down by the EU law.

- The operator shall hold, directly or through one of its shareholders/partners, an organization license and an operation authorization for casino gambling with at least 20 authorized tables or for slot-machine games of changes with at least 500 stations or for fixed-odds betting with at least 100 agencies or for bingo activities organized through TV networks. This is also a sensitive condition, considering that it is not provided by the primary legislation and that it creates discrimination among the operators which may apply for a license for organizing online gambling activities.
- The operator shall submit a notice to the National Supervisory Authority for Personal Data Processing, declaring that it shall process personal data of the players, as per the laws in force.
- The operator shall have concluded a monitoring agreement with a monitoring and reporting operator authorized under the law, in the form approved by the Commission, endorsed by the said before the commencement of monitoring for the online gambling activities.
- The operator shall hold all the pieces of technical equipment required for ensuring the organization and streaming online gambling activities on the Romanian soil, save for the operators authorized in another EU Member State which have the necessary technical equipment to operate on the territory of a EU Member State, subject to the obligation of connecting such equipment to the systems of the monitoring and reporting operator.

Another significant obligation of the operators applying for the organization of online gambling activities in Romania is to transfer, within a month from commencing the online gambling activity in Romania, the online gambling accounts registered by the Romanian citizens on international gambling platforms, only if accessed from Romania, opened with the operator’s affiliates organizing such authorized gambling activities in non-EU Member States and holding the required technical equipment to operate in a non-EU Member State. The applicable provisions of GD No. 823/2011 in connection to this obligation are unclear and leave room for interpretation as to the determination of the

“affiliates” of the licensed operator to organize online gambling activities in Romania.

GD No. 823/2011 establishes the requirements for the authorization of the monitoring and reporting operators, the bodies in charge with the technical inspection, monitoring and reporting of the online gambling activities. The regime applicable to the appointment of these bodies is rather unclear. As a general rule, this quality may be held by a State authority or institution or by a private entity. Considering that online gambling operators cannot operate in the absence of an agreement validly concluded with a monitoring and reporting operator, any delay in designating the latter will have a similar effect on the term within which the online gambling operators may be licensed and authorized in Romania.

One of the duties of the monitoring and reporting operators is to identify those websites by which online gambling activities are accessed and which do not have a license and an authorization, as per the Romanian law and of the websites which, by marketing, advertising, publicity or other promotional activities, provide links to online gambling or related activities and services, which are not authorized under the Romanian law. Operators shall communicate the information regarding the aforementioned activities to the Commission and the internet services providers, to allow them to ban access to these websites. These provisions raise certain questions as to the method of their implementation in practice, as well as to the mandatory character of the provision establishing the internet services providers’ capacity to ban the access to these websites, considering that no direct obligation is provided for them.

GD No. 823/2011 also includes detailed provisions regarding the actual organization of online gambling, especially in terms of the relationship between players and organizers. Mention should be made that some provisions are unusual as compared to the organization of online gambling platforms in other European legislations. For instance, GD No. 823/2011 seems to limit the options to deposit money into the players’ gambling accounts to credit/debit cards (thus excluding the traditional payment methods used by the payment institutions), or it precludes the organizer from providing credits in the players’ bank account or gambling account and the exchange of money, impulses and chips between the players’ gambling accounts (marketing practices used in most of the European States in which the online gambling segment is regulated).

Interests Applicable to Monetary Obligations

Name of the enactment	Government Ordinance No. 13/2011 establishing the remunerative / penalty statutory interest related to monetary obligations, as well as certain financial and fiscal measures in the banking sector (" GO No. 13/2011 ").
Publication	Official Gazette of Romania, Part I, No. 563 of 08 August 2011
Entry into force	1 September 2011, subject to the following exceptions: <ul style="list-style-type: none">• Article 8 (3) providing that remunerative penalties may be capitalized to generate interest and Article 10 establishing the applicability of the Civil Code provisions to liquidated damages related to monetary obligations, the penalty clause and the advance money related to the penalty interest shall <u>enter into force on 1 October 2011</u>;• Certain provisions on the amendment and supplementation of GEO No. 99/2006 regarding credit institutions and capital adequacy shall <u>enter into force on 31 December 2011</u>.
Connections with other enactments	<ul style="list-style-type: none">• Government Ordinance No. 9/2000 on legal interest related to monetary obligations ("GO No. 9/2000");• Law No. 287/2009 on the Civil Code (the "Civil Code");• Law No. 253/2004 on the final effect of settlement within payment systems and financial instruments operations clearing systems ("Law No. 253/2004");• Government Ordinance No. 9/2004 regarding financial guarantee agreements ("GO No. 9/2004");• Government Emergency Ordinance No. 99/2006 regarding credit institutions and capital adequacy ("GEO No. 99/2006");• Government Ordinance No. 39/1996 regarding the setting up of the deposit warranty fund in the banking system, as subsequently amended and supplemented ("GO No. 39/1996");• Government Ordinance No. 10/2004 on the bankruptcy of credit institutions ("GO No. 10/2004").
Main provisions	One significant amendment introduced by GO No. 13/2011 refers to the repeal of GO No. 9/2000, for which a proposal for amendment was made under Law No. 71/2011 on the implementation of the Civil Code. Unlike GO No. 9/2000, which established only the method to calculate the interest rate related to delayed

payment of monetary obligations, GO No. 13/2011 introduces two categories of interests:

- The interest related to the debtor's obligation to pay a certain sum at a given time, calculated for the period prior to the maturity date, referred to as **remunerative interest**;
- The interest owed by the debtor of the monetary obligation for failure to fulfill the said upon the maturity date, referred to as **penalty interest**.

Under GO No. 13/2011, the concept of "interest" refers not only to the sums calculated under such title, but also to other considerations fulfilled under any title or name, which the debtor undertakes in exchange for using the capital.

GO No. 13/2011 provides that the parties may establish the interest by an agreement concluded in writing. In the absence of such deed, the statutory interest is owed.

GO No. 13/2011 provides for the following rules in connection to the interest rate:

- If, under the legal or contractual provisions, the obligation bears remunerative and/or penalty interest, as the case may be, and in the absence of an express stipulation of the level thereof by the parties, a statutory interest shall be paid in connection thereto.
- The rate of the statutory remunerative interest shall be established at the level of the reference interest rate established by the National Bank of Romania, which is the monetary policy rate established by the decision of the Board of Directors of the National Bank of Romania.
- The statutory penalty interest rate is established at the level of the reference rate plus 4%.
- In legal relationships which do not result from the operation of a profit-making undertaking, in the sense of Article 3 (3) of the Civil Code, as republished, the statutory interest rate is established under the provisions on the statutory remunerative interest, while the statutory penalty interest shall be diminished by 20%.
- In the legal relationships containing cross-border elements, when the Romanian law is applicable and the payment was made in a foreign currency, the statutory interest is 6% per year.

- In the legal relationships which do not result from the operation of a profit-making undertaking (as per Article 3 (3) of the Civil Code), the interest shall not exceed the statutory interest by more than 50% per year.

In connection to the payment of interests, GO No. 13/2011 provides as follows:

- A payment in advance of the remunerative interest may be made for no more than 6 months and the interest thus collected is not subject to further reimbursements, irrespective of the subsequent variations.
- The interest shall only be calculated against the principal of the loan.
- As of 1 October 2011, remunerative interests may be capitalized to generate interests and, until then, only based on a special covenant concluded for this purpose, after their maturity date and only in consideration of the interests owed for at least one year.

GO No. 13/2011 also provides for:

- The amendment and supplementation of Law No. 253/2004 on the final effect of the settlement in the payment systems and in the systems for the settlement of operations with financial instruments;
- The amendment and supplementation of GO No. 9/2004 regarding financial guarantee agreements;
- The amendment and supplementation of GEO No. 99/2006 regarding credit institutions and capital adequacy;
- The amendment and supplementation of GO No. 39/1996 regarding the operation of the Deposit Guarantee Fund in the banking system ;
- The amendment of GO No. 10/2004 on the bankruptcy of credit institutions.

Transitional provisions

Pending the entry into force of the Civil Code, as republished, the provisions related to the statutory remunerative / penalty interest shall apply for the establishment of commercial interests.

Pending the entry into force of the Civil Code, the expression "In the legal relationships which do not result from the operation of a profit-making undertaking" shall be read as "In the civil relationships".

As of 1 October 2011, the provisions of the Civil Code on the liquidated damages related to monetary obligations, the penalty clause and the advance money are

applicable to the penalty interest, as well.

Author

raluca.sanucean@tuca.ro

Labor Law

Name of enactment

Order of the Ministry of Labor, Family and Social Protection No. 1918/2011 on the approval of the procedure and documents that employers must submit to the territorial labor office in order to obtain the password, and on the procedure of submitting the electronic copy of the general register of employees (“**Order No. 1918/2011**”)

Publication

Official Gazette of Romania, Part I, No. 587 of 19 August 2011

Entry into force

19 August 2011

Connections with other enactments

- Government Decision No. 500/2011 on the general register of employees (“**GD No. 500/2011**”);
- Repealing the Order of the minister of labor, social solidarity and family No. 20/2007 on the approval of the Procedure of submitting the electronic copy of the general register of employees.

Main provisions

Order No. 1918/2011 details the procedure for setting-up, filling-in and submitting the general register of employees and other related operations.

- Setting up the general register of employees for units without legal personality

Units without legal personality belonging to employers, i.e. branches, sales offices, representative offices, work points or the like, without legal status, as well as the diplomatic missions and consulates of other States in Romania, i.e. as the case may be, cultural institutes, as well as commercial and economic representative offices of other states in Romania have the obligation to set up, fill in and submit the general register of employees, if the abovementioned units were granted the competence to employ staff by executing individual employment agreements, and to set up and fill in the general register of employees.

- Filling in the general register of employees

The general register of employees includes the individual employment agreements in force on the entry into force of GD No. 500/2011, including those suspended as of 1 August 2011.

The register shall be filled in as follows:

- In the order in which the individual employment agreements were executed, amended or terminated;
- By one or several persons nominated by written resolution of the employer;
- Through the IT application distributed free of charge by the Labor Inspectorate (in accordance with the instructions of use posted on the web page of the Labor Inspectorate www.inspectiamuncii.ro or at the headquarters of the territorial labor inspectorates ("ITM") or through the employers' own IT applications (which must include and supply the mandatory elements, similarly to the IT application provided by the Labor Inspectorate).

Employers may contract the service of fill-in and submission of the register by executing service agreements with service providers registered with ITM and which operate under the legal provisions in force, with the observance of the provisions of Law No. 677/2001 on the protection of individuals as to personal data processing and the free circulation thereof. Such contract shall be notified to ITM within three days as of the conclusion thereof. In case of terminating or rescinding the service agreement, the employer shall notify ITM to this effect by the termination/rescission date at the latest, so that the employer may be assigned a new password.

The terms for filling in and respectively for entering in the register the data provided under GD No. 500/2011 are as follows:

- No later than the day preceding the commencement of the activity by the employee;
- Within 90 days as of the entry into force of GD No. 500/2011, as regards the wages, bonuses and the value thereof, in the case of already registered employment agreements;
- No later than the business day preceding the expiry of the 20-business day term provided by the law, as of the date of the amendments implemented in the individual employment agreement in relation to the parties' identification data, the secondment term and the name of the employer to which the employee is seconded, as well as the wage, bonuses and value thereof, except for the cases when the amendments are

implemented further to a judgment or an enactment; in such event, the registration is made on the day when the employer is presumed, in accordance with the law, to have become aware of the content thereof.

The register is submitted to the ITM having jurisdiction over the headquarters or domicile of the employer, as the case may be, no later than on the business day preceding the commencement of the employee's activity.

There are 3 means of transmission:

- Online transmission through the Labor Inspectorate web portal

Online transmission is made after the employer selects the username and the password, irrespective of whether the employer actually performs the fill-in and transmission of the register or has executed a service agreement, and after the account on the Labor Inspectorate portal, <http://itmonline.inspectiamuncii.ro>, is activated.

Order No. 1918/2011 provides details on the procedure for obtaining and activating the username and password.

- E-mail transmission by electronic signature

Employers having an extended electronic signature, based on a licensed certificate, in accordance with the law in force, may send the general register of employees to the e-mail address notified by the Labor Inspectorate. The means for e-mail transmission and the e-mail address can be found on the Labor Inspectorate web page.

- Submission at ITM headquarters

The general register of employees, accompanied by a cover letter signed and stamped by the duly appointed representative, shall be submitted in the electronic format expressly provided by Order No. 1918/2011. When submitting the register with ITM for the first time, the cover letter shall be accompanied by additional documents (e.g., a copy of the registration certificate from the trade registry, a copy of the fiscal certificate).

The incorrect fill-in of the general register of employees, in electronic format, or the incorrect entry of the employer's identification data entitles ITM to deny the registration thereof.

Quality Control in Civil Aviation Security

Name of the enactment	Government Ordinance No. 17/2011 on quality control in civil aviation security (“GO No. 17/2011”)
Publication	Official Gazette of Romania, Part I, No. 608 of 29 August 2011
Entry in force	1 September 2011
Connection with other enactments	Law No. 94/2009 on security audit in civil aviation
Main provisions	<p>In accordance with the European Union norms and the international standards in civil aviation security (particularly those stipulated under the 1944 Chicago Convention on international civil aviation), Member States have the obligation to monitor the observance and application of security standards by airline operators, airports, air carriers and other such particular entities.</p> <p>Further to the entry into force of new Regulations, at European Union level, it was necessary to amend the internal enactments in order to harmonize national law with community law. At European Union level, the civil aviation security sector is mainly regulated by the enactments below:</p> <ul style="list-style-type: none">• Regulation No. 72/2010 establishing the procedures for performing Commission inspections in aeronautic security;• Regulation No. 300/2008 on the common norms in civil aviation security, recently amended in 2010;• Regulation No. 185/2010 setting the detailed implementation measures of common basic standards in aviation security. <p>GO No. 17/2011 establishes the national responsibilities in applying the European Union Regulations in the field of civil aviation. In this sense, it is provided that the Ministry of Transport and Infrastructure is the authority in charge of the development, application and maintenance of the national civil aviation security program (“Competent Authority”).</p> <p>The Competent Authority has, among others, the duties below:</p> <ul style="list-style-type: none">- To ensure the required conditions for the performance of European Commission inspections in aeronautic security;- To order and coordinate the performance of risk analyses, deficiency remedial measures, measures recommended by evaluators, and other necessary protection measures, ensuring as well the monitoring of the application thereof;

- To draft the national security, quality control and security training Programs in civil aviation;
- To assess the compliance of certain internal security programs with the provisions of the relevant European Regulations;
- To monitor the training of the civil aviation security auditors, to authorize the training center to this effect and to license civil aviation security auditors;
- To draft the annual plans and the monitoring methodology concerning civil aviation compliance.

Such duties may be delegated to the Romanian Civil Aeronautical Authority.

As regards examinations carried out by certain European Union delegates or other external auditors, in accordance with the international regulations, the Competent Authority shall appoint a national auditor to collect data and to fill-in the related preliminary questionnaires. Furthermore, the Competent Authority shall also appoint a national coordinator for the inspection or audit activity carried out in Romania by external agents. Last but not least, the same authority shall appoint a contact person to accompany external evaluators throughout the duration of their activities in Romania.

Further to the inspection and audit activities performed by external agents, the Competent Authority drafts the action plan for the remedial of the deficiencies detected by same, and supervises the application thereof, as well as the implementation of the measures recommended by external inspectors/auditors.

Save for these external controls, the internal quality control in civil aviation security is performed as follows:

- Monitoring activities such as security audits, inspections and tests;
- Expert appraisal.

Monitoring activities are performed by the civil aviation security auditors, licensed by the competent authority. These auditors are expressly prohibited from having any contractual or financial relationships with the entities they are monitoring.

The security audit of Romanian air carriers and of licensed cargo and post agents is performed at least once every 2 years, and as regards other entities applying aeronautic security standards, the audit is carried out once every three years at

the latest. The inspection and test are performed within the terms established by the authorized person from the Competent Authority.

All 3 types of monitoring activities are concluded with a report highlighting the detected deficiencies and the remedial recommendations. Further to this report, the monitored entity shall draft an action plan to remedy the deficiencies and to apply the recommendations. The competent authority shall submit the plan to approval, issuing a mandatory decision to this effect. The Competent Authority shall also supervise the observance of the approved action plan.

The report drafted further to the monitoring activity belongs to the competent authority, and the action plan belongs to the issuer. However, the report and the action plan must be made available to the entities and persons operating in the field of civil security, and to the European Union structures, under the “need to know” principle.

Monitoring activities under the form of inspections consist in various on-site verifications meant to determine the qualified agents, senders, suppliers of on-board or airport supplies, verifications made for the authorization of aviation security training centers and for determining the compliance of security control equipment.

The control under the form of expert appraisal is performed by teams of specialized auditors and staff of other public authorities. Other experts and technical consultants may take part therein. The expert appraisals seek to identify the weak points as regards the domestic threats and the security in the public areas of the airport. The expert appraisals result in a report to also provide for the recommended protection measures, which must be proportional to the risk level.

The members of the audit, expert appraisal and inspection teams shall benefit from an allowance borne by the competent Authority, amounting to EUR 0.15/passenger out of the security tariff charged by the Romanian airports.

The competent authority shall annually submit to the Commission a report with the measures taken under the applicable European Regulations and the status of civil aviation security in the Romanian airports.

Author

ruxandra.nita@tuca.ro

Real Estate

Name of the enactment

Order of the Ministry of Transport and Infrastructure No. 558/2011 (“**Order No. 558/2011**”) for the amendment of Order No. 146/2011 of the transport and

infrastructure minister regarding the approval of the special contractual conditions provided by the agreements on equipment and constructions, including design and by the agreements on building construction and engineering works designed by the beneficiary, agreements concluded by the International Federation of Consulting Engineers, for investment targets in the sector of the transport infrastructure of national interest, financed from public funds.

Publication	Official Gazette of Romania, Part I, No. 570 of 10 August 2011
Entry into force	10 August 2011
Connections with other enactments	Government Decision No. 1405/2010 approving the use of the contractual conditions established by the International Federation of Consulting Engineers (“ General Conditions ”) for investment targets in the sector of the transport infrastructure of national interest, financed from public funds (“ GD No. 1405/2010 ”)
Main provisions	<p>Order No. 558/2011 amended Order No. 146/2011, published in the Official Gazette of Romania, Part I, No. 188 and 188bis of 17 March 2011, on the approval of the special contractual conditions provided by the agreements on equipment and constructions, including design and by the agreements on building construction and engineering works designed by the beneficiary, agreements concluded by the International Federation of Consulting Engineers (“Special Conditions”) for investment targets in the sector of the transport infrastructure of national interest, financed from public funds.</p> <p>Under Order No. 558/2011:</p> <ul style="list-style-type: none">• The down payments and the reimbursements thereof shall be compliant with Government Decision No. 264/2003 on the establishment of actions and categories of expenditure, criteria, procedures and limits for making down payments from public funds and Law No. 500/2002 on public finances;• Beneficiary’s failure to recover the down payments shall entitle the latter to calculate and charge a penalty to the contractor, as per the applicable law, and the Contractor shall pay such penalty within 30 days after receipt of the invoices;• The value of the letter of bank guarantee shall cover:<ul style="list-style-type: none">- The value of the down payment;

- The VAT related to the down payment;
- The potential losses caused by the immobilization of public funds due to failure to fulfill or inappropriate fulfillment of the contractual obligations arising from the down payment that was made.

Author

monica.ginea@tuca.ro



Contact details:

Victoriei Square
4-8 Nicolae Titulescu Avenue
America House, West Wing, 8th Floor
Sector 1
011141 Bucharest
Romania

T (40-21) 204 88 90

F (40-21) 204 88 99

E office@tuca.ro

W www.tuca.ro

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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, Managing Associate (cristian.radu@tuca.ro)