

Legal Bulletin

July 2009

New Civil Code	1
New Criminal Code	3
Banking Law	5
Fiscal Law	7
Insolvency Procedure	8
Public Procurement and Concessions	10
Real Estate	13
Social Security	16

July 2009

Legal Bulletin

New Civil Code

Name of the enactment	Civil Code Law No. 287/2009 (the “ New Civil Code ”)
Publication	Official Gazette of Romania, Part I, No. 511/24.07.2009
Entry into force	According to Article 2.664 para. (1) of the New Civil Code, the date of entry into force will be established by the law for the implementation of the New Civil Code.
Presentation	<p>The current Civil Code was adopted during the rule of Alexandru Ioan Cuza, in the year 1864, and it entered into force at the beginning of the year 1865. Although there have been several attempts to adopt a new civil code over time, during the period between the two World Wars, as well as during the communist period, the old Civil Code remained and continued to constitute the legal basis of private law relations in Romania.</p> <p>The efforts made to draw up the draft New Civil Code have been great and lasted for more than a decade. In theory, the New Civil Code takes into consideration the solutions provided by the doctrine and the case law over time and also turns to account the attempts that have been made to amend and supplement the Civil Code, but also includes new, modern regulation solutions provided by other legislations.</p> <p>In essence, the New Civil Code promotes the monistic conception of regulating private law relations in a single code and, to this effect, it incorporates the entirety of the regulations regarding persons, family relations, neighborhood relations, understandings between individuals, agreements between business professionals, patrimony and exchange relations, the circuit of assets and patrimonial values in successions, as well as the provisions of the international private law.</p> <p>Also, the New Civil Code proposes the regulation of the legal regime of certain rights and legal institutions that have not been enshrined by law so far, some of which actually exist in the Romanian society (such as, for instance, engagement).</p> <p>This edition of the Legal Bulletin does not aim to provide a full description of the New Civil Code, for two main reasons: first, the sheer volume of the code (more than 2,600 articles); then, we do not know now the term for the entry into force</p>

of the code. The only concrete term is that of 12 months established for the Government to present to the Parliament the draft law for the application of the New Civil Code. However, we have selected some of the very new elements adopted by the New Civil Code:

- The unitary regulation of the civil law relations and of the commercial law relations (at present, these are regulated mainly by the Civil Code and by the Commercial Code, respectively);
- The protection of the personal – non-patrimonial rights through specific legal means (for instance, establishing, as a specific means of defense, the right to reply and the right to the rectification of erroneous information broadcast in the audiovisual media);
- Provisions concerning engagement, family dwelling, the choice of the matrimonial regime and divorce by administrative means;
- The general regulation of the terms for the cancellation of rights;
- Regulating the fiduciary institution of the trust;
- The enshrinement of the constitutive nature of registering in the land book the real rights regarding real immovable assets;
- The regulation of the mortgage on movable assets (at present, this is approved only for immovable assets);
- The regulation of specific agreements for the business environment: commission agreement, consignment agreement, delivery agreement, transport agreement, agency agreement, intermediation agreement, contracting agreement, continuation agreement, supply agreement, hotel storage agreement;
- The regulation of several banking agreements: checking account, bank deposit, credit facility and safe box lease;
- The regulation, in the field of the international private law, of the institution of “the exceptional removal of the applicable law”, which allows the judge, exceptionally, to establish the most applicable law in a particular case, regardless of the relevant rule on conflict of laws.

Author

maxim.dogoter@tuca.ro

New Criminal Code

Name of the enactment	Law No. 286/2009 on the Criminal Code (the “ New Criminal Code ”)
Publication	Official Gazette of Romania, Part I, No. 510/24.07.2009
Entry into force	According to Article 446 para. (1) of the New Criminal Code, it will enter into force on the date to be established by the law for the implementation of the Criminal Code, except for certain transitory provisions that will enter into force 4 days after the publication of the New Criminal Code in the Official Gazette.
Presentation	<p>The lawmaker’s intention to have a general reform of the Romanian legal system led to a New Criminal Code to be adopted along with the New Civil Code.</p> <p>The intention in adopting the New Criminal Code was to overcome the shortcomings of the current text and to create a coherent legislative framework in criminal matters. To this effect, the result pursued was to unify the regulations in force in the criminal law in a single enactment (especially in terms of offences that occur more frequently in practice), in consideration of the fact that at present there are approximately 250 special criminal laws or extra-criminal laws with criminal provisions that supplement the current Criminal Code. At the same time, the aim was to simplify the substantial law regulations, to transpose the regulations passed at the level of the European Union and to harmonize the Romanian material criminal law with the systems of the other Member States.</p> <p>The New Criminal Code consists of two parts: the general part (the part which provides for the rules applicable to all offences and establishes the general framework for the application of the criminal law) and the special part (the part which includes the main offences, listed as per the criterion of the social value protected by the legal text).</p> <p>As a whole, the New Criminal Code rethinks the punishments within other limits than the current regulation and decreases the limits of the punishments for many offences (especially the maximal limits, which led to controversial public reactions). The lawmaker relied on the assumption, which has been proved by the law practice, that the exaggerated volume of the punishments is not the effective solution in fighting crime. But rather, the extent of the criminal coercion has to be set within limits depending on the importance of the social value protected by the law and taking into account the case of the wrongdoer (i.e. if the latter commits an offense for the first time or if he/she commits an offense before or after having been convicted for another one, etc.).</p>

For example, please find below some of the new elements in the field of criminal law which have been provided by the New Criminal Code:

- The offence is redefined as *“the deed provided for by the criminal law, of which the doer is guilty, and which is unjustified and imputable to the person who committed it”* (one notices the elimination of the social danger as a general feature of the offence);
- The *praeterintention* (the exceeded intention) is expressly provided for;
- A new regulation is established in respect of the punishment by a fine (e.g. the calculation of the fine based on the system of days as a fine, the possibility to apply the punishment cumulatively with the imprisonment) and the scope of application of such punishment is significantly extended (approximately 175 offenses will be punished by a fine, as the only solution or as an alternative to imprisonment);
- The age limit as of which it is possible to engage a minor’s criminal liability has been reduced from 14 to 13 years old;
- The New Criminal Code eliminates the dual punishments currently in place under the Criminal Code in the case of minor offenders, i.e. educational punishments and measures. The rule is to apply to minors educational measures which do not include the deprivation of liberty, such deprivation being an exception and being reserved for cases of serious offenses or for minors who committed several offences;
- It introduces the judges’ possibility to apply the punishment of life detention if a person has committed more than one aggravating deed, even if such punishment has not been established for any of the individual offences that have been committed;
- It regulates the right of the court of law to waive the application of the punishment in certain cases;
- Prostitution and beggary are no longer incriminated;
- It passes new regulations concerning the offences against the application of justice: obstructing justice, influencing statements, vendetta, pressures against the justice system, compromising the interests of justice, contempt in court, disloyal assistance and representation in court, etc. (e.g. the disloyal assistance and

representation in court, consisting in the deed of a person's lawyer or representative who makes a "collusion" with the his/her client's adversaries in the relevant case, in order to harm the client's interests, is punished by imprisonment from 3 months to 1 year or a fine).

In order to ensure the premises for the development of the institutional capacity required for the implementation of the New Criminal Code, a law will be issued for the application thereof (the "**Application Law**"). In this context, the New Criminal Code provides for the Government's obligation to promote the Application Law within 12 months from the publication of the New Criminal Code, i.e. 24 July 2010. The New Criminal Code will enter into force on the date to be provided in the Application Law.

Author

maxim.dogoter@tuca.ro

Banking Law

1 Amendment to the norms concerning the limitation of the credit risk for loans to individuals

Name of the enactment	Regulation No. 11/2009 of the National Bank of Romania (" NBR "), for the amendment of Regulation No. 3/2007 on limiting the credit risk for loans to individuals (" Regulation 11/2009 ")
Publication	Official Gazette of Romania, Part I, No. 459/02.07.2009
Entry into force	2 July 2009
Main provisions	<p>The amendment contemplates the supplementation of the internal rules of credit institutions, with regard to the granting of loans to individuals, for the purpose of implementing the "<i>Prima Casă</i>" program.</p> <p>In accordance with the amendment, the state guarantee will be taken into consideration when calculating the maximal level admitted for the aggregate indebtedness of individuals.</p> <p>Also, for the purpose of speeding up the implementation of the "<i>Prima Casă</i>" program, Regulation 11/2009 provides for a derogation from the general rules concerning the application of these amended internal rules, to the effect that they will be applicable from the date of their approval by the competent internal bodies of each credit institution, not from the date of their validation by the Supervisory Department of the NBR.</p> <p>Naturally, such rules will have to be validated by the Supervisory</p>

Department of the NBR, within 5 days from their approval by the competent internal bodies of each credit institution.

2 Amendments brought to the main enactment concerning the credit institutions

Name of the enactment	Law No. 270/2009 on the approval of Government Emergency Ordinance No. 25/2009 for the amendment and supplementation of Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy (“ Law 270/2009 ”)
Publication	Official Gazette of Romania, Part I, No. 483/13.07.2009
Entry into force	16 July 2009
Main provisions	The main purpose of the amendments brought by Law 270/2009 to Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy is to clarify previous provisions.

Hence, the main amendments refer to:

- The approval in the GMS, by the shareholders whose voting rights have not been suspended, of any decisions within the competence of the GMS, with the majority provided by law or, as the case may be, by the articles of incorporation; in this case, the majority will be considered pro rata to the aggregate share capital held by such shareholders;
- The financial support of the credit institution, upon the request of the NBR, in cases of material deterioration of the prudential and financial performance indicators or for preventing the occurrence of a predictable material deterioration thereof, likely to put at risk in the near future the capacity of the credit institution to observe the prudential requirements, through (i) the increase of the share capital or (ii) the granting of loans by qualified shareholders, under sanction of suspending the voting rights of those shareholders that do not comply with the request;
- The suspension *de jure* of exercising the voting rights of the persons who did not comply with the notification obligation provided by Article 25 para. (1) or who acquired a qualified interest without taking into account the opposition made by the NBR, according to Article 26 para. (2);

- The obligations of the shareholders, of the credit institution and of the management bodies thereof resulting from the acquisition of a qualified interest without taking into account the opposition made by the NBR, according to Article 26 para. (2);
- The obligation of credit institutions to terminate the employment agreements concluded with the managers/members of the management, within 6 months from the entry into force of Law 270/2009, under sanction of termination thereof *de jure* upon the expiry of the abovementioned term.

Author

patricia.enache@tuca.ro

Fiscal Law

Name of the enactment

Order No. 2321/2009 of the Ministry of Public Finance (“**Order 2321/2009**”) approving the Methodological Norms on the procedure of approving the postponement in the payment of outstanding fiscal obligations, administered by the National Agency of Fiscal Administration (the “**Methodological Norms**”)

Publication

Official Gazette of Romania, Part I, No. 508/23.07.2009

Entry into force

23 July 2009

Connections with other enactments

- Government Emergency Ordinance No. 92/2009 for the postponement in the payment of outstanding fiscal obligations resulting from the economic-financial crisis (“**GEO 92/2009**”);
- Government Ordinance No. 92/2003 on the Code of Fiscal Procedure, republished, as further amended and supplemented (“**Code of Fiscal Procedure**”).

Main provisions

GEO 92/2009 has been passed in the context of the economic-financial crisis that Romania is undergoing, which has affected the business environment, generating a decrease in the liquidities of business entities, an increase of the unemployment rate and an increase of the risk concerning the impossibility to ensure the level of liquidities necessary for business entities in carrying out their day-to-day activity.

The methodological norms, as approved by Order 2321/2009, have been issued for the application of the provisions of GEO 92/2009, whereby tax payers may benefit from the postponement in the payment of the fiscal obligations administered by the National Agency of Fiscal Administration (ANAF) and not paid when due, as a result of the economic-financial crisis, as well as for the delay increases related thereto. The provisions under the Methodological Norms, as those of GEO

92/2009, are applicable until 30 June 2010.

According to the Methodological Norms, the payment postponement is approved upon the request of tax payers – individuals or legal entities, regardless of ownership, organization or incorporation date.

The methodological norms contain detailed provisions concerning:

- The limitations in approving the payment postponement;
- The elements of the request for payment postponement;
- The conditions that need to be complied with by tax payers in order to benefit from the postponement in the payment of outstanding fiscal obligations;
- The guarantees that can be provided by tax payers, i.e. bank letters of guarantee, guarantees on movable and immovable assets (please note that, according to the Methodological Norms, ANAF will enforce the guarantee, if the fiscal obligations were not paid by the expiry of the postponement period);
- The competence for addressing the requests for payment postponement;
- The procedure for addressing the requests for payment postponement.

According to the Methodological Norms, during the period of postponement in the payment of outstanding fiscal obligations, with the exceptions provided by law, delay increases are owed in accordance with the provisions under the Code of Fiscal Procedure.

Author

maxim.dogoter@tuca.ro

Insolvency Procedure

Name of the enactment

Law No. 277/2009 of 7 July 2009 approving Government Emergency Ordinance No. 173/2008 for the amendment and supplementation of Law No. 85/2006 on insolvency procedure and for the amendment of letter c) under Article 6 of Law No. 146/1997 on legal stamp fees (“**Law 277/2009**”)

Publication

Official Gazette of Romania, Part I, No. 486/14.07.2009

Entry into force

17 July 2009

Connections with the community legislation

Council regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings

Main provisions

Government Emergency Ordinance No. 173/2008 (“**GEO 173/2008**”) was passed in order to mitigate the inadvertencies revealed by the case law of the Constitutional Court and of the courts of law and by the practice of official receivers and liquidators in the application of Law 85/2006, as well as the need to render efficient the insolvency procedures and speed up the performance of the proceedings.

Some of the most important amendments and supplementations of Law 85/2006 are as follows:

- It clarifies the concept of insolvency by supplementing the conditions that need to be met by the receivable, i.e. the receivables have to be uncontested, liquid and due;
- The minimal amount of the receivable for purposes of the submission of the plea to open the procedure will be increased to RON 30,000, and for employees it will be of 6 average salaries in economy;
- Tribunals will have insolvency divisions which will be competent in the procedures provided by Law 85/2006;
- The plea for opening the insolvency procedures will be tried as a matter of urgency in the council chamber within 5 days;
- The obligations resulting from a promissory sale-purchase agreement with a certification report authenticating the date, the parties’ identity and the content dated before the opening of the procedure will be enforced by the official receiver/liquidator upon the request of the promissory buyer in case the procedure is opened against the promissory seller, if (i) the price of the agreement was paid in full or may be paid on the date of the plea, and the asset is in the possession of the promissory buyer; (ii) the price is not lower than the market value of the asset; or (iii) the asset is not critical to the success of a reorganization plan;
- The administration right of the debtor is cancelled if the general meeting of shareholders does not appoint a special administrator;
- The mandate of statutory administrators is terminated upon the appointment of the special administrator;
- The contractual clauses for the termination of the agreements,

justified by the occurrence of the insolvency status, are null;

- The termination of the individual employment agreements will be the responsibility of the administrator/liquidator starting from the opening of the insolvency procedure, not of the bankruptcy procedure, as in the previous regulation;
- As an exemption from Companies Law No. 31/1990, the amendment of the articles of incorporation, as a measure of the reorganization plan, may be implemented without the shareholders' consent;
- It regulates a new category of receivables voting separately on the matters submitted to be voted on by the creditors, i.e. salary receivables;
- The receivables against the debtor's assets that were rescheduled through the reorganization plan become due upon the opening of the bankruptcy procedure;
- Any cancellations, limitations, interdictions established by legal regulations through legal norms or contractual provisions for the opening of the insolvency procedure will be applicable only as of the opening of the bankruptcy procedure.

Law 277/2009 also amends Law 146/1997 on legal stamp fees, establishing that the actions, pleas and contestations introduced based on Law 85/2006 will be subject to a fee of RON 120.

Author

anca.rusu@tuca.ro

Public Procurement and Concessions

Name of the enactment

Government Decision No. 834/2009 for the amendment and supplementation of Government Decision No. 925/2006 approving the rules for application of the provisions regarding the award of public procurement contracts under Government Emergency Ordinance No. 34/2006 on the award of public procurement contracts, public works concession contracts and service concession contracts ("GD 834/2009")

Publication

Official Gazette of Romania, Part I, No. 515/27.07.2009

Entry into force

27 July 2009

Connections with the
Community Legislation

- Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of

public works contracts, public supply contracts and public service contracts;

- Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors;
- Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts;
- Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts;
- Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

Main provisions

GD 834/2009 amends and supplements GD 925/2006, having as main purpose to render more efficient the procedures of awarding public procurement contracts and to amend certain rules the application of which raised issues in practice. Some of the most important amendments and supplementations are as follows:

1 Amendments concerning the qualifying and selection criteria

The contracting authority is not entitled to restrict the participation in the procedure of awarding the public procurement contract by introducing minimal qualification requirements which are less relevant and are disproportionate in consideration of the nature and complexity of the contract. According to the amendments provided by GD 834/2009, the disproportionate nature of the requirements is presumed if the compliance with conditions such as the following is imposed:

- The amount of the values/amounts of supplied products, provided services and performed works, included in the contract(s) provided by the business entity as proof of its similar experience, should be higher than the value/amount of products/services/works to be supplied/provided/performed based on the contract to be awarded;

- The turnover of the business entity should be higher than the double of the estimated amount of the contract;
- Proving a minimal level of the “general liquidity” financial indicator in case of awarding a contract with a performance period shorter than 3 months or in case of awarding a successive performance contract with a duration longer than 3 months, but for which the payments related to the provisions are to be made at intervals of less than 60 days from the performance thereof;
- The level of the “general liquidity” financial indicator should not exceed 100% for the award of a contract that does not fall within the category of those provided at the item above;
- Proving a minimal level of the “solvability” financial indicator if the business entity provided documents showing that it is not undergoing a liquidation or bankruptcy procedure.

Also, for the purpose of simplifying the formalities in the procedures for the award of public procurement contracts, the amendments brought by GD 834/2009 provide for the bidder’s possibility to present initially, upon the submission of the bid, only an affidavit on the compliance with the qualification requirements, as such have been required through the award documentation. The affidavit will be accompanied by an appendix in which the bidder will briefly detail the manner in which it will comply with such requirements. However, the bidder will have the obligation to provide/fill in, upon the request of the contracting authority, the relevant certificates/documents supporting/confirming the compliance with the qualification requirements.

Also, the amendments brought by GD 834/2009 clarify the object of the firm commitment of support from a third party for the purpose of proving the economic and financial status or the technical and/or professional capacity of the bidder. The commitment is a legal instrument that allows the contracting authority to request the fulfilling of certain obligations by the supporting third party. In the event such resources are contemplated for the support that may be actually made available to the bidder, the commitment will provide which those resources are and that they will be made available unconditionally, and, in the other cases, the commitment will guarantee to the contracting authority that the supporting person will ensure the full and proper compliance with the contractual obligations, through its direct involvement, if the contractor runs

against difficulties during the performance of the agreement.

According to the amendments brought by GD 834/2009, the contracting authority is not entitled to impose the fulfillment of any qualification criteria for potential subcontractors. Also, it removes the exceptions from the rule that it is impossible to use the qualification and selection criteria as factors in the evaluation of the bids.

2 Apparent unusual low price

The amendments brought by GD 834/2009 establish the cases where a bid provides for a price which seems unusually low as to what is going to be supplied, performed or provided. Thus, an apparent unusual low price is when the offered price, without VAT, is equal to less than 85% of the estimated value of the relevant contract or, if there are at least 5 bids in the award procedure that are not unacceptable or incompliant, when the offered price is equal to less than 85% of the average of such bids. If, during the evaluation, it is found that there is a bid with an apparent unusual low price according to the above, the contracting authority has the obligation to make detailed checks in relation thereto.

3 Bid bond and performance bond

One of the major amendments brought by GD 834/2009 is the possibility to create the bid bond and the performance bond through a guaranteeing instrument issued under the law by a bank or by an insurance company. The guaranteeing instrument has to provide whether the payment of the guarantee is to be made:

- Conditionally, i.e. after the fault of the guaranteed person has been ascertained, in accordance with the guaranteed contract; or
- Unconditionally, i.e. upon the first request of the beneficiary, based on the statement thereof concerning the fault of the guaranteed person.

The contracting authority is not entitled to impose or prohibit the issuance of the bid bond or of the performance bond by a bank or by an insurance company or in one of the forms mentioned above.

Author

vlad.cercel@tuca.ro

Real Estate

1 Amendment of the legislation concerning land organization and urban planning

Name of the enactment

Law No. 242/2009 approving Government Ordinance No. 27/2008 for the

	amendment and supplementation of Law No. 350/2001 on land organization and urban planning (“ Law 242/2009 ”)
Publication	Official Gazette of Romania, Part I, No. 460/03.07.2009
Entry into force	6 July 2009
Main provisions	<p>Government Ordinance 27/2008, which aims at limiting the derogatory urban planning by consolidating the general urban plan (PUG) and a much stricter qualification within the limits thereof of the inferior documentations (PUZ and PUD), was adopted by Law 242/2009 with the following main amendments and supplementations:</p> <ul style="list-style-type: none">• The direct removal from the agricultural circuit of the lands registered in the <i>intra muros</i> area based on the provisions under the General Urban Plan, without requiring the completion of the express procedure of removal from the agricultural circuit;• The accurate determination of the amendments that may be brought to a certain area in terms of urban planning through the Zonal Urban Plan (PUZ), i.e.: the building regulations, the purpose of the area, the maximal admitted area, the intensity of the property (CUT), the building coverage (POT), the withdrawal of the buildings against the alignment and the distances from the lateral and posterior limits of the plot;• The detailed urban plan (PUD) may request only regulations concerning the distance from the lateral and posterior limits of the plot;• An intensity of the property (CUT) higher than 4 will be established only through the General Urban Plan (PUG) and the local urban planning regulation;• Zonal urban plans for protected areas may only be amended in their entirety, except for those amendments that do not alter the general character of the area;• The liability of the local public administration authority competent for the issuance, endorsement and approval of the land organization and urban planning documentation for the full content of the regulations adopted except in cases where the law expressly provides otherwise;• With regard to the application of the law in time, Law 242/2009

provides that the endorsement and approval of urban planning documentations drawn up based on an urban planning certificate issued before 29 August 2008 or for which there is a request for endorsement of the technical commission for urban planning of the competent local public authority will be made in accordance with the legal provisions that are applicable before the entry into force of this ordinance, but not later than 30 September 2009.

Author

oana.mina@tuca.ro

2 Amendment of the legislation concerning the authorization for the performance of building works

Name of the enactment

Law No. 261/2009 approving Government Emergency Ordinance No. 214/2008 for the amendment and supplementation of Law No. 50/1991 on authorizing the performance of building works

Publication

Official Gazette of Romania, Part I, No. 493/16.07.2009

Entry into force

15 October 2009

Main provisions

Law 261/2009 approves Government Emergency Ordinance 214/2008 with the following amendments and supplementations.

The law contemplates the amendment of the steps that need to be completed by the applicant for the issuance of the building permit. To this end, Law 261/2009 establishes the obligation to issue the point of view of the competent environmental protection authority for the investments that do not comply with the procedures for the evaluation of the impact on the environment as soon as the urban planning certificate has been issued.

Law 261/2009 introduces new cases where building permits can be issued without any approved land organization or urban planning documentations, i.e.: (i) works for building an extra floor on buildings, only once, with a surface of maximum 20% of the overall built-up area of the buildings, provided that they are located outside the protected built-up areas or outside the protection areas of monuments, as the case may be; (ii) works for extending social, education, health, culture and administrative buildings belonging to the public and private sector of the state and to the administrative-territorial units, if the extension is compliant with the provisions of the local urban planning regulation related to the general urban plan - PUG or the zonal urban plan - PUZ, approved and in force; (ii) the change of the use of existing buildings, if the new use is compliant with the

provisions of the local urban plan related to the general urban plan - PUG or the zonal urban plan - PUZ, approved and in force.

The non-issuance of the building permits within the 30-day period from the submission of the documentation constitutes a misdemeanor and is sanctioned by a fine of RON 5,000 to RON 30,000.

The ascertaining of misdemeanors concerning: (i) the issuance of incomplete or erroneous urban planning certificates, (ii) the issuance of building/demolition permits in the absence of any real right to the real estate/in the absence of or in breach of the provisions under the urban planning documentations/based on incomplete documentations, are no longer ascertained and punished by the control bodies of the county council/of Bucharest, but by the State Inspectorate in Buildings.

Author

arina.dobrescu@tuca.ro

Social Security

Name of the enactment

Law No. 268/2009 approving Government Emergency Ordinance No. 28/2009 regulating certain social protection measures (“**Law 268/2009**”)

Publication

Official Gazette of Romania, Part I, No. 482/13.07.2009

Entry into force

16 July 2009

Main provisions

Law 268/2009 approved GEO 28/2009 with a number of amendments and supplementations to the initial text of the ordinance. Among the most important amendments we mention those referring to the social protection measures in case of temporary interruption of the employer’s activity.

According to the provisions of Law 268/2009, the social protection measures apply if the individual employment agreement is suspended in cases of full or partial temporary interruption, including temporary reduction, of the employer’s activity, especially for economic, technologic, structural or similar grounds. Thus, during the temporary interruption of the employer’s activity, but no more than 90 days, the employer and the employees are exempted from the payment of social security contributions owed for the allowance of minimum 75% of the basic salary corresponding to the position held (allowance granted during the temporary interruption).

In addition, allowances of minimum 75% of the basic salary corresponding to the position held, payable from the salary fund, during the temporary interruption of the employer’s activity are not included in the salary revenues and are not subject

to tax, for a period of at most 90 days, in the year 2009. The period of temporary activity interruption, for which the employees whose individual employment agreements are suspended and the employers of such employees are exempted from the payment of social security contributions owed under the law, constitutes a contribution payment period without the payment of the contribution.

Also, according to the new provisions of Law 268/2009, the period for exemption from the payment of social security contributions, during which employees complete a contribution payment period for unemployment without paying the contribution, is taken into consideration when establishing the 24-month period before the registration date of the request for approving the unemployment benefit, as well as the completion of the minimal contribution payment period required in the unemployment insurance system.

Author

mariana.magherusan@tuca.ro



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

 (40-21) 204 88 90

 (40-21) 204 88 99

 office@tuca.ro

 www.tuca.ro

Disclaimer

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

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

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

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

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