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Legal Bulletin

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Legal Bulletin

Accounting

Name of the enactment	Order No. 2239/2011 approving the Simplified Accounting System issued by the Minister of Public Finance ("**Order No. 2239/2011**")
Publication	Official Gazette of Romania, Part I, No. 522 of 25 July 2011
Entry into force	25 July 2011
Connections with other enactments	Accounting Law No. 82/1991, as amended and supplemented (the "**Accounting Law**");
	Order No. 3055/2009 approving the accounting regulations compliant with European directives ("**Order No. 3055/2009**").
Main provisions	Order No. 2239/2011 was issued in application of Article 5 (1^1) of the Accounting Law and addresses the approval of the simplified accounting system which may be used by certain persons meeting the requirements provided by law. This order shall apply starting with the 2011 annual financial statements.
	The simplified accounting system consists of the basic principles and rules on the assessment and registration of the patrimonial items by using a simplified chart of accounts, as well as their presentation in the annual financial statements.
	The persons that may choose for this simplified accounting system are the persons that recorded in the previous financial year a net turnover below the RON equivalent of EUR 35,000 euro and that have a value of total assets below the RON equivalent of EUR 35,000. Upon assessing compliance with such requirements, certain indicators in the annual financial statements and trial balance shall be taken into account by reference to the rate of exchange communicated by the National Bank of Romania upon the conclusion of the relevant financial year.
	If the persons meeting these criteria do not opt to apply this simplified accounting system, they shall implement the accounting regulations approved by Order No. 3055/2009.
	Order No. 2239/2011 provides a limitative list of the categories of persons that may not choose to apply the simplified accounting system, even if they meet the above conditions, *e.g.:* legal entities holding securities traded on a regulated

market, national companies, State-Owned/State-Controlled Companies, *regies autonomes*, legal entities whose activity is regulated and supervised by the National Securities Commission or the National Bank of Romania fall under this category.

Persons applying the simplified accounting system shall use a simplified chart of accounts and accounting treatments related to the simplified accounting system. Nevertheless, to the extent the complexity of the economic operations justifies it, such persons may also use the accounts of the general chart of accounts and the accounting treatments provided under Order No. 3055/2009, in addition or as a sole mode of operation.

The persons meeting the legal requirements and choosing to apply the simplified system shall prepare simplified annual financial statements consisting of the simplified balance sheet and profit and loss account. Such simplified annual financial statements shall come with a written liability statement made by the management of the person preparing it.

Should the persons falling under the law learn, at the end of the previous financial year, that they fail to meet the criteria provided by law with respect to the amount of the turnover and total assets, they shall apply the provisions of Order No. 3055/2009 starting with the first accounting reporting of the following financial year.

According to the Accounting Law, in case the simplified system is applied, accounting may be conducted and organized based on civil contracts/agreements concluded in accordance with the Civil Code with persons with higher economic education, which shall also be liable.

If the criteria provided by Order No. 2239/2011 are not met anymore, the persons using the simplified accounting regulations shall have to take the necessary steps to comply with the legal measures concerning the persons entitled to conduct and organize accounting. Consequently, if accounting is organized based on civil contracts, according to the Civil Code, and the persons using the simplified system no longer meet the legal requirements to use this system in the future, they shall have to take the necessary steps to hire personnel with higher economic education in the distinct departments in which accounting is organized and conducted, or to conclude services agreements to this effect.

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Civil procedure

1 Amendments brought to the legal framework concerning court bailiffs

Name of the enactment	Law No. 151/2011 approving Government Emergency Ordinance No. 144/2007 amending Article 37 (1) of Law No. 188/2000 on court bailiffs ("**Law No. 151/2011**")
Publication	Official Gazette of Romania, Part I, No. 493 of 11 July 2011
Entry into force	14 July 2011
Main provisions	Initially, Government Emergency Ordinance No. 144/2007 was passed for amending only Article 37 (1) of Law No. 188/2000 on court bailiffs ("**Law No. 188/2000**"), referring to the criteria for establishing the maximum fees due to court bailiffs. Law No. 151/2011 brings major amendments to the provisions of GEO No. 144/2007 and consequently it amends Law No. 188/2000. The main amendments to Law No. 188/2000 concern the following issues: • Regulation of the territorial jurisdiction of court bailiffs with express reference to the court of first instance they are attached to (the previous regulation referred solely to the court of appeal in whose jurisdiction the court bailiff was performing his activity); • The express reference to the extent of the court bailiff's territorial jurisdiction throughout the entire jurisdiction of the court of appeal where it is located the court of fist instance to which such court bailiff is attached; • Amendment of the provisions on the fees due to court bailiffs with a view to setting a maximum threshold for certain variable fees (the previous wording could be construed to the effect that the law was setting capped fee, and not variable fees); • Regulation of the manner in which the costs generated by the enforcement are borne, expressly providing the cases in which the enforcement costs are borne by the debtor or creditor; • Regulation of the meaning of the concept of "enforcement costs".

2 Establishment of the Electronic Registry of the Sales of Assets subject to Enforcement

Name of the enactment	Law No. 154/2011 supplementing Law No. 188/2000 on court bailiffs ("**Law No. 154/2011**")

Publication	Official Gazette of Romania, Part I, No. 510 of 19 July 2011
Entry into force	22 July 2011
Main provisions	Law No. 154/2011 creates the legal framework for establishing an IT registration system in the field of enforcement, *i.e. Electronic Registry of the Sales of Assets subject to Enforcement*. Through this registry, all the court bailiffs shall ensure the publicity at a national level of the sales regarding movable assets whose value exceed RON 2,000 and immovable assets on which enforcement proceedings are undergoing. Such registry shall be established in maximum one year as of the entry into force of Law No. 154/2011, by the National Union of Court Bailiffs.
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Commercial Law

Name of the enactment	Law No. 135/2011 amending Article 908 of the Commercial Code ("**Law No. 135/2011**")
Publication	Official Gazette of Romania, Part I, No. 484 of 7 July 2011
Entry into force	10 July 2011
Connections with other enactments	Commercial Code passed by Decree-Law No. 1233/1887 (the "**Commercial Code**")
Main provisions	Law No. 135/2011 is intended to harmonize the provisions of the Article 908 of the Commercial Code with the commercial, civil and civil procedural laws concerning the initiation of seizure and garnishment. The abovementioned harmonization concerns two issues: • The court having jurisdiction over settling the application for initiation of seizure or garnishment. Namely, the jurisdiction over settling the application for initiation of seizure or garnishment shall no longer belong to the courts of first instance (in Romanian, "*judecătorii*"), but to the court having jurisdiction over settling the merits of the case; • Terminological correlation of the wording by replacing the word "benefit" (in Romanian, *"interese")* by "interest" (in Romanian, "*dobânzi")*.
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Competition Law

Name of the enactment	Law No. 149/2011 approving Government Emergency Ordinance No. 75/2010 amending and supplementing Competition Law No. 21/1996 ("**Law No. 149/2011**")
Publication	Official Gazette of Romania, Part I, No. 490 of 11 July 2011
Entry into force	14 July 2011
Connections with other enactments	Competition Law No. 21/1996 (the "**Competition Law**"); Treaty on the Functioning of the European Union (the "**Treaty**").
Main provisions	Please find below the major amendments brought to the Competition Law by Law No. 149/2011:

- Law No. 149/2011 expressly provides that the term "*undertaking*" has the general meaning ascribed by the European Union's case law. Moreover, the concept of "*economic agent*" is replaced by the concept of "*undertaking*" or "*economic operator*" in all enactments applicable in the competition field.
- A relative presumption of dominance is inserted for the cases when one or several undertakings (*collective dominance*) register in the analyzed period an individual share, or cumulated shares, of above 40% on the relevant market.
- Sorts of concerted agreements, decisions or practices which may not fall outside the scope of the Competition Law by the operation of the *de minimis* share threshold provided by Article 8 of the Competition Law. Such agreements are divided into two categories:
  - Agreements between competitors (*horizontal agreements*): intended to set the prices, limit production or sales, or share the markets or customers;
  - Agreements between non-competitors (*vertical agreements*): agreements identified as serious competition restrictions (*hardcore*) under the Community Regulations on the enforcement of Article 101 (3) of the Treaty to the categories of vertical agreements and concerted practices.

    The agreements are contemplating:

    - Restriction of the purchaser's capacity to set the sale price, notwithstanding the provider's possibility to

impose a maximum sale price or recommend a sale price, inasmuch as the latter are not equivalent to a minimum fixed sale price established further to pressures exercised by one of the parties or to the measures to stimulate practiced by the latter;

- Territorial restrictions or restrictions in conjunction with the customers to whom the purchaser may sell the goods or services contemplated under the contract, except for one of the following not so serious restrictions: (a) restriction of active sales to the exclusive territory or to exclusive customers reserved for the provider or transferred by the provider to another purchaser, when such restriction does not limit the sales made by the purchaser's customers; (b) restriction to the end users of the sales made by a purchaser acting on the market as wholesale trader; (c) restriction to unauthorized distributors of the sales made by the members of a selective distribution system; (d) restriction of the purchaser's capacity to sell components intended to incorporate customers which could use them to manufacture products similar to those manufactured by the provider;
- Restriction to end users of active sales or passive sales made by the members of a selective distribution system acting on the market as retailers, notwithstanding the possibility to prohibit a member of the system to perform its activities in an unauthorized secondary headquarters;
- Restriction of cross deliveries between distributors in a selective distribution service, including between distributors acting at various levels of trading;
- Restriction agreed between a component provider and a purchaser incorporating such components, restricting the provider's possibility to sell such components as separate parts to end users, certain repairers or other service providers not appointed by the purchaser to

repair or maintain his goods.

- The authorization fee for economic concentrations ranges between EUR 10,000 to EUR 25,000. The exact amount of the fee shall be determined based on certain instructions to be issued by the Competition Council.
- The provision on the suspension of the Competition Council's decisions subject to the payment of a bail amounting to 30% of the fine provided under the challenged decision shall be replaced by a new rule. According to the Competition Law, amended by Law No. 149/2011, the bail enforceable for the suspension of the challenged decisions shall be determined according to the provisions of Law No. 571/2003 on the Fiscal Code regarding budgetary receivables.
- The amount of the fines enforceable for:
  - Acts of authorities and institutions of the public administration consisting of providing inaccurate, incomplete or misleading information or incomplete documents or failing to provide information to the competition authority, under the conditions of Article 35 of the Competition Law; in this case, the fine shall be decreased from the threshold above, i.e. between RON 5,000 to RON 40,000 to values ranging from RON 1,000 to RON 20,000;
  - Misdemeanors found at newly-established undertakings or associations of undertakings, which failed to record a turnover in the year before the sanction, the fine shall be reduced:
    - For misdemeanors punished by fine ranging from 0.1% to 1% of the turnover, the amount of the fine shall be decreased from the value ranging from RON 20,000 to RON 2,000,000, to a value ranging from RON 10,000 to RON 1,000,000;
    - For misdemeanors punished by fine ranging from 0.5% to 10% of the turnover, the amount of the fine shall be decreased from the value ranging from RON 30,000 to RON 5,000,000, to a value ranging from RON 15,000 to RON 2,500,000.
- It is inserted a special case for reducing the amount of the fine below

the minimum amount established by the Competition Law, if the misdemeanor is admitted by the undertaking charged with breaching Articles 5, 6 or 15 of the Competition Law. Consequently, if after the receipt of the investigation report and exercise of the right to access the file or during the hearing, the undertaking expressly admits to having committed the anticompetitive act and, where applicable, proposes remedies which result in the causes for the breach being removed, this shall be held as a special extenuating circumstance in the form of administrative collaboration and shall determine a decrease in the amount of the fine by a percentage ranging between 10% and 30% of the basic level, including when this is set to the minimum amount provided by law.

- As the enforcement of the fines for the misdemeanors provided under the Competition Law is concerned, the concept of acts perpetrated with guilt shall be replaced by the concept of deliberate or negligent acts.
- As to the offense provided by the Competition Law for and individual's decisive participation with fraudulent intent to the initiation, organization or performance of prohibited practices according to the provisions of Article 5 (1), and which not constitute an exception as per the provisions of Article 5 (2), the alternative sentence to prison shall be reduced from the period ranging between 6 months and 4 years to a period ranging between 6 months and 3 years.
- The plenum of the Competition Council is given the possibility to entrust to committees formed of 3 members of the Plenum the examination of (a) the investigation reports, with potential objections filed against them, and to decide on the measures to be taken; and (b) economic concentrations' authorizations. In addition, adjustments are brought to the provisions on the organization and operation of the Competition Council, such as for instance, details on the conditions of access as member of the Competition Council.
- Parties' hearing during the Competition Council's investigations (except for the *ex officio* investigations closed as a result of the lack of sufficient evidence attesting to the breach of the Competition Law) becomes a facultative procedure, to be implemented upon the parties' request.

- The Competition Council takes over the duties previously provided by Law No. 11/1991 on the fight against unfair competition in the competence the Ministry of Public Finance.
- In the Competition Council shall be organized a Consultative Committee, as a temporary body formed of 11 up to 17 representatives of the university environment of competition, the business environment and the consumer protection associations or other persons well-known in the economic, legal or competition fields. The members of the Consultative Committee shall issue non-mandatory opinions on the main issues of the competition policy.
- The Competition Council is given the possibility to notify other institutions or public authorities, provided that findings falling under their competence are made.
- The provisions of Article 9 of the Competition Law on the anticompetitive acts of the public authorities and institutions are extended to reach the entities to which such authorities or institutions assign their duties.

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Employment - Legal Framework Applicable to Foreigners in Romania

Name of the enactment	Law No. 157/2011 amending and supplementing certain enactments on the legal framework applicable to foreigners in Romania ("**Law No. 157/2011**")
Publication	Official Gazette of Romania, Part I, No. 533 of 28 July 2011
Entry into force	31 July 2011, except for Article III which shall come into force upon the full application by Romania of the provisions of the Schengen Acquis
Connections with other enactments	Government Emergency Ordinance No. 194/2002 on the legal framework applicable to foreigners in Romania ("**GEO. 194/2002**"); Government Emergency Ordinance No. 56/2007 on the employment and secondment of foreigners on the territory of Romania ("**GEO No. 56/2007**"); Government Emergency Ordinance No. 55/2007 establishing the Romanian Immigration Office by reorganizing the Authority for Foreigners and National Office for Refugees, and amending and supplementing certain enactments ("**GEO No. 55/2007**");

Government Emergency Ordinance No. 105/2001 on Romanian borders ("**GEO No. 105/2001**");

(EC) Regulation No. 810/2009 of the European Parliament and of the Council dated 13 July 2009 establishing a Community Code on Visas (Visa Code) ("**Regulation No. 810/2009**").

Main provisions

Law No. 157/2011 brought major changes to the legal framework applicable to foreign citizens, namely citizens that do not have the citizenship of a Member State of the European Union/European Economic Area/Swiss Confederation, by amending several enactments regulating this legal framework.

Consequently, the enactments that were amended as a result of Law No. 157/2011 being passed, and the main issues regulated under the new enactment are as follows:

- **GEO No. 194/2002**

  - Insertion of the "EU Blue Card"

Law No. 157/2011 inserted the so-called "EU Blue Card" which is a special work permit allowing its holder to stay and work in Romania on a high-skilled position. In addition, Law No. 157/2011 regulates the legal framework applicable to the persons holding such a stay permit.

  - Insertion of the Secondment Visa

A major amendment brought to GEO No. 194/2002 is the regulation of a new type of work visa that is the secondment visa. Until the insertion of this type of visa, the persons requesting to enter Romania to this effect had to apply for a visa for other purposes.

  - Change in the requirements for granting visas for the performance of business activities

As to the award of visas to foreigners that wish to perform business activities in Romania, the minimum thresholds for investments which have to be made for the award of the visa were raised. Consequently, the amount of investments for foreigner shareholders in a limited liability company shall be at least EUR 100,000, and for foreigner shareholders in a joint-stock company shall be at least EUR 150,000. Prior to this change, the ceilings were EUR 70,000 in the first case, and EUR 100,000 in the second cases.

- **GEO No. 56/2007**

  - Insertion of the provisions on high-skilled workers

In direct connection with the regulation of the EU Blue Card, Law No. 157/2011 inserted references to the categories of workers and positions justifying the issuance of such permit. Consequently, the high-skilled position entails the existence of higher professional qualifications of the person holding such position.

In addition, Law No. 157/2011 inserts requirements on the issuance of the work permit for high-skilled workers, that do not include the provisions on the selection process required for the work permit in case of permanent workers.

  - Change in the requirements for the issuance of the work permit

As to the issuance of the work permit to the foreigners interested in working on the territory of Romania, Law No. 157/2011 inserted a new requirement which has to be met by the employer. Thus, to be granted the work permit, the employer must not have been sanctioned in the past for undeclared labor or unlawful employment.

As to the employer's obligation of having paid all debts to the State budget upon requesting the work permit, the new law relaxed this requirement, and currently, only the budgetary debts for the third quarter shall have to be paid.

  - Harsher sanctions applicable to employers failing to comply with the provisions of GEO No. 56/2007

Law No. 157/2011 provided harsher sanctions for the employers failing to comply with the legal provisions on employing and seconding foreigners on the territory of Romania.

- **GEO No. 55/2007**

Law No. 157/2011 amended the legal provisions on foreigners' personal data processing.

- **GEO No. 105/2001**

Law No. 157/2011 repealed two of the misdemeanors provided under GEO No. 105/2001.

In addition to the amendments brought by the above enactments, Law No. 157/2011 was aimed at creating the legal framework required for a direct application of Regulation No. 810/2009 and implementation of Decision

582/2008/EC of the European Parliament and of the Council of 17 June 2008 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Cyprus and Romania of certain documents as equivalent to their national visas for the purposes of transit through their territories and of Decision 586/2008/EC of the European Parliament and of the Council of 17 June 2008 amending Decision No. 896/2006/EC establishing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the Member States of certain residence permits issued by Switzerland and Liechtenstein for the purpose of transit through their territory.

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Financial Services

Name of enactment	Regulation of the National Bank of Romania ("**NBR**") No. 8/2011 on the institutions issuing electronic money (the "**Regulation**")
Publication	Official Gazette of Romania, Part I, No. 508 of 18 July 2011
Entry into force	18 July 2011
Connections with other enactments	Law No. 127/2011 on the activity of issuing electronic money ("Law No. 127/2011"); Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC.
Main provisions	The primary aim is to detail the provisions of Law No. 127/2011 establishment, operation and prudential supervision of the issuers of electronic money. In matters concerning the authorization of institutions issuing electronic money, the Regulation supplements the provisions of Article 16 of Law No. 127/2011, providing, in addition to the requirement of obtaining the operating permit issued by NBR, the elements such permit shall have to contain, including approvals granted to persons responsible for conducting and managing the activity thereof. The Regulation refers to authorization requirements and to the documentation to be provided to NBR to this effect, thus supplementing the provisions of Article 17 of Law No. 127/2011 (referring to the necessary documentation with respect to both the corporate issues – shareholding, management, internal organization, and to operational issues – activity plan, internal control mechanisms, etc.).

In addition, the Regulation requires the institutions issuing electronic money to notify NBR on the commencement of the authorized activity within 5 days from the occurrence thereof.

As to operational issues following the authorization, the Regulation details the requirements on the own funds of the institutions issuing electronic money, in enforcing Articles 27 to 29 of Law No. 121/2011. The Regulation provides the method of computing the level 1 and 2 own funds, and the requirements which have to be met with respect to such own funds, including NBR's prior approval and other requirements on including certain items in the level 2 own funds category (for instance, subordinated loans).

As to the crediting activity, according to Article 39 of the Regulation, the institutions issuing electronic money registering major crediting activities shall have to apply NBR's regulations in the field of credit risk limitation to the credits intended for individuals. The crediting activity shall be considered major when, for 3 consecutive quarterly reporting periods, the following requirements are cumulatively met: the cumulated level of equity and sources borrowed based on loan/financing agreements is minimum RON 50,000,000 and the cumulated level of the granted credits/financing and undertakings, established in accordance with the Regulation is minimum RON 25,000,000 (in certain cases, by cumulating the crediting activity with the payment services activity).

In matters concerning the protection of funds received in exchange of electronic money, the regulation includes references to the operational requirements provided under Law No. 127/2011 (*e.g.*, account segregation, proper registration, operational insurance), providing, at the same time, that the institution issuing electronic money shall be prohibited from using the account opened with a credit institution in which it deposits the protected funds for other purposes.

As to the amendments brought to the institutions issuing electronic money, the Regulation details the amendments which are subject to NBR's prior approval (*e.g.* supplementing the object of activity with payment services, certain acquisitions of shareholding, replacing persons in charge with conducting and managing the activity of electronic money issuance and/or payment services provision, amendments in conjunction with the necessary own funds and protection of received funds, etc.), and the amendments which require only the notification of the supervisory authority (other corporate amendments, other shareholding acquisitions, persons with tight connections with the institution issuing electronic money, amendments of the relevant elements concerning the

measures of protecting received funds, etc.).

Moreover, the Regulation provides the main reporting obligations of the institutions issuing electronic money, particularly with respect to the necessary own funds related to the activity of electronic money issuance. Consequently, the following details are provided:

- Obligation to quarterly report with respect to the necessary own funds related to the electronic money issuance activity; indicators used when computing the necessary own funds related to the payment services provision activity; level and structure of own funds; situation of the crediting activity;
- Obligation to yearly report with respect to the accounting information data and necessary own funds related to the payment services provision activity, other than those related to the electronic money issuance.

The reports provided under the Regulation shall be sent to NBR, both by electronic means and on paper, within maximum 30 days from the end of the period for which they are prepared, unless otherwise provided.

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Fiscal Procedural Law

Name of the enactment

Decision of the Constitutional Court No. 536 of 28 April 2011 on the unconstitutionality plea concerning the provisions of Article 44 (3) of Government Ordinance No. 92/2003 on the Fiscal Procedure Code (**"Decision No. 536/2011"**)

Publication

Official Gazette of Romania, Part I, No. 482 of 7 July 2011

Main provisions

The legal text contemplated by the unconstitutionality plea, namely Article **44 (3) of Government Ordinance No. 92/2003 on the Fiscal Procedure Code** (the **"GO No. 92/2003"**) refers to the ways of communicating the fiscal administrative deeds.

The court noticed that, according to Article 44 (2) a) - d) of GO No. 92/2003, the fiscal administrative deeds may be communicated as follows:

- The taxpayer appearing before the issuer fiscal authority and receiving the fiscal administrative deed under signature, and the date of communication shall be deemed the date of taking the deed under signature;
- The authorized representative of the fiscal authority delivering, under

signature, the fiscal administrative deed, according to law, the date of communication being the act's date of delivery under signature;

- By mail, at the fiscal headquarters of the taxpayer, by registered letter with acknowledgment of receipt, and by other means, such as, fax, e-mail, if the transmission and receipt of the text is secured, and acknowledged, respectively;
- By publication.

Considering that the above mentioned legal text lists such methods without making any reference to their order of priority, and that, in practice, in the absence of an express reference to the obligation to comply with their listing order, the fiscal authorities tend to ignore their listing order under Article 44 (2) and to serve them directly by means of publication, without proceeding to use all the other means of serving the fiscal administrative deed, the Court found that such interpretation prejudices the right to free access to justice of the taxpayer in order to challenge the existence or amount of the fiscal debt.

The Court sustained the unconstitutionality plea ex officio raised by Constanta District Court – Civil Division and established that the provisions of Article 44 (3) of GO No. 92/2003 are unconstitutional, considering that the issuing fiscal authority may proceed to serve the fiscal administrative deed by publication, unjustifiably removing the order of performing the service provided under Article 44 (2) a) - d) of the same legal enactment.

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Real Estate

Name of the enactment	Law No. 153/2011 on measures to improve the buildings' architectural and ambient quality ("**Law No. 153/2011**")
Publication	Official Gazette of Romania, Part I, No. 493 of 11 July 2011
Entry into force	10 August 2011
Connections with other enactments	Law No. 50/1991 on authorizing performance of construction works ("**Law No. 50/1991**")
Main provisions	Law No. 153/2011 regulates the obligation of building owners (individuals, legal entities, authorities of the public administration, public institutions), holding or administering buildings with an extended degree of degradation of the facades, roofs or other elements, such as balconies, loggias, attics, ornaments, etc., which

endanger health, life, people physical integrity and safety and/or affect the quality of environment, existing buildings and town public premises, to take steps, on their own initiative, to perform structural and architectural works to refurbish the buildings' envelope.

Law No. 153/2011 provides certain categories of buildings to which the provisions of this law do not apply, i.e.:

- Buildings subjected to expert appraisals and falling under the 1st earthquake hazard class;
- Buildings thermally refurbished or undergoing refurbishment upon the entry into force of the law, and the blocks of flats listed in local thermal multiannual rehabilitation programs;
- Buildings and complexes registered or being registered as historical monuments.

Basically, Law No. 153/2011 establishes:

- The types of structural and architectural rehabilitation works (such as: refurbishment of walls, refurbishment of exterior finishing, repairs to the roofing, etc);
- Works' stages, terms and financing methods;
- Obligations and liabilities of the local public authorities and holders of such buildings;
- Sanctions enforceable for the infringement of the law.

Law No. 153/2011 provides that the local authorities shall prepare multiannual programs including the organization, monitoring and control on how the works are performed. Local authorities have the obligation to identify such buildings which fall under the provisions of this law and notify the holders thereof on the obligations incumbent upon them.

If the notified holders refuse to perform the works, or if they are not performed or completed within the notified terms, the local authorities may perform the necessary works in the name and on behalf of such holders, within the limits of the annually approved funds to this effect, with the right to sue the notified holders for compensation.

Generally, the works' performance term is 12 months from receipt of the notice by the holder of the building, which term may be extended, subject to the written

consent of the mayor, within maximum 6 months, as per the nature and complexity of works.

Law No. 153/2011 also contains a set of derogations from the provisions of Law No. 50/1991, as to the term of issue of the town planning certificate and building permit, and to the deeds required for the issuance of the building permit.

As a rule, the works' financing shall be provided by the holders of the buildings. By way of exception, the works may be financed by the local budget as well, within the limits of the funds annually approved for the owners that provide evidence attesting to the fact that their average net monthly income per family member is lower than the average net salary.

Moreover, owners associations and owners of single-family houses shall be entitled to benefit from State-guaranteed subsidized bank loans, if they meet certain requirements. Consequently, the beneficiaries of the loan shall finance at least 10% of the works from own resources, and the remaining 90% shall be financed by Government-guaranteed subsidized bank loans contracted by the loan beneficiaries. The loan repayment term shall be maximum 5 years.

As to the works performed to buildings located in areas with a special regime (for instance, protected built areas, historical complexes, health spas, etc.), local authorities may co-finance the expenses with the maintenance works.

By way of derogation from the general legal provisions, the notified holders shall benefit from a set of facilities for the works, *i.e.*:

- Exemption from paying the 0.7%, and 0.1%, respectively to the State Inspectorate in Constructions;
- Exemption from paying 0.5% to the Constructor's Social Security House;
- Exemption from paying the building tax for a period of 5 consecutive years, further to the decision of the local public authority.

The law also set out sanctions for the failure to comply with its provisions, for both the local authorities, and holders of the buildings. For example:

- Buildings holders' failure to comply with the obligation to contract the design and performance of the works shall be deemed a misdemeanor and shall be punished by fine ranging from RON 5,000 to RON 8,000 (approximately EUR 1,190 to EUR 1,905 euro, at an exchange rate of

EUR 1 = RON 4.2);

- Buildings holders' failure to comply with the obligation to organize the acceptance of the works (upon completion thereof, and final acceptance) shall be deemed misdemeanor and shall be punished by fine ranging from RON 2,000 to RON 5.000 (approximately EUR 476 to EUR 1,190 euro, at an exchange rate of EUR 1 = RON 4.2).

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