THE ROMANIAN PARLIAMENT

THE CHAMBER OF DEPUTIES **THE SENATE**

LAW
On Certain Steps for Assuring Transparency in Performing High Official Positions, Public and Business Positions, for Prevention and Sanctioning the Corruption

Book I
General Provisions for Preventing and Fighting Corruption

Book II
Modification of Some Regulations for the Purpose of Preventing and Fighting Corruption

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Book I
General Provisions for Preventing and Fighting Corruption

Title I
Transparency of Information with Respect to Budgetary Obligations Arrears

Article 1 – (1) For the purpose of discouraging legal entity tax payers to accumulate budgetary arrears, the Ministry of Public Finance, the Ministry of Labor and Social Solidarity, the National House of Health Insurance and local public administration authorities, as the case may be, have the duty to make public the list of tax payers, except for micro – enterprises, as defined by the Government Ordinance No. 24/2001 on Taxation of Micro – Enterprises, who have tax arrears to the state budget, the state social insurance budget, the unemployment insurance budget, the national unique fund for health social insurance budget and to local budgets, representing taxes, fees, contributions and any other budgetary incomes, the sum of the budgetary obligations owed in the preceding fiscal years, in which tax arrears were recorded, the amount of such tax arrears, as well as the manner to collect them, applied by the competent bodies of the above – mentioned authorities.

(2) The list of tax payers and the information provided by paragraph (1) shall be made public on the individual website of each of the respective institutions, or through other means, as the case may be.

Article 2 – Before making public the amounts representing budgetary arrears,

debtors shall be notified on them by the territorial bodies of the Ministry of Public Finance, the Ministry of Labor and Social Solidarity, the National House of Health Insurance and local public administration authorities, as the case may be, where the former are registered as tax and fee payers. In case of tax payers with affiliates and working stations, the notification shall be sent to the legal entity tax payers, both on their own activity and on that of affiliates and work stations.

Article 3- (1) The list of debtors and of their recorded budgetary arrears shall be updated quarterly, up to the last day of the first month of the quarter following the reporting one.

(2) Within a 15 – day term from the entire payment of amounts owed to the Ministry of Labor and Social Solidarity, the National House of Health Insurance and local public administration authorities, as the case may be, any budgetary creditors shall operate the modifications to any individual debtor who paid his/her debts.

Article 4 - (1) Provisions of the present title shall not apply on legal entities against which a legal reorganization and a bankruptcy procedure was initiated, as regulated by Law No. 64/1995 on the Legal Reorganization and Bankruptcy Procedure, with subsequent modifications and completions.

(2) Budgetary liabilities set by proofs of debt, against which a tax payer initiated the ways of appeal provided by law shall not be made public until the resolution of appeals.

Article 5 - (1) Within a 10 – day term from the coming into effect of the present law, the Ministry of Public Finance has the duty to communicate to the Ministry of Labor and Social Solidarity, the National House of Health Insurance and to local public administration authorities the list of tax payers to whom provisions of the present title apply.

(2) Within a 30 – day term from the coming into effect of the present law, the list of the main tax payers having tax arrears on December 31, 2002, shall be published. For tax arrears, recorded on the same date by the other tax payers, the list shall be published within a 90 – day term from the coming into effect of the present law.

(3) Within a 15 – day term from the coming into effect of the present law, the Ministry of Public Finance, the Ministry of Labor and Social Solidarity, the National House of Health Insurance and the Ministry of Public Administration shall issue enforcement instructions.

TITLE II
Transparency in the Management of Information and Public Services through Electronic Devices

Chapter I
General Provisions

Article 6 – (1) The present title sets forth the objectives, principles, terms and conditions of use of the electronic procedure of access to information and public services and their delivery, as well as the general rules for ensuring, electronically, the transparency of information and public services, as a component of the public administration reform.

(2) Public administration authorities shall provide information and public services simultaneously through electronic devices and traditional procedures.

Article 7 - Objectives of the present title are the following:

a) decrease of public costs, fighting bureaucracy and corruption at the level of public institutions;
b) improving the level of transparency in the way of using and managing the public funds;
c) improving access to information and public services in compliance with the legislation regarding personal data protection and free access to public interest information;
d) eliminating the direct contact between a public servant working at the window and citizens or economic agents;
e) providing high quality public information and services electronically;
f) strengthening the administrative capacity of public institutions to perform their role and reach their objectives and to ensure provision of public services and information in a transparent manner;
g) promoting collaboration among public institutions for the electronic provision of public services;
h) redefining the relationship between citizens and public administration, respectively between the business environment and public administration, for the purpose of facilitating the former's access to public information and services, through computerized technology;
i) promoting the use of the Internet and of advanced technologies in public institutions.

Article 8 – (1) Principles laying the foundation of providing public information and services electronically are the following:

a) transparency in providing public information and services;
b) equal, non – discriminatory access to public information and services, including for disabled persons;

c) efficiency in using the public funds;
d) confidentiality, respectively, guaranteeing the protection of personal character data;
e) guaranteeing availability of public information and services.

(2) Public administration authorities have the duty to ensure observance of the principles provided by paragraph (1) in their relations with the natural persons or legal entities interested to use the computerized procedure for access to public information and services, as well as for information exchange.

Article 9 – (1) Through the present title, the National Computerized System is created, as a public utility computerized system, for the purpose of ensuring access to public information and of providing public services to natural persons and legal entities.

(2) Operators of the National Computerized System are:
a) the General Inspectorate for Communication and Information Technology, subordinated to the Ministry of Communication and Information Technology, for the „e – Governance System";
b) the Ministry of Public Administration, for the „e-Administration System";
c) an authority established by the Supreme Council for the Country Defense, in the terms approved by it, for the Defense and National Security System.

(3) Operators shall take the necessary steps for the development of the National Computerized System and shall act for its promotion.

(4) Operators shall use security standards and procedures of nature to ensure operations with a high degree of reliability and security within the National Computerized System, in compliance with the international practices in the field.

Article10 – Other natural persons or legal entities may be included in the National Computerized System, such as: banks, public notaries, experts, as provided by law.

Article11 – Under the present title, the following terms are defined as follows:

a) „electronic governance"– the use of applications based on computerized technology by the central public administration authorities for the purpose of:
1. improving access to public information and services of the central public administration authorities;
2. eliminating redtape procedures and simplifying the working methodologies;
3. improving the exchange of information and services among central public administration authorities;
4. improving the quality of public services at the level of the central public administration.

b) „electronic administration"– the use of applications based on computerized technology by the local public administration authorities for the purpose of:
1. improving access and provision of public information and services of the local public administration authorities to citizens;

2. eliminating redtape procedures and simplifying the working methodologies;
3. improving the exchange of information among components of the local public administration authorities;
4. improving efficiency, effectiveness and quality of public services at the level of the local public administration authorities.

c) The portal for access to services of electronic governance and to administrative forms of the central public administration in electronic format – the public utility computerized system – is accessible via Internet, at the following address: www.e-guvernare.ro, hereinafter the „e – Governance System".

d) The portal for access to electronic administration services and to local public administration administrative forms in electronic format – the public utility computerized system – is accessible via Internet, at the following address: www.e-administratie.ro, hereinafter "e-Administration System".

e) the „National Computerized System" – the integrated aggregate comprised of the e-Governance and the e-Administration Systems, accessible via Internet, at the following address: www.e-guvernare.ro.

f) **„**Computerized procedure" **–** the way through which a natural person and legal entity benefits from the technical facilities offered by the National Computerized System;

g) „Unidirectional interaction" is the computerized procedure through which beneficiaries of public information and services have access to administrative forms, which they can access, fill in and print, for the purpose of submitting or sending them to public administration authorities via traditional means;

h) „Bidirectional interaction" is the computerized procedure through which beneficiaries of public information and services have access to administrative forms, which they can access, fill in and print, for the purpose of submitting or sending them to public administration authorities via electronic means;

i) „Interoperability" – the capacity of computerized systems and products – programs, applications or services accessible through the National Computerized System – to communicate and exchange information in an effective and compatible manner.

Article12 – (1) The basic public services that are to be provided through electronic means are the following:

a) Computerized statement, notification and payment of taxes and fees owed by natural persons and legal entities to the state budget, to the state social insurance budget, the unemployment insurance budget, the unique national fund for social health insurance budget and to local budgets;

b) Job search services through recruitment agencies, such as: tracking jobs, the number of unemployed, filling in applications for finding a job, notification on available jobs;
c) Services of issuing authorizations and certificates, such as: filling in applications for obtaining urbanism certificates, construction or liquidation authorizations, filling in and electronically submitting the documents necessary to issuing authorizations and certificates, doing payments through electronic payment tools, setting appointments for the purpose of issuance of authorizations or certificates;
d) Services regarding the issuance of functioning licenses, such as: filling in applications for obtaining licenses, filling in and electronically submitting the documents necessary to issuing licenses, doing payments through electronic payment tools, setting appointments for the purpose of issuance of licenses;
e) Services related to obtaining environmental permits such as: filling in applications for obtaining environmental permits, doing payments through electronic payment tools;
f) Services related to public purchases done electronically, including doing payments through electronic payment tools;
g) Services regarding the registration of a commercial agent or to operating an endorsement in the Commerce Registry, such as: submitting the application of registration in the Commerce Registry, electronically submitting the statute, the contract of the company or other documents, reservation of the name, and setting appointments for the issuance of the legal authorization;
h) Services related to the computerized record of persons, such as: filling in the applications of issuance of passports, identity cards and driving licenses, notification of changes of domicile or residence , setting appointments for the issuance of such documents, statement of stealing or loss of such documents, tracking the resolution of complaints, publication of the lists of lost documents;
i) Services related to registration of vehicles, such as: notification on purchase of a new vehicle, optional reservation of a registration number, filling in the forms necessary for registration, setting appointments for registration and issuance of the certifying documents;
j) Public health services, such as : interactive information on the availability of services in health units, setting appointments for medical services, doing payments for medical services through electronic payment tools ;
k) Services related to access to public libraries, such as : consultation of catalogues, preparing the virtual national catalogue, consultation of books or publications in electronic format;
l) Enrolling in various forms of education, particularly in the high school and university education : electronically filling in and submitting the enrolling applications and of the documents;
m) Services related to collection of statistical data by the National Institute of Statistics, mainly: notifications on initiation of statistical surveys, filling in

questionnaires in electronic format, checking correlations in real time and notification in the event of errors, compiling, processing and publishing data;

n) Services related to registration of an association or foundation, such as : filling in the application of the name reservation, consultation of the National Registry of Non – Profit Legal Entities, doing payments through electronic payment tools;
o) Services related to customs statements, such as : preparing and submitting customs statements, doing payments of taxes and customs fees through electronic payment tools ;
p) Services related to consulting and issuance of a person's fiscal record;
q) Services of consulting the Official Journal of Romania.

(2) Additional services than those provided by paragraph (1) may be included in the National Computerized System through a Government decision.

Article13 – Quarterly, operators of the National Computerized System, together with the public administration authorities shall prepare reports with respect to the degree of use of the public services provided electronically, compared to the percentage of all the provided public services, and shall submit them to the Romanian Government.

Chapter II
The Computerized Procedure

Article14 – Public administration authorities have the duty to apply the computerized procedure provided by the present chapter, for providing public information and services through computers to natural persons or legal entities.

Article15 – Provision of public services set forth by Article 12 through the National Computerized System shall be implemented gradually, in the following steps:

a) Electronic publication of public interest information;
b) Unidirectional interaction;
c) Bidirectional interaction;
d) Doing payments through electronic payment tools.

Article16 – Development and operation of the National Computerized System shall be performed according to the following criteria:

a) computerized provision of public services and information shall be performed on categories of users, natural persons or legal entities, in an integrated manner, based on functionality and not on the competence of a public institution;
b) ensuring accessibility of natural persons or legal entities to the relevant public services and information through a unique unit: the National Computerized

System;

c) access to public services and information shall be integrated at a central, county or local level, through information and services provided through the computerized procedure;
d) access to the information stored by several public institutions shall be assured in such a manner to guarantee the protection of personal character data, as provided by the current legislation.

Article17 – The Ministry of Communication and Information Technology and the Ministry of Public Administration shall set procedures and norms, including those related to security, to assure the necessary degree of confidentiality and safety in use, for the purpose of a proper performance of the computerized procedure.

Article18 - (1) All the documents necessary within a computerized procedure shall be submitted and signed electronically, under the terms set by the operators of the National Computerized System.

(2) Any document in electronic format shall be registered at the moment when it is submitted and received, according to the procedure set by the operators of the National Computerized System.

(3) Any document in electronic format shall be confirmed when received, except for the documents confirming the receiving.

(4) The format of an electronic document, as well as the terms of its preparation, submission and storage shall be set by the operators of the National Computerized System, and approved by a Government decision.

Article19. - (1) The Group of Promotion of the Information Technology, created by the Government Decision No. 271/2001, approves the projects in the area of electronic governance, proposes the Government the allotting of the necessary funds through the annual budgets of the public administration authorities and supervises the implementation of public services through the computerized procedure, taking into account the following:

a) the priorities established through sectorial strategies in the field;
b) planning of funds and control of investments done in the area of the information technology;
c) information security;
d) protection of personal character data;
e) accessibility, dissemination and the manner of preservation of public information;

f) accessibility of the information technology to disabled persons;
g) other factors related to electronic governance.

(2) The Group of Promotion of the Information Technology shall have the following competencies:

a) proposes the allotting of the resources necessary to an effective development and administration of the electronic governance initiatives;
b) recommends adjustments of the national strategy and priorities with respect to electronic governance;
c) promotes the use of innovations in the area of the information technology by the public administration authorities, initiatives involving cooperation among several public authorities, through supporting pilot projects, research projects and the use of information technology;
d) monitors the way of implementation of the information technology projects, through the Ministry of Communication and Information Technology and of the Ministry of Public Administration;
e) coordinates, through the Ministry of Communication and Information Technology, the programs implemented at the level of the central public administration, for the purpose of providing electronic governance services and shall supervise the improvement of efficiency of the use of information technology by the public institutions of the central public administration;
f) coordinates, through the Ministry of Public Administration and the Ministry of Communication and Information Technology the programs implemented at the level of the local public administration, for the purpose of providing electronic administration services and shall supervise the improvement of efficiency of the use of information technology by the public institutions of the local public administration;
g) coordinates the activity of the Ministry of Communication and Information Technology in developing its policies that will contribute to the adoption, at a national level, of a set of standards and recommendations in the area of information technology, regarding the efficiency and security of electronic governance systems ;
h) coordinates the activity of the Ministry of Communication and Information Technology and of the Ministry of Public Administration in developing their policies that will contribute to the adoption, at a national level, of a set of standards and recommendations in the area of information technology, with respect to interconnectivity and inter – operativeness of the electronic governance systems and of their attached databases.

Article 20 – (1) For the purpose of covering the costs of operation and use of the National Computerized System, any legal entity using the computerized procedure for being provided certain services shall have to pay, as the case may be, an annual use fee to the operators of the National Computerized System.

(2) The amount of the use fee and the categories of users exempted from paying it shall be set by a Government decision.

(3) The obligation of payment of the use fee provided by paragraph (1) arises at the moment of registration in the system.

(4) Natural persons and public institutions do not have to pay any use fee.

(5) The fee provided by paragraph (1) shall become income to the budget of the National Computerized System's operators.

Article 21 - The Ministry of Public Administration and the Ministry of Communication and Information Technology shall develop strategies of development of the National Computerized System, according to the priorities and directions set by the Group of Promotion of Information Technology.

Article22 – Every year, up to March 31, the Ministry of Communication and Information Technology, the Ministry of Public Administration, and the Ministry of Public Information shall submit to the Government, with the approval of the Group of Promotion of Information Technology, a report regarding the status of providing public services and information through the computerized procedure.

Chapter III
Terms of Participation in the Computerized Procedure

Article23 – Any natural person or legal entity has the right to access to public information and services, through computerized procedure, under terms provided by Law No. 544/2001 and by the present title.

Article24 - (1) Participation in the computerized procedure can take place only after the registration in the National Computerized System.

(2) The registration terms and procedure shall be set forth through a Government decision.

(3) Any natural person or legal entity of Romania has the right to request his/her registration in the National Computerized System.

(4) All public administration authorities have the obligation to register in and use the National Computerized System.

Chapter IV
Implementation of the National Computerized System

Article 25. – (1) Public administration authorities who have the obligation to apply provisions of the present title, as well as the administrative forms and public services, respectively the dates when they are included in the computerized procedure shall be set

by a Government decision.

(2) Registration in the National Computerized System of public administration authorities interested in being included in the computerized procedure shall be done gradually, with the approval of operators of the system, through a Government decision.

Article26 – Within a 60 – day term from the registration in the National Computerized System, any public administration authority shall submit to the Ministry of Communication and Information Technology and to the Public Administration Ministry the standard administrative forms, which are used in relations with natural persons and legal entities, and which will be available through the National Computerized System.

Article27 – (1) Within a 6 – month term from the registration in the National Computerized System, any public administration authority has the obligation to use administrative forms in electronic format through the National Computerized System, established according to Article 25.

(2) Within a 12 – month term from the registration in the National Computerized System, public institutions of the central public administration have the obligation to gradually implement and use public services provided by the National Computerized System, set in compliance with Article 25, according to the computerized systems existing at the level of each institution.

(3) Within a 24 – month term from the registration in the National Computerized System, public institutions of the local public administration have the obligation to gradually implement and use public services provided by the National Computerized System, set in compliance with Article 25, according to resources and computerized systems existing at the level of each institution.

Article 28 – (1) Within a 60 – day term from the coming into effect of the present title, all public administration authorities shall communicate to the Ministry of Public Administration, the Ministry of Communication and Information Technology, and the Ministry of Public Information, data regarding the existence of an individual website on the Internet, through which public information and services are provided electronically.

(2) Within a 60 – day term from the coming into effect of the present title, all public administration authorities shall communicate to the Ministry of Public Administration, the Ministry of Communication and Information Technology, and the Ministry of Public Information, data referring to the computerized system existing at their level and to public services provided through them, as well as on the categories of users they address.

Article 29 - Within a 6 – month term from the registration in the National

Computerized System, any public administration authority, set in compliance with Article 25, has the obligation to create its own website on the Internet.

Article 30 – Setting up of websites of public administration authorities on the Internet shall take into account the following performance criteria:

a) the speed to find the information;
b) accessibility and availability of the provided public information and services;
c) relevance of the posted information;
d) structuring of the information;
e) existence of certain measures for the protection of personal character data;
f) existence of certain security measures for the information protection.

Chapter V
Final Provisions

Article31 – The Ministry of Public Administration and the Ministry of Communication and Information Technology may adopt, where necessary, mandatory norms for the use of the National Computerized System, depending on the level of development of the technology and of the necessary security requirements.

Article 32 -(1). By January 31, 2004, the Ministry of Public Administration shall create, through a Government decision, the National Informatics Center of the Ministry of Public Administration, which shall maintain, develop and promote the „e-Administration" System.
(2) Beginning with February 1, 2002, the National Informatics Center of Integrated Databases of the Ministry of Public Administration shall become the operator of the „e-Administration" System.

Article33 – Provisions of the present title shall come into effect within 30 days from the publication of the law in the Official Journal of Romania.

Title III
Preventing and Fighting Cyber Crime

Chapter I
General Provisions

Article 34 – The present title regulates prevention and fighting cyber crime, through specific prevention, identification and sanctioning measures of offences committed through computerized systems, by ensuring the observance of human rights and the protection of personal character data.

Article 35 - (1) Under the present title, the terms and expressions below are defined as follows:

a) „computerized *system*" - any device or aggregate of devices interconnected or being in a functional relation, one or more of which endure the automatic data processing, with the help of an computer program;

b) „*automatic data processing*" - the process through which data of a computerized system are processed through a computer program;

c) „*computer program*" – a set of instructions that can be executed by an computerized system for the purpose of obtaining a previously determined result;

d) „*electronic data*" – any representation of facts, information or concepts in a form that can be processed through a computerized system. In this category, any program that can determine the execution of a function by a computerized system shall be included;

e) „*service provider*":

1. any natural person or legal entity providing users with the possibility to communicate through computerized systems;

2. any other natural person or legal entity processing or storing electronic data for persons provided by point 1 and for the users of services provided by them ;

f) „*data referring to the informational traffic*" – any electronic data referring to a communication performed through a computerized system and produced by it, which represents a component of the communication chain, indicating the communication source, destination, route, time, date, amount, volume and duration, as well as the type of service used for communication;

g) "*data referring to users*"- any information that can lead to the identification of a user, including the type of communication and the used service, his/her e-mail address, mail address, geographic location, phone numbers or any other access numbers, and the way of payment of the respective service, as well as any other data that can lead to the identification of a user;

h) „*security measures*" – the use of specialized procedures, devices or programs, with which help access to a computerized system is limited or prohibited for certain categories of users;

i) „*juvenile pornography materials*" - any material presenting a juvenile who has an explicit sexual behavior or an adult person presented as a juvenile, who has an explicit sexual behavior, or images which, even though do not show a real person, simulate, in a credible way, a juvenile having an explicit sexual behavior.

(2) Under the present title, a person being in the following situations shall act illegally:

a) is not authorized under the law or a contract;
b) exceeds the limits of the authorization;
c) was not granted the permission by the person competent to grant it under the law, to use, administer or control a computerized system or to conduct scientific research, or to perform any other operation in a computerized system.

Chapter II
Prevention of Cyber Crime

Article36 – In order to ensure the security of computerized systems and the protection of personal character data, public authorities and institutions having competencies in the area, service providers, non – governmental organizations and other representatives of the civil society shall carry out common activities and programs of prevention of cyber crime.

Article37 – Public authorities and institutions having competencies in the area, in

collaboration with service providers, non – governmental organizations and other representatives of the civil society shall promote policies, practices, measures, procedures, and minimum standards of security of the computerized services.

Article38 - Public authorities and institutions having competencies in the area, in collaboration with service providers, non – governmental organizations and other representatives of the civil society shall organize awareness and information campaigns regarding cyber crime and the risks to which computerized system users are exposed.

Article39 – (1) The Ministry of Justice, the Ministry of Interior, the Ministry of Communication and Information Technology, the Romanian Intelligence Service and the Foreign Information Service shall create and permanently update databases with respect to cyber crime.

(2) The National Institute of Criminology subordinated to the Ministry of Justice shall conduct periodically studies for the purpose of identification of the reasons determining, and of the factors favoring cyber crime.

Article40 - The Ministry of Justice, the Ministry of Interior, the Ministry of Communication and Information Technology, the Romanian Intelligence Service and the Foreign Information Service shall conduct special training and development programs for the personnel having competencies in prevention and fighting cyber crime.

Article41 – Owners or administrators of computerized systems, to which access is restricted or prohibited for certain categories of users, have the obligation to warn users with respect to the legal terms of access and use, as well as to the legal consequences in case of illegal access to such computerized systems. The warning shall be available to all users.

Chapter III
Offences and Infringements

Section 1
Offences against Confidentiality and Integrity of Data and Computerized Systems

Article42 – (1) Access without an authorization to a computerized system shall be considered an offence and shall be sanctioned by a jail sentence of between 3 months to 3 years or by a fine.

(2) The offence provided by paragraph (1), committed for the purpose of obtaining electronic data, shall be sanctioned by jail sentence of between 6 months to 5 years.

(2) If the offence provided by paragraphs (1) or (2) is committed by violation of the security measures, the jail sentence shall be of between 3 to 12 years.

Article43 – (1) Interception without an authorization of a transmission of information, which has not a public character and which is intended for a computerized system, comes from such a system or is performed within a computerized system, shall be considered an offence and shall be sanctioned by a jail sentence of between 2 to 7 years.

(2) The same sentence shall be applied to interception without an authorization of an electromagnetic emission coming from a computerized system containing data which have not a public character.

Article44 – (1) The deed to modify, delete or alter electronic data or to restrict access to such data, without an authorization, shall be considered an offence and shall be sanctioned by a jail sentence of between 2 to 7 years.

(2) The unauthorized transfer of data from a computerized system shall be sanctioned by a jail sentence of between 3 to 12 years.

(3) Also, the unauthorized transfer of data from an electronic data storage device shall be sanctioned by the jail sentence provided by paragraph (2).

Article45 – Serious disturbance, without an authorization, of a computerized system functioning, through introduction, transmission, modification, deleting or alteration of electronic data or through restricting access to such data shall be considered an offence and shall be sanctioned by a jail sentence of between 3 to 15 years.

Article46 – (1) The following are considered offences and shall be sanctioned by a jail sentence of between 1 to 6 years:

a) the deeds to produce, sell, import, distribute or make available, under any form, without an authorization, a computer device or program designed or adapted for the purpose of committing any of the offences provided by Articles 42 – 45;
b) the deeds to produce, sell, import, distribute or make available, under any form, without an authorization, of a password, access code or any other such electronic data, which allow full or partial access to a computerized system, for the purpose of committing any of the offences provided by Articles 42 – 45;

(2) The same sanction shall be applied for unauthorized possession of an computer device, password, access code or of any other electronic data of the ones provided by paragraph (1), for the purpose of committing any of the offences provided by Articles 42 – 45;

Article47 – Any attempt to commit offences provided by Articles 42 – 46 shall be sanctioned.

Section 2
Cyber Offences

Article48. – Unauthorized introduction, modification or deleting of electronic data, or unauthorized restriction of access to such data, resulting in data which do not

correspond to reality, for the purpose to be used for producing a certain legal consequence, shall be considered an offence and shall be sanctioned by a jail sentence of between 2 to 7 years.

Article49 – The deed of causing financial damages to a person through introduction, modification or deleting electronic data, through restricting access to such data or through preventing the functioning of a computerized system in any other way, for the purpose of obtaining material benefits for oneself or for other person, shall be considered an offence and shall be sanctioned by a jail sentence of between 3 to 12 years.

Article 50 – Any attempt to commit any of the offences provided by Articles 48 and 49 shall be sanctioned.

Section 3
Juvenile Pornography through Computerized Systems

Article 51 – (1) Producing for the purpose of dissemination, offering or making available, spreading or transmitting, procurement, for oneself or for other persons, of juvenile pornographic materials through computerized systems, or unauthorized possession of juvenile pornographic materials in a computerized system or in an electronic data storage device, shall be considered offences and shall be sanctioned by a jail sentence of between 3 to 12 years and deprivation of certain rights.

(2) Any attempt to commit the offences provided above shall be sanctioned.

Section 4
Infringements

Article 52 – The failure to comply with the obligation provided by Article 41 shall be considered an infringement and shall be sanctioned by a fine of between 5,000,000 to 50,000,000 Romanian lei.

Article 53 – (1) The personnel authorized for this purpose by the Minister of communications and information technology, as well as the personnel specially authorized of the Ministry of Interior shall make the finding of the infringement provided by Article 52 and shall apply the sanction.

(2) Provisions of the Government Ordinance No. 2/2001, on the Legal Status of Infringements, approved with modifications and completions through Law No. 180/2002, with subsequent modifications, shall be applicable to the infringement provided by Article 52.

Chapter IV

Procedure Provisions

Article 54 - (1) In emergency and well – grounded situations, if there are grounded data or evidence related to the preparation or commission of an offence through computerized systems, immediate preservation of electronic data or of data referring to informational traffic, which are in danger to be destroyed or altered may be ordered, for the purpose of producing evidence or of identifying the perpetrators.

(2) During a criminal investigation, data preservation shall be ordered by the prosecutor, through a motivated ordinance, at the request of the criminal investigation body or *sua sponte*, while during the trial, preservation shall be ordered by the court, through an intermediate decision.

(3) The measure provided by paragraph (1) shall be ordered for a period of time that shall not exceed 90 days, and may be prolonged just once, for a period that shall not exceed 30 days.

(4) The prosecutor's ordinance or the court's intermediate decision shall be communicated immediately to any service provider or to any person in whose possession the data provided by paragraph (1) are, the latter having the obligation to preserve the data immediately, in terms of confidentiality.

(5) In the event where data referring to informational traffic are in the possession of several service providers, the service provider set forth by paragraph (4) has the obligation to immediately make available all the information necessary to identify the other service providers to the criminal investigation body or the court, for the purpose of identifying all the links of the used communication chain.

(6) Until the criminal investigation is finalized, the prosecutor has the duty to notify in writing the persons against whom the criminal investigation is conducted and whose data were preserved.

Article55 – (1) Within the term provided by paragraph (3) of Article 54, the prosecutor, based on a motivated authorization issued by the prosecutor expressly assigned by the attorney general of the prosecutors' office by a court of appeal or, as the case may be, by the General Attorney of the Prosecutors' Office by the Supreme Court of Justice, or the court shall issue an order of taking all objects containing electronic data, informational traffic data or data on users, from the person or service provider having them in possession, for the purpose of making copies of them, which can serve as evidence.

(2) If objects containing electronic data or informational traffic data are not voluntarily made available to the criminal investigation bodies, for making copies after them, the prosecutor provided by paragraph (1) or the court shall order seizure of those objects. During the trial, the seizure order shall be communicated to the prosecutor, who takes steps for its enforcement, through the criminal investigation body.

(3) Copies provided by paragraph (1) shall be made with appropriate technical devices and procedures, of nature to ensure the integrity of information contained by

them.

Article56 – (1) Anytime the investigation of a computerized system or a data storage support is necessary for identifying and producing evidence, the competent body provided by law may order a search.

(2) If the criminal investigation body or the court consider that taking the objects containing data provided by paragraph (1) may seriously affect the activity of persons having such objects in their possession, the former may order making copies, which may serve as evidence and which shall be made according to paragraph (3) of Article 55.

(3) In the event when, in the investigation of a computerized system or a data storage support, it is found that the searched electronic data are contained by another computerized system or storage data support and are accessible from the initial system or support, authorization of a search may be ordered immediately, for the purpose of investigation of all the computerized systems or storage supports of the searched data.

(4) Provisions of the Criminal Procedure Code with respect to conducting a domicile search shall apply accordingly.

Article57 – (1) Access in a computerized system, as well as interception and record of communications done through computerized systems may be done when they are useful for finding the truth, while finding of a factual situation or identification of perpetrators shall not be done based on any other evidence.

(2) Measures provided by paragraph (1) shall be enforced by the criminal investigation bodies, assisted by specialized persons, who have the duty to maintain confidentiality on the performed operation, with a motivated authorization, issued by the prosecutor expressly assigned by the attorney general of the prosecutors' office by a court of appeal or, as the case may be, by the General Attorney of the Prosecutors' Office by the Supreme Court of Justice or by the Attorney General of the National Anti – Corruption Prosecutors' Office.

(3) The authorization provided by paragraph (2) shall be issued for maximum 30 days, with a possibility of prolongation under the same terms, for well – grounded reasons, on condition that each prolongation may not exceed 30 days. The maximum period of the authorized measure may not exceed 4 months.

(4) Until a criminal investigation is finalized, the prosecutor has the duty to notify in writing the persons against whom the measures provided by paragraph (1) were ordered.

(5) Provisions of the Criminal Procedure Code referring to audio and video surveillance shall apply accordingly.

Article58 – Provisions of the present chapter shall apply to criminal investigation or trial of cases related to offences provided by the present title and of any other offences committed through computerized systems.

Article59 – In the event of offences provided by the present title and of any other

offences committed through computerized systems, insurance steps provided by the Criminal Procedure Code may be taken, in order to guarantee enforcement of the special seizure provided by Article 118 of the Criminal Code.

Chapter V
International Cooperation

Article60 – (1) The Romanian judiciary shall cooperate directly, as provided by law and by observing the obligations originating from the international legal instruments to which Romania is part`, with the institutions having similar competencies of other states, as well as with international organizations specialized in the area.

(2) Cooperation, which is organized and carried out in compliance with paragraph (1) may have as a subject, as the case may be, international legal assistance in the criminal area, extradition, identification, blocking, seizure and confiscation of products and instruments of offences, conducting common investigations, exchange of information, technical or any other kind of assistance in collecting and analyzing information, training of specialized personnel, as well as other such activities.

Article 61 – (1) At the request of the Romanian or of other states' competent authorities, common investigations may be conducted in the Romanian territory, for the purpose of preventing and fighting cyber criminality.

(2) Common investigations provided by paragraph (1) shall be conducted based on bilateral or multilateral agreements, concluded by the competent authorities.

(3) Representatives of the Romanian competent authorities may take part in common investigations conducted in the territory of other states, by observing the latter's legislation.

Article 62 - (1) For the purpose of ensuring an immediate and permanent international cooperation in the area of fighting cyber criminality, the Service for Preventing and Fighting Cyber Criminality shall be created, as a permanently available contact agent, within the Section for Fighting Organized Crime and Anti – Drugs of the Prosecutors' Office by the Supreme Court of Justice.

(2) the Service for Preventing and Fighting Cyber Criminality shall have the following competencies:

a) to provide the similar contact agents of other states with specialized assistance and data on the Romanian legislation in the area;
b) to order immediate preservation of data, as well as taking of objects containing electronic data or data referring to informational traffic, requested by a foreign competent authority;
c) to enforce or facilitate enforcement of rogatory transfers of competency in cases related to fighting cyber criminality, by cooperating with all the Romanian competent authorities.

Article 63 - (1) Within the international cooperation, foreign competent authorities may request the Service for Preventing and Fighting Cyber Criminality the immediate preservation of electronic data or of data referring to informational traffic, existing in a computerized system in the territory of Romania, on which the foreign authority is to submit an application of international legal assistance in the criminal area.

(2) The request of immediate preservation provided by paragraph (1) shall contain the following:

a) name of the authority requesting the preservation;
b) a brief description of facts being subject to criminal investigation and their cause of action;
c) the electronic data requested to be preserved;
d) any available information, necessary to identify the holder of the electronic data and the location of the computerized system;
e) utility of the electronic data and necessity of their preservation;
f) the foreign authority intention to formulate an application of international legal assistance in the criminal area.

(3) A preservation request shall be enforced according to Article 54, for a period no shorter than 60 days, and shall be valid until the Romanian competent authorities make a decision on the application of international legal assistance in the criminal area.

Article 64 - If, while enforcing a request submitted under paragraph (1) of Article 63, it is found that a service provider of another state is in possession of certain data on informational traffic, the Service for Preventing and Fighting Cyber Criminality shall inform without delay the requesting foreign authority on this, communicating at the same time the information necessary to identify the respective service provider.

Article 65 - (1) A foreign competent authority may have access to the Romanian public sources of electronic public data, without being necessary to submit a request to the Romanian authorities for this purpose.

(2) A foreign competent authority may have access or may receive, through a computerized system existing in its territory, electronic data stored in Romania, on condition it has the approval of the competent authority, as provided by law, and to make the information available without being necessary to submit a request to the Romanian authorities for this purpose.

Article 66 – The Romanian competent authorities may deliver *sua sponte* to foreign competent authorities information and data in their possession, necessary for the detection of offences committed through computerized systems or for resolution of cases related to such offences by the competent authorities, in compliance with legal provisions on protection of personal character data.

Article 67 – Article 29 of the Law No. 365/2002 on the Electronic Commerce, published in the Official Journal of Romania, Part I, No. 483 on May 7, 2002, shall be cancelled.

Title IV
Conflict of Interests and Status of Incompatibilities in Performing High Official and Public Positions

Chapter I
General Provisions

Article68 – The present title regulates the conflict of interests and the status of incompatibilities that may occur in performing high official and public positions.

Article69 – (1) The present title shall apply to people performing the following high official and public positions:

a) the President of Romania;

b) deputy and senator;

c) presidential councilor and state councilor of the presidential administration;

d) prime – minister, minister, delegate minister, state secretary, state sub - secretary and functions assimilated to these, prefect and deputy prefect

e) magistrates;

f) locally elected representatives;

g) public servants.

(2) Functions assimilated to those of minister, state secretary and sub - secretary in some central public authorities are those provided by the norms on organization and functioning of these authorities.

(3) Locally elected representatives are: mayors, deputy mayors, the General Mayor of Bucharest municipality and his deputy mayors, presidents and vice – presidents of county councils, local and county councilors.

Chapter II
Conflict of Interests

Section 1
Definition and Principles

Article70 – Conflict of interests is defined as the situation when a person holding a

high official or public position has a personal financial interest, which could influence the objective performance of his/her competencies, as provided by the Constitution and other legal norms.

Article71 – Principles laying the foundation of prevention of conflict of interests in performing a high official or public position are the following: impartiality, integrity, transparency of decision – making and prevalence of the public interest.

Section 2
Conflict of Interests in Performing a Position of Member of the Government and of Other Public Authority Positions in the Central and Local Public Administration

Article72 - (1) While performing his/her public authority function, a person holding a position of member of the Government, state secretary, state sub - secretary or positions assimilated to these, prefect or sub – prefect, has the duty to refrain from issuing any administrative document or from concluding any legal document, or from participating in any decision – making, which produces any material benefit for his/herself, for his/her spouse or 1st degree relatives.

(2) Obligations provided by paragraph (1) shall not apply on the issuance, approval and adoption of normative documents.

Article73 – (1) Violation of the obligations provided by paragraph (1) of Article 72 shall be considered administrative infringements under the law, on condition it is not a more serious deed.

(2) Administrative documents issued, or legal documents concluded in violation of the obligations provided by paragraph (1) of Article 72 shall be subject to absolute nullity.

(3) Verification of petitions with respect to violation of the obligations provided by paragraph (1) of Article 72 shall be carried out by the prime minister's Control Body. The result of verifications shall be submitted to the prime minister, who shall dispose, through a decision, on the steps to be taken.

(4) If, from the verifications conducted under paragraph (3), it results that the person against whom a petition was submitted obtained material benefits through commission of the administrative infringement provided by paragraph (1), the prime minister shall dispose, as the case may be, either on the notification of the competent criminal investigation authorities or of the commissions having the competence to investigate assets, created under Law No. 115/1996, on Statement and Control of Assets of High Officials, Magistrates, of Persons Holding Leadership and Control Positions, and of Public Servants.

(5) The prime minister's decision may be appealed in the Bucharest Court of Appeal, within a 15 – day term from the date it was communicated. The decision of the Court of Appeal is subject to final appeal.

(6) An irrevocable court decision or, as the case may be, the prime minister's

decision, which was not appealed in the term provided by paragraph (5), shall be published in the Official Journal of Romania, Part I.

(7) Any person who committed an administrative infringement, found under paragraphs (3) – (6), shall be deprived of the right to perform any of the public positions provided by paragraph (1) of Article 72, for a period of 3 years from the date of publication of the court decision or, as the case may be, of the prime minister's decision.

Article74 – (1) In the event of a conflict of interests set forth by the present section, the Prime – minister may be notified by any person or he/she may notify himself/herself *ex officio*.

(2) Any person who notified a conflict of interests shall be communicated in writing the way in which his/her petition was resolved, within a 30 – day term from the date of its resolution.

Article75 – Any person who considers him/herself harmed in any of his/her rights or legitimate interests, as a result of the existence of a conflict of interests provided by the present section may address the competent court, as provided by law, depending on the nature of the issued or concluded document.

Section 3
Conflict of Interests Regarding the Locally Elected Representatives

Article76 – (1) While holding their position, mayors and deputy mayors, the General Mayor of Bucharest municipality and his/her deputy mayors have the obligation to refrain from issuing any administrative document or from concluding any legal document, or from issuing any order, which results in personal benefits for themselves, their spouses or their 1st degree relatives.

(2) (2) Administrative documents issued, or legal documents concluded, or orders issued in violation of the obligations provided by paragraph (1) shall be subject to absolute nullity.

(3) If, from the control of legality of legal documents concluded or issued by persons provided by paragraph (1), it results that a locally elected representative obtained material benefits, the prefect shall dispose, as the case may be, either on the notification of the competent criminal investigation authorities or of the commissions having the competence to investigate assets, created under Law No. 115/1996, on Statement and Control of Assets of High Officials, Magistrates, of Persons Holding Leadership and Control Positions, and of Public Servants.

(4) Any interested person may notify in writing the prefect on facts provided by paragraph (1). Provisions of paragraph (3) shall apply accordingly.

Article77 – Conflicts of interests for presidents and vice – presidents of the county councils or for local and county councilors are set forth by Article 47 of the Law on

Public Administration No. 215/2001.

Article78 - Any person who considers him/herself harmed in any of his/her rights, or legitimate interests as a result of the existence of a conflict of interests provided by the present section may address the competent court, as provided by law, depending on the nature of the issued or concluded document.

Section 4
Conflict of Interests Regarding Public Servants

Article79 – (1) A public servant shall be in a conflict of interests if he/she finds him/herself in any of the following situations:

a) is in the position to resolve petitions, make decisions or participate in making decisions with regard to natural persons and legal entities, with whom he/she has patrimonial relationships;
b) participates in the same legally appointed committee with public servants who are his/her spouse or 1st degree relatives;
c) financial interests of his/her spouse or 1st degree relatives may influence the decisions he/she has to make in performing a public service;

(2) In the event of existence of a conflict of interests, a public servant has the duty to abstain from the resolution of the petition, making a decision or from participating in making a decision and to immediately inform his/her hierarchical superior, to whom the former is directly subordinated. Within maximum 3 days from the date he/she was informed, the latter has the duty to take the necessary steps for an impartial performance of a public function.

(3) In situations provided by paragraph (1), the head of the public authority or institution, at the proposal of the hierarchical superior to whom the respective public servant is directly subordinated, shall appoint another public servant, who has the same competence and professional experience.

(4) Violation of provisions of paragraph (2) may entail, as the case may be, disciplinary, administrative, civil or criminal liability, as provided by law.

Chapter III
Incompatibilities

Section 1
General Provisions

Article80 – Incompatibilities related to high official and public positions are regulated by the Romanian Constitution, the law applicable to the public authority or institution in which persons performing a high official or a public position carry out their activity, as well as by provisions of the present title.

Section 2
Incompatibilities Regarding the Position of Parliamentarian

Article81 – (1) The position of deputy or senator is incompatible with the performance of any other public authority position, except for the one of member of the Government, as provided by the Romanian Constitution.

(2) The public authority positions incompatible to the position of deputy or senator are the public administration positions assimilated to those of minister, state secretary and state sub - secretary positions, and those assimilated to them within the specialized bodies subordinated to the Government or ministries, positions in the presidential administration, of the staff of the Parliament and Government, leadership positions specific to ministries, to other public authorities and institutions, positions of local and county councilors, prefects, deputy prefects and the other leadership positions in the staff of prefects' offices, mayor, vice – mayor and secretary of territorial – administrative units positions, leadership and executive positions of decentralized public services of ministries and other bodies of the territorial – administrative units and of their own staff, and of public services of county and local councils, as well as positions which, according to the law, do not allow the persons holding them to run for elections.

Article82 – (1) The position of deputy and senator is also incompatible to:

a) a position of president, vice – president, director, manager, member of the board or auditor of a commercial company, including banks or other credit institutions, insurance and financial companies, as well as of public institutions;
b) a position of chairman or secretary of general assemblies of shareholders or associates of commercial companies provided by point a);
c) a position of representative of the state in general assemblies of commercial companies provided by point a);
d) a position of manager or member of the board of state controlled companies (*regii autonome),* national companies and enterprises;
e) a position of natural person trader;
f) a position of member of a small economic interest group;
g) a public position granted by a foreign state, except for those positions provided by agreements and conventions to which Romania is a party.

(2) As an exception, the Permanent Bureaus of the Chamber of Deputies or of the Senate, at the proposal of the Government, and with the approval of the Legal Commissions, may agree with the participation of a deputy or senator as a state representative in the general assembly of shareholders or as a member of the board of *regii autonome*, national companies or enterprises, public institutions or of commercial companies, including banks or other credit institutions, insurance and financial companies of strategic interest or in case when a public interest requires it.

(3) Deputies and senators may perform positions or activities in the teaching, scientific research, and literary – creation areas.

Article83 – (1) Any deputy or senator who, on the date of coming into effect of the present title, finds him/herself in any of the incompatibilities provided by Articles 81 and 82 shall inform the Permanent Bureau of the Chamber which member he/she is, within a 15 – day term.

(2) Within a 60 – day term from the expiration of the term set forth by paragraph (1), a deputy or a senator shall choose between the parliamentarian mandate and the position generating the incompatibility, resigning from either of the positions.

(3) After the expiration of the term provided by paragraph (2), if the incompatibility situation continues to exist, the deputy or senator shall be considered resigned from his/her position of deputy or senator. Resignation shall be presented to the Chamber which member the parliamentarian is. The decision of the Chamber , which confirms the resignation, shall be published in the Official Journal of Romania, Part I.

(4) The procedure of finding an incompatibility is the one set forth by the By – Laws of the Chamber of Deputies and by the By – Laws of the Senate.

Section 3
Incompatibilities Regarding the Position of Member of the Government and other Public Authority Positions in the Central and Local Public Administration

Article84 - (1) The position of member of the Government is incompatible to:

a) any other public authority position, except for the one of deputy or senator, or for other situations provided by the Constitution;
b) any position of paid professional representation in commercial organizations;
c) a position of president, vice – president, general director, director, manager, member of the board or auditor of a commercial company, including banks or other credit institutions, insurance and financial companies, as well as of public institutions;
d) a position of chairman or secretary of general assemblies of shareholders or associates of commercial companies provided by point c);
e) a position of representative of the state in general assemblies of commercial companies provided by point c);
f) a position of manager or member of the board of *regii autonome,* national companies and enterprises;
g) a position of natural person trader;
h) a position of member of a small economic interest group;
i) a public position granted by a foreign state, except for those positions provided by agreements and conventions to which Romania is a party.

(2) The positions of state secretary, state sub - secretary and positions assimilated to these are incompatible with performance of another public authority position, as well as to performance of positions provided by paragraph (1), points b) – i).

(3) As an exception, the Government may approve the participation of persons

provided by paragraphs (1) and (2) as state representatives in the general assembly of shareholders or as members of the board of *regii autonome*, national companies or enterprises, public institutions or of commercial companies, including banks or other credit institutions, insurance and financial companies of strategic interest or in case when a public interest requires it.

(4) Members of the Government, state secretaries, state sub - secretaries and persons performing positions assimilated to these may perform positions or activities in the teaching, scientific research and literary – artistic creation areas.

Article85 – (1) A position of prefect is incompatible to:

a) a position of deputy or senator;

b) a position of mayor, vice - mayor, general mayor and vice - mayor of Bucharest;

c) a position of local or county councilor;

d) a paid position of professional representation in commercial organizations;

e) a position of president, vice – president, general director, director, manager, member of the board or auditor of a commercial company, including banks or other credit institutions, insurance and financial companies, as well as of public institutions;

f) a position of chairman or secretary of general assemblies of shareholders or associates of commercial companies provided by point c);

g) a position of representative of the state in general assemblies of commercial companies provided by point c);

h) a position of manager or member of the board of *regii autonome,* national companies and enterprises;

i) a position of natural person trader;

j) a position of member of a small economic interest group;

k) a public position granted by a foreign state, except for those positions provided by agreements and conventions to which Romania is a party.

(2) Prefects and deputy prefects may perform positions or activities in the teaching, scientific research and literary –artistic creation areas.

Article86 – (1) A person performing any of the public authority positions provided by Articles 84 and 85 has the duty, on the date of taking the oath, to state that he/she does not find him/herself in any of the situations of incompatibility provided by law.

(2) In case that, during the performance of any of the public authority positions provided by Articles 84 and 85, any of the incompatibility situations provided by law occurs, the procedure shall be as follows:

a) for the position of prime – minister, minister and delegate minister, appropriate provisions of Law No. 90/2001 on Organization and Functioning of the Romanian Government and of Ministries shall apply accordingly;

b) for the position of state secretary and state sub - secretary and for positions assimilated to these, as well as for the positions of prefect and deputy prefect, the minister of public administration shall find the incompatibility situation and inform the Prime –

minister, who will dispose the necessary measures;

Section 4
Incompatibilities Regarding Locally Elected Representatives

Article87 – (1) Any position of mayor, vice - mayor, general mayor and vice - mayor of Bucharest, president and vice- president of county councils is incompatible to:

a) a position of local councilor;
b) a position of prefect or deputy prefect;
c) a position of public servant or employed based on an individual labor contract, irrespective of its duration;
d) a position of president, vice – president, general director, director, manager, member of the board or auditor or any other leadership or executive position in a commercial company, including banks or other credit institutions, insurance and financial companies, of state controlled companies (*regii autonome)* of national or local interest, of national companies and enterprises, as well as of public institutions;
e) a position of chairman or secretary of general assemblies of shareholders or associates of commercial companies;
f) a position of representative of the administrative – territorial unit in general assemblies of local interest commercial companies or of representative of the state in the general assembly of a national interest commercial company;
g) a position of natural person trader;
h) a position of member of a small economic interest group;
i) a position of deputy or senator;
j) a position of minister, state secretary, state sub - secretary or any other position assimilated to these;
k) any other public positions or paid activities, in the country or abroad, except for the position of teacher or for positions within some associations, foundations or other non – governmental organizations.

(2) Mayors, deputy mayors, the general mayor and vice – mayors of Bucharest may not hold, during the performance of their mandate, a position of county councilor.

(3) Mayors, deputy mayors, the general mayor and vice – mayors of Bucharest may perform positions or activities in the teaching, scientific research and literary –artistic creation areas.

Article88 – (1) A position of local or county councilor is incompatible to:

a) a position of mayor or vice - mayor;
b) a position of prefect or deputy prefect;
c) a position of public servant or employed based on an individual labor contract in the staff of the respective local council or in the staff of the respective county council, or of the prefect's office of the respective county;
d) a position of president, vice – president, general director, director, associate,

manager, member of the board or auditor of local interest state controlled companies (*regii autonome)* and commercial companies created or being under the authority of the respective local or county council or of national interest state controlled companies (*regii autonome)* and commercial companies, which have their location or have affiliates in the respective territorial – administrative unit;

e) a position of president or secretary of general assemblies of shareholders or associates of a local interest commercial company or of a national interest commercial company having its location or affiliates in the respective territorial – administrative unit;
f) a position of representative of the state in a commercial company having its location or affiliates in the respective territorial – administrative unit;
g) a position of deputy or senator;
h) a position of minister, state secretary, state sub - secretary and any other positions assimilated to these.

(2) No person may hold simultaneously a mandate of local councilor and one of county councilor.

(3) Local and county councilors may perform positions or activities in the teaching, scientific research and literary –artistic creation areas.

Article89 – (1) A position of locally elected representative is incompatible also to the quality of significant shareholder of a commercial company created by a local council, respectively by a county council.

(2) Incompatibility occurs also in the situation where the spouse or 1st degree relatives of a locally elected representative are significant shareholders of any of the economic units provided by paragraph (1).

(3) Significant shareholder is a person holding shares, which, summed up, represent at least 10% of the social capital of a company or give him/her at least 10% of the voting rights in the general assembly of shareholders.

Article90 – (1) Local and county councilors holding a position of president, vice – president, general director, director, manager, administrator, member of the board or auditor, or any other leadership positions, as well as the quality of shareholder or associate of private capital or majority state capital commercial companies of a territorial – administrative unit shall not sign service providing, execution, product supply contracts or contracts of association with the local public authorities of the administration in which they perform their position, with local interest state controlled companies (*regii autonome)* subordinated to the local administration where they perform their position or under the authority of the respective local or county council, or with commercial companies created by the respective local or county councils.

(2) Provisions of paragraph (1) shall apply also in the situation where the respective positions or qualities are held by the spouse or 1st degree relatives of a locally elected

representative.

Article91 – (1) A situation of incompatibility shall occur only after the validation of a mandate, and in the situation provided by paragraph (2) of Article 88, after the validation of the second mandate, respectively after the appointment or employment of a locally elected representative, subsequently to the mandate validation, in a position incompatible to the one of local representative.

(2) In the situation provided by Article 89, incompatibility to a locally elected representative occurs on the date when a local representative, his/her spouse or any of his/her 1st degree relatives become shareholders.

(3) A local representative may give up the held position, before he/she is appointed or elected in the position entailing a situation of incompatibility or within maximum 15 days from the date he/she was appointed or elected in the respective position. A local representative who finds him/herself in a situation of incompatibility as a result of application of provisions of the present section shall resign from either of the incompatible positions within maximum 60 days from the coming into effect of the present law.

(4) In the event when a local representative being in an incompatibility situation does not give up either of the two incompatible positions, within the term set by paragraph (3), the prefect shall issue an order through which he/she confirms the *de jure* termination of the local representative mandate, when the 15 – day term or, as the case may be, the 60 – day term expires, at the proposal of the secretary of the territorial – administrative unit. Any person may notify the secretary of the territorial – administrative unit.

(5) The order issued by the prefect under paragraph (1) may be appealed in the competent administrative contentious court.

(6) In the case of mayors, the prefect shall propose to the Government the date for election of a new mayor, while in the case of local and county councilors, the mandate of a deputy shall be validated in compliance with provisions of the Law No. 70/1991 on Local Elections, as republished, with subsequent modifications and completions.

Article92 - (1) Violation of provisions of Article 90 shall entail the *de jure* termination of the locally elected representative's mandate, on the date of conclusion of contracts.

(2) Local and county councilors who concluded contracts in violation of Article 90 have the obligation to renounce to the concluded contracts, within a 60 – day term from the coming into effect of the present law. Any person may notify the secretary of the territorial – administrative unit on this.

(3) Violation of the obligation set forth by paragraph (2) shall entail the *de jure* termination of the locally elected representative mandate.

(4) Confirmation of termination of a local or county councilor's mandate shall be done through an order of the prefect, at the proposal of the secretary of the territorial –

administrative unit.

(5) An order issued by the prefect under paragraph (4) may be appealed in the competent administrative contentious court.

(6) Provisions of paragraphs (1) and (3) shall not apply if, by the issuance of the order by the prefect, it is proved that violation of provisions of Article 90 ceased.

Article93 – (1) Provisions of Article 90 shall apply also to persons employed based on an individual labor contract in the staff of the local or county council, or in state controlled companies (*regii autonome)* under the authority of the respective councils, or in companies created by the respective local or county councils.

(2) Violation of provisions of Article 90 by the persons listed by paragraph (1), shall result in *de jure* termination of work relationships.

(3) Confirmation of termination of work relationships shall be done through an order or disposal of the leaders of public authorities or of economic units provided by paragraph (1). Provisions of paragraph (6) of Article 92 shall apply accordingly.

Section 5
Incompatibilities Regarding Civil Servants

Article94 - (1) A civil servant position is incompatible with any other public position, except for the one it was appointed, and with high official positions.

(2) Civil servants may not hold any other positions and may not carry out any other activities, paid or not, as follows:

a) within public authorities or institutions:
b) within high official office, except for the situation when the civil servant is suspended from the public position, in accordance with the law, during the appointment period;
c) within public services, companies or any other lucrative activities, public or private, in a family association or authorized natural entity;
d) as a member of an economic interest group.

(3) Civil servants who, during their public office, have been monitoring or controlling companies or any other lucrative activities as the ones provided by point c) of paragraph (2) may not perform any activity or provide specific consultancy for these companies for a period of 3 years after leaving the civil servants body.

(4) Civil servants may not be authorized agents of any persons, regarding the performing of any activities related to the public office they exercise.

(5) In the situation provided by letter b) of paragraph (2), at the end of a high official mandate, the civil servant shall be reinstated in the public office previously held or in a similar position.

Article95 – (1) Direct hierarchical relations shall not be allowed if the respective civil servants are spouses or first-degree relatives.

(2) Provisions of paragraph (1) shall apply even if the direct hierarchical superior

has a high official quality.

(3) Persons being in any of the situations described by paragraphs (1) or (2) shall choose, in a 60-day term, either to terminate the direct hierarchical relation or to renounce to the quality of high official.

(4) Any person can notify on the existence of any of the situations provided by paragraphs (1) or (2).

(5) The situations provided by paragraph (1) and the failure to comply with the obligation provided by paragraph (3) are established by the hierarchical superior of the respective civil servants, who disposes the termination of the direct hierarchical relation between spouses or first-degree relatives civil servants.

(6) The situations provided by paragraph (2) and the failure to comply with the obligation provided by paragraph (3) is established, as the case may be, either by the Prime - minister, or by a minister or prefect, who shall dispose on the termination of the direct hierarchical relation between the high official and the spouse or first-degree relative civil servant.

Article96 – (1) Civil servants can hold positions or perform activities in the teaching, scientific research, or literary and artistic creation areas.

(2) In the case of civil servants who perform any of the activities provided by paragraph (1), the documents composing the personal professional file are managed by the public authority or institution where they are appointed.

Article97 – (1) A civil servant may run for an eligible function or may be appointed in a high official position.

(2) The work relations of the civil servant shall be suspended:

a) during the election campaign, until the next day after elections, unless he is elected;

b) until the termination of either the eligible function or the high official position, should the civil servant be elected or appointed.

Article98 – (1) Civil servants may be members of the legally founded political parties.

(2) It is forbidden to civil servants to be members of the leadership staff of political parties, and to express or defend in public the positions of a political party.

(3) Civil servants who, according to the law are included in the category of high official civil servants, may not be members of any political party, under the sanction of dismissal from the public position.

Chapter IV
Other Conflicts of Interests and Incompatibilities

Article99 – (1) Any persons holding the following high official or public authority

positions within the authorities and institutions under the exclusive parliamentary control:

a) members of the Court of Audit;

b) the President of the Legislative Council and presidents of sections;

c) the Ombudsman and his deputies;

d) members of the Competition Council;

e) members of the National Securities Council;

f) the Governor, his first deputy, his deputies, members of the board and the employees with management roles of the National Bank of Romania;

l) the director of the Romanian Intelligence Service, his first-deputy and his deputies;

h) the director of the External Intelligence Service;

i) members of the Insurance Supervisory Commission;

j) members of the National Audiovisual Council;

k) members of the boards and director committees of the Romanian Radio Broadcasting Company and of the Romanian Television Company;

l) members of the College of the National Council for the Search of the Security Archives;

m) the General Manager and members of the Managing Council of the National Press Agency ROMPRESS,

are subject to provisions of Article 72 and to the status of incompatibilities provided by the present title for ministers and, respectively, state secretaries, as well as to the incompatibilities provided by special laws.

(2) The persons provided by paragraph (1) may hold positions or perform activities in the teaching, scientific research, or literary and artistic creation areas.

(3) Provisions of Articles 73 and 74 shall apply accordingly to persons provided by paragraph (1) by the specialty Parliamentary Commissions.

(4) Persons who hold high official or public authority positions within the authorities and institutions provided by paragraph (1), if they are in an incompatibility situation, shall inform, in a 15-day term, the Standing Offices of the Chamber of Deputies and, respectively, of the Senate.

(5) In a 60-day term from the expiration date stipulated by paragraph (4), persons holding high official positions provided by paragraph (1) shall choose between these positions and the incompatible ones, resigning from the position that generated the incompatibility situation.

(6) After the term by paragraph (5) expires, if the incompatibility situation continues to exist, the person holding a high official or public position shall be considered resigned from this position. The resignation is announced to the Chamber of Deputies and, respectively, to the Senate. The decision of the Chamber that established the resignation is published in the Official Journal of Romania, Part I.

Article100 – (1) The presidential councilors and the state councilors from the administration of the president are subjects to provisions of Article 72 and to the

incompatibility status provided by the present title for ministers and, respectively, state secretaries.

(2) The presidential councilors and the state councilors from the administration of the president may hold positions or perform activities in the teaching, scientific research, or literary and artistic creation areas.

(3) Provisions of Articles 73 and 74 shall apply accordingly to the persons provided by paragraph (1) by the President of Romania.

(4) Procedure of finding incompatibilities for persons provided by paragraph (1) are the ones established in the Regulation of Organization and Functioning of the Administration of the President.

Chapter V
Regulations Regarding Magistrates

Article101 – The position of judge and public prosecutor is incompatible with any other public or private position, except for the teaching positions in university education.

Article102 – Magistrates shall be prohibited to:

a) perform any arbitration activities in civil, commercial or any other kind of litigations;
b) have the quality of associate, member of the management or control boards of any civil association or trading company, including banks or other credit institutions, insurance or financial companies, national companies, national associations or public utilities;
c) perform any commercial activities, directly or through intermediaries;
d) have the quality of member of an economic interest group.

Article103 – (1) Magistrates are not subject to any political objectives and doctrines.

(2) Magistrates may not be members of any political party or perform any political activities.

(3) In exercising their prerogatives, magistrates have the obligation to abstain themselves from any expression or manifestation of their political preferences.

Article104 – Any manifestations contrary to the dignity of their position, or that may affect its impartiality or prestige shall be prohibited to magistrates.

Article105 – (1) Magistrates are forbidden to participate in the judgment of any case, as judge or public prosecutor:

a) if there are spouses or relatives up to the fourth degree inclusive;

b) if they, their spouses, or their relatives up to the fourth degree inclusive, have any interest in that case.

(2) Provisions of paragraph (1) shall apply also to a magistrate who participates, as a judge or public prosecutor, in the judgment of an appealed case, if his/her spouse or

relative up to fourth degree participated, as a judge or public prosecutor, in the first instance resolution of that case.

(3) Provisions of paragraphs (1) and (2) are completed with the provisions of the Civil Procedure Code and of the Criminal Procedure Code that refer to incompatibilities, abstention and recusal.

Article106 – (1) A judge becoming a lawyer cay not defend a case in the court where he/she worked, for a 2-year period from the termination of the judge activity.

(2) A public prosecutor becoming a lawyer may not provide legal assistance to the criminal investigation authorities from the place where he/she worked, for a 2-year period from the termination of the public prosecutor activity.

Article107 – Magistrates have the obligation to inform immediately the president of the court or, as the case may be , the general prosecutor to whom they are subordinated, on any political or economical immixture, coming from any natural or legal entity or any group of persons.

Article108 – (1) Violation of provisions of Articles 101-105 and Article 107 shall be considered a disciplinary infringement and shall be sanctioned, depending on its seriousness, by:

a) suspension from a magistrate position for a maximum 6-month period;

b) exclusion from magistracy.

(2) Disciplinary sanctions shall be applied by the Superior Council of Magistracy, in accordance with the procedure established by Law 92/1992 on Judicial Organization, as republished, with subsequent modifications and completions.

(3) A judge or public prosecutor sanctioned by exclusion from magistracy may not occupy any legal position for the next 3 years.

Article109 – (1) Magistrates may participate in preparing any publications or specialty studies, literature or science works, or audio-video broadcasts, except for the political ones.

(2) Magistrates may be members of any commissions drafting or reviewing draft norms, or domestic or international documents.

Article110 – Provisions of Articles 101-104, 107 and 109 shall apply accordingly to judges of the Constitutional Court.

Chapter VI
Common provisions

Article111 – (1) Persons holding high official and public positions provided by the present title shall submit an interest statement, on their own responsibility, regarding the

positions they hold and activities they perform, except for the ones related to the mandate or public position they hold.

(2) The positions and activities included in the interest statement are:

a) any position held in any associations, foundations, or any other non-governmental organizations or political parties;

b) any paid professional activities;

c) any quality of shareholder or associate to a company, including banks or other credit institutions, insurance or financial companies.

(3) The persons stipulated by paragraph (1) who do not hold any other positions or do not perform any other activity, except for the ones related to the mandate of public position they are exercising, shall submit a statement on this.

Article112 – (1) The interest statement shall be submitted in a 60-day term from the coming into effect of the present law or in 15 days from the validation date of the mandate or, as the case may be, from the appointment date.

(2) Persons holding high official or public positions provided by the present title shall update their interest statement any time there will occur changes that, in accordance to paragraph (2) of Article 111 have to be included in such statements. The updating shall be made in a 30-day term from the beginning, modifying or termination date of the positions or activities.

Article113 – (1) The interest statements shall be public and submitted as follows:

a) The President of Romania, to the head of Chancery of Administration of the President;

b) deputies and senators, to the General Secretary of the Chamber to which they belong;

c) presidential councilors and state councilors of the Administration of the President, to the head of Chancery of Administration of the President;

d) members of the Government, state secretaries and state sub-secretaries, to the General Secretary of the Government;

e) the persons that occupy positions assimilated to that of minister, state secretary or state sub-secretary, to the general secretary of the public authority to whom they are subordinated;

f) magistrates, to the president of the court or to the head of the prosecutors' office where they activate; presidents of the court and heads of prosecutors' offices to the presidents of their superior courts and, respectively, to the heads of the superior prosecutors' offices; President of the Supreme Court of Justice, General Prosecutor of the Prosecutors' Office by the Supreme Court of Justice and the General Prosecutor of the National Anti – Corruption Prosecutors' Office, to the Superior Council of Magistracy;

g) prefects and their deputies, to the general secretary of the prefects' office;

h) locally elected representatives, to the secretary of the local administration authority;

i) civil servants, to the human resource department of the public authorities, public

institutions, or, as the case may be, to the units they belong.

(2) Name of the persons provided by paragraph (1) who, without any reason, do not submit their interest statement, as provided by Article 112 shall be published in the web pages of the Parliament, Government, ministers, and other authorities or central public institutions, prefects' offices or county councils, as the case may be.

(3) Evidence of the interest statement are recorded in a special book, named "Book of the Interest Statements", which model shall be established by a Government decision.

Article114 – (1) Any person holding a high official or public position of those provided by the present title, shall be prohibited to use symbols that are related to the exercise of the power given by his/her position to his/her personal interest.

(2) It is forbidden to use or allow the use of the name accompanied by the quality of the person who holds a public position provided by the present title in any form of publicity of an economic agent, of Romanian or foreign origin, as well as of a trading product, be it national or foreign.

(3) It is forbidden to use or allow the use of the public image, name, voice, or signature of the person who holds a high official or public position of those provided by the present title for any form of publicity with regards to a profitable activity, except for the case of free publicity for charitable ends.

(4) It is forbidden to a persons holding a high official or public position of the ones provided by the present title, the use or direct or indirect exploitation of information that is not public, obtained in relation to the performance of his/her competencies, for the purpose of obtaining advantages for themselves or third parties.

Chapter VII
Final provisions

Article115 – Other cases of incompatibilities and limitations are provided by special laws.

Article116 – (1) The prefects have the obligation to verify, in at most 30 days from the coming into force of the present law, the situation of all the locally elected representatives in the county. To this end, leaders of the public authorities and institutions, as well as the representatives of the commerce registry offices of the courts are obliged to put at the disposal of the prefect and of the persons mandated by him/her, the required data, necessary for the establishment of the persons to whom incompatibilities and limitations provided by the present title are applicable.

(2) Violation of provisions of paragraph (1) shall entail application of sanctions, as provided by law.

Article117 – On the adoption date of the present law, provisions of paragraph (1) of Article 4 of Law no.90/2001 on the Organization and Functioning of the Government of Romania and of Ministers, published in the Official Journal of Romania, Part I, no.164/2001 and Article 30, (1) of Article 60, Article 62, point b) of paragraph (2) of Article 72, Article 131 and the last sentence of Article 152 - „and the councilor active at the date of coming into effect of the present law shall exercise his/her mandate until the next local elections", of the Law on Local Public Administration No.215/2001, published in the Official Journal of Romania, Part I, no.204/2001, with subsequent modifications and completions, as well as the Emergency Ordinance of the Government No. 5/2002 on the Establishment of Some Limitations for the Locally Elected Representatives and Civil Servants, published in the Official Journal of Romania, Part I, no. 90, on February 2, 2002, approved by Law no.378/2002, shall be abrogated.

Title V
Economic Interest Groups

CHAPTER I
Economic Interest Groups

Section I
General provisions

Article118- (1) An economic interest group –E.I.G., represents an association between two or more natural persons or legal entities, constituted for a specific period of time, in order to facilitate or develop the economic activity of its members, as well as to improve the results of the respective activity.

(2) An economic interest group is a legal entity with patrimonial purpose, having a commercial or non – commercial quality.

(3) The number of members of an economic interest group may not be higher than 20.

(4) The activity of the group should be linked to the economic activity of its members and have only an additional character with respect to this one.

(5) The group shall not:

a) perform, directly or indirectly, an activity of administration or surveillance of the activity of its members or of another legal entity, especially in the fields of human resources, finance or investment;

b) own shares, social or interest quotas, directly or indirectly, to one of the member companies; holding shares, social or interest quotas in another company is allowed only if this is necessary in order to accomplish the group's objectives and if it is done on behalf of the members;

c) employ more than 500 persons;

d) be used by a company in order to credit, in other conditions than those stipulated explicitly by Law no. 31/1991 on Companies, as republished, with subsequent modifications, an administrator or director of the respective company, or the spouses, relatives or in-laws up to the fourth degree of the respective administrator or director; the same, if the credit refers to a commercial company or civil association at which one of the above mentioned persons is administrator or director or holds, alone or together with the above mentioned persons, a share of at least 20% of the subscribed social capital;

e) be used by a commercial company to transmit goods, in other conditions than those stipulated explicitly by Law no. 31/1990, to and from the administrator or director of the company, or spouses, relatives or in-laws up to the fourth degree inclusively of the respective administrator or director; the same, if the operation refers to a civil or commercial company to which one of the above mentioned persons is administrator or director or holds, alone or together with the above mentioned persons, a share of at least 20% of the subscribed social capital, except for the case in which one of the respective commercial companies is the branch of the other;

f) be member of another economic interest group or European interest group.

(6) An economic interest group may not issue shares, bonds or other securities.

Article119- (1) Members of an economic interest group are unlimitedly and jointly liable for the obligations of the group, unless there is another provision with respect to this with third party co-contractants. The creditors of the group will go firstly against the latter for his obligations and, only if he does not make the payment within a period of maximum 15 days from de date of the delay, they will go against the members of the group.

(2) By derogation to the provisions of paragraph (1) and in as much as the setting up act allows it, a new member of the group could be exonerated of his/her obligations, which were initiated before his/her accession; the exoneration decision is opposable to third parties at the date mentioned in the Commerce Registry and published in the Official Journal of Romania.

Section II
Constitution of an Economic Interest Group

Article120- (1) An economic interest group is constituted through a contract signed by all the members and concluded in an authenticated form, named setting up act.

(2) The signatories of the setting up act, as well as the persons who have an important role in constituting the group are considered founders.

(3) There may not be founders persons who, in accordance with the law, are unable or were convicted for fraud management, trust abuse, fraud, embezzlement, taking bribe, receiving undeserved benefits, traffic of influence, false testimony, forgery, use of forgery, as well as crimes provided by Law no. 31/1990, as republished, with subsequent

modifications and completions, crimes provided by Law no. 87/1994 on Fighting Tax Evasion, with subsequent modifications and completions, and the crimes of money laundering provided by Law 656/2002 on Prevention and Sanctioning of Money Laundering.

(4) Provisions of paragraph (3) shall apply also accordingly, to the persons having the function of administrator, auditor and liquidator of an economic interest group.

Article121 - (1) An economic interest group can be constituted with or without capital.

(2) Should the member of the group decide to allot a certain amount of capital for the activity of the group, the contributions of the members should not have a minimum value and can be of any nature.

(3) The rights of the group members may not be represented by investments, any contrary clause being null.

Article122- (1) The setting up act of an economic interest group establishes the way in which the group is organized, in the condition established under the present title, and shall comprise:

a) the name, preceded or followed by the phrase 'economic interest group' or G.I.E. initials, the headquarters, and logo of the group, if applicable;

b) last name and first name, place and date of birth, place of residence and citizenship of the members, natural person; name, legal form, headquarters and citizenship of the members, natural person;

c) numeric personal code of the members, natural persons; identification code of the members, legal entities, depending on the their legal form;

d) field of activity of the group, mentioning the main field and activity, as well as the nature, be it commercial or not of the activity;

e) subscribed social capital and paid social capital, mentioning the amount brought by each member and the modality in which it was paid, the value of the contribution in kind and the evaluation modality, in case the group is constituted with capital;

f) duration of the group;

g) members that represent and manage the group or non-member administrators, natural or legal entities, powers given to them and if they intend to exercise them jointly or separately, as well as the conditions in which they can be revoked;

h) clause regarding the control of the group accounting exercised by the statutory powers, its control exercised by the members, as well as the documents to which the latter will be given access in order to get informed and exercise their control;

i) secondary branches — branches, affiliates, representative offices or other such companies without legal entity— when they are established at the same time with the group, or the conditions for their further establishment, if such establishment is envisaged;

j) the modality of dissolution and liquidation of the group.

(2) Any modification of the setting up act shall be done under the conditions

provided at its signature, shall be endorsed in the Commerce Registry and will published in the Official Journal of Romania, Part IV; the modifications are opposable from the date it was published.

Article123- (1) During its existence, an economic interest group can accept new members, by a unanimous vote of its members.

(2) Any member of the group can withdraw from the group in the terms provided by the setting up act, on condition that his/her obligations as a member were fulfilled.

Article124- (1) Upon authentication of the setting up act, the proof issued by the trade registry, with respect to the availability of the company and of the logo shall be presented. At the same time, there will be presented the proof that the group has, based on some legal documents, the headquarters at the given address.

(2) The group headquarters must be:

a) either in the place where the administration of the group is located;

b) either in the place where the central administration of one of the group members, or in the case of a natural entity, its main activity, if the group performs any activity in the respective location, is located.

(3) In the headquarters specified by the group, several legal entities may perform their activity, on condition that at least one person – in accordance with the law – is associate or member of each of these legal entities.

(4) A public notary may refuse to authenticate the setting up act, if, out of the presented documents, it does not result that all the legal requirements were met.

Section III
Registration of an Economic Interest Group

Article125- (1) Within 15 days from the authentication of the setting up act, the founders or administrators of the group, or their authorized representative shall request the registration of the group at the Commerce Registry Office in the area where the group is located.

(2) The request shall be accompanied by:

a) the setting up act of the group;

b) the proof of payment, under the conditions of the setting up act, if applicable;

c) if applicable, the documents regarding the ownership on the contribution in kind, or in case there are also fixtures among it, the document certifying the obligations they are subject to;

e) documents certifying the operations concluded on the group account and approved by its members;

e) proof of the declared headquarters;

f) a statement of the founders, administrators and auditors, on their own responsibility, that they meet the requirements provided by the present title.

(3) Functioning authorizations of the group shall be required by the Unique Office within the Commerce Registry, under provisions of the Government Emergency Ordinance No. 76/2001,with regards to the Simplification of Some Administrative Formalities for the Registration and Authorization of the traders' activity, as republished, with subsequent modifications and completions.

Article126- (1) In case when the legal requirements are met, the delegate judge, through a court decision, pronounced within 5 days from the fulfillment of such requirements, shall authorize the creation of the group, under provisions of Law No. 26/1990, on the Commerce Registry, as republished, with subsequent modifications.

(2) The registration decision shall provisions of the setting up act set forth Article 122.

Article127- (1) An economic interest group shall acquire legal entity from the date of its registration in the Commerce Registry.

(2) The registration shall be operated within 24 hours from the date of the decision delivered by the delegate judge, through which the registration of the group was authorized.

(3) The registration does not presume the quality of trader of the group.

(4) An economic interest group having the quality of trader may perform on its own, on its behalf, as a main title and of an ordinary manner, all the trading activities necessary for reaching its goal.

Article128 – The following shall be subject to mandatory registration, under provisions of the law,:

a) any modification of the group setting up act, including any modification of the group membership;

b) establishment or closing of all branches, representative offices or other entities without legal personality;

c) any court decision declaring nullity of the group;

d) decision to appoint an administrator or administrators of the group, their name, mention whether the administrators can act individually or jointly, as well as the termination of their functions;

e) ceding/transferring, totally or partially, the interest shares of a member;

f) decision of the group members or court decision to dissolve the group;

g) decision to appoint the group liquidators, their name, as well as the termination of their activity;

h) termination of the group liquidation;

i) proposal to relocate the headquarters in a foreign state;

j) any clause through which the new members are exempted from the payment of the group debts, contracted previously to their accession to the group.

Article129 – An economic interest group has the duty to publish entirely, in the Official Journal of Romania, Part IV, and the law conditions:

b) the setting up act of the group;

c) its modification documents;

d) mentions referring to the group registration code, the date and place of the registration, as well as the group erasing.

d) documents and mentions provided by points b) – j) of Article 128.

Article130- Provisions with regards to the creation, registration and functioning of the subsidiaries and branches of the companies, set forth by the Law no. 31/1990, shall apply accordingly to the affiliates and, respectively, to the branches of an economic interest group.

Article131- (1) The headquarters of an economic interest group can be moved to a foreign state, by decision of the group members, made unanimously.

(2) Within 15 days from the date when the decision provided by paragraph (1) was made, it will be mentioned, through the good offices of the group administrators, in the Commerce Registry and published in the Official Journal of Romania.

(3) Within two months from the publication of the decision in the Official Journal of Romania, any interested person may appeal the decision of headquarters transfer, for public order reasons, under provisions of Article 62 of Law no.31/1990, as republished, with subsequent modifications an completions.

(4) The irrevocable court decision, through which the appeal against the headquarters transfer decision is resolved, shall be endorsed, *ex officio*, in the Commerce Registry.

(5) A group registration in the due register of the foreign state shall not be opposable to third parties until the decision on headquarters transfer becomes effective.

(6) A group erasing from the Commerce Registry shall be possible after presentation of the proof of registration in the Commerce Registry of the foreign state.

(7) Until the endorsement of the group erasing, in the Commerce Registry, third parties can make use of the group headquarters in Romania, except for the case when the group proves that the latter are already acquainted with the existence of the headquarters in the foreign state.

Article132- (1) The group representatives shall have the duty to submit their signature samples to the Commerce Registry, upon the date of submission of the registration request, in case they were appointed by the setting up act, while those who were elected during the functioning of the group, within 15 days from their election.

(2) The provision of the previous paragraph shall apply accordingly to leaders of branches.

Section IV
Effects of Infringement of the Legal Requirements for the Constitution of an

Economic Interest Group

Article133- When the setting up act does not contain the mentions provided by law or contains clauses through which an imperative provision of the law is infringed, or when a legal requirement for a group creation was not observed, a delegate judge, *ex officio* or at the request of any of the members or third parties, shall overrule, by a motivated decision, the registration request, except for the case where members or representatives of the group correct such irregularities. In the end, the delegate judge shall acknowledge the performed regulations.

Article134- In case the founders or representatives of the group did not require its registration within the legal term, any member may request to the Commerce Registry the performance of the registration, after which, through notification or registered letter, he/she notified them on the delayed procedure, and they failed to comply within 8 maximum days from the date they received the letter.

Article135- (1) In case of irregularities found after registration, the group shall have the duty to take measures to eliminate them within 8 days from the date of finding such irregularities.

(2) If the group fails to comply, any interested person may ask the court to compel the company authorities, under sanction of comminatory damage payment, to regulate them.

(3) The right to regulation is lost within a 6-month period from the date of the group registration.

Article136- The founders, the group representatives, as well as the first members of the managing, administration and control bodies of the group shall be unlimitedly and jointly liable for damages caused by irregularities provided by Articles 133 - 135.

Article137- (1) The documents or deeds for which the advertising provided by law was not performed, shall not be opposable to third parties, except for the case in which the group makes proof that they were aware of them.

(2) The operations performed by the group before the 16th day from the date of publication in the Official Journal of Romania of the delegate judge's decision shall be opposable to third parties, if they prove they were in the impossibility to be aware of them.

Article138- However, third parties can invoke the deeds and facts in relation to which the advertising was not performed, except for the case in which advertising omission makes them effectiveless.

Article139- The founders, representatives and other persons, who worked on behalf

of the group to be constituted, shall be held jointly and unlimitedly liable before third parties, for the legal documents concluded with them on behalf of the group, except for the case in which the group, after having acquired legal personality, took them on its account. The documents thus taken over shall be considered as having belonged to the group even from the date of their conclusion.

Article140- (1) Neither the group nor the third parties can invoke, in order to elude the assumed obligations, an irregularity in the appointment of representatives, administrators or other persons who are part of the group bodies, when the respective appointment was published in accordance with the legal provisions.

(2) A group cannot invoke the appointment in the functions mentioned by the previous paragraphs or the termination of these functions to third parties, if they were published in accordance with the legal provisions.

Article141- (1) In its relationships with the third parties, the group is engaged by means of documents of its bodies, even if these documents go beyond the object of its activity, except for the case where the group proves that the third parties were aware or, under the given circumstances, should have been aware of this surpassing. The publication of the setting up act cannot be solely the proof of acknowledgement.

(2) The clauses of the setting up act or the decisions of the statutory bodies of the group, that limit the powers given by law to these bodies, are not opposable to third parties, even if they were published.

(3) The setting up act may provide that the group can be indeed held liable only in the case when two or more administrators act together. Such a clause is opposable to third parties only on the condition of its publication in the Official Journal of Romania, under provisions of Article 129.

Article142- The nullity of an economic interest group registered in the Commerce Registry can be declared by the court only when:

a) the setting up act is missing or when it was not concluded in authentic form;

b) all founders were, in accordance with the law, incapable at the date of the group formation;

c) the object of activity of the group is illicit or contrary to the public order;

d) the delegate judge's decision on the group registration is missing;

e) the legal administrative authorization for the group formation is missing, if such an authorization is required by the special laws for the purpose of performing certain activities, such as banking and insurance;

f) the setting up act does not provide the group's name, headquarters and object of activity.

Article143 – The nullity may not be declared if its cause, invoked in the annulment request, was eliminated before any conclusions in the first instance court are issued,

except for the case when the nullity is caused by the illicit character, contrary to the public order of the group objective.

Article144- (1) The court notified by a request of nullification can set *ex officio* a term for the removal of the nullity.

(2) In the case when, for removal of the nullity, it is necessary to convene the group members or to communicate to them the text of the draft decision, together with the required documentation, the court shall grant, through an intermediate decision, the necessary term for adoption of such decision by the group members.

Article145 - (1) On the date when the court decision regarding the nullity became irrevocable, the group shall cease, without retroactive effect, and go under the liquidation procedure. Legal provisions regarding the liquidation of groups as a result of dissolution shall apply accordingly.

(2) The court decision on declaring the nullity, shall also appoint the liquidators of the group.

(3) The court shall communicate the enacting terms of this decision to the Commerce Registry Office that, after endorsement, shall send it to the Official Journal of Romania for publication.

(4) Members of a group shall be liable for their obligations until their accomplishment, in accordance with provisions of Article 119.

Article146- (1) The declaration of nullity of a group shall not affect the documents signed on its name.

(2) Neither the group nor its members can invoke the nullity of the group before third parties who acted in good faith.

Article147 – Provisions of Chapter V "Some Procedural Provisions" of Title II on "Constituting Commercial Companies" of Law No.31/1990, as republished, with subsequent modifications and completions, shall apply accordingly with respect to the economic interest groups.

Section V
Functioning of Economic Interests Groups

Article148- (1) Administrators can perform all the operations necessary for accomplishing the group object of activity except for the restrictions provided by the setting up act.

(2) They have the duty to take part in all the group assemblies, in administrative boards , and in similar leadership bodies.

Article149 - (1) Administrators who have the right to represent the group may not

delegate it , unless this ability was expressly granted to them.

(2) In the case of infringement of provisions of paragraph (1), the group may ask the profit resulted from this action from the substituted one.

(3) Any administrator who, without a right, asks another person to substitute him/her, shall be jointly liable with the latter for possible damages caused to the group.

Article150 – The obligations and liability of the administrators are those stipulated by the present title and by the provisions referring to mandate.

Article151- (1) Administrators are jointly responsible before the company for:

a) existence of the books required by law and their accurate keeping;

b) strict accomplishment of the decisions issued by the general assembly;

c) strict accomplishment of the duties provided by law and the setting up act.

(2) Creditors of the group may also initiate a liability action against the administrators , but the former may do so only when, through the operations performed to accomplish the object of activity, the group obligations are not paid in due term, repeatedly, or in case of initiation of the procedure regulated by Law No. 64/1995, on the Legal Reorganization and Bankruptcy Procedure, as republished, with subsequent modifications and completions.

Article152- (1) Any invoice, offer, order, tariff, prospect, letter, announcement, publication or any other documents coming from the group should contain:

a) name, accompanied by the mention "economic interest group" or the initials "G.I.E.";

b) headquarters;

c) unique registration code and the Commerce Registry Office where the group was registered;

d) where applicable, the endorsement that the group is under a liquidation procedure;

e) where applicable, the endorsement that the administrators act together, in accordance with provisions of point d) of Article 128.

(2) Cash vouchers, issued by the electronic marking machines, which shall include elements provided by the legislation in the area, shall be excepted from application of provisions of paragraph (1).

Article153- (1) The general assembly of the group members can adopt any decision, including the anticipated dissolution or the prolongation of the group duration, under the conditions provided in the constitutive act.

(2) The setting up act may provide that all the decisions or part of them be adopted under certain conditions regarding the quorum and the necessary majority. In the absence of such a provision, the decisions are made with a unanimous vote of the members.

(3) The setting up act of the group may be provide that these decisions, or some of them, can be made after written consultation of the members; in such a case, the setting

up act shall specify the procedure for consultation and decision making.

(4) Unanimous vote of all the members is mandatory in order to adopt decisions regarding:

a) modification of the group's object;

b) modification of the number of votes given to each member;

c) modification of the conditions set for the adoption of decisions;

d) prolongation of the group duration beyond the period set in the setting up act;

e) modification of the members' contribution to the group's capital;

f) modification of any other obligations of members, unless provided otherwise by the setting up act;

g) any other modification of the setting up act, unless provided otherwise by the setting up act.

(5) The setting up act may establish that certain members have a different number of votes compared to others, but without holding a majority of votes through this. In the absence of such a provision, each member shall be considered to hold one vote.

Article154 - (1) At the initiative of any administrator or at the request of any member, administrators have the duty to immediately convene the general assembly of members, for the adoption of a decision, which is of the general assembly competence.

(2) The general assembly shall reunite within the term set by the setting up act, but which shall not be shorter than 10 days and longer than a month from the date of convening.

(3) At the request of any interested person, and by hearing the parties, the court having jurisdiction in the area where the group premises is located, may order the convening of the general assembly, if the latter was not convened by administrators; through its decision on convening the general assembly, the court shall appoint the person who will preside the general assembly, from among the group members.

(4) All members of the group may, unless any of them opposes to it, hold a general assembly and make any decision of the competence of the general assembly, without following the formalities required for its convening.

Article155 - (1) Convening may be done through a registered letter or, if the setting up act allows it, through an ordinary letter, sent at least 10 days prior to the date when the general assembly is held, to any member's address, as specified in the group registers. The group shall not be responsible for any change of address, unless it was communicated in writing by the member.

(2) A convening shall contain the place and date of holding the general assembly, as well as the agenda, by explicitly mentioning all the topics making the subject of the general assembly discussions.

(3) If in the agenda proposal of modification of the setting up act are included, the convening shall contain the entire text of such proposals.

Article156 - (1) Members have the right to be informed on the group financial administration, by consulting the documents provided by the setting up act, according to point h) of Article 122. At their expense, they may require certified copies of these documents. After consulting the documents, members may notify the administrators, in writing, the latter having the duty to reply, also in writing, within a 15 – day term from the date when the notification was registered.

(2) If administrators do not reply within the term set by paragraph (1), members may address the competent court, which may oblige the group to pay a certain amount of money for each day of delay.

Article157 - (1) Members may elect, through a unanimity vote, one or several administrators from among the group members, setting their responsibilities, the period of the assignment and the possible salary, unless provided otherwise by the setting up act.

(2) Through a unanimity vote, members may also decide on the dismissal of administrators or on the limitation of their powers, except for the situation when administrators were appointed by the setting up act.

Article158 - (1) A legal entity may be appointed or elected as an administrator of an economic interest group.

(2) Rights and obligations of the parties shall be set through an administration contract. Among others, the contract shall stipulate that the legal entity has the obligation to assign one or several natural person permanent representatives. A representative shall be subject to the same conditions and obligations and has the same civil and criminal liability as a natural person administrator, who acts on his/her behalf, without exempting, through this, the legal entity he/she represents of liability or diminishing its joint liability.

(3) When a legal entity dismisses its representative, it has the obligation to appoint, at the same time, a replacement.

Article159 - (1) Each administrator shall deposit a guarantee for his/her administration, provided by the setting up act or, in the absence of such a clause in it, set and approved by the general assembly. The guarantee shall not be lower than the double amount of a monthly salary.

(2) The guarantee shall be deposited prior to taking over the position of administrator; it may be deposited also by a third party.

(3) If the guarantee is not deposited prior to the date of taking over the position, the administrator shall be considered resigned.

(4) The guarantee shall remain at the disposal of the group and may not be returned to the administrator until the general assembly approved the financial situation of the last statements while the administrator performed such a duty, and relieved him/her of liability.

Article160 – Signatures of administrators shall be submitted to the Commerce

Registry Office, as provided by paragraph (1) of Article 132, together with the submission of the certificate issued by persons performing the competencies of auditors, confirming the deposit of the guarantee.

Article161- (1) If an administrator takes the initiative of an operation exceeding the limits of the operations specific to the activity carried out by the group, he/she shall inform the other administrators, prior to performing it, under the sanction of bearing all the possible losses resulting from it.

(2) In case of opposition expressed by any of the administrators, members representing the majority shall make a decision.

(3) An operation performed against the opposition expressed by any of the administrators shall be valid to the third parties who were not informed of such opposition.

Article162 - (1) A member who, in a certain operation has his/her own or the others' interests contrary to the group, may not take part in any deliberation or decision making related to this operation.

(2) A member who acts in violation of provisions of paragraph (1) shall be liable for damages caused to the group, if, without his/her vote, the required majority had not been obtained.

Article163- A member who, without the written consent of the other members, uses the group's capital, assets or credit to his/her own benefit or to the benefit of other person, has the obligation to return the resulted benefits to the group and to pay compensation for the caused damages.

Article164- (1) No member may take from the group's funds amounts bigger than the ones set for the expenses done or which are to be done in the interest of the group.

(2) A member acting in violation of the above provision shall be liable for the taken amounts and for damages.

(3) Conditions in which members may take certain amounts of money from the cashier, as a loan, for personal expenses shall be provided by the setting up act.

Article165 - (1) A group shall not have as a goal to obtain profits for itself.

(2) If, according to the annual statements, profit results from the group activity, all of it will be compulsorily distributed among the group members, as dividends, in the quotas set by the setting up act or, in the absence of such a clause, in equal shares.

(3) By no means amounts of money from the group profit shall be allotted for creating reserve funds.

(4) In case when expenses exceed the group's incomes, the margin shall be covered by the group members, in the quotas provided by the setting up act or, in the absence of such a clause, in equal shares.

(5) The amounts distributed to members from the group's profit under paragraph (2) shall be considered as dividends, which are subject to taxation, as provided by law.

Article166 – When several persons bring their contribution to the group's capital, they have a joint liability to the group and need to appoint a common representative for exerting the rights resulting from this contribution.

Article167 - (1) Members have an unlimited and joint liability for the operations performed on behalf of the group of persons they represent.

(2) A court decision delivered against the group shall be demurable to each individual member.

Article168 – For the approval of the financial report and for decisions referring to the administrators' liability, the vote of the majority of members shall be necessary.

Article169 - (1) Conveyance or constitution of a guarantee on an interest share to members or third parties shall be possible with the unanimous consent of the members.

(2) Constitution of a guarantee on an interest share to members or third parties shall be possible also in case when such a thing was allowed by the setting up act of the group. However, in such case, a third party may become a member of the group, through acquiring the respective interest share, only with the unanimous consent of the other members.

(3) A conveyance shall not exempt the conveyor member of what he/she still owes to the group from his/her capital contribution.

(4) A conveyor shall remain liable to third parties, in compliance with provisions regarding the exclusion of members.

(5) When the setting up act stipulates the cases of withdrawal of a member, provisions of Articles 182 and 186 shall apply accordingly.

Article170 – Any administrator has the right to represent the group, unless provided otherwise by the setting up act.

Article171 - (1) If the setting up act stipulates that administrators have to work together, any decision needs to be made unanimously; in case of differences among administrators, a decision shall be made by the vote of majority of the members.

(2) For emergency documents, which failure to conclude would cause significant damages to the group, a sole administrator may decide in the absence of the others, who find themselves in the impossibility, even temporary, to participate in administration.

Article172 – Provisions of the Law No. 82/1991 on Accounting, as republished, shall be applicable accordingly to economic interest groups.

Article173 - (1) The annual financial statements of an economic interest group shall

be prepared in compliance with the norms set for general partnership companies. After approved by the members' general assembly, the financial statements shall be submitted by the administrators to the public finance administration, within a 15 – day term. A copy of the annual financial statements shall be submitted to the Commerce Registry Office.

(2) Approval of the annual financial statements by the general assembly shall not exempt administrators of liability.

Section VI
Modification of a Setting up Act

Article174 - (1) A setting up act may be modified by members, by observing the substance and form terms set for its conclusion.

(2) Modifications related to the change of address of the group, change of its main object of activity, merger/splitting, reduction/prolongation of the duration of a group, its dissolving and liquidation shall be recorded in the Commerce Registry, based on a decision of a delegate judge. The other modifications shall be recorded, in compliance with legal provisions, based on a resolution of the director of the Commerce Registry Office. Such resolution has, accordingly, the legal power of a decision issued by a delegate judge.

(3) The additional act containing the entire text of provisions of the setting up act, as modified, shall be submitted to the Commerce Registry Office and shall be registered in this registry. The modifying document shall be published entirely in the Official Journal of Romania.

(4) If several modifications are operated to the setting up act, either simultaneously or successively, the latter shall be updated with all the modifications up to date and, in this format, shall be submitted to the Commerce Registry Office.

(5) In the form updated in conformity with the previous paragraph, names and the other identification data of founders and of the first members of the group bodies may be omitted.

(6) Such omission shall be allowed only if at least 5 years passed from the date of the group registration and unless provided otherwise by the setting up act.

Article175 - (1) Personal creditors of group members may oppose, as provided by Article 62 of the Law No. 31/1990, as republished, with subsequent modifications and completions, to the decision of the members' general assembly to prolong the group duration beyond the term set initially, on condition they have rights set by an enforcement order, previous to the decision.

(2) In case such an opposition was accepted, members have to decide, within a one – month term from the date when the decision became irrevocable, whether they chose to renounce to the prolongation or to exclude the member having debts to the opponent from the group.

(3) In the latter situation, the rights due to the debtor member shall be calculated based on the last approved financial statements.

(4) In case of contestation of the amount of the rights of the group member subject to redemption, the amount shall be determined by an expert assigned by the parties or, in the absence of their agreement, by the tribunal, through an irrevocable decision.

Article176 – In case when a group was created with capital, its diminishing or increase shall be done in compliance with diminishing or increase of the capital of general partnership companies.

Section VII

Cessation of the Quality of Member. Exclusion and Withdrawal of Members of an Economic Interest Group

Article177 - (1) The quality of member shall cease, as the case may be, through:

a) exclusion;

b) withdrawal;

c) cession of interest shares, as provided by law and by the setting up act;

d) death, respectively cessation of a legal entity, as provided by law.

(2) The following may be excluded from an economic interest group:

a) a member who, being notified that he/she exceeded the term, does not make the contribution to which he/she obliged him/herself;

b) a member in a state of bankruptcy or that legally lost its rights;

c) a member who interferes with no right in administration, violates provisions of Article 163 or disturbs or threats to seriously disturb the group functioning;

d) an administrator member who commits a fraud that damages the group or makes use of the group signature or capital to his/her own benefit or of other persons;

e) a member against whom an enforcement order is issued, held by a third party, who opposes to the decision of prolongation of the group duration, under Article 175.

Article178 - (1) As soon as a member ceases to belong to a group, administrators shall inform the other members on this, and shall spare no effort to record the mention in the Commerce Registry and to publish it in the Official Journal of Romania.

(2) In case when administrators do not take the steps provided by paragraph (1), any interested person may act for the performance of such steps.

Article179 - (1) Unless provided otherwise by the setting up act, the group shall continue to exist after a member lost this quality, in conditions set by the setting up act or those set through a unanimous agreement of the remaining members.

(2) Provisions of paragraph (1) shall not harm the rights acquired by a person under provisions of paragraph (1) of Article 169, respectively of paragraph (2) of Article 186.

Article180 - (1) Exclusion shall be delivered – at the request of the majority members of the group, unless provided otherwise by the setting up act – through a court decision.

(2) In the resolution of an exclusion application, the group and the respondent member shall be subpoenaed.

(3) As a result of exclusion, the court shall dispose also, through the same decision, on the structure of participation of the other members in the group capital.

(4) The final decision on exclusion shall be submitted, within 15 days, to the Commerce Registry Office, in order to registered, while the enacting terms of the judgment shall be published, at the request of the group, in the Official Journal of Romania, Part IV.

Article181 - (1) An excluded member shall be liable for damages and shall have the right to benefits until the date of his/her exclusion, but may not ask for the latter settlement until they are not distributed according to the setting up act.

(2) An excluded member shall not have the right to a proportional share of the group assets, but only to an amount of money, which represents its value at the date of his/her final exclusion.

Article 182 - (1) An excluded member shall remain liable before third parties for the operations performed by the group until the date the exclusion decision remains final.

(2) If, at the moment of exclusion, there are operations in execution, the member has the duty to bear the consequences and may not withdraw his/her due share until the respective operations are completed.

(3) The right to sue an excluded member, provided by paragraph (1) shall extinguish within a 5 – year term, which starts running from the date of publication of the mention regarding his/her exclusion in the Official Journal of Romania.

Article183 - (1) Any member may withdraw from the group in the following situations:

a) in situations set by the setting up act;

b) with the consent of all the other members;

c) in the absence of such provisions in the setting up act or when a unanimous consent is not obtained, a member may withdraw for well – grounded reasons, based on a tribunal decision, subject only to final appeal, within 15 days from its communication.

(2) In the situation provided by point c) of paragraph (1), the court shall dispose, through the same decision, on the structure of participation of the other group members in the group capital.

(3) Rights of a withdrawn member, due for his/her interest shares, shall be set through the members agreement or by an expert assigned by them, or, in case of disagreement, by the tribunal, through an irrevocable decision.

(4) Rights of a withdrawn member provided by paragraph (3) shall not be set in advance, as a lump payment.

(5) Provisions of Article 182 referring to the liability of an excluded member to obligations generating from the group activity until the date when the exclusion decision remains final, shall apply accordingly to a withdrawn member, as well as to the one whose member quality ceases in any other way.

Section VIII
Dissolution, Merger and Splitting of an Economic Interest Group

Article184- (1) An economic interest group shall be dissolved through:

a) expiration of the time set for the group existence;
b) impossibility to achieve or failure to achieve the activity object of the group;
c) declaring the group nullity;
d) a decision of the members' general assembly, adopted by a unanimous vote, except for the cases when the setting up act provides otherwise;
e) a tribunal decision, at the request of any member, for well – grounded reasons, such as serious disagreements among members, which prevents the group functioning, as well as at the request of any competent public authority;
f) declaring the group bankrupt;
g) other reasons provided by law or by the setting up act of the group.

(2) In the situation provided by point a) of paragraph (1), members need to be consulted, at least tree months prior to the expiration of the group duration, on a possible prolongation of it. In the absence of it, the tribunal may dispose, at the request of any of the members, on holding the consultation, through an irrevocable decision.

Article185 - (1) A group shall be dissolved by entering bankruptcy, losing its rights, exclusion, withdrawal, death, respectively cessation of a legal entity, of any of the members, when, due to these reasons, the number of members diminished to just one.

(2) The situation when there is a clause in the setting up act of continuation with heirs shall be excepted.

Article186 - (1) If a member deceases and if there is not a convention providing otherwise, the group shall pay the due share to heirs, after the last approved financial statements, within a 3 – month term from the notification of the member's death, on condition that the remaining members do not decide, unanimously, to continue the group with heirs, who consent to this.

(2) In case of a member death, no other person may become member in his/her place, except for the case when the setting up act provides otherwise or, in the absence of an express provisions referring to this, only with the unanimous consent of the remaining members.

(3) Heirs continue to be liable, under Article 181, until the publication of the

occurred changes.

Article187 - (1) In case of dissolution of a group through a decision of its members, they may reconsider the made decision, by the majority required for the modification of the setting up act, as long as no distribution of the company's assets was done.

(2) The new decision shall be registered in the Commerce Registry, after which the Commerce Registry Office shall send it to the Official Journal of Romania for publication, at the expense of the group.

(3) Creditors and any other interested party may appeal the decision in the tribunal, under provisions of Article 62 of the Law No. 31/1990 on Commercial Companies, as republished, with subsequent modifications.

Article188 - (1) Dissolution of a group has to be registered in the Commerce Registry and published in the Official Journal of Romania, except for the situation provided by point a), paragraph (1) of Article 184.

(2) Registration and publication shall be done in compliance with Article 174, when dissolution is done based on a decision of the general assembly, and, when dissolution was decided by court, within a 15 – day term from the date when the court decision became irrevocable.

(3) In the situation provided by point f), paragraph (1) of Article 184, dissolution shall be decided by a syndic judge, through the same decision through which entering bankruptcy of the group is decided.

Article189 - (1) Dissolution of a group has as an effect the initiation of the liquidation procedure. Dissolution may take place without liquidation, in case of merger or total splitting of the group or in other cases provided by law.

(2) From the moment of dissolution, administrators may not perform new operations; otherwise, they shall be individually and jointly liable for the operations they performed.

(3) The prohibition provided by paragraph (2) shall apply from the day of expiration of the term set for the group duration or from the date when dissolution was decided by the general assembly, or delivered by a court decision.

(4) A group shall keep its legal entity for the liquidation operations, until its completion.

Article190 – Dissolution of a group prior to the expiration of the term set for the group duration shall have an effect to third parties only after a 30 – day term passes from the publication of the general assembly decision in the Official Journal of Romania.

Article191 - Members of a group may decide, together with dissolution, with the quorum and majority required for the modification of the setting up act, also on the way of liquidation of the group, in case they agree on the distribution and liquidation of the group's assets and ensure the extinction of debts or their regularization by mutual

agreement with the creditors.

Article192 - (1) At the request of any interested person, the tribunal may decide on the group dissolution, in the following situations:

a) the group does not have statutory bodies anymore or they cannot meet anymore;

b) the group did not submit, within maximum 6 months from the expiration of legal terms, the annual financial statements or other documents which, according to the law, have to be submitted to the Commerce Registry Office;

c) the group ceased its activity, does not have a known address or does not meet the requirements referring to office space, or its members disappeared or do not have a known domicile or residence.

(2) Provisions of point c) of paragraph (1) shall not apply in the situation when the group had a temporary inactivity, on which it notified the fiscal authorities and which was recorded in the Commerce Registry. The period of inactivity may not exceed 3 years.

(3) The enacting terms of the tribunal decision through which the dissolution was delivered shall be registered in the Commerce Registry, shall be communicated to the General Public Finance Direction of the respective county, respectively of Bucharest, and shall by published in the Official Journal of Romania, at the expense of the author of the dissolution application, the latter having the possibility to recover it from the group.

(4) In the event of several court decisions on dissolution, for situations provided by paragraph (1), publication in the Official Journal of Romania may be done under the form of a table, containing the following: the unique code of registration, name, the legal status and the address of the dissolved group, the court who ordered the dissolution, number of the file and date of the dissolution decision. In such cases, the fees for publication in the Official Journal shall be cut down to 50%.

(5) Any interested person may file an appeal against a dissolution decision, within a 30 – day term from its publication, under provisions of paragraphs (3) and (4). Provisions of paragraphs (3) – (4) of Article 60 of the Law No. 31/1990 shall apply accordingly.

(6) On the date when the tribunal decision remains final, the group shall be erased *ex officio* from the Commerce Registry, unless provided otherwise by the tribunal decision.

Article193 - (1) A merger shall be done through absorption of a group by another group or through merger of two or more groups for the purpose of creating a new group.

(2) A splitting shall be done by distribution of the entire property of a group, which ceases its existence, between two or among several groups that exist already or that are this way created.

(3) A group shall not cease its existence in the situation when a part of its property is separated and transferred to one or more legal entities that exist already or that are this way created.

(4) Groups in liquidation may merge or split only on condition that the distribution of the shares due to members as a result of liquidation has not started yet.

Article194 - (1) A merger or a splitting shall be decided by each group individually, under the terms set for the modification of a group setting up act.

(2) If, through merger or splitting, a new group is created, it shall be constituted under the terms set by the present title.

Article195 – A merger or splitting have as effects the dissolution, without liquidation, of a group that ceases its existence, and the universal or having a universal title transfer of its property to the group or groups resulted from merger/splitting, in the state it is on the date of merger or splitting, in exchange of distribution of interest shares of it to members of the group that ceases its existence and, possibly, of an amount of money, which may not exceed 10% of the face value of the distributed interest shares

Article196 – Based on the decision of the members' general assembly of each of the groups participating in merger or splitting, their administrators shall prepare a draft agreement of merger or splitting, which shall contain the following:

a) name and address of all the groups participating in the operation;

b) reasoning and terms of the merger or splitting;

c) setting and evaluation of the assets and liabilities, which are transferred to the beneficiary groups;

d) if the case, the ways of distribution of the interest shares to the parties, and the date when they generate the right to dividends;

e) the exchange proportion of the interest shares and, if applicable, the amount of the balance to equalize shares;

f) date of the merger/splitting financial statements, which shall be the same for all the participating groups;

g) any other data of interest for the operation.

Article197 - (1) The draft agreement of merger or splitting, signed by the representatives of the participating groups, shall be submitted to the Commerce Registry, where each group is registered, accompanied by a statement of the group ceasing its existence as a result of merger or splitting, on the way it decided to extinguish its debts

(2) The draft contract of merger or splitting, approved by a delegate judge, shall be published in the Official Journal of Romania, at the expense of the parties, entirely or extracts of it, according to the order of the delegate judge or of the parties' application, at least 30 days before the dates of the meetings in which general assemblies are to decide on merger /splitting.

Article198 - (1) Any creditor of the group merging or being divided, having a claim previous to the publication of the contract of merger or splitting, may oppose to it under provisions of Article 62 of the Law No. 31/1990, as republished, with subsequent modifications and completions.

(2) Opposition shall suspend the performance of merger or splitting until the date the

court decision became irrevocable, except for the case when the debtor group proves that it paid its debts or offers guarantees accepted by creditors, or reaches an agreement with them for the payment of debts.

(3) Provisions of Article 62 of the Law No. 31/1990, as republished, with subsequent modifications and completions, shall apply accordingly.

Article199 - (1) Administrators of the groups that merge or are divided shall make available to members, at the groups' offices, at least one month prior to the date of the general assembly meeting, the following:

a) the draft agreement of merger or splitting;

b) the administrators' report, in which they justify the necessity of merger/splitting from an economic and legal point of view and the exchange rate for the interest shares;

c) financial reports, together with the management reports for the last three financial statements, as well as for the period of three months prior to the date of the draft agreement of merger or splitting;

d) the auditors' report;

e) tracking of contracts of amounts exceeding 100,000,000 Romanian lei, in execution, and their distribution, in case of splitting.

(2) Members may receive free copies of the documents listed by paragraph (1) or extracts of them.

Article200 - In case of merger through absorption, administrators of the absorbed group are civilly liable before the members of the absorbed group for damages caused to them, due to errors committed in the merger operations.

Article201 - (1) In maximum two months from the expiration of the term provided by Article 198 or, as the case may be, from the date on which the court decision became irrevocable, the general assembly of each of the participating group shall decide on merger or splitting.

(2) The setting up acts of the groups newly created through merger or splitting shall be approved by the general assembly of the group or groups that cease its or their existence

Article202 - (1) The document modifying the setting up act of the absorbing groups shall be registered in the Commerce Registry in which area the group has its business address and, after approved by a delegate judge, shall be sent *ex officio* to the Official Journal of Romania for publication, at the expense of the group.

(2) Publication for the absorbed groups may be done by the absorbing group, in situations when the former did not do it within a 15 – day term from the approval of the modifying document of the setting up act of the absorbing group by the delegate judge.

Article203 – Merger or splitting may be concluded on the following dates:

a) in the event of creation of one or more new groups, on the date of registration of the new group or of the last of them in the Commerce Registry;

b) in the other cases, on the date of endorsement regarding the increase of the social capital of the absorbing group in the Commerce Registry.

Article204 – In the event of merger through absorption, the absorbing group takes over the rights and liabilities of the group it absorbs, while in the event of merger through merger, rights and liabilities of the groups ceasing their existence are transferred to the group newly created in this way.

Article205 - (1) Groups acquiring assets as a result of splitting are liable before creditors for the liabilities of the group that ceased its existence through splitting, proportionally to the value of the acquired assets, except for the situation when the splitting document set different proportions.

(2) If the group liable for a debt cannot be established, the groups that acquired assets shall be jointly liable.

(3) The contribution of any share of the assets of a group to one or more groups, that exist already or that are created this way, in exchange of the interest shares distributed to members of that group to the beneficiary groups, shall be subject, accordingly, to legal provisions regarding splitting, if this takes place through separation, under paragraph (3) of Article 193.

Section IX
Liquidation of an Economic Interest Group. Insolvency of an Economic Interest Group

Article206 - (1) For the liquidation and distribution of the property of an economic interest group, even if in the setting up document norms are provided for this purpose, the following rules shall be mandatory:

a) up to the moment the liquidators take over their function, administrators shall continue their mandate, except for those set by Article 189;

b) the document of appointment of liquidators or the court decision substituting it and any other subsequent document, which would bring about changes of persons, shall be submitted, through the good offices of liquidators, to the Commerce Registry, in order to be immediately registered and published in the Official Journal of Romania.

(2) Only after the formalities provided by paragraph (1) are fulfilled, liquidators shall submit their signature sample to the Commerce Registry and perform this function.

(3) After the publication provided by paragraph (2), no action can be filed on behalf of the group or against it, but on behalf of liquidators or against them.

(4) In addition to provisions of the present chapter, rules set by the setting up act and provided by law shall apply to groups in liquidation, to the extent they are not incompatible to liquidation.

(5) All the documents generating from a group have to show that the group is in liquidation.

Article207 - (1) Liquidators may be natural persons or legal entities. Natural person liquidators or natural person permanent representatives of the liquidating company shall be authorized liquidators, as provided by law.

(2) Liquidators shall have the same liability as administrators.

(3) Liquidators have the duty, as soon as they take over this function, together with the administrators, to make an inventory and prepare a financial statements, which finds the accurate situation of the group assets and liabilities, and to sign them.

(4) Liquidators have the duty to receive and keep the group property, registers that were entrusted to them by administrators, and documents of the group. Also, they shall keep a record of all the liquidation operations, in their chronological order.

(5) Liquidators shall perform their mandate under the supervision of persons having the position of auditors.

Article208 – In the situation of groups, which activity was carried out based on an environmental authorization provided by Law on Environment Protection No. 137/1995, liquidators have the duty to take steps for preparing the environmental statements, required by this law, and to communicate its results to the territorial Environment Protection Agency.

Article209 - (1) In addition to the powers granted by the members, through the same majority of votes required for their appointment, liquidators may perform the following:

a) go to court and be sued in the liquidation interest;

b) perform and complete property operations related to liquidation;

c) sell, by public auction, the fixtures and any movable assets of the group;

d) conclude transactions;

e) liquidate and cash the group debts, even in the situation when debtors are subject to the procedure regulated by Law No. nr.64/1995 on the Procedure of Legal Reorganization and Bankruptcy, by issuing a receipt;

f) contract promissory note obligations, loans that are not guaranteed by mortgage and perform any other necessary actions.

(2) However, in the absence of special provisions in the setting up act or in the document of their appointment, they may not instate mortgages on the group's assets, unless authorized by court, with the approval of the persons having the competency of auditors.

(3) Liquidators performing new operations, which are not necessary for the purpose of liquidation, shall be individually and jointly liable for their performance.

Article210 - (1) Liquidators may not pay the members any amount of money on the account of the shares due after the liquidation, prior to paying the group's debts to

creditors.

(2) However, members may request that the retained amounts to be deposited to the Savings Bank or to other bank, or to any of their branches, and distribution of the interest shares to be done during the liquidation, if, at least 10% of their value still remains in addition to what is necessary for paying all the group's falling due or about to fall due debts.

(3) Creditors of the group may appeal the liquidators' decisions under provisions of Article 62 of the Law No. 31/1990, as republished, with subsequent modifications and completions.

Article211 – Liquidators who prove, by presenting the financial statements, that the funds the group has available are not sufficient to cover the claimable debts, may ask the necessary amounts from the group members.

Article212 – Liquidators who paid the group debts with their own money, shall not have more rights on the group than those held by the paid creditors

Article213 - (1) Creditors of the group have the right to initiate against liquidators actions resulting from the falling due debts, up to the value of the assets existing in the group property, and only afterwards they may initiate actions against members

(2) The right to an action against the group members, provided by paragraph (1), shall be lost by limitation in a 5 – year term, which starts running from the date of publication of the endorsement regarding the termination of liquidation in the Official Journal of Romania

Article214 - (1) Liquidation of a group shall be completed in maximum 3 years from the date of dissolution. For well – grounded reasons, the tribunal may prolong this term with maximum 2 years.

(2) Within a 15 – day term from the date when liquidation was completed, liquidators shall request the erasing of the group from the Commerce Registry, under the sanction of a civil fine of 1,000,000 Romanian lei for each day of delay, which shall be applied by the delegate judge, as a result of a notification done by any of the interested parties. The delegate judge's decision shall be final and enforceable.

(3) Erasing may be done also *ex officio*.

(4) Liquidation shall not exempt the members of and shall not prevent the initiation of the procedure of legal reorganization and bankruptcy of the group.

Article215 - (1) After the approval of calculations and completion of the distribution, the group account books and documents, which are not necessary to any of the members, shall be kept by a member appointed by the majority or, in case none of them wants to keep them, shall be deposited to the Commerce Registry Office, at the expense of the group.

(2) Account books of the group shall be kept for 5 years and may be consulted by any interested party, at his/her own expense.

Article216 - (1) Appointment of liquidators shall be done by all members, unless provided otherwise by the setting up act.

(2) If unanimity of votes cannot be obtained, appointment of liquidators shall be done by court, at the request of any member or administrator, by hearing all members and administrators.

(3) The court decision may be appealed by members or administrators only by final appeal, within a 15 – day term from its delivery

Article217 - (1) After completion of a group liquidation, liquidators shall prepare a liquidation financial statements and propose distribution of assets among members.

(2) Any dissatisfied member may appeal, under provisions of Article 62 of the Law No. 31/1990, as republished, with subsequent modifications and completions, within a 15 – day term from the date of notification on the liquidation financial statements and the distribution proposal.

(3) For the resolution of an appeal, issues related to liquidation shall be separated from those related to distribution, to which liquidators may be neutral.

(4) After expiration of the term provided by paragraph (2) or after the decision on the appeal remained irrevocable, the liquidation financial statements and distribution shall be considered as approved, and liquidators shall be discharged of their duty.

Article218 - (1) An economic interest group, being in an insolvency situation, shall be subject to the procedure of legal reorganization and bankruptcy, as provided by Law No.64/1995 on the Procedure of Legal Reorganization and Bankruptcy.

(2) Provisions of paragraph (1) shall apply irrespective of the commercial or non – commercial nature of an economic interest group.

Section X
Restrictions. Sanctions

Article219 - (1) Salaries or any other amounts or benefits shall be granted to administrators only based on a decision of the general assembly.

(2) Crediting by the group of its administrators, through the following operations, shall be prohibited:

a) granting loans to administrators;

b) granting financial benefits to administrators at the moment or after the group concluded with them goods supply, service providing or execution operations;

c) guaranteeing, directly or indirectly, totally or partially, any loans granted to administrators, at the same time or after the loan was granted;

d) guaranteeing, directly or indirectly, totally or partially, the payment of any

personal debts to third parties by the administrators;

e) acquirement for valuable consideration or payment, entirely or partially, of a debt having as a subject a loan granted by a third party to administrators or other personal debts of them.

(3) Provisions of paragraph (2) are applicable also in operations in which the administrator's spouse, blood relatives or in – law relatives up to the 4th degree included have an interest; it also applies if an operation concerns a civil or commercial company in which any of the persons mentioned previously is either administrator or director, or holds, by him/herself or together with any of the persons mentioned above, a share of at least 20% of the subscribed social capital

(4) Provisions of paragraph (2) shall not apply:

a) in case of operations which summed up claimable value is lower to the equivalent in Romanian lei of the amount of 5,000 Euros;

b) in case when an operation is performed by a group in virtue of carrying out its activity, and clauses of the operation are not more in favor of the persons mentioned by paragraphs (2) and (3) than those practiced regularly by the group on third parties.

Article220 - (1) Any administrator who has in a certain operation, directly or indirectly, interests contrary to the group interests, shall notify the other administrators and the auditors of this, and shall not participate in any decision – making related to this operation.

(2) Any administrator has the same duty in the situation when he/she is aware of the fact that his/her spouse, blood relatives or in – law relatives up to the 4th degree included have an interest in a certain operation.

(3) Any administrator who failed to comply with provisions of paragraphs (1) and (2) shall be held liable for damages caused to the group.

Article221 - (1) Unless provided otherwise by the setting up act, and under the reserve of provisions of Article 220, alienations, respectively purchases of goods operated by administrators to or from an economic interest group prior to obtaining the approval of the general assembly shall be liable to nullity.

(2) Provisions of paragraph (1) shall apply also to rental or leasing operations.

(3) Provisions of the present Article shall apply also to operations in which any of the parties is the administrator's spouse, blood relative or in – law relative up to the 4th degree included; they also apply if an operation is concluded with a civil or commercial company, in which any of the persons mentioned previously is either administrator or director, or holds, by him/herself or together with any of the persons mentioned above, a share of at least 20% of the subscribed social capital

Article222 - (1) Economic interest groups that need to request registration or endorsement of a mention, to submit a signature sample or certain documents, in case they fail to comply with the legal provisions and the set terms, if the committed deed is

not an offence, shall be sanctioned, by a court decision, to payment of a court fine of between 5,000,000 to 20,000,000 Romanian lei. If several persons have the obligation to fulfill the requirements, the fine shall be applied to each of them.

(2) The fine provided by paragraph (1) shall be applied also to representatives of the sanctioned interest groups, as provided by the respective paragraph.

(3) Notification of the court regarding the application of fines provided by paragraph (1) may be done by any interested person.

(4) Court fines provided by paragraph (1) are subject to the common status of civil fines, provided by the Civil Procedure Code, and shall be applied by the court in which territorial jurisdiction the deed was committed.

Article223 – (1) Violation of obligations provided by Article 152 shall be considered an infringement and shall be sanctioned by a fine of between 5,000,000 to 10,000,000 Romanian lei.

(2) Finding of infringements and application of sanctions shall be done by the control bodies of the Ministry of Public Finance.

(3) Provisions of the Government Ordinance No. 2/200, on the Legal Status of Infringements, approved with modifications and completions by the Law No, 180/2002, with subsequent modifications, shall be applicable to infringements provided by paragraph (1).

Article224 - (1) A person who, by bad faith, gave inaccurate statements, based on which a registration or a mention were operated in the Commerce Registry, shall be sanctioned by a jail sentence of between 3 months to 2 years, or by a fine.

(2) Through its delivered decision, the court shall dispose also on the correction or erasing of the inaccurate registration or mention.

Article225 – A jail sentence of between 1 to 3 years shall be applied to any founder, administrator or legal representative who:

a) uses, in bad faith, assets or a credit granted to the group, for a purpose contrary to the group, or to his/her personal benefit, or for the purpose to favor any other legal entity, in which he/she has direct or indirect interests;

b) borrows money, under any form, in conditions other than those expressly provided by law, from the group he/she administers, from a company controlled by the group, or determines any of these legal entities to provide him/her with guarantees for his/her personal debts;

c) cashes or pays dividends, under any form, from fictitious profits or which could not be distributed in the absence of a financial statements, or contrary to those resulting from the latter;

d) violates provisions of paragraph (3) of Article 165.

Article226 - A jail sentence of between 1 month to 1 year or a fine shall be applied

to any administrator or legal representative of the group who:

a) enforces the decisions of the general assembly related to merger or splitting or to diminishing the group's capital prior to expiration of the terms provided by law;

b) enforces the decisions of the general assembly related to diminishing the group's capital, without enforcing on members the payment of their owed amounts or without the decision of the general assembly, which exempts them from subsequent payments.

Article227 - (1) A jail sentence of between 1 month to 1 year or a fine shall be applied to any administrator who:

a) violates, directly or through intermediates, or through forged documents, provisions of Article 220;

b) does not convene the general assembly in situations provided by law;

c) issues negotiable titles representing interest shares of an economic interest group.

(2) The sanction provided by paragraph (1) shall also be applied to a member of an economic interest group who violates provisions of Article 162.

Article228 - A jail sentence of between 3 months to 3 years shall be applied to any founder, administrator and auditor who performs his/her competencies or duties by violation of provisions of paragraphs (3) and (4) of Article 120, referring to incompatibility.

Article229 - Provisions of Articles 223-227 shall apply also to a liquidator.

Article230 - A jail sentence of between 1 month to 1 year or a fine shall be applied to any liquidator who makes payments to associates by violation of provisions of Article 210.

Article231 – Also, any of the following deeds shall be considered a fraudulent bankruptcy offence and shall be sanctioned by a punishment provided by Article 276 of the Law No.31/1990, on Commercial Companies, as republished, with subsequent modifications and completions:

a) forgery, abstraction or destruction of evidence of an economic interest group, or hiding a part of its assets;

b) presentation of non – existing debts or record of unowed amounts in the account books of an economic interest group, in any other document or in the financial statements, each of these deeds being committed for the purpose of an apparent diminishing of the assets' value;

c) alienation, to the prejudice of creditors, of a significant part of the assets, in case of insolvency of an economic interest group.

CHAPTER II

European Economic Interest Groups

Article232 – European economic interest groups (G.E.I.E.) created in compliance with provisions of the present chapter, are recognized and may function, as provided by law, in Romania.

Article233 - (1) A European economic interest group is that association between two or more legal entities, created for a determined or undetermined period, for the purpose of facilitating or developing the economic activity of its members, as well as of improving the results of the respective activity.

(2) Only the following may be members of a European economic interest group:

a) companies or enterprises as defined by paragraph 2 of Article 165 of the consolidated version of the Treaty on the Creation of the European Community, as well as other public or private legal entities, which were created in compliance with the legislation of a member state of the European Union and which have their social address, as well as their headquarters (including leadership, management and statutory activity) in the territory of a state of the European Union; if, according to the legislation of a member state, a company or any other legal entity has not the obligation to have a social address, it is sufficient for a company, enterprise or any other legal entity to have its headquarters located in the territory of a state of the European Union;

b) natural persons carrying out industrial, commercial, handcraft or agricultural activities or who provide professional services or of any other nature in the territory of a state of the European Union.

(3) A European economic interest group shall be composed of at least:

a) two companies, enterprises or other legal entities, as defined by point a), paragraph (2), which headquarters are situated in different member states;

b) two natural persons from among those listed by point b) of paragraph (2), who carry out their main activity in different member states; or

c) one company, enterprise or any other legal entity, as defined by point a) of paragraph (2), which headquarters are located in any of the member states, and one natural person from among those listed by point b) of paragraph (2), who carries out his/her main activity in another member state.

Article234 - (1) A European economic interest group shall be created based on an association contract, named setting up act, and shall be registered in a special registry assigned for this purpose by the member state in which territory the group establishes its premises.

(2) The setting up act of a group shall set forth the way of organization of the group and shall contain the following mandatory elements:

a) name of the group, preceded or succeeded by the formula „European Economic Interest Group or by the „G.E.I.E." initial letters, on condition that the formula or the initial letters are not already part of the name;

b) the group address;

c) the group object of activity;

d) name, the company, the legal form, personal/business address and, if applicable, the registration code and place of registration of each of the group members;

e) the period while the group will function, except for the cases when it is undetermined.

Article235 - (1) European economic interest groups may create affiliates, as well as branches, representations and any other units without legal entity in Romania.

(2) Creation of branches or affiliates in Romania shall be subject to all legal provisions with regard to registration, endorsement, and publication of documents and facts required to the Romanian economic interest groups.

(3) European economic interest groups shall not be subject to the authorization provided by the Decree – Law No. 122/1990, on the Authorization in Romania of Representations of Foreign Commercial Companies and Economic Organizations, with subsequent modifications and completions

(4) Registration applications shall indicate also:

a) name of the branch/affiliate and name and address of the European economic interest group;

b) the branch's/affiliate's object of activity, by specifying the main field and activity, as well as the commercial or non – commercial nature of its activity;

c) name and position of persons who can represent the European economic interest group before third parties and in court, as well as the name and position of persons who are directly in charge with the branch's/affiliate's activity;

d) powers granted to representatives and if they are to perform them together or separately;

e) accounting books of the European economic interest group, audited and published in compliance with the legislation of the state where the group has its business address.

(5) Also, endorsements referring to the following aspects shall be subject to registration:

a) initiation of a judicial or extra – judicial procedure for insolvency against the European economic interest group;

b) dissolution of a European economic interest group, name and powers of its liquidators;

c) closing of the branch/affiliate.

(6) All these formalities shall be fulfilled at the Commerce Registry Office in the area where the branch or affiliate is located.

(7) If a European economic interest group creates several branches in Romania, the setting up documents and any other documents of the same European group, necessary for the registration of a branch, shall be submitted only to one of the branches.

Article236 - (1) The representative or representatives of a branch of a European

economic interest group shall be individually or jointly liable, as the case may be, before the group or third parties, for the violation of legal provisions regulating the economic interest groups, for failure to comply with provisions of the setting up act, or for negligence in their activity, which caused damages to the group.

(2) In the situation when several representatives can be held liable for the same deeds, the tribunal shall establish the contribution of each of them to compensation of damages.

Article237 – Annual incomes of a European economic interest group's branch shall be subject to taxation in compliance with provisions of the Government Ordinance No. 24/1996, on Income Revenue for Representations of Foreign Commercial Companies and Economic Organizations in Romania, approved by Law No. 29/1997, with subsequent modifications.

CHAPTER III
Final Provisions

Article238 – The present title shall come into effect within 90 days from the publication of the law in the Official Journal of Romania.

Book II
Modification of Some Regulations for the Purpose of Preventing and Fighting Corruption

Title I
Assuring Transparency in Performing Public Positions, Prevention and Fighting Corruption

Article I – Law No. 78/2000 on Prevention, Identification and Sanctioning of Corruption Deeds, published in Part I of the Official Journal of Romania No.219, on May 18, 2000, with subsequent modifications and completions, shall be completed as follows:

1. Paragraph (1) of Article 5 shall be modified and read as follows:

"(1) Under the present law, offences provided by Articles 254 – 257 of the Criminal Code, by Articles 6^1 and 8^2 of the present law, as well as offences provided by special laws as specific versions of the offences provided by Articles 254 – 257 of the Criminal Code, by Articles 6^1 and 8^2 of the present law, shall be considered as corruption offences."

2. A new paragraph (paragraph 4) shall be included to Article 5 and shall read as follows**:**

"(4) Provisions of the present law shall be applicable also to offences against the financial interests of the European Community provided by Articles 18^1-18^5, through which sanctioning protection of the European Community funds and resources is ensured."

3. After Article 6, a new Article shall be introduced, Article 6^1, and shall read as follows:

"Article6^1 – (1) Promising, offering or giving amounts of money, gifts or other benefits, directly or indirectly, to a person having influence or who hints at having influence on a public official, in order to determine him/her to perform or not to perform any of the actions which are included in his/her professional duties, shall be sanctioned by a jail sentence of between 2 to 10 years.

(2) A perpetrator shall not be sanctioned if he/she denounces the deed to authorities before the investigation authority was notified on that deed.

(3) Amounts of money, values or any other goods being the subject of the offence provided by paragraph (1) shall be confiscated, and, in case they cannot be found, the convict has the obligation to pay their equivalent in money.

(4) Amounts of money, values or any other goods shall be returned to the person who gave them in the situation provided by paragraph (2)."

4. Paragraph (3) of Article 7 shall be modified and read as follows:

"(3) If offences provided by Articles 256 and 257 of the Criminal Code, as well as offences provided by Articles 6^1 and 8^2 of the present law were committed by any of the persons provided by paragraphs(1) and (2), the special maximum of the sentence shall be increased by 2 years."

5. Article 8 shall be amended to read as follows:

"**Article 8** – Considered to be offences as detailed in Article 254-257 of the Criminal Code, Article 6^1 and Article 8^2 in this Law shall also be the deeds incriminated in these texts and committed by managers, directors, administrators, auditors or other persons with auditing competences with commercial companies, national companies and societies, autonomous state controlled companies (*regii autonome*) and any other economic agents."

6. After Article 8, two new Articles, Article 8^1 and Article 8^2, shall be inserted, that shall read as follows:

"**Article 8^1** – The provisions of Articles 254-257 of the Criminal Code and of Article 6^1 and Article 8^2 of this Law shall apply accordingly to the following persons as well:

a) civil servants or persons who carry out their activity under a labor contract or other persons who perform similar competences, within an international public organization Romania is a party to;

b) members of the parliamentary assemblies of the international organizations Romania is a party to;

c) civil servants or persons who carry out their activity under a labor contract or other persons who perform similar competencies, within the European Communities;

d) persons who hold judicial positions within the international courts which competence is accepted by Romania, as well as court clerks of those courts' offices of the clerk.

e) officials of a foreign state;

f) members of the parliamentary or administrative assemblies of a foreign state.

Article 8^2 – Promising, offering or giving, either directly or indirectly, money or other benefits to an official of any foreign or international public organization, in order to have him/her perform or not perform an act relating to his/her job duties, to the end of getting any undue benefit within the international economic operations, shall be punished with a jail sentence of between 1 to 7 years."

7. Article 13 shall be amended to read as follows:

"**Article 13** – The deed of the person who holds a leadership position with a p[political party, a trade union or employers' union or with a non-profit legal entity, of using his/her influence or authority for the purpose of getting undue money, goods or any other benefits, for him/herself or for other person , shall be punished by a jail sentence of between 1 to 5 years."

8. After Article 13, a new Article, Article 13^1,shall be inserted and read as follows:

Article 13^1 – The offence of blackmail, stipulated by Article 194 of the Criminal Code, in which any of the persons indicated in Article 1 is involved, shall be punished by a jail sentence of between 7 to 12 years."

9. In Article 17, after point d), a new point, point d^1) shall be inserted and read as follows:

"d^1) blackmail, committed in connection with the offences stipulated by Sections 2 and 3;"

10. Point e) of Article 17, shall be amended and read as follows:

"e) the offences of money laundering, provided by Law No 656/2002 on Prevention and Sanctioning of Money Laundering, where money, goods or other assets are the result of committing an offence stipulated by Sections 2 and 3;"

11. Point g) of Article 17 shall be amended and read as follows:

"g) offences provided by Law. No 87/1994 on Fighting Tax Evasion, committed in connection with the offences provided by Sections 2 and 3;"

12. Point i) of Article 17 shall be amended and read as follows:

"i) drug trafficking, toxic substances trafficking and failure to observe the fire arms and ammunition regime, committed in connection with an offence provided by Sections 2 and 3;"

13. In Article 17, after point i), points j) and k) shall be inserted, having the following content;

"j) trafficking in human beings, provided by Law No 678/2001 on Preventing and Fighting Trafficking in Human Beings, committed in connection with an offence provided by Sections 2 and 3;

k) the offence provided by the Government Emergency Ordinance No 159/2001 on Preventing and Fighting the Use of the Financial-Banking System for the Purpose of Financing Acts of Terrorism, adopted by Law No 466/2002, committed in connection with an offence provided by Sections 2 and 3."

14. Paragraphs (1) and (2) in Article 18 shall be amended and read as follows:

(1) The offences provided by points a)-d^1) of Article 17 shall be punished by the penalties provided by the Criminal Code for these offences, the maximum level of which shall be raised by 2 years.

(2) The offences provided by point e) of Article 17 shall be punished by the penalties provided by Law No 656/2002 on Preventing and Sanctioning Money Laundering, the maximum level of which shall be raised by 3 years."

15. Paragraph (4) of Article 18 shall be amended and read as follows:

"(4) The offences provided by point g) of Article 17 shall be punished by the penalties provided by Law No 87/1994 on Prevention of Tax Evasion, the maximum level of which shall be raised by 2 years."

16. Paragraph (6) in Article 18 shall be amended and read as follows:

"(6) The offences provided by point i) of Article 17 related to drug trafficking shall be punished with the penalties provided by Law No 143/2000 on Fighting Illegal Drug Trafficking and Consumption, the maximum level of which shall be raised by 2 years; the offence related to toxic substance trafficking shall be punished by the penalty provided by Article 312 of the Criminal Code, the maximum level of which shall be raised by 2 years; and the offence of failure to observe the weapons and ammunition regime shall be punished by the penalties provided by Article 279 of the Criminal Code, the maximum level of which shall be raised by 2 years."

17. In Article 18 two new paragraphs shall be inserted, paragraphs (7) and (8) that shall read as follows:

"(7) The offences provided by point j) of Article 17 concerning the trafficking in human beings shall be punished by the penalties provided by Law No 678/2001 on

Preventing and Fighting Trafficking in Human Beings, the maximum level of which shall be raised by 2 years.

(8) The offence provided by point k) of Article 17 shall be punished with the penalty provided by the Government Emergency Ordinance No 159/2001 on Preventing and Fighting the Use of the Financial-Banking System for the Purpose of Financing Acts of Terrorism, adopted by the Law No 466/2002, the maximum level of which shall be raised by 2 years."

18. In Chapter III, after Section 4, a new section, Section 4^1, shall be inserted that shall read as follows:

Section 4^1
Offences against the Financial Interests of the European Communities

Article 18^1 – (1) The use or production of any forged, inaccurate or incomplete documents or statements, the result of which is the undue obtaining of funds out of the general budget of the European Communities or out of the budgets managed by them or on their behalf, shall be punished by a jail sentence of between 3 to 15 years and the banning of certain rights.

(2) The same punishment shall apply to the deliberate withholding of data required according to the law for obtaining funds out of the general budget of the European Communities or out of the budgets managed by them or on their behalf, if the deed results in obtaining undue such funds.

(3) Where the deeds provided by paragraphs (1) and (2) have resulted in very serious consequences, the penalty shall be a jail sentence of between 10 to 20 years and the banning of certain rights.

Article 18^2 – (1) Changing, in violation of legal provisions, the purpose of the funds obtained out of the general budget of the European Communities or of the budgets managed by them or on their behalf, shall be punished by a jail sentence of between 6 months to 5 years.

(2) Where the deed provided by paragraph (1) has resulted in very serious consequences, the penalty shall be a jail sentence of between 5 to 15 years and the banning of certain rights.

(3) Changing, in violation of legal provisions, the purpose of any legally obtained benefits, where the deed results in the illegal diminishing of the resources from the general budget of the European Communities or from the budgets managed by them or on their behalf shall be punished with the penalty provided by paragraph (1).

Article 18^3 – (1) The use or production of any forged, inaccurate or incomplete

documents or statements, the result of which is the illegal diminution of the resources from the general budget of the European Communities or from the budgets managed by them or on their behalf, shall be punished by a jail sentence of between 3 to 15 years and the banning of certain rights.

(2) The same penalty shall apply for deliberately withholding the data required according to the law, where the deed results in the illegal diminishing of the resources from the general budget of the European Communities or from the budgets managed by them or on their behalf.

(3) Where the deeds provided by paragraphs (1) and (2) have resulted in very serious consequences, the penalty shall be a jail sentence of between 10 to 20 years and the banning of certain rights.

Article 18[4] – The attempted deeds provided by Articles 18[1]-18[3] shall be punished.

Article 18[5] – Criminal violation by any director, manager or person with decision-making or auditing competences within an economic unit, of a job duty, by failing to fulfill it or by inadequately fulfilling it, where it results in the perpetration of any one of the offences provided by Articles 18[1]-18[3] or the perpetration of an offence of corruption or money laundering in connection with the funds of the European Communities, by any person in his subordination and who has acted on behalf of the respective economic unit, shall be punished by a jail sentence of between 6 months to 5 years and the banning of certain rights."

19. Article 22 shall be amended to read as follows:

"**Article 22** – In the case of the offences provided by this Law, the criminal investigation shall be mandatorily performed by the prosecutor."

20. Paragraph (3) of Article 25 shall be repealed.

21. Article 26 shall be amended to read as follows:

"**Article 26** – Bank and professional secrecy, except for the professional secrecy of a lawyer, exercised in compliance with the law, shall not be opposable, either to the prosecutor, after the beginning of the criminal investigation, or to the court. The data and information required by the prosecutor or by the court shall be communicated, upon the prosecutor's request in writing, in the process of criminal investigation, or upon the request of the court, in the course of the trial."

22. Article 27 shall be amended to read as follows:

"**Article 27** – (1) Where there are solid grounds regarding the commitment of any of the offences provided by this Law, for the purpose of collecting evidence or of identifying a perpetrator, the prosecutor may give motivated authorization, for no more than 30 days, for:

a) surveillance of bank and assimilated accounts;
b) surveillance or interception of communications;
c) access to information systems;
d) communication of written documents, bank, financial or accountancy documents.

(2) For well – grounded reasons, the authorization provided by paragraph (1) may be extended, in the same conditions, for further periods of 30 days at the most.
The maximum length of application of the steps provided by paragraph (1)(a-c) shall be of 4 months.

(3) In the process of trial, the court may rule the extension of these steps by motivated decision.

(4) The provisions of Article 91^1-91^5 in the Criminal Procedure Code shall apply accordingly."

23. Article 29 shall be amended to read as follows:

"**Article 29** – (1) For the first instance trial of the offences provided by this Law, specialized courts shall be constituted.

(2) In first instance courts, tribunals and courts of appeal, the specialized judge panels shall be composed of two judges."

24. In Article 31, after paragraph (1), a new paragraph shall be inserted, which shall read as follows:

"(2) Provisions of the Law No 92/1992 on Judicial Organization, republished in the Official Journal of Romania No 259/30, on September 1997, with subsequent modifications and completions, shall apply accordingly also to this Law, unless provided otherwise."

25. Article 32 shall be repealed.

Article II – The Government Emergency Ordinance No 43/2002 on the National Anti - Corruption Prosecutors' Office, published in the Official Journal of Romania, Part I, No 244/11, on April 2002, adopted with modifications and completions by Law No 503/2002, shall be amended and completed as follows:

1. Paragraph (3) of Article 1 shall be amended, to read as follows:
"(3) The National Anti - Corruption Prosecutors' Office shall be organized as an independent agency and legal entity under the Public Ministry, shall be headed by an general prosecutor and coordinated by the General Prosecutor of the Prosecutor's Office by the Supreme Court of Justice. The general prosecutor of the National Anti - Corruption Prosecutors' Office shall be assimilated with the first deputy prosecutor general of the Prosecutor's Office by the Supreme Court of Justice."

2. Paragraph (1) point a) in Article 3 shall be amended, to read as follows:

"a) conducting of the criminal investigation, in terms provided by the Criminal Procedure Code, by Law No 78/2000 on Prevention, Identification and Sanctioning of Corruption Deeds, and by the present Emergency Ordinance, for the offences provided by Law No 78/2000 which, according to Article 13, fall within the competence of the National Anti - Corruption Prosecutors' Office;"

3. In Article 3, a new paragraph shall be inserted, paragraph (3), that shall read as follows:

"(3) In performing his/her competencies, the prosecutor general of the National Anti - Corruption Prosecutors' Office shall issue orders."

4. Paragraph (1) of Article 4 shall be amended, to read as follows:

"(1) The National Anti - Corruption Prosecutors' Office is headed, according to the provisions of Article 1 (3), by a prosecutor general, assisted by an assistant prosecutor general, assimilated with the assistant prosecutor general of the Prosecutor's Office by the Supreme Court of Justice."

5. In Article 4, after paragraph (1), a new paragraph shall be inserted, paragraph (1^1), that shall read as follows:

"(1^1) In his/her activity, the prosecutor general of the National Anti - Corruption Prosecutors' Office shall be assisted by 2 counselor prosecutors, assimilated with the counselor prosecutors of the prosecutor general of the Prosecutor's Office by the Supreme Court of Justice."

6. Paragraph (3) in Article 4 shall be amended to read as follows:

"(3) The financing of the current and investment expenditures of the National Anti - Corruption Prosecutors' Office shall be provided from the state budget, through the budget of the Public Ministry. The funds assigned to the National Anti - Corruption Prosecutors' Office shall be approved separately by the Parliament, as an annex to the Public Ministry budget."

7. Paragraphs (1) and (2) in Article 5 shall be amended to read as follows:

"(1) At a central level, the National Anti - Corruption Prosecutors' Office shall be organized into squads, run by prosecutor heads of squad, as follows:

a) corruption squad;

b) squad fighting offences connected with corruption offences;

c) criminal judiciary squad.

(2) Within the National Anti - Corruption Prosecutors' Office at a central level, services and offices may be organized, by order of the prosecutor general of the National Anti - Corruption Prosecutors' Office."

8. In Article 5, a new paragraph shall be inserted, paragraph (4), that shall read as follows:

"(4) The judiciary police officers shall be organized into a squad run by a chief constable, subordinated to the prosecutor general of the National Anti - Corruption Prosecutors' Office, and the experts employed with the National Anti - Corruption Prosecutors' Office shall be organized into services and offices, by an order of the prosecutor general of the National Anti - Corruption Prosecutors' Office.

9. Paragraph (1) of Article 7 shall be amended to read as follows:

"(1) Territorial services of the National Anti - Corruption Prosecutors' Office shall be established at the level of prosecutors' offices by the courts of appeal."

10. Paragraph (3) of Article 7 shall be amended to read as follows:

"(3) the number of prosecutors, of judiciary police officers and of the experts mentioned by Article 6, employed with the territorial services provided by paragraph (1), shall be set by the prosecutor general of the National Anti - Corruption Prosecutors' Office for each individual service, depending on the amount and complexity of the criminal investigation activity, within the limit of the approved total number of jobs."

11. In Article 7, a new paragraph shall be inserted, paragraph (4), to read as follows:

"(4) Under the territorial services of the National Anti - Corruption Prosecutors' Office, offices and other compartments of activity may be organized, by order of the prosecutor general of the National Anti - Corruption Prosecutors' Office."

12. Article 13 shall be amended to read as follows:

"**Article 13** – (1) Falling under the competence of the National Anti - Corruption Prosecutors' Office that operates at a central level are the offences provided by Law No. 78/2000, committed in any one of the following conditions:

a) where, irrespective of the capacity of the persons who have committed them, they have caused material damages bigger than the equivalent in Romanian lei of the amount of 100,000 Euros or a most serious disruption of the activity of any public authority, public institution or any other legal entity, or where the value of the amount or of the asset that makes the object of the offence of corruption is higher than the leu equivalent of 10.000 euro;

b) where, irrespective of the value of the material damages or seriousness of the disruption inflicted upon any public authority, public institution or legal entity or of the value of the amount or asset that makes the object of the offence of corruption, they are committed by deputies, senators, Government members, state secretaries and the like, the judges of the Supreme Court of Justice, of the Constitutional Court, the president of the Legislative Council, the Ombudsman, the presidential councilors and the state councilors under the Presidential Administration, the state councilors of the prime minister, the

members, judges, prosecutors and auditors of the Court of Public Accounts, the governor and deputy governor of the National Bank of Romania, the president of the Competition Council, the other magistrates, senior officers, admirals, generals, marshals, senior constables, deputy chief constables, assistant chief constables, chief constables, deputy inspectors, inspectors and chief inspectors, the chairmen and deputy chairmen of the county councils, the mayor general and the deputy mayors general of Bucharest municipality, the mayors and deputy mayors of Bucharest municipality's sectors and the mayors and deputy mayors of county seat municipalities, prefects, sub - prefects, persons holding leading and auditing positions with the central public authorities, public notaries, the general inspector of the Fraud Squad and the chief inspectors of the county Fraud Squads, members of the administration boards and the persons holding leading positions up to that of a director included, with the national facilities, the national companies and societies, the banks and commercial companies with which the State holds the majority stake, with the public institutions that have competences in the privatization process and the central financial-banking units, as well as the persons mentioned in Article 8^1 of Law No 78/2000.

(2) Falling under the competence of the territorial services of the National Anti - Corruption Prosecutors' Office that operate at the level of prosecutor's offices by the courts of appeal, shall be the offences provided by Law No 78/2000, committed in any one of the following conditions:

a) where, irrespective of the capacity of the persons who have committed them, they have caused material damages bigger than the equivalent in Romanian lei of the amount of 10,000 Euro, but no bigger than equivalent in Romanian lei of the amount of 100.000 Euros, or where the value of the amount or asset making the object of the corruption offence is bigger than the equivalent in Romanian lei of the amount of 3,000 Euros, but no bigger than the equivalent in Romanian lei of the amount of 10,000 Euros;

b) where, irrespective of the value of the material damages or of the value of the amount or asset making the object of the corruption offence, they are committed by judiciary liquidators, inspectors of the Fraud Squad, deputy inspectors, inspectors, chief inspectors, police officers, irrespective of their professional rank, customs officers, judges, prosecutors and auditors of the county chambers of public accounts, bailiffs, county and local councilors, mayors and deputy mayors of the towns, other than those provided by paragraph (1) point b), persons with leading and auditing positions with the local public authorities.

(3) The specialized prosecutors of the National Anti - Corruption Prosecutors' Office shall mandatorily conduct the criminal investigation for the offences provided by paragraphs (1) and (2).

(4) The criminal investigation in the cases relating to the offences provided by paragraphs (1) and (2) committed by military shall be conducted by military prosecutors of the National Anti - Corruption Prosecutors' Office.

(5) Falling under the competence of the prosecutor's offices by the courts, according to provisions of the Criminal Procedure Code, shall be the offences provided

by Law No 78/2000 that are not deferred, according to paragraphs (1) and (2), to the competence of the National Anti - Corruption Prosecutors' Office."

13. After Article 13, a new Article, Article 13^1, shall be inserted to read as follows:

"**Article 13^1** –Competence to try offences committed by the prosecutors of the National Anti - Corruption Prosecutors' Office shall devolve to the court having the competence to try, consistent with the law, the offences committed by the prosecutors of the prosecutors' offices by the courts of appeal and of the Prosecutors' Office by the Supreme Court of Justice."

14. After Article 22, a new Article, Article 22^1, shall be inserted this shall read as follows:

"**Article 22^1** – The ordinances ruling the preventative arrest and the indictments prepared by the prosecutors of the territorial services of the National Anti - Corruption Prosecutors' Office shall be confirmed by the chief prosecutors of these services, those prepared by the chief prosecutors of the territorial services, as well as those prepared by the prosecutors of the central structure of the National Anti - Corruption Prosecutors' Office shall be confirmed by the chief prosecutors of the splitting. Where the ordinances ruling the preventative arrest and the indictments are prepared by the chief prosecutors of the National Anti - Corruption Prosecutors' Office splitting, the confirmation shall be given by the prosecutor general of this Prosecutors' Office."

15. Article 23 shall be amended to read as follows:

"**Article 23** – The persons preventatively arrested in cases falling under the competence of the National Anti - Corruption Prosecutors' Office shall be detained in especially established accommodation places, within the National Anti - Corruption Prosecutors' Office, staffed with personnel temporarily transferred from the General Direction of Penitentiaries or, as the case may be, in the preventative arrest sections of penitentiaries."

16. Article 25 shall be amended to read as follows:

"**Article 25** – In view of mutual consultation in the case of offences pertaining to the competence of the National Anti - Corruption Prosecutors' Office and of exchanging data and information relating to the investigation and prosecution of these offences, an office of contact with similar institutions of other states shall be created.

17. Article 26 shall be repealed.

18. Points a), d) and e) of Article 27 shall be amended to read as follows:

"a) 98 positions as prosecutor;

d) 70 positions as specialized supporting staff;

e) 63 positions as economic and administrative staff."

19. Paragraphs (1), (2) and (3) of Article 28 shall be amended to read as follows:

"(1) The prosecutors with the National Anti - Corruption Prosecutors' Office shall be paid according to the wages provided by Annex No 1, Chapter A, No 2-11 to the Government Emergency Ordinance No 177/2002 on the Magistrates' Salaries and other Benefits.

(2) The experts mentioned in Article 11 shall be paid according to the wages provided by Annex No 1, Chapter B, No 9 to the Government Emergency Ordinance No 177/2002, this being the sole form of payment. Experts holding a position of service manager or office manager shall be granted the salary corresponding to the position of service chief prosecutor and office chief prosecutor, respectively, of the prosecutors' offices by the courts of appeal.

(3) The judiciary police officers mentioned in Article 10 shall be granted the wages provided by Annex No 1, Chapter A, No 18 to the Emergency Ordinance No 177/2002 and this shall be the only form of payment. The police officers holding the position of service chief and office chief shall be granted the wages corresponding to the position of chief prosecutor and office chief prosecutor respectively, of the prosecutors' office by the courts of appeal."

Article III – Law No 115/1996 on Statement and Auditing of the Property of Dignitaries, Magistrates, Civil Servants and Persons with Leading Positions, published in the Official Journal of Romania Part I, No 263/28, on October 1996, shall be amended and completed as follows:

1. The title of the law shall be amended to read as follows: "Law on Statement and Auditing of the Property of the Dignitaries, Magistrates, of Persons with Leading Positions and of Civil Servants."

2. Article 1 shall be amended to read as follows:

"**Article 1**. – There shall be instated the obligation for dignitaries, magistrates and the like, the persons with leading and auditing functions provided by this Law and for civil servants to state their property, and so shall the procedure of auditing their property where certified proof exists that certain goods or assets have not been acquired by legal means."

3. Article 2 shall be amended to read as follows:

"**Article 2.** – (1) The President of Romania, deputies, senators, Government members, presidential councilors, state councilors, state secretaries, state under-secretaries as well as their likes, magistrates and their likes, county and local councilors, mayors, deputy mayors, prefects, deputy prefects, persons holding leading and auditing

positions with the central or local public authorities or with the public or public-interest institutions, the staff of the dignitary's cabinet, members of the boards of administration and persons holding leading positions, from that of a director inclusively up, with national or local state controlled companies, with national companies and societies, with commercial companies where the state or any authority of the local public administration are shareholders, with the public institutions involved in the implementation of the privatization process, with the National Bank of Romania, with the banks where the state is a majority shareholder, shall be under the obligation of stating their property, consistent with this Law.

(2) The obligation to state one's property goes, consistent with this Law, also to the persons who are appointed to a position by the President of Romania, by the Parliament or the Prime Minister."

4. Article 4 shall be amended to read as follows:

"**Article 4.** – (1) The property statement shall be submitted as follows:

a) The President of Romania, the presidential councilors and state councilors shall submit their property statement to the chief of the Chancery of the Presidential Administration;

b) The Presidents of the Parliament's Chambers, deputies and senators shall submit their property statement to the secretary-general of their respective Chamber;

c) The Prime - minister, the Government members, state secretaries, state under-secretaries and the like, as well as the state councilors of the prime minister's staff shall submit their property statement to the secretary-general of the Government;

d) magistrates and the like shall submit their property statement to the Superior Council of Magistracy;

e) the persons provided by Article 2, paragraph (2) shall submit their property statement to the secretariats of the authorities or public institutions they belong to;

f) county and local councilors as well as mayors and deputy mayors shall submit their property statement to the secretaries of the administrative-territorial units**;**

g) prefects and deputy prefects shall submit their property statement to the secretary-general of the prefect's office;

h) persons holding leading and auditing positions indicated in Article 2,paragraph (1), civil servants and the staff of the dignitary's cabinet shall submit their property statement to the human resources department of their respective public authorities, public institutions or units, as the case may be.

(2) The property statement shall be published in the Internet pages of the Parliament, the Government, ministries, the other central authorities or public institutions, the prefect's offices or county councils, as the case may be, or in the Official Journal of Romania, Part III, no later than 30 days since the day of submission. The publication

expenses shall be covered by the legal entities to which the persons indicated in Article 2 belong.

(3) The person designated to receive and keep the property statements shall issue a receipt to the person submitting the statement and take steps to ensure the latter publication, according to provisions of paragraph (2)."

5. Paragraph (2) of Article 5 shall be repealed.

6. Paragraph (1) of Article 6 shall be amended to read as follows:

"(1) The persons indicated in Article 2 are under the obligation to annually update their property statement, if they acquire goods of the kind of those provided by the annex. Likewise, upon ending their mandate or termination of their activity, they are under the obligation to submit a new statement concerning the property they possess at the respective date."

7. Paragraphs (3) and (4) of Article 6 shall be amended to read as follows:

"(3) The persons indicated in Article 2, appointed to positions for terms longer than 4 years or for an undetermined period are under the obligation to submit an updated property statement every four year.

(4) Failure to update the property statement, for imputable reasons, by the day of December 31 of every year, in case where goods were acquired, according to paragraph (1), or failure to submit a new statement within 15 days since the cessation of activity or, as the case may be, since the expiry of the 4 years since the latest statement, shall entail the initiation ex officio of the auditing procedure."

8. Paragraph (2) of Article 14 shall be amended to read as follows:

"(2) The dismissal ordinance shall be communicated to the pies and to the prosecutors' office by the court of appeal in whose area the commission operates, as well as to the county general directorate of public finance in whose area the person whose property is subject to investigation resides."

9. Paragraph (1) of Article 21 shall be amended to read as follows:

"(1) Investigation of the property of the President of Romania, of deputies, senators, Government members, of the Government secretary-general, of the heads of public authorities appointed by the President, by the Parliament or by the Prime - minister, of judges of the Constitutional Court, of accounts advisers, of the members of the jurisdictional college of the Court of Public Accounts and of the financial prosecutors under it, of the magistrates with the Supreme Court of Justice and with the prosecutors'

office under it, with the National Anti - Corruption Prosecutors' Office, as well as with the courts of appeal and with the prosecutors' offices under them, who are in office, shall be performed by a special commission consisting of:

– two judges from the Supreme Court of Justice, designated by this court's general assembly, one of whom as chairman;

– one prosecutor from the Prosecutors' Office by the Supreme Court of Justice, designated by the prosecutor general of the Prosecutors' Office by the Supreme Court of Justice."

10. Paragraph (1) of Article 26 shall be amended to read as follows:

"(1) The enacting terms of the final decision of the court, whereby the illicit source of certain goods is ascertained, shall be published in the Official Journal of Romania, Part III, and shall be communicated for enforcement to the competent body of the Ministry of Public Finance, in which area the person whose property has been investigated resides. The publication expenses shall be covered out of the budget of the Ministry of Justice."

11. Article 32 shall be amended to read as follows:

"**Article 32** – A dismissal ordinance of the investigation commission, which remained final or, as the case may be, the final decision of the court, whereby it is ascertained that the source of the goods is justified, shall be published in the Official Journal of Romania, P III. Publication expenses shall be covered out of the budget of the Ministry of Justice."

12. Article 37 shall be repealed.

13. Article 38 shall be amended to read as follows:

"**Article 38** – The persons indicated in Article 2, who held public positions similar to those mentioned in this Article after January 1, 1990, being, consistent with the legal regulations in force, under the obligation to state their property, may be subject to property auditing, according to the procedures set by this Law, where clear evidence exist that goods or assets, which they possess, have not been acquired licitly."

14. The Annex concerning the property statement shall be amended and shall be replaced by the Annex to this Title.

15. Throughout the Law No 115/1996, the following syntagms shall be replaced as follows:

– *Ministry of Finance* by *Ministry of Public Finance*;
– *Ministry of Culture* by *Ministry of Culture and Cults*;
– *General Prosecutors' Office* by *Prosecutors' Office by the Supreme Court of*

Justice;
- *General Prosecutor* by *General Prosecutor of the Prosecutors' Office by the Supreme Court of Justice*;
- *the first prosecutor of the prosecutors' office by the court of appeal* by *the general prosecutor of the prosecutors' office by the court of appeal.*

Article IV – Article 16 of Law No 115/1999 on Ministerial Responsibility, republished in the Official Journal of Romania, P I, No 334/May 20, 2002, shall be completed as follows:

1. After paragraph (1), paragraphs (1^1) and (1^2) shall be inserted to read as follows:

"(1^1) The President of Romania shall be notified, in order to request the criminal investigation of a Government member by the Prime - minister, the prosecutor general of the Prosecutors' Office by the Supreme Court of Justice or by the prosecutor general of the National Anti - Corruption Prosecutors' Office.

(1^2) Any citizen who has knowledge of the commitment of a criminal deed by the Government members in performing their office may address the Prime - minister, the prosecutor general of the Prosecutors' Office by the Supreme Court of Justice or the prosecutor general of the National Anti - Corruption Prosecutors' Office, in order to request the notification of the President of Romania."

2. Paragraph (3) shall be completed with two new sentences, that shall read as follows:

"The commission's meetings shall not be open. The Government member in connection with whom the notification was done has the right to be heard by the commission prior to the preparation of the latter's report."

3. After paragraph (3), paragraph (3^1) shall be inserted, to read as follows:

"(3^1) The President of Romania shall decide on the report presented by the special commission provided by paragraph (3) and shall dispose on the communication of the resolution to the media."

Article V –No later than 30 days from the coming into force of this Law, the main credit chief accountant, with the advise of the Ministry of Public Finance, shall introduce the corresponding modifications in the structure of the positions and of expenses for salaries, by paragraphs, in observance of the total salary expenditure adopted by the Public Ministry budget for 2003.

ArticleVI – (1) No later than 30 days since the coming into force of this Law, the persons indicated in Article 2 of the Law No 115/1996 shall submit their property statements, which shall be published, according to Article 4, paragraph (2).

(2) The property statements submitted before the coming into force of this Title

shall remain confidential. Disclosure or publication, in any form, of their content, totally or partially, shall be an offence and shall be sanctioned by a jail sentence of between 6 months to 3 years.

Article VII – Law No 78/2000 on Prevention, Identification and Sanctioning of Corruption Deeds, published in the Official Journal of Romania, P I, No 219/May 18, 2000, with subsequent modifications and completions, the Government Emergency Ordinance No 43/2000 on the National Anti - Corruption Prosecutors' Office, published in the Official Journal of Romania, P I, No 244/April 11, 2002, adopted with modifications and completions by Law No 503/2002, and Law No 115/1996 on Statement and Auditing of the Property of Dignitaries, Magistrates, Civil Servants and Persons Holding Leading Positions, as well as Law No 115/1999 on Ministerial Responsibility, republished in the Official Journal of Romania, Part I, No 334/May 20, 2002, with the modifications and completions introduced by this Title, shall be republished in the Official Journal of Romania, Part I, the texts having new numbering.

ANNEX TO TITLE I

PROPERTY STATEMENT

I, the undersigned ……., holding the position as …… with ……., hereby state, on my own responsibility, that, together with my family[*)] , I possess the following property:

I. Fixtures [**)]:

1. Land:

Categories of land:	Year of acquisition	Area	Taxable value
- farm	……	……	……
- forest	……	……	……
- within the built – up area	……	……	……
- water front	……	……	……

2. Buildings:

……..…….

……

2.1 Dwelling premises:	Number	Year of acquisition	Built area	Taxable value
- apartment	……	……	……	…….
- dwelling house	……	……	……	…….
- holiday house	……	……	……	…….
2.2. Commercial or production premises	……	……	……	…….

II. Movable assets:

1. Motor vehicles/automobiles, tractors, farm machinery, motorboats, yachts and other transport means that are registrable according to the law:

[*)] For purposes of this statement, *family* means the husband, wife and the children being provided for.

[**)] If held in joint possession, state the share.

Item	Mark	Pieces	Manufacture year
……	……	……	……
……	……	……	……
……	……	……	……
……	……	……	……

2. Deposits in foreign currency or in lei, at home or abroad, the value of which exceeds 10,000 EUR equivalent:

☐

Yes **No**

☐

3. Claims with a value exceeding the 10,000 EUR equivalent:

Yes **No**

☐

4. Bonds with a value exceeding the 10,000 EUR equivalent:

Yes **No**

☐

5. Other assets generating net incomes the sum-total of which exceeds the 10.000 EUR equivalent a year:

Yes **No**

III. Associate or shareholder with commercial companies, if the value of the stock or of the social shares exceeds the 10.000 EUR equivalent:

Commercial companies[***]:

Yes **No**

[***] Including those based in other countries.

IV. Other profit-making activities, that generate an annual income the value of

which exceeds the 10,000 EUR equivalent:

Yes **No**

V. The goods and services received free as part of protocol activities in the exercise of the term or of the office, the value of which exceeds the 300 EUR

equivalent apiece.

Yes **No**

VI. Other details given by the undersigned.

……
……

This statement is a public act and I am liable, according to the criminal law, for the inaccurate or incomplete character of the data.

Date **Signature**

…… **…….**

Title II
Ensuring the Transparency and Stability of the Business Environment

Article VIII – Law No 26/1990 on the Commerce Registry, republished in the Official Journal of Romania, Part I, No 49/February 4, 1998, with subsequent modifications and completions, shall be amended and completed as follows:

1. Paragraphs (1) and (2) of Article 1 shall be amended to read as follows:

"(1) Traders, before starting trade, as well as other natural persons or legal entities, expressly provided by the law, before starting their activity, shall be under the obligation to apply for registration with the Commerce Registry, and in the course of performing or upon the termination of their trade or, as the case may be, of the respective activity, to request the endorsement of mentions regarding the acts and deeds, which registration is required by the law, in the same registry.

(2) Under the present Law, traders are any natural persons and family associations who currently perform acts of trade, commercial companies, national companies and national societies, the state controlled companies and cooperative organizations."

2. After paragraph (2) of Article 1, a new paragraph shall be inserted, paragraph (2^1), that shall read as follows:

"(2^1) Under the present Law, registration means both the registration of the trader and the endorsement of mentions, as well as other operations which – according to the law – shall be entered in the Commerce Registry."

3. Article 6 shall be amended to read as follows:

"(1) The registrations in the Commerce Registry shall be made based on a decision issued by a delegate judge or, as the case may be, on a final court decision, except for the cases in which the law provides otherwise.

(2) The delegate judge' s decision relating to the registration or to any other mentions in the Commerce Registry shall be *de jure* mandatory and shall be subject only to final appeal.

(3) The final appeal term is of 15 days from the date the decision was delivered, for the parties, while for other interested Parties, from the date of publication of the decision or of the document modifying the setting up act in the Official Journal of Romania.

(4) The final appeal shall be filed with and entered in the Commerce Registry where the registration was made. Within 3 days as of the date of filing, the Commerce Registry Office shall defer the appeal to the court of appeal in which area the trader has his/her domicile or business address, and, in the case of branches established in a different county, to the court of appeal in which area the branch has headquarters.

(5) The grounds for appeal may be filed with the court, at least two days prior to the examination term set by the court.

(6) Where an appeal is accepted, the decision of the court of appeal shall be entered

in the Commerce Registry."

4. Paragraph (1) of Article 7 shall be amended to read as follows:

"The courts shall send to the authenticated copies of the final decisions regarding acts, deeds and mentions which they order to be entered in the Commerce Registry, as provided by law, to the Commerce Registry Office, no later than 15 days as of the date when these remained final."

5. Paragraph (1) of Article 12 shall be amended to read as follows:

"(1) The Commerce Registry shall consist of one registry for the registration of traders that are natural persons and family associations, and another one for the registration of the traders that are legal entities. One registry shall be opened for every year. These registries shall be computerized."

6. The introductory part of paragraph (1) of Article 13 shall be amended to read as follows:

"(1) A natural person trader's application for registration with the Commerce Registry, shall state:"

7. Point a) of paragraph (1) of Article 13 shall be amended to read as follows:

"a) name and forename, personal code number, residence, citizenship, date and place of birth, marital status and previous commercial activity;"

8. After Paragraph (1) of Article 13, a new paragraph, (1^1) shall be inserted that shall read as follows:

"(1^1) A family association's application for registration with the Commerce Registry shall state:

a) the name and forename of each of the associates, personal code number, residence, citizenship, date and place of birth, family membership, marital status and previous commercial activity;

b) the identification data of the person who represents the association in its relations with third parties– the family member upon whose initiative the association was founded or his authorized representative:

c) the commercial firm and its headquarters:

d) the description of the trade, the mentioning of the main domain and activity, as specified in the trade activity license;

e) the number, date and body that has issued the trade activity license."

9. Paragraph (3) of Article 13 shall be amended to read as follows:

"(3) The office shall register in the Commerce Registry all data contained in the application as well as, in the case of the family associations, the unique registration code assigned as provided by law."

10. Article 14 shall be amended to read as follows:

"Article 14 – (1) The application for the registration of any commercial company shall state, as the case may be, the data compulsorily included in its setting up act , and shall be accompanied by the required certifying documents, according to the provisions of Law No 31/1990, on Commercial Companies, as republished, with subsequent modifications and completions.

(2) The Office shall register in the Commerce Registry all data contained in the application as well as the unique registration code, assigned as provided by law."

11. The introductory part of Article 15 shall be amended to read as follows:

"The application for the registration of any state controlled company (regie autonoma), national company or society with the Commerce Registry, shall state:"

12. In Article 15 a new paragraph (2) shall be inserted, which shall read as follows:

"(2) The Office shall register in the Commerce Registry all data contained in the application as well as the unique registration code, assigned as provided by law"

13. In Article 16 a new paragraph (2) shall be inserted, which shall read as follows:

"(2) The Office shall register in the Commerce Registry all data contained in the application as well as the unique registration code, assigned as provided by law"

14. Points a) and b) of Article 17 shall be amended to read as follows:

"a) for traders, natural persons and family associations, as of the date of licensing.

b) for commercial companies, as of the date of conclusion of the setting up act;"

15. In Article 18, after paragraph (1), a new paragraph (1^1), shall be inserted that shall read as follows:

"(1^1) The application for the registration of the family association shall be filed by the family member upon whose initiative the association was founded or by his authorized representative, with a special and authenticated power of attorney."

16. Paragraphs (2) and (3) of Article 18 shall be amended to read as follows:

"(2) In order to attest the signature sample, the trader, natural person, or the representative of the family association respectively, shall sign at the office of the Commerce Registry, in the presence of the delegate judge or of the office director or his substitute, who shall certify the signature.

(3) In the absence of the trader, natural person, or of the representative of the family association respectively, his signature may be substituted through the presentation of a signature sample authenticated by the notary public."

17. Points a), b) and c) of Article 21 shall be amended to read as follows:

"a) the real estate donation, sale, tenancy or guarantee instituted on the trade fund, as well as any other deed whereby modifications are operated in the Commerce Registry or that make the firm or the trade stock be desisted;

b) the name and forename, citizenship, personal code number – for the Romanian citizens, the passport series and number – for the foreign citizens, the date and place of birth of the authorized agent or of the tax agent, as the case may be; where the representation right is limited to a certain branch, the mention shall be entered only in the register where the branch is registered; the signature of the authorized agent or of the tax agent shall be given in the form provided by Article 18, paragraphs (2) and (3);

c) the invention patents, the manufacture, trade and job brands, the names of origin, the indication of the origin, the firm, the logo and other identification signs to which the commercial company, state controlled company (regie autonoma), cooperative organization or trader, natural person or family association, has a right;"

18. Point g) of Article 21 shall be amended to read as follows:

"g) the decision to convict a trader, administrator or auditor for criminal deeds that make him unworthy or incompatible with the performance of this activity."

19. Paragraph (3) of Article 22 shall be amended to read as follows:

"(3) The mentions shall be entered *ex officio*, no later than 15 days as of the date of receipt of the authenticated copy of the final decision relating to the deeds and acts provided by Article 21 points e), f) and g)."

20. Paragraph (1) of Article 24 shall be amended to read as follows:

"(1) the setting up in Romania of a branch or subsidiary by the trader who has his main place of business abroad is subject to all provisions relating to the registration, mentioning and publication of the acts and facts required for the traders in the country."

21. In Article 24, after paragraph (1), Paragraphs (1^1) and (1^2) shall be inserted that shall read as follows:

"(1^1) The applications for registration shall state also:

a) the title of the branch and the title/name, form and head office of the trader abroad;

b) the names and capacity of the persons who can represent the trader from abroad before third parties and in court, as well as of those among them who take care directly of the branch's activity;

c) the latest financial statements of the trader from abroad, endorsed, audited or published according to the legislation of the state where the trader has its domicile/place of business.

(1^2) Where applicable, there shall be entered also mentions relating to:

a) the initiation of a judiciary or extra - judiciary procedure of insolvency on the trader from abroad;

b) the dissolution of the company based abroad, the names and powers of the liquidators;

c) the closure of the branch."

22. Paragraph (2) of Article 24 shall be modified to read as follows:
"All these formalities shall be performed at the Commerce Registry Office in which area the branch resides has its address."

23. Paragraphs (1), (3), (4) and (5) of Article 25 shall be modified to read as follows:
"Any natural person or legal entity that is prejudiced as a result of a registration or recording in the Commerce Registry, has the right to request the erasing of the damaging registration, totally or only with regard to certain elements of it, in case when, through irrevocable court decisions the documents based on which the appealed registration was operated were cancelled, totally or Partially, or were modified, in case through the court decision endorsement of such mention in the Commerce Registry was not ordered

(3) The court shall decide on the request, by summoning the Commerce Registry Office and the trader in question.

(4)The court resolution on the petition can be appealed only by final appeal and the term start running on the date of the decision delivery, the present parties, and on the date of its communication, for the absent parties.

(5) The Commerce Registry Office shall perform the cancellation and publish the final decision of the court in the Official Journal of Romania, Part IV, at the expenses of the party that originated the petition. To this end, the court shall send an authenticated copy of its decision to the Commerce Registry Office, with mention being made of the decision being irrevocable.

24. Paragraph (2) of Article 26 shall be modified to read as follows:

"Registration with the Commerce Registry shall be made within 24 hours after the decision of the delegate judge and, in case of a trader registration, within 24 hours after the authorization of the registration was granted by the delegate judge.

25. Article 27 shall be repealed.

26. Article 29 shall be modified to read as follows:

"Article 29 – Any trader shall be under the obligation to mention the registered name, registered office, and the unique registration code on invoices, offers, orders, tariffs, market prospects and any other documents used in trade. Excepted are cash vouchers printed by electronic cashiers that shall contain the elements required by the relevant legislation."

27. Paragraph (11) shall be appended to Article 31, paragraph 1 to read as follows:
"The registered name of a family business shall comprise the name of the family member at whose initiative the family business is created, along with the mention "family

association" written in full."

28. Paragraph (3) shall be appended to Article (3) and read as follows:
"Registered names and logos erased from the Commerce Registry shall not be available for use for two years after being erased, except for the cases provided by Article 41."

29 Paragraph (1) of Article 41 shall be modified to read as follows:
"(1) The one who acquires, under any title, a commercial fund, shall be allowed to do business using previously registered names, which include the name of a natural person or the name of an associate to a family business, general partnership or limited partnership, if the previous owner or his rightful successors decide so in an express agreement. The person who acquires the commercial fund shall mention his/her capacity as a successor.

30. Paragraphs (1) and (2) of Article 44 shall be modified to read as follows:

"(1) The traders that have to request the registration or recording of a mention or to submit signature samples and certain mandatory documents shall be sanctioned, by a decision of the delegate judge, to a court fine of between 500,000 and 5,000,000 Romanian lei if they fail to comply with the legal provisions and the terms established, unless their deed is an offence.

(2) In case of registration, recording and submission of the signature sample or of documents of a legal entity, the court fine shall be of between 5,000,000 lei and 20,000,000 lei, unless the deed is an offence. If the obligation to fulfill these requirements is incumbent on more than one person, the fine shall be applied to each of them.

31 Article 45 shall be modified to read as follows:

Article 45 Natural person traders, as well as the agents of family businesses and legal entities failing to comply with the obligations of Article 29 shall be sanctioned by the inspection bodies of the Public Finance Ministry by a fine of between 5,000,000 lei and 10,000,000 lei; the recording of false data shall be liable to the sanctions provided for by the criminal law.

32. Article 46 shall be modified to read as follows:

Article 46 – Any interested Party may notify the delegate judge, or he/she may notify ex officio on the application of fines provided by Article 44.

33. Article 47 shall be modified to read as follows:

"Article 47 The court fines provided for in Article 44 shall be subject to the provisions relating to court fines as found in the common law, the Civil Procedures Code.

Article IX. Law 31/1990 on Commercial Companies, as republished in Official Journal of Romania, Part I, No. 33, on January 29, 1998, with subsequent modifications and completions, shall be further modified and completed as following:

34. A new paragraph, paragraph (4^1), shall be appended to paragraph (4) of Article 5 to read as follows:

"When the contract of association and the business statute are distinct documents, the statute shall include the identification features of the associates as well as clauses that regulate the company's organization, functioning and conduct of business."

The setting up act shall be concluded under private signature by all the associates or the founding members in case public subscription is involved. The original version of the setting up act shall be mandatory when:

- land is subscribed in contribution to the registered capital;
- a partnership is created, either unlimited or simple;
- the limited company is created by public subscriptions.

3. Paragraph (6) shall be appended to Article 5 to read as follows:

"(6) The setting up document shall acquire a certain date also through its submission to the Commerce Registry Office."

4.Point a) of Article 7 shall be modified to read as follows:

"a) the first and last name, personal number code, birth place and date, residence and citizenship of natural person associates; the name, registered office and citizenship of the legal entity associates; the registration number in the Commerce Registry or the unique registration code, as the national legislation may require; the partners and copartners of a simple partnership shall be recorded, along with the tax agent, thief applicable;"

5.Point a) of Article 8 shall be modified to read as follows:

"a) the first and last name, personal code number, birth place and date, residence and citizenship of individual associates; the name, registered office and citizenship of the legal entity associates; the registration number in the Commerce Registry or the unique registration code, as the national legislation may require; the partners and copartners of a simple partnership shall be recorded, along with the tax agent, where applicable;"

6. Paragraph (3) of Article 14 shall be modified to read as follows:

"(3) The State, through the agency of the Ministry of Public Finance, as well as any interested party may ask the court for the liquidation of any company created in violation of provisions of paragraphs (1) and (2).

7. Article 14^1, shall be appended to Article 14, to read as follows:

"Article 14^1, – The contracts between limited liability companies and natural persons or legal entities that are sole associates of the former shall be concluded in writing, subject to absolute nullity."

8. Article 16 shall be modified to read as follows:
"Article 16 – (1) When the authentication of a setting up act or a sure date is sought for the cases mentioned by Article 5, an certificate of the company's available assets issued by the Commerce Registry shall be provided as well as a bona fide statement regarding the possession of the sole associate capacity in just one limited liability company.

(2) More than one company may be operational at the same registered office, provided that at least one person is a legal associate to each of the companies in question.

(3) The notary public shall refuse to authenticate the setting up act or, as the case may be, the person issuing a certain date shall refuse to perform the requested operations if, from the produced documents, it does not result that requirements provided by paragraph (1) were met. "

9. Paragraphs (1) – (3) of Article 31 shall be modified to read as follows:
"The statutory setting up meeting shall decide on the share of the net profit to be distributed to the founder members of a company created by public subscription.

(2) The share so decided shall not exceed 6% of the net profit and shall not be distributed for more then five years after the company is created.

(3) The rights of the founder members shall only be exercised on the profit resulted from the use of the initial registered capital."

10. Article 33 shall be modified to read as follows:
"The right to sue for damages shall expire by limitation after a 6 – month term from the date the decision on anticipated dissolution made by the general shareholders' meeting is published the Official Journal."

11. Article 34 shall be modified to read as follows:
"Article 34. – The limited companies created by public subscription are deemed as publicly owned in the sense of Article 2, paragraph (1) point 39 of the Government's Emergency Ordinance 28/2002 on Securities, Financial Investment Services and Regulated Markets, adopted by Law 525/2002, with subsequent modifications and completions, to be further completed with the provisions in the present law regarding the registration in the Commerce Registry.

12. Paragraph (1) of Article 35 shall be modified to read as follows:
"(1) The company founder members or administrators or a business agent of any of them shall, within 15 days, require that the company be registered in the Commerce Registry of the locality where the registered office will be located.

13. A new point, point b1) shall be appended to point b) in Article 35, paragraph (2):

"b) attestation of the company's registered office and available assets."

14. Paragraph (2) of Article 40 shall be modified to read as follows:

(2) "Registration in the Commerce Registry shall be operated within 24 hours after the delegate judge delivered his/her decision on the authorization of registration of a commercial company."

15. Paragraph (1) of Article 45 shall be modified to read as follows:

"The business representatives so elected by the setting up act, shall be under the obligation to submit their signatures at the Commerce Registry on the same date with the submission of the application for registration. The business representatives elected while the company is in business shall have 15 days after the election to do so.

16. Article 46 shall be modified to read as follows:

"Article 46 – (1) When the setting up act either fails to include the provisio9ns required by law, or contains clauses in violation of imperative provisions of the law, or a legal requirement for the constitution of the company was not met, the delegate judge shall, *ex officio* or at the request of any person asking for an intervention, reject the application for registration, through a motivated decision, unless the associates eliminate such irregularities. The delegate judge shall certify in his/her decision the regulations performed.

(2) If requests for intervention have been submitted, the judge shall call the interveners and rule on their requests, as specified by Article 49 of the Civil Procedures Code. Article 335 of the Civil Procedure Code shall not apply in such cases."

17. Points a) and f) of Article 56 shall be modified to read as follows:

"a) the setting up act is missing or was not concluded in an authenticated form, as required by paragraph (5) of Article 5.

b) the setting up act fails to specify the company's name, registered office, business object, the associates' contributions, the subscribed and paid social capital;"

18. Paragraph 3 of Article 58 shall be modified to read as follows:

"(3) The court shall inform the Commerce Registry Office on its decision, which, after registration, shall send an abstract of it to the Official Journal for publication in Part IV.

19. Article 60 shall be modified to read as follows:

"(1) The delegate judge's decisions on registration or on any other recording in the Commerce registry shall be de jure enforceable and subject only to final appeal.

(2) The term for final appeal shall be of 15 days, and start running from the date the court decision is delivered, for the Partie4s, and from the date the court decision or the

document modifying the setting up act are published in the Official Journal of Romania, for any other interested third party.

(3) The final appeal shall be submitted and recorded in the Commerce Registry Office where the registration was performed. Within three days thereafter, the Commerce Registry Office shall forward the appeal to the court of appeals in the locality where the registered office of the company in question is located or to the court of appeals where the branch of the company is located, in case the company in question is a company branch opened in a different county.

(4) The grounds for appeal may be submitted to court at least two days prior to the hearings.

(5) If an appeal is admitted, the decision of the appeal court shall be recorded in the Commerce Registry, in compliance with Articles 48-49, 56-59."

20. Paragraph (1) of Article 61 shall be modified to read as follows:
"(1) Social creditors as well as any persons prejudiced by the associates' decisions on modification of the setting up act shall be entitled to an opposition petition, through which they may ask the court to oblige the company or the associates, as the case may be, to compensate the caused damages, as provided by Article 57.

21. Paragraphs (1) and (2) of Article 62 shall be modified to read as follows:
" (1) An opposition petition shall be submitted within a 30 - day term after the associates' decision or the additional modifying document were published in the Official Journal, unless the present law provides for a different term. The opposition petition shall be submitted in writing to the Commerce Registry Office, which within three days thereafter, shall record it in the Commerce Registry register and submit it to the competent court.

(2) Provisions of Article 132 regarding the suspension shall apply accordingly. An opposition petition shall be examined in the council chamber, by summoning the Parties, provisions of paragraph 5 of Article 114 of the Civil Procedure Code being applicable."

22. Article 63 shall be modified to read as follows:
"Petitions and ways of appeal provided by the present law that are of the competence of the court, shall be resolved by the court in which territorial area the headquarters of the company is located."

23. Paragraphs (1), (2), (3) and (4) of Article 67 shall be modified to read as follows:
"(1) The share of the profit to be paid out to each associate shall be considered dividend."

(2) Dividends shall be paid to the associates proportionally with their personal contributions to the paid social capital, unless otherwise specified in the offsetting up act. They shall be paid within the terms set by the associates' general assembly or by

special laws, as the case may be, but no later than eight months after the annual financial statements for the previous tax year is approved. Otherwise, the commercial company shall pay delay penalties equal to the legal interest rates.

(3) Dividends shall not be distributed, unless resulting from profits determined according to the law.

(4) Any dividends paid in violation of provisions of paragraphs (1), (2) shall be returned, if the company proves that associates either were aware of the illegal character of the distribution or, given the circumstances, should have been aware of it.

24. Article 69 shall be modified to read as follows:

"Article 69 – If losses in the net assets are found, the subscribed capital shall be either rounded back or diminished before any distribution of the profit is done."

25. Paragraph (2) of Article 73 shall be modified to read as follows:

"(2) The company's creditors shall also be entitled to call the administrators to court, provided that the procedures laid down in Law 64/1995 regarding juridical reorganization and bankruptcy procedures as well as later additions and modifications are followed.

26. Article 74 shall be modified to read as follows:

"Article 74 – (1) Any bill, offer, order, tariff table, prospect as well as any other business documents issued by a company shall bear the name, legal format, registered office and the unique registration code of the company. Tax receipts printed by electronic cashiers shall be exempted, which shall bear the elements provided by the legislation in the area .

(2) All these documents issued by a limited liability company shall bear the value of the subscribed capital in addition, while the same documents issued by a limited company or a limited partnership shall bear the value of the actual paid capital as resulting from the latest approved annual financial statements."

27. Article 86 shall be modified to read as follows:

"Article 86 – The vote of the associates representing the majority share capital shall be required to approve the annual financial statements or make decisions referring to hold administrators liable in court."

28. Paragraph (3) of Article 89 shall be modified to read as follows:

"(3) A silent Partner shall also be entitled to require a copy of the annual financial statements and check its accuracy, compared to the account books of the company or any other vouchers.

29. Paragraphs (2) and (3) of Article 91 shall be modified to read as follows:

"(2) The type of shares shall be determined by the setting up act; otherwise, they shall

be treated as registered shares. Registered shares may be issued in a corporeal form, on paper support, or in an incorporeal form, in which case they shall be written down in the shareholders' registry.
(3) The shares issued by joint stock companies following a subscription through public offer of securities, defined as such by the Government's Emergency Ordinance 28/002, shall be subject to the regulations applicable in the regulated market where transactions are concluded."

30. Paragraph (5) of Article 92 shall be modified to read as follows:
"(5) Cumulative preferred stock shall be allowed only for shares in a corporeal form."

31 Point b), Paragraph (2) of Article 93 shall be modified to read as follows:
"b) the date on the setting up act, the number in the Commerce Registry Office where the company is registered, the unique registration number as well as the issue of the Official Journal, Part IV, where the registration was published.

32. Paragraph (3), Article 93 shall be modified to read as follows:
(3) The registered shares shall bear the name, surname, personal number code and residence of the individual shareholders, or the name, registered office, the registration number and the unique registration code of the corporate shareholders, as the case may be.

33. Paragraph (1) and (2) of Article 98 shall be modified to read as follows:
(1) The ownership rights over the registered shares issued in a corporeal form shall be transmissible in a statement recorded with the shareholders' registry and a mention on the share, with the signatures of the assignee, assignor or their agents affixed on the shares. The ownership rights over the registered shares issued in an incorporeal form shall be transmissible by a statement recorded with the share registry and a mention on the share, with the signatures of the assignee, assignor or their agents affixed on the shares. Other assignment of the share ownership rights may be provided by the setting up act.
(2) The ownership rights over incorporeal shares traded in a regulated market shall be transmissible in conformity with the Government's Emergency Ordinance 28/2002, adopted by Law 525/2002, with subsequent modifications and completions."

34. Paragraph 4 of Article 102 shall be modified to read as follows:
"(4 As long as a share is undivided or joint property of several persons, the latter shall be jointly liable for due payments."

35. Paragraphs (5) and (6) of Article 103 shall be modified to read as follows:
"(5) Payment of the shares thus acquired shall only be performed from the distributable profit or from the company's available reserves, as recorded in the latest

annual financial statements approved, except from the statutory reserves.

"(6) The management report accompanying the annual financial statements shall include: the reasons determining the purchase of shares, their number, nominal value and the amounts paid for these shares, as well as their proportion to the share capital.

36. Paragraph (8) shall be appended to Article 103 :
"(8) The provisions of the present Article shall also apply in the cases in which a company which majority vote rights are held by another company or is directly or indirectly dominated by it, shall acquire shares of the dominant company.

37. Paragraph 2 of Article 105 shall be modified to read as follows:
"(2) Settling real estate guarantees for own shares, either directly or through the agency of individuals acting in a private capacity but on the account of the company, shall be considered as acquiring individual shares. The shares shall however be booked separately.

38. Article 106 shall be modified to read as follows:
"Article 106 – (1) Settling real estate guarantees for shares shall be performed in a document under private signature that shall comprise the amount of the debt, the value and type of the guaranty shares, as well as a mention of the guarantee on the share signed by the creditor and the shareholder in debt or their agents in the case of corporeal bearer or registered shares.

(2) The guarantee shall be recorded with the share registry kept by the administrators or an independent registry keeping company, as the case may be. The creditor for whom the guarantees were settled shall be issued with a document certifying that the guarantees were recorded.

(3) The guarantees may be used to oppose third parties and the creditors may ascribe a preference rank to them, once recorded with the Electronic Archives of Security Guarantees.

39. Article 107 shall be modified to read as follows:
"Article 107. – The shares acquired as described in Article 103, paragraphs (1)-(5) and paragraph (8) shall not qualify for dividends. The vote rights that these shares might carry shall be suspended for the time they are in the possession of the company. Presence and vote majorities that shall validate the decisions of the general assemblies shall be calculated as a proportion to the remaining share capital.

40. Article 108 shall be modified to read as follows:
"Article 108 – The shareholders wanting to trade shares in a public auction shall be obliged to issue an offer, as provided by the Government's Emergency Ordinance 28/2002."

41. Article109 shall be modified to read as follows:
“Article 109 – The status of the shares shall be included in an appendix to the annual financial statements, with special mentioning to be made of whether the shares have been fully paid and, as the case may be, the number of shares for which payment was requested without any outcome.”

42. Paragraph (1) of Article 111 shall be modified to read as follows:
“(1) The ordinary assembly shall be convened at least once a year, maximum four months after the financial year ends.”

43. Point a), paragraph (2) of Article 111 shall be modified to read as follows:
“a) to discuss, approve or modify the annual financial statements, based on the reports of the administrators, auditors or financial auditors, as well as to establish the dividends;”

44. Point c1) shall be appended to point c) of Article 113 to read as follows:
“c1) the creation or disbanding of secondary offices – branches, agencies, representation offices or any other such units with no legal personality, if the setting up act does not specify that;”

45. Article 114 shall be modified to read as follows:
(1) The leading board or the sole administrator may under the setting up act or a decision of the extraordinary general shareholders’ assembly be mandated to carry out the tasks provided by Article 113, points b), c), e), f) and I).
(2) Provisions of Article 130, paragraphs 4 and 5, as well as of Article 13, except for paragraph (3), and Article 132 shall also apply also to decisions made by the administrators under paragraph (1). The company shall be represented in court by person appointed by the court president from among the shareholders of the company. The mandate shall be carried out until the general shareholders’ assembly convenes to appoint another person to this aim.

46. Paragraph (4) of Article 117 shall be modified to read as follows:
“(4) If all the shares of the company are registered, the convening shall be made by a registered letter or, if the setting up act allows it, a simple letter to be delivered to the address of the shareholders as mentioned in the share registry, at least 15 days prior to of the assembly. The company shall not be liable for address changes, unless the shareholder notified the company in writing.”

47. Paragraph (9) shall be appended to Article 117 to read as follows:
“(9) The shareholders in a closed company shall be entitled to written suggestions to the administrators for extra items on the agenda, provided that the suggestions will not be for the modification of the setting up act. These suggestions shall be submitted at

least five days prior to the meeting and written down in the agenda with the consent of the general assembly."

48. Paragraph (3) of Article 119 shall be modified to read as follows:
"(3) If the administrators fail to convene the general assembly, the court under which jurisdiction the registered office of the company is located may authorize the persons meeting the requirements of paragraph (1) to convene the general assembly, in compliance with Articles 331-339 of the Civil Procedure Code, and summon the administrators. Through the same decision, the court shall also establish the reference date provided by Article 122, paragraph (2), the date of the general assembly, and shall appoint a person to chair the assembly from among the shareholders."

49. Article 121^1 shall be appended to Article 121 to read as follows:
"Article 121^1 – Closed companies with registered shares may agree on holding the general assemblies by mail by the setting up act."

50. Paragraph (2) of Article 123 shall be modified to read as follows:
"(2) The vote right of the shares guaranteed by securities shall be with the owner."

51. Paragraph (1) of Article 124 shall be modified to read as follows:
"(1) The shareholders shall only be represented in the general shareholders' assemblies by other shareholders under a special POA, except for the cases mentioned in Article 102, paragraphs 2 and 3, when special POA may be entrusted to a co-owner."

52. Paragraph (2) of Article 125 shall be modified to read as follows:
"(2) However, they have the right to vote on the annual financial statements, provided that they hold at least half of the contributions to the registered capital, and the legally required majority cannot be obtained without their vote."

53. Paragraphs (2^1) – (2^3) shall be appended to paragraph (2) of Article 131:
"(2^1) } When reasons for absolute nullity are invoked, the right to court action shall be inalienable and any interested party shall be entitled to file a petition.
(2^2) The administrators shall not have the right to appeal the decision of the general assembly on dismissing them.
(2^3)) The petition shall be resolved in opposition to the company, represented by the administrators."

54. Paragraph (4) of Article 131 shall be modified to read as follows:
"(4) The action shall be filed with the court under which jurisdiction the registered office of the company is located."

55. Paragraph (7) of Article 131 shall be modified to read as follows:

"(7) The irrevocable decision on cancellation shall be recorded with the Commerce Registry and published in the Official Journal of Romania, Part IV. As of the date of its publication, it shall be opposable to all shareholders."

56. Paragraph (1) of Article 132 shall be modified to read as follows:
"(1) Together with filing the action for cancellation, a plaintiff may ask the court, to through a presidential ordinance, to order the suspension of enforcement of the appealed decision."

57. Article 133 shall be modified to read as follows:
"Article 133 – (1) The shareholders disagreeing with the decisions of the general shareholders' assembly on a change in the company's object, the relocation of the registered office or the legal status of the company shall have the right to withdraw from the company and ask the company to pay them the value of the shares in their possession, which shall be calculated against the averages to be established by an authorized expert, by using at least two methods acknowledged as European valuation standards (EVS).

(2) The costs of the valuation shall be borne by the company in question.

(3) Together with their withdrawal statement, they shall give over to the company all the shares in their possession that have been issued under Article 97.

(4) The shares resulting from the withdrawal of the shareholders as mentioned in paragraph 1 shall be acquired by the company in compliance with Article 103, paragraph 7.

58. Paragraph (3) of Article 134 shall be repealed.

59. Paragraph (5) of Article 137 shall be modified to read as follows:
"(5) The guarantee shall be deposited in a separate bank account, at the exclusive disposal of the company, and shall only be returned to the administrator after the general shareholders' assembly approves the financial statements of the last financial year in which the administrator was in office and discharges him/her of his/her duties."

60. Paragraphs (3), (4) and (5) shall be appended to Article 139 to read as follows:
"(3) The chairman of the administration board shall have the decisive vote when there is a parity of votes, unless otherwise mentioned in the setting up act.
(4) Should the chairman in office of the administration board be unable to or banned from voting, the other members of the administration board shall elect a chairman for their assembly, who shall be granted the same rights as the chairman in office.
(5) The proposal submitted to vote shall be considered rejected whenever there is a parity of votes and the chairman does not have the decisive vote."

61. Article 143-1 shall be appended to Article 143 to read as follows:

"Article 143-1 (1) The company's acquiring assets from founders or shareholders;

a) within two years at most after the creation of the company or the authorization to commence; and

b) for an amount of money or other value that is at least one tenth of the paid share capital, shall be subject to a previous approval of an extraordinary general shareholders' assembly and to provisions of Articles 37 and 38, shall be recorded in the Commerce Registry and published in the Official Journal of Romania and a newspaper of wide circulation.

(2) The acquiring that is Part of the usual activity of the company, performed on an order from a public administration authority, on a court order or as Part of stock exchange operations shall not be subject to these provisions."

62. Paragraphs (4) and (5) of Article 144 shall be modified to read as follows:

"(4) The administrators shall be held jointly liable with their immediate predecessors for failure to inform auditors or financial auditors about the illegalities they have learned about.

(5) Where there are more administrators for one company, liability for the committed deeds and omissions shall not be laid on the administrators who required their objection to be mentioned in the records of the administration board's decisions and informed in writing the auditors or financial auditors on this, as the case may be."

63 Paragraphs (1) and (3) of Article 145 shall be modified to read as follows:

"(1) Any administrator who, directly or indirectly, has interests in a certain operation running counter to the interests of the company, shall inform about it the other administrators, auditors or financial auditor, and shall refrain from participating in deliberations on the operation in question.

(2) Unless otherwise specified in the setting up act, the restrictions provided by paragraphs (1) and (2) regarding participation in the administrators' deliberation and vote shall not apply if the matter subject to vote relates to:

a) offering shares or securities of the company for subscription to an administrator or the persons mentioned in paragraph (2);

b) granting a loan to the administrator or any other person mentioned in Article (2) or setting up a pledge for the company."

64. Article 145^1 shall be inserted after Article 145 to read as follows:

"Article 145^1 (1) Any administrator shall be allowed to alienate or acquire assets from the company worth over 10% of the net assets of the company, provided that the extraordinary general shareholders' assembly approved that in compliance with Article 112, the setting up act does not provide otherwise and under the reserve of provisions of Article 145.

(2) Provisions of Article (1) shall also apply to rent and leasing operations.

(3) The value mentioned in paragraph (1) shall be calculated against the financial statements approved for the financial year that preceeds the year of the

operation or the value of the subscribed capital in case such financial statements was not presented and approved.

(4) Provisions of the present Article shall apply also to operations in which the administrator's spouse, blood relative or in-law relative up to the 4th degree included is a party to the operation; also, for any operation performed with a civil or commercial company, in which any of the aforementioned persons is an administrator or director or holds, alone or together, at least 20% of the subscribed capital, except for the cases in which one of the company is the branch of the other.

66.Article 148 shall be modified to read as follows:

"Article148 – (1) Salaries and any other advantages shall be granted to administrators and auditors only based on a decision of the general shareholders' assembly.

(2) (2) Crediting by the company of its administrators or directors, through the following operations, shall be prohibited:

a) granting loans to administrators or directors;

b) granting financial benefits to administrators or directors at the moment or after the group concluded with them goods supply, service providing or execution operations;

c) guaranteeing, directly or indirectly, totally or Partially, any loans granted to administrators or directors, at the same time or after the loan was granted;

d) guaranteeing, directly or indirectly, totally or Partially, the payment of any personal debts to third Parties by the administrators;

e) acquirement for valuable consideration or payment, entirely or Partially, of a debt having as a subject a loan granted by a third Party to administrators or directors or other personal service to them.

(3) Provisions of paragraph (2) shall also apply to operations in which the administrator's or the director's spouse, blood relative or in-law relative up to the 4th degree included is a Party to the operation; also, for any operation performed with a civil or commercial company, in which any of the aforementioned persons is an administrator or director or holds, alone or together, at least 20% of the subscribed capital. ,

(4) Provisions of paragraph (2)shall not apply for:

a) operations of a cumulated value smaller than the Romanian lei equivalent of 5,000 Euros;

b) business conducted by the company as part of its usual activity which clauses do not favor the persons mentioned in paragraphs (2) and (3) more than they favor the third parties with which the company conducts business as a rule."

67. Paragraphs (1) and (5) of Article 150 shall be modified to read as follows:

"(1) A court action to engage the liability of founders, administrators, auditors and directors shall rest with the general shareholders' assembly, which will decide on the matter by the majority required by Article 112.

(5) If an action is initiated against directors, they shall be *de jure* suspended until the

sentence is remains irrevocable."

68 Paragraph (1) of Article 153 shall be modified to read as follows:
"(1) If the administrators find that the net assets of the company, to be calculated as the difference between assets and liabilities, diminishes to less than half of the registered capital as a result of losses, they shall convene an extraordinary general shareholders' assembly to decide on replenishing the capital, reducing it to the value left over or dissolving the company."

69. Section IV shall have the following title:
"Financial audit, internal audit and auditors"

70 Paragraphs (5) and (6) of Article 154 shall be repealed.

71. Paragraph (7) of Article 154 shall be modified to read as follows:
'(7) The auditors shall, within the term provided by paragraph (3) of Article 137, be obliged to deposit a third part of the warranty required for administrator. The auditors who are expert accountants or certified accountants shall be exempted from this obligation, provided that they submit proof of having concluded a civil liability insurance policy for their job."

72. Article 155 shall be modified to read as follows:
Article 155 Financial auditors, either natural persons or legal entities, shall, in compliance with the legislation in force, audit all the financial statements under the scope of the accountancy regulations harmonized with European directives and international accountancy standards.
(2) The commercial companies which annual financial statements are subject by law to financial audit shall conduct internal audit in compliance with the norms established to this end by the Romania's Chamber of Auditors.
(3) Any decision regarding the contracting of financial audit or appointment of auditors in the commercial companies which annual financial statements are not subject by law to financial audit shall rest with the ordinary general shareholders' assembly."

73. Point d) of Article 156, paragraph (2) shall be modified to read as follows:
"d) the persons who, during performing their legal duties entailed by this capacity, have controlling powers within the Ministry of Public Finance or other public institutions, except for the situations expressly provided by law.

74. Paragraphs (1), (2) and (3) of Article 158 shall be modified to read as follows:
"(1) Auditors shall have the duty to supervise the management of the company, to check whether the financial statements are legally prepared and in accordance with the books, whether the books are kept on regular basis and whether assets valuation

was performed according to the rules set for the preparation and presentation of financial statements.

(2) Auditors shall submit a detailed report to the general assembly that will include all the above mentioned data, as well as the considerations they deem necessary on the financial statements and the distribution of profit.

(3) The general assembly shall approve the annual financial statements only if this is accompanied by the internal auditors' report or the report of the financial auditors, as the case may be.

75. Section VI shall have the following title:

"On the Company's Registers and the Annual Financial Statements"

76 Point a) of Article 172, Paragraph (1) shall be modified to read as follows:

"a) a shareholders registry where, as the case may be, shall be recorded the name and surname, personal number code, the name, residence or registered office of the shareholders owning registered shares, as well as the pay made for the shares. The records on the securities issued by a publicly held company and traded in a regulated market shall be kept by a registering company authorized by the National Securities Commission in conformity with the provisions of the Government Emergency Ordinance 28/2002, adopted by Law 525/2002."

77. Article 173 shall be modified to read as follows:

(1) The administrators or independent registering companies, as the case may be, shall have the duty to make available the registers mentioned in Article 172, paragraph (1), point a) to shareholders and to any other persons requesting it, as well as to issue extracts of them, at the expense of the persons who requested them.

(2) They shall also have the duty to make available the registry mentioned in Article 172, paragraph (1), points b) and f) to the shareholders and stockholders.

78. A new paragraph, Paragraph (4) shall be inserted to Article 175 and shall read as follows:

"(4) The registered name and office of the registrar company as well as any modifications in the identification features shall be mentioned in the registers kept by an authorized independent registrar company."

79. Article 176 shall be modified to read as follows:

"Article 176 – At least one month prior to the date established for the session of the general assembly, administrators shall present the annual financial statements of the previous financial year, accompanied by their report and vouchers, to auditors or financial auditors."

80. Article 177 shall be modified to read as follows:

”Article 177 – (1) The annual financial statements shall be prepared according to the law.
(2) The annual financial statements of the commercial companies shall be inspected or audited according to the law.”

81. Paragraphs (1) and (4) of Article 178 shall be modified to read as follows:
“(1) Every year, at least 5% of the company profit shall be set aside to create reserve funds until these funds reach a minimum of one fifth of the share capital
(4) Founders shall be included in the profit distribution if such a provision is mentioned in the setting up act or, in the absence of such a provision, was approved by the extraordinary general assembly.”

82. Article 179 shall be modified to read as follows:
“Article 179 – (1) The annual financial statements, along with the reports of the administrators, auditors or financial auditors shall stay with the registered office of the company and the company’s branches for inspection by shareholders during the 15 days preceding the session of the general assembly.
(2) The shareholders shall be entitled to ask the administration board for copies of the annual financial statements or any other reports mentioned in paragraph (1), at their own expense.

83. Paragraph (1) of Article 180 shall be repealed.

84. Paragraph (2) of Article 180 shall be modified to read as follows:
“(2) Administrators shall have the duty to submit to the Commerce Registry and the Ministry of Public Finance copies of the annual financial statements, accompanied by their report, the report of the auditor or the report of the financial auditors, as well as the minutes of the general assembly, within 15 days after the date of the general assembly, in accordance with provisions of the republished version of the Accountancy Law 82/1991.

85. Article 181 shall be modified to read as follows:
“Article 181 – The approval of the annual financial statements by the general assembly shall not prevent court action for the liability of administrators, directors, auditors or financial auditors.

86. Paragraph (1) of Article 187 shall be modified to read as follows:
“(1) The general assembly shall make decisions by the required majority of associates and subscribers, unless otherwise specified in the setting up act.”

87. Paragraph (1), points a) and b) shall be modified to read as follows:
“a) to approve the annual financial statements and establish the distribution of the net

profit;
b) to appoint the administrators and auditors, to dismiss and discharge them, as well as to decide on contracting financial audit when such audit is mandatory according to law."

88. Article 191 shall be modified to read as follows:
"The provisions for the unlimited companies regarding the right to appeal the decisions of the general assembly shall also apply for the limited liability companies, with the 15-day term provided by paragraph (2) of Article 131 starting to run on the date when the associate has learned about the decision of the general assembly he/she appeals."

89. Paragraph (3) of Article 192 shall be modified to read as follows:
(3) The provisions of Article 75, 76, 77 paragraph (1) and Article 79 shall also apply to limited liability companies.

90. Article 194 shall be modified to read as follows:
"Article 194. – (1) Provisions of Article 155, paragraphs (1) and (2) shall apply accordingly.
(2) In commercial companies, which do not meet the requirements provided by Article 155, paragraph (1), the associates' assembly may appoint one or more auditors.
(3) The appointment of auditors shall be mandatory for all the associations where the number of associates exceeds 15.
(4) The provisions mentioned for the auditors in unlimited companies shall also apply to auditors in limited liability companies.
(5) In the absence of auditors, each of the associates who is not the company's administrator shall have the same controlling right usually held by the associates of an unlimited partnership.

91. Paragraph (1) of Article 196 shall be modified to read as follows:
"(1) The financial statements shall be prepared according to the norms specified for unlimited liability companies. After the approval of the associates' general assembly, the administrators shall submit the financial statements with the relevant public finance general directorates, within the terms required by law. A copy of the annual financial statements shall be submitted to the Commerce Registry Office, which will perform the announcement required Article 180, paragraph (3).

92. Paragraph (1) of Article 199 shall be modified to read as follows:
"(1) The setting up act may be subject to modifications through a decision of the general assembly, adopted in compliance with the legislation, or through an additional document appended to it or through a court decision for the cases specified by Article 218 paragraph 2^1 and Article 221, paragraph 1^1."

93 Paragraphs (1^1) and (1^2) shall be inserted after paragraph (1) of Article 199 and shall read as follows:

"(1^1) The authenticated version of the modifying document approved by the associates shall be mandatory when its subject relates to:

a) increasing the share capital by providing a piece of land as in-kind contribution;

b)changing the legal status of the company into unlimited partnership or unlimited company;

c) increasing the share capital by public contributions.

(1^2) Provisions of Article 16 shall also apply when the name of a sole associate or turning a limited liability company into a sole associate.

94. Paragraphs (2) and (3) of Article 199 shall be modified to read as follows:

"(2) The modifying document comprising cross-references to the modified provisions of the setting up document shall be recorded in the Commerce Registry based on the decision issued by the delegate judge, except for the situations provided by Article 218, paragraph 2^1 and Article 221, paragraph $1^{1,}$ when the recording shall be performed based on an irrevocable decision on exclusion.

(3) After being recorded in the Commerce Registry, the modifying document shall be submitted *ex officio* to the Official Journal of Romania to be published by the Companies Registry in Part IV of the Journal, at the expenses of the company."

95. Paragraph (3) of Article 203 shall be modified to read as follows:

"(3) Any creditor of the company which liability due is certified by a title previous to the date of publication of the decision shall be entitled to oppose the decision in accordance with Article 62."

96. A new paragraph, paragraph (4), shall be inserted to Article 203 and it shall read as follows:

"(4) Simple contract creditors whose liabilities are mentioned in titles prior to the publication of the decision shall, by means of opposition, be entitled to an accrual to their liabilities due in anticipation when the two-month term provided by paragraph (1) has expired, except for the case in which the company has offered real or personal bonds agreed by the creditors.

97. Paragraph (3) of Article 205 shall be modified to read as follows:

"(3) The surpluses resulting from the asset revaluation shall be included in the reserves, without the share capital being increased in the process."

98. Point (e) of Article 207, paragraph (2) shall be modified to read as follows:

"e) the latest financial statements approved, the report of the auditors or the report of the tax auditors;"

99. Article 208 shall be modified to read as follows:

"Article 208 – Share capital increase by means of a public offer of securities, as defined by the Government Emergency Ordinance 28/2002, shall be subject to that legal norm."

100. Article 211 shall be modified to read as follows:

"Article 211 – (1) The shares issued to increase the share capital shall be first offered for subscription to existing stockholders, in proportion to the number of shares they hold; the exercise of the first refusal right shall be limited to the time set by the general meeting to this end, unless the setting up act specifies a different term. When this time expires, the shares shall be put up for public subscription.

(2) Any share capital increase performed in violation of the existing stockholders' right to first refusal, as mentioned in paragraph (1), shall be liable to absolute nullity."

101. Paragraph (2^1) shall be inserted after paragraph (2) of Article 218 and shall read as follows:

(2^1) Following the exclusion, the court, in the same decision, shall also rule on the contributions of the other associates to the share capital."

102. Paragraph (3) of Article 218 shall be modified to read as follows:

"(3) The irrevocable exclusion decision shall, within 15 days, be submitted to the Commerce Registry for recording, while the enacting terms of the decision shall, upon the request of the company, be published in Part IV of the Official Journal of Romania."

103. Paragraph (1^1) shall be inserted after paragraph (1) of Article 221 and shall read as follows:

"(1^1) In the situation provided by paragraph (1), point c), the court shall, in the same decision, also rule on the contributions of the other associates to the share capital."

104. Paragraph (2) of Article 222 shall be modified to read as follows:

"(2) In the situation provided by paragraph (1), point a), the administrators shall, at least three months prior to the expiration of the company's life, consult with the associate on potential prolongation, failure of which the court shall, upon the request of any associate, order the consultations being held in conformity with Article 119."

105. Paragraph (2) of Article 223 shall be modified to read as follows:

"(2) Unlimited companies and limited liability companies shall be dissolved in the situations and in compliance with provisions of paragraph 1, points a) and b).

106 Article 232 shall be modified to read as follows:

"(1) The court shall, upon the request of any interested party or of the National Commerce Registry Office, decide on the dissolution of a company in any of the following cases:

a) the company no longer has statutory bodies or the statutory bodies can no longer meet;

b) the company failed to submit the annual financial statements or any other documents requested for submission to the Commerce Registry six months after the legal terms expired;

c) the company ceased to exist, its recorded office is unknown or fails to meet the requirements for registered offices, the associates are missing or their address or residence is unknown.

d) the company failed to replenish the share capital as requested by law.

(2) Provisions of paragraph (1), point c) shall not apply when a company was temporarily out of business, with prior notification of the tax authorities that is recorded in the Commerce Registry. No company shall be out of business for more than three years.

(3) The court decision on the dissolution of a company shall be recorded in the Commerce Registry, notified to the general county public finance directorates or the Bucharest general public finance directorate and also published in Part IV of the Official Journal of Romania, at the expenses of the originator of the petition for dissolution, which may be filed against the company.

(4) When there is more than one court decision for dissolution in the cases provided by paragraph (1), the publication in Part IV of the Official Journal of Romania shall be allowed in a table comprising: the unique registration number, the name and the legal status of the dissolved company, the court that ordered the dissolution, the number of the

court file as well as the number and the date of the dissolution decision. The publication costs in such cases shall be cut down to 50%.

(5) Any interested party shall be entitled to appeal against the dissolution decision within 30 days after the decision is published, in compliance with paragraphs (3) and (4). Provisions of Article 60, paragraphs (3) – (4) shall apply accordingly.

(6) The company shall be ex officio erased on the date when the dissolution decision remains irrevocable.

107. Paragraph (1^1) shall be inserted after paragraph (1) of Article 234, and shall read as follows:

(1^1) When there are more categories of shares, the decision on merger/splitting as mentioned in Article 113, point g) shall depend on the outcome of the vote cast per each category, as specified by Article 115."

108. Points e) and h) of Article 236 shall be modified to read as follows:

"e) shares in the absorbed company owned directly or through agents by the absorbing company or the absorbed company itself shall not be exchanged for shares issued by the absorbing company;

h) the date for merger/splitting financial statements, which shall be the same for all the participating companies;"

109. Paragraph (2) of Article 237 shall be modified to read as follows:

"(2) The project for merger or splitting, pursuant to its approval by the delegate judge, shall be published in Part IV of the Official Journal of Romania. It may be published in full or in part, as the delegate judge or the interested party may require, at the expense of the parties, at least 30 days before the dates established for the extraordinary general assemblies to decide on the merger/splitting, based on Article 113, point g).

110 Article 239 shall be modified to read as follows:

"Article 239. – (1) The administrators of the companies to merge or split shall, at least one month prior to the date of the extraordinary general assembly, make available to stockholders/associates at the registered office of the company the following:

a) the project for merger/splitting;

b) a report by the administrators on the economic and legal reasons for the merger/splitting, as well as the share exchange ratio;

c) the financial statements and the management reports for the past three financial years

and the three months preceding the date of the merger/splitting project;

d) the report of the internal auditors and, as the case may be, the report of the tax auditors;

e) the report of one or more natural or legal entities appointed by the delegate judge in compliance with Articles 37 and 38 to expertise the just character of the stock exchange ratio established for unlimited companies, partnerships or limited liability companies; in order to draw these reports, each expert shall be entitled to receive all the documents and information they need from the companies to merge or split, as well as to perform the required checking. Such reports shall each comprise:

- the methods used to reach the exchange ratio in question;

- the specification about the adequacy of the methods, the values resulting from applying each method on its own as well as the personal opinion regarding the importance of the method among the other methods;

-any difficulty encountered during the expertise;

f) a record on all the ongoing contracts worth more than 100,000,000 each and their distribution if the company splits.

(2) The shareholders/associates shall be entitled to free transcripts or extracts from the documents enumerated in paragraph (1)."

111. Article 239^1 shall be inscribed after Article 239 to read as follows:

"Article 239^1 – In case of merger by absorption, the administrators of the absorbed company as well as the experts having drafted the report mentioned in Article 239, paragraph (1), point e) shall bear civil liability to the stockholders/associates of the absorbed company for any damage incurred on them as the result of omissions during the merger process.'

112. Article 242 shall be modified to read as follows:

"Article 242. – (1) The document modifying the setting up of the absorbed company shall be recorded in the Commerce Registry Office in the locality under which jurisdiction the company is, following its approval by the delegate judge; it shall be automatically submitted to the Official Journal of Romania for publication at the expense of the company.

(2) The absorbing company shall be entitled to perform the publicity actions for the absorbed company, within 15 days after the approval by the delegate judge of the document modifying the setting up act of the absorbed company.

113. Article 251 shall be modified to read as follows:

“Article 251 – When liquidators prove that the funds the company has available according to the annual financial statements are not enough to cover the accrued liabilities, they shall have to request the necessary funds from the associates with unlimited liability or from those having failed to meet the obligation imposed on them by the legal status of the company to retrieve outstanding payments; the latter shall also be asked to service the outstanding payments incumbent on them as associates.”

114. Paragraph (2) of Article 254 shall be modified to read as follows:

“(2) The liquidators shall, within 15 days after the liquidation is over, ask that the company be erased, failure of which they shall be liable to a court fine of 2,000,000 lei a day for each day of the delay. The fine shall be imposed by the delegate judge upon the request of any interested party, in an enforceable decision subject to appeal.”

115. Paragraph (2) of Article 255 shall be modified to read as follows:

“(2) The registers provided by Article 172, paragraph (1), points a)-f) for unlimited companies and partnerships shall be submitted to the Commerce Registry Office where the enterprise was registered, where any interested party shall be entitled to consult them on approval from the delegate judge; the remaining documents of the company shall be submitted to the National Archives.”

116. Paragraphs (1), (2) and (4) of Article 257 shall be modified to read as follows:

“(1) When the liquidation of an unlimited partnership, simple partnership or limited liability company, the liquidators shall have to prepare the financial statements of these companies and offer suggestions for the distribution of assets among associates.

(2) Any unsatisfied associate shall be entitled to express opposition, in compliance with Article 62. His /her opposition shall be expressed within 15 days after being notified about the financial statements and asset distribution arrangements of the liquidators.

(4) The financial statements and asset distribution arrangements of the liquidators shall be considered approved and the liquidators shall be discharged when the term mentioned by paragraph (2) has expired or the decision on the expressed opposition remains irrevocable.

117. Paragraph (1) of Article 259 shall be modified to read as follows:

“(1) The administrators shall present to liquidators a report on the management for the time elapsed since the last financial statements before the liquidation started were approved.”

118. Paragraph (2) of Article 260 shall be modified to read as follows:

“(2) When the time of the management exceeds the length of the financial year, the report shall be attached to the first financial statements the liquidators have submitted to the general assembly.”

119. Article 261 shall be modified to read as follows:

“Article 261. – When the time of the liquidation exceeds the length of the financial year, the liquidators shall be obliged to prepare the annual financial statements in accordance with the legislation and the setting up act.”

120. Paragraphs (1) and (2) of Article 262 shall be modified to read as follows:

“(1) When the liquidation is completed, the liquidators shall prepare final financial statements to show the part attached to each share in the distribution of the company’s assets, accompanied by the report of the internal auditors and the report of the tax auditors, where the case may be.

(2) The financial statements shall be signed by the liquidators and submitted for recording to the Commerce Registry and for publication to the Official Journal of Romania, Part IV.”

121. Paragraph (1) of Article 263 shall be modified to read as follows:

“(1) If the term provided by Article 260, paragraph (3) expired without any opposition being expressed, the financial statements shall be considered as approved by all stockholders and the liquidators shall be discharged of all duties, less the distribution of the company’s assets.”

122. Paragraph (1) of Article 264 shall be modified to read as follows:

“(1) Any amounts due to stockholders that remain unpaid at the end of two months after the publication of the financial statements shall be collected in a bank account, with mentioning being made of the name and surname of the stockholders, if the shares are registered, or the numbers of the shares, if these are bearer shares.”

123. Point 2 of Article 265 shall be modified to read as follows:

“2. Gives, in bad faith, inaccurate financial statements or inaccurate information about the economic state of the company to stockholders/associates, with the purpose of hiding the real state of the company.”

124. Point 5 of Article 266 shall be modified to read as follows:

“5. Is paid or pays dividends, irrespective of form, from fictitious profits or profits not for

distribution because of lack of the financial statements or for running contrary to the statements;"

125. The introduction to Article 268 shall be modified to read as follows:

"Any administrator, director, executive director or legal representative of a company shall be sanctioned by a jail sentence of between 1 month to 1 year or by a fine for:"

126. The introduction to Paragraph (1) of Article 269 shall be modified to read as follows:

"Any administrator shall be sanctioned by a jail sentence of between 1 month to 1 year or by a fine for:"

127. Article 270 shall be modified to read as follows:

"Article 270 – Any auditor failing to convene the general assembly when there is a legal obligation shall be sanctioned by a jail sentence of between 1 month to 1 year or by a fine."

128. The introduction to Paragraph (1) of Article 273 shall be modified to read as follows:

"(1) Any shareholder or stockholder shall be sanctioned by a jail sentence of between 6 months to 3 years for:"

129. Paragraph (2) of Article 273 shall be modified to read as follows:

"(2) Any person who, in exchange of money or other economic benefits determines a shareholder or a stockholder to vote as suggested or to abstain from vote, shall be sanctioned by a jail sentence of between 6 months to 3 years or by a fine."

130. Point a) of Article 276 shall be modified to read as follows:

"a) forgery, snatching away or destroying company's records, concealing part of the company's assets, presenting fictitious liabilities, if each of these actions are intentionally performed to diminish the value of the assets;"

131 Article 286^1 shall be inscribed after Article 286 and it shall read as follows:

"Article 286^1. – The Government shall be entitled to approve in a resolution annual adjustments to the minimum registered capital mentioned in Article 10, Paragraph (1), to reflect the developments in the inflation rate, so that the registered capital mandatory for unlimited companies and partnerships shall stand at above 25,000 euros before December 31, 2005. The Government resolution will also include the term for the replenishing of the share capital."

Article X. – Title VI – "″Legal Status of Real Estate Corporal Securities″," in Law 99/1999 on Certain Measures for the Economic Reform Acceleration, published in Part I of the Official Journal of Romania, No. 236 on May 27, 1999, with subsequent modifications, shall be now modified to read as follows:

1. Points a) and c) of Article 2 shall read as follows:

"a) all the assignments of claims

b) all the rental contracts, including all the leasing forms, that are concluded for more than one year having as an object the assets provided by Article 6 of the present title;"

2. Points g) and h) of Article 6, paragraph (5) shall read as follows:

"g) secured claims:

h) negotiable instruments;"

3. Point n) of Article 6, paragraph (5) shall be repealed.

4. Paragraph (1) of Article 10 shall read as follows:

"(1) Any obligation to give, do or not do shall qualify for the real stock guarantees regulated under the present title, including future conditional, divisible or determinable obligations."

5. Article 15 shall read as follows:

"Article 15 – The real stock guarantee contract shall specify the maximum of the liability backed."

6. Paragraph (1) of Article 24 shall read as follows:

"(1) Any asset replacing the asset set as guarantee or the asset in which the value of the asset set as guarantee shall be presumed as being a product of the initial asset, unless the debtor offer proof to the contrary."

7. Paragraph (1) of Article 26 shall read as follows:

"(1) When the real guarantee comprises all the assets of the debtor or just the debtor's assets of a certain type, the debtor shall be entitled to ask, at any time, for a confirmation from the creditor regarding the value of the liability left to be backed, or for a detailed list of the assets set aside as guarantee. To this end, the debtor will provide the creditor with a list of the estimated value of the assets set aside as guarantee, for confirmation."

8. Article 28 shall read as follows:

“Article 28. – The real securities as well as other real liabilities on the assets included within the scope of the present title shall have the priority ranks to third parties, the State included, as established when the real guarantee or liabilities were made public using one of the methods provided by this chapter.”

9. Paragraph (1) of Article 36 shall read as follows:

“(1) Any creditor not a party to a guarantee contract but having a privilege by virtue of the effects of the law, including the privilege of the State and other local administrations over the liabilities resulting from rates, taxes, fines or any other public revenues owed to them, shall only have precedence over the real guarantee of the creditor over the asset in question when the privilege met the conditions for publicity through recording with the archives or getting hold of the asset.”

10. Paragraph (2) of Article 57 shall read as follows:

“(2) The database shall comprise the date, hour, minute and second of the registration.”

11. Paragraph (2) of Article 68 shall read as follows:

“(2) The creditor shall bear the costs in advance and the risks entailed by the transportation and storage of the asset in question.”

12. Paragraph (3) of Article 71 shall read as follows:

“(3) Notification shall be performed in any way that will make sure that it has been received.”

13. Paragraph (1) of Article 75 shall read as follows:

“(1) The debtor, creditor or the owner of the assets, if he/she is interested, shall be entitled to express opposition to the sale of the asset before the relevant court, in accordance with the Civil Procedure Code, within five days after the notification is received.

14. Paragraph (1) of Article 80 shall read as follows:

“(1) If the secured guarantee is not paid and the asset pledged for the guarantee or the products obtained by its sale have generated money deposited in a bank account, the creditor shall notify the bank of his/her intention to retrieve his/her due from the amounts in the account.”

15 Paragraphs (1) and (2) of Article 82 shall read as follows:

“(1) When the account is frozen as provided by Article 81, paragraph (2), the bank shall

use the account to pay the debt of the secured debtor as requested by the creditor.

(2) Should another creditor be granted higher precedence for the deposit account according to the precedence rules in the present title, the bank shall have to pay this creditor first, although his/her claim may not have become due."

16. Article 86 shall be repealed.

17. Paragraph (2) of Article 88 shall read as follows:

"(2) The creditor shall be entitled to withhold the amounts derived from such a sale that are left after the creditor paid the debtor his/her due in accordance with paragraph (1)."

18. Paragraph (1) of Article 91 shall read as follows:

"(1) The real guarantee on a corporeal asset, which by legal definition is opposable to the place where the asset is located when the guarantee is set, shall bear first precedence in Romania, provided that it was registered with the archives:

a) before the precedence ranks of the place where the asset was when the guarantee was set expire, and

b) 60 days at the latest after the asset was brought to Romania, or

c) 15 days at the latest after the creditor learned that the asset was brought to Romania.

19. Paragraph (1) of Article 92 shall read as follows:

"(1) The guarantee to the locator or financier, which is opposable irrespective of the existence of publicity formalities and according to the place where the asset is when the rent or leasing contract is signed shall keep the precedence rank, provided that its registration is performed:

a) before the precedence ranks of the place where the asset was when the guarantee was set aside expire, and

b) 60 days at the latest after the asset was brought to Romania, or

c) 15 days at the latest after the creditor learned that the asset was brought to Romania.

20 Point b) of Article 93, paragraph (1) shall read as follows:

"b) negotiable securities that are not in the possession of the creditor."

21. Paragraph (3) of Article 93 shall read as follows:

"(3) In the present title, the place where the creditor, locator, financier, debtor, tenant or

user is should be understood as meaning the job place, domicile or residence of real persons or the registered office of the legal entity, as the case may be."

22. Article 94 shall read as follows:

"Article 94 – The rent, leasing contract or the real guarantee set aside by a debtor, tenant or user that changes residences or registered offices as defined in Article 93, Paragraph (3) or set aside for a person in a foreign country shall preserve the precedence acquired in Romania in accordance with the present title if they are registered abroad:

a) before the date when the real guarantee or the registration of the locator expires as provided by the present title, and

b) within 60 days starting running from the date on which the debtor, tenant or user settles abroad or the date on which the debtor set aside the guarantee for a person abroad, or

c) 15 days the latest after the date on which the creditor learns about the debtor, tenant or user having settled abroad or having set aside the guarantee for a person abroad."

23. Paragraph (1) of Article 98 shall read as follows:

"(1) Preferential creditors, including the State and the local administrations, of the liabilities due in taxes, fees, fines and any other public revenues shall be granted precedence over the secured creditor, provided that they had the liability recorded with the archives or the documents for real estate publicity before the secured creditor."

Article XI – Law 87/1994, on Fighting Tax Evasion, published in Part I of the Official Journal of Romania, No. 299 on October 24, 1994, with subsequent modifications, shall l now be modified and completed to read as follows:

1. Article 1 shall be modified to read as follows:

"Article 1- Tax evasion shall be defined as absconding, by any means, from taxation or payment of taxes, fees, contributions or any other amounts due to the national budget, local budget, the social insurance funds or other special budget funds, by Romanian or foreign natural persons or legal entities, hereinafter called taxpayers."

2. Paragraph 6 shall be inserted after paragraph 5 in Article 3 and shall read as follows:

"The taxpayers earning incomes from commerce or service provision to individual consumers shall have the duty to post their functioning license as well as the registration certificate bearing the unique registration code, at the scene of their business."

3. Paragraph 2 shall be inserted after paragraph 1 in Article 4 and shall read as follows:

"Taxpayers shall have the duty to use primary and bookkeeping documents established by

law, which they shall buy only from official providers and they shall also dully fill in the spaces in the documents, in accordance with the operations recorded."

4. Article 9 shall be modified to read as follows"

"Article 9 – The refusal to present vouchers, accounting books or assets subject to taxes, fees or other contributions to public funds to the inspection teams mandated by law, for taxation, shall be treated as an offence liable to between six months and three years in jail or a fine."

5. Article 10 shall be modified to read as follows:

"Article 10 – The failure to fill in as well as the incomplete or inadequate filling in of the primary bookkeeping documents or accepting such documents with the purpose of preventing tax and accounts audits shall be treated as an offence liable to between 6 months and 5 years in jail, the prohibition of certain rights or a fine, if the actions thus committed have led to a diminishing of taxable incomes or sources.

The same punishment mentioned in paragraph 1 shall be applied to persons who illegally circulate by any means or possess for illegal circulation of financial and tax documents."

6. Article 11 shall be modified to read as follows:

"Article 11 – The following deeds shall be treated as offences liable to between 2 to 8 years in prison and the cancellation of certain rights:

a) avoiding the payment of tax due by filing to record the activities that the law requires to be recorded or conducting unauthorized activities with the aim of deriving incomes;

b) avoiding in full or in part the servicing of taxes due by failing to state the taxable incomes derived, concealing the taxable object or source, or diminishing the revenues through fictitious operations;

c) omitting in full or in part to record on the books or other legal documents the commercial activities performed or the incomes derived, as well as recording non-real operations or expenses with the aim of not paying or diminishing the tax, fee or contribution due:

d) creating and conducting double bookkeeping, forging or destroying bookkeeping documents, the memories of the electronic tax devices and cashiers or any other data storage devices, with the purpose of diminishing taxable incomes or sources;

e) purposefully issuing, distributing, buying filling in or accepting forged fiscal documents.

The attempts shall also be prosecuted."

7. Article 12 shall be modified to read as follows:

"Article 12 – The following deeds shall be treated as offences and shall be liable to between 3 and 10 years in prison and the cancellation of certain rights:

a) avoiding tax paying by assigning to this end stock held in a limited liability company;

b) the commercial companies' avoiding tax and accounts audits by purposefully stating a fictitious registered office, the office of the branches or outlets as well as changing offices without meeting the legal requirements."

8. Articles 13-16 shall be repealed.

9. Points b) and k) in paragraph 1, Article 17 shall be repealed.

10, Paragraph 2 of Article 17 shall be modified to read as follows:

"The offences sanctioned under paragraph 1 shall be liable to a fine of between 500,000 and 30,000,000 Romanian lei if committed by natural persons and to a fine of between 5,000,000 and 100,000,000 Romanian lei if committed by legal entities."

11. Article 18 shall be repealed.

12. Article 20 shall be modified to read as follows:

"Article 20 – The finance and tax inspection teams of the Ministry of Public Finance as well as the local offices under its authority, the Fraud Squad and all the other inspection teams mandated by law shall be entrusted with detecting tax fraud and inflicting the penalties carried by the offences."

13. Article 21 shall be repealed.

14. Article 22 shall be modified to read as follows:

"Article 22 – The provisions of the present law regarding offences shall be completed by the provisions of the Government Ordinance No. 2/2001 on the Legal Status of Infringements, approved and modified by Law 180/2002, in turn modified."

Article XII – Law 26/1990 on the Commerce Registry, republished in Part I of the Official Journal of Romania No. 49 on February 4, 1998, with subsequent modifications and completions; Law 31/1990 on Commercial Companies, republished in the Official Journal of Romania No 33 on January 29, 1998, with subsequent modifications and

completions; Title VI on "The Legal Status of Real Stock Guarantees," in Law 99/1999 on Certain Measures for the Economic Reform Acceleration, published in Part I of the Official Journal of Romania, No. 236 of May 27, 1999, with subsequent modifications; as well as Law 87/1994 on Fighting Tax Evasion, with subsequent modifications; and the modifications mentioned in the present title shall all be republished in Part I of the Official Journal of Romania and ascribed new numbers.

TITLE III
Regulations Concerning the Public Position and the Civil Servants

Article XIII. – Law No 188/1999 of the Status of Civil Servants, published in the Official Journal of Romania, Part I, No 600/December 8, 1999, with subsequent modifications and completions, shall be amended and extended as follows:

1. Article 1 shall be amended to read as follows:

"**Article 1** – (1) This Law regulates the general status of the legal relations between the civil servants and the public authorities and institutions of the central and local public administration, hereafter called work relations.

(2) The purpose of this Law is to ensure, consistent with the legal provisions, a stable, professional, transparent, efficient and unbiased civil service, for the benefit of the citizens a well as of the authorities and public institutions in the central and local public administration."

2. Article 2 shall be amended to read as follows:

"Article 2 **– (1) The civil service is concerned with the whole range of competences and responsibilities, established under the law, for the purpose of discharging the prerogatives as public power by the central and local public administration.**

(2) A civil servant is any person appointed, under this Law, to a public position. The person whose work relation has ended for reasons not imputable to him or her, shall retain his or her capacity as civil servant, remaining on the reserve body of civil servants.

(3) The activities conducted by civil servants, that involve the exercise of the prerogatives of public power, shall be the following:

a) implementation of laws and the other normative acts;

b) drafting normative acts and other regulations specific to the public authority or institution, as well as seeing to it that these be approved;

c) drafting projects of policies and strategies, programs, surveys, analyses and statistics, as well as the documentation relating to law application and enforcement, necessary for the public authority or institution to discharge its competence.

d) internal advising, public control and auditing;

e) management of human resources and financial resources;

f) collecting budgetary claims;

g) representation of the public authority or institution's interests in its relations with natural persons or legal entities of public or private law, at home and abroad, within the limits of the competences established by the head of the public authority or institution, as well as the representation in court of law of the public authority or institution where he or she carries out his/her activity;

h) carrying out activities consistent with the strategy of introducing IT in the public administration.

(4) The public positions are detailed in the Annex to this Law.

(5) For the purposes of this Law, all of the civil servants with the public authorities and institutions of the central and local public administration mean the body of civil servants."

3. Article 2 shall be repealed.

4. Article 4 shall be amended to read as follows:

"**Article 4** – The principles underlying the exercise of the civil function shall be:

a) legality, impartiality and objectiveness;
b) transparency;
c) efficiency and effectiveness;
d) responsibility, consistent with legal provisions;
e) citizen-oriented;
f) stability in the exercise of civil function;
g) hierarachic subordination."

5. After Article 4 there shall be inserted Article 4^1 which shall read as follows:

"**Article 4^1** – (1) The work relations shall come into being and shall be exercised based on the administrative act of appointment, issued consistent with the law.

(2) The work relations shall be exercised for an indefinite period of time.

(3) By way of exception from paragraph (2), civil positions may be held for a definite period of time, in conditions specifically stipulated by law."

6. Paragraph (1) of Article 5 shall be amended to read as follows:

"(1) Special status may be attributed to the civil servants who carry out their activity with the following public services:

a) the specialty structures of the Romania's Parliament;
b) the specialty structures of the Presidential Administration;
c) the specialty structures of the Legislative Council;
d) the diplomatic and consular services;
e) the customs authority;
f) the police and other structures of the Ministry of the Interior;
g) other public services established by the law."

7. Article 6 shall be amended to read as follows:

"**Article 6** – The provisions of this Law shall not apply to:

a) the paid personnel of the own staff of the public authorities and institutions who carry out secretarial, administrative, protocol, husbanding, maintenance-repair and servicing activities, as well as to other categories of personnel who do not exercise prerogatives of public power;

b) the paid personnel employed, based on personal trust, with the dignitary's cabinet;

c) the magistrates' body;

d) the teaching staff;

e) the persons appointed or elected to functions of public dignity."

8. Chapter II shall be amended to read as follows:

"Chapter II
Classification of Public Positions. Categories of Civil Servants

Article 7 – (1) The public positions shall be classified as follows:

a) general public positions and specific public positions;

b) public positions of the 1st class, public positions of the 2nd class, public positions of the 3rd class.

(2) The general public **positions** mean the whole range of attributions and responsibilities of a general character and common to all public authorities and institutions, for the purpose of carrying out their general competences.

(3) The specific public **positions** mean the whole range of attributions and responsibilities of a nature specific to certain public authorities and institutions, for the purpose of carrying out their specific competences.

Article 8 – The public positions shall be divided into three classes, defined in relation to the level of education required for holding the public position, as follows:

a) 1st class includes the public positions for the holding of which long-term higher school studies and a degree certificate or the equivalent are required;

b) 2nd class includes the public positions for the holding of which short-term higher school studies and a certificate are required;

c) 3rd class includes the public positions for the holding of which high-school studies and a certificate are required.

Article 9 – (1) According to the level of attributions of the holder of the public position, the public positions shall be divided into three categories, as follows:

a) public positions corresponding to the category of high-ranking civil servants;

b) public positions corresponding to the category of civil servants with leading

positions;

c) public positions corresponding to the category of civil servants with execution positions.

(2) The civil servants appointed to the public positions in the 2nd and 3rd classes may hold only execution public positions, with the exceptions stipulated by the special laws.

Article 10 – (1) The civil servants shall be probationary or permanently appointed.

(2) As probationary civil servants may be appointed the persons who have passed the test for holding a public position and do not meet the terms stipulated by the law for holding a public position permanently.

(3) Permanently appointed civil servants may be:

a) the probationary civil servants who have completed the term of probation as stipulated by the law and have got adequate results on evaluation;

b) the persons who are employed with the civil servants body following a contest and who have a length of service in the specialty corresponding to the public position of minimum 12 months, 8 months and 6 months respectively, contingent upon the level of graduated school;

c) the persons who have graduated from public administration training and brush-up programs.

Article 11 – The category of high-ranking civil servants shall include the persons who are appointed to any one of the following public positions:

a) secretary-general of the Government and deputy secretary-general of the Government;

b) state councillor;

c) secretary-general and deputy secretary-general in ministries and other specialty bodies of the central public administration;

d) prefect;

e) deputy prefect;

f) secretary-general to the prefect's office, secretary-general of the county and of Bucharest municipality;

g) director general with ministries and the other specialty bodies of the central public administration.

Article 12 – (1) The category of civil servants with leading positions includes the persons appointed to one of the following public functions:

a) secretary of the municipality, of the Bucharest municipality sector, of the town and of the commune;

b) deputy director general, director and deputy director in the staff of the ministries and the other specialty bodies of the central public administration;

c) executive director and deputy executive director of the decentralized public

services of these, as well as with the local public authorities' own staff;

d) head of service;

e) head of office.

(2) The civil servants with leading positions shall organize, coordinate, guide and control the activities indicated in Article 2, paragraph (3), under the authority of a civil servant ranking higher in the hierarchy or of a dignitary.

Article 13 – (1) Civil servants with execution positions of 1st class shall be the persons appointed to the following public positions: expert, councillor, inspector, legal adviser, auditor.

(2) Civil servants with execution positions of 2nd class shall be the persons appointed to the public position of specialty reviewer.

(3) Civil servants with execution positions of 3rd class shall be the persons appointed to the public position of reviewer.

Article 14 – The execution public positions shall be disposed by professional grades, as follows:

a) senior, as the highest level;

b) chief;

c) assistant;

d) probationary."

9. Articles 15, 15^1, 16 and 17 shall be repealed.

10. Chapter III shall be amended to read as follows:

"Chapter III
The Category of High-Ranking Civil Servants

Article 18 – (1) Included in the category of high-ranking civil servants may be the person who meets the aggregate of the following terms:

a) the conditions provided by Article 49;

b) has graduated long-term university education with degree certificate or the equivalent;

c) has graduated specialized and brush-up training programs in public administration and other specialized institutions, organized at home or abroad, or has acquired the scientific title of doctor in the specialty of the respective public position;

d) has a length of service of at least 7 years in the specialty of the respective public position;

e) has passed the contest held for holding a public position provided by Article 11.

(2) In exceptional cases, the length of service provided by paragraph (1) point d) may be shortened by up to 3 years by the person who has the legal competence of

appointing to public positions.

Article 19 – (1) The contest of admission to the programs of specialized training in public administration shall be organized by the National Administration Institute, under the Rules of organization and holding of the contest.

(2) The Rules of organization and holding of the contest of admission to the programs of public administration training, organized by the National Administration Institute, shall be endorsed by Government decision, upon the proposal of the Ministry of Public Administration.

Article 19[1] – (1) The appointment of the high-ranking civil servants shall be made by:

a) The Government, for the public positions provided by Article 11 points a) and d);

b) the Prime minister, for the public positions provided by Article 11, points b), c), e);

c) the minister of public administration, for the public positions provided by Article 11, point f);

d) the minister or, as the case may be, the head of the public authority or institution for the positions at Article 11 point g).

(2) For the appointment to public positions of the category of high-ranking civil servants, a contest commission shall be formed, consisting of five personalities, acknowledged as experts in public administration, appointed under a prime minister's decision, upon the public administration minister's proposal.

Article 19[2] – The ending of the work relations of the high-ranking civil servants shall proceed, consistent with the law, according to Article 19[1] paragraph (1)."

11. Paragraphs (1) and (2) of Article 20 shall be amended to read as follows:

"**Article 20** – (1) For the creation and development of a professional, stable and neutral body of civil servants, the National Agency of Civil Servants shall be set up, as a specialty body of the central public administration with legal entity, subordinated to the Ministry of Public Administration.

(2) The National Agency of Civil Servants shall be headed by a president, having the rank of state secretary, appointed by the prime minister, upon the proposal of the public administration minister. In exercising his respective attributions, the president of the National Agency of Civil Servants shall issue orders of a normative and individual nature."

12. Article 21 shall be amended to read as follows:

"**Article 21** – (1) The National Agency of Civil Servants shall have the following attributions:

a) formulates the policies and strategies concerning the management of the public

position and of the civil servants;

b) drafts and advises normative acts concerning the public position and the civil servants;

c) monitors and controls the way of implementation of the legislation concerning the public position and the civil servants within the public authorities and institutions;

d) drafts joint regulations, applicable to all public authorities and institutions, concerning the public positions, as well as instructions concerning the unitary implementation of the legislation in the field of the public position and civil servants;

e) drafts the bill of establishing a unitary pay system for the civil servants;

f) sets the criteria for the evaluation of the public servants' activity;

g) collates the proposals for the civil servants' instruction, established as a result of the evaluation of the civil servants' individual professional performance;

h) collaborates with the National Administration Institute on establishing the specific themes of the programs of specialized training in public administration and of civil servants' brush-up;

i) draws up and manages the database comprising the records of the public positions and of the civil servants;

j) endorses the terms of participation and the procedure of organization of the recruitment and selection for the general public positions, advises and monitors the recruitment for the specific public positions;

k) handles the reassignment of the civil servants the work relations of whom have ceased for reasons that are not imputable to them;

l) provides specialty assistance and methodological coordination to the human resources departments of the authorities and institutions of the central and local public administration;

m) participates in the negotiations between the representative trade union organizations of the civil servants and the Ministry of Public Administration;

n) collaborates with international bodies and organizations in its field of activity;

o) annually drafts, with the consultation of the public authorities and institutions, the Plan of public positions occupation, which it submits to the Government for approval;

p) prepares the annual report on the management of the public positions and of the civil servants, which it advances to the Government.

(2) The National Agency of Civil Servants shall perform any other attribution as established by the law.

(3) The National Agency of Civil Servants shall have active court legitimacy and shall be able to apply to the competent administrative contentious jurisdiction court

regarding the following:

a) the acts whereby the public authorities or institutions violate the legislation referring to the public position and the civil servants, found out as a result of its own control activity;

b) the public authorities' and institutions' refusal to enforce the legal provisions in the field of the public position and civil servants.

(4) The act appealed according to paragraph (3) shall be suspended *de jure*.

(5) The president of the National Agency of Civil Servants may intimate also the prefect concerning the illegal acts issued by the local public authorities or institutions.

13. Article 22 shall be amended to read as follows:

"**Article 22** – (1) The plan of occupation of the public positions shall establish:

a) the number of public positions reserved for the promotion of the civil servants who meet the legal conditions;

b) the number of public positions to be reserved for the graduates of the programs of specialized training in public administration, organized by the National Institute of Administration or by similar institutions abroad;

c) the number of public positions to be occupied by contest;

d) the number of public positions to be established;

e) the number of public positions to be subject to reorganization;

f) the maximum number of public positions by class, category and pay grade;

g) the maximum number of leading public positions.

(2) The plan provided by paragraph (1) shall be prepared by the National Agency of Civil Servants, by consultation with the representative trade union organizations at a national level, and shall be submitted to the Government for approval."

14. Article 23 shall be repealed.

15. Article 24 shall be amended to read as follows:

"**Article 24** – The day-to-day management of the human resources and of the public positions shall be organized and carried out, within every public authority and institution, by a specialized department, that shall collaborate directly with the National Agency of Civil Servants."

16. Section 2 of Chapter IV shall be amended to read as follows:

"Section 2
Keeping Records of the Public Positions and Civil Servants

Article 25 – (1) The National Agency of Civil Servants shall manage the national records kept of the public positions and civil servants, based on the data relayed by the public authorities and institutions.

(2) The records of the public positions and civil servants within the public

authorities and institutions shall be kept by the National Agency of Civil Servants.

(3) For the purpose of ensuring the efficient management of the human resources, as well as for monitoring the career of the civil servant, the public authorities and institutions shall prepare professional records of every civil servant.

(4) The standard format of the records of the public positions and civil servants, as well as the content of the professional record, shall be established by Government decision, upon the proposal of the National Agency of Civil Servants.

Article 25[1] – (1) The public authorities and institutions shall be responsible for the preparation and updating of the professional records of the civil servants and shall secure their keeping in safe conditions.

(2) In cases of transfer or of ending the work relations, the public authority or institution shall keep a copy of the professional file and shall hand over the original to the civil servant, on signature.

(3) The public authorities and institutions shall be under the obligation to communicate to the National Agency of Civil Servants, within 10 working days, any change occurred in the civil servants' situation.

(4) The persons who have access to the data in the national records kept of the public functions and civil servants as well as to the civil servant's professional record, shall be under the obligation to observe the confidentiality of the personal data, consistent with the law.

(5) Upon the civil servant's request, the public authority or institution shall be under the obligation to issue a document attesting to the activity carried out by him or her, the length of service, in specialty and in the public position."

17. Paragraph (2) of Article 26 shall be amended to read as follows:

"(2) Any discrimination of civil servants on political, trade union, religious belief, ethnic belonging, sex, sexual orientation, material situation, social origin or any other such grounds, shall be forbidden."

18. After Article 26 there shall be inserted Article 26[1] to read as follows:

"**Article 26[1]** – The civil servant has the right to be informed of the decisions being made in the application of this status and that are of direct concern to him or her."

19. Paragraphs (1) and (2) of Article 27 shall be amended to read as follows:

"**Article 27** – (1) The right to trade union association shall be guaranteed to civil servants, except for those appointed in the category of high-ranking civil servants, the civil servants holding leading positions and other categories of civil servants who are forbidden this right under special statutes.

(2) Civil servants, except for those provided by paragraph (1), may freely set up trade union organizations, join them and exercise any mandate with them."

20. Article 28 shall be amended to read as follows:

"**Article 28** – Civil servants have an acknowledged right to strike, consistent with the law, in observance of the principle of continuity and celerity of the public service."

21. Article 29 shall be amended to read as follows:

"**Article 29** – (1) For their activity, civil servants shall be entitled to a pay consisting of:

a) the basic salary;
b) the seniority benefit;
c) the job extra;
d) the grade extra.

(2) Civil servants shall get bonuses and other fringe benefits, consistent with the law.

(3) Civil servants shall be paid according to the legal provisions concerning the establishment of the unitary pay system for civil servants."

22. Article 30 shall be repealed.

23. Article 31^1 shall be inscribed after Article 31 and it shall read as follows:

"Article 31^1 – (1) Civil servants shall be extended the right to continuing professional development

(2) The public servants attending continuing professional development courses shall receive their due pay if:

a) the courses are held at the initiative or in the interest of the public authority or institution;

b) the courses are attended at the initiative of the public servant and with approval from the manager of the public authority or institution:

c) the courses are organized by the National Institute on the Administration, local continuing professional development centers of the local public administration in accordance with the law, or are organized by other similar domestic or foreign institutions.

(3)The servants shall enjoy delegation benefits in compliance with the law when the professional training and development actions mentioned in paragraph (2) are held outside the locality where the public authority or institution resides.

(4) The public authorities and institutions shall be obliged to allocate means in their annual budget to cover the professional training and development actions for the public servants that are organized in accordance with points a) and c) in paragraph (2).

24. Article 32^1 shall be inscribed after Article 32 and it shall read as follows:

"Article32^1 –Civil servants, except for the civilian civil servants working with the ministries concerned with national defense, public order and national security, shall be entitled to appointments to public offices, in accordance with the law."

25. Article 35 shall be modified to read as follows:
"Article 35 –(1) The public authorities and institution shall be obliged to secure normal work as well as occupational safety and health conditions for the civil servants that will protect their health as well as physical and psychological well-being.
(2) Public servants shall, in exceptional cases on health grounds, be entitled to move to a different department. The change shall only be possible with a corresponding public position, provided that the public servant in question is professionally apt to fulfill the new incumbent tasks."

26 Paragraph (2) of Article 39 shall be modified to read as follows:
"(2) Public authorities and institutions shall be obliged to assure protection to the public servants against threats, violence and outrageous actions that might befall on the public servants in exercising their public tasks or because of these tasks. In order to secure this right to personal protection, the public authorities and institutions shall call on the relevant bodies for assistance."

27. Article 41 shall be modified to read as follows:
"Article 41 – (1) The civil servants shall be obliged to fulfill their duties with professionalism, impartiality and in conformity with the law and shall also refrain from any deed that may prejudice natural persons or legal entities or the prestige of the public servants corps.
(2) The civil servants in a leading position shall be obliged to support all the reasonable proposals and initiatives of the subordinate staff that might led to the improvement of the activities conducted by the public authorities or bodies they work for, as well as the improvement of quality in the public services to the citizens.
(3) Civil servants shall have a duty to respect the code of conduct and personal behavior laid down in law.

28. Article 42 shall be modified to read as follows:
"Article 42 – While fulfilling their duties, public servants shall be obliged to refrain from public expression of their personal political preferences or convictions as well as from favoring political parties or attending political actions during the job schedule.
(2) Civil servants shall be barred from holding positions on the leading boards of political parties."

29. Paragraph (1^1) shall be inscribed after paragraph (1) of Article 43 and shall read as follows:
"(1^1) Public servants shall be obliged to obey the orders of their higher-in-ranks."

Paragraph (2) of Article 43 shall be modified to read as follows:
"(2) Civil servants shall be entitled to written and reasoned refusals of accomplishing the

orders from their higher-in-ranks if they consider the orders to be illegal. Should the order be in writing, the public servant shall execute it, unless the order is visibly illegal. The public servants shall have a duty to inform the highest-in-rank about the person having issued such orders."

31 Article 44 shall be modified to read as follows:
"Article 44 – Civil servants shall be obliged to not disclose state secrets or trade secrets, as they shall also be obliged to maintain confidentiality about the actions, information or documents they find about in the conduct of the public function, as mentioned in the law, with the exception of information deemed of public interest."

32. Article 45 shall be repealed.

33. Paragraph (2) of Article 46 shall be modified to read as follows:
"(2) Upon the instatement to a public function as well as the termination of tenure, the civil servants shall be obliged to present to the chief manager of the public authority or body a declaration on personal wealth. The declaration on personal wealth shall be updated according to the law."

34. Article 47 shall be modified to read as follows:
"Article 47 – (1) Civil servants shall be obliged to complete the tasks assigned by the higher-in-ranks within the terms agreed.
(2) Civil servants shall be barred from directly receiving requests petitions that they are expected to solve as well as from direct discussions with the petitioners, unless such attributions have been assigned to them; they shall also be barred from intervening in favor of the petition being solved."

35. Article 48 shall be modified to read as follows:
"Article 48 – (1) Civil servants shall be obliged to attend professional development courses held by the National Institute of the Administration or any other institutions mandated to this end that shall be at least seven days in a year.
(2) Civil servants attending special public administration training programs lasting more than 90 days, organized by the National Institute of the Administration or similar foreign institutions and funded from the state budget or the local budgets shall pledge in writing that they will work with the public administration for at least five years after the programs are over.
(3) Civil servants failing to honor such written pledges shall be liable to pay back to the public authority or body in question the training costs calculated according to the legislation in force.
(4) The provisions in paragraph (3) shall also apply for the instances in which the civil servants having attended any of the training and development programs mentioned in paragraph (2) of Article 31^1 but failing to graduate through their own fault. The civil

servants shall in such a case be obliged to pay back the remuneration received for the length of the training.
(5) The provisions in paragraph (4) shall not apply for the instances in which the civil servant no longer held the public position on grounds not ascribable to him/her.'

36. Article 48^1 shall be inscribed after Article 48 and it shall read as follows:
"Article 48^1 – Civil servants shall be obliged to dully observe the legal status of the conflict of interests and incompatibilities laid down in law."

37. Chapter VI shall be modified and it shall be read as follows:

"**Chapter VI**
Civil Service Career

Section 1
Civil servants recruitment

Article 49. Any person meeting the following requirements shall be entitled to public positions:
a) is a Romanian citizen residing in Romania;
b) knows spoken and written Romanian;
c) is at least 18 years old;
d) has full exercise capacity;
e) is in a health state that fits the public function for which he/she competes; health fitness shall be attested to by special medical checking;
f) meets the legal requirements related to the education background needed for the public position;
g) meets the specific requirements entitling him/her to the public position;
h) was not sentenced for crimes against humanity, offences against the State or the authorities, job offences, obstruction of justice, forgery, corruption or any other knowingly committed offence that would make him/her incompatible with holding a public position, with the exception of cases when rehabilitation occurs;
i) was not dismissed from a public position in the past seven years;
j) did not conduct political police actions as defined by the law.

Article 49^1 – (1) Public position vacancies shall only be filled by promotion, transfer, and redistribution or by contest.
(2) Participation in as well as the organization of contests shall be laid down according to the present law, and the contest shall be organized and conducted as follows:
a) by the contest commission provided by Article 19^1, paragraph (2) for high-ranking civil servants;
b) by the National Agency of Civil Servants, for the filling of leading positions left

vacant, with the exception of the public positions of office manager and department manager;
c) by the public authorities and bodies of the central and local public administration, for the filling of executive public positions, office manager and department manager, as well as the filling of specific positions left vacant, with prior approval from the National Agency of Civil Servants;
d) by the National Institute of the Administration, with prior approval from the National Agency of Civil Servants, for accession to special public administration training programs organized with the aim of recruiting to public positions;
(3) The contest shall be based on the principle of open competition, transparency, professional merits and competence, as well as on the equal opportunity principle that allows any citizen meeting the legal requirements to accede to public positions.
(4) Contest requirements shall be published with the Official Journal of Romania at least 30 days prior to the contest date.
(5) The persons running in a contest organized under provisions of Article 22, point c) shall meet the tenure seniority requirements mentioned in the present law.
(6) The organization and conducting of the contests under the provisions of the present Article shall be laid down by the Government in a resolution that shall follow the suggestions of the National Agency of Civil Servants, in conformity with the principles and conditions mentioned in the present law.

Section 2
The Internship

Article 50 – (1) The internship period shall be aimed at testing the professional skills in fulfilling the tasks and responsibilities of a public position, practical education of early civil servants, as well as at getting early civil servants familiar with the specifics of the public administration and its requirements.
(2) The internship period shall be of 12 months for 1st class civil service agents; 8 months for 2nd class civil servants and 6 months for 3rd class civil servants.
(3) The time spent by the civil servant for attending or promoting special public administration training programs for final appointment to a public position shall be considered as making up the internship.

Article 51 – (1) When the internship period expires, and based on the results of the assessments thereafter conducted, early civil servants shall be:
a) appointed permanent executive civil servants in the class corresponding to the personal education background, for the public positions mentioned in Article 13 and shall have the grade of assistants;
b) dismissed from the public position if their performance is found “unsatisfactory” upon assessment.

(2) In the situations provided by paragraph (1), point b), as well as the situations in which the civil servants do not graduate from the special public administration training programs, the internship period shall not be considered as length of service in a public position.

Section 3

Appointment of Civil Servants

Article 52 – (1) Appointment in public positions in the category of high-ranking civil servants shall be performed in accordance with the provisions of Article 19^1, paragraph (1).
(2) Appointment in public positions for which a contest is held under the provisions of Article 49^1, paragraph (2), points b) and d) shall be made by an administrative document issued by the leaders of the public authorities or bodies of the central and local public administration, on a proposal from the National Agency of Civil Servants.
(3) Appointment in public positions for which a contest is held under the provisions of Article $49^{1,}$ paragraph (2), point c) shall be made by an administrative document issued by the leaders of the public authorities or bodies of the central and local public administration.
(4) The administrative document appointment shall be embodied in a written form and shall comprise the legal ground of the appointment, the name of the civil servant, the name of the public position, the date when the civil servant starts performing the public position, the remuneration rights as well as the place of work.
(5) The specifications of tasks related to the public position in question shall be appended to the administrative document for the appointment and a copy of it shall be handed to the civil servant.
(6) Upon entering the civil service corps, a civil servant shall take an oath within 3 days after the issuing of the administrative document on his/her appointment. The oath shall read as follows: " I swear to observe the Constitution, the fundamental human rights and freedoms, to enforce the country law in a just an unbiased manner, to dully fulfill the duties incumbent on me as a public position holder, to maintain the professional secrecy secret and to respect the rules of conduct and civil behavior. So help me God!" The religious closing remarks shall be in accordance with the freedom of personal religious beliefs.
(7) The refusal to take the oath as requested by paragraph (6) shall be recorded in writing and shall entail the cancellation of the administrative document on appointment in a public position.

Section 4
Promotion of Civil Servants and Assessment of Their Professional Performance

Article 53 – Career civil servants shall be entitled to the right to promote in the ranks of public positions and the pay scale.

Article 54 – (1) Promotion shall be understood as meaning the way in which a career is developed by holding vacant higher public positions.
(2) Promotion to vacant higher public positions shall be done by contest or examination.

Article 55 – (1) In order to qualify for running in a competition for promotion from a starting civil service agent position, civil servants shall meet the following minimum requirements:
a) shall have a minimum length of service of 2 years in the civil service positions in the grade of assistant and the class corresponding to the personal education background;
b) his/her professional performance was assessed as at least "very good" for the past two years;
c) meets the specific requirements of the job description.
(2) In order to qualify for running in a competition for promotion to a civil service positions of a higher rank, civil servants shall meet the following minimum requirements:
a) shall have a minimum length of service of 2 years in the civil service position in the rank of beginner or a length of service of 4 years seniority in the civil service position, in the rank of assistant and the class corresponding to the personal education background;
b) his/her professional performance was assessed as at least "very good" for the past two years;
c) meets the specific requirements of the job description.

Article 56. (1) Any civil servant meeting the following requirements shall be entitled to running in the competition for vacant leading public positions:
a) graduated from special public administration training and development programs of the National Institute of the Administration, the local continuing professional development centers of the local public administration as well as from other specialized Romanian or foreign bodies;
b) was appointed in a 1st class I public position;
c) meets the specific requirements of the job description as well as the length of service requirements provided by paragraph (2).
(2) The following length of service requirements in the corresponding specialty shall be met in order to qualify for a vacant leading position:
a) at least 2 years for office manager, department manager and communal secretary;
b) at least 5 years for the public positions mentioned in Article 12, except for those mentioned at point a).

Article 57 – Civil servants having obtained a higher education diploma in their specialty shall be entitled to running in the competitions for vacant public positions of a higher

rank.

Article 58 – (1) Individual professional performance assessments of civil servants shall be performed on an annual basis.
(2) The assessment procedures shall be performed for the following purposes:
a) promotion to higher pay ranks;
b) promotion on the pay scale;
c) promotion to a higher public position;
d) dismissal from a public position;
e) establishing the needs for professional development of the civil servants.
(3) The following grades shall be awarded following the assessment process: “excellent,” “very good,” “good,” “satisfactory,” “unsatisfactory.”
(4) The assessment of individual professional performance of high-ranking civil servants shall be conducted by an assessment commission made up of five personalities who are outstanding public administration specialists, proposed by the Public Administration Minister and appointed by the Prime Minister.
(5) The methods for the assessment of individual professional performance of civil servants shall be approved by the Government in a resolution, following the suggestions of the National Agency of Civil Servants and by consultation with the trade union organizations of civil servants that are representative nationwide.

38. Chapter VII shall be modified to read as follows:

“Chapter VII
Collective agreements. Representative Committees (Comisiile paritare)

Article 59 – (1) Public authorities and public bodies may conclude yearly, as provided by law, agreements with representative trade unions of the civil servants or with representatives of the civil servants, which would comprise steps referring to:
a) creation and use of funds for improving work conditions;
b) professional health and safety;
c) daily working hours;
d) professional development;
e) other measures, in addition to the ones mentioned in the law, relating to protection of elected leading trade union officers.

(2) In case where the trade union is not a representative one or civil servants are not organized in a trade union, the agreement may be concluded with the civil servants’ representatives of the respective public authority or institutions, appointed as provided by law.
(3) The public authority or public institution in question shall, in compliance with the law, provide representative trade unions or the representatives of the civil servants with the

information needed for the conclusion of labor agreements.

Article 60. - (1) Representative committees (*comisii paritare*) shall be created within public authorities and institutions. Depending on the number of civil servants of a public authority or institution, a representative committee may be created for it or for several public authorities or institutions.

(2) A representative committee shall be comprised of an equal number of representatives appointed by the leader of a public authority or institution and by the representing trade union of civil servants. In case when the trade union is not a representative one or civil servants are not organized in a trade union, their representatives shall be appointed through a majority vote of the civil servants of the respective public authority or institution.

(3) Representatives of civil servants in the representative committee may be appointed from among the civil servants elected in the leading bodies of their representative trade union or from among the civil servants elected for negotiating agreements with the leadership of a public authority or institution.

(4) In case of creation of a common representative committee for several public authorities or institutions, the former shall be comprised of an equal number of representatives of these public authorities or institutions, appointed under paragraph (2).

Article 61. - (1) Representative committees shall be consulted in the negotiation of agreements with the representative trade unions of civil servants or with their representatives, conducted by public authorities or institutions.

(2) Representative committees shall participate in establishing the measures for improvement of the activity of the public authorities and institutions for which they are created.

(3) Representative committees shall permanently monitor the implementation of the agreements established between the representative trade unions of civil servants or their representatives and public authorities or institutions.

(4) A representative committee shall prepare quarterly reports with respect to observance of the provisions of the agreements concluded under the law, which it communicates to the leadership of the public authority or institution, as well as to the leadership of the representative trade unions of civil servants

39. Articles 62, 63, 64, 65, 66, 66^1, 67, and 68 shall be repealed.

40. Article 70 shall be modified and read as follows:

„Article 70. - (1) Intentional violation by civil servants of the obligations generating from the public position they hold and of the ethic and **civic** conduct norms provided by law, shall be considered an infringement and entails their disciplinary liability.

(2) The following deeds are disciplinary infringements:

a) systematic delay in performing professional assignments;
b) repeated negligence in performing professional duties;
c) absences without leave ;
d) repeated non – compliance with the working hours;
e) interfering or insisting for the resolution of some requests outside the legal framework;
f) failure to maintain professional secrecy or confidentiality of documents and activities of such nature;
g) attitudes that harm the prestige of the public authority or institution where the civil servant carries out his/her activity;
h) performance of political character activities during the working hours;
i) the refusal to fulfill professional duties;
j) violation of legal provisions regarding duties, incompatibilities, conflicts of interests and limitations set by law for civil servants;
k) establishment of direct relations, by the executive civil servants, with petitioners, for the purpose of resolution of the latter's applications.

(3) Disciplinary sanctions shall be as follows;

a) written reprimand;
b) diminishing a public servant's wages rights with 5-20 % for a period of up to 3 months;
c) suspension of the right to promotion to superior salary ranges or, as the case may be, to promotion in a higher rank public position for a period of between 1 to 3 years;
d) transfer to a lower rank public position for a period of up to one year, by accordingly diminishing the civil servant's wages;
e) dismissal from a public position.

(4) In finding a disciplinary sanction, causes and the seriousness of the disciplinary violation, circumstances under which it was committed, the degree of guilt and consequences of the violation, the general conduct of the civil servant at work, as well as the existence of other disciplinary sanctions in his/her record, which were not erased under provisions of the present law, shall be taken into account.

(5) Disciplinary sanctions shall be applied within a maximum 6 – month term from the date a violation/violations was/were committed. "

41. Article 71 shall be modified and read as follows:

„**Article 71. –** (1) The disciplinary sanction provided by point a), paragraph (3) of Article 70 may be applied directly by the leader of a public authority or institution, at the proposal of the head of department in which the civil servant in question carries out his/her activity.

(2) Disciplinary sanctions provided by points b)-e), paragraph (3) of Article 70 shall be applied by the leader of a public authority or institution, at the proposal of the discipline board.

(3) Disciplinary sanctions provided for public high - rank officials shall be applied through a decision of the prime minister, through a minister order or, as the case may be, of the leader of a central public institution, for those provided by point g) of Article 11, at the proposal of the discipline board.

(4) Disciplinary sanctions may be applied only after a preliminary investigation of the committed deed and after hearing the respective civil servant. Hearing of a public servant shall be recorded in writing, under sanction of nullity. A civil servant denial to appear for hearing or to sign a statement regarding the disciplinary violations imputed to him/her, shall be written down in a minutes."

42. Article 72 shall be modified and read as follows:

„**Article 72. –** (1) Discipline boards shall be created within public authorities or institutions. Depending on the number of civil servants of a public authority or institution, a discipline board may be created for one or more public authorities or institutions.

(2) A discipline board shall be comprised of an equal number of representatives appointed by the leader of a public authority or institution and by the representing trade union of civil servants. In case when the trade union is not a representative one or civil servants are not organized in a trade union, their representatives shall be appointed through a majority vote of the civil servants of the respective public authority or institution.

(3) Each discipline board shall have a president, who is not part of the representatives provided by paragraph (2), appointed by the leader of a public authority or institution, by consultation of the representative trade union or, as the case may be, of civil servants.

(4) In case of creation of a common discipline board for several public authorities or institutions, the former shall be comprised of an equal number of representatives of the respective public authorities or institutions, appointed under paragraph (2). In such a situation, the president of the discipline board shall be appointed under paragraph (3), based on a common proposal of those public authorities and institutions.

(5) A discipline board for public high – rank officials shall be comprised of 7 public high - rank officials.

(6) Discipline boards have the competency to investigate the deeds notified as disciplinary violations and to propose sanctions applicable to civil servants of the respective public authorities or institutions.

(7) The way of creation of discipline boards, their componence, competencies, the manner of notification and their working procedure shall be established through a Government decision, at the proposal of the National Agency of Civil Servants."

43. Article 73 shall be repealed.

44. Article 74^1 shall be introduced after Article 74, and read as follows:

„**Article 74[1].-** (1) To keep an account of the disciplinary situation of the civil servant, the National Agency of Civil Servants shall issue an administrative record, according to the database it administers.

(2) The administrative record is a document recording the disciplinary sanctions applied to a civil servant and that have not been cancelled under the law.

(3) The administrative record is necessary whenever the case arises for:

a) appointing a civil servant as a member of a competitive exam board for recruitment of civil servants;
b) appointing a civil servant as a president or member of the discipline board;
c) appointing a civil servant as a member of the representative committee;
d) occupying a public position corresponding to the category of high rank official or leading positions;
e) in any other situations provided by law.

(4) The administrative record shall be issued at the request of:

a) the interested civil servant;
b) the leader of the public authority or institution where a civil servant carries out his/her activity;
c) the president of the discipline board;
d) other persons provided by law."

45. Article 75 shall be modified and read as follows:

„**Article 75. -** (1) Disciplinary sanctions shall be *de jure* cancelled as follows:

a) for the disciplinary sanction provided by point a), paragraph (3) of Article 70, within a 6 – month term from its application;
b) disciplinary sanctions provided by points b)-d), paragraph (3) of Article 70, within a one – year term from the expiration of the term for which they were applied;
c) for the disciplinary sanction provided by point e), paragraph (3) of Article 70, within a 7– year term from its application;

(2) Cancellation of disciplinary sanctions provided by points a) and b) of paragraph (1) shall be certified by an administrative document issued by the leader of a public authority or institution.

46. Article 79 shall be modified and read as follows:

„**Article79. –** (1) For offences committed during his/her working hours or related to his/her public position competencies, a civil servant shall be held liable under the criminal law.

(2) In case when a criminal action was initiated against a civil servant for the commission of offences as those provided by point h) of Article 49, the leader of the

respective public authority or institution shall order suspension of the civil servant from the position the latter holds.

(3) If charges are dropped or cessation of a criminal investigation is ordered, as well as in case when the court orders acquittal or cessation of a criminal trial, suspension from the public position shall cease, and the respective civil servant shall be reemployed in the public position he/she held previously and wages rights due for the suspension period shall be paid to him/her.

(4) In the situation when conditions for holding a civil servant criminally liable are not met, and the deed of a civil servant can be considered as disciplinary violation, the competent discipline board shall be notified."

47. Article 80 shall be repealed.

48. Chapter IX shall be modified and read as follows:

„Chapter IX
Modification, Suspension and Termination of Work Relations

Section 1
Modification of Work Relations

Article 81. – Modification of work relations may take place through:

a) delegation;
b) temporary transfer;
c) transfer;
d) assignment within other department of the public authority or institution;
e) temporary performance of a leading public position.

Article 82. – (1) Delegation shall be ordered in the interest of the public authority or institution where the civil servant is employed, for a period of maximum 60 calendar days in a year.

(2) A civil servant may refuse delegation in the following cases:

a) pregnancy;
b) raises his/her minor child by him/herself;
c) the medical condition, proved by a medical certificate, does not recommend delegation.

(3) Delegation for a period longer than 60 calendar days along a year may be ordered only with the written consent of a civil servant. Such a measure may be ordered for maximum 90 days a year.

(4) During the delegation, a civil servant shall maintain his/her position and salary, and the public authority or institution delegating him/her has the obligation to bear the entire costs of transportation, accommodation and delegation indemnity.

Article 83. – (1) Temporary transfer shall be ordered in the interest of the public authority or institution in which the civil servant is to carry out his/her activity, for a period of maximum 6 months. During a calendar year, a public servant may be temporarily transferred for a period longer than 6 months only with his/her consent given in writing.

(2)Temporary transfer may be ordered only if the professional education and experience of the civil servant corresponds to the competencies and responsibilities of the public position in which he/she is to be temporarily transferred.

(3) A civil servant may refuse temporary transfer in the following situations:

a) pregnancy;
b) raises his/her minor child by him/herself;
c) the medical condition, proved by a medical certificate, does not recommend temporary transfer;
d) temporary transfer is done in a locality where appropriate accommodation conditions are not ensured to the civil servant;
e) he/she is the sole supporter of his/her family;
f) well – grounded family reasons justify his/her refusal to accept temporary transfer.

(4) For the period of temporary transfer, a civil servant shall maintain his/her public position and salary. If the salary corresponding to the position in which he/she is temporarily transferred is higher, he/she has the right to this salary. During the temporary transfer in other locality, the public authority or institution delegating him/her has the obligation to bear the entire costs of transportation, accommodation and temporary transfer indemnity.

Article 84. - (1) Transfer, as a means of modification of work relations, may take place between public authorities and institutions as follows :

a) in work interest;
b) at the request of a civil servant.

(2) Transfer may be done in a public position for which the specific terms, described by the job description, are met.

(3) Transfer in work interest shall be done only with the written consent of the transferred civil servant. In case of transfer in work interest in other locality, the transferred civil servant has the right to an indemnity equivalent to his/her net salary, calculated at the level of the salary of the month previous to the one when the transfer takes place, to reimbursement of all costs and to a 5 – day paid vacation. Payment of these costs shall be done by the public authority or institution to which the transfer is done, within a maximum 15 – day term from the date of the transfer approval.

(4) Transfer in work interest shall be done in a public position equivalent to the public position held by the civil servant.

(5) Transfer on request in an equivalent public position shall be done, after the

approval of the civil servant's transfer request, by the leader of the public authority or institution to which the transfer is requested.

Article 85. – (1) Assignment in a different department may be final or temporary.

(2) Final assignment in a different department shall be approved, with the written consent of the civil servant, by the leader of the public authority or institution in which the civil servant carries out his/her activity.

(3) Temporary assignment in a different department shall be ordered based on a motivation, in the interest of a public authority or institution, by the leader of the public authority or institution, for a period of maximum 6 months within a year, by observing the professional experience and salary the civil servant has.

Article 86. - (1) Temporary performance of a vacant leading public position shall be done through a temporary promotion of a civil servant who meets the specific terms for occupying such a public position.

(2) The measure provided by paragraph (1) shall be ordered by the leader of the public authority or institution, for a period of maximum 6 months, with the approval of the National Agency of Civil Servants.

(3) Temporary performance of a leadership public position, which holder is suspended under the present law, shall be done through a temporary promotion, for the period of suspension of the holder, of the civil servant meeting the specific requirements for occupying such a public position.

(4) The measure provided by paragraph (3) shall be ordered by the leader of the public authority or institution.

(5) If the salary corresponding to the public position to which he/she is delegated to perform is higher, the civil servant shall have the right to this salary.

Section 2
Suspension of Work Relations

Article 87. - (1) Work relations shall be *de jure* suspended when a civil servant is in any of the following situations :

a) is appointed or elected in a high rank public position, for the respective period;
b) is employed in a high – rank official's staff;
c) is appointed by the public authority or institution to perform activities in diplomatic missions of Romania or within certain international authorities or institutions, for the respective period;
d) carries out union activities, for which suspension is provided, under the law;
e) is in the military service, alternative military service, is called up or mobilized;
f) is preventatively arrested;

g) is under medical care abroad, unless the civil servant is not in sick leave for temporary work incapacity, as well as for accompanying his/her spouse or, as the case may be, a relative up to the 4th degree included, as provided by law;
h) is in sick leave for temporary work incapacity, as provided by law;
i) is in quarantine, as provided by law;
j) is in maternity leave, as provided by law;
k) is disappeared, and his/her disappearance was certified by an irrevocable court decision;
l) force majeure;
m) in other cases expressly provided by law.

(2) Within a 5 calendar – day term from the date of cessation of the *de jure* suspension, a civil servant has the duty to inform in writing the leader of the public authority or institution on this.

(3) The leader of the public authority or institution has the duty to assure, within a 5 – day term, conditions necessary to the civil servant for recommencing his/her activity.

Article 88. – (1) Work relations shall be suspended at the initiative of a civil servant in the following situations:

a) leave for raising a child of age up to 2 years or of a disabled child of age up to 3 years, as provided by law;
b) leave for taking care of a sick child of age up to 7 years or of a disabled child of age up to 7 years, for related disorders, until he/she reaches the age of 18;
c) performance of an activity within international authorities or institutions, in situations other than those provided by point c), paragraph (1) of Article 87 ;
d) for participating in an election campaign;
e) for participating in strike, as provided by law.

(2) Work relations may be suspended at the motivated request of a civil servant.

(3) A request of suspension of work relations shall be done in writing, at least 15 calendar days before the date the suspension is requested.

(4) Suspension of work relations shall be certified, in cases provided by points b) and c), paragraph (1) of Article 87, as well as in other cases regulated by special laws, and, respectively, shall be approved by an administrative document issued by the leader of the public authority or institution.

(5) Provisions of paragraph (2) of Article 87 shall apply accordingly also to cases provided by paragraphs (1) and (2).

Article 89. – (1) Recommencing of activity shall be ordered by an administrative document issued by the leader of the public authority or institution.

(2) The administrative document through which suspension of work relations is certified, as well as the one through which recommencing of activity by a civil servant is

ordered shall be communicated to the National Agency of Civil Servants, within a term of 10 working days from the date of their issuance.

(3) For the period of suspension of work relations, public authorities and institutions have the obligation to keep the public position reserved. The position shall be occupied for a determined period, by a civil servant of the reserve body. In the situation when there are no civil servants available in the reserve body to meet the specific requirements, the vacancy may be occupied based on an individual labor contract, for a period equal to the period of suspension of work relations.

Section 3
Termination of Work Relations

Article 90 – (1) The termination of the civil servants' work relations shall proceed in the following conditions:

a) *de jure*;
b) by the parties' agreement recorded in writing;
c) by release from the public position;
d) by dismissal from the public position;
e) by resignation.

(2) The work relation ends *de jure*:

a) on the date of the civil servant's death;
b) on the date when the court decision declaring the civil servant's death remains final;
c) if the civil servant does no longer meet one of the conditions provided by Article 49 points a), d), f);
d) on the date of communication of the decision of pensioning a civil servant for age limit or disability;
e) consequent to ascertaining the absolute nullity of the administrative act of appointment to the public position, as of the date when the nullity was ascertained by final court decision;
f) where the civil servant was convicted by final court decision of any of the deeds provided by Article 49 point h) or whereby a custodial sentence has been ruled, on the date when the conviction decision remains final;
g) consequent to prohibition of the exercise of the profession or function, as a safety measure or as additional penalty, as of the date when the court decision whereby the prohibition was ruled remained final;
h) on the date of expiry of the term for which the public position was temporarily performed.

(3) The ascertaining of the case of *de jure* termination of the work relation shall be done within 5 working days since its occurrence, by administrative act, by the head of the public authority or institution. The administrative act ascertaining the occurrence of a case of *de jure* termination of the work relations shall be communicated to the National

Agency of Civil Servants no later than 10 working days since its issuance.

(4) The head of the public authority or institution shall dispose the release from the public function by administrative act, that shall be communicated to the civil servant no later than 5 working days since the issuance, for reasons not imputable to the civil servant, in the following cases:

a) the public authority or institution ceased its activity or was moved to another locality, and the civil servant does not agree to follow it;
b) the public authority or institution shrinks its personnel pursuant to reorganizing its activity, by cutting the position held by the civil servant;
c) consequent to the granting of the application for readmission to the public position held by the civil servant of a civil servant released or dismissed illegally or for unjustified reasons, as of the date when the court decision of readmission remains final;
d) for professional incompetence where he or she gets the qualification "unsatisfactory" on the assessment of the individual professional performance;
e) the civil servant no longer meets the condition provided by Article 49 point g);
f) the physical and/or mental health condition of the civil servant, ascertained by decision of the competent medical examination bodies, no longer allows him or her to perform the duties corresponding to the respective public position.

(5) Dismissal from office shall be disposed by administrative act, by the head of the public authority or institution, which shall be communicated to the civil servant within 5 working days since the date of issuance, for reasons imputable to the civil servant, in the following cases:

a) as a disciplinary sanction, applied for repeated acts of indiscipline or for an act of indiscipline that has had serious consequences;
b) where a legal reason of incompatibility has occurred, and the civil servant does not act toward ending it within 10 civil days as of the date when the incompatibility case has occurred.

(6) The civil servant may communicate the termination of work relations by resignation, notified in writing to the head of the public authority or institution. The resignation needs not to state reasons and becomes effective after 30 calendar days since registration.

(7) The reorganization of the activity, for purposes of the provisions of this Law, means moving the public authority or institution to another locality or, in the case provided by paragraph (4) point b), the substantive change of the competences of the public authority or institution as well as of the organizational structure of the departments. Cutting a position shall be justified where the competences that go with it have been changed more than 50% or where the specific conditions for occupying the respective position have been changed.

(8) On terminating the work relations, the civil servant shall be under the obligation to give over the works and assets that had been entrusted to him or her for the purpose of exercising his/her job duties.

(9) On terminating the work relations, the civil servant shall retain the rights acquired in his or her career, except for the case where the work relations were terminated for reasons imputable to him or her.

(10) The civil servants shall benefit from the rights to be paid out of the unemployment insurance budget, where their work relations have ended in the conditions provided by:

a) paragraph (2) point c), except where the civil servant no longer meets the condition provided by Article 49 point a);
b) paragraph (2) point d), e) and h);
c) paragraph (4) points a)–f).

Article 91 – (1) The public authority or institution shall be under the obligation to give the civil servants a 30 civil days' notice, in the case of release from the public function for the situations provided by Article 90, paragraph (4), points a)–f).

(2) For the notice term, the head of the public authority or institution may grant to the person concerned a shortening of the working day, by up to 4 hours daily, without a corresponding cut in the due pay.

Article 92 – (1) **C**ivil servants may be released from the public position in the situations provided by Article 90, paragraph (4), points b), c) and e), where there are no corresponding vacant public positions with the respective public authority or institution.

(2) In the cases provided by Article 90, paragraph (4), points a)–c) and e) the public authority or institution shall be under the obligation to ask from the National Agency of Civil Servants, within the notice term, the list of vacant public positions.

(3) Where there is a vacant public position, identified within the notice term, the civil servant shall be transferred in work interest or on request.

Article 93 – (1) The reassignment of civil servants shall be done by the National Agency of Civil Servants, as follows:

a) with the public authorities or institutions in the same locality or in a locality up to 50 km far from the locality of residence;
b) with the public authorities or institutions in another county or that are at a distance longer than 50 km from the locality of residence, on the civil servant's request.

(2) The reassignment of civil servants shall be done to a public position equivalent to the occupied public position.

(3) The reassignment may be done also to a lower-level vacant public position, with the civil servant's agreement in writing.

(4) The National Agency of Civil Servants shall ensure the reassignment to public positions temporarily vacated as a consequence of the occupant's being suspended for a term of at least one month, of civil servants from the reserve body who meet the specific conditions for occupying the respective public position. Where there are more than one civil servant meeting the specific conditions for occupying the respective public position,

the National Agency of Civil Servants shall organize, by collaboration with the public authority or institution where the vacant public position exists, a professional test for selecting the civil servant to be reassigned.

(5) The reassignment of the civil servants from the reserve body shall be disposed by order by the president of the National Agency of Civil Servants.

(6) The heads of the public authorities and institutions shall be under the obligation to appoint the civil servants reassigned on a permanent or temporary basis.

(7) Where the heads of the public authorities and institutions refuse to employ the civil servants in the conditions of paragraph (6), the civil servant may apply to the competent court of administrative contentious.

Article 94 – (1) The reserve body shall consist of the civil servants who were released from the public office in conditions of Article 90, paragraph (4), points a)-c) and e) and shall be managed by the National Agency of Civil Servants.

(2) Civil servants shall exit the reserve body and shall lose their capacity as civil servant, in the following situations:

a) after the completion of the 2-year term since the date of their entering the reserve body;
b) where the National Agency of the Civil Servants reassigns them to a vacant public position corresponding to the graduated schooling and professional skills, and the civil servant turns it down;
c) the hiring under labor contract for a period longer than 12 months;
d) on the request of the civil servant.

Article 94[1] – (1) Where the work relations were terminated for reasons which the civil servant considers to be unreasonable or illegal, he or she may apply to the court of administrative contentious asking for the nullification of the administrative act whereby it has been ascertained or ruled the termination of the work relation, within 30 calendar days since the communication, as well as for equal indemnification by the public authority or institution that has issued the administrative act against the adjusted up, raised and recalculated salaries and the other benefits the civil servant would have otherwise got.

(2) At the civil servant's request, the court that has ascertained the nullity of the administrative act shall rule his or her readmission to the occupied public position."

49. Articles 95, 96 and 97 shall be repealed.

50. Article 98 shall be amended to read as follows:

"**Article 98** – The public positions shall be established for every individual public authority and institution, by its head or by decision of the county council or, as the case may be, of the local council, based on the activities provided by Article 2, paragraphs (1) and (3) and with the advice of the National Agency of the Civil Servants."

51. Articles 100 and 101 shall be repealed.

52. Article 103 shall read as follows:

"**Article 103** – The provisions of this Law shall be completed with the provisions of the labor law as well as with the common law civil, administrative or criminal provisions, as the case may be, insofar as these do not come in conflict with the legislation specific to the public position."

53. Paragraph (1) of Article 104 shall be repealed.

54. The Annex to the Law no 188/1999, with subsequent modifications and completions, shall be replaced by the Annex to this Title.

Article XIV. – (1) The Rules of organization and functioning of the National Agency of Civil Servants shall be endorsed by Government decision, upon the proposal of the Ministry of Public Administration, no later than 30 days since the coming into force of the provisions of this Law.

(2) Within 60 days since the endorsement of the Rules of organization and functioning of the National Agency of Civil Servants, public authorities and institutions shall communicate to the former the personal data of the civil servants as well as the vacant public positions.

Article XV. – (1) Within 90 days since the date of coming into force of this Law, the public authorities and institutions provided by Article 5, paragraph (1) of the Law No 188/1999 with subsequent modifications and completions, shall be under the obligation to harmonize the special rules with the provisions of this Title, by consultation with and with the advice of the National Agency of Civil Servants.

(2) By the special rules provided by paragraph (1) the following can be regulated:

a) specific rights, duties and incompatibilities, other than those provided by this Law;

b) specific public positions.

(3) In the case of the special rules applicable to the diplomatic and consular services and to the police, the special dispositions may regulate provisions of the kind of those provided by paragraph (2), as well as concerning the career."

Article XVI. – (1) The public authorities and institutions in the central and local public administration shall have to:

a) request advice from the National Agency of Civil Servants regarding the establishment of public positions, by June 01, 2003;

b) make due changes in the organizational structure and position rolls, establish the maximum number of public offices according to this Law, by July 01, 2003;

c) rehire the civil servants according to this Law, by July 15, 2003.

(2) The organizational structure of public authorities and institutions shall meet the

following conditions:

a) At least five executive positions are necessary to set up an office;
b) At least seven executive positions are necessary to set up a service;
c) At least 15 executive positions are necessary to set up a direction;
d) At least 25 positions are necessary to set up a general directorate;

(3) As far as the public authorities and institutions in the central public administration are concerned, the number of 1st class public positions will account for at least 70% of the total number of public positions.

(4) The total number of cumulated public positions corresponding to the high civil servants category and the managing public servant category with each public authority of institution accounts for a maximum 12% of the total number of public positions.

(5) When establishing the maximal number of executive public positions with the public authorities or institutions, the following shall be considered:

a) the number of executive public positions of higher professional rank stands at 20% maximum;
b) the number of executive public positions of principal professional rank stands at 40% maximum;
c) the number of executive public positions of assistant professional rank stands at 30% maximum;
d) the number of executive public positions of probationary professional rank stands at a 10% maximum;

(6) The maximal number of executive public positions set according to paragraph (5) can be increased only if thoroughly justified by the respective public authority or institution and advised by the National Agency of Civil Servants.

Article XVII. – (1) Civil servants appointed to public positions stipulated by Law 188/1999, including subsequent modifications and completions, shall be:

a) appointed to the public offices provided by the Annex to this Title, if they meet the conditions under Article 2, paragraph(3) and Article 49 of Law 188/1999, including subsequent modifications and completions, within the public position limits set under Article XIV;
b) released from their public position if they fail to meet conditions stipulated under point a) and the readmission conditions. They will be hired under an individual labor contract, as provided by law.

(2) People will be rehired to public positions corresponding to the category of high civil servants and managing civil servants with each public authority or institution as follows:

a) within the limits for public positions provided according to the organizational chart;
b) by observing the conditions regarding the minimal length of specialized service and education required under Law no.188/1999.

(3) Civil servants rehired to public positions according to paragraph 2 will maintain their public positions if within a maximum 3 year term of the date this Law comes into force they graduate specialty public administration training and improvement programs organized by the National Institute of Administration or post-graduate training with a duration of at least one year, either in the country or abroad, or have secured a doctorate in the specialty required by that public office.

(4) Civil servants who fail to meet the conditions under paragraph (2) can be rehired, depending on their education, to executive public positions if they meet the conditions stipulated by this Law.

(5) Civil servants released from public offices are entitled to benefits out of the unemployment fund, according to the law.

Article XVIII. – In 2003 civil servants maintain their salaries as set under Government Emergency Ordinance no.192/2002 on the Salary Rights of Civil Servants.

Article XIX. – The education of civil servants with post-graduate public administration studies or who at the time this Title comes into force are taking one of the mentioned forms of education, shall be considered equivalent to the public administration training and improvement programs organized by the National Institute of Administration.

Article XX. – (1) Exceptionally, people with higher training in other than law and administration and who fail to meet the legal length-of-service requirements may participate in the contest for the public position of commune secretary.

(2) If people who meet the conditions under paragraph (1) do not show up for the contest, high-school graduates who present a graduation diploma may be candidates. In this case a contest shall be organized each year for the position of commune secretary to be held by people who meet legal requirements.

(3) Commune secretaries with no higher education at the time this Law comes into force may maintain their public position on condition that within six years they graduate a long-term form of higher learning, specializing in law or public administration. Otherwise, they shall be sanctioned by being relieved from position.

Article XXI. – People who, gradually, as of 2006, meet the conditions in this Title for appointment to the position of high civil servant may be appointed to the prefect's and deputy prefect's office by Government decision. Until then, the prefect's and deputy prefect's offices operate under the legal conditions provided by the Law of the Local Public Administration no.215/2001.

Article XXII. – By August 15, 2003, public authorities and institutions shall provide to the National Agency of Civil Servants the data in the professional files

of the civil servants as well as data regarding their political positions.

Article XXIII. – The following has been suggested by the National Agency of Civil Servants and approved by Government decision:

a) norms on organizing and developing the public servant career, within 60 days of the date this Law comes into force;

b) norms on organizing and running the disciplinary and representative committees, within 60 days of the date this Law comes into force.

Article XXIV. – The discipline boards and the representative committees organized under Law no.188/1999 on the Status of Civil Servants, including subsequent modifications and completions, shall be considered legally set up until the enforcement of the Government decision on organizing and running the discipline boards and representative committees. There shall be adequately implemented the provisions of the Government Decision no.1084/2001 on approving the Methods to evaluate the individual professional performance of civil servants, as well as to challenge the granted qualifications, and of the Government Decision no. 1085/2001 on organizing the probation period, the assessment conditions and the specific rules for the probationary civil servants, and of the Government Decision no. 1087/2001 on organizing and running contests and exams for public positions.

Article XXV. – The provisions of Article 22, Article 29 paragraph (1), Article 49^1, Article 52 – 56, Article 74^1, as well as Article 83 paragraph (4) regarding benefits for work done at other locations, under Law no.188.1999, including subsequent modifications and completions, shall be enforced as of January 1, 2004.

Article XXVI. – Law no. 188/1999 on the Status of Civil Servants, including subsequent modifications and completions, completed with those made under this Title, will be published in the Official Journal of Romania, Part I, and the texts will have new numbering.

ANNEX TO TITLE III

L I S T
of public positions

I. General Public Positions

1. Government Secretary General and Government Deputy Secretary General;

2. State counselors;
3. Secretary General and Deputy Secretary General operating in ministries and other specializing bodies of the central public administration;
4. Prefect;
5. Deputy prefect;
6. Prefect's office Secretary General, County and Bucharest municipality Secretary General;
7. General Manager operating in ministries and specializing bodies of the central public administration;
8. Deputy General Manager, Director and Deputy Director operating in the ministries and the other specializing bodies of the central public administration;
9. Municipal Secretary, Bucharest municipality, town, commune Secretary;
10. Executive Director and Deputy Executive Director of decentralized public services as well as operating as part of the apparatus of the public authority of the local public administration.
11. Service Chief;
12. Office Chief;
13. Expert, Adviser, Inspector, Legal adviser, Auditor;
14. Specialist reviewer;
15. Reviewer.

Note:

The general public functions, other than those on Point 1, will be established with the National Agency of Civil Servants' advice.

II. Specific public positions

1. Chief Architect;
2. Competition Inspector;
3. Customs Inspector;
4. Labor Inspector;
5. Controller Delegate;
6. Commissioner.

Note:

Specific positions other than those provided by point II can be established by the public authorities and institutions, with National Agency of Civil Servants' advice.