

## **New law for representative offices of foreign companies and organisations**

*by Vlad-Teodor Bratu, attorney at law (Avocat RO)*

On August 07<sup>th</sup> 2022, Government Ordinance No. 18/ 2022 ("**the Ordinance**") came into force, which regulates the requirements for the authorisation and operation of representative offices of foreign companies or economic organisations in Romania. The Ordinance is one of the measures for the digitalisation and modernisation of public administration to be implemented within the framework of the National Recovery and Resilience Plan (rom: "*PNRR*"). It replaces the outdated previous regulation from 1990.

### **What constitutes a representative office?**

Under Romanian law, a representative office is an entity of a company that does not have legal personality and therefore cannot conclude legal acts in its own name. A representative office does not carry out any economic activity of its own; its activity is usually limited to marketing, market research, etc.

The foreign company/the economic organisation is jointly and severally liable with the employees of the representative office for its legal transactions and activities.

### **Digital Authorisation**

According to the Ordinance, a representative office is authorised upon request by the foreign company /economic organisation to the Ministry of Enterprise and Tourism (rom: *Ministerul Antreprenoriatului si Turismului*).

In contrast to the previous regulation, which was characterised by bureaucracy and non-use of technological means, the Ordinance provides for a digitalised procedure for the authorisation of representative offices, which is to be carried out with the help of an electronic platform to be implemented by the beginning of 2023.

### **Details on the procedure**

The authorisation is issued for a period of at least one year, which can be extended for the same period upon request. Both the application for the authorisation of a representative office in Romania and the authorisation or extension thereof to be granted by the Ministry are carried out via the above-mentioned electronic platform.

In order to obtain or renew the licence, the applicant must pay an annual fee of EUR 1,000, converted into RON at the exchange rate of the National Bank of Romania applicable on the date of payment. Payment of the above-mentioned fee shall be made to the tax authority having territorial jurisdiction over the representative office to be authorised.

The request for authorisation shall contain, inter alia, the name of the foreign entity, its registered office and tax number, as well as its field of activity, the expected duration of the representative office to be authorised and the identity of its representatives.

According to the Ordinance, certain documents must be attached to the above-mentioned request. These are a document from the country of origin of the parent company showing its identity, field of activity and share capital; the articles of association (rum: act constitutiv) or an equivalent document showing the organisational form of the parent company; the power of attorney of the persons representing the foreign parent company; proof of payment of the above-mentioned fee. The certificate must contain the following information: the above-mentioned fee, a credit report from the bank through which the parent company conducts its main financial

transactions, and proof of the registered office of the representative office in Romania for the period stipulated in the Ordinance.

The documents must be submitted in Romanian, with a certified translation if necessary.

### **Tax and financial aspects**

According to the Romanian Code of Tax Procedure, representative offices must register their activities for tax purposes in Romania and pay taxes in accordance with the applicable legislation. It is worth mentioning that banking transactions of representative offices must be carried out through bank accounts opened with banks on Romanian territory, in compliance with national and European banking regulations.

### **Authorisations under the former regulation**

According to the Ordinance, authorisations issued on the basis of the provisions of the old Legislative Decree No. 122/1990 remain valid. Until the new electronic platform goes into operation (probably at the beginning of 2023), applications will be processed from a procedural point of view on the basis of the provisions of the old regulation.

### **Conclusion**

The reduction of bureaucracy through electronic means in the area of representative offices of foreign companies or business organisations is of course welcome; it is undoubtedly a step in the right direction.

However, the Ordinance requires subsequent application norms to be published within 60 days of its entry into force, while the electronic platform will be established within 180 days of the same date at the latest.

### **Contact and further information:**



**STALFORT Legal. Tax. Audit.**  
Bucharest – Bistrița – Sibiu

**Office Bucharest:**

T.: +40 – 21 – 301 03 53

F: +40 – 21 – 315 78 36

M: [bukarest@stalfort.ro](mailto:bukarest@stalfort.ro)

[www.stalfort.ro](http://www.stalfort.ro)