

Excerpt from the Law No. 51/1995 for the organization and practice of the lawyer's profession in Romania

[...]

Art. 13

(1) The member of a foreign Bar can practice the lawyer's profession in Romania if he/she complies with the applicable provisions stipulated by the law.

(2) To provide legal counsel on Romanian law, the foreign lawyer has the obligation obligated to take a verification examination of the Romanian law and language, organized by the UNBR (National Association of Romanian Bars).

(3) The foreign lawyer may practice the lawyer profession in Romania, at choice, within one of the legal forms as provided under article 5.

(4) The foreign lawyer cannot submit oral or written conclusions to courts and other jurisdictional and legal authorities, except for the international arbitrage ones.

(5) The fees owed to the foreign lawyer shall be registered and entirely paid in Romania.

(6) The foreign lawyer practicing the lawyer profession in Romania has the obligation to register with the special table of each Bar and shall comply with the provisions of this law, of the profession's by-laws and of the code of conduct.

CHAPTER VIII: Practicing the lawyer's profession in Romania, by the lawyers that acquired the professional qualification in one of the member states of the European Union and of the European Economic Area.

SECTION 1: General Dispositions

Art. 96(1) The provisions of the present chapter are applied to lawyers that acquired the professional qualification in one of the member states of the European Union and of the European Economic Area and are practicing the lawyer profession in Romania:

- a) independently or in an association;

- b) as paid lawyers in Romania;
- c) by providing services.

(2) The provision in this chapter are also applicable to lawyers having acquired their professional qualification in the Swiss Confederation and are practicing their profession in Romania in any of the forms foreseen in paragraph (1).

Art. 97

In the sense of the current chapter:

- a) A lawyer represents any person coming from a Member State of the European Union and of the European Economic Area, who is authorized to perform his professional activities under the corresponding professional title acquired in a Member State;
- b) Member State of origin represents the Member State of the European Union and of the European Economic Area, in which a lawyer acquired the right to use one of the professional titles foreseen in letter a), before practicing the lawyer profession in Romania;
- c) The professional title in the Member State of origin represents the professional title used in the Member State where a lawyer was granted with the right to use this title, before practicing the lawyer profession in Romania;
- d) A group represents any entity, with or without legal personality, organized in accordance with the legislation of a Member State, within which the lawyers are performing their activities together, under a common name.
- e) the professional title in Romania represents the professional title under which a lawyer is registered to the Table of Lawyers in Romania;
- f) The competent Romanian authority is the structure within the National Association of Romanian Bars, designated in conformity to its by-laws.

Art. 98

The lawyers practicing in Romania under the professional title from the Member State of origin may perform the same professional activities as the lawyers practicing under the professional title acquired in Romania, may provide legal counsel and may represent individuals or companies in front of Romanian courts, with regard to the law of the Member State of origin, the EC law, the international law, as well as the Romanian law, with the observance of the procedural rules applicable in front of the Romanian Courts.

Art. 99

(1) The lawyers practicing in Romania under the professional title from the Member State of origin will use the name under which they are practicing their profession in the Member State of origin, expressed in the official language or in one of the official languages of the respective Member State of origin.

(2) Apart from the name foreseen in paragraph (1), the denomination must mention, beside the legal form of practicing the profession in Romania, the legal form of the group in the Member State of origin.

(3) The competent Romanian authority can ask a lawyer who practices under the professional title acquired in the Member State of origin to indicate the professional group to which he/she is part of in the Member State of origin or the legal authority within which he/she is admitted to practice his/her profession, in accordance with the law in the Member State of origin.

(4) The lawyer who is admitted to the lawyer profession in Romania under the conditions of articles 100 or 109 has the right to use his/her professional title from the Member State of origin, expressed in the official language or in one of the official languages of the Member State of origin, next to the professional title corresponding to the lawyer profession in Romania.

Art. 100

(1) Regardless of the legal form of practicing the profession on the Romanian territory, the lawyers practicing under the professional title from the Member State of origin can request, at any time, the recognition of their diplomas, in order to be admitted to the lawyer's profession and to practice it under the professional title in Romania.

(2) In order to have the diploma recognized in Romania, the applicant, at his/her choice, will have to either pass a verification examination regarding his/her knowledge or to accomplish a three-year traineeship in Romanian law.

(3) The National Association of Romanian Bars shall establish the competence of the evaluation committee, as well as the content and the procedure of the examination or of the traineeship.

(4) When submitting the application for the recognition of the diploma, in order to determine the content and the procedure of the examination or of the traineeship, the evaluation committee will priory verify if the professional experience acquired by the applicant has the capacity to cover, in full or in part, the existing differences between the Romanian law and the law of the Member State of origin where the diploma was obtained, for the partially or totally exemption from the fulfilment of the conditions stipulated in the paragraph (2).

(5) The provisions of this article are to be completed with the provisions of the framework legislation regarding the mutual recognition of the professional qualifications.

Art. 101

(1) The Romanian competent authority and the competent authorities from the Member States of origin collaborate to make the proper application of the provisions of the present law, the information received within this collaboration being confidential. The collaboration may be achieved as well through the internal market information system, in accordance with the Government Emergency Ordinance no. 49/2009 on the freedom of establishment of the services providers and the freedom to provide services in Romania, approved with amendments and completions by the Law no. 68/2010.

(2) The competent authority in the Member State of origin can formulate observations within the disciplinary procedures that are developed against a lawyer practicing his/her profession under the professional title from the respective State.

SECTION 2: The permanent practice of the lawyer profession in Romania by the lawyers who acquired their professional qualification in one of the Member States of the European Union and of the European Economic Area.

Art. 102

(1) Pursuant to the conditions set out in the current section, any of the lawyers indicated in article 97 letter *a)* may perform the activities described in art. 98, on Romanian territory, on a permanent basis and under the professional title of the Member State of origin.

(2) The lawyers who practice their activity on a permanent basis on the Romanian territory may obtain the professional title in Romania, either in the conditions described in article 100, or in accordance with article 109.

Art. 103

(1) The lawyer who wants to practice the profession in Romania, under the professional title from the Member State where the professional qualification was acquired is registered with the special Table of Lawyers kept by the Romanian Bars, under the conditions of the present article, of article 13 paragraph (6) and those of the by-laws of the profession.

(2) The competent Romanian authority registers the applicant lawyer, upon the presentation of a certificate that attests the registration with the competent authority in the Member State of origin. The competent Romanian authority informs the competent authority in Member State of origin about the registration.

(3) The certificate foreseen in paragraph (2) must be issued with at most 3 months prior to formulating the application for registration with the Romanian Table of Lawyers.

(4) When publishing the names of the lawyers registered in Romania, the competent Romanian authority will also publish the names of the lawyers registered pursuant the current section.

Art. 104

(1) The lawyers practicing under the professional title of the Member State origin shall be provided with the appropriate representation in the professional associations of lawyers in Romania, in accordance with the provisions of this law and the by-laws of the profession; they have at least the right to participate in the election of the governing bodies of these associations.

(2) The lawyers practicing under the professional title of the Member State of origin are required either to ensure for professional liability, under the conditions set out by the profession's by-laws, or to become members of the Lawyers Insurance House in the conditions foreseen in chapter VII.

(3) The lawyers may be exempted from the obligations foreseen in paragraph (2), if they provide evidence of an insurance or of another collateral issued in the conditions of the law of the Member State of origin, to the extent that the insurance or the collateral are equivalent in terms of conditions and coverage. If the coverage is only partial, the lawyers must provide additional insurance to cover matters not covered by the insurance or collateral given under the rules of the Member State of origin.

Art. 105

The lawyers registered in Romania under the professional title in the Member State of origin may practice as employees within any of the legal form of organizing the profession, allowed for lawyers who practice under the professional title acquired in Romania.

Art. 106

The lawyers who practice in Romania under the professional title acquired in the Member State of origin are subject to the same rules of professional conduct provided for in the present law and in the by-laws of the profession, as the lawyers who practice under the professional title acquired in Romania, for the activities performed on the Romanian territory.

Art. 107

(1) The lawyers subject to this chapter are disciplinary liable for the non-observance of this law or of the by-laws, in accordance with the provisions of chapter VI.

(2) Before initiating the disciplinary procedures against a lawyer practicing in Romania under the professional title acquired in the Member State of origin, the Romanian competent authority informs as soon as possible the competent authority in the Member State of origin, providing any useful information for the case.

(3) The Romanian competent authority cooperates with the competent authority in the Member State of origin throughout the disciplinary procedures.

(4) The permanent or temporary withdrawal of the license to practice the profession, by the competent authority in the Member State of origin, has as compulsory effect, for the respective lawyer, the temporary or permanent interdiction to practice in Romania under the professional title acquired in the Member state of origin.

Art. 108

(1) One or more lawyers from the same group or from the same Member State, practicing under the professional title from the Member State of origin, may practice the profession in Romania by setting up a secondary office of the respective group, organized in any legal form of practicing the lawyer's profession, as described by the Romanian law.

(2) The lawyer's profession can also be practiced within the associated forms as described by the Romanian law, as follows:

- a) several lawyers from different Member States, practicing under the professional titles from the Member States of origin;
- b) one or more lawyers as described in letter *a*) and one or more lawyers from Romania.

(3) The lawyer who intends to practice under the professional title from the Member State of origin informs the competent Romanian authority about the fact that he/she is a member of a legal form of practicing the profession in the Member State of origin and provides all relevant details about the respective group.

Art. 109

(1) The lawyers practicing under the professional title from the Member State of origin and performing their activity effectively and regularly, on a period of at least 3 years in Romania, in Romanian law or in EC law, are admitted to the lawyer's profession in Romania, without having to fulfil the conditions set out in article 100, with the observance of the provisions of the current law regarding the exercise of the civil and political rights and of the cases of indignity and incompatibility.

(2) In front of the competent Romanian authority, applicants must prove that they have regularly performed their activity in Romania for at least 3 years in the field of Romanian law or EC law.

For this purpose:

- a) The lawyers must present all relevant information and documents regarding the number of cases in which they provided legal assistance, as well as regarding their nature;
- b) The competent Romanian authority can verify the effectiveness and the regularity of their performance and may ask the lawyer, if necessary, to provide clarifications, in writing or verbally, regarding the information and the documents described in letter *a*).

(3) The lawyers practicing under the professional title from the Member State of origin may ask the recognition of their diplomas at any moment, in accordance with the provisions of article 100, with the purpose to obtain the admission to the lawyer profession in Romania and to practice it under the professional title thus obtained.

(4) The lawyers practicing under the professional title from the Member State of origin who performed a professional activity effectively and regularly, on a period of at least 3 years in Romania, yet for a shorter period in the field of Romanian law, may obtain the admission to the lawyer's profession and the right to practice it under the professional title in Romania, without having to fulfil the conditions set out in article 100, with the observance of the provisions of this law regarding the exercise of civil and political rights and of the cases of indignity and incompatibility, according to the following procedure:

- a) the competent Romanian authority takes into consideration the effective and regular performance of the activity for at least 3 years, the knowledge and the professional expertise acquired in Romania, as well as any participation in lectures and seminars on Romanian law or on the deontology of the lawyer's profession.
- b) the applicant makes available to the Romanian Bar any relevant information and documentation, especially about the cases in which he provided legal assistance.

(5) Whereas the proof that the requirements stipulated in paragraph (1) or (4) have been accomplished has not been provided, the decision of the competent Romanian authority of not automatically granting registration will be motivated, communicated to the applicant and to the Bar and submitted to appeal, as foreseen by the by-laws of the profession.

(6) The effective and regular performance of the activity of the lawyer in Romania and his/her capacity to continue are assessed based on an interview with the evaluation committee foreseen in article 100.

(7) Throughout a decision motivated and subject to appeals, as described in the by-laws of the profession, the competent Romanian authority may refuse the applicant lawyer to obtain the professional title of lawyer in Romania, if it is considered potentially harmful for the public order, as result of disciplinary infringements, complaints or incidents of any kind.

(8) The representatives of the National Association of Romanian Bars must keep the confidentiality of the information received whilst examining the request to obtain the professional title in Romania.

SECTION 3: The practice of the lawyer's profession in Romania, through the provision of services, by lawyers coming from the Member States of the European Union and of the European Economic Area.

Art. 110

(1) Under the provisions of the current section, the lawyers coming from the Member States of the European Union and of the European Economic Area may perform in Romania professional activities that may be practiced occasionally under the form of provision of services.

(2) The activity of services provision foreseen in paragraph (1) is performed in Romania throughout the representation of legitimate rights and interests of moral and natural persons in front of the Court or in front of the public authorities, under the conditions stipulated for the lawyers established in this State, without being necessary to register with the Bar.

(3) To practice other activities than those mentioned in paragraph (2), the lawyer respects the conditions and the rules of the professional conduct of the Member State of origin, as well as the Romanian legislation regarding the profession, especially regarding the incompatibilities, the professional secrecy, the relationships between lawyers, the interdiction that the same lawyer is representing two parties having opposite interests, as well as the advertising. A lawyer who is not established in Romania is bound to comply with these rules only to the extent that their observance is objectively justified in order to ensure the proper practice of the lawyer's activities, the profession's dignity and the compliance of the rules on incompatibility.

Art. 111

(1) The competent Romanian authority asks the lawyer providing services to prove his legal capacity.

(2) In case of non-observance of the obligations stipulated in article 110, the competent Romanian authority shall determine by its by-laws the consequences of this non-compliance.

(3) In verifying the case of non-compliance with the obligations described in article 110, the competent Romanian authority may request any useful professional information on the person providing the services.

(4) The competent Romanian authority shall inform the competent authority of the Member State of origin of any decision taken. The communications provided for in this paragraph shall be confidential.

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