

CMS | Romania amends framework for representative offices of foreign entities

On 4 August 2022, the Romanian Government enacted Ordinance no. 18/2022 on the authorisation and operation of representative offices of foreign entities in Romania, which replaces the previous Decree-Law no. 122/1990.

The Ordinance, which entered into force on 7 August, simplifies and digitalises the process for authorising and operating rep offices in Romania. Because the former procedure had remained unchanged for more than 30 years, the Ordinance is expected to bring innovation, greater transparency and simplification to the Romanian business environment.

Rep offices are legal forms authorised to represent foreign companies and economic organisations in Romania, and carry out only certain supporting activities such as marketing and advertising, auxiliary research. They cannot carry out business operations that involve delivery of services or engagement in production/manufacturing work, and must be fiscally registered in Romania for activities carried out in Romania. They are also subject to Romanian taxes.

The main changes brought by the Ordinance, are as follows:

A dedicated electronic platform

- All requests for the issuance, extension, or amendment of a rep office's authorisation or deregistration will be made through a dedicated electronic platform that will be created for this purpose.
- The online dedicated platform should be functional within 180 days after the Ordinance went into force (i.e. by 6 February 2023) and the Ministry of Entrepreneurship and Tourism (MET) should approve the methodological norms for implementing the Ordinance within 60 days after its entry into force (i.e. by 7 October 2022).
- Communications concerning the issuance, extension or amendment of the authorisations, or the issuance of letters that confirm deregistration of rep offices to the Public Finance Administration, will be performed automatically via the dedicated platform.
- The online platform will also provide public information about rep offices registered in Romania and authorised by the MET in a transparent and accessible way, in compliance with personal data protection requirements.

Applicable terms and conditions

- In line with Decree-Law 122/1990, once the application is submitted, the MET must issue the operating authorisation or dismiss the application within 30 days as of the registration of the application, or the date when all the necessary documents and information are submitted to the MET, if the initial application is incomplete. However, this action will now be performed through the dedicated electronic platform.
- A minimum term of one year is introduced for the operating authorisation, with the possibility of a one-year extension. The extension of the authorisation must be requested 30 days prior to the expiry date, through the electronic platform. Unless an extension is requested, the authorisation will be withdrawn within 30 days after the expiry date.

- Any change occurred in relation to the data included in the operation authorisation of the rep offices, or the legal status, object of activity or the share capital of the rep offices' foreign entities must be communicated to MET within 30 days after its occurrence. According to the Ordinance, the MET can modify the authorisation within 30 days from the date of receipt of the request, together with the complete related documentation.
- Deregistration of a rep office from the records of the MET will be performed only after the rep office has been deregistered from the fiscal authority.
- Similar with the previous regulation, the Ordinance provides that foreign companies and economic organisations are jointly liable with the employees of the rep offices for damages resulting from unlawful acts committed as part of or in connection with the rep offices' activities.

New authorisation fee

- The new authorisation fee is the RON equivalent of EUR 1,000/year (based on the exchange rate of the National Bank of Romania on the payment date), instead of the previous fee of USD 1,200/year. The fee must be paid to the competent fiscal authority from the jurisdiction where the rep office's registered office is located.

Transitory provisions

- Until the electronic platform begins operations, the procedures will be carried out in accordance with the previous regulations.
- Rep office operating authorisations issued before the entry into force of the Ordinance remain valid pursuant to the terms that were in force at the time of issuance of the respective authorisations.

For more information on this Ordinance and creating a representative office in Romania, contact your CMS client partner or local CMS experts: **Rodica Manea** and/or **Elena Andrei**.