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on the trade unions

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It must be specified that the only text which shall produce legal effects is the text in the Romanian language.

CHAPTER I

General provisions

ART. 1

(1) The trade unions, hereinafter called trade union organisations, are set up for the purpose of defending the rights provided in the national legislation, in the international covenants, treaties and conventions Romania is a party to, as well as in the collective labour contracts, and for the purpose of promoting their professional, economic, social, cultural and sports interests.

(2) The trade unions are independent from the public authorities, political parties and employers' organisations.

ART. 2

(1) The persons employed and the public servants shall have the right to set up trade union organisations and to join them. The persons exercising independently, according to the law, a trade or profession, the co-operating members, farmers, as well as the persons who are training shall have the right, without a constraint or a preliminary licensing, to join a trade union organisation.

(2) For the setting up of trade union organisation a number of at least 15 persons from the same branch or profession shall be required, even if they carry on their activity at distinct employers.

(3) No person may be constrained to be or not to be a part of, to withdraw or not to withdraw from a trade union organisation.

(4) A person may only belong to one trade union organisation at the same time.

ART. 3

The employees under age, after turning 16 years old, may be members of a trade union organisation, without being necessary the preliminary consent of their legal representatives.

ART. 4

The persons holding management positions, public dignity positions, according to the law, the magistrates, the military staff from the apparatus of the Ministry of Public Defence and of the Ministry of the Interior, Ministry of Justice, Romanian Intelligence Service, Protection and Guard Service, Foreign Intelligence Service, Special Telecommunication Service, as well as from the units in their subordination may not be set up in trade union organisations.

CHAPTER II

The setting up, organisation and functioning of the trade union organisations

ART. 5

The setting up, organisation, functioning, reorganisation and cessation of the activity of a trade union organisation shall be regulated by the statute adopted by its members, with the observance of the present law. In the absence of certain express statutory provisions with regard to the reorganisation and cessation of the activity of the trade union organisation the common law provisions on the cessation of legal persons shall apply.

ART. 6

(1) The statutes of the trade union organisations shall include provisions at least with regard to:

- a) the purpose of the setting up, the denomination and the registered office of the trade union organisation;
- b) the manner in which the quality of member of the trade union organisation is acquired and ceases;
- c) the rights and duties of the members;
- d) the manner for establishing and cashing the subscription;
- e) the management bodies, their denomination, the manner of their election and dismissal, the duration of their terms of office and their attributions;
- f) the conditions and deliberation norms for the modification of the statute and for the adoption of the decisions;
- g) the size and the structure of the initial patrimony;
- h) the division, merger and dissolution of the trade union organisation, transmission or, as the case may be, liquidation of the patrimony, by specifying that the assets given for use by the state shall be returned to it.

(2) The statutes may not contain provisions contrary to the Constitution and to the laws.

ART. 7

(1) The trade union organisations shall have the right to elaborate their own regulations, to freely elect their representatives, to organise their administration and activity and to formulate their own action programmes, with the observance of the law.

(2) The public authorities and the employers' organisations shall be forbidden to interfere in any way for the limitation or interruption of the exercise of the rights provided in paragraph (1).

Section 2

The management of the trade union organisations

ART. 8

In the management bodies there may be elected members of the trade union organisation having full capacity of exercise and who do not serve the complementary sentence of prohibiting the right to fill a position or exercise a profession similar to the one used by the person convicted for committing the offence.

ART. 9

The members of the elected management bodies of the trade union organisations shall be ensured the protection of the law against all forms of conditioning, constraint or limiting of the exercise of their functions.

ART. 10

(1) During the term of office and within 2 years from the end of the term of office, the representatives elected in the management bodies of the trade union organisations may not have their individual labour contract changed or cancelled for reasons which can not be imputed to them, which the law leaves to the employer's judgement, unless there is the written agreement of the elected collective management body of the trade union organisation.

(2) The changing and/or the cancellation of the individual labour contracts, both of the representatives elected in the management bodies of the trade union organisations and of their members, from the initiative of the employer, for reasons concerning the trade union activity shall be forbidden.

(3) The persons dismissed from the trade union management positions for the violation of the statutory or legal provisions shall be exempted from the applying of the provisions of paragraph (1).

(4) The provisions of paragraphs (1) - (3) shall also apply accordingly to the labour relations of the public servants.

ART. 11

(1) For the period during which the person elected in the management body is paid by the trade union organisation its individual labour contract or, as the case may be, the labour relation shall be suspended, and that person shall preserve its previous position and work place, as well as the length of service, respectively in the speciality or the public office held, according to the conditions of the law. In its position another person may be employed only with an individual labour contract for a definite term.

(2) When the person in the situation provided in paragraph (1) returns to the position previously held, that person shall be provided a wage which can not be lower than the one which could have been obtained under conditions of continuity in that position.

ART. 12

By collective labour contracts or, as the case may be, by agreements regarding the labour relations, for those elected in the management bodies of the trade union organisations, other protection measures than those provided in Article 10 (1), (2) and (4) and in Article 11 may be also established, according to the law.

ART. 13

The management body of the trade union organisation shall have the obligation to keep the record of the number of members, of any kind of cashing and expenditure.

Section 3

The obtaining of the legal personality

ART. 14

(1) For obtaining the legal personality by the trade union organisation, the special authorised agent of the founding members of the trade union, provided in the setting up report, must submit an application for registration to the court of first instance in the territorial radius of which it has its registered office.

(2) To the application for registration of the trade union organisation the legal representative shall enclose the original and two copies of the following acts:

- a) the setting up report of the trade union organisation, signed by at least 15 founding members;
- b) the statute of the trade union organisation;
- c) the list of the members of the management body of the trade union organisation, mentioning the name, surname, personal code number, the profession and the domicile;
- d) authentic proxy of the special authorised agent, given by the setting up report provided in letter a).

ART. 15

(1) The competent court of first instance, according to Article 14 (1), when it receives the application for registration shall be obliged that, within 5 days at the most from its registration, it examines:

- a) if the acts provided in Article 14 (2) have been submitted;
- b) if the constitutive act and the statute of the trade union organisation are in accordance with the legal provisions in force.

(2) In case it is found that the legal provisions for the setting up of the trade union organisation are not fulfilled, the president of the panel of judges shall summon to the Council Hall the special authorised agent provided in Article 14 (1), which shall be required in writing to provide to remedy the irregularities found, within 7 days at the most.

(3) In case the requirements provided in paragraph (1) are not met, the court shall begin the settlement of the application within 10 days, by summoning the special authorised agent of the founding members of the trade union organisation.

(4) The court shall deliver a motivated judgement for the admission or rejection of the application.

(5) The judgement of the court of first instance shall be communicated to the signatory of the application for registration, with 5 days at the most from its delivery.

ART. 16

(1) The judgement of the court of first instance shall be subject only to the appeal.

(2) The term for appeal shall be of 15 days and it shall resume its course from the communication of the judgement. For the prosecutor the term for appeal shall resume its course from its delivery.

(3) The appeal shall be judged by summoning the special authorised agent of the founding members of the trade union organisation, within 45 days. The court for appeals shall write the decision and shall return the file to the court of first instance within 5 days from the delivery.

ART. 17

(1) The court of first instance shall be obliged to keep a special record, where there shall be written down the following: the denomination and registered office of the trade union organisation, name and surname of the members of the management body, the personal code number, the registration date, as well as the number and date of the final judgement for the admission of the application for registration.

(2) The registration in the special record provided in paragraph (1) shall be carried out ex officio, within 7 days from the date when the judgement delivered by the court of first instance remains final.

ART. 18

The trade union organisation shall acquire legal personality from the date when the final judgement for the admission of the application is registered in the special record provided in Article 17 (1).

ART. 19

The original of the setting up report and of the statute, on which the court of first instance certifies the registration, together with one copy of the other acts submitted shall be returned to the trade union organisation, and the second copy of all acts provided in Article 14 (2), in copies certified by the special authorised agent and endorsed by the court of first instance, and it shall be preserved in its archives.

ART. 20

(1) The trade union organisation shall be obliged to inform the court of first instance where it was registered, within 30 days, any subsequent modification of the statute, as well as any change in the structure of the management body.

(2) For the approval of changing the statute the provisions of Articles 14 - 19 shall apply accordingly.

(3) The court of first instance shall be obliged to specify in the special record provided in Article 17 (1) the changes of statute, as well as the changes in the structure of the management body of the trade union organisation.

Section 4

The patrimony of the trade union organisation

ART. 21

The movables and immovables of the patrimony of the trade union organisations may be used only according to the interests of the trade union members, without being divided among these.

ART. 22

(1) The trade union organisation may acquire, according to the conditions provided by the law, free of charge or for a consideration, any kind of movables or immovables necessary for the achievement of the purpose for which it has been set up.

(2) For the immovables from the state housing fund used by the trade union organisations as registered offices there shall be paid a rent corresponding to the registered office of the parties.

(3) The units where there are set up trade union organisations which obtained the representativenss, according to the law, shall be obliged to put, free of charge, at the disposal of the trade union organisations the appropriate spaces for their functioning and to ensure the endowments necessary for the carrying on of the activity provided by law.

(4) In order to build their own registered offices the representative confederations and federations of the trade unions may receive, according to the conditions provided by the law, in concession or may rent lands from the private property of the state or of the administrative-territorial units. The rental or concession shall be carried out by an administrative act issued by the competent authority.

ART. 23

The movables and immovables acquired by a trade union organisation according to the conditions provided by the law, necessary for its meetings, for its library or for training

and improvement courses of the members of the trade union organisations, may not be pursued, except for those necessary for the payment of the debts to the state budget.

ART. 24

The subscription paid by the members of the trade union organisation, in a quantum of maximum 1% from the gross income obtained, shall be deducted from the base for the calculation of the income tax.

ART. 25

(1) The trade union organisation may, according to the conditions provided by the statute:

- a) support materially its members in exercising their profession;
- b) set up its own benefit funds;
- c) edit and print its own publications, with a view to increasing the level of knowledge concerning its members and with a view to defending their interests;
- d) set up and manage, according to the conditions of the law, in the interests of its members, units of culture, education and research in the field of the trade union activity, economic and social, commercial, insurance units, as well as its own bank for the financial operations in lei and in foreign currency;
- e) set up its own funds for granting assistance to their members;
- f) organise and support materially and financially the sports activity in sports associations and clubs, as well as cultural and artistic activities.

(2) With a view to carrying out the activities provided in paragraph (1), the trade unions shall have the right, according to the conditions of the law, to obtain credits.

ART. 26

(1) The control of the trade union organisations' own financial activity, as well as of their economic and social units shall be carried out by the commission of auditors functioning according to the statute.

(2) The control over the economic and financial activity carried on by the trade union organisations, as well as over the establishing and payment of the obligations to the state budget shall be carried out by the competent state administration bodies, according to the law.

Section 5

The attributions of the trade union organisations

ART. 27

With a view to achieving the purpose for which they have been set up, the trade union organisations shall have the right to use specific means, such as: the negotiations, the procedures for the settlement of the litigations by mediation, arbitration or conciliation, petition, protest, meeting, demonstration and strike, according to their own statutes and according to the conditions provided by the law.

ART. 28

(1) The trade union organisations shall defend the rights of their members, deriving from the labour legislation, the statutes of the public servants, the collective labour contracts and the individual labour contracts, as well as from the agreements regarding the labour relations of the public servants, before the courts, the jurisdiction bodies, other state institutions and authorities, by their own defenders or the ones elected.

(2) In exercising the attributions provided in paragraph (1) the trade union organisations shall have the right to undertake any action provided by law, including to bring an action to the court on behalf of their members, without being needed a express mandate from the persons concerned. The action may not be brought or continued by the trade union organisation if the person concerned opposes or renounces to the trial.

ART. 29

The trade union organisations may address to the competent public authorities, according to Article 73 of the Constitution, proposals for the legislation in the fields of trade union interest.

ART. 30

(1) The employers shall have the obligation to invite the elected delegates of the representative trade union organisations to participate in the managing boards for discussing the problems of professional, economic, social, cultural and sports interest.

(2) For the purpose of defending the rights and promoting the professional, economic, social, cultural or sports interests of the members, the representative trade union organisations shall receive from the employers or from their organisations the necessary information for the negotiation of the collective labour contracts or, as the case may be, for concluding agreements with regard to the labour relations, according to the conditions of the law, as well as the ones regarding the setting up and use of the funds destined to the improvement of the conditions at the work place, to the labour protection and social utilities, insurance and social protection.

(3) The decisions of the managing board and of other bodies assimilated to these, regarding the problems of professional, economic, social, cultural and sports interest, shall be communicated in writing to the trade union organisations, within 48 hours from the date of the sitting.

ART. 31

The trade union organisations constituted by association, according to Article 41 (2) and (3), at the request of the trade union organisations in their structure, may delegate representatives to deal with the administrative management of the units, to assist or represent their interests in all cases.

Section 6

The relations of the trade union organisations with their members

ART. 32

The relations between the trade union organisations and their members shall be regulated by the present law and their statutes.

ART. 33

(1) The members of a trade union organisation shall have the right to withdraw from the trade union organisation without being obliged to show the reasons.

(2) The members withdrawing from the trade union organisation may not request the return of the amounts submitted as subscription or of the amounts or assets donated.

ART. 34

(1) The members elected in the management bodies of the trade union organisations, the specialised and administrative personnel from their apparatus may be paid from the

trade union organisation or in accordance with the provisions of the collective labour contract.

(2) Employees of other units, as well as persons retired may be employed in the specialised positions for which a higher qualification is required, following that they carry on their activity outside the work schedule.

(3) The persons employed according to paragraph (2) may cumulate, according to the conditions provided by the law, the wage and, as the case may be, the pension with the incomes obtained from the activity performed at the trade union organisation.

ART. 35

(1) The members elected to the management bodies of the trade union organisations, working directly in the unit as employees, shall have the right to a shorter work schedule by 3 - 5 days for trade union activity, without affecting the wage rights.

(3) The number of days cumulated per year and the number of the persons who may benefit from these shall be established by the collective labour contract.

CHAPTER III

The reorganisation and dissolution of the trade union organisations

ART. 36

The trade union organisations may be dissolved by the decision of the members or of their delegates, adopted according to their own statutes.

ART. 37

(1) In case of dissolution the patrimony of the trade union organisation shall be divided according to the provisions in the statute or, in the absence of such provisions, according to the decision of the assembly for dissolution.

(2) If the statute does not provide the manner of the patrimony dissolution or if the assembly for dissolution did not make a decision in this respect, the county tribunal or the Bucharest Municipality Tribunal, intimated by any of the members of the trade union organisation, shall decide on the distribution of the patrimony, assigning it to an organisation to which the trade union belongs or, if it does not belong to any organisation, to another trade union with a similar specific character.

ART. 38

(1) Within 5 days from the dissolution, the managers of the dissolved trade union organisation or the liquidators of the patrimony shall be obliged to request the competent court, which operated its registration in the special record as legal person, to make the mention of the dissolution of the trade union organisation.

(2) After the end of the 5-day period any interested party among the members of the trade union organisation may request the competent court to make the mention provided in paragraph (1).

(3) This mention shall be made on the page and in the spot where the registration in the special record was carried out.

ART. 39

The trade union organisations may not be dissolved and their activity may not be suspended based on certain ordering deeds of the public administration authorities or of the employers' organisations.

ART. 40

In case of reorganisation of a trade union organisation, the decisions on the patrimony shall be taken by its management bodies, unless otherwise provided by the statute.

CHAPTER IV

Forms of association of the trade union organisations

ART. 41

(1) The trade union organisations legally set up depending on the criterion of the branch of activity, of the profession or on the territorial criterion.

(2) Two or more trade union organisations set up at the level of certain different units from the same branch or profession may be associated with a view to constituting a trade union federation.

(3) Two or more trade union federations from different branches of activity or professions may be associated with a view to constituting a trade union confederation.

(4) The trade union federations and the confederations may be set up by the trade unions forming a trade union.

ART. 42

(1) The federations and confederations set up by associations, according to Article 41 (2) and (3), shall acquire legal personality according to the provisions of the present law.

(2) With a view to obtaining legal personality, the special authorised agent of the federation or confederation shall submit to the county tribunal or to the Bucharest Municipality Tribunal in whose territorial radius it has its registered office an application for obtaining the legal personality, accompanied by the following acts:

- a) the decision for the setting up of the federation or confederation;
- b) the decisions of the trade union organisations to be associated in a federation or confederation, signed by their legal representatives;
- c) the authenticated copies of the judgements for obtaining the legal personality, which became final, of the trade union organisations which are associated;
- d) the statute of the federation or confederation which has been set up;
- e) the list of members in the management body, containing the name, surname, personal code number and the position.

ART. 43

The territorial trade unions, set up according to Article 41 (4), shall acquire legal personality at the request of the federations or of the confederations of the trade unions which decided their setting up. For this purpose the special authorised agent of the federation or confederation shall submit an application for obtaining the legal personality to the county tribunal or to the Bucharest Municipality Tribunal in whose territorial radius the unit has its registered office, accompanied by the decision of the federation or of the confederation for the setting up of the union, according to the statute, the certified copies of the statutes of the federations and/or confederations and of the authenticated copies of the judgements for obtaining the legal personality, which became final.

ART. 44

(1) The competent tribunal provided in Article 42 (2) and in Article 43, as the case may be, shall be obliged, within 5 days at the most from the registration of the application, to examine:

a) if the acts provided in Article 42 (2) or in Article 43, as the case may be, were submitted;

b) if the constitutive act and the statute of the trade union organisations are in accordance with the legal provisions in force.

(2) In case it is found that the legal requirements for the setting up of the trade union organisations are not satisfied, the president of the panel of judges shall summon in the Council Hall the special authorised agent provided in Article 42 (2) and in Article 43, which shall be requested in writing to remedy the irregularities found, within 7 days at the most.

(3) In case the requirements provided in paragraph (1) are not met, the court shall begin the settlement of the application within 10 days, by summoning the special authorised agent.

(4) The court shall deliver a motivated judgement for the admission or rejection of the application.

(5) The judgement of the tribunal shall be communicated to the signatory of the application for the registration in the special record, within 5 days at the most from the delivery.

ART. 45

(1) The judgement of the tribunal shall only be subject to the appeal.

(2) The term for appeal shall be of 15 days and it shall resume its course from the communication of the judgement. For the prosecutor the term for appeal shall resume its course from the communication.

(3) The appeal shall be judged, by summoning the special authorised agent, within 45 days. The court for appeals shall write the decision and shall return the file to the tribunal within 5 days from the delivery.

ART. 46

(1) The tribunals shall be obliged to keep a special record, where they shall write down the following: denomination and registered office of the trade union organisations set up by association, name and surname of the members of the management body, their personal code number, the registration date, as well as the number and date of the final judgement for the admission of the application for registration.

(2) The registration in the special record provided in paragraph (1) shall be carried out ex officio, within 7 days from the date when the judgement delivered by the tribunal remains final.

ART. 47

The trade union organisation set up by association shall acquire legal personality from the date when the final judgement for the admission of the application for the registration in the special record remains final.

ART. 48

The original of the setting up report and of the statute, on which the tribunal certifies the registration, together with one copy of the other acts submitted shall be returned to the trade union organisation set up by association, and the second copy of all acts provided in Article 42 (2) or in Article 43, in copies certified by the special authorised agent and endorsed by the tribunal, and it shall be preserved in its archives.

ART. 49

(1) The trade union organisation set up by association shall be obliged to inform the tribunal where it was registered, within 30 days, any subsequent modification of the statute, as well as any change in the structure of the management body.

(2) For the approval of changing the statute the provisions of Articles 42 - 48 shall apply accordingly.

(3) The court shall be obliged to specify in the special record the changes of statute, as well as the changes in the structure of the management body of the trade union organisation.

ART. 50

The trade union organisations may be affiliated to similar international organisations.

CHAPTER V

Sanctions

ART. 51

The following deeds shall constitute contraventions and shall be sanctioned as follows:

a) the violation by the members elected in the management bodies of the trade union organisations of the obligation provided in Article 38 (1), with fine from 2 000 000 lei to 10 000 000 lei;

b) the violation of the obligation in Article 30 (1), with fine from 20 000 000 lei to 50 000 000 lei.

ART. 52

(1) The finding of contraventions and the applying of sanctions shall be carried out by the personnel empowered by the minister of labour and social solidarity.

(2) The contraventions provided in Article 51 shall be applied the provisions of the Government Ordinance No. 2/2001 on the legal regime of contravention, approved with modifications and completions by the Law No. 180/2002, with the subsequent modifications.

ART. 53

(1) The following deeds shall constitute offences and shall be punished with imprisonment from 6 months to 2 years or with fine from 20 000 000 lei to 50 000 000 lei:

a) the prevention of the exercise of the right to the free trade union organisation and association, for the purposes and within the limits provided by the present law;

b) the conditioning or constraint, in any way, having as purpose the limiting of exercising the attributions deriving from the position of the members elected in the management bodies of the trade union organisations;

c) the supply of data which do not correspond to the reality for obtaining the legal personality of the trade union organisation, as well as during its existence.

(2) The criminal action shall be brought into action at the preliminary complaint of the injured person, in accordance with the provisions of the Code of penal procedure, except for the offence provided in paragraph (1) c).

CHAPTER VI

Final provisions

ART. 54

The applications and the procedural acts of the trade union organisations before the courts of law or the procedural acts drawn up for these shall be exempted from the stamp duty.

ART. 55

Within 90 days from the date of publishing the law in the Official Gazette of Romania, Part I, trade union organisations existing on the date of coming into force of the present law shall reconcile their own statutes with its provisions.

ART. 56

On the date of coming into force of the present law the Law No. 54/1991 on the trade unions, published in the Official Gazette of Romania, Part I, No. 164 of 7 August 1991, as well as other contrary provisions shall be abrogated.
