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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**ROMANIA**

**LAW (\*)**

**ON PREVENTING, DISCOVERING AND SANCTIONING  
CORRUPTION OFFENCES**

**of 8 May 2000**

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**(\*) Unofficial translation**

## The Parliament of Romania

### LAW No. 78 ON PREVENTING, DISCOVERING AND SANCTIONING CORRUPTION OFFENCES May 8<sup>th</sup>, 2000

#### The Parliament of Romania adopts the current Law

#### Chapter I General Provisions

**Art. 1** - The present law sets up measures for preventing, discovering and sanctioning corruption offences and it applies to the following: a) persons who exercise a public position, regardless of the manner applied to invest them within public authorities or public institutions;

b) persons who fill, permanently or temporarily, according to the law, a position or a task, to the extent to which they participate in decisions-making process, or they can influence the decisions, within public services, autonomous administrations, trading companies, national companies, national societies, cooperative units or other economic agents;

c) persons who carry out control tasks according to the law;

d) persons who grant specialized assistance to the units stipulated in letter a) and b), to the extent to which they participate in the decisions-making process or can influence the decisions;

e) persons who, regardless of their position, carry out, control or grant specialized assistance, to the extent to which they participate in the decision-making process or can influence the decisions, with regard to operations that involve capital circulation, banking operations, hard currency exchange or credit operations, investment operations in stock exchanges, in insurance, in mutual investment or regarding the bank accounts or those assimilated to them, internal and international transactions;

f) persons who have a management position in a political party or formation, in a trade union, in an employer's organization or in a non-profit society or foundation;

g) other natural persons than those stipulated in letters a) - f), under the terms stipulated by law.

#### Chapter II Special Rules of Conduct for Certain Categories of Persons, for the Purpose of Preventing Corruption Offences

**Art. 2** – It is mandatory for the persons provided by art. 1 to carry on the duties they are charged with in exercising their functions, duties or tasks assigned to them, abiding strictly by the laws and the rules of professional conduct, and to ensure the protection and the carrying out of citizens' legal rights and interests, without using the positions, duties or tasks assigned, for obtaining money, goods or other undue advantages for themselves or for other persons.

**Art. 3** - (1) The persons provided by art. 1 letter a), as well as those who hold a management position, higher than and including that of a director within autonomous administrations, national companies, national firms, trading companies in which the state or an authority of the local public administration is a shareholder, within the public institutions involved in carrying out the privatization process, within the National Bank of Romania, or the banks in which the state is the controlling stockholder, have the obligation to state their assets, according to the Law no.

115/1996 on stating and controlling the assets of the dignitaries, magistrates, officials and of certain persons with management positions.

(2) Not submitting the statement of assets by the persons provided by paragraph (1) brings about the ex officio opening of the control procedure of the assets under the terms of the Law no. 115/1996.

**Art. 4** - (1) The persons provided by art. 1 let. a) and c) have the obligation to state, within a period of 30 days from receipt, any direct or indirect donation or physical gifts received in connection with the exercising of their functions or duties, with the exception of those which have a symbolic value.

(2) The provisions of the Law no. 115/1996 referring to the modality of submitting the statement of assets apply accordingly also to the case provided by paragraph (1).

### **Chapter III Offences**

#### **Section 1 Categories of offences**

**Art. 5** - (1) According to the present law, **corruption offences** are those offences provided by art. 289 - 292 of the Criminal Code, including when they are committed by persons referred to in art. 308 of the Criminal Code.

(2) According to the present law, **offences assimilated to those of corruption** are the offences provided by art. 10 - 13.

(3) The provisions of the present law are also applied to the offences against the financial interests of the European Union provided by art. 18<sup>1</sup> - 18<sup>5</sup>, thus, by sanctioning them, the protection of the funds and resources of the European Union is ensured.

#### **Section 2 Corruption offences**

**Art. 6** - The offences of taking bribe - provided by art. 289 of the Criminal Code, of giving bribe - provided by art. 290 of the Criminal Code, of traffic of influence provided by art. 291 of the Criminal Code and of buying of influence - provided by art. 292 of the Criminal Code are punished according to those texts of law. The provisions of article 308 of the Criminal Code are enforced accordingly.

**Art. 6<sup>1</sup> \*) \*\*\*** was introduced by the Law no. 161/2003 and it was annulled by the Law no. 187/2012.

**Art. 7** - (1) The offence of taking bribe or traffic of influence committed by a person who:

- a) exercises a position of public dignity;
- b) is a judge or a prosecutor;
- c) is a criminal investigation body or is in charge with ascertaining or sanctioning contraventions;

d) is one of the persons provided by article 293 of the Criminal Code is punished according to art. 289 or 291 of the Criminal Code, whose limits are increased by a third.

**Art. 8** – \*\*\* was annulled by the Law no. 187/2012.

**Art. 8<sup>1\*)</sup>** – \*\*\* was introduced by the Law no. 161/2003 and it was annulled by the Law no. 187/2012.

**Art. 8<sup>2\*)</sup>** – \*\*\* was introduced by the Law no. 161/2003 and it was annulled by the Law no. 187/2012.

**Art. 9** – \*\*\* was annulled by the Law no. 187/2012.

Section 3

### **Offences assimilated to those of corruption**

**Art. 10** - The following offences shall be punished with imprisonment from 3 to 10 years and the interdiction of certain rights, if committed for the purpose of obtaining money, goods or other undue advantages for himself/herself, or for other person:

a) establishing, deliberately, a diminished value, compared to the real market value, of the goods belonging to the economic agents to which the state or an authority of the local public administration is a shareholder, committed during the privatization process, the enforcing of a court decision, the judicial reorganization or liquidation or on the occasion of a commercial transaction or when selling the goods belonging to public authorities or public institutions, or during the enforcement of the court decision, committed by those persons holding management, leading or administrative tasks or by the persons with tasks of enforcing court decisions, of judicial reorganization or of liquidation;

b) granting subsidies by infringing the law or not supervising, according to the law, the contracted destinations of the subsidies;

c) using subsidies for other purposes than those they had been granted for, as well as using the credits guaranteed from public funds or which are to be reimbursed from the public funds, for other purposes.

**Art. 11** - (1) The offence of a person who has the obligation to supervise, to control, to reorganize or to liquidate a private economic agent, and carries out any task, mediates or facilitates for it the carrying on of certain commercial or financial operations or participates with capital to such economic agent, if the deed is of such nature as to bring him/her directly or indirectly undue advantages, then, it is an offence and it shall be punished with imprisonment from 1 to 5 years and the interdiction of certain rights.

(2) If the offence stipulated in paragraph (1) has been committed within a period of 5 years from the cessation of the task, it shall be punished with imprisonment from 6 months to 3 years or a fine.

**Art. 12** - The following offence shall be punished with imprisonment from 1 to 5 years, if committed for the purpose of obtaining for himself/herself or for other person, money, goods or other undue advantages:

a) performing financial operations as trade activities, incompatible with the position, duty or task which is carried out by a person or contracting financial transactions using the information obtained by virtue of the position, duty or task;

b) using, in any way, directly or indirectly, the information that is not meant for publicity or allowing the access of unauthorized persons to this information.

**Art. 13** - The offence of the person who has a leadership position in a party or in a political formation, in a trade union or in an employer's organization or a foundation who uses his/her influence or authority for the purpose of obtaining for himself/herself or for somebody else money, goods or other undue advantages, shall be punished with imprisonment from 1 to 5 years.

**Art 13<sup>1\*)</sup>** – Regarding the offence of blackmail provided by art. 207 of the Criminal Code, if it involves one of the persons provided by art. 1, the special limits of the punishments are increased by a third.

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\*) Article 13<sup>1</sup> was introduced by the Law no. 161/2003 published in the Official Gazette no. 279 from April 21<sup>st</sup> 2003.

**Art 13<sup>2\*)</sup>** - Regarding the offences of abuse of office or usurping the position, if the civil servant obtained for himself/herself or for somebody else money, goods or other undue advantages, the special limits of the punishments are increased by a third.

\*) Article 13<sup>2</sup> was introduced by the Law no. 521/2004 published in the Official Gazette no. 1123 from November 29<sup>th</sup> 2004.

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**Art. 14** – Annulled by the Law no. 187/2012.

**Art. 15** - The attempt to commit the offences provided by the present section shall be punished.

**Art. 16** - If the offences provided by the present section constitute more severe offences, according to the Criminal Code or to other special laws, these are punished under the terms and with the sanctions established by those laws.

#### **Section 4**

**\*\*\* Annulled by the Law no. 187/2012**

**Art. 17** – \*\*\* Annulled by the Law no. 187/2012

**Art. 18** – \*\*\* Annulled by the Law no. 187/2012  
Section 4<sup>1</sup> – a<sup>\*)</sup>

#### **Offences against the financial interests of the European Union**

\*) Section 4<sup>1</sup> – a was introduced by the Law no. 161/2003 published in the Official Gazette no. 279 from April 21<sup>st</sup> 2003.

**Art. 18<sup>1</sup>** – (1) Using or presenting in bad faith false, inaccurate or incomplete documents or statements, which has as result the illegal obtaining of funds from the general budget of the European Union or from the budgets administrated by it or on its behalf, shall be punished with imprisonment from 2 to 7 years and interdiction of certain rights.

(2) The deliberate omission to provide the information required according to the law, with the purpose of obtaining funds from the general budget of the European Union or from the budgets administrated by it or on its behalf, shall be sanctioned with the same punishment as the one provided by paragraph (1), if it results in the unfair obtaining of these funds.

(3) If the deeds provided by art. 1 and 2 caused particularly serious consequences the special limits of the punishment shall be increased by a half.

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\*) Art. 18<sup>1</sup> was introduced by the Law no. 161/2003 published in the Official Gazette no. 279 from April 21<sup>st</sup> 2003.

**Art. 18<sup>2</sup>** (1) Changing the destination of the funds obtained from the general budget of the European Union or from the budgets administrated by it or on its behalf, without abiding by the law, shall be punished with imprisonment from 1 to 5 years and the interdiction of certain rights.

(2) Changing the destination of a legally obtained benefit, without abiding by the law, if it results in the illegal diminishing of the resources of the general budget of the European Union or of the budgets administrated by it or on its behalf, shall be sanctioned with the same punishment as the one provided by paragraph 1.

(3) If the deeds provided by paragraphs 1 and 2 caused particularly serious consequence the special limits of the punishment shall be increased by a half.

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\*) Art. 18<sup>2</sup> was introduced by the Law no. 161/2003 published in the Official Gazette no. 279 from April 21<sup>st</sup> 2003.

**Art. 18<sup>3</sup>** (1) Using or presenting in bad faith false, inaccurate or incomplete documents or statements, if it results in the illegal diminishing of the resources of the general budget of the European Union or of the budgets administrated by it or on its behalf, shall be punished with imprisonment from 2 to 7 years and the interdiction of certain rights.

(2) The deliberate omission to provide the information required according to the law, if it results in the illegal diminishing of the resources of the general budget of the European Union or of the budgets administrated by it or on its behalf, shall be sanctioned with the same punishment as the one provided by article (1).

(3) If the offences provided by paragraphs 1 and 2 caused particularly serious consequences, the special limits of the punishment shall be increased by a half.

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\*) Art. 18<sup>3</sup> was introduced by the Law no. 161/2003 published in the Official Gazette no. 279 from April 21<sup>st</sup> 2003.

**Art. 18<sup>4</sup>**) The attempt to commit the offences provided by art. 18<sup>1</sup> - 18<sup>3</sup> shall be punished.

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\*) Art. 18<sup>4</sup> was introduced by the Law no. 161/2003 published in the Official Gazette no. 279 from April 21<sup>st</sup> 2003.

**Art. 18<sup>5</sup>**) - Willingly not observing an office duty, as a result of non-performing it or deficiently performing it, by a director, administrator or the person with decisional or control tasks within an economic agent, if it had as result the perpetration of one of the offences provided by art. 18<sup>1</sup> - 18<sup>3</sup> or the perpetration of a corruption or money laundering offence in connection with the funds of the European Union, by a person subordinated to him/her and who acted on behalf of that specific economic agent, is punished with imprisonment from 6 months to 3 years or a fine.

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\*) Art. 18<sup>5</sup> was introduced by the Law no. 161/2003 published in the Official Gazette no. 279 from April 21<sup>st</sup> 2003.

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## **Section 5 Common provisions**

**Art. 19** – \*\*\* Annulled by the Law no. 187/2012

**Art. 20** - If one of the offences provided by the present article was committed, it is mandatory to take the ensuring measures.

## **Chapter IV Procedural Provisions**

### **Section 1 General provisions**

**Art. 21** – \*\*\* Annulled by the Law no. 255/2013

**Art. 22** - In the case of the offences provided by the present law, the criminal investigation shall be mandatorily carried out by the prosecutor.

### **Section 2 Special provisions on discovering and investigating the offences**

**Art. 23** - (1) The persons with control tasks shall be obliged to notify the criminal investigation body or, as the case may be, the body for ascertaining the perpetration of offences, authorized by law, with regard to any information from which grounds result that an operation or an illicit act, that could draw criminal liability according to the present law, has been performed.

(2) The persons with control tasks are obliged, during the performing of the control act, to proceed to the ensuring and preserving the traces of the offence, of the material evidence and of any means of proof that might assist the criminal investigation body.

**Art. 24** - The persons provided by art. 1 let. e), who are aware of operations that involve the circulation of capitals or other activities, provided by art. 1, regarding amounts of money, goods or other values that are supposed to originate from corruption offences, offences assimilated to corruption or offences in connection with corruption, have the obligation to notify the criminal investigation bodies or, as the case may be, the bodies for ascertaining the perpetration of the offence or the control bodies authorized by law.

**Art. 25** - (1) The performing in good faith of the obligations provided by art. 23 and 24 shall not constitute an infringement of the professional or banking secret and shall not draw criminal, civil or disciplinary liability.

2) The provisions stipulated in paragraph. (1) shall apply even if the investigation or the trial of the notified offences led to not starting or cessation of the criminal investigation or to acquittal.

(3) Annulled by the Law no.161/2003.

4) Not fulfilling in bad faith the obligations provided by art. 23 and 24 constitutes an offence and shall be punished with imprisonment from 6 months to 5 years, if the deed does not constitute a more serious offence.

5) If the deed provided by paragraph (4) was committed by fault, the punishment shall be imprisonment from 3 months to 2 years or a fine.

**Art. 26** - The banking and the professional secrets, except for the professional secret of lawyers exercised according to the law, are not opposable nor to the prosecutor, after the start of criminal investigations, neither to the courts.

**Art. 26<sup>1</sup>** - \*\*\*was introduced by the Government Emergency Ordinance no. 124/2005 and it was annulled by the Law no. 255/2013

**Art. 27** - \*\*\* Annulled by the Law no. 255/2013

**Art. 28** - \*\*\* Annulled by the Government Emergency Ordinance no. 43/2000

**Art. 29** - (1) Specialized panels of judges shall be set up for the trial in the first instance of the offences provided by the present law.

(2) \*\*\* Annulled by the Government Emergency Ordinance no. 50/2006

### **Section 3 Common provisions**

**Art. 30 - Art. 31** - \*\*\* Annulled by the Law no. 255/2013

### **Chapter V Final Provisions**

**Art. 32** \*\*\* Annulled by the Law no.161/2003.

**Art. 33** - Any provision contrary to the present law shall be annulled.

The current law was adopted by the Chamber of Deputies and by the Senate in the common session from April 12<sup>th</sup> 2000, in compliance with the provisions of article 74 paragraph (1) and article 76 paragraph (2) of the Romanian Constitution.

PRESIDENT OF THE CHAMBER OF DEPUTIES  
**ION DIACONESCU**  
PRESIDENT OF THE SENATE  
**ULM NICOLAE SPINEANU**