



6 Maior Gheorghe Sontu Street, 2nd floor, 1st District,
Bucharest, Romania
Telephone: (+40-21) 326 60 53 Fax : (+40-21) 326 60 60
e-mail: office@bbnalaw.com, admin@bbnalaw.com

NEWSLETTER

THIS NEWSLETTER AIMS TO PRESENT THE RECENT LEGISLATIVE CHANGES THAT MAY IMPACT YOUR BUSINESS.

THIS PUBLICATION DOES NOT CONTAIN LEGAL ADVICE AND / OR FISCAL, SOLELY GENERAL INFORMATION. WE RECOMMEND REQUESTING PROFESSIONAL LEGAL ADVICE PRIOR TO IMPLEMENTING ANY DECISION BASED ON THIS NEWSLETTER.

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BOGARU, BRAUN NOVIELLO & ASSOCIATES



6 Maior Gheorghe Sontu Street, 2nd floor, 1st District,
Bucharest, Romania

Telephone: (+40-21) 326 60 53 Fax : (+40-21) 326 60 60

e-mail: office@bbnalaw.com, admin@bbnalaw.com

LAW NO. 126/2018 ON THE FINANCIAL INSTRUMENTS MARKETS

On Tuesday, the 26 of June 2018, the Romanian Parliament adopted the Law no. 126/2018 (hereinafter the "Law") on the financial instruments markets, published in the Official Gazette no. 521/26.06.2018.

This Law represents the transposition in the national law of the Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

This Law regulates the functioning and the requirements that must be fulfilled by investment firms and credit institutions coming from the member states of the European Union or by third-country trading companies, which establish a subsidiary in Romania, to legally provide financial investment services.

The Law also contains the legal definitions of the common used terms in the field of financial markets, the conditions for the access to regulated markets, as well as the designation of the competent national bodies to regulate and supervise the performance of investment services or investment activities.

In order to provide professional investment services, it is necessary to obtain the prior authorization issued by the A.S.F. (the Authority of Financial Supervision) in the case of financial investment firms, or B.N.R. (National Bank of Romania) in the case of credit institutions.

The Law also creates the legal frame so that the institutions of central depository, central counterparty (CCP) and data reporting service providers to be regulated in the national Law in accordance to the Directive 2014/65/EU.

Specific rules regarding the special administration, the insolvency and the liquidation of the entities operating on the financial market are also to be found in the present Law.

BOGARU, BRAUN NOVIELLO & ASSOCIATES



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Bucharest, Romania
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e-mail: office@bbnalaw.com, admin@bbnalaw.com

LAW NO. 129/2018 FOR THE MODIFICATION AND COMPLITION OF THE LAW NO. 102/2005 REGARDING THE SET UP, ORGANIZATION AND FUNCTIONING OF THE NATIONAL SUPERVISORY AUTHORITY FOR PERSONAL DATA PROCESSING, AS WELL AS FOR THE ABOLITION OF LAW NO. 677/2001 FOR THE PROTECTION OF PERSONS REGARDING THE PROCESSING OF PERSONAL DATA AND THE FREE FLOW OF THESE DATA

The Romanian Parliament adopted the Law no. 129/2018 (hereinafter the "Law") for the modification and completion of the Law no. 102/2005 regarding the set-up, organization and functioning of the National Supervisory Authority for Personal Data Processing, as well as for the abolition of Law no. 677/2001 for the protection of persons regarding the processing of personal data and the free flow of these data, published in the Official Gazette no. 503/19.06.2018.

The present Law slightly modifies the internal organization of the National Supervisory Authority for Personal Data Processing, but its major impact refers to the creation of the legal base that allows the National Supervisory Authority for Personal Data Processing to exercise the control attributions and to make investigations in its area of competence.

The agents of the Authority are entitled to carry out investigations, including unannounced ones, and they are allowed to request and obtain from the operator and the person empowered by the operator or, if case might be, from their representatives, any information or documents, regardless of the storage medium, and to make copies of them. The agents shall have full access to any premises of the operator and have the right to verify any equipment or storage medium.

The Authority is also entitled to apply sanctions, that can be according to the Law, a formal reprimand or a misdemeanor fine that can be applied in a 3 months period after the date when the violation of the regulations occurred.

The Authority is also in charge of receiving and solving the complaints of any person who considers that the processing of his/her personal data does not respect the legal provisions in force.\

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e-mail: office@bbnalaw.com, admin@bbnalaw.com

GOVERNMENT EMERGENCY ORDINANCE NO. 46/2018 REGARDING THE CREATION, THE ORGANIZATION AND THE FUNCTIONING OF THE NATIONAL OFFICE FOR CENTRALIZED ACQUISITIONS

On the 31 of May 2018, the Romanian Government adopted the Government Emergency Ordinance no. 8/2018 (hereinafter the "GEO"), regarding the creation, the organization and the functioning of the National Office for centralized acquisitions, published in the Official Gazette no. 476/08.06.2018.

The National Office for Centralized Acquisitions is established as a centralized procurement unit in compliance with the provisions of art. 3 par. (1) letter b) of the Law no. 98/2016 on public procurement.

The main attributions that were delegated to the newly created Office are the conclusion of framework agreements in the field of public procurement and the administration of dynamic purchasing systems.

The Users (public institutions) conclude subsequent contracts based on the framework agreements signed by the ONAC in their own name and for them, or procurement contracts within the dynamic procurement systems managed by the ONAC, under the terms of the law.

For further information, do not hesitate to contact:

Christian Bogaru, Partner

Tel: +0213266053

Fax: +0213266060

Email: office@bbnalaw.com