

LAW No. 31 of 16 November 1990 * Republished
on trading companies**

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Text in force beginning with 12 January 2007

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

The text of the Law No. 31/1990, republished in the Official Gazette of
Romania, Part I, No. 1066 of 17 November 2004, was updated by the legislative
software LEX EXPERT on the basis of the statutory instruments, published in the
Official Gazette of Romania, Part I, until 9 January 2007:

- the Law No. 302/2005;
- the Law No. 85/2006, with subsequent amendments;
- the Law No. 164/2006;
- the Law No. 441/2006;
- the Law No. 516/2006.

NOTE:

In the updated version all amounts previously expressed in old ROL have
been conveyed into new ROL (RON).

TITLE I

General provisions

ART. 1

(1) With a view to carrying out trading operations, the natural and legal
persons may associate and set up trading companies, in compliance with the
provisions of the present law.

(2) The trading companies which have their registered office in Romania shall
be Romanian legal persons.

ART. 2

The trading companies shall be set up under one of the following forms: a)
general partnership; b) limited partnership; c) joint-stock company d) limited
partnership by shares; e) limited liability company.

ART. 3

(1) A company's social obligations shall be guaranteed with its registered
assets.

(2) The associates in a general partnership, as well as the active partners in a
limited partnership or in a limited partnership by shares shall have an unlimited
and joint liability for the company's obligations. The creditors shall first go against

the company to fulfil its obligations and will go against the associates only if it does not meet payments within 15 days from the date of receiving notice.

(3) The shareholders, the sleeping partners, as well as the associates in a limited liability company may be kept liable only up to the value of their subscribed registered capital.

ART. 4

A trading company shall have at least two associates except for the case where the law provides otherwise.

TITLE II

Setting up trading companies

CHAPTER I

The constitutive act of the trading company

ART. 5

(1) The general partnership company or the limited partnership shall be set up by a company contract, while the joint-stock company, the limited partnership by shares or the limited liability company shall be set up by a company contract and its articles of association.

(2) The limited liability company may be set up by the act of will of a single person. In this case only the articles of association shall be drawn up.

(3) The company contract and the articles of association may be drawn up as a single document entitled the constitutive act.

(4) When only the company contract or only the articles of association are concluded, they could also be called constitutive act. Within the present law the constitutive act designates both the single document and the company contract and/or the company's articles of association.

(5) In case the company contract and the articles of association are separate acts, the articles of association shall include the identification data of the associates and clauses which govern the organisation, functioning and carrying on of the company's activity.

(6) The constitutive act shall be concluded under private signature, shall be signed by all associates or, in case of a public subscription, by the founders. The authenticated form of the constitutive act shall be mandatory when:

a) among the goods subscribed as contribution to the registered capital there is a land;

b) it is set up a general partnership or a limited partnership;

c) the joint-stock company is set up by public subscription.

(7) The constitutive act shall also have a certain date after being submitted to the trade register office.

ART. 6

(1) The signatories of the constitutive act as well as the persons with a decisive role in the setting up of the company shall be considered as founders.

(2) The persons who, according to the law, are incapacitated or have been sentenced for fraudulent management, breach of trust, forgery, use of forgeries,

cheating, embezzlement, perjury, bribery, as well as for the criminal offences provided in Article 143 - 145 of the Law No. 85/2006 on the insolvency proceedings or for those provided by this law, cannot assume the position of founders.

ART. 7

The constitutive act of the general partnership, of the limited partnership, and of the limited liability company shall contain:

a) the identification data of the associates; in case of a limited partnership the active partners shall be identified;

b) the form, denomination and registered office;

c) the company's object of activity, the field of action and the main activity;

d) the registered capital, with special mention of each associate's contribution, whether in cash or in kind, the value of the contribution in kind and the manner of evaluation. In a limited liability company the number and the nominal value of all registered shares, as well as the number of registered shares attributed to each associate for his contribution shall be specified;

e) the associates who represent and manage the company or the non-associated administrators, the powers vested in them and whether they are going to exert the powers together or separately;

e¹) in case of limited liability companies, the identification data of the censors or financial auditors, if they were appointed;

f) each associate's share in the profits and losses;

g) location of its subsidiaries - branches, agencies, representations or other offices of the same kind without legal personality - when they and the company are set up at the same time, or conditions to set them up at a later date if such a setting up is considered;

h) duration of the company;

i) the method of dissolution or liquidation of the company.

ART. 8

The constitutive act of the joint-stock company or of the limited partnership by shares shall contain:

a) the identification data of the founders; in case of a limited partnership by shares the active partners shall be identified;

b) the form, denomination and the registered office;

c) the company's object of activity, specifying the field of action and its main activity;

d) the subscribed and deposited registered capital and, in case the company has an authorised capital, its quantum;

e) the nature and value of the assets brought as contribution in kind, the number of shares attributed against them and the name or, as applicable, the denomination of the person that brought them as contribution;

f) the number and nominal value of the shares, specifying whether they are registered or on bearer;

f¹) if there are more categories of shares, the number, nominal value and rights conferred to each category of shares;

f²) any restriction with regard to the transfer of shares;

g) the identification data of the first members of the board of directors or, respectively, of the first members of the supervisory board;

g¹) the powers conferred to the administrators and, as the case may be, managers, and whether they are going to exert them together or separately;

h) the identification data of the first censors or of the first financial auditor;

i) clauses regarding the management, administration, functioning and control of administration of the company by the statutory bodies, the number of members of the board of directors or the manner for establishing this number;

i¹) the representation powers conferred to the administrators and, as the case may be, to the managers or to the members of management, respectively, and whether they are going to exert them together or separately;

j) duration of the company;

k) method of profit distribution and loss bearing;

l) location of its subsidiaries - branches, agencies, representations or other offices of the same kind without legal personality - when they and the company are set up at the same time, or the conditions to set them up at a later date if such a setting up is considered;

m) any special benefit granted, at the time of setting up the company or until the company is authorised to begin its activity, to any person that participated in the setting up of the company or in transactions that lead to the granting of the authorisation in question, as well as the identity of the beneficiaries of such benefits;

n) the number shares of the sleeping partners in a limited partnership by shares;

o) the total amount or at least an estimate amount of all setting up costs;

p) method of dissolution or liquidation of the company.

ART. 8

The identification data provided in Article 7 a), e) and e¹) or in Article 8 a), g) and h), respectively, shall include:

a) for the natural persons: the first name, surname, personal code number and, if applicable, its equivalent, according to the applicable national legislation, the place and date of birth, the domicile and citizenship;

b) for the legal persons: the name, head office, nationality, registration number in the trade register or the sole registration code, according to the applicable national laws.

ART. 9

(1) The joint-stock company may be set up only by full and simultaneous subscription of the registered capital by all signers of the constitutive act or by public subscription.

(2) In case of a full and simultaneous subscription of the registered capital by all signers of the constitutive act, the registered capital paid-in upon setting up may not be less than 30% of the subscribed capital. The difference of subscribed social capital shall be paid in:

a) for the shares issued for a cash contribution, within 12 months as of the date of registration of the company;

b) for the shares issued for a contribution in kind, within maximum 2 years as of the date of registration.

ART. 9¹

The general partnership, the limited partnership and the limited liability company shall be bound to fully pay the subscribed registered capital on the date of setting up.

ART. 10

(1) The registered capital of the joint-stock company and of the limited partnership by shares cannot be lower than ROL 90 000. The Government shall change once in 2 years at the most, the minimum value of the registered capital, taking into account the exchange rate, so as this amount be the equivalent in ROL of EUR 25 000*).

(2) Except for the case when the company is transformed in another type of company, the registered capital of the companies provided in paragraph (1) may not be reduced below the lawful minimum level unless its value is brought to a level at least equal to the lawful minimum level by adopting a decision to increase the capital at the same time with the decision to reduce the capital. In case these provisions are violated, any person concerned may go to court to request the dissolution of the company. The company shall not be dissolved if, by the time the dissolution judgement is irrevocable, the registered capital is brought to the value of the lawful minimum level provided by this law.

(3) The number of shareholders in a joint-stock company cannot be under 2. In case the company has less than 2 shareholders for a period longer than 9 months, any party concerned may ask the court to dissolve the company. However the company shall not be dissolved if, by the time the dissolution judgement is irrevocable, the minimum number of shareholders provided by this law is reconstituted.

*) We reproduce below the provisions of Article 2 of the Law No. 302/2005.

"ART. 2

(1) Within one year as of the date of entry into force of this law, the joint-stock companies and the limited partnership by shares where the registered capital is lower than the value provided in point 1 of Article I shall have the obligation to increase, according to the law, the registered capital at a value of minimum EUR 25 000, in ROL equivalent, calculated at the exchange rate communicated by the National Bank of Romania on the subscription date.

(2) As of the date of expiry of the time limit provided in paragraph (1), the National Trade Register Office shall request the courts to dissolve joint-stock companies and the limited partnership by shares that failed to meet their obligation to increase the registered capital within the limits provided by the law.

(2¹) The increase of registered capital may also be carried out by the 31 January 2007 by using the reserves, except for the legal reserves, as well as for the capital-related benefits and premiums, including by making use of the favourable differences resulted from the revaluation of the registered capital or by whatever means allowed by the law."

ART. 11

(1) The registered capital of the limited liability company cannot be lower than ROL 200 and it shall be divided into equal registered shares that cannot be less than ROL 10 each.

(2) The registered shares cannot be represented by negotiable instruments.

ART. 12

In a limited liability company the number of the associates cannot be higher than 50.

ART. 13

(1) In case that, in a limited liability company, the registered shares belong to a single person as a sole associate, that person shall have the rights and duties prescribed, according to this present law, for the general assembly of associates.

(2) If the sole associate is also the administrator he shall also assume the duties prescribed by the law for this capacity.

(3) In a company set up by a sole associate the value of his contribution in kind shall be assessed by specialised experts.

ART. 14

(1) A natural person or a legal person can not fill the position of sole associate in more than one limited liability company.

(2) A limited liability company cannot have, as a sole associate, another limited liability company set up by a single person.

(3) In case the provisions of paragraph (1) and (2) of this article are violated, the State through the Ministry of Finance, as well as any interested person may request the dissolution of such a company by way of court decision.

(4) Based on the dissolution decision, the liquidation shall be carried out according to the rules prescribed by this present law for limited liability companies.

ART. 15

The contracts between the limited liability company and the natural or legal person, which is a sole associate of the former, shall be concluded in writing, under the sanction of absolute nullity.

ART. 16

(1) Contributions in cash shall be mandatory when setting up companies of any kind.

(2) Contributions in kind must be assessable economically. They shall be admissible in all forms of companies and shall be paid by transferring the relevant rights and by effective delivery to the company of the assets in a good to use condition.

(3) The contributions in debt-claims shall have the legal regime of contributions in kind, shall not be admitted in joint-stock companies set up by public subscription, nor in limited partnerships by shares or in limited liability companies. Contributions in debt-claims shall be paid according to Article 84.

(4) Work or service provisions cannot be considered as contributions to form or to increase the registered capital.

(5) The associates in a general partnership and the active partners may assume the obligation to come with work performances as contributions, but

these contributions cannot be considered as such with the purpose to form or to increase the registered capital. In exchange for such contributions the associates shall be entitled, according to the constitutive act, to share in the distribution of profits and company's assets remaining, at the same time, bound to pay their share of possible losses.

ART. 17

(1) At the time of authentication of the constitutive act in the cases provided in Article 5 or, as the case may be, in giving a certain date to such act, the company shall produce the proof issued by the trade register office regarding the availability of the company and an affidavit regarding the capacity of sole partner in a single limited liability company.

(2) At the same head office several companies may function, if at least one of the following conditions are met:

a) the building, by its structure, allows that more companies function in different rooms;

b) at least one person is, under the terms of the law, partner in each of these companies;

c) if at least one of the associates is the owner of the building that is going to be the company's head office.

(3) If the documentation submitted does not reflect that the conditions provided in paragraph (1) are not satisfied, the notary public shall deny the authentication of the constitutive act or, as the case may be, the person who gives the certain date shall deny the requested operations.

CHAPTER II

Specific formalities to set up joint-stock companies by way of public subscription

ART. 18

(1) In case the joint-stock company is set up by public subscription, its founders shall draw up an issue prospectus containing the data provided under Article 8, except those regarding the administrators and managers, and respectively the management members and of the supervisory board, as well as the censors and, as applicable, the financial auditor and that shall establish the closing date of the subscription.

(2) The issue prospectus, signed by founders in the authentic form, shall be deposited, prior to its publishing, with the trade register office of the county where the company's registered office will be established.

(3) The delegated judge of the trade register office, ascertaining the meeting of the conditions of paragraphs (1) and (2), shall authorise the issue prospectus publication.

(4) The issue prospectus which does not contain all the mentions shall be void. The subscriber cannot be in a position to invoke such nullity if he attended the constitutive assembly or if he exercised the shareholder's rights and duties.

ART. 19

(1) The subscriptions of shares shall be made on one or more copies of the founders' issue prospectus visaed by the delegated judge.

(2) The subscription shall contain: the name and first name or denomination, domicile or registered office of the subscriber; number of subscribed shares, given in letters; subscription date and an express statement that the subscriber knows and accepts the issue prospectus.

(3) The sharing in the company's profits, reserved by founders to their own use, although accepted by subscribers, shall have no effect unless it is approved by the constitutive assembly.

ART. 20

Within a period of maximum 15 days from subscription closing date, the founders shall convene the constitutive assembly by a notice published in the Official Gazette of Romania, Part IV, and in two wide circulation newspapers 15 days prior to the day established for the assembly. The notice shall indicate the place and date of the assembly which cannot take place later than two months from the subscription closing date and also a detailed list of the problems subject to discussion.

ART. 21

(1) The company can be set up only if the full registered capital was subscribed and each acceptor has paid in cash half of the subscribed shares value to the Savings and Consignment Office, to a commercial bank or to one of their subsidiaries. The other half shall have to be paid within 12 months as from the incorporation date.

(2) The shares which represent contribution in kind shall be covered in full.

ART. 22

If the public subscriptions exceed the registered capital stipulated by the issue prospectus, or they are smaller than this one, the founders shall be obliged to submit to the constitutive assembly's approval the increase or the reduction of the registered capital to the subscription level, as the case may be.

ART. 23

(1) The founders shall be obliged to draw up a list of those who, accepting the subscription, are entitled to take part in the constitutive assembly, mentioning the number of shares of each one.

(2) This list shall be posted up at the assembly place, at least 5 days prior to the assembly date.

ART. 24

(1) The assembly shall elect a president and two or more secretaries. The participation of the acceptors shall be ascertained by a list of attendance, signed by each of them and visaed by the president and by one of the secretaries.

(2) Before starting the proceedings of the assembly's agenda any acceptor shall have the right to make remarks regarding the list posted by the founders; the assembly shall have to decide upon the issue.

ART. 25

(1) In the constitutive assembly each acceptor shall have the right to one vote, irrespective of the shares subscribed to. He may also be represented by a special proxy.

(2) No one can represent more than 5 acceptors.

(3) The acceptors who provided contributions in kind shall not have the right to vote in proceedings regarding their contribution even if they are also subscribers of shares paid in cash or they are proxies of other acceptors.

(4) The constitutive assembly shall be considered lawful when half plus one of the acceptors' number are present and it makes decisions by the simple majority vote of those attending the assembly.

ART. 26

(1) In case of contributions in kind, benefits granted to any person that participated in the setting up of the company or in transactions leading to the grant of the authorisation, operations concluded by founders on behalf of the company to be set up and which are going to be taken over by this, the founders shall request to the delegated judge to appoint one or more experts. The provisions of Article 38 and 39 shall apply accordingly.

(2) The report of the expert or experts shall be made available to the subscribers, at the place where the constitutive assembly is going to be reunited.

ART. 27

(1) *** Repealed

(2) If the value of the contribution in kind established by experts is by one fifth lower than the one mentioned by founders in the issue prospectus, any acceptor may withdraw, informing the founders accordingly, until the day established for the constitutive assembly.

(3) The shares of the withdrawn acceptors may be acquired by the founders within a period of 30 days or, subsequently, by other persons by way of public subscription.

ART. 28

The constitutive assembly shall have the following obligations:

- a) to verify the existence of the payments;
- b) to examine and validate the evaluation report of the experts on contributions in kind;
- c) to approve the sharing of founders into profits and the operations concluded on behalf of the company;
- d) to discuss and approve the constitutive act of the company, the present members also representing in this respect the absent members, and to appoint those who shall be present at the authentication of the act and fulfilling the formal procedures required to set up the company;
- e) to appoint the first members of the board of directors or of the supervisory board, and the first censors or, as the case may be, the first financial auditor.

ART. 29

(1) The payments made according to Article 21 to set up the company by public subscription shall be handed over to the persons empowered to collect them according to the constitutive act, and, when such a provision does not exist, to the persons appointed by the decision of the board of directors, respectively of the management, after presentation to the trade register office of the certificate attesting the company's incorporation.

(2) If the company was not set up, the payments shall be returned to the acceptors.

ART. 30

(1) The founders shall be held responsible for the consequences of their deeds and for the expenses incurred by the company's setting up and if, for any reason, it is not set up, they can not rise against the acceptors.

(2) The founders shall be obliged to hand over to the board of directors or to the management, respectively, the documents and correspondence regarding the company's setting up, within 5 days.

ART. 31

(1) The founders and the first members of the board of directors, or of the management and of the supervisory board, shall have a joint liability, as from the moment the company has been set up, to the company and to third parties for:

- full subscription of the registered capital and making the payments as provided by law or by the constitutive act;
- existence of contributions in kind;
- veracity of the publications made in view of setting up the company.

(2) The founders shall also be liable for the validity of the operations concluded on behalf of the company before setting up and undertaken by the company.

(3) The general assembly may not discharge the founders and the first members of the board of directors, or of the management and of the supervisory board, of the responsibility they have according to this article and to Articles 49 and 53, for a period of 5 years.

ART. 32

(1) The constitutive assembly shall decide upon the quota out of the net profit due to the founders of a company set by public subscription.

(2) The quota stipulated under paragraph (1) cannot exceed 6% of the net profit and cannot be granted for a period longer than 5 years from the date of the company's setting up.

(3) In case of increase of the registered capital, the founders' rights could only be exercised upon the profit corresponding to the initial registered capital.

(4) Only natural persons recognized as founders through the constitutive act may benefit by the provisions of this article.

ART. 33

In case of anticipated dissolution of the company, the founders shall be entitled to lay claim to the company for damages, if the dissolution was carried out to the prejudice of their rights.

ART. 34

The right to suit shall be lost by limitation after 6 months from the date of publication in the Official Gazette of Romania, Part IV, of the decision of the general assembly of the shareholders who decided the anticipated dissolution.

ART. 35 *** Repealed

CHAPTER III

Incorporation of the company

ART. 36

(1) Within 15 days as from the authentication date of concluding the constitutive act, the founders or the first administrators or, as applicable, the first members of the management and of the supervisory board or one of their empowered representatives, shall request the incorporation of the company with the trade register in the territorial jurisdiction of which the company will have its headquarters. They shall be jointly liable for any prejudice that they cause by the failure to meet this obligation.

(2) The following documents shall be attached to the application:

- a) the constitutive act of the company;
- b) the proof attesting payments made according to the constitutive act;
- c) the proof attesting the declared registered office and the availability of the company;
- d) in cases of contributions in kind subscribed and paid at the time of setting up, documents attesting ownership and, in case buildings are also involved, the certificate regarding other burdens which may be attached to them;
- e) documents attesting operations concluded on behalf of the company and approved by the associates;
- f) a written statement on their own responsibility signed by the founders, the first administrators, the first members of the management and of the supervisory board, and, if applicable, of the censors by which they declare they satisfy the conditions required by the present law.
- g) other documents or endorsements provided by special laws in view of setting up.

(3) *** Repealed

ART. 37

(1) The control over the legality of the documents and of the deeds which, according to the law, are going to be registered with the trade register, shall be exercised by the judiciary through a delegated judge.

(2) At the beginning of each judicial year, the president of the court shall appoint one or more judges of the court to attend at the trade register office.

(3) The delegated judge may request, on the parties' account, an expert appraisal, as well as the presentation of other evidence.

ART. 38

(1) In cases where joint-stock companies are involved, if there are contributions in kind, benefits reserved to any person that participated in the setting up of the company or in transactions leading to the grant of the authorisation, operations concluded by the founders on behalf of the company to be set up and which are going to be taken over by this, the delegated judge shall appoint, within 5 days as from the application registration date one or more experts from the list of licensed experts. The experts shall draw up a report comprising the description and the method of evaluation of all contributed goods, and shall clearly show if the value of the said goods come up to the number and value of the shares granted in exchange, as well as other elements requested by the delegated judge.

(2) The founders shall submit the report with the trade register office within 15 days as of the date of its approval. The trade register shall forward a notification with regard to this submission to the Autonomous Regie <<Monitorul Oficial>>, to be published at the company's expense.

ART. 39

The following persons cannot be appointed as experts:

a) relatives or kinsmen up to the fourth rank inclusively and spouses of those who came up with contributions in kind or of the founders;

b) the persons who receive, in any way, for the positions they fill, others than that of an expert, a wage or a remuneration from the founders or from those who came up with contributions in kind;

c) any person to who, as a result of its business, work or family relations, is lacking the independence to carry out an objective assessment of the contributions in kind, according to the special norms governing the profession.

ART. 40

(1) In case the legal requirements are met, the delegated judge shall authorise, by way of an interlocutory judgment, delivered within 5 days as from the date the said requirements have been met, the setting up of the company and shall order its incorporation with the trade register, according to the conditions stipulated by the law regarding that register.

(2) The interlocutory judgment of incorporation shall contain the mentions of the constitutive act as provided by Articles 7 and 8, as the case may be.

ART. 41

(1) The trading company becomes a legal person as from the date of its incorporation with the trade register.

(2) Incorporation shall be done within 24 hours as from the date there have been delivered the interlocutory judgment of the delegated judge by which the incorporation of the trading company is authorised.

ART. 42

The branches shall be trading companies having legal personality and it shall be set up in one of the types of company listed under Article 2 and under the terms provided for that type. They shall have the legal status of the type of company in which they have been set up.

ART. 43

(1) The subsidiaries shall be parts without legal personality of the trading companies and they shall be incorporated, before their activity starts, with the trade register of the county where they are to conduct their activity.

(2) If the subsidiary is set up in a locality situated in the same county or the same locality as the company then it shall be incorporated with the same trade register, but distinctly, as a separate incorporation.

(3) The other secondary centres - agencies, work stations and other similar offices - shall be parts without legal personality of the trading companies and shall be referred to only within the incorporation of the company with the trade register of its main headquarters.

(4) Secondary centres cannot be set up under the denomination of branches*).

*) Paragraph (4) reiterates the contents of the former paragraph (5) of Article 43. We reproduce below the note published in the Official Gazette of Romania, Part I, No. 1066 of 17 November 2004, with regard to former paragraph (5) of Article 43.

"According to Article V of the Government Emergency Ordinance No. 32/1997 for the amendment and supplementation of the Law No. 31/1990 on trading companies, approved and amended by the Law No. 195/1997, the provisions of this paragraph shall not apply to the branches without legal personality established by the date of entry into force of the emergency ordinance.

It is recommended to the companies that have set up establishments without legal personality to change the name branch given to them."

ART. 44

The foreign trading companies may set up branches in Romania, according to the provisions of Romanian laws, as well as subsidiaries, agencies, representations or other secondary centres, provided this represents a right recognized as such by their organic articles of association.

ART. 44¹

(1) The purchase by the company, within a time interval of maximum 2 years as of the setting up or as of the authorisation of the onset of the company's activity, of an asset from a founder or a shareholder, against a cash amount or other equivalent value representing at least one tenth of the value of the subscribed registered capital, shall be subject to a prior approval of the general assembly of shareholders, as well as the provisions of Articles 38 and 39, shall be mentioned in the trade register and shall be published in the Official Gazette of Romania, Part IV, and in a wide-spread newspaper.

(2) The purchase operations carried out within the current activity of the company, those made following an order of an administrative authority or of a judicial court, or those carried out within the stock exchange operations shall not be subject to such provisions.

ART. 45

(1) The representatives of the company shall be obliged to submit their own signatures with the trade register office on the date of submitting the registration application, if they have been appointed by the constitutive act, and, within 15 days since their election, by the ones elected during the operation of the company.

(2) The provision of the previous paragraph shall also be accordingly applicable to the heads of the subsidiaries.

CHAPTER IV

Consequences of the infringements of the legal requirements when setting up a company

ART. 46

(1) When the constitutive act does not contain the mentions required by law or contains clauses by which an imperative legal provision is infringed or when a

legal requirement was not satisfied for the setting up the company, then the delegated judge, ex officio or at the request of any persons which formulate an intervention application, shall reject, by a motivated interlocutory judgment, the incorporation application, except for the case where the associates remove the irregularities. The delegated judge shall reflect, in his interlocutory judgment, the achieved regularisations.

(2) In case there have been formulated intervention applications, the judge shall summon the interveners and he shall rule on their applications under the terms of Article 49 and the following of the Civil procedure code, and the provisions of Article 335 of the Civil procedure code shall not be applicable.

ART. 47

(1) In case the founders or the company's representatives did not request its incorporation within the time limit set by the law, anyone of the associates may request incorporation with the trade register office after previously, by notification or by registered letter, gave them formal notice and they did not conform themselves within 8 days after receiving notice.

(2) Still, if incorporation was not effected within the time limits as stipulated by the previous paragraph, then the associates shall be discharged of their obligations proceeding from their subscriptions after passing a 3 months' period since the constitutive act has been authenticated, except when the said act provides otherwise.

(3) If one of the associates has requested that the incorporation requirements are met, then the others shall not be in a position to request discharge of their obligations as they result from the subscriptions.

ART. 48

(1) In case some irregularities are discovered after incorporation, the company shall be obliged to proceed for their removal within 8 days, at the most, since they have been ascertained.

(2) If the company does not take action then any interested person may request the court to oblige the management of the company to regularise them under penalty of payment of comminatory damages.

(3) The right to initiate a regulatory suit shall be lost by limitation after one year as from the date the company has been incorporated.

ART. 49

The founders, the representatives of the company and the first members of the management, administration and control bodies of the company shall have an unlimited and joint liability for the damages caused by the irregularities mentioned by Articles 46 to 48.

ART. 50

(1) The acts or deeds, for which the publicity provided by the law has not been made, cannot be opposed to third parties, except for the case where the company proves they had good knowledge of the said.

(2) Operations concluded by the company before the 16th day since the publication in the Official Gazette of Romania, Part IV, of the interlocutory judgment of the delegated judge shall not be opposable to third parties which prove they could not take knowledge of the said.

ART. 51

However, the third parties may invoke the acts or deeds about which the publicity was not made, except for the case where lack of publicity renders them useless.

ART. 52

In case of incongruities between the text submitted to the trade register office and the one published in the Official Gazette of Romania, Part I, or in the newspapers, the company may not oppose the published text to third parties. The third parties may oppose to the company the published text, except for the case when the company presents proof that they had good knowledge of the text submitted to the trade register office.

ART. 53

(1) The founders, the representatives and other persons who worked in the name of a company to be set up shall have a joint and unlimited liability to the third parties for the juridical acts concluded with them on behalf of the company, except for the case when the company, after acquiring legal personality, takes the said over as being its own. The acts taken over as such shall be considered as belonging to the company ever since their being concluded.

(2) In case the company, owing to its business object, can not begin the activity without being authorised for this purpose, the provisions of paragraph (1) shall not be applicable to the commitments resulted from the contracts concluded by the company, provided that it received such authorisation. In this case, the liability shall devolve on the company.

ART. 54

(1) After completing the advertising formalities in relation to the persons that, as company's bodies, are authorised to represent it, the company may not oppose to third parties any irregularity to their appointments, except when the company makes proof that such third parties had knowledge of this irregularity.

(2) The company cannot invoke to the third parties the appointments in the offices mentioned in paragraph (1) or the termination of the offices if they were not published according to the law.

ART. 55

(1) The company in its relations with third parties shall become responsible for the acts concluded of their bodies even if these acts exceed the object of activity of the company, except for the case where it proves that the third parties knew it or, under the given circumstances, had to know about its exceeding or when the acts thus concluded exceed the limits of the powers provided by the law for such bodies. The publishing of the constitutive act by it alone cannot be taken as proof for being in the know.

(2) The clauses of the constitutive act or the decisions taken by the statutory bodies of the companies as prescribed in the previous paragraph, which limit the powers vested into them by the law, cannot be opposed to third parties, even if they have already been published.

ART. 56

The nullity of a company incorporated with the trade register can be declared by the court only when:

- a) the constitutive act is missing or when the said was not concluded in a duly certified form, in the cases provided in Article 5 (6);
- b) all founders were legally incapable at the time when the company was set up;
- c) the company's object of activity is illicit or against public order;
- d) the interlocutory judgment of the delegated judge for the company's incorporation is missing;
- e) the administrative legal authorisation of the company's setting up is missing;
- f) the constitutive act does not mention the denomination of the company, its object of activity, the contributions of the associates or the subscribed registered capital;
- g) legal provisions regarding the minimum registered capital, subscribed and paid in were not observed;
- h) the minimum number of associates provided by the law was not observed.

ART. 57

The nullity cannot be declared in case its cause, invoked in the annulment suit, has been removed before the closing argument before the court.

ART. 58

(1) On the day the court decision by which the nullity was declared has become irrevocable, the company shall cease to exist with no retroactive effect and goes into liquidation. The legal provisions regarding liquidation of companies following their dissolution shall be applied accordingly.

(2) The company's liquidators shall also be appointed by the same court decision which declared the nullity.

(3) The court shall send the enacting terms of this decision to the trade register office which, after taking relevant notice, shall send it to the Official Gazette of Romania in order to be published in Part IV, in extract.

(4) The associates shall remain liable for social obligations until they are covered according to the provisions of Article 3.

ART. 59

(1) The declaration of the company's nullity shall have no effect on the acts concluded on its behalf.

(2) Neither the company nor the associates can oppose the nullity of the company to bona fide third parties.

CHAPTER V

Some procedural provisions

ART. 60

(1) The interlocutory judgments of the delegated judge regarding the incorporation or any other entries with the trade register shall be executory by right and they shall be subject only to appeal.

(2) The time limit for the appeal shall be of 15 days and it shall resume its course as from the date the interlocutory judgment was delivered for the parties and from the date when the interlocutory judgment or the act amending the

constitutive act is published in the Official Gazette of Romania, Part IV, for any other parties concerned.

(3) The appeal shall be submitted to and mentioned in the trade register where registration of the company was effected. Within 3 days as from the date it was submitted, the trade register office shall file the appeal with the court of appeal of the area where the company has its registered office and, in case of branches set up in a different county, to the competent court of appeal of the area where the subsidiary has its registered office.

(4) The grounds of the appeal may be submitted to the court at least two days prior to the trial term.

(5) In case the appeal is admitted, the decision of the appeal court shall be mentioned in the trade register, and the provisions of Articles 48 - 49 and 56 - 59.

ART. 61

(1) The social creditors and any other persons for whom the decisions of the associates regarding amendments to the constitutive act may be prejudicial to their rights may formulate an opposing application by which they request the court to force, as the case may be, the company or the associates to remedy the prejudice caused, and the provisions of Article 57 shall apply.

(2) Within the meaning of this present law, decision of the associates means also decision of the management statutory bodies of the company, while the term associates includes also the shareholders, except for the case when the context reflects a different meaning.

ART. 62

(1) The opposing suit may be filed within 30 days as from the date the decision or the amending rider have been published in the Official Gazette of Romania, Part IV, if the present law does not provide otherwise. It shall be filed with the trade register office which, within 3 days from submission, shall make the relevant mention in the register and then file it with the district court of the company's registered office.

(2) The provisions of Article 133 referring to suspension shall apply accordingly. The opposing suit shall be tried in the Court chamber, with the summoning of the parties, and the provisions of Article 114 (5) of the Civil procedure code shall be applicable.

(3) The decision taken by the court following an opposing suit shall be subject only to appeal.

ART. 63

The applications and the remedies provided by the present law and which come within the powers of the courts shall be settled by the district court of the company's main registered office.

ART. 64

The summoning of the parties before the delegated judge and the communication of his acts shall be carried out by the trade register office using the services of the post-office by registered letter the official receipt of which shall be attached to the file, or by the agents of the trade register office, or under the terms of the Civil procedure code.

TITLE III
Operation of trading companies

CHAPTER I
Common provisions

ART. 65

(1) Unless stipulated otherwise, the assets constituted as contribution in the company shall become its property as from the moment of its incorporation with the trade register.

(2) The associate who delays to deliver his registered contribution shall be liable for the damages caused, and if the contribution was stipulated to be made in cash, he shall also be liable to pay the legal interest as from the day he was bound to make the payment.

ART. 66

(1) During the company's life the associate's creditors may exercise their rights only upon the share in the profit due to the respective associate after the registered balance sheet has been drawn and, after the dissolution of the company, upon the shares he would be entitled to through liquidation.

(2) The creditors stipulated under paragraph (1) may however deduct, during the company's life, the part due to the associates through liquidation, or can sequester and sell the shares of their debtor.

ART. 67

(1) The share of the profits to be paid to each associate represents a dividend.

(2) The dividends shall be paid to the associates in proportion with their participation quota in the registered and paid capital, unless the constitutive act provides otherwise. They shall be paid within the deadline established by the general assembly of shareholders or, as the case may be, established by special laws, but not later than 6 months from the date when the annual financial statement related to the closed financial year was approved. Otherwise, the trading company shall pay a penalty for the delay period, at the level of the legal interest, unless the constitutive act or the general assembly of shareholders that approved the financial statement related to the closed financial year established a higher interest.

(3) Dividends can be distributed only out of lawfully-established profits.

(4) Dividends paid in violation of the provisions of paragraphs (2) and (3) shall be reimbursed, if the company makes the proof that the associates were aware of the irregularity concerning the distribution or, under the real circumstances, they had to be aware of it.

(5) The right to sue for the reimbursement of the dividends, paid against the provisions of paragraph (2) and (3), shall be prescribed within 3 years since the day of their distribution.

(6) The dividends due after the shares changed the owner shall belong to the assignee, unless otherwise agreed by the parties.

ART. 68

The contribution made by the associates to the registered capital shall not be interest bearing.

ART. 69

If a net asset decrease is ascertained, the registered capital shall have to be completed or cut down prior to any profit assignment or distribution.

ART. 70

(1) The administrators can carry out all the operations required for the fulfilment of the company's object of activity, except for the restrictions mentioned by the constitutive act.

(2) They shall be bound to take part in all the company's meetings, in the meetings of the board of directors and of managing bodies similar to this.

ART. 71

(1) The administrators who are entitled to represent the company, can only transfer this right if this was expressly granted to them.

(2) In case of infringement of the provisions of paragraph (1) the company can claim from the substituted person the profits resulting from the operation.

(3) The administrator who, no right being granted to him in this respect, substitutes another person for himself, shall be jointly liable with this person for possible damages caused to the company.

ART. 72

The administrator' duties and liability shall be governed by the provisions regarding the proxy and by those specifically stipulated under the present law.

ART. 73

(1) The administrators shall be jointly liable towards the company for:

- a) reality of payments effected by associates;
- b) actual existence of the paid dividends;
- c) existence of the registers required by law and their correct updating;
- d) exact fulfilment of the decisions of the general assembly;
- e) strict fulfilment of the duties imposed by the law and by the constitutive act.

(2) The action for responsibility against the administrators shall also belong to the company's creditors but they could only lay claim to it in case the procedure regulated by the Law No. 64/1995*) on the judicial reorganisation procedure and bankruptcy, republished, is opened.

*) The Law No. 64/1995 was repealed. See the Law No. 85/2006.

ART. 73¹

The administrator, manager, director, financial auditor or censor of the debtor company, who is guilty of any of the criminal acts provided by this law or by the Law No. 85/2006 on the insolvency proceedings, in case of withdrawal of the right to hold or acquire such a quality or position at any legal person with patrimony purpose, for a period longer than 5 years as of the date when the conviction judgement is irrevocable.

ART. 74

(1) In any invoice, tender, order, tariff, prospectus and other documents used in the trading field, issued by a company, the denomination, the legal form, the

registered office, the number in the trade register and the sole registration code must be mentioned. The cash receipts from the electronic cash registers, which shall include the elements provided by the legislation in the field, shall be excepted.

(2) If the joint-stock company opts for a dual administration system, in compliance with the provisions of Article 153, the documents provided in paragraph (1) shall also have the mention <<company administered in dual system>>.

(3) The documents provided in paragraph (1), if they come from a limited liability company, shall also mention the registered capital, and if they come from a joint-stock company or a limited partnership by shares, both the subscribed and the paid capital shall be mentioned.

(4) In case the documents provided in paragraph (1) are issued by a subsidiary, they must also mention the trade register office where the subsidiary was registered and its registration number.

(5) If the company has its own website, the information provided in paragraphs (1) and (3) shall also be published on the company's website.

CHAPTER II

General partnerships

ART. 75

The right to represent the company belongs to each administrator, unless otherwise stipulated by the constitutive act.

ART. 76

(1) In case the constitutive act prescribes that the administrators must work together, the decision must be made unanimously; in case of disagreement among the administrators, the decision shall be made by the associates representing the absolute majority of the registered capital.

(2) For urgent acts, whose unfulfilment would cause great damage to the company, a single administrator may decide in the absence of the others who are in the impossibility, even momentarily, to take part in the management of the company.

ART. 77

(1) The associates representing the absolute majority of the registered capital may elect one or more administrators among themselves, establish their powers, duration of their term of office and their possible remuneration, unless otherwise stipulated by the constitutive act.

(2) The same majority may decide the administrators' discharge or the limitation of their powers, except for the case when the administrators were appointed through the constitutive act.

ART. 78

(1) In case a administrator takes the initiative of an operation exceeding the limits of an ordinary operation in the line of trade carried out by the company, he must advise the other administrators prior to concluding respective operation under the sanction of bearing the consequences resulting therefrom.

(2) In case of opposition of one of them, the decision shall be made by the associates representing the absolute majority of the registered capital.

(3) The operation concluded against the opposition made shall be valid towards third parties who were not informed about this opposition.

ART. 79

(1) The associate who, in a certain operation, has, on his own or on another one's behalf, interests contrary to those of the company, cannot take part in any proceedings or decision-making regarding this operation.

(2) The associate breaking the provisions of paragraph (1) shall be liable for the damages caused to the company if, without his vote, the required majority would not have been met.

ART. 80

The associate who, without the written consent of the other associates, uses the capital, the assets or the credit of the company for his own or another person's benefit shall be bound to reimburse the resulting profits to the company and to pay the damages caused.

ART. 81

(1) No associate may take out of the company's funds more than what was allotted to him, for the expenses which were incurred or for those he is to make in the company's interest.

(2) The associate breaking this provision shall be liable for the amounts taken and for damages.

(3) The constitutive act may stipulate that the associates may take out of the company's cashier's safe certain amounts, for their private expenses.

ART. 82

(1) The associates may take part, as partners with unlimited liability, neither in other competing companies or having the same object of activity, nor may they operate on their own or on others' behalf, in the same trading branch, or in a similar one, without the consent of the other associates.

(2) Consent shall be validly taken into account only if the participation or operations, prior to the constitutive act were known by all the other associates and their continuation was not forbidden.

(3) In case of breaking the provisions of paragraphs (1) and (2), the company, beside the right to exclude the associate, can decide whether he worked on its behalf or can claim for damages.

(4) This right shall be cancelled after a three months' period passing from the day the company took knowledge of the situation without making any decision.

ART. 83

In case the contribution to the registered capital belongs to several persons, these shall be jointly liable towards the company and shall have to appoint a common representative to exercise the rights resulting from this contribution.

ART. 84

(1) The associate who deposited as contribution one or more debts cannot be considered as having fulfilled his obligations until the company has obtained the payment of the amount for which the debts were deposited.

(2) If the payment could not be obtained by suing the assigned debtor, the associate, besides damages, shall be liable for the sum which is due including the legal interest on the day the debts are falling due.

ART. 85

(1) The associates shall be unlimitedly and jointly liable for the operations carried out in the company's name, by the persons representing it.

(2) The judgment obtained against the company shall be opposable to each associate.

ART. 86

(1) For the approval of the annual financial statement and in order to make the decisions regarding the administrators' liabilities the vote of the associates representing the registered capital majority shall be needed.

(2) The advertising formalities with regard to the annual financial statements shall be carried out in compliance with the provisions of Article 185.

ART. 87

(1) The transfer of the contribution to the registered capital shall be possible in case it was permitted by the constitutive act.

(2) The transfer shall not liberate the assigning associate from the part he owes to the company out of his contribution to the capital.

(3) The assigning associate shall stay liable against third parties according to Article 225.

(4) When the constitutive act stipulates the cases of an associate's withdrawal, the provisions of Articles 225 and 229 shall be applied.

CHAPTER III

Limited partnerships

ART. 88

The management of a limited partnership shall be entrusted to one or several active partners.

ART. 89

(1) The sleeping partner may conclude operations on behalf of the company, only on the basis of a special power of attorney for certain operations, granted by the company's representatives and registered in the trade register. Otherwise, the sleeping partner shall become unlimitedly and jointly liable against third parties for all the company's obligations, undertaken since the date of the operations concluded by him.

(2) The sleeping partner may carry out operations in the company's domestic administration and control, may take part in the procedures for appointing and dismissing the administrators in the cases provided by law, or may grant the administrators' authorisation, within the limits of the constitutive act, to perform operations exceeding their powers.

(3) The sleeping partner shall also have the right to ask for a copy of the annual financial statement and to verify their exactness by means of checking the commercial registers and the other supporting documents.

ART. 90

The provisions of Articles 75, 76 (1), Articles 77, 79, 83, 84, 86 and 87 shall be also applied to the limited partnerships and the provisions of Articles 80, 81, 82 and 85 to the active partners.

CHAPTER IV

Joint-stock companies

Section 1

Regarding the shares

ART. 91

(1) In the joint-stock companies the registered capital shall be represented by shares issued by the company, which can be registered shares or bearer shares according to the transfer way.

(2) The type of shares shall be determined by the constitutive act; otherwise they shall be registered shares . The registered shares may be issued in a material form, on paper, or in a dematerialized form by registration in the shareholders' register.

(3) *** Repealed

ART. 92

(1) The shares cannot be issued for an amount lower than their nominal value.

(2) The shares not fully paid for are always registered shares.

(3) The registered capital cannot be increased and new shares shall not be issued until shares of previous issue are completely paid for.

(4) The registered shares can be converted into bearer shares and conversely by the decision of the extraordinary general assembly of shareholders, taken under the terms of Article 115.

(5) Cumulative titles can be issued for several shares, when they are registered and issued in material form.

ART. 93

(1) The nominal value of a share shall not be lower than ROL 0.1.

(2) The shares shall contain:

a) the denomination and life of the company;

b) the date of the constitutive act, number in the trade register under which the company is incorporated and number of the Official Gazette of Romania, Part IV, in which the publication was made;

c) the registered capital, number of shares and their running number, nominal value of the shares and the deposits made;

d) the benefits granted to founders.

(3) For registered shares the following shall also be mentioned: the name, first name, personal code number and shareholder's place of residence when it is a natural person; denomination, the registered office, incorporation number and the sole registration code of the shareholder when it is a legal person.

(4) The shares must bear the signatures of 2 members of the board of directors or of the management or, as applicable, the signature of the sole administrator or of the sole general manager.

ART. 94

(1) The shares shall have to be equal in value; they shall grant equal rights to the possessors.

(2) Still, certain categories of shares which confer special rights to their holders may be issued under the terms of the constitutive act, according to Articles 95 and 96.

ART. 95

(1) Preference shares which benefit of priority dividends without the right to vote may be issued and confer to the holder:

a) the right to a priority dividend out of the distributable profits obtained at the end of the given financial year, before any other payments;

b) the rights recognised to shareholders of ordinary shares, including the right to attend in the general assembly, except for the right to vote.

(2) The shares with priority dividends, without the right to vote, can not exceed a quarter of the registered capital and shall have the same nominal value as ordinary shares have.

(3) The administrators, managers, or, respectively, the members of management and of the supervisory board, as well as the company's censors cannot be holders of shares with priority dividends without the right to vote.

(4) In case of a late payment of dividends, the preference shares shall be conferred the right to vote starting on the maturity date of the obligation of payment of dividends that are to be distributed throughout the next year, if the next year the general assembly decides that no dividends shall be distributed, starting on the date of publication of such decision of the general assembly and until the actual payment of the overdue dividends.

(5) Preference shares and ordinary shares can be converted from one category into the other by the decision of the extraordinary general assembly of the shareholders, taken under the terms of Article 115.

ART. 96

Shareholders of each category of shares shall meet in special assemblies, according to the conditions prescribed by the company's constitutive act. Any holder of such shares may attend these special meetings.

ART. 97

In case the company did not issue and did not distribute shares in a material form, then, ex officio or at shareholders' request, it shall issue a shareholder's certificate containing the data prescribed in Article 93 (2) and (3) and, in addition, the number, the category and the nominal value of the shares belonging to the shareholder, the position at which he is registered in the shareholders' register, the position under which he is registered in the shareholders' register and the running number of the shares in question, as the case may be.

ART. 98

(1) The property right over registered shares issued in a material form shall be transferred by the statement made in the shareholders' register and by the mention made on the share, signed by the assignor and the assignee or by their proxies. The property right over registered shares issued in a dematerialised form shall be transferred by the statement made in the shareholders' register,

signed by the assignor and the assignee or by their proxies. Other modalities to transfer the property right over registered shares can also be prescribed by the constitutive act.

(2) The property right over the shares issued in a dematerialized form and dealt on a regulated market or within an alternative transaction system shall be transferred according to legislation on the capital market.

(3) The subsequent subscribers and assignees shall be jointly liable for the complete payment of the shares during 3 years, starting on the date the assignment mention was made in the register of shareholders.

ART. 99

The property right over the bearer shares shall be transferred by simple assignment.

ART. 99¹

(1) The security interests in personal property over the shares shall be established by a document under private signature, that shall indicate the amount of debt, the value and category of the secured shares, and in case of shares on the bearer and registered shares issued in material form, also by mentioning the security on the title, signed by the creditor and the debtor shareholder or by their proxies.

(2) The security shall be registered in the shareholders' register kept by the board of directors or by the management, or, as applicable, by the independent company that keeps the shareholders' register. For the creditor in favour of which was established the security interest in personal property over the shares a proof of its registration shall be issued.

(3) The security shall become opposable to third parties and shall receive the rank in the preference order of creditors on the date of registration in the Electronic Archive of Security Interests in Personal Property.

ART. 100

(1) In case the shareholders did not make the payments of the deposits they owe within the time periods provided in Article 8 d) and Article 21 (1), the company shall invite them to fulfil this obligation by means of a common notice published twice at a 15 days interval in the Official Gazette of Romania, Part IV, and in a wide circulation newspaper.

(2) In case the shareholders would not make the payments even after the summons, the board of directors or the management may decide either to sue the shareholders for the remaining payments, or to cancel these registered shares.

(3) The cancelling decision shall be published in the Official Gazette of Romania, Part IV, specifying the order number of the cancelled shares.

(4) Instead of the cancelled shares, new shares bearing the same number shall be issued and shall be sold.

(5) The sums cashed in from the sales shall be used to cover the publication and sale expenses, delay interests and uneffected payments; the rest shall be returned to the shareholders.

(6) If the obtained price is not enough to cover all amounts due to the company or if the sale does not take place, for lack of buyers, the company can take action against subscribers and assignees, according to Article 98.

(7) If after the fulfilment of these formalities, the amounts due to the company are not recovered, the capital shall be immediately cut down in proportion to the difference between the existing capital and the registered capital.

ART. 101

(1) Each share paid for shall give the right to a vote in the general assembly, provided that the constitutive act does not prescribe otherwise.

(2) The constitutive act can limit the number of votes belonging to the shareholders who possess more than one share.

(3) The exercising of the right to vote shall be suspended for the shareholders which are not aware of the payments which are falling due.

ART. 102

(1) The shares shall be indivisible.

(2) In case a registered share becomes property of several persons, the company shall not have the obligation to register the assignment as long as those persons do not appoint a sole representative to exercise the rights resulting from share.

(3) In case a bearer share becomes property of several persons, they shall have to appoint a common representative, too.

(4) As long as a share is an indivisible property of several persons, these shall be jointly liable for making the due payments.

ART. 103

(1) The company can not subscribe its own shares.

(2) If the shares of a company are subscribed by a person acting on its own behalf, but in the account of the company in question, it shall be considered that the subscriber has subscribed the shares for its own, being obliged to pay their equivalent value.

(3) The founders, in the stage of company set up, and the members of the board of directors or of the management, in case of an increase of subscribed capital, shall be obliged to pay the equivalent value of the subscribed shares by infringing the provisions of paragraph (1) and, secondarily, in relation to the subscriber, of the shares subscribed under the terms of paragraph (2).

ART. 103¹

(1) A company shall be allowed to acquire its own shares, either directly or by a person acting on its own name but on behalf of the company in question with the observance of the provisions that will follow below:

a) the authorisation of the purchase of its own shares is given by the extraordinary general assembly of the shareholders that establishes the conditions to acquire the shares, mostly the maximum number of shares which is going to be purchased, the period for which the authorisation is granted and which can not exceed 18 months as from the date when the decision was published in the Official Gazette of Romania, Part IV, and in case of a purchase for a consideration, their minimum and maximum equivalent value;

b) the nominal value of the own shares purchased by the company, including those already existing in its portfolio, cannot exceed 10% of the subscribed registered capital;

c) the transaction can only have as object fully paid shares;

d) the payment of the shares thus purchased shall be done only out of the distributable profits or of the available reserves of the company, as registered in the last approved annual financial statement, except for the legal reserves.

(2) If the own shares are acquired to be distributed to the company's employees, the shares thus acquired must be distributed within 12 months as of the date of purchase.

ART. 104

(1) The restrictions stipulated in Article 103¹ shall not apply to:

a) the shares acquired according to Article 207, as a result of a decision of the general assembly to cut down the registered capital;

b) the shares acquired as a result of a universal transfer;

c) the shares fully paid, acquired by the effect of a judgement, in an enforcement proceedings undertaken against a shareholder that is a debtor of a company;

d) the shares fully paid, acquired free of charge;

(2) The restrictions stipulated in Article 103¹, except for that stipulated under Article 103¹ (1) d), shall not apply to the shares acquired in compliance with Article 134.

ART. 104¹

(1) The shares acquired by infringement of the provisions of Article 103¹ and 104 must be alienated within one year as of the purchase.

(2) If the nominal value of the own shares acquired by the company in compliance with the provisions of Article 104 (1) b) - d), either directly or through a person acting on its own behalf, but in the account of the company, including the nominal value of its own shares already existing in the company's portfolio, exceed 10% of the subscribed registered capital, the shares that exceed this percentage shall be alienated within 3 years as of the purchase.

(3) In case the shares are not alienated within the time limits provided in paragraphs (1) and (2), these shares must be cancelled, and the company shall be obliged to cut down accordingly the subscribed registered capital.

ART. 105

(1) The shares acquired in compliance with the provisions of Article 103¹ and 104 shall not give the right to receive dividends for the period while they are held by the company.

(2) The right to vote conferred by the shares provided in paragraph (1) shall be suspended for the period while they are held by the company.

(3) In case the actions are included in the assets of the balance sheet, in the liabilities of the balance sheet shall be provided an equal reserve that can not be distributed.

ART. 105¹

The board of directors shall include in the report that accompanies the annual financial statements the following information with regard to the purchase or alienation of the company of its own shares:

- a) the reasons of the purchases carried out during the financial exercise;
- b) the number and nominal value of the shares purchased and of the ones alienated during the financial exercise and the percentage in the subscribed registered capital which they represent;
- c) in case of purchase or alienation for a consideration, the equivalent value of the shares;
- d) the number and nominal value of all shares purchased and held by the company and the percentage in the subscribed registered capital which they represent.

ART. 106

(1) A company may not grant advances or loans nor it may establish securities with a view to subscribing or acquiring its own shares by a third party.

(2) The provisions of paragraph (1) shall not apply to the transactions carried out within the current operations of the credit institutions and of other financial institutions, nor to the transactions carried out with a view to purchase of shares by or for the employees of the company, provided that these transactions do not determine the decrease of the net assets under the cumulated value of the subscribed registered capital and of the reserves that can not be distributed according to the law or to the constitutive act.

ART. 107

(1) When the company establishes security interests on personal property over its own shares, either directly or through a person acting on its own behalf, but in the account of the company, this shall be regarded as purchase for the purpose of Articles 103¹, 104, 104¹, 105, 105¹ and 106.

(2) The provisions of paragraph (1) shall not apply in case of current operations of banks and of other financial institutions.

ART. 107¹

(1) The subscription, purchase or possession of shares of a joint-stock company by another company where the joint-stock company holds, directly or indirectly, the majority of rights to vote or the decisions of which may be significantly influenced by the joint-stock company shall be regarded as being carried out by the joint-stock company itself.

(2) The provisions of paragraph (1) shall also apply when the company that intermediates the subscription, purchase or possession of shares mentioned are governed by the law of another state.

ART. 108

The shareholders who offer their shares for sale by means of a public offer shall have to draw up an offer prospectus, in compliance with the provisions of the Government Emergency Ordinance No. 28/2002*).

*) The Government Emergency Ordinance No. 28/2002 on securities, financial investment services and regulated markets was repealed and replaced by the

Law No. 297 on the capital market, published in the Official Gazette of Romania, Part I, No. 571 of 29 June 2004.

ART. 109

The status of the shares shall have to be included into the annex to the annual financial statement and, especially, it shall be indicated if they have fully been paid for, and, as the case may be, the number of shares for which payments were requested but with no result.

Section 2

On general assemblies

ART. 110

(1) The general assemblies shall be ordinary and extraordinary.

(2) Unless the constitutive act provides otherwise, they shall be held at the company's registered office, at the place indicated by the document convening the assembly.

ART. 111

(1) The ordinary assembly shall be convened at least once a year, within maximum 5 months as from the end of the financial exercise.

(2) Besides the debate of other issues on the agenda the general assembly shall obliged:

a) to discuss upon, approve or amend the annual financial statements, based on the reports presented by the board of directors or by the management and by the supervisory board, by the censors or, as applicable, by the financial auditor, and to determine the dividend;

b) to elect and dismiss the members of the board of directors or of the supervisory board, and the censors;

b¹) in case of companies whose financial statements were subject to audit, to appoint and establish the minimum duration of the financial audit contract, as well as to dismiss the financial auditor;

c) to establish the proper remuneration for the members of the board of directors or of the supervisory board, and the censors for the current exercise, unless it was settled by the constitutive act;

d) to give their opinion on the administration of the board of directors or of the management;

e) to determine the income and expenditure budget and the activity program for the next financial year, as the case may be;

f) to decide upon the mortgaging, renting or dissolving of one or several of the companies' units.

ART. 112

(1) With a view to ensuring the validity of the proceedings of the ordinary general assembly it shall be required the shareholders' attendance which must hold at least one fourth of the total number of rights to vote. The decisions of the ordinary general assembly shall be taken by the majority of the votes cast. The constitutive act may provide higher requirements of quorum and majority.

(2) If the ordinary general assembly cannot operate due to the failure to satisfy the conditions of paragraph (1) the assembly gathered after a second convening may deliberate upon the issues on the first meeting's agenda, irrespective of the quorum, taking decisions with the majority of the votes cast. For the general assembly reunited after a second convening, the constitutive act may not provide higher requirements of quorum and majority.

ART. 113

The extraordinary general assembly shall gather whenever a decision is necessary to be made for:

- a) changing the legal form of the company;
- b) changing the location of the registered office of the company;
- c) changing the object of activity of the company;
- d) setting up or cancellation of secondary offices: subsidiaries, agencies, representative offices or other similar units without legal personality, unless otherwise provided in the constitutive act;
- e) extending the company's life;
- f) increase of the registered capital;
- g) cutting down of the registered capital or its completion by means of the issue of new shares;
- h) merger with other companies or its division;
- i) early dissolution of the company;
- i¹) the conversion of the registered shares into shares on bearer or of shares on bearer into registered shares;
- j) conversion of shares from one category into another;
- k) conversion of one category of bonds into another or into shares;
- l) issue of bonds;
- m) any other amendment of the constitutive act or any other decision for which the approval of an extraordinary general assembly is requested.

ART. 114

(1) The exercise of the powers mentioned in Article 113 b), c), d) and f) may be delegated to the board of directors or to the management, by the constitutive act or by decision of the extraordinary general assembly. The delegation of the powers provided in Article 113 c) may not concern the main scope and activity of the company.

(2) In case the board of directors or the management is empowered to carry out the measure provided in Article 113 f), the provisions of Article 220¹ shall apply accordingly to the decisions of the board of directors or of the management.

(3) In case the board of directors or the management is empowered to carry out the measure provided in Article 113 b), c) and d), the provisions of Article 131 (4) and (5), of Article 132, except for paragraph (6), as well as of Article 133 shall apply accordingly to the decisions of the board of directors or of the management. The company shall be represented in court by the person appointed by the president of the court from among its shareholders that shall carry out the term of office entrusted to him until the general assembly convened for this purpose elects another person.

ART. 115

(1) With a view to ensuring the validity of the deliberation of the extraordinary general assembly it shall be required the attendance of the shareholders which hold at least one fourth of the total number of rights to vote, and in the future convenings, the attendance of the shareholders which hold at least one fifth of the total number of rights to vote.

(2) The decisions shall be made by the majority of the votes held by the present or represented shareholders. The decision to change the main object of activity of the company, to reduce or increase the registered capital, to change the legal status, of merger, division or dissolution of the company shall be made by a majority of at least two thirds of the rights to vote held by the present or represented shareholders.

(3) The constitutive act may stipulate higher requirements of quorum and majority.

ART. 116

(1) The decision of a general assembly to amend the rights or obligations regarding a certain category of shares shall not produce effects unless it is approved by the special assembly of the shareholders belonging to that category.

(2) The provisions of the present section regarding the convening, the quorum and the unfolding of a general assembly of the shareholders shall also be applicable to special assemblies.

(3) The decisions initiated by the special assemblies shall be subject to approval by the relevant general assemblies.

ART. 117

(1) The general assembly shall be convened by the board of directors or by the management wherever it is deemed necessary.

(2) The gathering term cannot be shorter than 30 days as from the publication of the convening in the Official Gazette of Romania, Part IV.

(3) The document of convening shall be published in the Official Gazette of Romania, Part IV, and in one widely circulated newspaper in the locality of the company's registered office or in the nearest locality. The convening shall be submitted with the Autonomous Regie <<Monitorul Oficial>> with a view to publication, within maximum 5 days as of the date when the board of directors adopts the convening decision of the general assembly.

(4) If all the shares of the company are registered shares, then the convening may be carried out by registered letter or, if the constitutive act allows it, by electronic letter, having incorporated, attached or logically associated the extended electronic signature, sent at least 30 days before the day fixed for the assembly to the shareholder's address, registered in the register of shareholders. The change of address cannot be opposed to the company as long as the shareholder did not inform the company in writing about it.

(5) The convening procedures stipulated in paragraph (4) may not be used if they are forbidden by the constitutive act or by legal provisions.

(6) The convening document shall include the place and the date when the assembly is to take place, as well as the agenda, explicitly indicating all the matters that will constitute the subject of the assembly's proceedings. In case the

agenda includes the appointment of administrators or of the members of the supervisory board, the convening document shall mention the list including information with regard to the name, the locality of residence and the professional qualification of the persons proposed for the position of administrator shall be available to the shareholders, and it may be consulted and filled out by them.

(7) When on the agenda there are proposals concerning the amendment of the constitutive act, the convening document shall have to contain the full text of such proposals.

ART. 117¹

(1) One or more shareholders representing, individually or together, at least 5% of the registered capital, shall be entitled to request that new points be introduced on the agenda.

(2) The requests shall be forwarded to the board of directors or of the management, within maximum 15 days as of the publication of the convening, with a view to publishing them and bringing them to the knowledge of the other shareholders. In case the agenda includes the appointment of administrators or of the members of the supervisory board, and the shareholders intend to formulate proposals for candidatures, the request shall include the information with regard to the name, the locality of residence and the professional qualification of the persons proposed for those positions.

(3) The agenda supplemented by the points proposed by the shareholders, after the convening, must be published in compliance with the requirements provided by the law and/or by the constitutive act for convening the general assembly, at least 10 days before the general assembly, on the date mentioned in the initial convening document.

ART. 117²

(1) The annual financial statements, the annual report of the board of directors and the report of the management and that of the supervisory board, as well as the proposal with regard to the distribution of dividends shall be made available to the shareholders at the company's head office, as of the date of convening the general assembly. Upon request, the shareholders shall receive copies of these documents. The amounts charged for the release of copies may not exceed the administrative costs involved in their supply.

(2) In case the company has its own website, the convening, any other points added on the agenda at the request of the shareholders, in compliance with the provisions of Article 117¹, as well as the documents provided in paragraph (1) shall be also published on the website, for free access of the shareholders.

(3) Each shareholder may address the board of directors or the management, written questions referring to the activity of the company, before the date when the general assembly takes place, and he will be given an answer within the assembly. In case the company has its own website, lacking a contrary provision in the constitutive act, the answer shall be deemed as given if the information requested is published on the website of the company, in the section <<Frequently asked questions>>.

ART. 118

(1) While making the announcement of the convening of the first general assembly, the day and the hour of the second meeting can be fixed, in case the first meeting could not take place.

(2) The second meeting cannot take place on the very day established for the first meeting.

(3) If the day for the second meeting is not indicated in the convening announcement published for the first meeting, the term stipulated under Article 117 may be reduced to 8 days.

ART. 119

(1) The board of directors or the management shall be obliged to convene immediately the general assembly upon the request of the shareholders representing, individually or together, at least 5% of the registered capital, or a lower quota, in case the constitutive act stipulates it, and in case the request contains provisions that are part of the assembly's prerogatives.

(2) The general assembly shall be convened within maximum 30 days and shall meet within maximum 60 days as of the date of receipt of the request.

(3) If the board of directors or the management do not convene the general assembly, the court at the company's registered office can authorise the convening of the general assembly by the shareholders that formulated the request, after summoning the board of directors. By the same interlocutory judgment the court shall establish the reference date provided in Article 123 (2), the date when the general assembly is to be held and the person who will chair the assembly chosen from among the shareholders.

(4) The costs made with the convening of the general assembly, as well as the court costs shall be covered by the company, if the court approves the request according to paragraph (3).

ART. 120

The shareholders shall exercise their right to vote in the general assembly proportionally to the number of shares they hold, with the exception stipulated under Article 101 (2).

ART. 121

The shareholders representing the whole registered capital could, in case none of them opposes, hold a general assembly and make any decision falling within the competence of the assembly without observing the formalities required for its convening.

ART. 122

In case of closed companies with registered shares the constitutive act may stipulate the holding of the general assemblies by correspondence as well.

ART. 123

(1) In the general assemblies, the shareholders possessing bearer shares shall have the right to vote only if they deposited them in the places indicated by the constitutive act or by the convening notice, at least five days prior to the assembly. The technical secretary, appointed according to Article 129 (5) shall ascertain, in a minutes, the timely deposit of the shares. The shares shall remain deposited until after the general assembly, but it shall not be possible to keep them for more than 5 days from the date of the assembly.

(2) The board of directors or the management shall set a reference date for the shareholders entitled to be informed and to vote in the general assembly, a date which shall remain valid even in case the general assembly is called again due to lack of quorum. The reference date so established shall not exceed 60 days before the day established for the first convening of the general assembly.

(3) The shareholders entitled to cash dividends or to exercise any other rights shall be those whose names are entered into the company's records or in those records sent to the company by the independent private register of the shareholders, as compared to the above mentioned reference date.

ART. 124

(1) If the shares are encumbered by a right of usufruct, the right to vote granted by these shares shall belong to the usufructuary in ordinary general assemblies and to the bare owner in the extraordinary general assemblies.

(2) If there are constituted actual stock securities over the shares, the right to vote shall belong to the shareholder.

ART. 125

(1) The shareholders can participate and vote in general assemblies by representation, based on a special proxy granted for such general assembly.

(2) The shareholders that do not have the capacity of exercise, as well as legal persons can be represented by their legal representatives who, in their turn, can give special proxy to other shareholders for that general assembly.

(3) The proxies shall be deposited in the original 48 hours before the meeting or within the time limit stipulated by the constitutive act, under the sanction of losing the exercise of the right to vote in that assembly. The proxies shall be kept by the company and a mention thereto shall be made in the minutes.

(4) *** Repealed

(5) The members in the board of directors, the managers, or the members of the management and of the supervisory board or company's clerks cannot represent the shareholders, subject to the decision becoming null and void if, for lack of their votes, the required majority would not have been met.

ART. 126

(1) The shareholders that have the quality of members of the board of directors, the management or the supervisory board cannot vote on the basis of shares they possess, either personally or by proxy, the discharge from their administration duties or any other issue in which their person or administration would be involved.

(2) However such persons can vote on the annual financial statement in cases when the majority provided by the law or by the constitutive act cannot be met.

ART. 127

(1) The shareholder who, with regard to a certain operation, has a personal interest or, as proxy of another person, an opposite interest to that of the company, shall have to refrain from taking part in the proceedings concerning that operation.

(2) The shareholder who breaks this provision shall be liable for damages caused to the company if, without his vote, the required majority would not have been met.

ART. 128

(1) The right to vote cannot be assigned.

(2) Any agreement whereby the shareholder undertakes to exercise his right to vote in compliance with the guidelines given or the proposals formulated by the company or by the persons with powers of representation shall be void.

ART. 129

(1) On the day and hour indicated in the convening, the sitting of assembly shall be opened by the president of the board of directors or of the management or by his substitute.

(2) The general assembly shall elect, from among the shareholders present, 1 up to 3 secretaries who shall verify the shareholders' attendance list, indicating the registered capital represented by each one, the minutes drawn up by the technical secretary to ascertain the number of shares deposited and the fulfilment of all formalities imposed by the law and the constitutive act in order to hold the general assembly.

(3) The general assembly may decide that the operations mentioned in the previous paragraph be supervised or even fulfilled by a notary public, at the company's expense.

(4) One of the secretaries shall draw up the minutes of the general assembly.

(5) The president may appoint, from among the company's clerks, one or more technical secretaries who shall take part in the carrying out of the operations provided in the previous paragraphs.

(6) After ascertaining the fulfilment of all legal requirements and of the provisions of the constitutive act for holding the general assembly, the examination of the issues on the agenda may start.

(7) The decisions on the points on the agenda that were not published in compliance with the provisions of Article 117 and 117¹ may not be adopted, except for the case when all shareholders were present or represented and none of them opposed or contested this decision.

ART. 130

(1) The decisions of the general assemblies shall be made following a vote by a show of hands.

(2) The secret vote shall be compulsory for the election of the members of the supervisory board and of the censors/internal auditors, for their dismissal and for making decisions concerning the responsibility of the members of the administration, management and control bodies of the company.

ART. 131

(1) A minute signed by the president and the secretary shall ascertain the fulfilment of formalities for the convening of the general assembly, date and place, attending shareholders, number of shares, the summary of the proceedings, the decisions made and, upon shareholders' request, their statements made during the meeting.

(2) The documents referring to the convening as well as the shareholders' attendance lists shall be attached to the minute.

(3) The minute shall be registered into the register of the general assemblies.

(4) In order to be opposable to third parties, the decisions of the general assembly shall be filed within 15 days at the trade register office in order to be mentioned in the register and published in the Official Gazette of Romania, Part IV.

(5) Upon request, each shareholder shall be informed with regard to the results of the vote, for the decisions made within the general assembly. If the company has its own website, the results shall also be published on this page, within maximum 15 days as of the date of the general assembly.

ART. 132

(1) The decisions made by the general assembly in keeping with the law or the constitutive act shall be compulsory even for those shareholders who did not take part in the meeting or who voted against them.

(2) The decisions of the general assembly which are contrary to the law or to the constitutive act can be sued within a 15 days' period from the publication in the Official Gazette of Romania, Part IV, by any of the shareholders who did not take part in the general assembly or voted against and requested that this should be noted in the assembly's minute.

(3) When there are invoked absolute nullity reasons, the right to sue shall be imprescriptible, and the request may also be formulated by any person concerned.

(4) The members of the board of directors or of the supervisory board can not sue the decision of the general assembly regarding their dismissal from office.

(5) The request shall be settled in conflict with the company, represented by the board of directors or by the management.

(6) In case the decision is sued by all members of the board of directors or of the management, the company shall be represented in court by the person appointed by the president of the court from among the company's shareholders, who shall fulfil the mandate entrusted to him, until the general assembly convened with this aim shall appoint another person.

(7) If the decision is sued by all members of management, the company shall be represented in court by the supervisory board.

(8) If several actions for cancellation have been brought, they can be joined.

(9) The action shall be judged in the court chamber.

(10) The final cancellation judgment shall be mentioned in the trade register and published in the Official Gazette of Romania, Part IV. It shall be opposable to all shareholders as from the date of its publication.

ART. 133

(1) Along with bringing the action for cancellation the plaintiff may request the court to adjourn the carrying into effect of the decision which is being sued, by presidential ordinance.

(2) The president's consent to adjourn can force the plaintiff to pay a bail.

(3) Against the injunction an appeal can be lodged, within 5 days from the trial.

ART. 134

(1) The shareholders who did not voted in favour of a decision of the general assembly, shall have the right to withdraw from the company and to request from

the company to purchase the shares they possess, provided that such decision of the general assembly has as object:

- a) to change the main object of activity;
- b) to move the head office of the company abroad;
- c) to change the type of company;
- d) to operate the merger or division of the company.

(2) The withdrawal right may be exercised within 30 days as of the date of publication of the decision of the general assembly in the Official Gazette of Romania, Part IV, in the cases provided in paragraph (1) a) - c), and as of the date of adoption of the decision of the general assembly, in the case provided in paragraph (1) d).

(3) Along with the written withdrawal statement, the shareholders shall also deposit with the head office of the company the shares they possess or, as applicable, the shareholder's certificates issued according to Article 97.

(4) The price paid by the company for the shares of the person that exercises the withdrawal right shall be established by an independent authorised expert, as the average value resulted from the application of at least two evaluation methods recognised by the legislation in force on the date of evaluation. The expert shall be appointed by the delegated judge in compliance with the provisions of Articles 38 and 39, at the request of the board of directors.

(5) The evaluation costs shall be covered by the company.

ART. 135 *** Repealed

ART. 136

(1) One or more shareholders representing, individually or together, at least 10% of the registered capital, may ask the court to appoint one or several experts, entrusted with the analysis of certain operations of the company's administration and to draw up a report, that is to be handed in to these, and also to be officially submitted to the board of directors or to the management and to the supervisory board, as well as to the censors or internal auditors of the company, as applicable, for analysis and proposals for appropriate measures.

(1[^]1) The board of directors or the management shall include the report drawn up according to paragraph (1) on the agenda of the next general meeting of shareholders.

(2) The experts' fees shall be borne by the company, except for the cases in which the notification was made in bad faith.

ART. 136[^]1

The shareholders must exercise their rights in good faith, respecting the rights and legitimate interests of the company and of the other shareholders.

Section 3

On company's administration

SUBSECTION I

Unitary system

ART. 137

(1) The joint-stock company shall be administered by one or several administrators, always in an odd number. When there are more administrators, they shall make up a board of directors.

(2) The joint-stock companies whose annual financial statements are subject to a legal obligation to undergo an audit shall be administered by at least 3 administrators

(3) The provisions of this law with regard to the board of directors and that do not concern or do not presuppose the plurality of administrators shall apply accordingly to the sole administrator.

ART. 137¹

(1) The administrators shall be appointed by the ordinary general assembly of shareholders, except for the first administrators, that are appointed in the constitutive act.

(2) The candidates for the positions of administrator shall be nominated by the current members of the board of directors or by the shareholders.

(3) For the duration of the term of office, the administrators may not conclude an employment contract with the company. In case the administrators were appointed from among the company's employees, the individual employment contract shall be suspended throughout the term of office.

(4) The administrators may be revoked at any time by the ordinary general assembly of shareholders. In case the dismissal occurs without a fair reason, the administrator shall be entitled to the payment of some damages.

ART. 137²

(1) In case of vacancy of one or more administrator positions, unless otherwise provided by the constitutive act, the board of directors shall proceed to the appointment of certain temporary administrators, by the time the ordinary general assembly of shareholders is met.

(2) If the vacancy provided in paragraph (1) causes the decrease of the number of administrators under the minimum legal level, the administrators left shall convene forthwith the ordinary general assembly of shareholders, to supplement the number of members of the board of directors.

(3) In case the administrators fail to meet their obligation to convene the general meeting, any party concerned may address the court in order to appoint the person entrusted with the convening of the ordinary general assembly of shareholders, that should make the necessary appointments.

(4) When it is a single administrator and he wants to renounce to the term of office, he shall have to convene the ordinary general assembly.

(5) In case of death or physical incapacity to exercise the office of sole administrator, the temporary appointment shall be carried out by the censors, but the ordinary general assembly shall be convened by emergency for the final appointment of the administrator.

(6) In case the company does not have censors, any shareholder may address the court that authorises the convening of the general assembly by the shareholder that formulated the request or by another shareholder. By the same decision, the court shall approve the agenda, shall establish the reference date

provided by Article 123 (2), the date of the general assembly and, from among the shareholders, the person that will preside it.

ART. 138 *** Repealed

ART. 138¹

(1) In case in a joint-stock company takes place the delegation of the management powers by the directors, according to Article 143, the majority of the members of the board of directors shall be formed of non-executive administrators.

(2) For the purposes of this law, the non-executive members of the board of directors shall be those appointed managers, in compliance with Article 143.

ART. 138²

(1) The constitutive act or the decision of the general assembly of shareholders may provide that one or more members of the board of directors must be independent.

(2) An administrator shall not be regarded as independent in particular if:

a) he is a manager of the company or of a company controlled by it or he filled such a position over the last 5 years;

b) he is an employee of the company or of a company controlled by it or he has such a labour relation over the last 5 years;

c) he receives or has received from the company or from a company controlled by it an additional remuneration or other advantages, others than those corresponding to its capacity of non-executive administrator;

d) he is or represents a significant shareholder of the company;

e) he has or had over the last year business relations with the company or with a company controlled, either in person, or as associated, shareholder, administrator, manager or employee of a company that has such relations with the company;

f) he is or has been over the last 3 years an associate or an employee of the present financial auditor of the company or of a controlled company;

g) he is a manager in another company where a manager of the company is a non-executive administrator;

h) he was a non-executive administrator of the company for more than 3 terms of office;

i) he/she is a spouse or a relative up to the 4th rank inclusive with a manager of a company or with a person that finds itself in one of the situations provided in letter a) - h).

ART. 139 *** Repealed

ART. 140 *** Repealed

ART. 140¹

(1) The board of directors shall elect from among its members a president of the board. The constitutive act may stipulate that the president of the board shall be appointed by the ordinary general assembly, which designates the board.

(2) The president shall be appointed for a duration that may not exceed the duration of its term of office as administrator.

(3) The president may be revoked at any time by the board of directors. If the president was appointed by the general assembly, he may only be revoked by this assembly.

(4) The president shall co-ordinate the activity of the board and shall report on this to the general assembly of shareholders. He shall watch on the proper operation of the company's bodies.

(5) In case the president finds himself in a temporary impossibility to exercise its powers, for the duration of such state of impossibility of the board of directors may entrust to another administrators to fill the position of president.

ART. 140²

(1) The board of directors may create consultative committees formed of at least 2 members of the board and entrusted with the conduct of investigations and with the elaboration of recommendations for the board, in fields such as audit, remuneration of administrators, managers, censors and staff, or with the nomination of candidates for various management positions. The committees shall forward to the board reports on their activity on a regular basis.

(2) At least one members of each committee created pursuant to paragraph (1) must be an independent non-executive administrator. The audit committee and the remuneration committee shall be formed exclusively of non-executive administrators. At least one member of the audit committee must have the expertise in applying the accounting principles or in financial audit.

(3) In case of joint-stock companies whose annual financial statements are subject to a legal obligation of financial audit, the creation of an audit committee within the board of directors shall be mandatory.

ART. 141

(1) The board of directors shall be reunited at least once in 3 months.

(2) The president shall convene the board of directors, shall establish the agenda, shall watch over an adequate information of the members of the board with regard to the points on the agenda and shall preside over the meeting.

(3) The board of directors shall also be convened at the motivated request of at least 2 of its members or of the general manager. In this case, the agenda shall be established by the authors of the request. The president shall be bound to respond to such request.

(4) The convening for the meeting of the board of directors shall be transmitted to the administrators in due course before the date of the meeting, and the time limit may be established by decision of the board of directors. The convening shall include the date, the place where the sitting takes place and the agenda. Only in emergency situations there may be made decisions on the points not included in the agenda. The constitutive act may impose more severe conditions with regard to the aspects regulated in this paragraph.

(5) During each meeting a minutes shall be drawn up, which shall include the names of the participants, the order of deliberations, the decisions made, the number of votes cumulated and dissenting opinions. The minutes shall be signed by the president of the sitting and by at least another administrator.

ART. 141¹

The directors and censors or, as the case may be, the internal auditors may be convened at any meeting of the board of directors, meetings where they must be present. They do not have a right to vote, except for the directors who are also administrators.

ART. 142

(1) The board of directors shall be in charge with the carrying out of all documents necessary and useful for the achievement of the object of activity of the company, except for those reserved by the law for the general assembly of shareholders.

(2) The board of directors shall have the following main competences, that may not be delegated to the managers.

- a) to establish the main directions of activity and development of the company;
- b) to establish the accounting and financial control system and to approve the financial planning;
- c) to appoint and dismiss the managers and to establish their remuneration;
- d) to supervise the managers' activity;
- e) to prepare the annual report, to organise the general assembly of shareholders and to implement its decisions;
- f) to introduce the request for opening the insolvency proceedings of the company, according to the Law No. 85/2006 on the insolvency proceedings.

(3) Likewise, the attributions given to the board of directors by the general assembly of shareholders, according to Article 114, may not be delegated to the managers.

ART. 143

(1) The board of directors may delegate the management of the company to one or more managers, by nominating one of them as general manager.

(2) The managers may be appointed from among the administrators or from outside the board of directors.

(3) If the constitutive act or a decision of the general assembly of shareholders provides it, the president of the board of directors may also be appointed general manager.

(4) In case of joint-stock companies whose annual financial statements are subject to a legal obligation of financial audit, the delegation of the management of the company in compliance with paragraph (1) shall be mandatory.

(5) For the purpose of this law, the manager of the joint-stock company shall only be that person to whom powers of management of the company were delegated in compliance with paragraph (1). Any other person, irrespective of the technical name of the position filled within the company, shall be excluded from the application of the rules of this law with regard to the managers of the joint-stock company.

ART. 143¹

(1) The managers shall be in charge with the adoption of all measures related to the company's management, within the limits of the object of activity of the company and in compliance with the exclusive competences reserved by the law or by the constitutive act for the board of directors and for the general assembly of shareholders.

(2) The manner of organisation of the activity of the managers may be established by the constitutive act or by decision of the board of directors.

(3) The board of directors shall be entrusted with the supervision of the manager's activity. Any administrator may ask from the managers information with regard to the operational management of the company. The managers shall inform the board of directors on the operations undertaken and on those had in view, on a regular and comprehensive basis.

(4) The managers may be dismissed at any time by the board of directors. In case the dismissal supervenes for no good reasons, the manager shall be entitled to be paid certain damages.

ART. 143²

(1) The board of directors shall represent the company in the relation to third parties and in court. In the absence of a contrary provision in the constitutive act, the board of directors represents the company by its president.

(2) In the constitutive act, the president and one or more administrators may be empowered to represent the company, acting together or separately. Such clause shall be opposable to third parties.

(3) By their unanimous consent, the administrators that represent the company and only acting together may empower one of them to conclude certain operations or types of operations.

(4) In case the board of directors delegates the powers of management of the company in compliance with Article 143, the power of representation shall devolve on the general manager. The provisions of paragraph (2) - (4) shall apply accordingly to the managers. However, the board of directors shall keep its power of representation of the company in the relations with the managers.

(5) The board of directors shall register with the trade register the name of the persons empowered to represent the company, indicating whether they act together or separately. They shall deposit with the trade register signature copies.

ART. 144 *** Repealed

ART. 144¹

(1) The members of the board of directors shall exercise their term of office with loyalty, in the company's interest.

(2) The administrator shall not break this obligation if, at the time when he makes a business decision, he is reasonably entitled to consider that he acts in the company's interest and based on certain adequate information.

(3) For the purpose of this article, a business decision shall be any decision to take or not take certain measures with regard to the administration of the company.

(4) The members of the board of directors shall not be allowed to disclose confidential information and business secrets of the company, to which they have access in their capacity of administrators. This obligation shall also devolve on them after the termination of the term of office of administrator.

(5) The contents and length in time of the obligations provided in paragraph (4) shall be provided in the contract.

ART. 144²

(1) The administrators shall be responsible for meeting all obligations, according to the provisions of Article 72 and 73.

(3) The administrators shall be liable towards the company for the prejudices caused by the acts of the managers or of the staff, where the damage would have occurred if they had exercised the supervision by virtue of the duties which their positions involve.

(3) The managers shall notify the board of directors of all incongruities established while meeting their attributions.

(4) The administrators shall be jointly liable with their immediate inferiors if, having knowledge of the irregularities committed by them, they do not notify the censors or, as applicable, internal auditors and financial auditor on such irregularities.

(5) In the companies with several administrators the liability for the acts committed or for omissions shall not be extended also over the administrators that made possible that their objection be written down in the register of the board of directors and notified about this in writing the censors or the internal auditors and financial auditors.

ART. 144³

(1) The administrator who, in a certain operation, has, directly or indirectly, interests opposed to those of the company, must inform the other administrators and censors and internal auditors about this matter and must not take part in any proceeding concerning the respective operation.

(2) This obligation shall also devolve on the administrator in case that, in a certain operation, he knows that the spouse, relatives or kinsmen up to the 4th rank inclusive are interested.

(3) Unless otherwise provided by the constitutive act, the interdictions established in paragraphs (1) and (2), referring to the participation, deliberation and vote of the administrators, shall not be applicable in case the object of the vote is:

a) the offer of shares or bonds of the company for subscription to an administrator or to the persons mentioned in paragraph (2);

b) grant by the administrator or by the persons mentioned in paragraphs (2) of a loan or instituting a guarantee in favour of the company.

(4) The administrator that failed to comply with the provisions of paragraphs (1) and (2) shall be liable for the damages resulted for the company.

ART. 144⁴

(1) It shall be prohibited the crediting by the company of its administrators, though certain operations such as:

a) granting loans to administrators;

b) granting financial advantages to the administrators on the occasion or subsequently to the company's concluding with these of operations of supply of goods, provisions of services and execution of works;

c) direct or indirect, full or partial guarantee for any of the loans granted to the administrators, at the same time with or after the loan was granted;

d) direct or indirect, full or partial guarantee of execution by the administrators of any other personal obligations towards third persons;

e) obtaining for a consideration or the full or partial payment of a claim having as object a loan granted by a third party to the administrators or any other personal payment from these.

(2) The provisions of paragraph (1) shall also be applicable to the operations which concern the spouse, relatives or kinsmen up to the 4th degree inclusive, of the administrator; likewise, if the operation concerns a civil company or a trading company where one of the previously mentioned persons is an administrator or it holds, alone or together with one of the above-mentioned persons, at least a 20% quota of the value of the subscribed registered capital.

(3) The provisions of paragraph (1) shall not apply:

a) in case of operations whose cumulated exigible value is lower than the equivalent value in ROL of the amount of EUR 5 000;

b) in case the operation is concluded by the company under conditions of currently exercising its activity, and the clauses of the operations are no longer favourable for the persons mentioned in paragraphs (1) and (2) than those usually practised by the company in the relation with third parties.

ART. 145 *** Repealed

ART. 146 *** Repealed

ART. 147 *** Repealed

ART. 148 *** Repealed

ART. 149 *** Repealed

ART. 150

(1) Unless otherwise provided by the constitutive act and under the reserve of the provisions of Article 44¹, under the sanction of nullity, the administrator may alienate or acquire, respectively, assets to or from a company with a value of over 10% of the value of the net assets of the company, only after obtaining the approval of the extraordinary general assembly, under the terms provided in Article 115.

(1¹) Unless otherwise provided by the constitutive act and under the reserve of the provisions of Article 44¹, under the sanction of nullity, the administrator may, on his own behalf, alienate or acquire, respectively, for himself assets to or from a company, only after obtaining the approval of the extraordinary general assembly, under the terms provided in Article 115.

(2) The provisions of paragraph (1) shall also apply to the rental and leasing operations.

(3) The value provided in paragraph (1) shall be calculated depending on the financial statement approved for the financial year prior to the one when the operation takes place or, as the case may be, depending on the value of the subscribed registered capital, if such a financial statement has not been approved yet.

(4) The provisions of the present paragraph shall also be applicable to the operations in which one of the parties is the spouse of the administrator or one of its relatives or its kinsmen, up to the forth degree inclusive; likewise, if the operation is concluded with a civil or trading company where one of the previously mentioned persons is an administrator or a manager or it holds, alone

or together, a 20% quota of the value of the subscribed registered capital, except for the case where one of such trading companies is the branch of the other.

ART. 151 *** Repealed

ART. 152

The managers shall be responsible for the failure to meet their duties. The provisions of Article 137¹ (3), of Article 144¹, 144², 144³, 144⁴, 150 and of Article 153¹³ (4) shall apply to the managers under the same conditions as to the administrators.

ART. 152¹

The microenterprises and the small enterprises, for the purpose of Article 4 (1) a) and b) of the Law No. 346/2004 on incentives for the setting up and development of small and medium enterprises, with subsequent amendments, may derogate from the provisions of Article 137 (2), of Article 140¹ (3) and of Article 143 (4).

SUBSECTION II

Dual system

ART. 153

(1) The constitutive act may stipulate that the joint-stock company is administered by the management and a supervisory board, in compliance with the provisions of this subsection.

(2) The constitutive act may be amended during the existence of the company by a decision of the general assembly of shareholders, in view of introducing or eliminating such provision.

(3) The provisions of this law with regard to the censors shall not apply to the companies that choose a dual administration system.

A. Management

ART. 153¹

(1) The leadership of the joint-stock company shall devolve exclusively on the management that shall carry out the acts necessary and useful for the carrying out of the object of activity of the company, except for those reserved by the law as duty of the supervisory board and of the general assembly of shareholders.

(2) The management shall exercise its powers under the control of the supervisory board.

(3) The management shall be formed of one or several members, always an odd number.

(4) When there is only one member, he shall have the designation of sole general manager. In this case the provisions of Article 137 (3) shall apply accordingly.

(5) In case of joint-stock companies whose annual financial statements are object of a legal audit obligation, the management shall be formed of at least 3 members.

ART. 153²

(1) The appointment of the members of management shall devolve on the supervisory board, that shall also designate one of them for the position of president of management.

(2) The constitutive act shall determine the length of the term of office of the management, within the limits provided in Article 153¹².

(3) The members of the management may not be simultaneously members of the supervisory board.

(4) The members of management may be dismissed at any time by the supervisory board. The constitutive act may provide that they may be also dismissed by the ordinary general assembly of shareholders. If their dismissal from office supervenes for no good reasons, the management members shall be entitled to be paid certain damages.

(5) In case of vacancy of a position of member of management, the supervisory board shall proceed forthwith to appoint a new member, for the duration left by the expiry of the term of office of the management.

(6) Concerning the rights and obligations of the members of management, Article 137¹ (3), Article 144¹, Article 144² (1), (4) and (5), Article 144³, Article 144⁴ and 150 shall apply accordingly.

ART. 153³

(1) The management shall represent the company in the relation to third parties and in court.

(2) In the absence of a contrary provision in the constitutive act, the members of management represent the company only acting together.

(3) In case the members of management represent the company only acting together, by their unanimous consent, they may empower one of them to conclude certain operations or types of operations.

(4) The supervisory board shall represent the company in the relations with the management.

(5) The management shall register with the trade register the names of the persons empowered to represent the company, indicating whether they act together or separately. They shall deposit with the trade register signature copies.

ART. 153⁴

(1) At least once in 3 months, the management shall submit a written report to the supervisory board with regard to the company's management, to its activity and its possible evolution.

(2) Besides the periodical information provided in paragraph (1), the management shall communicate in due time to the supervisory board any information with regard to the events that might have a significant influence over the company's condition.

(3) The supervisory board may request to the management any information that it deems necessary for the exercise of its control attributions and may carry out appropriate check-ups and investigations.

(4) Each member of the supervisory board shall have access to the information send to the board.

ART. 153⁵

(1) The management shall forward to the supervisory board the annual financial statements and its annual report, immediately after their elaboration.

(2) Similarly, the management shall forward to the supervisory board its detailed proposal with regard to the distribution of profit resulted from the balance of the financial exercise, which they intend to present to the general assembly.

(3) The provisions of Article 153⁴ (4) shall apply accordingly.

B. Supervisory board

ART. 153⁶

(1) The members of the supervisory board shall be appointed by the general assembly of shareholders, except for the first members, that are appointed through the constitutive act.

(2) The candidates for the positions of member in the supervisory board shall be nominated by the existing members of the board or by the shareholders.

(3) The number of members of the supervisory board shall be established by the constitutive act. This number may not be less than 3 nor higher than 11.

(4) The number of members of the supervisory board may be dismissed at any time by the general assembly of shareholders, with a majority of at least two thirds of the number of votes of the shareholders present.

(5) The supervisory board shall elect a president of the board from among their members.

ART. 153⁷

(1) In case of vacancy of a position in the supervisory board, the board may proceed to the appointment of a provisional member, by the meeting of the general assembly.

(2) If the vacancy mentioned in paragraph (1) determines the decrease of the number of members of the supervisory board below the lawful minimum level, the management must convene without delay the general assembly for completing the vacant seats.

(3) In case the management does not meet its obligation to convene the general assembly in compliance with paragraph (2), any party concerned may address the court to designate the person in charge with the ordinary general assembly of shareholders, that shall make the necessary appointments.

ART. 153⁸

(1) The members of the supervisory board may not be simultaneously members of the management. Likewise, they may not associate the capacity of member in the supervisory board with the one of employee of the company.

(2) The constitutive act or the decision of the general assembly of shareholders there may shall be established professionalism and independence specific conditions for the members of the board of directors. In the appraisal of the independence of a member of the supervisory board at least the criteria regulated by Article 138² (2) must be met.

(3) With regard to the rights and obligations of the members of the supervisory board, the provisions of Article 144¹, Article 144² (1) and (5), of Article 144⁴ and 150 shall apply accordingly.

ART. 153⁹

(1) The supervisory board shall have the following main attributions:

- a) to exercise the permanent control over the leadership of the company by the management;
- b) to appoint and dismiss the management members;
- c) to check the compliance with the law, the constitutive act and the decisions of the general assembly of the operations to manage the company;
- d) to report at least once a year to the general assembly of shareholders with regard to the supervisory activity carried out.

(2) In exceptional cases, when the company's interests requires it, the supervisory board may convene a general assembly of shareholders.

(3) To the supervisory board may not be transferred powers of management of the company. However, the constitutive act may provide certain types of operations that may only be carried out with the consent of the board. In case the council does not give his consent for such operation, the management may ask for the consent of the ordinary general assembly. The decision of the general assembly with regard to such agreement shall be made by a majority of 3 fourths of the number of votes of the shareholders present. The constitutive act may not establish another majority nor stipulate other conditions.

ART. 153¹⁰

(1) The supervisory board may create consultative committees, formed of at least 2 members of the board and entrusted with the conduct of investigations and with the elaboration of recommendations for the board, in fields such as audit, remuneration of the members of management and of the supervisory board and of the personnel, or the nomination of candidates for various management positions. The committees shall forward reports on their activity to the board on a regular basis.

(2) The president of the management may be appointed member in the nomination committee created by the supervisory board, with the former acquiring the capacity of member in the board.

(3) At least one member of each committee created pursuant to paragraph (1) must be an independent member of the supervisory board. At least one member of the audit committee must have relevant expertise concerning the application of the accounting principles or concerning the financial audit.

(4) In case of joint-stock companies whose annual financial statements that are object of an lawful obligation of financial audit, to create an audit committee within the supervisory board shall be mandatory.

ART. 153¹¹

(1) The supervisory board shall be met at least once in 3 months. The president shall convene the supervisory board and shall preside the meeting.

(2) Likewise, the supervisory board shall be convened at any time at the motivate request of at least 2 of the members of the board or of the management. The board shall meet within maximum 15 days as of the convening.

(3) If the president does not meet the convening request from the council in compliance with the provisions of paragraph (2), the authors of the request may convene themselves the board, also establishing the agenda of the sitting.

(4) The members of the management may be convened to the meetings of the supervisory board. They shall not have a right to vote within the board.

(5) During each meeting a minutes shall be drawn up, which shall include the names of the participants, the order of deliberations, the decisions made, the number of votes cumulated and dissenting opinions. The minutes shall be signed by the president of the sitting and by at least member present of the board.

SUBSECTION III

Common provisions for the unitary system and for the dual system

ART. 153¹²

(1) The length of the term of office of the administrators or of the members of the management and of the supervisory board shall be established by the constitutive act, and it may not exceed 4 years. They shall be re-eligible, unless the constitutive act does not provide otherwise.

(2) The length of the term of office of the first members of the board of directors or of the first members of the supervisory board may not exceed 2 years.

(3) For the purpose that the appointment of an administrator or of a member of the management or of the supervisory board, be legally valid, the person appointed must accept it expressly.

(4) The person appointed to one of the positions provided in paragraph (3) must take out a professional liability insurance.

ART. 153¹³

(1) The managers of the joint-stock company, in unitary system, or the members of the management, in dual system, shall be legal persons.

(2) A legal person may be appointed administrator or member in the supervisory board of a joint-stock company. At the same time with this appointment, the legal person shall be under the obligation to designate a permanent representative, a natural person. It shall be subject to the same obligations and conditions and it shall have the same civil or criminal liability as an administrator or a member of the supervisory board, a natural person, acting in his own behalf, without this exonerating the legal person representing it of its liability or mitigate its joint liability. When the legal person dismisses its representative, it shall be under the obligation to appoint at the same time a substitute.

ART. 153¹⁴

The persons that, according to this law, may not be founders nor may they be administrators, directors, members of the management or of the supervisory board.

ART. 153¹⁵

The managers of a joint-stock company, in a unitary system, and the members of the management, in dual system, may never be, without the authorisation from

the board of directors or of the supervisory board, managers, administrators, members of management or of the supervisory board, censors or, as applicable, internal auditors or unlimited liability associates, in other rival companies or in companies with the same business object, nor they may exercise the same trade or a rival trade, on their own behalf or on behalf of another person, under the punishment of dismissal and of liability for damage.

ART. 153¹⁶

(1) A natural person may exercise simultaneously maximum 5 terms of office as administrator and/or member of the supervisory board in joint-stock companies with a head office on the Romanian territory. This provision shall apply to the same extent to the natural person that is an administrator or a member in the supervisory board, as it applies to the natural person that is a permanent representative of a legal person that is an administrator or a member of the supervisory board.

(2) The prohibition provided in paragraph (1) does not refer to the cases where the person elected in the board of directors or in the supervisory board is the owner of at least one fourth of the total number of shares of the company or is a member in the board of directors or in the supervisory body of a joint-stock company that holds the fourth shown above.

(3) The person that breaks the provisions of this article shall be bound to resign from the offices of member of the board of directors and of the supervisory board that exceed the maximum number of terms of offices provided in paragraph (1), within one month as of the date when the incompatibility situation emerges. Upon the expiry of this period, he shall lose the mandate obtained by exceeding the legal number of terms of office, in the chronological order of the appointments, and he shall be bound to return the remuneration and other benefits received by the company having exercised such mandate. The deliberations and decisions in which he participated while exercising his term of office shall continue to be valid.

ART. 153¹⁷

Before being appointed manager or administrator or member of the management or of the supervisory board in a joint-stock company, the person nominated shall notify the body of the company entrusted with its nomination with regard to the relevant aspects provided in Article 153¹⁵ and 153¹⁶.

ART. 153¹⁸

(1) The remuneration of the members of the board of directors or of the supervisory board shall be established by the constitutive act or by decision of the general assembly of shareholders.

(2) The additional remuneration of the members of the board of directors or of the supervisory board entrusted with specific functions within such body, as well as the remuneration of managers, in the unitary system, or of the members of management, in dual system, shall be established by the board of directors or by the supervisory board, respectively. The constitutive act or the general assembly of shareholders shall fix the general limits of all remunerations so granted.

(3) Any other benefits may only be granted in compliance with paragraphs (1) and (2).

(4) The general assembly, or the board of directors or the supervisory board, respectively, and if applicable, the remuneration committee shall make sure, when establishing the remunerations or other benefits, that they are justified in ratio to the specific duties of such persons and with the economic situation of the company.

ART. 153¹⁹

The board of directors shall request from the trade register office to record the managers' appointment, as well as any change as regards the administrators or managers and publication of such data in the Official Gazette of Romania, Part IV. The same obligation shall devolve on the management with regard to the registration of the first members of the management and of any change in the person of the members of the management or of the members of the supervisory board.

ART. 153²⁰

(1) With a view to ensuring the validity of the decisions of the board of directors, of the management or of the supervisory board it shall be required the attendance of at least half of the number of members of this bodies, unless the constitutive act provides a higher number.

(2) The decisions within the board of directors, of the management or of the supervisory board shall be made by the majority of the votes of the present members. The decisions with regard to the appointment or dismissal of the presidents of such bodies shall be made by a majority of the members of the board.

(3) The members of the board of directors, of the management or of the supervisory board may be represented in the meetings of such body only by other members of this body. A member present may represent only one absent member.

(4) The constitutive act may order that the participation in the reunions of the board of directors, of the management or of the supervisory board may also take place through distance means of communication, also indicating their type. Likewise, the constitutive act may restrict the type of decisions that may be made under such conditions and may provide a right to oppose to such procedure in favour of a number determined by the members of such body.

(5) The distance means of communication provided in paragraph (4) must meet all technical requirements necessary for identifying the participants, their actual participation in the board's meeting and the continuous re-transmission of deliberations.

(6) Unless the constitutive act provides otherwise, the president of the board of directors or of the supervisory body shall have the decisive vote in case of parity of votes. The president of the board of directors that is simultaneously a manager of the company may not have a decisive vote.

(7) If the president in office of the board of directors, of the management or of the supervisory board may not or is forbidden to participate in the voting within such body, the other members may choose a sitting president, having the same rights as the president in office.

(8) In case of parity of votes and if the president does not benefit by a decisive vote, the proposal subject to the vote shall be regarded as rejected.

ART. 153²¹

(1) The constitutive act may order that, in exceptional cases, justified by the emergency of the case any by the interests of the company, the decisions of the board of directors or of the management may be made by the unanimous vote expressed in writing by the members, without no further reunion of such body being necessary.

(2) The procedure provided in paragraph (1) may not be resorted to in case of decisions of the board of directors or of the management referring to the annual financial statements or to the authorised capital.

ART. 153²²

The board of directors or the management, respectively, may conclude legal acts in the company's name or on the company's behalf, whereby it receives assets for this or alienates, rents, changes or establishes as security the assets that are the company's patrimony, the value of which exceeds half of the accounting value of the company's assets on the date of conclusion of the legal acts, only with the approval of the general assembly of shareholders, given under the terms of Article 115.

ART. 153²³

The managers and members of the board of directors, the members of management and those of the supervisory board shall be bound to participate in the general assembly of shareholders.

ART. 153²⁴

(1) If the board of directors or the management, respectively, finds that, after some losses, established in the annual financial statements approved according to the law, the net assets of the company, determined as difference between the total assets and total debts of the company, decreased to less than half of the value of the subscribed registered capital, it shall convene forthwith the extraordinary general assembly to decide whether the company must be dissolved.

(2) The constitutive act must establish that the extraordinary general assembly be convened even in case of a less significant decrease of the net assets than the one provided in paragraph (1), establishing this minimum level of the net assets by reporting to the subscribed registered capital.

(3) The board of directors or the management, respectively, shall submit to the extraordinary general assembly reunited according to paragraph (1) a report on the patrimony of the company, accompanied by remarks of the censors or, as applicable, of the internal auditors. This report must be deposited with the head office of the company at least one week before the date of the general assembly, in order to be able to be consulted by any shareholder concerned. Within the extraordinary general assembly, the board of directors or the management, respectively, shall inform the shareholders with regard to any relevant facts occurred after the drawing up of the written report.

(4) If the extraordinary general assembly does not decide the dissolution of the company, then the company shall be obliged that, at the latest by the closing of

the financial year subsequent to the one when the losses were established and under the reserve of Article 10, to proceed to the decrease of the registered capital in an amount at least equal to the one of the losses that could not be covered from the reserves, if during such interval the net assets of the company was not recreated up to the level of a value at least equal to half the registered capital.

(5) In case the extraordinary general assembly fails to meet in compliance with paragraph (1) or if the extraordinary general assembly could not validly deliberate in the second convening either, any person concerned may address the court to ask for the dissolution of the company. The dissolution may also be requested in case the obligation imposed to the company according to paragraph (4) is not observed. In any of such cases the court may grant the company a time limit that may not exceed 6 months to settle the situation. The company shall not be dissolved if the recreation of the net assets by the level of a value at least equal to half the registered capital takes place by the time when the dissolution judgement is irrevocable.

ART. 154 *** Repealed

ART. 155

(1) The action for responsibility against founders, administrators, managers, or the members of management and supervisory board, as well as censors or financial auditors and directors, for damages caused by them by breaking their obligations to the company shall belong to the general assembly, which shall decide by the majority stipulated in Article 112.

(2) The assembly shall appoint by the same majority the person charged with taking action at law.

(3) When the general assembly decides with regard to the annual financial statement, it may make a decision referring to the liability of the administrators, managers, or the members of management and supervisory board, although this issue is not on the agenda.

(4) If the assembly decides to bring an action for responsibility against the administrators or the members of management, their term of office shall cease de jure on the date of adoption of the decision and the assembly or the supervisory board respectively shall proceed to their substitution.

(5) If the action at law is directed against the managers, they shall be suspended from office by right until the judgment is irrevocable.

(6) If the general assembly decides to start an action for responsibility against the members of the supervisory board with the majority provided in Article 115 (1), the term of office of such members of the supervisory board shall cease de jure. The general assembly shall proceed to their replacement.

(7) The action for responsibility against the members of the management may be exercised also by the supervisory board, as a result of a decision of the board itself. If the decision is made by a majority of two thirds of the total number of members of the supervisory board, the term of office of those members of the management shall cease de jure, and the supervisory board shall proceed to their replacement.

ART. 155^1

(1) If the general assembly does not bring the action for responsibility provided in Article 155 and does not answer to one or more shareholders' proposal to initiate such action, the shareholders that represent individually or together at least 5% of the registered capital shall be entitled to bring an action for damages, on their own behalf, but in the account of the company, against any person provided in Article 155 (1).

(2) The persons that exercise their right provided in paragraph (1) must have already had the quality of shareholder on the date when the matter of bringing the action for responsibility was subject to debates within the general assembly.

(3) The court of costs shall be covered by the shareholders that brought the action. In case of admission, the shareholders shall be entitled to a refund from the company of the amounts advanced with this title.

(4) After the judgment of the court of admission of the action provided in paragraph (1) is irrevocable, the general assembly of shareholders or the supervisory board may decide on the termination of the term of office of the administrators, managers or members of the supervisory board, or of the members of management, respectively, and their replacement.

ART. 156 *** Repealed

ART. 157 *** Repealed

ART. 158 *** Repealed

Section 4

Financial audit, internal audit and auditors

ART. 159

(1) The joint-stock company shall have three auditors and the same number of deputy members, unless the constitutive act stipulates a larger number. In all cases, the number of the auditors must be an odd one.

(2) In the beginning, the auditors shall be elected by the constitutive assembly. They shall have a three-year term of office and can be re-elected.

(3) The auditors shall have to carry out personally their term of office.

(4) At least one of them must be a legally authorised or chartered accountant.

(5) *** Repealed

ART. 160

(1) For the financial statements of the trading companies subject to the lawful obligation of audit, the audit shall be carried out by the financial auditors - natural persons or legal persons -, under the terms provided by the law.

(1^1) The joint-stock companies that opt, pursuant to Article 153, for the dual administration system shall be subject to financial audit.

(1^2) The trading companies whose annual financial statements are subject to financial audit, according to the law or to the decision of the associates/shareholders, shall not apply the provisions of Article 159 (1).

(2) The trading companies the annual financial statement of which are subject to the financial audit, according to the law or to the shareholders' decision, shall organise the internal audit according to the norms issued by the Romanian Chamber of Financial Auditors.

(3) For the trading companies the annual financial statement of which are not subject, according to the law, to the financial audit, the ordinary general assembly of shareholders shall decide to contract the financial audit or to appoint the auditors, as the case may be.

ART. 160¹

The board of directors or the management, respectively, shall register with the trade register any change in the person of censors, or of the internal auditor or financial auditor, respectively.

ART. 161

(1) The auditors may be shareholders, except for the auditor who is a chartered accountant or an authorised accountant, and who can be a third party practising individually or in associations.

(2) The following persons may not be auditors, and if they were elected, they lose their term of office:

a) relatives or kinsmen up to the fourth degree included or administrators' spouses;

b) persons who earn, under any form, for other positions than that of auditor, a salary or a remuneration from the administrators or the company, or whose employers have contractual relations or are in competition with that company;

c) persons who are denied the position of member in the board of directors, or in the supervisory board and management, according to Article 153¹⁴;

d) persons who, while discharging the duties this position implies, have control duties within the Ministry of Public Finance or within other public institutions, except for the cases specifically stipulated by law.

(3) The auditors shall be remunerated by a fixed indemnity determined in the constitutive act or by the general assembly which appointed them.

ART. 162

(1) In case of death, physical or legal obstruction, termination or renouncement to the term of office by one auditor, the oldest deputy member shall substitute him.

(2) If in this way the auditors' number cannot be completed, the remaining auditors shall appoint other persons to fill in the vacancies, until the next meeting of the general assembly is held.

(3) In case no auditor stays in office, the administrators shall urgently convene the general assembly, which shall appoint other auditors.

ART. 163

(1) The censors or, as applicable, the internal auditors shall be bound to supervise the company's administration, to check if the financial statements are drawn up in a lawful manner and in compliance with the registers, if the latter are regularly kept, and whether the assets valuation was made according to the rules set out for the drawing up and presentation of the financial statements.

(2) Concerning all this, as well as regarding the proposals they deem appropriate for the financial statements and for the distribution of profits, the censors shall submit a detailed report to the general assembly. The modality and procedure of reporting of the internal auditors shall be established in the constitutive act, according to the regulations on the profession.

(3) The general assembly shall not be in a position to approve the annual financial statements, if these are not accompanied by the auditors' report or by the financial auditors' report, as the case may be.

(4) *** Repealed

(5) The censors or, as applicable, the internal auditors shall notify the members of the board of directors on the irregularities in administration and the infringements of the legal provisions and of the constitutive act which they find out, and the more important cases shall be brought to the knowledge of the general assembly.

ART. 164

(1) The auditors shall be entitled to obtain every month from the administrators a report on the operations' situation.

(2) *** Repealed

(3) It shall be forbidden to auditors to inform the shareholders, in private, or third parties, about the company's operations which they took knowledge of while exercising their term of office.

ART. 164¹

(1) Any shareholder shall be entitled to report to the censors on the facts he thinks they require censoring, and these shall have them in view for the drawing up of the report to the general assembly.

(2) In case the complaint is made by the shareholders representing, individually or together, at least 5% of the registered capital or a lower quota, if provided by the constitutive act, the censors shall be bound to check it. If they appreciate that the complaint is justified and urgent, they shall be bound to convene forthwith the general assembly and to submit their remarks to it. Otherwise, they must bring into question the complaint in the first meeting. The general assembly must make a decision on the facts complained about.

(3) In case of companies where internal auditors were appointed, according to the law, any shareholder shall be entitled to report on the facts which they deem as requiring a verification. The internal auditors shall have them in view for the drawing up of the report to the board of directors, or to the supervisory board, respectively. In case the complaint is made by the shareholders representing, individually or together, at least 5% of the registered capital or a lower quota, if provided by the constitutive act, the internal auditors shall be bound to check the facts complained about, and in case they are confirmed, they shall be written down in a report that shall be communicated to the board of directors, or to the supervisory board, respectively, and made available to the general assembly; in this case the board of directors or the supervisory board, respectively, shall be bound to convene the general assembly.

ART. 165

(1) With a view to fulfilling the obligation provided for in Article 163 (2), the auditors shall confer together; however they shall be able to draw up separate reports in case of disagreement, which they must submit to the general assembly.

(2) For the other obligations stipulated by law the auditors can work separately.

(3) The auditors shall record their proceedings, as well as the observations made while exercising their term of office in a special register.

ART. 166

(1) The extent to which the auditors are responsible and the effects of their responsibility shall be determined by the rules of the terms of office.

(2) Their dismissal can be made only by the general assembly, on the basis of the vote required for the extraordinary assemblies.

(3) The provisions of Articles 73, 145 and 155 shall be also applied to the auditors.

Section 5

About bonds issue

ART. 167

(1) The nominal value of a bond cannot be lower than ROL 2.5.

(2) The bonds of the same issue must have equal value and shall give equal rights to their holders.

(3) The bonds may be issued in a material form, on paper, or in a dematerialized form, by registration in a bank account.

ART. 168 *** Repealed

ART. 169 *** Repealed

ART. 170

(1) The subscription of bonds shall be made on copies of the issue prospectus.

(2) The value of the subscribed bonds must be fully deposited.

(3) The bonds' titles must contain the data stipulated by the legislation of the capital market.

(4) The titles shall be signed according to the provisions of Article 93 (4).

(5) The nominal value of the bonds convertible into shares shall be equal to the value of the shares.

ART. 171

(1) The bondholders can gather in a general assembly to deliberate upon their interests.

(2) The assembly shall be convened at the expenses of the company that issued the bonds upon the request of a number of bondholders who represent the fourth part of the titles issued and not yet reimbursed or, after the appointment of the representatives of bondholders upon their request.

(3) The dispositions stipulated for the ordinary assembly of the shareholders shall also be applied to the assembly of bondholders, concerning the forms, conditions, convening terms, titles depositing and voting.

(4) The issuing company cannot take part in proceedings of the bondholders' assembly on the basis of the bonds it holds.

(5) The bondholders may be represented by proxies, others than the administrators, managers, or the members of the management, of the supervisory board or the censors or company employees, respectively.

ART. 172

(1) The bondholders' assembly legally set up shall have the following powers:

a) to appoint a representative of the bondholders and one or several deputy members having the right to represent them before the company and in court, establishing their remuneration; they may not take part in the company's administration, but they shall be able to attend its general assemblies;

b) to carry out all the acts of supervision and protection of their common interests or to authorise a representative to carry them out;

c) to set up a fund, drew out from the interests due to bondholders in order to cover the expenses necessary for the protection of their rights, establishing, at the same time, rules for the administration of this fund;

d) to oppose to any amendment of the constitutive act or of the loan conditions, by which the bondholders' rights might be affected;

e) to pronounce their opinion concerning the issue of new bonds.

(2) The assembly's decisions shall be brought to the attention of the company within no more than three days since they were passed.

ART. 173

For the validity of the proceedings stipulated under Article 172 (1) a), b), c), the decision shall be made by a majority of at least one third of the titles issued and not reimbursed; in the other cases, it shall be required the attendance to the assembly of the holders representing at least two thirds of the titles not yet reimbursed and the favourable vote of at least four fifths of the titles represented in the assembly.

ART. 174

(1) The decisions made by the assembly of the bondholders shall also be compulsory for the holders who did not take part in the meeting or who voted against.

(2) The bondholders' assembly decisions can be sued at law by the holders who did not take part in the meeting or who voted against and who demanded this to be recorded in the assembly's minute, within the period and with the effects indicated in Articles 132 and 133.

ART. 175

The action at law of the bondholder against the company shall not be admissible if its object is the same as that of the action brought against by the representative of the bondholders or is contrary to a decision of the assembly of bondholders.

ART. 176

(1) The bonds shall be reimbursed by the issuing company when they fall due.

(2) Before falling due the bonds of the same issue and of the same value can be reimbursed, by drawing lots, at an amount higher than their nominal value established by the company and publicly announced, at least 15 days prior to drawing lots.

(3) The convertible bonds may be converted into shares belonging to the issuing company under the conditions established in the public offer prospectus.

Section 6

About the registers and annual financial statements of the company

ART. 177

(1) Besides the registers stipulated by law, the joint-stock companies must keep:

a) a shareholders' register which must contain, as the case may be, the surname and first name, personal code number, denomination, domicile or registered office of shareholders holding registered shares, as well as deposits made for the shares. The records of securities traded on a regulated market/alternative transaction system shall be kept in compliance with the specific legislation of the capital market;

b) a register of the meetings and proceedings of the general assembly;

c) a register of the sitting and proceedings of the board of directors, or of the management and of the supervisory board, respectively;

d) *** Repealed

e) a register of proceedings and findings made by auditors and, as applicable, by the internal auditors, while exercising their term of office;

f) a register of bonds showing the total number of the issued bonds and of the reimbursed bonds, as well as the surname and first name, denomination, domicile or registered office of holders, in case the bonds are registered. The records of bonds issued in a dematerialized form and traded on a regulated market or by means of an alternative transaction system shall be kept in compliance with the specific legislation of the capital market.

g) any other registers provided by special statutory instruments.

(2) The registers stipulated in paragraph (1) a), b) and f) shall be put in charge of the board of directors or of the management, the one stipulated by point c) shall be put in charge of the body in question and the one stipulated by point e) shall be put in the censors' charge or, as applicable, of the internal auditors; the registers provided in paragraph (1) g) shall be kept under the terms provided by such statutory instruments.

ART. 178

(1) The administrators or, as the case may be, the independent register companies shall be bound to put at the disposal of the shareholders and of any other persons requesting them the registers stipulated by Article 177 (1) a) and to deliver upon their request, at their expense, excerpts from the registers.

(2) They shall also be bound to put at the disposal of the shareholders and bondholders, under the same conditions, the register stipulated by Article 177 (1) b) and f).

ART. 179

The shareholders' register and the bonds' register may be kept by filling them by hand or in a computerized system.

ART. 180

(1) With a purpose to keep the shareholders' register in a computerized system and to carry on registrations and other operations pertaining thereto the trading company may conclude relevant contracts with an independent private register company.

(2) The provisions of the previous paragraph shall be applicable accordingly as regards the bonds' register as well.

(3) Keeping the shareholders' register and/or the bonds' register by an authorised independent register company shall be compulsory in cases specially provided by law.

(4) In case the shareholders' register is kept by an authorised independent register company, it shall be mandatory to mention in the trade register the firm and its registered office, as well as any changes occurred with regard to these identification elements.

ART. 181

The board of directors or the management must present to the censors or to the internal auditors and financial auditors, at least 30 days prior to the date established for the general assembly meeting, the annual financial statement of the previous financial exercise, along with their report and documents in proof.

ART. 182

(1) The annual financial statements shall be drawn up under the conditions stipulated by law.

(2) The annual financial statements of the trading companies shall be subject to verification and audit, according to the law.

ART. 183

(1) The company shall take over at least 5% of the profits every year, in order to form the reserve fund until it amounts to a minimum of a fifth part of the registered capital.

(2) If the reserve fund, after its settling, is reduced for any reason whatsoever it shall be completed in compliance with the provisions of paragraph (1).

(3) Even if the reserve fund reached its limit provided by paragraph (1), it shall also include the excess money obtained by the sale of stocks at a rate higher than their nominal value, if the excess is not money used to pay the issue expenses or is not intended for depreciations.

(4) The founders shall participate in the profits, if so provided by the constitutive act or, in the absence of such provisions, if it was so approved by the general extraordinary assembly.

(5) In all cases the general assembly shall establish the participation conditions for each financial year.

ART. 184

(1) The reports of the censors or, as applicable, of the financial auditor shall remain deposited at the registered office and at that of its branches during the 15 days preceding the meeting of the general assembly so that they may be studied by the shareholders.

(2) Upon request, the board of directors or the management, respectively, shall release for the shareholders copies of these documents. The amounts charged for the release of copies may not exceed the administrative costs involved by their supply.

ART. 185*)

(1) The board of directors or the management, respectively, shall be bound, within 15 days as from the date of the general assembly's meeting, to deposit with the trade register copies on paper or electronically or only electronically, having attached an extended electronic signature, of the annual financial

statements along with their report, the report of the censors or the report of the financial auditors, as well as the minutes of the general assembly, under the terms established by the Law on accountancy No. 82/1991, republished.

(2) A notice confirming the submission of these documents shall be published in the Official Gazette of Romania, Part IV, at the company's expense and by care of the trade register office, for the trading companies whose yearly rate of turnover exceeds ROL 10 million.

(3) For the trading companies whose yearly rate of turnover exceeds ROL 10 million, the notice provided in paragraph (2) shall be published, for free access, on the website of the trade register office.

(4) The data included in the annual financial statements shall be sent electronically by the trade register offices to the Minister of Public Finances, under the terms established by methodological norms approved by Government decision.

*) See the note in the end of the statutory instruments.

ART. 186

The approval of the annual financial statements by the general assembly shall not hinder the exercise of the action for responsibility, in compliance with the provisions of Article 155.

CHAPTER V

Limited partnerships by shares

ART. 187

The limited partnership by shares shall be regulated by the provisions regarding joint-stock companies, except for Articles 153 - 155¹ and for the provisions of the present chapter.

ART. 188

(1) The administration of the partnership shall be entrusted to one or several active partners.

(2) The provisions of Articles 89 and 90 shall be applied to the sleeping partners and those of Articles 80 - 83 to the active partners.

ART. 189

(1) In the limited partnership by shares, the administrators may be dismissed by the shareholders' general assembly according to a decision made by the majority required for the extraordinary assemblies.

(2) The general assembly shall elect by the same majority and in compliance with Article 138 another person instead of the administrator who was dismissed, who died or who ceased to exercise his term of office.

(3) The appointment must also be approved by the other administrators, if there are several ones.

(4) The new administrator shall become an active partner.

(5) The dismissed administrator shall remain unlimitedly liable towards third parties for the obligations he was committed to during his administration, keeping his right to subsequently sue the partnership.

ART. 190

The active partners who are administrators cannot participate in the proceedings of the general assembly for the election of censors or, as applicable, of the financial auditor even if they possess shares in the partnership.

CHAPTER VI

Limited liability companies

ART. 191

(1) The associates' decisions shall be made in the meeting of the general assembly.

(2) The constitutive act may also state the possibility of the voting by correspondence.

ART. 192

(1) The general assembly shall make decisions by the vote of the absolute majority of the associates and of the registered shares, unless otherwise provided by the constitutive act.

(2) Except for contrary legal provisions or those of the constitutive act, the vote of all associates shall be needed for decisions having as subject amendments to the constitutive act.

ART. 193

(1) Each registered share shall give the right to one vote.

(2) One associate may not exercise his right to vote in the proceedings of the associates' assembly, regarding his contribution in kind or the legal documents concluded between him and the company.

(3) If the legally constituted assembly cannot make a valid decision due to the lack of the required majority, the assembly convened again shall be entitled to decide upon its agenda whatever the number of associates and the part of the registered capital represented by the attending associates are.

ART. 194

(1) The general assembly of the associates shall have the following main duties:

a) to approve the annual financial statement and to establish the distribution of the net profit;

b) to appoint the administrators and the censors or, as applicable, the internal auditors, to dismiss them and to release them of their activity, as well as to decide on the contracting of the financial audit, when it does not have a mandatory character, according to the law;

c) to decide upon the suing of administrators and of the censors or, as applicable, of the internal auditors for damage caused to the company, also designating the person in charge of taking action against them;

d) to amend the constitutive act.

(2) In this last case, the provisions of Articles 224 and 225 shall be applied, if the constitutive act stipulates the right of the associate to withdraw, due to the fact that he does not agree to the amendments which were made.

ART. 195

(1) The administrators shall be obliged to convene the assembly of associates at the registered office at least once a year, or as often as necessary.

(2) One associate or a number of them representing at least a quarter of the registered capital, shall be entitled to demand the convening of the general assembly, indicating the purpose of this convening.

(3) The convening of the assembly shall be made under the form stipulated by the constitutive act and, in the absence of any special provision, by registered letter, at least ten days prior to the fixed date, mentioning its agenda.

ART. 196

The provisions stipulated for the joint-stock companies regarding the right to contest the decisions of the general assembly shall also be applied to the limited liability companies, and the 15-day time limit provided in Article 132 (2) shall resume its course from the date when the associate was informed about the decision of the general assembly contested by him.

ART. 196¹

(1) In case of limited liability companies with sole associate, the sole associate shall exercise the powers of the general assembly of the associates of the company.

(2) The sole associate shall write down at once any decision adopted in compliance with paragraph (1).

(3) The sole associate may be an employee of the limited liability company of which he is the sole associate, except for the case when he has the capacity of sole administrator or of member in the board of directors.

ART. 197

(1) The company shall be administered by one or several administrators, associates or non-associates, appointed through the constitutive act or by the general assembly.

(2) The administrators may neither receive an administrator term of office in other companies which are competitors or have the same object, without the authorisation of the associates' assembly, nor may they carry out the same trading activity or another competitive one on their own account or on the account of another natural or legal person, under penalty of being dismissed and held responsible for damages.

(3) The provisions of Articles 75, 76, 77 and 79 shall also be applied to the limited liability companies.

ART. 198

(1) The company must keep, through the good office of the administrators, a register of the associates, where there shall be written, as the case may be, the name and first name, denomination, place of residence or registered office of each associate, his part of the registered capital, the transfer of the registered shares or any other amendments thereto.

(2) The administrators shall be personally and jointly responsible for any damage caused by breaking the provisions of paragraph (1).

(3) The register may be examined by the associates and by the creditors.

ART. 199

(1) The provisions of paragraph 160 (1) and (2) shall apply accordingly.

(2) At the trading companies not falling within the scope of the provisions of Article 160 (1), the assembly of associates may appoint one or several censors or one financial auditor, according to Article 160 (1[^]1).

(3) If the number of the associates is larger than 15, the auditors' appointment shall be compulsory.

(4) The provisions stipulated for the auditors of the joint-stock companies shall also be applied to the auditors of the limited liability companies.

(5) For lack of censors or, as applicable, of financial auditor, each associate who is not an administrator of the company shall exercise the control right which the associates have in general partnerships.

ART. 200

The limited liability company cannot issue bonds.

ART. 201

(1) The financial statements shall be drawn up according to the norms stipulated for the joint-stock company. After their approval by the general assembly of associates, the administrators shall submit with the trade register, within the 15 days as of the date of the general assembly's meeting, copies of the annual financial statements in compliance with the provisions of the Law on accounting No. 82/1991, republished, in order to be published in compliance with Article 185.

(2) The provisions stipulated for the reserve funds in the joint-stock company, as well as those regarding the cutting down of the registered capital, shall also be applied to the limited liability companies.

ART. 202

(1) The registered shares may be transferred among associates.

(2) The transfer to persons outside the company shall only be allowed if it was approved by the associates representing at least three quarters of the registered capital.

(3) The provisions of paragraph (2) shall not be applicable in case of acquiring a registered share by inheritance, unless otherwise stipulated by the constitutive act; in this case the company shall be obliged to pay the value of the registered share to heirs, according to the latest balance sheet approved.

(4) In case the maximum legal number of associates is exceeded due to the successors' number, these shall be obliged to designate a number of title holders, which shall not exceed the maximum legal number.

ART. 203

(1) The transfer of registered shares must be written down in the trade register and in the register of associates of the company.

(2) The transfer shall come into effect with reference to third parties only from the moment of its writing down in the trade register.

TITLE IV

On the amending of the constitutive act

CHAPTER I

General provisions

ART. 204

(1) The constitutive act may be amended by the decision of the general assembly adopted under the terms of law or by a judgement of the court, under the terms of Article 223 (3) and of Article 226 (2).

(2) The authentic form of the amending act adopted by the associates shall be compulsory when it has as object the following:

a) the increase of the registered capital by subscribing a land as contribution in kind;

b) the changing of the legal status of the company in a general partnership or a limited partnership;

c) the increase of the registered capital by public subscription.

(3) The provisions of Article 17 (1) shall also apply in case of a change in the denomination or in case of continuing the limited liability company with a sole partner.

(4) After each amendment of the constitutive act, the administrators or the management, respectively, shall submit with the trade register, within 15 days, the amending act and the full text of the constitutive act, updated with all the amendments, that shall be registered pursuant to the judgment of the delegated judge, except for the case provided in Article 223 (3) and Article 226 (2), when the registration is made pursuant to the irrevocable decision of exclusion or of withdrawal.

(5) The trade register office shall forward ex officio the amending act so registered and a notification on the submission of the updated text of the constitutive act to the Autonomous Regie <<Monitorul Oficial>>, for publication in the Official Gazette of Romania, Part IV, at the expense of the company.

(6) The amending act of the constitutive act of a general partnership or of a limited partnership, in an authenticated form, shall be deposited with the trade register office, in compliance with the provisions of paragraph (4) and shall be mentioned therein, but its publication in the Official Gazette of Romania, Part IV, shall not be compulsory.

(7) In the version updated according to paragraph (4) the names or denominations and the other identification data of the founders and of the first members of the company's bodies may be omitted.

ART. 205

Changing the company's form, extension of its life or other amendments of its constitutive act do not imply the setting up of a new legal person.

ART. 206

(1) The private creditors of the associates in a general partnership, in a limited partnership or a limited liability company may enter a caveat, under the terms of Article 62, against the decision of the assembly of the associates to extend the

life of the company over the established period for its duration, if they have rights stated by an writ of execution previous to the decision.

(2) When the caveat was admitted, the associates must decide within one month from the date when the decision became irrevocable if they give up the extension or if they are to expel from the company the associate who is in debt to the opponent.

(3) In this last case the rights due to the debtor associate shall be calculated on the basis of the latest approved balance sheet.

CHAPTER II

Cutting down or the increasing of the registered capital

ART. 207

(1) The cutting down of the registered capital may be obtained by:

- a) reducing the number of shares or of the registered shares;
- b) reducing the nominal value of the shares or the registered shares;
- c) purchasing its own shares, followed by their cancellation.

(2) When the writing down of the registered capital is not motivated by losses incurred, it may yet be done by:

- a) total or partial exemption of the associates of their obligation to make the deposits they owe;
- b) restitution to the shareholders of a share of their contributions, in proportion to the cutting down of the registered capital equally calculated for each share or registered share;
- c) other methods provided by the law.

ART. 208

(1) The cutting down of the registered capital can only be made after a two months' period passing from the day of the publication of the decision in the Official Gazette of Romania, Part IV.

(2) The decision must observe the minimum registered capital, when stated by the law, to point out to the reasons of the cutting down and the procedure used for its accomplishment.

(3) The creditors of the company, whose claims are ascertained by a title prior to the decision being published, shall be entitled to be offered securities for the claims that did not become outstanding by the date of this publication. They shall be entitled to enter a caveat against this decision under the terms of Article 62.

(4) The decrease of the registered capital shall not have effect and no payments shall be made to the benefit of the shareholders, by the time the creditors had obtained the realisation of their claims or adequate securities or by the time the court, considering that the company has offered adequate guarantees or that, having in view the assets of the company, the securities are not required, had rejected the creditor's request, by irrevocable judgement.

ART. 209

When the company issued bonds, the cutting down of the registered capital by paying back the shareholders out of the sum paid on account of the stock can only be made proportionally to the value of the reimbursed bonds.

ART. 210

(1) The registered capital may be increased by issuing new shares or by increasing the nominal value of the existing shares in exchange for new contributions in cash and/or in kind.

(2) Likewise, the new shares shall be paid by including the reserves, except legal reserves, as well as the benefits and the issue premiums or by compensation of some certain and liquid debts of third parties with its own shares.

(3) Favourable differences, as resulted from the re-evaluation of the assets, may be included in the reserves, without the increase of the registered capital.

(4) The increase of the registered capital obtained by increasing the nominal value of the shares can only be decided with the vote of all shareholders, except for the case when it is done by including the reserves, the benefits and the issue premiums.

ART. 211

The decision of the general assembly to increase the registered capital shall be published in the Official Gazette of Romania, Part IV, granting a period of at least one month for the priority right to be exercised starting from the publication day.

ART. 212

(1) The joint-stock company shall be able to increase the registered capital, observing the provisions stipulated for the company setting up.

(2) In case of public subscription, the issue prospectus bearing the authentic signatures of two administrators must be submitted with the trade register in order to fulfil the formalities stipulated by Article 18 and it shall contain:

- a) date and incorporation number of the company with the trade register;
- b) denomination and registered office of the company;
- c) subscribed and deposited registered capital;
- d) surname and first name of the administrators or, respectively, of the members of the management or of the board of directors, of the censors or, as the case may be, of the financial auditor and their domiciles;
- e) latest annual financial statement, auditors' report and the financial auditors' report;
- f) dividends paid in the last 5 years or since setting up, if less than 5 years have passed since this date;
- g) bonds issued by the company;
- h) the decision of the general assembly regarding new stock issue, their total value, number and nominal value, kind, information referring to contributions other than cash and benefits granted to these and the date from which dividends shall be paid.

(3) The acceptor shall be able to claim the nullity of the issue prospectus which does not contain all the indicated mentions, if he did not exercise in any way duties and rights as a shareholder.

ART. 213

The increase of the registered capital of a company by way of a public tender of securities and/or by giving the possibility to the shareholders to trade their

preference rights on the capital market shall be subject to the provisions of the legislation specific to the capital market.

ART. 214

In case of increase of the registered capital by way of a public tender, the administrators shall be jointly liable for the accuracy of the data contained in the issue prospectus, in the publications of the company or in the applications forwarded to the trade register office, in compliance with the provisions of the legislation specific to the capital market.

ART. 215

(1) If the increase of the registered capital is made by contributions in kind, the general assembly that decided on this shall appoint one or several experts to assess these contributions, under the terms of Article 38 and 39.

(2) Contributions in debts shall not be allowed.

(3) After the survey report has been submitted the extraordinary general assembly, convened again, may decide to increase the registered capital taking into consideration the experts' conclusions.

(4) The decision of the general assembly must contain the description of the contribution in kind, the name of the persons who make it and number of shares to be issued for it.

ART. 216

(1) The shares issued for the purpose of increasing the registered capital shall be offered for subscription, first of all to the existing shareholders in proportion to the number of shares they possess.

(2) The exercise of the preference right shall only be realisable within the time limit decided by the general assembly, unless otherwise provided by the constitutive act. In all cases, the period granted for the exercise of the preference rights may not be shorter than one month as of the date of publication of the decision in the Official Gazette of Romania, Part IV. After the expiry of this time limit, the shares may be offered for subscription to the public.

(3) Any increase of the registered capital carried out by breaking this article shall fall under absolute nullity.

ART. 216¹

The shareholders shall also have a preference right when the company issues bonds convertible into shares. The provisions of Article 216 shall apply accordingly.

ART. 217

(1) The preference right of the shareholders may be limited or withdrawn only by the decision of the extraordinary general assembly of shareholders.

(2) The board of directors or the management, respectively, shall make available to the extraordinary general assembly of shareholders a written report whereby the reasons of limitation or of withdrawal of the preference right shall be indicated. Such report shall also explain the manner of determination of the value of the shares issue.

(3) The decision shall be made in the presence of the shareholders representing three fourths of the subscribed registered capital, by the majority of the shareholders present.

(4) The decision shall be submitted with the trade register office by the board of directors or by the management, respectively, to be mentioned in the trade register and to be published in the Official Gazette of Romania, Part IV.

ART. 218 *** Repealed

ART. 219

(1) The decision of the general assembly regarding the increase of registered capital shall be effective only to the extent to which it is fulfilled within one year from its adoption date.

(2) If the capital increase proposed is not fully subscribed, the capital shall be increases in the quantum of the subscriptions received only if the issue conditions provide this possibility.

ART. 220

(1) The shares issued in exchange for contributions in cash shall have to be paid, at the time of their subscription, in proportion of at least 30% out of their nominal value and, in full, within no more than 3 years as from the date the decision of the general assembly has been published in the Official Gazette of Romania.

(2) Within the same period of time the shares issued in exchange for contributions in kind shall also have to be paid.

(3) When an issue premium is provided, it shall have to be fully paid at the time of subscription.

(4) The provisions of Article 98 (3) and those of Article 100 shall be applicable.

ART. 220¹

(1) In the constitutive act, the board of directors or the management, may be authorised, within a certain period, that may not exceed 5 years as of the incorporation of the company, to increase the subscribed registered capital up to a determined nominal value (authorised capital), by issuing new shares in exchange for the contributions.

(2) Such authorisation may also be granted by the general assembly of shareholders through an amendment of the constitutive act, for a certain period, that may not exceed 5 years as of the date of registration of the amendment. The constitutive act may increase the quorum requirements for such amendment.

(3) The nominal value of the authorised capital may not exceed half the subscribed registered capital, existing at the time of authorisation.

(4) By the authorisation granted according to paragraphs (1) - (3), the board of directors may also be granted competence to decide the limitation or withdrawal of the preference right of the existing shareholders. This authorisation shall be granted to the board of directors or to the management, by the general assembly, under quorum and majority conditions provided in Article 217 (3). The decision of the board of directors or of the management with regard to the limitation or withdrawal of the preference right shall be deposited with the trade register office, to be mentioned in the trade register and published in the Official Gazette of Romania, Part IV.

ART. 221

The limited liability company shall increase its registered capital, observing the rules regarding the setting up of such companies.

TITLE V

Exclusion and withdrawal of the associates

ART. 222

(1) There can be excluded from a general partnership, a limited partnership, or a limited liability company the associate who:

- a) being noticed that he is put into delay, does not make the contribution he has committed himself to make;
- b) having unlimited liability, has declared bankruptcy, or legal incapacity;
- c) having unlimited liability interferes without any right in administration or breaks the provisions of Articles 80 and 82;
- d) being an associated administrator, defrauds the company or uses the registered signature or the registered capital for his own benefit or for the others' benefit.

(2) The provisions of this article shall also be applied to the active partners of the limited partnership by shares.

ART. 223

(1) The exclusion shall be delivered by a court decision upon request of the company or of any associate.

(2) If the exclusion is sued by an associate, both the company and the defendant shall be subpoenaed.

(3) As a result of the exclusion, the court shall also rule, by the same court decision, on the structure of the shares in the registered capital of the other associates.

(4) The final exclusion court decision shall be deposited within 15 days with the trade register office in order to be registered, and the enacting terms of the court decision shall be published upon the company's request in the Official Gazette of Romania, Part IV.

ART. 224

(1) The excluded associate shall be liable for the losses and he shall have a right to benefits to the day he is excluded, but he shall not be in a position to ask for their liquidation, until they are allotted according to the provisions of the constitutive act.

(2) The excluded associate shall have no right to a proportional part of the registered assets, but he is only entitled to a sum of money representing the value thereof.

ART. 225

(1) The excluded associate shall stay liable against third parties for the operations carried out by the company until the date the final decision concerning the exclusion is delivered.

(2) If at the moment the exclusion takes place operations are being carried out, the associate shall be bound to bear the consequences and he may not withdraw the share he is entitled to, until these operations are completed.

ART. 226

(1) The associate in a general partnership, in a limited partnership or in a limited liability company may withdraw from the company:

- a) in the instances stipulated by the constitutive act;
- b) with the agreement of all the other associates;

c) in the absence of such provisions in the constitutive act or when the agreement of all the associates cannot be reached still the associate may withdraw for justified reasons, based on a court decision, subject only to an appeal, within 15 days as from the day the decision has been notified.

(2) In the situation provided in paragraph (1) c) the court shall rule, by the same court decision, on the structure of the shares in the registered capital of the other associates.

(3) The rights of the withdrawn associate, for which he is entitled against his registered shares, shall be determined with the agreement of the associates or by an expert designated by them or, in case of dispute, by the court.

TITLE VI

Dissolution, merger and division of the trading companies

CHAPTER I

Dissolution of companies

ART. 227

(1) The company shall enter dissolution by:

- a) expiration of the period established for the life of the company;
- b) impossibility to carry out the object of activity of the company or its fulfilment;
- c) the declared nullity of the company;
- d) the decision of the general assembly;
- e) the court decision, initiated by any one of the associates, for justified reasons, such as serious dispute between the associates that hinder the company's operation;
- f) bankruptcy;
- g) other reasons as prescribed by the law or by the constitutive act of the company.

(2) In the case provided in paragraph (1) a) the associates must be consulted by the board of directors or by the management, at least 3 months prior to the company's expiration date, with regard to the possible extension of its life. When such a consultation lacks, at the request of any one of the associates the court may order, by an interlocutory judgment, the carrying out of the consultation, according to Article 119 (3).

ART. 228

(1) The joint-stock company shall enter dissolution:

- a) in the case and under the conditions prescribed by Article 153²⁴;
- b) in the case and under the conditions provided in Article 10 (3).

(2) The limited partnership by shares and the limited liability company shall enter dissolution in the case and under the terms provided in paragraph (1) a) and b).

(3) The provisions of paragraphs (1) and (2) shall not be applicable in cases when, within 9 months as from the date the loss or the cutting down of the registered capital has been acknowledged, it has been re-completed or cut down to the remaining amount or to the minimum legal level or when the company is converted into another form for which the existing registered capital is up to requirements.

(4) The provisions of paragraph (1) c) shall not be applicable in cases when, within 9 months as from the date the reducing of the number of shareholders under its minimum legal level has been acknowledged, this number has been completed.

ART. 229

(1) The general partnership and limited liability companies shall be dissolved through bankruptcy, legal inability, exclusion, withdrawal or death of one of the associates when, owing to these causes, the number of the associates was reduced to only one.

(2) An exception makes the case where the constitutive act contains a clause according to which the company may continue its existence with the heirs or when the only remaining associate decides the company to continue in the form of a limited liability company with one sole associate.

(3) The provisions of the preceding paragraphs shall also be applicable to the limited partnership or limited partnerships by shares, provided that those clauses are applicable to the only active or the only sleeping partner.

ART. 230

(1) In the general partnership, if an associate dies and there is no contrary agreement, the company must pay the share due to the heirs according to the latest approved balance sheet within 3 months from the notification of the associate's death, if the remaining associates do not prefer to continue the company with those heirs who consent thereto.

(2) The provisions of paragraph (1) shall also be applied to the limited partnership, in case of death of one of the active partners, unless his heirs do not prefer to stay with the company as active partners.

(3) The heirs shall stay liable according to Article 224 until the publication of the changes occurred.

ART. 231

(1) In case the company was dissolved following the decision of the associates, the said may go back on their decision, with the majority required for the amendment of the constitutive act, as long as no distribution of the company's assets was initiated.

(2) The new decision shall be mentioned in the trade register and after that the trade register office shall forward it to the Official Gazette of Romania, in order to be published in Part IV at the company's expense.

(3) The creditors and any interested party may oppose the decision in court according to the conditions laid down by Article 62.

ART. 232

(1) The dissolution of trading companies must be registered with the trade register and published in the Official Gazette of Romania except for the case stipulated in Article 227 (1) a).

(2) The registration and publication shall be made according to Article 204, when the dissolution takes place on the basis of a decision of the general assembly, within 15 days from the date of the final court decision, if the dissolution was ruled by court.

(3) In the case regulated in Article 227 (1) f) the dissolution shall be decided by the court specially entrusted with bankruptcy procedure.

ART. 233

(1) Dissolution of the company shall have, as an effect, the beginning of the liquidation procedure. Dissolution may take place without liquidation in case of merger or of total division of the company and in other cases stipulated by law.

(2) As from the moment of dissolution, the managers, administrators, or the management, respectively, cannot start new operations. Otherwise they shall be personally and jointly liable for the operations undertaken.

(3) The ban imposed by paragraph (2) shall be applied as from the day the time established for the company's life expires or as from the date of its dissolution as decided by the general assembly or as declared by a court decision.

(4) The company shall maintain its legal personality during the liquidation operations until the liquidation is finished.

ART. 234

The dissolution of the company, before expiration of the period established for its duration, shall become effective against third parties only after a 30-day interval has passed from the publication in the Official Gazette of Romania, Part IV.

ART. 235

(1) In the general partnerships, the limited partnerships and the limited liability companies the associates may also decide, along with the dissolution, with the quorum and the majority required for the amendment of the constitutive act, the way liquidation is to be carried out, when they are in full agreement as to the distribution and liquidation of the company's assets and when such steps make sure the company extinguishes its liabilities or comes to an agreement with the creditors with regard to its regularisation.

(2) The unanimous vote of the associates may also decide on the manner of distribution among the associates of the assets left after the creditors were paid. Lacking the unanimous consent on the distribution of assets, shall be followed by the liquidation proceedings provided by the law.

(3) The transmission of the property right on the goods left after the payment of creditors shall be carried out on the date of striking the company off the trade register.

(4) The register shall issue for each associate a fact-finding certificate of the property right over the distributed assets, based on which the associate may proceed to the registration of the real estate in the land book.

ART. 236 *** Repealed

ART. 237*)

(1) At the request of any interested person, as well as at the request of the National Trade Register Office, the court may decide the dissolution of the company, in the cases when:

a) the company lacks the statutory bodies or these bodies can no longer meet;
b) the company did not submit within 6 months from the expiry of the legal time limits the annual financial statements or other documents which, according to the law, should be submitted to the trade register office;

c) the company ceased its activity or it has no known registered office or it does not satisfy the requirements referring to the registered office or the associates have disappeared or they have no domicile or known residence;

d) the company did not complete the registered capital, under the terms of law.

(2) The provisions of paragraph (1) c) shall not be applied in case the company was temporarily inactive, a fact notified to the fiscal bodies and registered with the trade register. The duration of inactivity cannot exceed 3 years.

(3) The court decision following which the dissolution was ordered shall be registered in the trade register, shall be communicated to the county general directorate of public finance or of the Bucharest Municipality, respectively, and shall be published in the Official Gazette of Romania, Part IV, at the expense of the party who initiated the application for the dissolution, which party may recover the expenses from the company by way of a separate lawsuit.

(4) In case of several court decisions regarding dissolution, for the situations provided in paragraph (1), the publicity may be made in the Official Gazette of Romania, Part IV, in a table including: the unique registration code, denomination, legal status and the registered office of the company dissolved, the court having ordered the dissolution, the file number, the number and date of the court decision regarding dissolution. In these cases the tariffs for publication in the Official Gazette of Romania, Part IV, shall be reduced by 50%.

(5) Against the dissolution decision any interested person may file an appeal within 30 days as from the date it was published, under the terms of paragraph (3) and (4). The provisions of Article 60 (3) and (4) shall apply accordingly.

(6) On the date when court decision which admitted the dissolution remains final, the legal person shall undergo bankruptcy, according to the provisions of the present law.

(7) If within 3 months as from the date when court decision which admitted the dissolution remains final, the liquidator is not appointed, the delegated judge, at the request of any party concerned, shall appoint a liquidator of the List of reorganisation and liquidation practitioners, following that its remuneration be made of the assets of the dissolved legal person or, in the lack of such assets, from the liquidation fund set up pursuant to the Law No. 64/1995 on the judicial reorganisation and bankruptcy procedure, republished, with subsequent amendments and additions.

(8) If the delegated judge was not notified, under the terms of paragraph (7), in connection to an application of appointment of the liquidator within 3 months from

the expiry of the time limit provided in paragraph (7), the legal person shall be struck off the trade register office, by interlocutory judgment of the delegated judge, delivered at the request of the National Office of the Trade Register, by summoning the parties, according to the common law.

(9) The interlocutory judgment for striking off shall be registered in the trade register, shall be communicated to the legal person at its registered office, to the National Agency of Tax Administration and to the general directorates of the county public finances and that of the Bucharest Municipality, by electronic mail, and shall be posted on the web site of the National Office of Trade Register and at the head office of the trade register office next to the tribunal, in the jurisdiction of which the company has registered its head office.

(10) The goods remained from the patrimony of the legal person struck off the trade register under the terms of paragraphs (8) and (9) shall be given to the shareholders.

*) We reproduce below the provisions of Article 3 of the Law No. 302/2005.

"ART. 3

(1) By derogation from the provisions of Article 237 (3) and (4) of the Law No. 31/1990, republished, the tribunal judgement that ruled on dissolution for the failure to satisfy the obligation to increase the registered capital to the lawful limit of EUR 25 000, in ROL equivalent, shall be registered in the trade register, shall be communicated electronically to the National Agency of Tax Administration, to the general directorates of the county public finance and that of Bucharest Municipality and to the Authority for State's Assets Recovery and shall be displayed on the website of the National Trade Register Office and posted at the headquarters of the trade register office next to the tribunal, within the jurisdiction of which the company has its head office registered.

(2) Any party concerned may sue by an appeal the dissolution judgement, within 30 days as of the advertisement by displaying it on the website of the National Trade Register Office. The trading company against which the dissolution was ordered may file an appeal within 30 days as of the communication of the judgement, under the terms of the Civil Procedure Code."

CHAPTER II

Merger and division of companies

ART. 238

(1) The merger shall be the operation whereby:

a) one or more companies is/are dissolved without going into liquidation and transfers/transfer its/their patrimony to another company, in exchange for the distribution of shares to the beneficiary companies and, possibly, for a cash payment of maximum 10% of the nominal value of the shares so distributed; or

b) more companies are dissolved without going into liquidation and transfer all their patrimony to another company which they constitute, in exchange for the distribution of shares to the beneficiary companies and, possibly, for a cash

payment of maximum 10% of the nominal value of the shares so distributed among the shareholders of the divided company.

(2) Division shall be the operation whereby:

a) one company, after it is dissolved without going into liquidation, transfers all its patrimony to several companies, in exchange for the distribution of shares to the beneficiary companies and, possibly, for a cash payment of maximum 10% of the nominal value of the shares so distributed among the shareholders of the divided company;

b) one company, after it is dissolved without going into liquidation, transfers all its assets and liabilities to more newly-established companies, in exchange for the distribution of shares to the beneficiary companies and, possibly, for a cash payment of maximum 10% of the nominal value of the shares so distributed among the shareholders of the divided company.

(3) Merger or division may also be carried out between companies of different types.

(4) Merger or division, as defined in paragraph (1) or (2), may be carried out although the dissolved companies are undergoing liquidation, provided that they hadn't already begun the distribution among the associates of assets to which they are entitled from the liquidation.

ART. 239

(1) The merger or the division shall be decided by each company, under the conditions stipulated for the amending of the company's constitutive act.

(2) When the shares belong to several categories, the decision on the merger/dissolution, pursuant of Article 113 h), shall be subordinated to the results of the vote per categories, given under the terms of Article 115.

(3) If, by merger or division, a new company is set up, it shall come into existence, under the conditions prescribed by this law for the form of company agreed upon.

ART. 240 *** Repealed

ART. 241

The administrators of the companies which take part in the merger or in the division shall draw up a merger plan or a division plan, which shall contain:

a) the form, denomination and registered office of each of the companies involved in the merger or division;

b) the basic reasons and the conditions of the merger or of the division;

c) the conditions for assignment of shares to the absorbing company or to the beneficiary companies;

d) the date at which the stocks and shares provided in letter c) give the holders the right to participate in the benefits and any special conditions that affect this right;

e) the exchange rate of the stocks and shares and the quantum of possible cash payments;

f) the quantum of the merger or of the division premium;

g) the rights granted by the absorbing company or beneficiary company to the holders of shares that confer special rights also to those that hold other securities except for shares or the measures proposed concerning these rights;

h) any special benefit granted to the experts referred to in Article 243³ and to the members of the administrative or control bodies of the companies involved in the merger or division;

i) the date of approval of the financial statements of the participant companies, used to establish the conditions of merger or of the division;

j) the date when the transactions of the absorbed or divided company are regarded from an accounting viewpoint as belonging to the absorbing company or to one of the beneficiary companies;

k) in case of division:

- the description and exact distribution of assets and liabilities that are to be transferred to each of the beneficiary companies;

- the distribution to the shareholders or associates of the divided company of stocks or shares to the beneficiary companies and the criteria based on which the distribution is made.

ART. 241¹

(1) If an asset item is not distributed in the division process and if the interpretation of the project does not allow a decision on its distribution to be taken, the asset item in question or its equivalent value shall be distributed among the beneficiary companies, proportionally to the quota of the net assets allotted to the companies in question, in compliance with the division project.

(2) If a liability item is not distributed in the division project and if the interpretation of the project does not allow to make a decision on its distribution, the beneficiary companies shall be jointly liable for the liability item in question.

ART. 242

(1) The merger or division plan, signed by the representatives of the companies involved, shall be submitted to the trade register office where each company is registered, along with a statement of the company which ceases to exist following the merger or the division, regarding the way it decided to pay off its liabilities.

(2) The merger or the division plan, bearing the visa of the delegated judge, shall be published in the Official Gazette of Romania, Part IV, at the parties' expense, in full or in excerpt, according to the order of the delegated judge or to the parties' request, at least 30 days before the dates of the sessions where the extraordinary general assemblies are to decide on the merger or division, pursuant to Article 113 h).

ART. 243

(1) The creditors of the companies which enter merger or division shall be entitled to an adequate protection of their interests. Any such creditor, whose debt-claim is prior to the date of publication of the merger plan or division plan and that is not due by the date of publication, may file an opposition under the terms of Article 62.

(2) The opposition shall suspend the carrying into effect of the merger or of the division until the day when the court decision becomes irrevocable, except for the cases the debtor company presents evidence it paid its debts or presents securities accepted by the creditors or comes to an agreement with them for the payment of its debts.

(3) In case of division, if a creditor of the company to which the obligation is transferred in compliance with the division plan did not succeed to realise its debt-claim, all beneficiary companies are liable for the obligations in question, within the limits of the net assets transferred to them by division, except for the company to which such obligation was transferred, that has unlimited liability.

ART. 243¹

(1) In case of merger, the holders of securities, others than shares, that grant special rights, must be granted within the absorbing company rights at least equivalent to those they held at the absorbed company, except for the case when the change of the rights in question is approved by an assembly of holders of such titles or individually by the holders of such titles or for the case where the holders are entitled to obtain the redemption of their titles.

(2) In case of division, the holders of securities, others than shares, that grant special rights, must be granted within the beneficiary company to which there may be opposed rights deriving from such securities, in compliance with the division plan, rights at least equivalent to those they benefited by at the divided company, except for the case when the change of the rights in question is approved by an assembly of holders of such securities or individually by the such holders or of the case where the holders are entitled to obtain the redemption of the securities they hold.

ART. 243²

(1) The administrators of the companies that take part in the merger or in the division must draw up a detailed written report that explains the merger or division plan and to state its legal and economic foundation, in particular with regard to the exchange rate of the shares. In case of division, the report shall also include the criterion of distribution of shares.

(2) The report must also describe any special difficulties encountered during the evaluation.

(3) In case of division, the report of administrators shall also include information referring to the drawing up of the evaluation report in compliance with Article 215, for the beneficiary companies, and the register where its must be submitted.

(4) The administrators of the divided company must inform the general assembly of the divided company, as well as the administrators of the beneficiary companies, so that they may inform, in their turn, the general assemblies of such companies on any substantial change with regard to the assets and liabilities, occurred between the date when the division project is drawn up and the date of the general assembly of the divided company that is to decide on the division project.

ART. 243³

(1) One or more experts, natural or legal persons, acting on behalf of each of the companies taking part in the merger or division, but independent from these, shall be appointed by the delegated judge to examine the merger or division plan and to draw up a written report to the shareholders.

(2) This report shall state whether the rate of exchange of the stocks or shares is fair and reasonable. The report shall indicate also the method or methods used

to determine the rate of exchange proposed, whether the method or methods used are adequate for such case, shall indicate the values obtained by applying each of these methods and shall contain the experts' opinion on the weight assigned to the methods in question to obtain the value withheld in the end. The report shall also describe any special difficulties encountered during evaluation.

(3) At the joint request of the companies that take part in the merger or division, the delegated judge shall appoint one or more experts acting for all companies involved, but independently therefrom.

(4) Each of these experts appointed in compliance with this article shall be entitled to obtain from any of the companies participating in the merger or division all relevant information and documents and to conduct any necessary investigation.

ART. 244

(1) At least one month before the date of the extraordinary general assembly that is to render an opinion on the merger or division plan, the management bodies of the companies which enter a merger or which are divided shall make available to the shareholders/associates the following documents:

- a) the merger or division plan;
- b) the report drawn up by the management bodies in accordance with Article 243²;
- c) the annual financial statements and the administration reports for the last 3 financial exercises of the companies which enter a merger or division;
- d) the financial statements, drawn up not earlier than the first day of the third month prior to the date of the merger or divisions plan, if the last financial statements were drawn up for a financial exercise concluded more than 6 months before this date;
- e) the censors' report and, as the case may be, the financial auditor's report;
- f) the report drawn up according to Article 243³;
- f) the situation of contracts with values of more than ROL 10 000 currently in progress, as well as their distribution, in case of division of companies.

(2) The shareholders or associates may obtain free of charge copies of the acts enumerated in paragraph (1) or excerpts thereof.

ART. 245

(1) The administrators of the absorbed company or of the divided company shall be liable from a civil point of view towards the shareholders/associates of that company for the infringements committed while preparing and carrying out the merger or division.

(2) The experts that draw up the report provided in Article 243³, for the absorbed or divided company, shall be liable from a civil viewpoint towards the shareholders/associates of such companies for the infringements committed while satisfying their duties.

ART. 246

(1) Within maximum two months as from the expiry of the time limit for opposition stipulated by Article 62 or, as the case may be, as from the date when the merger or division may be carried out in compliance with the provisions of

Article 243 (2), the general assembly of each company involved shall decide as to the merger or the division.

(2) In case of a merger by the setting up of a new company or of a division by the setting up of a new company, and, if contained in a separate document, the constitutive act or the draft constitutive act of the newly set up company/companies shall be approved by the general assembly of each of the companies which are going to end their existence.

ART. 247

Notwithstanding the provisions of Article 115, when the merger or the division has as an effect the increase of the obligations of one of the involved companies, the decision shall be taken by a unanimity vote.

ART. 248

(1) The act amending the constitutive act of the absorbing company shall be registered with the trade register where the company has its registered office, and, bearing the visa of the delegated judge, it shall be forwarded, ex officio, to the Official Gazette of Romania, to be published in Part IV, at the company's expense.

(2) The publicity for the absorbed companies may be made by the absorbing company, in the cases where the companies in question have not already carried it out, within 15 days from the time when the amending act of the constitutive act of the absorbing company was visaed by the delegated judge.

ART. 249

The merger or the division shall produce its effects:

a) in case one or several new companies are set up, on the date of the new company's incorporation or of the latest of them;

b) in the other cases, on the date of registration of the last general assembly that approved the operation, except for the case where, by the parties' agreement, it is stipulated that the operation will take place at another date, which may not be subsequent to the conclusion of the current financial exercise of the absorbing company or beneficiary companies, not prior to the closure of the closed last financial exercise of the company or companies that transfers/transfer its/their patrimony.

ART. 249¹

In case of a merger by absorption, whereby one or more companies are dissolved without going into liquidation and transfers/transfer all its/their assets and liabilities to another company that holds all their shares or other titles conferring voting rights in the general assembly, the following articles shall not apply: Article 241 c), d) and e), Article 243², Article 243³, Article 244 (1) b) and f), Article 245 and Article 250 (1) b).

ART. 250

(1) The merger or division shall have the following consequences:

a) the transfer, both in the relations between the absorbed or divided company and the absorbing company/beneficiary companies, and in the relations with third parties, to the absorbing company or each companies benefiting from all assets and liabilities of the absorbed/divided companies; such transfer shall be carried

out in compliance with the rules of distribution established in the merger/division plan;

b) the shareholders or associates of the absorbed or divided company become shareholders or associates of the absorbing company or of the beneficiary companies, in compliance with the rules of distribution established in the merger/division plan;

c) the absorbed or divided company ceases to exist.

(2) No stocks or shares in the absorbing company may not be exchanged for stocks/shares issued by the absorbed company and that are held:

a) by the absorbing company, directly or through a person acting in its own name, but on behalf of the company; or

b) by the absorbed company, directly or through a person acting in its own name, but on behalf of the company.

(3) No stocks or shares in one of the beneficiary companies may not be exchanged for stocks in the divided company, and that are held:

a) by such beneficiary company, directly or through a person acting in its own name, but on behalf of the company; or

b) by the divided company, directly or through a person acting in its own name, but on behalf of the company.

ART. 250¹

The provisions of this chapter referring to division, except for Article 250 (1) c), shall also apply when a part of the patrimony of a company is separated and transferred as a whole to one or more existing companies or to certain companies so established, in exchange for the allocation of stocks or shares of the beneficiary companies to:

a) the shareholders or associates of the company that transfers the assets (separation to the shareholders' or associates' interest); or

b) the company that transfers the assets (separation to the company' interest).

ART. 251

(1) The nullity of a merger or division may only be declared by a judgment.

(2) On the date of its realisation, according to Article 249, the merger or the division may be declared null only if it was not subject to a judicial control in compliance with the provisions of Article 37 or if the decision of one of the general assemblies that voted the merger plan or the division plan is null or defeasible.

(3) The cancellation proceedings may not be initiated after the expiry of a 6 months time limit as of the date when the merger or division became effective, within Article 249, or if the situation was corrected.

(4) If the irregularity that may lead to the declaration of nullity of a merger or division may be remedied, the competent court shall grant the companies involved a time limit for its correction.

(5) The final judgment of declaring the nullity of a merger or division shall be forwarded ex officio by the court to the trade register offices next to head office of the companies involved in such merger or division.

(6) The final judgment of declaring the nullity of a merger or division shall not prejudice by itself the validity of the obligations arisen as its duty or to the benefit

of the absorbing company or the beneficiary companies, engaged after the merger or division became effective, pursuant to Article 249, and before the decision declaring the nullity is published.

(7) In case a merger is declared null, the companies involved in such merger shall be jointly liable for the obligations of the absorbing company, engaged in the period mentioned in paragraph (6).

(8) In case a division is declared null, each of the beneficiary companies shall be liable for its own obligations, engaged in the period provided in paragraph (6). The divided company shall be also liable for these obligations within the limits of the quota of net assets transferred to the beneficiary company in the account of which such obligations arose.

ART. 251¹

In case of companies organised according to the dual system, the obligations of the administrators provided in Article 241 and 243² or of Article 245, respectively, shall devolve on the management or on its members.

TITLE VII

Liquidation of trading companies

CHAPTER I

General provisions

ART. 252

(1) Even if the constitutive act stipulates rules in this respect, the following rules shall be mandatory for the liquidation and distribution of the social assets:

a) until the official receivers take over their duties, the administrators and the managers shall continue to exercise its attributions, except for the provisions of Article 233;

b) the official receivers' appointment act that mentions the powers conferred to them or the sentence that replaces it, as well as any subsequent act bringing changes regarding their replacement or the powers conferred must be submitted, by official receivers' care, to the trade register office to be immediately registered and published in the Official Gazette of Romania, Part IV.

(2) Only after fulfilling the formalities of paragraph (1) the official receivers shall deposit their signature with the trade register and shall take over their duties.

(3) After the publication stipulated by paragraph (2), no action may be taken for or against the company, but only on behalf of the official receivers or against them.

(4) Beside the provisions of the present title, the rules established under the constitutive act or the law shall also be applied to the companies undergoing liquidation to the extent to which they are not incompatible with the liquidation.

(5) All the documents issued by the company must show that it is undergoing liquidation.

ART. 252¹

(1) In case an associate has unlimited liability for the obligations of the company for the duration of its operation, his liability for such operations shall also be unlimited in the stage of liquidation of the company.

(2) In case that, during the functioning of the company, an associate is liable for its obligations within the limits of the contribution to the registered capital, his liability shall also be limited to this contribution in the stage of liquidation of the company.

(3) The associate that, to the creditor's fraud, misuses the limited character of its liability and the distinct legal personality of the company shall have unlimited liability for its unpaid obligations.

(4) The liability of the associate becomes unlimited under the terms of paragraph (3), mostly when he makes use of the company's assets as if they were his own or if he diminishes the company's assets to his personal benefit or to the benefit of third parties, knowing or being obliged to know the fact that in this way the company shall no longer be capable to execute its obligations.

ART. 253

(1) The official receivers can be natural or legal persons. The official receivers that are natural persons or the permanent representatives - natural persons belonging to the liquidating company - should be authorised official receivers, under the terms of law.

(2) The official receivers shall have the same responsibility as the administrators, or the members of management, respectively.

(3) Immediately after having taken over their duties, the official receivers shall be obliged, along with the members of the management of the company, to make an inventory and to draw up a balance sheet to ascertain the exact situation of the company's assets and liabilities and to sign them.

(4) The official receivers shall be obliged to receive and keep the company's assets, the registers committed to them by the administrators or by the members of the management, and the documents of the company. Likewise, they shall keep a register with all the liquidation operations, by their chronological order.

(5) The official receivers shall carry out their term of office under the censors' supervision. In case of joint-stock companies organised in a dual system, the liquidators shall carry out their mandate under the control of the supervisory board.

ART. 254

As regards the trading companies whose activity was carried out on the basis of the environment permit stipulated by Law on environment protection No. 137/1995*), republished, with subsequent amendments and supplements, the official receivers shall be obliged to take steps for drawing up an environment balance sheet, stipulated by the said law, and to forward the results of this balance sheet to the local environment protection agency.

*) The Law on environment protection No. 137/1995 was repealed. See the Government Emergency Ordinance No. 195/2006.

ART. 255

(1) Besides the powers granted to them by the associates, with the same majority required for their appointment, the official receivers shall be able:

- a) to go to law and be sued to the benefit of the liquidation;
- b) to carry out and to conclude the trading operations related to liquidation;
- c) to sell, by public auction, the buildings and any movable estate of the company; the goods cannot be sold in the lump;
- d) to make transactions;
- e) to liquidate and to cash in the company's debts even in case of the debtor's bankruptcy, issuing a receipt;
- f) to contract bills of exchange, to make unmortgaged loans and to carry out any other necessary acts.

(2) In the absence of special provisions in the constitutive act or in their appointment document, the official receivers may not establish mortgages on the company's property, unless they are authorised by court.

(3) The official receivers who undertake new trading operations which are not necessary to the liquidation purpose, shall be personally and jointly liable for their accomplishment.

ART. 256

(1) The official receivers cannot pay the associates any sum of money for the parts they are entitled to by liquidation before all the company's creditors get paid.

(2) Still, the associates may ask for the withheld sums to be deposited with the Savings and Consignment Office or with a bank or one of their branches and to carry out the distribution of the shares or of the registered shares even during liquidation if, besides what it is necessary to cover all the company's obligations which are to be paid at maturity or which are falling due, a liquidity of at least 10% of their amount still remains available.

(3) The company's creditors shall be entitled to enter a caveat against the decisions of the official receivers according to Article 62.

ART. 257

The official receivers who prove, by presenting the annual financial statements, that the funds owned by the company are not sufficient to cover the claimable liabilities, must ask for the necessary amounts of money to be paid in by the associates who are unlimitedly liable or by those who did not make the full deposits, if they are obliged to obtain them, according to the company's form, or if they are in debt to the company for the unmade deposits they were bound to make as associates.

ART. 258

The official receivers who paid the company's debts with their own money shall not be in a position to exercise against the company more comprehensive rights than those granted to the creditors who got paid.

ART. 259

The company's creditors shall be entitled to exercise against the official receivers the actions resulting from debts which fall due until the limit of the property existing in the company's assets is reached and only then they are allowed to sue the associates, for the payment of the sums due from the

subscribed shares value or of the contributions made to the company's registered capital.

ART. 260

(1) The company's liquidation must be completed within 3 years at the most as from the date of its dissolution. For justified reasons the court may extend the said time limit with no more than 2 years.

(2) After the liquidation is completed the official receivers must request the erasing of the company from the trade register, within 15 days, under the sanction of a judicial fine of ROL 2 000 000 for each day of delay, which shall be applied by the delegated judge, following the intimation of any party concerned, by interlocutory judgment. The interlocutory judgment of the delegated judge shall be executory and subject to appeal.

(3) The company can also be erased ex officio.

(4) Liquidation shall not discharge the associates and shall not hinder the bankruptcy procedure of the company to be started.

ART. 261

(1) After the accounts are approved and the distribution is completed, the registers and deeds of the general partnership, limited partnership and limited liability company, which are not needed by any of the associates, shall be kept by the associate appointed by the majority.

(2) In joint-stock companies and in limited partnerships by shares the records provided in Article 177 (1) a) - f) shall be submitted to the trade register where the company is registered, where any interested part could take notice of them with the authorisation of the delegated judge, and the rest of the documents shall be deposited with the National Archives.

(3) The registers of all companies shall be kept for 5 years.

CHAPTER II

Liquidation of general partnerships, limited partnerships or limited liability companies

ART. 262

(1) The official receivers' appointment in the general partnerships, limited partnerships or limited liability companies shall be made by all the associates, unless otherwise stipulated by the company contract.

(2) If the unanimity of votes cannot be met, the appointment of the official receivers shall be made by the court, at the request of any associate or administrator, by listening to all the associates and administrators.

(3) Only the associates or administrators may appeal against the court ruling within 15 days from the judgment.

ART. 263

(1) After having completed the liquidation of the general partnership, limited partnership or limited liability company, the official receivers must draw up the financial statement and propose the distribution of assets among the associates.

(1[^]1) The financial statement signed by the official receivers shall be forwarded to be registered and published on the website of the trade register office.

(1[^]2) The provisions of Article 185 (3) shall apply accordingly.

(2) The dissatisfied associate may enter a caveat, according to Article 62, within 15 days from the notification of the liquidation financial statement and the distribution draft.

(3) In order to settle the caveat judgment, the matters regarding liquidation shall be separate from those regarding the distribution, which may not concern the official receivers.

(4) After expiration of the period stipulated by paragraph (2) or after the court decision on the caveat remained final, the liquidation and distribution financial statement shall be considered approved and the official receivers shall be released from their responsibilities.

CHAPTER III

Liquidation of joint-stock companies and of limited partnerships by shares

ART. 264

(1) The appointment of the official receivers in the joint-stock companies and limited partnerships by shares shall be made by the general assembly which decides the liquidation, unless otherwise stipulated by the constitutive act.

(2) The general assembly shall make decisions by the same majority stipulated for the amendment of the constitutive act.

(3) If the majority was not met, the appointment shall be made by the court, upon the request of any of the administrators or of the management members or associates, the company and those who requested the appointment being summoned. The court ruling may only be sued by an appeal within 15 days from the delivery.

ART. 265

(1) The administrators or the management members shall submit to the official receivers a report on administration for the time elapsed since the latest approved financial statement and by the time the liquidation started.

(2) The official receivers shall be entitled to approve the report, to appeal or to support the disputes that may occur.

ART. 266

(1) When one or several administrators or management members are appointed as official receivers, the report concerning the administration of the administrators or of the management members shall be submitted with the trade register office and shall be published in the Official Gazette of Romania, Part IV, along with the final liquidation balance sheet.

(2) When the duration of administration exceeds a financial year, the report must be attached to the first financial statement, which the official receivers shall submit to the general assembly.

(3) Any shareholder may enter a caveat, under the terms of Article 62, within 15 days from the publication.

(4) All the caveats entered shall be joined to be settled by a single court award.

(5) Any shareholder shall be entitled to intervene in court and the ruling of court shall also be opposable to the non-intervening shareholders.

ART. 267

If the liquidation lasts longer than a financial year, the official receivers shall be obliged to draw up the annual financial statement, in compliance with the provisions of the law and of the constitutive act.

ART. 268

(1) After the liquidation has been completed the official receivers shall draw up the final financial statement indicating the quota allotted to each share from the company's assets distribution, along with the auditors' report or, as the case may be, the financial auditors' report.

(2) The financial statement signed by the official receivers shall be submitted with the trade register office in order to be registered and it shall be published in the Official Gazette of Romania, Part IV.

(3) Any shareholder may enter a caveat, under the terms of Article 62.

ART. 269

(1) If the period stipulated by Article 266 (3) has elapsed without any caveat being entered, the financial statement shall be considered approved by all the shareholders and the official receivers shall be released of their responsibilities on condition that all the company's assets should be distributed.

(2) Independently of the expiration of the term, the receiving bill for the last distribution shall stand for the approval of the account and of the distribution made to each shareholder.

ART. 270

(1) The sums of money due to the shareholders, which were not cashed within two months as from the publication of the financial statement, shall be deposited with a bank or one of the branches thereof, indicating the shareholder's name and first name when the shares are registered ones or the order numbers of the shares when they are on bearer.

(2) The payment shall be made to the indicated person or to the shareholder while the deed shall be withheld.

ART. 270¹

In case the company undergoing liquidation is in a state of insolvency, the liquidator shall be bound to request the opening of the insolvency proceedings. Under the terms of the insolvency legislation, the creditors may ask the opening of the insolvency proceedings towards the company where the liquidation is in progress.

ART. 270²

When the syndic-judge ascertains that the conditions provided by the insolvency law are met, the he shall order the opening of the simplified insolvency proceedings.

TITLE VIII

Contraventions and offences

ART. 270³

(1) The violation of the provisions of Article 74 shall be regarded as contravention and shall be sanctioned with fine from ROL 2 500 to ROL 5 000.

(2) The violation of the provisions of Article 73¹ shall be regarded as contravention and shall be sanctioned with fine from ROL 5 000 to ROL 10 000.

(3) The contraventions shall be ascertained and the fines provided in paragraphs (1) and (2) shall be applied by the bodies with control powers of the Ministry of Public Finance - National Agency of Tax Administration and of its territorial units.

ART. 271

It shall be sentenced to imprisonment in the range of 1 up to 5 years the founder, the administrator, the manager, the executive director or the legal representative of the company who:

1. in bad faith presents, in the prospectuses, reports and statements submitted to the public, unreal facts regarding the setting up of the company or its economic conditions or hides, in bad faith, fully or in part, data as mentioned;

2. in bad faith presents to the shareholders/associates an inaccurate financial statement or inaccurate data regarding the economic conditions of the company with the purpose to hide its real situation;

3. refuses to submit to the experts, in the cases and under the conditions stipulated by Articles 26 and 38, the necessary documents or hinders them, in bad faith, to carry out their duties.

ART. 272

It shall be sentenced to imprisonment from 1 up to 3 years the founder, the administrator, the manager, or the legal representative of the company, who:

1. acquires, on the company's account, shares belonging to other companies for a price of which he is aware that it is well superior to their real value or sells, on behalf of the company, shares owned by the company for prices about which he is aware they are well under their real value, for the purpose to obtain a profit, for him or for others, to the prejudice of the company;

2. uses, in bad faith, the company's assets or prestige for a purpose contrary to its interests or to his own benefit or in order to favour another company he is directly or indirectly interested in;

3. borrows, in any form, directly or by an interposed person, from the company he is managing or from a company under its control or from a company which controls the one he is managing, the amount borrowed being over the limit provided in Article 144⁴ (3) a) or paves the way so that one of these above mentioned companies grant him any kind of guarantee for his own debts;

4. breaks the provisions of Article 183.

ART. 272¹

It shall be sentenced to imprisonment from 2 up to 8 years the founder, the administrator, the manager, or the legal representative of the company, who:

1. spreads false news or uses other fraudulent means having as effect the increase or decrease of the value of the company's shares or bonds or of other

titles the company owns with the purpose to obtain, for him or for others, a profit to the prejudice of the company;

2. cashes or pays dividends, in any form, from false profits or which could not be distributed, due to the lack of a financial statement or contrary to those resulting therefrom.

ART. 273

It shall be sentenced to imprisonment ranging from 6 months up to 5 years the administrator, the manager, the executive director or the legal representative of the company, who:

1. issues shares of a lower value than their legal one or at a lower price than their nominal value, or issues new shares in exchange for contributions in cash prior to the full payment of the preceding shares;

2. in the meetings of the general assembly makes use of the shares which are not subscribed to or distributed to the shareholders;

3. grants loans or advances on the company's shares;

4. hands over the shares to the holder ahead of schedule or does the same with shares paid totally or in part, except for the cases stipulated by law or issues bearer shares which are not fully paid off;

5. does not observe the legal provisions regarding the cancelling of the unpaid shares;

6. issues bonds without observing the legal provisions or issues shares which do not contain all mentions required by law.

ART. 274

It shall be sentenced to imprisonment in the range of one month up to one year or to a fine the administrator, the manager, the executive director or the legal representative of the company, who:

1. carries out the decisions of the general assembly, regarding the changing of the company's form, its merging or its division or the cutting down of its registered capital prior to expiration of the time limits stipulated by law;

2. carries out the decisions of the general assembly regarding the cutting down of the registered capital without first forcing the associates to effect payments due or without a decision of the general assembly which exempts them from the subsequent payments.

ART. 275

(1) It shall be sentenced to imprisonment in the range of one month up to one year or to a fine the administrator who:

1. breaks, even by interposed persons or by simulated acts, the provisions of Article 149;

2. does not convene the general assembly in the cases stipulated by law or breaks the provisions of Article 193 (2);

3. initiates operations on behalf of a limited liability company before the registered capital was paid in full;

4. issues negotiable instruments representing registered shares of a limited liability company;

5. acquires shares possessed by the company on its account in cases forbidden by law.

(2) It shall be sentenced to the same punishments as provided in paragraph (1) the associate who breaks the provisions of Article 127 or of Article 193 (2).

ART. 276

It shall be sentenced to imprisonment in the range of one month up to one year or to a fine the auditor who does not convene the general assembly in cases where the law compels him to.

ART. 277

(1) It shall be sentenced to imprisonment in the range of 3 months up to 3 years the person who accepted or kept the duties of an auditor, against the provisions of Article 161 (2) or the person who accepted to be appointed as an expert breaking the provisions of Article 39.

(2) Decisions made by general assemblies based on a report of an auditor or of an expert appointed with the infringement of the provisions of Article 161 (2) and of Article 39 cannot be cancelled because of the infringement of the provisions of the said articles.

(3) It shall also be sentenced to the punishment provided by paragraph (1) the founder, administrator, manager, executive director and the auditor exercising their powers and duties by breaking the provisions of this law regarding the incompatibility.

ART. 278

(1) The provisions of Articles 271 - 277 shall also be applied to the official receiver to the extent to which they refer to obligations pertaining to his specific duties.

(2) The sentence stipulated by Article 275 shall also be applied to the official receiver who makes payments to the associates and breaks the provisions of Article 256 in doing so.

ART. 279

(1) It shall be sentenced to imprisonment in the range of 6 months up to 3 years or to a fine the shareholder or the bondholder who:

1. passes his shares or his bonds to the names of other persons to be used with the purpose of reaching a majority in the general assembly, to the prejudice of other shareholders or bondholders;

2. votes, in the general assemblies, in the situation stipulated at point 1 above, acting as the owner of shares or bonds which he does not really possess;

3. in cases forbidden by law, in exchange for material advantages, assumes the obligation to vote in a certain manner in the general assembly meetings or not to attend the voting procedure.

(2) The person who induces a shareholder or a bondholder so that, in exchange for a sum of money or of another material advantage, to vote in a certain manner in the general assembly meetings or not to attend the voting procedure, shall be sentenced to imprisonment in the range of 6 months up to 3 years or to a fine.

ART. 280

It shall be sentenced to prison in the range of one up to 5 years, besides the responsibility encumbered for the damages caused through his operations to the Romanian state and to third parties, the person who carries out trading activities

in favour and on behalf of companies set up abroad, in cases when the conditions stated by law for their operation in Romania are not satisfied.

ART. 280¹

The fictitious transmission of shares or stocks owned by a trading company, for the purpose of avoiding the criminal prosecution or for the purpose of rendering it more difficult, shall be an offence and shall be punished by imprisonment from 2 to 8 years.

ART. 280²

Causing a company to carry out the incorporation pursuant to false constitutive act shall be an offence and shall be punished by imprisonment from 2 to 8 years.

ART. 280³

Using knowingly the acts of a company struck off as a result of the failure to carry out the obligations provided by the law or of the acts of a company created following the modality laid down in Article 280², for the purpose of producing legal effects, shall be an offence and shall be punished by imprisonment from 2 to 8 years.

ART. 281

If, according to the Criminal Code or to other special laws, the offences stipulated by the present Title do represent even more serious law infringements, then they shall be sentenced under the conditions and with the punishments provided therein.

ART. 282 *** Repealed

ART. 282¹

For the offences provided in this title, the criminal action shall be exercised ex officio.

TITLE IX

Final and transitory provisions

ART. 283

(1) The trading companies set up according to Law No. 15/1990 on the reorganisation of state-owned companies as autonomous regies and as trading companies with the subsequent amendments, which undergone privatisation or are going to undergo privatisation, can operate on the basis of the articles of association only.

(2) By amending the articles of association, according to the law, the associates may call it the constitutive act, without setting up a new trading company in doing so.

(3) The associates may amend the constitutive act at the existing companies and stipulate in it the documents these are going to have access to, within the meaning of Article 8 i).

(3) The trading companies with fully or majority state-owned capital may operate with any number of associates.

ART. 284

The appointment of staff in the trading companies shall be made on the basis of an individual labour contract, in compliance with the labour and social security legislation.

ART. 285

If the sole associate in a limited liability company is also an administrator, he may also benefit by a pension the same as with the state social security to the extent to which he made his contribution to the social security and the one intended for the additional pension.

ART. 286

The setting up of trading companies, with foreign participation, in association with Romanian legal or natural persons or with full foreign capital shall be made in compliance with the provisions of this law and those of the law on the status of foreign investments.*)

*) According to Article III of Government Emergency Ordinance No. 32/1997, as approved with amendments by Law No. 195/1997, trading companies governed by special laws shall also remain subject to the provisions of those laws.

ART. 287

The activities which can not be organised as trading companies shall be established by way of a Government decision.

ART. 288

For the authentication of the constitutive act the stamp fees and notarial fees shall be paid.

ART. 289

Within the meaning of the present law, the Bucharest Municipality shall be assimilated to a county.

ART. 290

(1) Small enterprises and the profit-making associations which are legal persons set up according to the Decree-law No. 54/1990 on the organisation and accomplishment of economic activities on the basis of free initiative, and reorganised until 17 September 1991 in one of the forms stipulated by Article 2 of the present law, may continue their activity.

(2) They shall be successors, by right, of the small enterprises or of the profit-making associations they originated from.

ART. 291

The provisions of the present law shall be supplemented by the provisions of the Commercial Code.

ART. 292

The companies with foreign participation set up until 17 December 1990 may continue their activity in accordance with their constitutive act, approved according to the law.

ART. 293 *** Repealed

ART. 294

On the date when this law enters into force the provisions of Articles 77 - 220 and Article 236 of the Commercial Code**), the provisions regarding the small enterprises and the profit-making associations with legal personality in the Decree-law No. 54/1990 on the organisation and pursuing of economic activities on the basis of free initiative, the Decree No. 424/1972 on the setting up and operation of joint-ventures in Romania, except for Articles 15, 28 (1), Articles 33 and 35 (2) and (3), the Decree-law No. 96/1990 on some measures to attract foreign capital investment in Romania, shall be repealed.

**) According to Article IX of Government Emergency Ordinance No. 32/1997, as approved with amendments by the Law No. 195/1997, on the date when this ordinance (28 July 1997) enters into force Articles 237 - 250 and Articles 264 - 269 of the Commercial Code shall be repealed.

NOTE:

We reproduce below the provisions of Article III (1) - (5) of the Law No. 441/2006.

"ART. 3

(1) The entities that have the status of subsidiary, but are called branches, set up before the entry into force of the Government Emergency Ordinance No. 32/1997 for the amendment and supplementation of the Law No. 31/1990 on trading companies, shall proceed to indicate their legal status and to carry out the legal formalities for publicity corresponding to such statute, within 3 months as of the entry into force of this law.

(2) In case of violation of the provisions of paragraph (1), Articles 44 and 46 of the Law No. 26/1990 on the trade register, republished, with subsequent amendments and additions, shall become applicable.

(3) As of 1 January 2007 the annual financial statements and the documents enclosed thereto, provided in Article 185 (1) of the Law No. 31/1990 on trading companies, republished, with subsequent amendments and additions, amended according to this law, shall only be submitted with the trade register office.

(4) This law shall enter into force on 1 December 2006, except for the provisions of Article II point 4 and 11, that shall enter into force on 1 January 2007.

(5) Within 9 months as of the entry into force of this law, the joint-stock companies shall proceed to the carrying out of the formalities necessary for satisfying the obligations provided in Article 137 (2), Article 138¹, Article 140¹ (3) and Article 143 (4) of the Law No. 31/1990 on trading companies, republished, with subsequent amendments and additions."
