

**ORDINANCE No. 18 of 21 January 1994**  
**on measures for the strengthening of the financial discipline of economic operators**  
**(GO18/1994)**

ISSUED BY: THE GOVERNMENT OF ROMANIA  
PUBLISHED IN: THE ROMANIAN OFFICIAL JOURNAL No. 28 of 28 January 1994

By virtue of Article 107 (1) and (3) of Romania's Constitution and on Article 1 b) of Law no. 4/1994 concerning the empowering of the Government to issue ordinances and to authorise the contracting and guaranteeing of credits from abroad,

The Government of Romania has issued this ordinance.

*Article 1*

Law No. 76/1992 on the measures for the reimbursement of the credits arising from the clearance action, the payment regime of economic operators, the prevention of insolvency and of financial obstruction, republished in the Romanian Official Journal, Part I, No. 172 of 22 June 1993 is amended as follows:

- Article 7 is amended, having the following formulation:

*“Article 7*

Should the debtors fail to meet their liabilities provided by Article 6 within 30 days from maturity, they shall pay a penalty of 0.4 % per day of delay.

The Government is authorised to update the level of the penalty provided for by paragraph 1 in keeping with the evolution of the rate of interest of bank credits.

The economic operators are obliged to set the level of penalties at least as provided in paragraph 1, in the agreements they conclude whatever their form.

The penalty shall be calculated for each day of delay of payment, excepting the cases when the agreements or other documents stipulate higher penalties.

The total amount of penalties for delay in settlement as stipulated in paragraph 1 shall not exceed the amount for which it is calculated.

Should the penalties provided in this Article not entirely cover the damage caused by the delay in payment, the creditors shall be entitled to claim extra damages, in keeping with the provisions of common law.

Every month the boards of directors shall analyse the causes that led to the payment of penalties and shall establish who is liable for these payments.

The penalties due which are not established as the liability of a person shall be borne by the economic operators and shall be included in the expenses made from their incomes as a result of their activity.

In the event of non-observance of the obligation to see to the cashing of penalties, in keeping with the legal provisions, the boards of directors shall establish the liability of those responsible for this.”

#### *Article 2*

The commercial banks are obliged to carry out settlements of their clients’ accounts in the terms and conditions laid down by the National Bank of Romania.

The banks that fail to observe the terms and conditions laid down by the National Bank of Romania owe to the beneficiary of the penalty 0.5% for each day of delay.

The banks shall pay these penalties within 5 days from the well-founded claim of the beneficiary of the amount.

#### *Article 3*

The Government Ordinance No. 14/1992 on the change of the level of penalties for delay due to failure to pay in time the amounts owed to the state budget, approved by the Law No. 114/1992 is amended as follows:

After paragraph 1 of Article 1, two new paragraphs are inserted which read as follows:

“The penalties for delay in transferring the amounts due to the budget of social security, according to law, are established and cashed at the same level: the unemployment benefit fund, the supplementary pension fund, as well as the special funds: for research and development, for the upgrading of public roads, for social insurance of the farmers, for risk and accident, for the special protection of the handicapped, for health, for the protection of the insured, for education, for the development of the power system.

The penalties for delay cannot exceed the amounts due.”

#### *Article 4*

In view of strengthening the existing foreign currency regime and the financial discipline in the availabilities in the foreign currency accounts the following are established:

1. The legal and natural persons authorised, in the conditions set by law, who produce or sell goods, carry out work and perform services on the Romanian territory shall deliver the goods, carry out work and perform services only against payment in ROL, with the exception of the instances expressly mentioned in legal provisions and only on the basis of the express authorisation of the National Bank of Romania.

2. The legal and natural persons referred to in Article 1 are obliged to cash the amounts in foreign currency connected with the exports of goods abroad, the execution of work and

performance of services abroad, as well as any other operations and foreign transactions through the accounts opened in Romania with authorised banks.

3. In the sight cashing operations, the repatriation of the foreign currency in consequence of a foreign trade deal is to take place in at most 5 days from the cashing, but not later than 90 calendar days, calculated from the date of the document mentioning the passing of the goods over the Romanian border or, if the case is, of the performance of work or services abroad, in keeping with the geographical area of the foreign partner.

For the operations for which payment falls due within 90 to 360 days, and for those with credit for more than one year, for which the Ministry of Trade issued licenses up to a ceiling annually established by the National Bank of Romania, the repatriation limit is of 15 calendar days at most, calculated from the due date, established according to the contract clauses.

In the case of advance payments for imports, for which the goods have not been delivered or the work or the services have not been performed, or the paid advance has not been reimbursed, the same period of 15 calendar days is applied, calculated from the date of the last contract delivery time.

The Ministry of Trade, having in view the targets of the trade policy, shall present to the Government for approval the list of groups of products that can be exported with payment within 90 calendar days from the date of delivery, as well as the list of groups of products with payment over one year from the date of delivery; the products which are not included in the two categories of groups can be exported with payment to be made between 90 and 360 calendar days.

4. The holding of foreign currency liquidity in bank accounts abroad by the legal and natural persons referred to at point 1 is allowed only if they have previously obtained the authorisation of the National Bank of Romania.

5. The operations of transfers abroad concerning direct investments abroad, portfolio investments and other transfers of amounts in foreign currency, performed in keeping with the legal provisions, can be made only with the preliminary agreement of the Ministry of Finance and with the authorisation of the National Bank of Romania.

For the operations mentioned in the previous paragraph the repatriation of the amounts in foreign currency having its source in these operations shall be ensured as follows:

- within 3 calendars days from the date of establishing and making available in freely convertible currency the amount representing dividends from the investments abroad activities, as well as the shares that derive from the liquidation of the such investments, taking into account the legal stipulations and the beginning and end of the fiscal year in the countries where such investments have been made;
- within 15 calendars days calculated from the moment the payment falls due in keeping with contract clauses from the other operations referred to in paragraph 1.

6. For the operations linked with export and import without effective cashing of foreign currency, meant for supplementing the goods on the home market, authorised by the bodies

empowered in this respect by government decision, the legal and natural persons mentioned at point 1, are obliged, in the event of the previous carrying out of exports, to carry out the corresponding imports in at most 90 calendar days from the date of performing the export. Failing to do so, they are obliged to repatriate in foreign currency the counter-value of the exports with a further grace of 15 days at the most.

7. In the event of finding out that the periods mentioned at points 3, 5 and 6 have not been observed, as well as in case the non-observance of the ones mentioned in the authorisation of the National Bank of Romania drawn up according to point 4 concerning the repatriation of receipts in foreign currency, the following fines will be imposed:

- 10% in ROL for the amounts in foreign currency that have not been repatriated, for delays of up to 30 calendar days.
- 15% in ROL, for the amounts in foreign currency that have not been repatriated for delay ranging from 39 from 30 to 60 calendar days.
- 20% in ROL for the amounts in foreign currency that have not been repatriated for each month exceeding 60 days of delay.

In all the cases the obligation of repatriation of the amounts in foreign currency within 30 days from when the infringement has been found out is maintained.

Should the time allowed for in the previous paragraph be exceeded, the penalties stipulated by Article 7 of Law No. 76/1992, as amended by this ordinance, are increased by 50 %.

8. The economic operators holding foreign currency in their account and having debts in the country that have fallen due and 60 days overdue are obliged within 15 days to exchange that currency into lei for the settlement of the mentioned debts, excepting the cases where there are obligations for payment abroad which mature within 30 days, for already carried out imports.

Non-observance of the provisions of the above paragraph is conducive to the punishment of the executive management of the concerned economic operator with fines ranging from 1 million to 5 million ROL.

The economic operators who have debts in the country, which they did not settle at maturity, are obliged to settle their debts before requesting the commercial banks to participate in bank auctions for buying of currency.

9. The finding out of the infringement and the imposing of the sanctions provided by points 7 and 8 and devolve upon the bodies of the Ministry of Finance and of the National Bank of Romania, empowered in this respect.

10. The provisions of the present ordinance referring to the sanctions for infringement are completed with the provisions of Law No. 32/1968 concerning the finding out and the sanctions for infringement, excepting Articles 25 and 26. For the calculation of the fines for the infringements provided at point 7 the prevailing rate of exchange at the date of finding the infringements is used.

*Article 5*

Within 15 days from the coming into force of this ordinance the Ministry of Finance and the National Bank of Romania shall issue implementation instructions.

All contrary stipulations are repealed when the present comes into force.

PRIME MINISTER  
NICOLAE VĂCĂROIU

Countersigns:  
State Minister  
Minister of Finance  
Florin Georgescu

Minister of Trade  
Cristian Ionescu

Governor of the National Bank of Romania  
Mugur Isărescu