

Tax & Legal Alert

ROMANIA 5 November 2007

Emergency Governmental Ordinance no.119/2007 concerning measures to combat late payments in commercial transactions

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GEO no. 119/2007 was published in the Official Journal No. 738/31.10.2007 concerning measures to combat late payments in commercial transactions ("**the Ordinance**").

The Ordinance was issued for the purpose of implementing the Directive issued by the European Parliament and European Council no. 2000/35/CE regarding combating late payments in commercial transactions,

1. The object of the Ordinance is specific, liquid and enforceable debts representing payment obligations arising from commercial contracts, as defined in the Ordinance.

2. The Ordinance does not apply to (i) debts registered in the credal table in the insolvency procedure; (ii) contracts concluded between traders and consumers.

3. The Ordinance provides the way the delay interest flows, setting as null and void any contrary provisions. The parties are free to establish the interest rate by contract. Besides this interest, the creditor may claim damages for any expenses incurred from the recovery of sums due by the debtor.

4. A special, urgent procedure is provided for debt recovery, consisting in payment of the price set in the contracts falling within its scope, the most important aspects being the following:

- It is not necessary to use the preliminary conciliation procedure;
- Shorter terms for delivery of services are instituted;

- The statement of defence must be submitted no later than the day scheduled for the hearing under the sanction of losing the right to submit evidence and to invoke exceptions. Not filing the statement of defence may be regarded as recognition of the creditor's claim;
- The dismissal of the request filed under the Ordinance, does not prevent the creditor from filing a claim based on the general legal provisions;
- As provided in the Ordinance, the entire procedure may not exceed 90 days;
- A stamp duty of 39 RON applies to the claim.

[Source: The Romanian Official Journal no. 738/31.X.2007, part I]

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