

ORDINANCE no. 21 of 31st January, 2007 on performances or concerts institutions and companies and on the conducting of the artistic management activity

Under Article 108 of the republished Constitution of Romania, and under Article 1(V)(1) of Law no. [502/2006](#) on the Government's empowerment to issue ordinances, **The Government of Romania** adopts the present ordinance.

CHAPTER I: General provisions

Article 1

The present ordinance regulates the legal framework governing the establishment, organization and functioning of performances or concerts institutions and companies, their activity, and the artistic management activity.

Article 2

The main purpose of the regulations of the present ordinance is to achieve the following objectives:

- a)** to support public initiative and encourage the private one, with a view to diversify and develop performance arts;
- b)** to help the national cultural identity and the cultural identity of the national minorities to become conspicuous through performance arts;
- c)** to promote nationally and internationally the autochthonous and universal artistic values of the performance arts domain;
- d)** to increase the public's access to performances and concerts.

Article 3

For the purpose of the present law:

- a)** artistic productions are performances and /or concerts directly presented to the public by interpreters and/or performers, and they may be: dramatic, choreography, opera, musical comedy, cabaret, circus, marionette or instrumental theatre performances, on the one hand, and academic, symphonic, vocal-symphonic, chamber, choral or electronic music concerts;
- b)** performances or concerts institutions are public institutions and legal persons that organize and present artistic productions;
- c)** performances or concerts institutions are legal persons pertaining to the Private Law, irrespective of the way in which they were established and organized, and which organize and present artistic productions;
- d)** the project is represented by all the artistic, technical and logistical activities, materialized in the artistic production, whose achievement period does not usually overrun the span of a theatrical season;
- e)** the programme is the managerial-artistic structure that contains a number of projects, whose unfolding usually overruns the span of a financial exercise and which meets the community's requirements;
- f)** the minimal programme is a part of the performances or concerts institution head's managerial project, which comprises a number of programmes achieved within the time span and under the conditions set in the management contract;

g)the theatrical season is the period of up to 10 consecutive months, in 2 calendar years, during which the performances and/or concerts institutions organize and present artistic productions;

h)the time span between two theatrical seasons is the period during which the performances and/or concerts institutions usually grant holidays and time off in exchange for extra work, and may prepare new productions, or, as the case might be, may organize tours, travels, micro-seasons;

i)the artistic group is the ensemble of interpreters or performers that are not legal persons, which is made up of a variable number of members, who usually are gathered together by professional criteria, for at least one season, in order to achieve a certain number of artistic productions;

j)the performances and/or concerts producer is the natural or legal person pertaining to the Private or Public Law, who undertakes the responsibility to achieve artistic productions and who, in their capacity, totally or partly provide the necessary material and/or financial means;

k)the artistic management is the activity by which a natural or legal person pertaining to the Private or Public Law, called an impresario, acts on behalf of a performances and/or concerts institution or company, or, as the case might be, an interpreter or performer, with a view to identify and materialize the possibilities to exploit an artistic production or performance.

CHAPTER II: The establishment, organization and functioning of performances or concerts institutions and companies

Article 4

(1)The performances or concerts institutions are established and organized and function under the authority of the central or local administration authorities.

(2)The performances or concerts institutions develop their own organization and functioning regulations, which are approved, under the law, by the authorities to which they are subordinated.

(3)The performances or concerts institutions are totally autonomous in establishing and accomplishing their programmes, in accordance with the cultural policies of the central or local authorities, which were designed to meet the community's needs.

Article 5

(1)There are repertory performances or concerts institutions or project performances or concerts institutions.

(2)Repertory institutions are those that:

a)have at least one artistic group, and the technical and administrative staff necessary to achieve artistic productions;

b)have a portfolio of at least three different artistic productions and in each season achieves at least two new productions that supplement the programmes and reconfigure the existing repertory;

c)have at their disposal, under the law, the budget necessary to remunerate the staff and to achieve and present at least the artistic productions in the minimal programme.

(3) Project institutions are those that:

- a)** have, under the law, the minimal administrative and technical staff necessary for the institution to function and those that can bring together artistic groups only during the accomplishment of a project;
- b)** achieve artistic productions or co-productions in limited series;
- c)** have at their disposal, under the law, the budget necessary to remunerate the administrative and technical staff provided for in point a), and to pay the groups that achieve and present at least the artistic productions in the minimal programme.

Article 6

The concerts institutions are those that:

- a)** have at least one artistic group, and the technical and administrative staff necessary to achieve artistic productions;
- b)** in each season present a repertory comprising different artistic productions and achieve new productions;
- c)** have at their disposal, under the law, the budget necessary to remunerate the staff and to achieve and present at least the artistic productions in the minimal programme.

Article 7

As an exception to Articles 5 and 6 other types of performances or concerts institutions may be established and may function, whose characteristics and organization rules are approved by the authorities of the public administration which have established them or to which they are subordinated, under the present ordinance.

Article 8

(1) The institutions that exist when this ordinance comes into force and the newly established ones will be recorded in the Register of the performances or concerts institutions and companies, upon request by the authorities of the central and local public administration to which they are subordinated.

(2) Including the existing performances or concerts institutions in the categories provided for in Articles 5-7 is done through decision or, as the case might be, by order of the authority of the local or central public administration to which they are subordinated.

(3) Establishing new performances or concerts institutions and including them in the categories provided for in Articles 5-7 is approved through governmental decision or through decision of the authority of the local public administration that establishes them, as the case might be.

(4) Changing the category is done upon request by the institution or at the proposal of the main funds providing body, through decision or, as the case might be, by order of the authority of the local or central public administration to which they are subordinated.

(5) The decisions of the local or county councils provided for in paragraphs (2)-(4) are adopted with a majority of votes by the total number of councillors.

(6) The decisions or, as the case may be, orders provided for in paragraphs (2)-(4) may be contested in compliance with the Law of the solicitor's office no. [554/2004](#), with its subsequent amendments.

Article 9

(1) The performances or concerts companies are established by natural persons or by legal persons pertaining to the Private Law, under the law.

(2) The performances or concerts companies that exist when this ordinance comes into force, as well as the newly established ones will be recorded in the Register of the performances or concerts institutions and companies.

Article 10

(1) The activity of the performances or concerts institutions may be leased for a period of maximum 10 years, in compliance with the legal provisions that are into force.

(2) The leasing terms and conditions will include at least the following, supplementing the requirements provided for by the law:

a) the renters' experience conditions, experience which they have gained during their activities in the domain of performance arts;

b) the obligation to keep the specific activity of the institution, stipulations regarding the employees, and the conditions to be met by the public's access to performances or concerts.

Article 11

The performances or concerts institutions may outsource services, including technical, administrative and production services, under the law.

CHAPTER III: The staff of the performances or concerts institutions

Article 12

(1) The functioning of the performances or concerts institutions is ensured by the artistic, technical and administrative staff, who usually conduct their activities under the terms of their individual contracts of employment.

(2) In order to achieve artistic productions, the performances or concerts institutions may use artistic staff who are remunerated according to contracts that have been signed in compliance with the legal provisions on the copyright and the related rights, as well as technical and administrative staff, who are remunerated under the terms of their individual part-time contracts of employment.

(3) During the season, the specialized artistic staff employed in performances or concerts institutions, with an individual contract of employment signed for an unlimited period, may hold several positions or, as the case might be, may sign contracts, in compliance with the legal provisions on the copyright and the related rights, with other institutions or companies.

Article 13

(1) In the case of the staff employed by the performances or concerts institutions, the individual contracts of employment may be signed, under the law, as follows:

a) for an unlimited period, as a general rule;

b) for a limited period, including for a season or an artistic production.

(2) The staff of the performances or concerts institutions under paragraph (1) are employed through a contest that is organized in accordance with the law.

(3) In the case of individual contracts of employment signed in compliance with paragraph (1)b), the employment may also be achieved directly, through agreement between the parties.

(4) The individual contracts of employment signed for an unlimited period of time before this ordinance comes into force may be changed, with the parties' agreement, into contracts signed for a limited period.

Article 14

Through exception from Article 7(2) of the Governmental Ordinance no. [137/2000](#) on preventing and penalizing all forms of discrimination, which was approved with amendments and supplements through Law no. [48/2002](#), with its subsequent amendments and supplements, conditioning the occupation of an artistic specialty position by criteria such as age, sex or physical qualities in performances or concerts institutions is achieved in accordance with the institution's character and interests and does not represent a contravention.

Article 15

(1) The artistic and technical staff's daily work quota in the performances or concerts institutions is established according to the position's tasks.

(2) The hours worked by the artistic and technical staff within performances or concerts institutions are unequally distributed, and are specified in the individual contract of employment.

(3) As regards the artistic and technical staff within the performances or concerts institutions, Saturdays, Sundays and national holidays, as the case might be, are considered working days, and the weekly leisure time is granted on other weekdays.

(4) Leisure days and national holidays which haven't been granted will be retrieved during the following months, and compensated in compliance with Law no. [53/2003](#) – **The Labour Code**, with its subsequent amendments and supplements, or added to the yearly holiday.

(5) The yearly holiday is usually granted to the staff within the performances or concerts institutions during the break between the seasons.

(6) In order to ensure the continuity of the artistic performance during the season, the parties may include in the individual contracts of employment signed in accordance with Article 13(1), special clauses on the conditions in which employment ends, under the law.

Article 16

The staff employed through individual contracts of employment signed for a limited period, who do not reside in the town / village where the institution conducts its activities and who do not have a job apartment, may receive, in order to pay for their accommodation, a lump non-taxable monthly allowance from the institution's budget, which represents 50 percent of the average net salary in the country's economy.

Article 17

The stipulations in Articles 13-16 may be applied, as the case might be, by the performances or concerts institutions as well.

CHAPTER IV: The leadership of the performances or concerts institutions

Article 18

(1) The head of a performances or concerts institution is a director general or, as the case might be, a director.

(2) The position of director general or, as the case might be, that of director within the performances or concerts institutions is occupied based on a management projects contest.

(3) The director general or, as the case might be, the director is employed based on a management contract, which is signed, on the one hand, by the main credit chief accountant within the public authority under the subordination of which that institution functions and, on the other hand, by the contest winner.

Article 19

(1) The director general or, as the case might be, the director decides the establishment of a board of directors, which is a deliberative structure, and is made up of:

a) the chairman – the director general or, as the case might be, the director;

b) members:

- the directors, deputy directors or, as the case might be, the heads of the functional departments;

- the legal consultant;

- the delegate of the representative trade union, who has been chosen by the trade union, or, as the case might be, the employees' representative;

- the representative of the authority of the local or central administration under the subordination of which the performances or concerts institution functions and, as the case might be, the representative of the main credit chief accountant appointed by them.

(2) Through decision made by the director general or, as the case might be, the director, an artistic council is established, which plays a consultative role and is made up of cultural figures within the institution and outside it.

(3) The board of directors and the artistic council are organized and function in accordance with the regulations developed and approved in compliance with Article 4(2).

CHAPTER V: Financing the performances or concerts institutions or companies

Article 20

The performances or concerts institutions are financed through their own incomes and through subventions granted from the state budget or from the local budgets, as the case might be, through the budget of the public authorities under the subordination of which those institution function, as well as from other sources, in accordance with the stipulations of this ordinance.

Article 21

(1) The performances or concerts institutions are financed according to the following principles:

- a) the yearly minimal programme stipulated in the management contract is financed through subventions granted from the state budget or the local budgets, as the case might be;
 - b) the programmes that are different from the minimal programme and that are stipulated in the management contract are financed from the institution's own incomes in correlation with subventions granted from the state budget, or from the local budgets respectively, as the case might be;
 - c) the staff expenses and the sums of money needed to maintain, rehabilitate and develop the institutions' material base are covered from subventions granted from the state budget, or from the local budgets respectively, as the case might be, in correlation with the institution's own incomes;
 - d) the institution's own incomes may also be used to stimulate the staff, following the result of the assessment achieved under the law;
 - e) the quota of the institution's own incomes resulted from exploiting goods that it administrates may be retained up to the maximum percentage provided for by the law and is totally and exclusively used to finance material expenses and services.
- (2) The performances or concerts institutions may benefit from material goods and funds received in the shape of services, donations or sponsorships, under the law; liberalities in any shape or form may be accepted only if they are encumbered by conditions or tasks that might affect the institution's cultural autonomy or if they do not contravene its object of activity.

Article 22

The payment obligations of the performances or concerts institutions, obligations which have resulted from the contracts signed in compliance with Article 12(2), are considered expenses related to the cultural programmes and projects and are stipulated in the incomes and expenses budget of the institution.

Article 23

(1) The Ministry of Culture and Religious Affairs, other authorities of the central public administration, as well as the authorities of the local public administration, by themselves or in partnership, may provide material or financial support for the achievement of cultural programmes and projects, including tours in the country or abroad, of the performances or concerts institutions, irrespective of their subordination.

(2) The stipulations of paragraph (1) are also applicable to the programmes and projects achieved by the performances or concerts institutions, under the law.

Article 24

The authorities of the central and local public administration may lease, under the law, cultural activities or services to the performances or concerts institutions.

CHAPTER VI: The artistic management activity

Article 25

(1) In order to conduct artistic management activities, the Romanian natural or legal persons pertaining to the Private or Public Law must be attested and confirmed, respectively, in accordance with the provisions of this ordinance.

(2) The performances or concerts institutions that conduct artistic management activities for their own artistic productions do not follow the confirming procedure stipulated by this ordinance.

(3) The performances or concerts institutions provided for in paragraph (2) are obliged to stipulate this activity distinctly in the regulations that govern their organization and functioning and to register in the artistic managers Register.

Article 26

(1) Natural persons are attested, and legal persons pertaining to the Private or Public Law are confirmed, in order to conduct artistic management activities, at the suggestion of the attesting and confirming Commission for artistic management, by the Cultural Professional Training Centre, which is subordinated to the Ministry of Culture and Religious Affairs.

(2) The attesting and confirming Commission for artistic management is a specialized body which is not a legal person, and which is organized and functions within the Cultural Professional Training Centre.

(3) The attesting and confirming Commission for artistic management is made up of representatives of the Ministry of Culture and Religious Affairs, the Ministry of Justice, the Ministry of Administration and of the Interior and the Ministry of Foreign Affairs, representatives who are nominated by the heads of these authorities and appointed by order of the Minister of Culture and Religious Affairs.

CHAPTER VII: Transitional and final provisions

Article 27

(1) The Register of the performances or concerts institutions and companies is established, in which the performances or concerts institutions and companies are registered.

(2) The Register of the performances or concerts institutions and companies is administered by the department within the Ministry of Culture and Religious Affairs, which is specialized in this domain.

(3) The manner in which the Register of the performances or concerts institutions and companies is organized and functions will be approved by order of the Minister of Culture and Religious Affairs, within 60 days since the coming into force of this ordinance.

(4) The existent performances or concerts institutions and companies will take the necessary steps to register in the Register of the performances or concerts institutions and companies within 120 days since the coming into force of the order of the Minister of Culture and Religious Affairs on the Register's organization and functioning.

Article 28

The manner in which the attesting and confirming Commission for artistic management is organized and functions, and the procedures by which it grants, withdraws or suspends the certificate or, as the case might be, the confirmation, is approved through governmental decision, which is initiated by the Ministry of Culture and Religious Affairs, within 60 days since the coming into force of this ordinance.

Article 29

(1) The Register of the artistic managers, which records the natural persons holding the certificate of artistic manager and the legal persons pertaining to the Private Law, who have obtained the artistic management confirmation, will be reorganized.

(2) The Register of the artistic managers is administered by the Ministry of Culture and Religious Affairs, through the Cultural Professional Training Centre.

Article 30

(1) The natural persons and the legal persons pertaining to the Private Law, who currently conduct artistic management activities and who are attested or confirmed, respectively, are obliged to re-register in the Register of the artistic managers, after an evaluation carried out by the attesting and confirming Commission for artistic management.

(2) The natural persons and the legal persons pertaining to the Public or Private Law, who will be attested or confirmed, respectively, in compliance with the provisions of this ordinance, will register in the Register of the artistic managers following the attestation or confirmation.

(3) The performances or concerts institutions who conduct artistic management activities for their own artistic productions will register in the Register of the artistic managers within 10 days since the approval of the regulations that govern their organization and functioning, regulations that are modified in accordance with Article 25(3).

Article 31

The re-organization of the Register of the artistic managers and the Methodology of evaluating natural persons and legal persons pertaining to the Private Law, who conduct artistic management activities in order to re-register or register, respectively, in the Register, are approved by order of the Minister of Culture and Religious Affairs, within 60 days since the coming into force of this ordinance.

Article 32

The price list for granting the certificates and confirmations in the domain of the artistic management, as well as the price list for registering in the Register of the artistic managers, are approved by order of the Minister of Culture and Religious Affairs, which is published in the Official Gazette of Romania, Part I, and become income to the budget of the Cultural Professional Training Centre.

Article 33

(1) The following deeds are considered contraventions:

a) not registering in the Register of the performances or concerts institutions and companies before the deadline stipulated in Article 27(4) and is penalized with a fine ranging from 1,000 lei to 5,000 lei;

b) the conducting of artistic management activities by natural persons and legal persons pertaining to the Private Law, without obtaining the certificate or, as the case might be, the confirmation in the domain of artistic management, and is penalized with a fine ranging from 5,000 lei to 10,000 lei;

c) the conducting of artistic management activities by natural persons and legal persons pertaining to the Private Law, without registering in the Register of the artistic managers, and is penalized with a fine ranging from 1,000 lei to 5,000 lei.

(2) Charging with and penalizing the contraventions stipulated in paragraph (1) is done by persons who are authorized by order of the Minister of Culture and Religious Affairs, as well as by the officers appointed by order of the Minister of Administration and of the Interior.

(3) The provisions of the Governmental Ordinance no. [2/2001](#) on the judicial regime of contraventions, approved with amendments and supplements through Law no. [180/2002](#), with its subsequent amendments and supplements, are applicable to the contraventions stipulated in paragraph (1).

Article 34

The Ministry of Culture and Religious Affairs is the authority of the central public administration that monitors the enforcement and compliance with the provisions of this ordinance.

Article 35

At the moment when this ordinance comes into force, Law no. [504/2004](#) on the performances or concerts public institutions, published in the Official Gazette of Romania, Part I, no. 1.119 of 29th November, 2004, as well as any other contrary provisions will be abrogated

Article 36

This ordinance comes into force after 3 days since its publication in the Official Gazette of Romania, Part I.

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PRIME MINISTER

CĂLIN POPESCU-TĂRICEANU

The following persons countersign:

The Minister of Culture and Religious Affairs,

Adrian Iorgulescu

The Minister of Administration and of the Interior,

Vasile Blaga

The Minister of Labour, Social Solidarity and Family,

Gheorghe Barbu

The Minister of Public Finance,

Sebastian Teodor Gheorghe Vlădescu

Published in the Official Gazette no. 82 of 2nd February, 2007