

COMPANY FORMATION IN ROMANIA 2024 GUIDE



1. MOST COMMON TYPES OF COMPANIES AND SUBSIDIARIES

The most common type of business forms available in Romania are summarized below with their minimum specific information:

Limited Liability Company

- The required minimum capital is 1 RON.
- May have between 1 and 50 shareholders.
- The shareholders are liable in the limit of the contribution to the share capital.

Joint Stock Company

- The minimum capital cannot be less than EUR 25,000.
- Must have 2 or more shareholders.
- The stockholders are liable in the limit of the subscribed shares.

Sole Entrepreneur (PFA)

- There is no capital required for registering as a Sole Entrepreneur.
- There is no Articles of association required.
- The Sole Entrepreneur is the sole liable.
- For certain activities submitting diplomas proving qualification, is mandatory for the registration thereof.

Branch

- The Parent Company is liable for its branch.
- There is no capital or shareholders required for its registration.
- No Articles of association will be prepared.

2. DOCUMENTATION TO BE PREPARED AND SUBMITTED

Companies can be incorporated by individuals or legal entities and after performing registration formalities with the Trade Register.

Certain activities will need prior authorization, e.g credit institutions, insurance companies and brokers, companies which produce, sell firearms and ammunition, companies which provide accounting services.

Certain activities will be authorized after the incorporation of the company, e.g. temporary work agent, transportation, gambling activities, etc.

In general, the types of documents requested by the Trade Register for the incorporation are:

- articles of association of the incorporated company
- for shareholders legal entities, excerpts issued by the Trade Register where the shareholders are incorporated
- passport or ID of shareholders – natural persons and directors of the Romanian company
- documents related to the headquarters e.g. lease agreement*
- affidavit form(s) related to authorized activities.

The main document to be prepared for incorporating a company is the **Articles of association**. This document will include specific information such as:



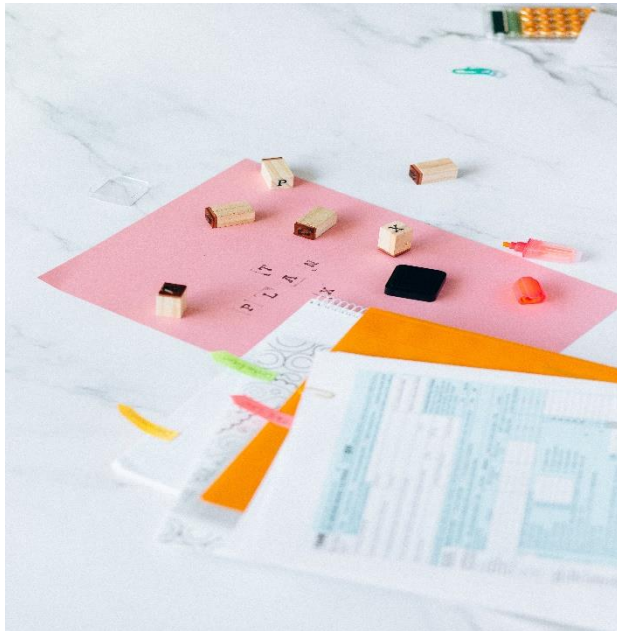
- company name and its registered seat
- shareholders details
- company activities
- share capital, distribution of profit and loss
- details related to directors and relevant powers
- duration of the company
- all other details relevant to the given form of business as provided by law.

*The lease agreements may be subject to prior registration with the Romanian Fiscal Authorities.

3. DETAILS RELATED THE REGISTRATION PROCESS

The incorporation procedure of a Romanian company consists mainly in:

- reserving the name of the company
- drafting the relevant documents (mainly Articles of association of the company and affidavits)



- filling the registration application within the Trade Register

The prior registration of a company before starting the activity, is mandatory. Thus:

- the incorporation procedure must be initiated by request
- the registration request must be filed with the competent Trade Register Office

Company registration request may be submitted signed with electronic signature via the Trade Register website or personally, at the Trade Register office.

After submitting the complete file to the Trade Register, the request is usually processed in 3 business days.

Sometimes, the approval of the file may be delayed because additional documents may be requested by the Trade Register's clerk.

The same processing term applies also for approval of mandatory registrations such as update of the Articles of association, appointment or revocation of directors, relocation of headquarter, etc.

A newly incorporated company will also be registered with the Tax Authorities in this Trade Register procedure. However, a separate registration for Social Security and Labour purposes will be necessary, in case it has employees.

4. SHAREHOLDERS AND DIRECTORS

On Joint Stock Company

The shareholders of Joint Stock Company are liable only up to the subscribed capital. The Joint Stock Company is managed by one or more directors, the number being uneven.

Joint stock companies, whose annual financial statements are subject to audit legal obligations, are managed at least by three directors. The joint-stock company will have three auditors and one alternate, unless the articles of association provide for a higher number. In all cases, the number of auditors will be uneven.

On Limited liability company (LLC)

The shareholders of a LLC are liable only up to the subscribed capital. The Limited Liability Company is managed by one or more directors, appointed by the General Meeting of Shareholders and are mentioned in the Articles of association.

As a general rule, the role of the director is performed by an individual. In its current form, Law no. 31/1990 on companies establishes that a legal person can be appointed as director, but it is required to appoint also an individual, as representative.

5. BENEFICIAL OWNER

The Articles of association will include where applicable, the identification details of the beneficial owners and the manner in which control is exercised over the company. The UBO affidavit update submission will be necessary in case of applicable changes need to be registered or in case the shareholder structure include entities incorporated and/or having their registered office for tax purposes in tax non-cooperative jurisdictions and/or in jurisdictions with a high risk of money laundering.

Updating the data or change of the UBO, may trigger updating the Articles of association.

6. INCORPORATION FEES

The incorporation of the company, the mentions or the liquidations processes are tax free as per Law no. 265/2022.

However, the fees for publishing the documents (e.g. resolutions, registrations in the Trade Register) in the Romanian Official Gazette will apply.

7. OPENING A BANK ACCOUNT

For a Romanian company it is mandatory to have a bank account as payments between residents and for employees need to be performed in local currency- RON. For opening a bank account, the director's presence is mandatory at the opening. In the previous years, the banks also accepted a special notarized power of attorney for another individual, but this practice changed and usually, at the opening of the bank account, they request the presence of the director of the company.

8. IT INVESTMENT INCENTIVES

Employees of companies operating on the territory of Romania, whose activity includes the creation of computer programs (NACE codes 5821, 5829, 6201, 6202, 6209), benefit from the exemption from income tax on wages and salaries, as provided for in the Tax Code in the conditions set by Order no. 20463/2023 on the classification of the activity of creating computer programs.

However, this exemption applies only for gross monthly income up to 10,000 lei. Therefore, the 10% tax does not apply if the gross salary is up to 10,000 lei, and if the gross salary exceeds 10,000 lei, the tax applies only to the part exceeding 10,000 lei.

9. MINIMUM* APPLICABLE SALARY

Starting with 1st of October 2023:

- minimum gross salary applicable is 3300 lei;
- in construction field, the minimum gross salary applicable is 4582 lei;
- in agriculture and food industry, minimum gross salary applicable is 3436 lei.



NB: These may be subject to change during year 2024 depending on legislative changes.

10. NECESSARY DOCUMENTS TO BE KEPT AT HEADQUARTER

10.1. The company will keep at its headquarters the following documents in Romanian language:

- the Articles of Association and all its updated versions;
- the Register of resolutions adopted by the shareholder(s) (where applicable);
- Register of Shareholders;
- Register of decisions adopted by the Director(s);
- the Unique Control Register;
- records and accounting records that clearly and accurately reflect the status of the Company's activities;
- incoming and outgoing records of documents received and issued by the Company;
- in addition to the documents mentioned above, the Company shall keep other records or registers provided for by the Romanian legislation in force in various areas, depending of course on the specific activity of the Company.

10.2. Internal Regulation of the company

It is mandatory for each company with employees to implement Internal regulation within 60 days following incorporation.

The minimum provisions that should be included within the internal regulation are:

- rules regarding the protection, health and work security ;
- rules regarding non-discrimination and elimination of any form of violation of dignity;
- the rights and obligations of employees and employer;
- the procedure to amicably solve the work conflicts and employees requests and complaints;
- rules regarding the work discipline;
- the procedure regarding sanctions to be applied in case of non observance of work discipline;
- rules regarding the application of specific labour agreement provisions;
- rules regarding the evaluation of the employees;
- ruled on applying specific contractual provisions or legislation;
- information regarding discrimination and harassment at work;
- rules on notice period to terminate the labor agreement;
- information on the general training policy for employees, if any.

11. WHISTLEBLOWING PROCEDURE

After incorporation, companies with over 50 employees have to identify or establish internal reporting channels for whistleblowers and set the internal procedure. You can find more details related the procedure and conditions on our website.

Failure to comply with the obligations set by Law no.361/2022 is sanctioned with a fine between 2.000 lei – 40.000 lei.

12. ABOUT US:

The law firm's practice is based on a straightforward, simple and cost-effective model and communication, drawing on significant experience in different areas covering M&A transactions, corporate, commercial and employment law, data protection and anti-money laundering legislation for both local and foreign companies operating in areas such as IT, pharma, consulting, manufacturing, automotive, construction, BPO, etc.

We are committed to providing quality legal representation and offering cost-effective solutions tailored to the client. We propose services according to requirements and at the same time, we provide timely advice for every issue. Our structure gives us the possibility of flexibility in the fee regime we can offer.



13. CONTACT US:

If you have an inquiry or want to know more about our legal services:

please contact us via email at: office@mlegalpartners.com
or explore our website at <https://mlegalpartners.com/en/>.