Romania: Tightening Rules on Fire Safety Regulations – Increased powers enabling authorities to impose temporary stay of business activities

Against the backdrop of a severe fire in a public space in Bucharest which had led to multiple casualties, the Romanian Government, at the start of November, tightened the country’s rules on fire prevention through the enactment of two legislative acts, namely Government Emergency Ordinance no. 52 / 2015 for the amendment of Law no. 307 / 2006 on fire prevention (“GEO 52/2015”) and Government Decision 915/2015 for setting out certain criteria enabling authorities to cease the functioning or use of buildings due to serious breaches of the fire prevention regulations (“GD 915/2015”).

Through GEO 52/2015, the Romanian Government has substantially increased the authorities’ powers to shut down business activities when they find breaches of fire safety regulations. In this context and to ensure an effective scrutiny over the fire prevention compliance, the Emergency Situations Inspectorates (Inspectorate pentru Situatii de Urgenta – “ISU”) are now empowered with prerogatives aimed at temporary staying business activities due to serious breaches of fire prevention norms, as well as sealing off the non-compliant premises to safeguard the efficiency of the suspension.

The filing of a complaint against an ISU decision for the temporary suspension of the activity shall not automatically stay the decision, marking a derogation from the general regime applicable to complaints against minor offences. This approach further increases the practical risk of a business being interrupted by an administrative decision from the ISU.

To avoid such an interruption, recipients of the ISU’s decisions may still ask for a temporary stay of decision before the relevant courts, but the outcome of such requests will depend on the court’s assessment of the specific circumstances that led to the suspension decision.

In addition, the Romanian Government has through GD 915/2015 enacted certain criteria allowing authorities to temporarily cease those activities that fail to conform to fire prevention norms. In particular, GD 915/2015 focuses on ensuring compliance with fire prevention norms of certain buildings that pose an increased risk of jeopardising the lives of their occupants and potential rescuers. The targets consist of those buildings in excess of 200 sqm in which commercial activities (bars, clubs, discos, restaurants, commercial centres, shops and supermarkets), cultural activities (theatres, cinemas, concert and performance halls, as well as similar centres, destined or open to public), or tourism activities (hotels, motels, hostels, touristic villas, lodges) are performed. The GD 915/2015 applies to premises that hold fire prevention permits, as well as to those that do not.

The criteria that may lead the ISU to apply a complementary sanction for the temporary cessation of activity are as follows:

(i) For premises that have a surface area in excess of 200 sqm and are authorised from a fire prevention standpoint, a temporary shutdown of activities may be applied in the following instances:

a. The number of users provided under the firefighting permit is exceeded by more than 10%;
b. In the event of additional above-ground stories compared to the reference value permitted for Level V fire resistance (as provided in the technical documentations that supported the issuance of the firefighting permit)

c. In case an emergency exit has been closed when, according to specific technical requirements, two or more emergency exits are required; accreditation

d. In case of construction works that have resulted in a reduction of the height / width of the emergency exits by more than 25% compared to the reference value (as provided in the technical documentations that supported the issuance of the firefighting permit), unless this reduction cannot be reversed during fire safety inspections;

e. Removal of fire detectors, fire alarms, fire warnings and fire extinguishing systems;

f. Removal of smoke detectors and exit lighting systems.

(ii) For those premises with a surface in excess of 200 sqm that are not authorised from a fire prevention standpoint, a temporary shutdown of activities may be applied in the following cases:

a. The number of occupants in bars, clubs, discos and restaurants exceeds the maximum reference value by more than 10%;

b. In the event of additional above-ground stories compared to the reference value permitted for Level V fire resistance;

c. In case of insufficient emergency exits compared to the reference value;

d. In case of construction works that have resulted in a reduction of the height / width of the emergency exits by more than 25% compared to the reference value, unless this reduction cannot be reversed during fire safety inspections;

e. Absence of fire detectors, fire alarms, fire warnings and fire extinguishing systems, compared to the reference values;

f. Absence of heat and smoke ventilation and exit lighting systems, compared to the reference values.

To safeguard a comprehensive application of GD 915/2015’s, the Romanian Government has also instituted a cross-check mechanism with public authorities involved in the issuance of building permits, allowing ISU personnel to request from the latter all data and information that served as the basis for issuing the respective building permits, buildings identification data, description of works performed, as well as the date of preparation of the technical documentation required for authorisation.

The application of the temporary stay of activities lasts up to the point of time at which the fire prevention permit is obtained. One exception exists, namely the application of the temporary stay for a term of 60 days from the point of time at which the sanctioning minutes were delivered for those cases in which the number of occupants in bars, clubs, discos and restaurants is exceeded by more than 10%.