

## LEGAL NOTE

**Date:** 22 November 2022

**Subject:** GEO 140/2022 CONCERNING THE SINGLE INDUSTRIAL LICENSE

Government Emergency Ordinance no. 140/2022, published in the Official Gazette on 20 October 2022, entered into force on the same day, establishing the legal framework for the regulation of the single industrial license, as well as its granting method, with the aim of facilitating the authorization process of industrial activities (“**GEO 140/2022**”).

Within 150 days from 20 October 2022, the competent authorities, listed in Annex no. 2 to GEO 140/2022, must review and propose legislative interventions on the current provisions regarding the licensing procedure.

According to GEO 140/2022, the single industrial license is *the unilateral administrative act granting the applicant permission to carry out one or more industrial activities*.

The new normative act regulates the process of granting the single industrial license, as well as its amendment, suspension, renewal, or withdrawal, but also the issuance of licenses, authorizations, agreements, notices, permits or other administrative acts, a process closely related to the single industrial license.

This process is intended to be facilitated by implementing a single simplified procedure to grant the single industrial license. Therefore, GEO 140/2022 provides in its content the “**one time**” principle whereby the applicants or holders of the single industrial license provide only once, at the request of the competent authorities, the documents, data, or any other information for obtaining, amending or renewing the license. The **principle of administrative simplification** is also provided for, according to which institutions and public authorities design or adapt their public services for an electronic work environment, streamlining and simplifying the administrative processes which are the basis of the provision of public services.

GEO 140/2022 classifies single industrial licenses into 3 categories, according to the risk that the industrial activity entails:

- (a) the single industrial license for high-risk industrial activity,
- (b) the single industrial license for the medium-risk industrial activity,
- (c) the single industrial license for low-risk industrial activity.

Industrial activities fall into certain risk categories considering some risk factors such as affecting the health of the population, the impact on the environment, safety at work and energy consumption. Also, in Annex no. 1 to GEO 140/2022 the NACE codes related to industrial activities are listed, such as those for the extraction of coal, crude oil and natural gas, iron ores, but also activities within the food industry and the manufacture of textile products and footwear, of paper and cardboard articles or chemical products. Activities in the metal construction, computer and furniture industries are also listed, as well as the production and supply of electricity and thermal energy, gas, hot water, and air conditioning.

The duration of the validity of the single industrial license is determined according to the activity it authorizes, but it cannot be less than 1 year. The license may be renewed if the conditions considered when granting it have changed if there have been changes to the incidental legal provisions or if the initial period of validity

has expired. In one of these cases, the holder can use the single industrial license held until the date of granting the new license. He cannot simultaneously hold the two single industrial licenses for the same activity and location.

Also, if the holder goes bankrupt or no longer fulfils the conditions for granting the license, the competent authority that became aware of one of these situations notifies the Office in order to withdraw the single industrial license.

By GEO 140/2022, the Office for Industrial Licensing (the “**Office**”) is established, a specialized body of the central public administration, having legal personality, subordinate to the Government and coordinated by the Prime Minister, with the role of rationalizing, simplifying, and digitizing the specific procedures for granting the single industrial license. Hereinafter, the Government’s decision regarding the organization and operation of the Office must be published in the Official Gazette. In order to solve multisectoral problems, the Office will be supported by the interdepartmental working group also established by GEO 140/2022.

The Office manages a public utility IT system called the Electronic Single Point of Contact for Industrial Licensing (“**PCUEL**”).

It is important to note that a foreign legal entity from outside the European Union or the European Economic Area can request the granting of the single industrial license only if it has established a company or a branch in Romania according to the legal provisions, for the entire period of validity of the single industrial license, required in order to carry out its activities.

To initiate the process of granting the single industrial license, the applicant will submit an application through PCUEL to which, if the case may be, relevant documents will be attached, as well as proof of payment of the fee related to the process in question. Within 10 days from the date of registration of the application, the Office confirms to the single industrial license applicant that the conditions for the application to be considered validly submitted have been met. If it is necessary to complete the application with certain documents, the term for their transmission is no more than 15 days (the authorities may communicate another term) from the notification regarding the incomplete nature of the application. If the requested documents are not submitted, the application is considered withdrawn.

The application is resolved within no more than 180 days from the date on which complete documents have been submitted and proof of payment of the legal fee related to the process in question has been made. If the law does not expressly provide for another term, the competent authorities have not responded within 180 days, and the applicant has been informed that the application is considered validly submitted, the single industrial license is considered granted, with the Office being obliged to issue it.

If the Office does not grant the single industrial license because at least one of the competent authorities found that the legal conditions for issuing the administrative act falling within its jurisdiction are not met, the applicant for the single industrial license has the right to challenge the refusal of the competent authority.

In order to fulfil the purpose of simplifying the procedure, GEO 140/2022 prohibits the imposition of conditions for the granting of a single industrial license by which requirements and controls equivalent or comparable in purpose, to which the applicant has already been subjected to in Romania, would be duplicated.

Also, GEO 140/2022 provides for certain sanctions for the competent authorities, if they do not fulfil their obligations to examine, revise and complete their own procedures and formalities applicable for granting the license. The authorities will also be sanctioned if, within 60 days from the entry into force of the Government's decision approving the organization and operation of the Office, they do not submit the modified procedures for the approval of the Office. The authorities also risk being sanctioned if they do not register in PCUEL within 60 days from the date on which it becomes functional or do not publish within PCUEL, those who have this obligation, their contact details or do not update them whenever applicable, but no later than 10 days after their modification. Failure to comply with the mentioned obligations can be sanctioned with a fine from RON 5,000 to RON 50,000.