

FEATURES CONCERNING THE ESTABLISHMENT OF AUTHORIZED INDIVIDUAL AND FAMILY FIRMS

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ABSTRACT: *This paper presents recent legislative changes relating to the establishment and organization of small firms as: The individual firm, the family firm, Authorized individuals (PFA). Thus, in the first part of the paper I present the main features and advantages of the three types of firms, and a comparison between them. The paper continues with the necessary documents for setting up the companies and highlights their role in economic advances. In the second part of the paper, I did a statistical analysis of the evolution of the number of firms of this type and the sectors in which they operate.*

KEY WORDS: *individual firm, family firm, authorized individuals.*

JEL CLASSIFICATION: *E00, E 60.*

1. INTRODUCTION

According to Government Emergency Ordinance no. 44/2008, individual firms can be organized as: the individual firm, unincorporated economic enterprise, organized by an individual person; the family firm, unincorporated economic enterprise, organized by an individual person with his family; authorized individuals (PFA), which performs any form of economic activity permitted by law, mainly using own workforce. Individual firms and authorized individuals are the simplest legal form of organization of an economic activity and establishing their methodology is much simpler compared to setting up a business. Their owner is also the founder of the firm and all he also has the position to lead and manage the conducted business activities, which is an advantage of this type of organization because he has a more control, he is free and autonomous in his work and the only one responsible of the business.

Other advantages of these two types of organization derives from the low costs of setting - the Trade Registry fees of about 250 lei and the nonmandatoriness of

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subscription of the capital - as well as the single entry accounting that may be made by the owner. During the course of the activities there rise disadvantages determined by their limited growth, more difficult access to bank financing sources and the unlimited responsibility of the owner in case of bankruptcy or loans default.

GEO 44/2008 on ongoing economic activities by authorized individuals, Individual of family firms replace the denotation of the family association with the family firm. The individual firm is made up of two or more members of a family. These members can be simultaneously PFA (authorized individuals) or holders of some individual firms. Also, they can be employed by a third party that works in the same area of economic activity as well as in another area of economic activity than the one of their family firm.

2. COMPARISON BETWEEN TYPES OF FIRMS

The distinction between the three types is based on the following differences: the authorized individuals and the family firm cannot hire other people with employment contracts, the individual entrepreneur owner of the individual firm has the right to do so. The documentation required for the authorized individuals and individual enterprises (firms) includes the following main components: 1. Application for registration; 2. Proof of checking availability and reservation of the firm; 3. Identity Card or passport for the holders of the firm; 4. Documents evidencing the rights of use of the registered office/workstations; 5. If necessary, approval to change the use of the collective buildings designed for housing; 6. The signature of the individual entrepreneur that holds individual enterprise; 7. Declaration on own responsibility that the legal requirements provided by the healthcare, veterinary, environmental protection and labour protection special legislation have been met; 8. If applicable: statement showing that the owner of the property consents to the use of the space as the professional office of the individual enterprise; documents certifying the training of the firm holder; documents certifying professional experience; 9. For individuals performing authorized and recognized economic activity in another State Member of the EU or the European Economic Area, it is required to present the documentation proving that its activity is legal in that state (translated in Romanian); 10. Evidence of payment of fees / legal fees: register fees.

For authorized individual (PFA) it is needed a document certifying a qualification of the applicant in the activity for which authorization is requested (e.g. holding a degree in law for those who provide legal services or a diploma degree in medical science to those who establish private medical practices). The file of registration of the family firms involves attaching, in addition to the documents described above, the agreement between family members, respectively, special power of attorney for the family business representative appointed by agreement of incorporation. Until the advent of the GEO no. 44/2008, the registration of authorized individuals and family associations to Trade Register and their tax registration, was based on the authorization issued by the competent city hall. The GEO no. 44/2008 established full takeover by the Trade Register of the registration and licensing of

authorized individuals, individual and family firms, by the directors of the Trade Registry Offices.

Table 1. Differences between the company and authorized individuals, sole proprietorships and family

| Specific elements | Company | Authorized individuals, sole proprietorships and family |
|------------------------------------|--|--|
| Duration of registration procedure | Registration procedure | The registration procedure is one day and the remittance of the certificate of registration tooks 3-5 days. |
| Fees charged by the Trade Register | Fees charged by the Trade Register are 550 lei (if setting up a single-member LTD) | Trade Registry Fees 250 lei |
| NACE Codes | Because there are no limits activity, can choose several NACE codes in order to conduct more economic activities in different areas. | You can choose NACE codes relating activity to be authorized. Qualification is required for work performed. |
| Social capital | When setting up share capital subscribed and paid by the associates is mandatory and is at least 200 lei. | It is not mandatory. |
| Registration file | Registration file is transmitted to a judge | Registration file is checked by a reviewer from the Trade Register |
| Tax Aspects | Profit tax of 16% Dividend tax 16% | Income tax 3% Fewer tax returns are filed, the statement revenue 200 made in Romania and 220 Declaration of estimated income / income norm |
| Bookkeeping | Bookkeeping by double entry by a certified accountant. | Bookkeeping simple and can be done by the owner. |

GEO no. 44/2008 provides online registration application for all three categories: PFA, individual and family companies. The representation request, the registration form in the trade Register, the operating permit and the support documentation can be submitted to the competent Trade Registry electronically using the online registration and authorization system and / or on paper, by mail or directly to the Registry.

Economic activities are conducted in an organized and legal framework according to their specificity, their size, capital or the owner option to opt for a legal form of organization. The Private sector development in which the property is in possession of one or more persons determined, legally, that they can organize a company as follows: individual / family firms, authorized individuals or commercial companies. Unlike the authorized individual, the individual or family firms, the company is a more complex form of organizing economic activity which is constituted as separate legal entities from the owner.

3. STATISTICAL ANALYSIS

Evolution of the number of companies established in 2009-2012 was influenced by the financial crisis, so that in 2010 were set up with 22.96% less

compared with 2009 companies and small increase until 2012 does not compensate for this decrease. This trend is maintained with small variations and limited liability companies and authorized individuals. These decreases show a reorientation of individual entrepreneurs for the enterprise with a legal form of organization of economic entities which unlike individual businesses and authorized individuals have some advantages, the most important being that in the event of expansion and business development, it can employ staff and may have more fields, while the other two forms only activity for which were approved.

As shown in table 2, showing the number of companies established in Romania in 2009-2012, it is observed that for the entire period the largest share in the total returns LTD firms whose number is 132 069 2011. Following the table, stands a large number of AI with an annual average of 43,000 registrations and a significant number of returns of SI, whose number has skyrocketed by over 33% between 2009 and 2010.

In terms of areas of activity that were made registration of companies, there is a maintenance companies in the trade as prevalent with over 27% of the total, followed by companies from Professional, scientific and technical related construction and agriculture, forestry and fisheries.

Evolution of the number of firms in the four years shows a general trend of declining numbers, except in the few areas such as construction, professional and scientific activities or the education.

Table 2 Evolution of the number of companies registered in period 2009-2012

| No | Legal form | 2009 | | 2010 | | 2011 | | 2012 | |
|----|------------|--------|-------|--------|-------|-----------|-------|--------|-------|
| | | Number | % | Number | % | Number of | % | Number | % |
| 1 | CA | 125 | 0,11 | 109 | 0,09 | 84 | 0,06 | 102 | 0,08 |
| 2 | SF | 3376 | 3,01 | 2653 | 2,22 | 1735 | 1,31 | 1146 | 0,91 |
| 3 | SI | 14816 | 13,24 | 23859 | 20,14 | 22041 | 16,68 | 18937 | 15,07 |
| 4 | AI | 40516 | 36,22 | 43956 | 36,92 | 43417 | 32,87 | 43666 | 34,79 |
| 5 | CC | 210 | 0,18 | 229 | 0,19 | 292 | 0,22 | 158 | 0,12 |
| 6 | LTD | 52729 | 47,19 | 48102 | 40,44 | 64405 | 48,79 | 61542 | 48,99 |
| 7 | Others | 57 | 0,05 | 140 | 0,28 | 95 | 0,07 | 52 | 0,04 |
| 8 | Total | 111832 | 100 | 119048 | 100 | 132069 | 100 | 125603 | 100 |

Source: http://www.onrc.ro/documente/presa/comunicat_30_01_2013/4-inmatriculari-1.pdf

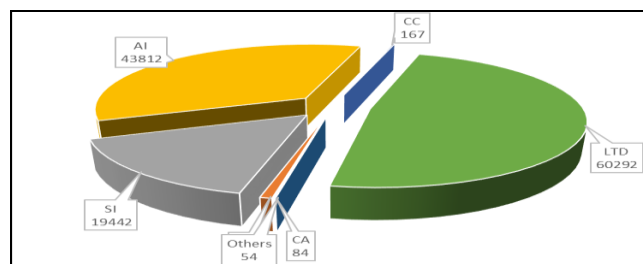
According to statistics provided by the National Trade Register Office of Romania , in 2013 the total number of registered companies was less decreased by 787 firms , respectively 0.63 % . In total registered companies represent the largest share of over 48 % LTD, AI almost 35% and 15.5 % .

Table 3. Situation companies by fields during 2009-2012

| No | Name section | 2012 | | 2011 | | 2010 | | 2009 | |
|----|--|-------------------------|-------|-------------------------|-------|-------------------------|-------|-------------------------|-------|
| | | Number of registrations | % | Number of registrations | % | Number of registrations | % | Number of registrations | % |
| 1 | Activities of households | 6 | 0,00 | 27 | 0,02 | 40 | 0,03 | 30 | 0,02 |
| 2 | Activities of administrative services and support services | 6499 | 5,17 | 6978 | 5,28 | 6033 | 5,06 | 5906 | 5,28 |
| 3 | Art activities, entertainment and recreation | 2816 | 2,24 | 2241 | 1,69 | 1801 | 1,51 | 1823 | 1,63 |
| 4 | Professional, scientific and technical activities | 11076 | 8,81 | 12395 | 9,38 | 11244 | 9,44 | 12810 | 11,45 |
| 5 | Public administration and defense; social security insurance | 11 | 0,001 | 15 | 0,01 | 11 | 0,001 | 18 | 0,01 |
| 6 | Agriculture, forestry and fishing | 20729 | 16,50 | 20529 | 15,54 | 20971 | 17,61 | 13608 | 12,16 |
| 7 | Other service activities | 4585 | 3,65 | 4612 | 3,49 | 4445 | 3,73 | 4335 | 3,87 |
| 8 | Wholesale and retail | 36658 | 29,18 | 36628 | 27,73 | 37093 | 31,15 | 34357 | 30,72 |
| 9 | Construction | 9086 | 7,23 | 11914 | 9,02 | 7830 | 6,57 | 10070 | 9,00 |
| 10 | Water supply; sewerage, waste management | 815 | 0,64 | 918 | 0,69 | 709 | 0,59 | 458 | 0,40 |
| 11 | Hotels and restaurants | 5520 | 4,39 | 6091 | 4,61 | 5413 | 4,54 | 5326 | 4,76 |
| 12 | Mining and quarrying | 113 | 0,08 | 158 | 0,11 | 129 | 0,10 | 174 | 0,15 |
| 13 | Manufacturing | 7734 | 6,15 | 8127 | 6,15 | 6621 | 5,56 | 6631 | 5,92 |
| 14 | Information and communications | 5413 | 4,30 | 5929 | 4,48 | 5541 | 4,65 | 5540 | 4,95 |
| 15 | Financial intermediation and insurance | 2106 | 1,67 | 2484 | 1,88 | 1433 | 1,20 | 1546 | 1,38 |
| 16 | Production and supply of electricity and heat, gas, hot | 1488 | 1,18 | 875 | 0,66 | 578 | 0,17 | 346 | 0,30 |

| | | | | | | | | | |
|----|------------------------|---------------|----------|---------------|----------|---------------|----------|---------------|----------|
| | water | | | | | | | | |
| 17 | Health and social care | 1146 | 0,91 | 1080 | 0,81 | 756 | 0,63 | 773 | 0,69 |
| 18 | Transport and storage | 6499 | 5,17 | 7266 | 5,50 | 5644 | 4,74 | 4736 | 3,91 |
| 19 | Real estate | 1471 | 1,17 | 1940 | 1,46 | 1303 | 1,09 | 1361 | 1,21 |
| 20 | Education | 1832 | 1,45 | 1862 | 1,40 | 1424 | 1,19 | 2006 | 1,79 |
| 21 | Total | 125603 | - | 132069 | - | 119048 | - | 111832 | - |

Source: <http://www.onrc.ro/index.php/ro/statistici>



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Figure 1. Number of companies registered in 2013

4. CONCLUSIONS

The reality of economic and social life is complex and provides development opportunities for all companies legally constituted, a lot of small businesses, working great along with big businesses. In this context, the decision to set up a company becomes very important, which is why it is necessary to define some main characteristics, advantages and disadvantages of each type of society.

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