



## ROMANIAN CUSTOMS AUTHORITY

### I. Introduction

Starting with December 10, 2021, the customs activity currently under the auspices of the National Tax Administration Agency (“ANAF”) will be developed by the Romanian Customs Authority, founded by way of Law no. 268 of November 10, 2021, on the establishment of the Romanian Customs Authority and for the amendment of certain normative acts (“**Law no. 268/2021**”).

The Romanian Customs Authority will be a public institution with legal personality, established as a specialized body of the central public administration, subordinated to the Ministry of Public Finance and financed from the state budget through the budget of the Ministry of Public Finance, as an effect of the reorganization by partial division of the ANAF.

The following chapters provide an insight regarding the rationale behind this reorganization of the ANAF, the structure and main powers of the new Romanian Customs Authority.

### II. Rationale

The customs activity was also carried out by a separate customs authority until 2013, when it became part of the ANAF, under the name of General Customs Directorate.

Nonetheless, according to the Romanian legislator, the activity of the customs structures within ANAF has revealed a series of dysfunctions, including significant delays in establishing customs debts, defective coordination of certain territorial structures and inconsistent interpretation and/or application by territorial structures of specific legislation.

In addition, the transition of customs structures under the Ministry of Public Finance was also desired in order to bring Romania in line with the organizational model and best practices existing in most Member States that manage the external border of the European Union (e.g., Belgium, Bulgaria, Cyprus, Croatia, Denmark, Finland, France, Germany, Greece, Italy, Lithuania).

### **III. Structure and functioning**

The organization and functioning of the Romanian Customs Authority will be carried out on the basis of internal rules, until the issuance of a government decision in this regard, expected within 45 days from the date of entry into force of Law no. 268/2021, i.e., by January 25, 2022.

On the other hand, the organization and functioning of the Regional Customs Directorates shall be established by order of the President of the Romanian Customs Authority, whereas their management shall be appointed by order of the same, in accordance with Law no. 268/2021.

### **IV. Powers and objectives**

For tax receivables under its administration, the Romanian Customs Authority will fulfil the powers of a central tax body, having prerogatives similar to ANAF.

The Romanian Customs Authority shall therefore elaborate the customs regulations that are within Romania's competence as a Member State of the European Union, also ensuring the administration of taxes, duties and other budgetary income given by law within its competence, duly applying the customs and tax policy and legislation in the field of supervision of excise products.

Likewise, the Romanian Customs Authority shall exercise its powers on operational and unannounced control for the prevention, discovery and combating of any acts and facts that have the effect of customs and fiscal fraud.

In relation to natural and legal persons, the Romanian Customs Authority will also have similar prerogatives to those of other authorities vested with public power (e.g., traffic participants will also be obliged to respect the signals of the Romanian Customs Authority mobile team staff, in addition to those of the (border) police officers).

According to Law no. 268/2021, the main objectives of the Romanian Customs Authority are:

- (i) to protect the financial interests of Romania, the European Union and its Member States;
- (ii) to implement the common commercial policy and other European Union policies having an impact on trade;
- (iii) to protect Romania and the European Union from unfair and illegal trade and to encourage legitimate economic activities;
- (iv) to ensure the security and safety of Romania, the European Union and their residents, and the protection of the environment, in close cooperation with other authorities;
- (v) to maintain an appropriate balance between customs controls and the facilitation of legitimate trade.

#### **V. Remarks**

We deem that this reorganization of ANAF for the establishment of the Romanian Customs Authority may lead to a more efficient management of internal resources, and likely to a significant improvement of the activities of customs structures, with positive impact on the relationship between taxpayers and the Romanian State.

Moreover, the proper collection of customs duties requires a strong customs authority, especially for territories like Romania, which represent an important point of entry into the European Economic Area for worldwide imported goods. Therefore, the reinstatement of the Romanian Customs Authority is likely to also benefit the European Union as a whole.

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This article contains general information and should not be considered as legal advice.



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