

## UNBR - BOTA AND INPPA - BOTA DO NOT HAVE LEGAL EXISTENCE!

At the express request of the National Association of the Romanian Bars headquartered in Bucharest, Splaiul Independenței no.5, district 5, postal code 050091, Taxpayer identification number RO4315974, represented by the President lawyer Gheorghe Florea, the Ministry of Justice proceeded to verify the legal status of self-titled entities "National Association of the Romanian Bars", headquartered in Academiei Street no. 4-6, entrance B, 3<sup>rd</sup> floor, apt. 31, district 3, Bucharest, represented by Constantin Bălăcescu and the "National Institute for Training and the Improvement of Lawyers - INPPA", headquartered in Academiei street no. 4-6, district 3, Bucharest, code 030012.

It was ascertained that the two entities mentioned above are not registered within the Register of legal entities without patrimonial purpose (Associations and foundations) established and administered according to the Government Ordinance no. 26/2000 on associations and foundations (hereinafter, GO no.26/2000).

The register is public and is posted in electronical format on the website of the Ministry of Justice ([www.just.ro](http://www.just.ro)).

The answer of the Ministry of Justice is attached, to be communicated to the courts of law, the Prosecutors Offices, the State Office for Inventions and Trademarks, the Bars that are established and functioning according to the Law no. 51/1995 and constitute the National Association of the Romanian Bars, the Bar Association in the European Union (through the Council of Bars and Law Societies of Europe - CCBE), the public institutions and authorities in Romania, as well as the public, in general.

The two entities are not established by the Law no. 51/1995 for the organization and the practice of the lawyer's profession (hereinafter, the Law no.51/1995).

The entities are neither established in compliance with the requirements of article 200 paragraph (1) of the Civil code and of article 8 paragraph (1) of the GO no. 26/2000, according to which: "the Association becomes a legal person from the time of its registration in the Register of Associations and Foundations".

The article 12, paragraph (2) of GO no. 26/200 states that "in the relations with third parties the proof of the legal personality (of associations and foundations - *author's note*) is made by means of the certificate of registration" with the Register of associations and foundations.

**The two entities do not have the legal capacity of use within the meaning of article 205 paragraph (1) from the Civil Code, namely they cannot acquire the rights and cannot have obligations. They are not subjects of law.**

**Correspondingly, the article 56 paragraph (2) of the Code for Civil Procedure expressly states that the two entities that are not established under the law cannot stand trial.**

We underline that the National Association of the Romanian Bars with headquarters in Bucharest, Splaiul Independenței no.5, district 5, postal code 050091, Taxpayer identification number RO4315974, represented by the President lawyer Gheorghe Florea is established under and according to the Law.

According to article 60 paragraph (2) and (5) of the Law no. 51/1995 for the organization and practice of the lawyer's profession "UNBR is a legal person of public interest (...)" and "UNBR is the legal successor of the Romanian Bar Association".

In accordance with article 85 of the GO no.26 / 2000 on associations and foundations: "The legal persons of public utility - associations, foundations or other organizations of this kind - established by laws, ordinances, decrees-law, Government decisions or by any other acts of public law are not subject to the provisions of this Ordinance, but remain subject to the special regulations underlying their establishment and operation."

The Law no. 51/1995 does not require the registration of UNBR, established by the Law, in the Register organized by the GO no.26/2000.

According to article 7 paragraph (3) of the GO no. 26/2000 on associations and foundations: "It is forbidden that the name of the association be identical or similar to confusion with the name of any professional structure established under the law and operating in agreement with the law, such as: «Barou», «Cameră», «Uniunea Națională a Barourilor din România», «Uniunea Națională a Notarilor Publici din România», «Uniunea Națională a Executorilor Judecătorești», «Consiliul de Mediere»,

«Consiliul Uniunii Naționale a Notarilor Publici din România», «Consiliul Uniunii Naționale a Barourilor din România», and other like that.”

According to the article 60 paragraph (6) of the Law no. 51/1995 for the organization and the practice of the lawyer's profession, “The unlawful use of the names/denominations «Barou», «Uniunea Națională a Barourilor din România», «UNBR» or «Uniunea Avocaților din România» or of the names/denominations that are specific for the forms of practicing the lawyer's profession, as well as the use of the professional signs or wearing the lawyer's robes under conditions other than those provided by this law” **constitute an offense and is punished by imprisonment from 6 months to 3 years or by fine.**