

Information on Romania national BOR

The information below has been provided by the countries participating in BORIS in relation to the following questions:

Question 1: What does your national central beneficial ownership register(s) offer?

According to the provisions of art. 56 paragraph (1) and paragraph (1¹), corroborated with the provisions of art. 19 paragraph (5) letter a) of Law no. 129/2019, the legal persons subject to the obligation to register in the trade register, submit at registration, annually or whenever there is a change, a declaration regarding the real beneficiary of the legal person, in order to be registered in the Register of Real Beneficiaries. Thus, the data contained in these declarations are entered in the Real Beneficiary Register.

According to the provisions of Ordinance No. 26/2000 regarding associations and foundations, corroborated with the provisions of Law no. 129/2019, the legal persons subject to the obligation to register in the trade register, submit at registration, annually or whenever there is a change, a declaration regarding the real beneficiary of the legal person, in order to be registered in the Register of Real Beneficiaries. Thus, the data contained in these declarations are entered in the Real Beneficiary Register.

Question 2: Is registration and/or authentication and/or authorization required to search in your national central beneficial ownership register(s)?

The access to the Register of Real Beneficiaries (RBR) is granted, in accordance with the regulations on personal data protection, to any natural or legal person, with the condition of online registration and payment of an administrative fee, based on a request for access, requiring qualified electronic signature.

Additional information can be accessed on the website of the institution - <https://www.onrc.ro/index.php/ro/informatii-privind-beneficiarii-reali>. According to art. 19 paragraph (8) letter a) of Law no. 129/2019, the access to the registers provided in paragraph (5) letter a) and b) is assured, in accordance with the rules on the protection of personal data: a) to the authorities that have supervisory and control competences, to the judicial bodies, under the conditions of Law no. 135/2010 regarding the Code of Criminal Procedure, as subsequently amended and supplemented, and to the Office, in due time, without any restriction and without alerting the person concerned; b) to the reporting entities when applying customer awareness measures; c) to any natural or legal person.

According to art. 19 paragraph (8²) of the same normative act, the access to the Register of Real Beneficiaries is assured, in accordance with the norms regarding the protection of personal data, to the natural or legal entities entitled according to paragraph. (8) let. c) and paragraph. (8¹) let. c) and d), as the case may be, with the condition of online registration and of the payment of an administrative fee / tariff (s) established by the authorities provided in paragraph (5), which must not exceed the administrative costs associated with making the information available, including the costs of maintaining and developing the register. The procedure regarding the online registration and the amount of the fee / tariff is approved by order of the Minister of Justice or by order of the President of the National Agency for Fiscal Administration, as the case may be.

Regarding the Register of Real Beneficiaries, kept by the National Trade Register Office, the online registration procedure and the access tariff were approved by the Order of the Minister of Justice no. 7.323 / C / 2020.

The Register of Real Beneficiaries can be accessed through the ONRC Online Services Portal, both for submitting declarations and for providing information <https://portal.onrc.ro/ONRCPortalWeb/appmanager/myONRC/wicket?p=rc.cerereBeneficiariReale>
<https://portal.onrc.ro/ONRCPortalWeb/appmanager/myONRC/wicket?p=rc.furnizareInfoRB>

According to art. 19 paragraph (8) letter a) of Law no. 129/2019, the access to the registers provided in paragraph (5) letter a) and b) is assured, in accordance with the rules on the protection of personal data: a) to the authorities that have supervisory and control competences, to the judicial bodies, under the conditions of Law no. 135/2010 regarding the Code of Criminal Procedure, as subsequently amended and supplemented, and to the Office, in due time, without any restriction and without alerting the person concerned; b) to the reporting entities when applying customer awareness measures; c) to any natural or legal person. According to art. 19 paragraph (8) of the same normative act, the access to the Register of Real Beneficiaries is assured, in accordance with the norms regarding the protection of personal data, to the natural or legal entities entitled according to paragraph. (8) let. c) and paragraph. (8) let. c) and d). as the case may be with the condition of online registration and of the payment of an administrative fee / tariff (s) established by the authorities provided in paragraph (5) which must not exceed the administrative costs associated with making the information available, including the costs of maintaining and developing the register. The procedure regarding the online registration and the amount of the fee / tariff is approved by order of the Minister of Justice or by order of the President of the National Agency for Fiscal Administration, as the case may be. Due to the fact that, on 22.11.2022, the Court of Justice of the European Union (CJEU) issued its judgment in the related cases C-37/20, C-601/20, Luxembourg Business Registers, currently the access of natural and legal persons to The Register of Beneficial Beneficiaries is not permitted by the Ministry of Justice. In essence, the Court stated the following Article 1 point 15 letter (c) of Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on preventing the use of the financial system for the purpose of money laundering or terrorist financing, such as amending Directives 2009/138/EC and 2013/36/EU is invalid insofar as it amended Article 30 paragraph (5) first paragraph letter (c) of Directive (EU) 2015/849 of the European Parliament and of the Council of May 20, 2015 regarding the prevention of the use of the financial system for the purpose of money laundering or terrorist financing, amending Regulation (EU) no. 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60/EC of the European Parliament and of the Council and Directive 2006/70/EC of the Commission in the sense that this article 30 paragraph (5) first paragraph letter (c) provides, in the version thus modified, that member states must ensure that information on the beneficial owner of corporate entities and other legal entities registered on their territory is accessible in all cases to any member of the general public. The full text of the decision is available at CURIA - Documents (europa.eu) At the same time, the EU court issued a press release, which can be viewed at the address of the Anti-Money Laundering Directive: the provision that provides that the information regarding the beneficial owners of corporate entities registered on the territory of the member states should be accessible in all cases to any member of the public broad is invalid (europa.eu). The Register of Real Beneficiaries can be accessed through the Ministry of Justice website, for providing information <https://www.just.ro/informatii-de-interes-public/rbr-descarca/> Guide to online registration in order to access the Register of Beneficiaries of Associations and Foundations held by the Ministry of Justice https://www.just.ro/wp-content/uploads/2023/01/Ghidinstitutii-revizuit-27_01_2023.pdf

Question 3: Is registration and/or authentication and/or authorization required to access beneficial ownership information in your national central beneficial ownership register(s)?

Idem 2

Question 4: Is access to your national central beneficial ownership register(s) free of charge?

According to art. 19 paragraph (8²) of Law no. 129/2019, the access to the Register of Real Beneficiaries, kept by the National Trade Register Office, is free of charge for the authorities that have supervisory and control competences, to the judicial bodies, under the conditions of Law no. 135/2010 regarding the Code of Criminal Procedure, as subsequently amended and supplemented, also for the reporting entities when applying customer awareness measures. For natural and legal entities, access is charged according to Annex no. 2 from the Order of the Minister of Justice no. 7.323 / C / 2020.

According to art. 19 paragraph (82) of Law no. 129/2019, the access to the Register of Real Beneficiaries, kept by Ministry of Justice, is free of charge for the authorities that have supervisory and control competences, to the judicial bodies, under the conditions of Law; no. 135/2010 regarding the Code of Criminal Procedure, as subsequently amended and supplemented, also for the reporting entities when applying customer awareness measures. For natural and legal entities access is temporarily blocked due to the fact that on 22.11.2022, the Court of Justice of the European Union (CJEU) issued its judgment in the related cases C-37/20, C-601/20, Luxembourg Business Registers. The Romanian government did not participate in this procedure. In essence, the Court stated the following: Article 1 point 15 letter (c) of Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on preventing the use of the financial system for the purpose of money laundering or terrorist financing, such as and amending Directives 2009/138/EC and 2013/36/EU is invalid insofar as it amended Article 30 paragraph (5) first paragraph letter (c) of Directive (EU) 2015/849 of the European Parliament and of the Council of May 20, 2015 regarding the prevention of the use of the financial system for the purpose of money laundering or terrorist financing, amending Regulation (EU) no. 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60/EC of the European Parliament and of the Council and Directive 2006/70/EC of the Commission in the sense that this article 30 paragraph (5) first paragraph letter (c) provides, in the version thus modified, that member states must ensure that information on the beneficial owner of corporate entities and other legal entities registered on their territory is accessible in all cases to any member of the general public

Question 5: How can you perform searches in your national central beneficial ownership register(s)?

According to Annex no. 2 from the Order of the Minister of Justice no. 7.323 / C / 2020 information on the real beneficiaries of a legal person and / or on the quality of real beneficiary of a natural person, can be requested.

According the Order of the Minister of Justice no. 5.745/C/2022 information on the real beneficiaries of a legal person and I or on the quality of real beneficiary of a natural person, can be requested.

Question 6: How do you ensure adequacy, accuracy and timeliness of the information held in the national central beneficial ownership register(s)?

According to art. 19 paragraph (1) of Law no. 129/2019, legal persons under private law, trusts and any legal construction similar to trusts are obliged to obtain and have adequate, correct and up-to-date information on their real beneficiary, including regarding the manner in which this quality is materialized, and make them available to control entities and supervisory authorities at their request.

According to art. 19 paragraph (7), (7¹) and (7²) of the same normative act, the authorities that manage the Registers of Real Beneficiaries, verify and update their own registers. The authorities having access to the Registers of Beneficiaries, in so far as this requirement does not unjustified interfere with their legal duties, shall inform the Office and the authorities managing those registers of any discrepancy between the information available in the central registers on beneficial owners and the information on beneficial owners which they own.

The reporting entities, after consulting the Registers of Real Beneficiaries, shall inform the National Office for Prevention and Combating Money Laundering and the authorities managing these registers of any discrepancy between the information available in the central registers on real beneficiaries and the information on real beneficiaries which they own.

On the basis of the information provided by the reporting entities, the authorities managing the registers of beneficial owners shall immediately register in those registers a provisional mention on the existence of a discrepancy, and the National Office for Prevention and Combating Money Laundering shall take appropriate measures to solve it, in due time. After resolving the discrepancy, the National Office for the Prevention and Combating of Money Laundering requests the authorities that manage the registers of real beneficiaries to delete the provisional mention. The procedure regarding the registration / strike of the mentions in / from the registers of the real beneficiaries is approved by order of the Minister of Justice or by order of the president of the National Agency for Fiscal Administration, as the case may be.

According to art. 19 paragraph (7), (7¹) and (7²), of Law no. 129/2019, the authorities that manage the Registers of Real Beneficiaries, verify and update their own registers. The authorities having access to the Registers of Beneficiaries, in so far as this requirement does not unjustified interfere with their legal duties, shall inform the Office and the authorities managing those registers of any discrepancy between the information available in the central registers on beneficial owners and the information on beneficial owners which they own. The reporting entities, after consulting the Registers of Real Beneficiaries, shall inform the National Office for Prevention and Combating Money Laundering and the authorities managing these registers of any discrepancy between the information available in the central registers on real beneficiaries and the information on real beneficiaries which they own. On the basis of the information provided by the reporting entities, the authorities managing the registers of beneficial owners shall immediately register in those registers a provisional mention on the existence of a discrepancy, and the National Office for Prevention and Combating Money Laundering shall take appropriate measures to solve it, in due time. After resolving the discrepancy, the National Office for the Prevention and Combating of Money Laundering requests the authorities that manage the registers of real beneficiaries to delete the provisional mention. The procedure regarding the registration / strike of the mentions in / from the registers of the real beneficiaries is approved by order of the Minister of Justice or by order of the president of the National Agency for Fiscal Administration, as the case may be.

Question 7: Since when is the national central beneficial ownership register(s) operational? Please also provide the link(s) to the national law(s) implementing the national central beneficial ownership register(s).

The Law no. 129/2019 was published in the Official Gazette of Romania No. 589 / 18.07.2019, Part I and, in accordance with the norms of legislative technique, entered into force within 3 days from the publication in the Official Gazette of Romania.

By reference to the provisions of art. 64 of the referred normative act, the Register of Real Beneficiaries kept by the National Trade Register Office is operational from 19.11.2019.

The Law no. 129/2019, which transposed into national legislation Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European

Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, published in the Official Journal of the European Union on 05.06.2015, can be accessed on the website of the National Trade Register Office, section - Legislation, subsection - National Legislation - <https://www.onrc.ro/index.php/ro/legislatie/legislatie-nationala>

The Register of Real Beneficiaries kept by the Ministry of Justice is functional from December 2022 through OMJ 5745/C/2022. The Law no. 129/2019, which transposed into national legislation Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, published in the Official Journal of the European Union on 05.06.2015