

A Law amending and supplementing the Commerce Act, promulgated in State Gazette No. 82 of September 27th, 2024, introduces an expedited procedure for liquidation of businesses that meet certain requirements. The purpose of the new texts is to resolve the issue of protracted standard liquidation proceedings that normally take about a year to complete.

To implement the expedited liquidation procedure under article 274a of the Commerce Act (CA), a decision of the General Shareholders' Meeting is needed, and in the case of a partnership, a unanimous decision of the unlimited liability partners.

The cumulative requirements that a company must satisfy in order to be struck off the Commercial Register by the new simplified procedure are as follows:

1. It must not have performed any business activity, or must have discontinued any business activity more than twelve months ago;
2. It has not hired any personnel, or has terminated all employment contracts with once hired personnel, more than twelve months ago;
3. It must have no registration under the Value Added Tax Act, or must have terminated any such registration more than twelve months ago;
4. It must not have any outstanding financial obligations to the State or to any municipal authority;
5. There must be no pending proceedings seeking to establish whether said entity has any unpaid taxes or mandatory social security contributions to the National Revenue Agency (NRA);
6. Said entity must not be a defendant in legal proceedings, or a debtor in enforcement or order for payment proceedings, nor must it be subject to ongoing enforcement under the Special Pledges Act or the Financial Collateral Contracts Act.

Compliance with the above listed requirements need only be declared by the liquidator, who is not obliged to supply any proof thereof.

The expedited liquidation procedure is based on the 'one-stop shop' principle, which amounts to the following:

1. The liquidator files an application to the Registry Agency, stating compliance with the eligibility requirements for the procedure.
2. The Registry Agency forwards ex officio notification to the NRA, i.e., the liquidator does not need to notify the NRA separately in accordance with article 77 of the Tax and Social Insurance Procedure Code regarding the termination of the company's business activity.

Pursuant to the general provisions, the NRA will then issue confirmation that it has been notified of the upcoming liquidation within 60 days from receipt of such notification. Only after such confirmation has been issued, the liquidator may file with the Commercial Register an application for commencement of liquidation proceedings.

3. Within a final 30-day deadline, the NRA must rule on the applicant's compliance or non-compliance with the eligibility requirements for expedited liquidation proceedings.

4. Following receipt of the information from the NRA, the Registry Agency either registers or denies registration of expedited liquidation proceedings.

5. The certificate of handing over the payrolls, as a condition precedent for striking off the company, will again be issued through the Registry Agency, without any need for the liquidator to communicate with the National Social Security Institute (NSSI).

Another significant difference is that the business entity's property will not be divided before three months have expired from the date of publication of the invitation to creditors in the Commercial Register. The general liquidation procedure provides a six-month period for dividing the property as from the date of publication of the invitation in the Commercial Register.

The remaining provisions of Chapter 17 of the Commerce Act relevant to the liquidation procedure will apply, on a subsidiarity basis, to the new procedure too.