

## **Law no. 451/2004 on Time stamp**

Published in the Official Gazette, Part I no. 1021 of 05/11/2004

Art. 1. - This law establishes the legal status of the timestamp and the conditions of time stamping services provision.

Art. 2. – For the purposes of this Law, the terms and expressions below are defined as follows:

- a) the stamp attached to an electronic document is that information with which the document can be identified uniquely, but that does not allow deduction of the document content;
- b) timestamp is a collection of electronic data, uniquely attached to an electronic document; it certifies that certain electronic data were presented at a given moment to the time stamping services provider;
- c) the certificate associated to the timestamp is the information contained in the timestamp presented in the intelligible form and that contains at least the provider of time stamping service, the registration number in the register of the provider and the information representing the time moment;
- d) the time base is the unitary system of temporal reference which all the time stamping service providers refer to;
- e) the regulatory and supervisory authority is the authority provided in the Ch. 4, "Monitoring and Control" section 1 "Regulatory and Supervisory Authority" of the Law no. 455/2001 on electronic signature, hereinafter referred to as the authority.

Art. 3. - (1) The timestamp consists of at least the following elements:

- a) the stamp attached to the electronic document subject to stamping;
  - b) date and time related to the document subject to stamping, expressed in universal time;
  - c) information that uniquely identifies the timestamping services provider;
  - d) the registration number in the registry of the timestamping services provider.
- (2) the information verified with the timestamping services provider is:
- a) the particulars of the certificate relating to the key that checks the stamp;
  - b) identification of the algorithm used to generate the stamp.
- (3) The timestamp may also contain particulars of the timestamp applicant.

Art. 4. - (1) The timestamp must be generated by a secure computer system which will meet the following safety requirements:

- a) ensure that it is impossible to issue a proper stamp for another time than when the document was received or change the order in which timestamps are issued;
  - b) ensures the continuity of the service provision.
- (2) The generation of the timestamp must guarantee a response time; the calculation manner and maximum permissible error shall be determined by the authority by rules.

Art. 5. - (1) The time stamping services providers are required to create and maintain an operative electronic register of records containing the time when the timestamps were issued.

(2) The structure and operating conditions of the electronic register will be determined by the authority by rules.

Art. 6. - (1) 30 days before the beginning of the activities related to the issue of timestamps, persons intending to provide timestamping services are required to notify the authority the starting date for these activities.

(2) Together with the notification referred to in paragraph (1), time stamping services providers are required to communicate to the authority the following information and documents:

- a) provision of the activities under Art. 8;
- b) the qualified certificate based on which the signature on the timestamp can be verified;
- c) the policy regarding the personal data protection to comply with Romanian legislation in force;
- d) any other information on the activity of timestamping services provision required by the authority.

Art. 7. - (1) The time stamping services provider must have ensuring financial instruments to cover damages it might cause during performing the activities related to time stamping.

(2) The insurance shall be made either by underwriting an insurance policy from an insurance company or through a letter of guarantee from a specialized financial institution or by any other means specified by decision of the authority.

(3) The insured sum and, accordingly, the amount covered by the letter of guarantee is determined by the authority.

Art. 8. - (1) The time stamping services providers have the following obligations:

- a) maintain records of the timestamps issued for a period of 10 years;
- b) to keep the documentation corresponding to the algorithms and to the generation procedures of the issued timestamps;
- c) to ensure the possibility of on-line obtaining and checking of timestamps; verification is free;
- d) provide the permanent access of the time base.

(2) in case of closure, the time stamping services provider must transfer to another time stamping services provider or, where appropriate, to the authority the operational electronic register of records, the register of timestamps as well as the documentation related to the algorithms and procedures of generation of the issued timestamps.

Art. 9. - (1) The responsibility of complying with this law and related regulations bears with the authority.

(2) Within 3 months from the date of publication of this law in the Official Gazette of Romania, Part I, the authority shall appoint the sole supplier of time base.

(3) The Authority will issue rules containing the minimum set of procedures for timestamps generating activity as well as the control procedures for their application.

(4) The Authority will monitor the fulfillment of the obligations imposed by this law to the timestamping services providers.

(5) If the time stamping services provider is unable to meet its obligations, the authority may order the temporary suspension or, where appropriate, termination of the activity of the provider.

(6) Within the register of providers of certification services provided by art. 28 of Law no. 455/2001 a separate section shall be created dedicated to the timestamping services providers. The information to be provided in the register is established by the authority by rules.

Art. 10. - (1) Time stamping services provider is liable for any damage caused to any person who bases its conduct on the legal effects of the timestamp:

- a) in terms of accuracy, at the issuing time of the timestamp, for all the information it contains;
- b) in terms of ensuring that when the timestamp is issued, the provider identified therein owned the generation data of the timestamp corresponding to the timestamp verification data, stipulated in this Law;
- c) in terms of fulfilling all obligations stipulated in art. 3-8.

(2) The time stamping services provider is not liable under paragraph (1) if it proves that, in spite of its due diligence, it could not prevent the damage.

Art. 11. - (1) The time stamping services provider may indicate within a timestamp restrictions for its use as well as limits the amount of operations for which it may be used, provided that such restrictions are known by third parties.

(2) The time stamping services provider is not liable for damages resulting from the use of a timestamp by infringement of the restrictions set out therein.

Art. 12. - (1) It is a contravention unless, under the law, not an infraction, and shall be sanctioned by fine from ROL 10,000,000 to ROL 50,000,000 the deed of the time stamping services provider that provides the time stamping service without the prior notice stipulated at Art. 6.

(2) It is a contravention unless, under the law, not an infraction, and shall be sanctioned by fine in amount of up to 5% of the turnover breach of the obligations stipulated in art. 8 paragraph (1), letter a) and b).

(3) is a contravention unless, under the law, not an infraction, and shall be sanctioned by fine from ROL 50,000,000 to ROL 500,000,000 the breach of the obligations stipulated at art. 8, paragraph (1), letters c) and d).

Art. 13. - This law is supplemented by the provisions of Law no. 455/2001 on electronic signature, published in the Official Gazette of Romania, Part I, no. 429 of July 31<sup>st</sup>, 2001.

Art. 14. - Within 3 months from the date of publication of this law in the Official Gazette of Romania, Part I, the Authority shall draft the technical and methodological rules for the implementation of this law.

Art. 15. - This law comes into force 30 days after its publication in the Official Gazette of Romania, Part I.

This law was adopted by the Romanian Parliament, by observing the provisions of Art. 75 and Art. 76, paragraph (2) of the Romanian Constitution, republished.

Bucharest, November 1<sup>st</sup>, 2004.

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