

## **AMENDMENTS AND ADDITIONS TO THE GOVERNMENT DECISION NO.1122 / 2004 ON THE ORGANIZATION AND FUNCTIONING OF THE NATIONAL INSTITUTE FOR RESEARCH AND DEVELOPMENT IN TOURISM**

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### **Abstract**

*Amendments to H.G. 1122/2004 had as result the formation of an administration right over some public and private property of the state, right valued by using and exploiting the goods in order to satisfy the general interests of the state in the conditions of good administration. The effects of the normative act project consisted in the amendment of some articles in H.G. 1122/2004 and Annex 1 regarding the Regulation for the organization and functioning of the National Institute of Research and Development in Tourism, as well as the updating of H.G. 1705/2006 on the approval of the centralized inventory of goods in the public domain of the state.*

**Key words:** National Institute for Research and Development in Tourism, government decision, legislative amendments, public and private property of the state, tourism

### **INTRODUCTION**

The National Research and Development in Tourism Institute was established in 1971 under the name of the Center for Studies and Design for Tourism Promotion, which is subordinated to the Ministry of Tourism and has as goal the consecution of scientific research activity and technological development in tourism.<sup>1</sup>

INCDT has as the main object of activity the consultancy in tourism and the carrying out of fundamental and applied research regarding the development and promotion of Romanian tourism. The Institute is subordinated to the Ministry of Research and Innovation.

Over time, the name of this institution has suffered a number of changes, as follows: Since August 1974, it had been functioning as the Center for Economic Research for the promotion of international tourism; since September 1977 it had been operating under the name of the Institute of Economy of Interior Commerce and Tourism; since December 1990 it

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<sup>1</sup><http://www.incdt.ro/>

had been functioning under the name of the National Institute for Conjunction and Marketing for Tourism; since 1991 it had been operating under the name of the Tourism Center of the Virgil Madgearu National Institute; since February 1993 it had been functioning under the name of the Research Institute for Tourism and since December 1998 it has operated under the name of the National Institute for Research and Development in Tourism.

Due to the complex activity that carries out in the domain of tourism, over the years, the normative acts which formed the bases of the functioning and organization of the Institute's activity have been in constant change to meet the increasing demands of tourism development at all levels. The last amendments in its organization and functioning took place in the summer of this year, when on August 7, the Ministry of Research and Innovation launched in public debate a draft of Government Decision on the amendments and completion of the Government Decision no. 1122/2004 on the organization and functioning of the National Research and Development in Tourism Institute, as well as the updating of the patrimony data.

## **MATERIAL AND METHOD**

The materials used in the redaction of this paper consist in normative acts and web pages. The methods used are legal, namely the formal method, the historical method, the comparative method, the logical and sociological method, the analytical method. The use of these methods has the role of performing a systematic analysis of the information from the studied sources in order to elaborate the points of view and the conclusions.

## **RESULTS AND DISCUSSION**

Taking into account the modification of the normative acts in the scientific research domain, it was also asserted the amendment and addition of the Government Decision no. 1122/2004 on the organization and functioning of the National Research and Development in Tourism Institute.

According to Government Decision no. 13/2017 on the organization and functioning of the Ministry of Research and Innovation, the Ministry of Research and Innovation is the specialized body of the central public administration, with legal personality, which is organized and functions under the Government.

This Ministry is the one that organizes and conducts the national system of scientific research, technological development and innovation, exercising its attributions established by law, as well as by other normative

acts in its sphere of activity, being the state authority for research and development.

The national research and development institutes unfold the activity according to the provisions of Government Ordinance no. 57/2002 on scientific research and technological development, approved with amendments and additions by Law no. 324/2003, with subsequently amendments and additions, as well as of their organization and functioning regulations approved by a Government Decision.

According to the provisions of art.2 of the Government Decision no.637 / 2003 for the approval of the framework Regulation for the organization and functioning of the national research and development institutes, the organization and functioning regulations of the national research and development institutes are elaborated on the basis of the framework regulation and are approved by decision of the Government. Also through these decisions was constituted the right to administer over the public and private property of the state. Administration of the state domain is highlighted by its use and exploitation in order to satisfy the general interests of the state, in the conditions of good administration. At the same time, for these goods must be ensured maintenance and conservation work, which involves excess spending of funds from the state budget. To prevent this, legal solutions had to be found to provide extra-budgetary sources for covering these costs. The renting of public property of the state is carried out on the basis of a public auction organized in accordance with the legal provisions of art.14-16 of the Law no. 213/1998 on the public property, with subsequently amendments and additions. For a better utilization and exploitation of the public goods managed by the national research and development institutes coordinated by the Ministry of Research and Innovation, under the conditions of efficiency and legality, by amending the Government Decision 1122/2004, was regularized the right to receive a quota- 50% of the amounts collected from the renting of the respective buildings (unused and available spaces), and the 50% difference is turned into income to the state budget. The amounts received represent own revenues of the national research and development institutes and are used for the maintenance, repair and modernization of the buildings under their management and included in the public goods inventory of the state.

The National Research and Development Institute in Tourism is a legal entity under the coordination of the Ministry of Research and Innovation. According to unchanged provisions, Government Decision no. 1122/2004 regarding the organization and functioning of the National Institute of Research and Development in Tourism, it had its headquarters in Bucharest, 17, Apolodor Str., Sector 5, where it has been operating since its establishment, its address has modified, the headquarters being on Libertății

nr.16, sector 5. The patrimony of the national institute based on the accounting reports at 31 December 2016 is of 1,235.5 thousand lei, of which tangible and intangible fixed assets in amount of 283 thousand lei and current assets in amount of 952.5 thousand lei.

Amendments to the Government Decision no. 1122/2004 can be found in Articles 1 paragraph 1 and 2, art.3, art.4, art.5, art. 6 was abrogated and a new article was introduced - art. 6<sup>1</sup>, art. 7 was abrogated and was introduced Art. 7<sup>1</sup>, art.8.

<sup>2</sup>The amendment and adding of the Government Decision no. 1122/2004 regarding the organization and functioning of the National Institute for Research and Development in Tourism (I.N.C.D.T) consists of:

- updating data on the value of the patrimony of the national institute concluded on 31.12.2016

- the change of the names of the central public administration authorities

- updating the information on the classification code, name, identification data and inventory value of the buildings in the public domain of the state and in the administration of the national institute whose name, address, inventory value, technical description

- updating the address of the registered office and confirmation of the postal address was made by the City Hall of Bucharest according to the address no. 1484953/1898 / 02.21.2017

- reupdating the inventory of assets registered in the patrimony

- updating the activity object by detailing it

- reupdating the codes regarding the activity object of the Institute by updating the CAEN (CAEN Code Rev.2.)

- were updated the data on the value of the institution's patrimony concluded on 31.12.2016, the list of public domain assets of the state administered by the institutes, and has changed the name of the coordinating central public administration authority according to H.G. no. 13/2017 regarding the organization and functioning of the Ministry of Research and Innovation

- was regulated the 50% share of the amounts levied and received from renting the buildings administered by the institute

Along with the amendment of H.G. 1122/2004, important amendments have been made to the Annex, which refers to the Regulation for the organization and functioning of the National Institute for Research and Development in Tourism. The articles that were targeted are:

► art. 1- (1) National Institute for Research and Development in Tourism - I.N.C.D.T. Bucharest, hereinafter referred to as the national institute, is a Romanian legal entity of public law, headquartered in Bucharest, 16 Libertății Avenue, sector 5, operates on the basis of economic management

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<sup>2</sup><https://www.juridice.ro/wp-content/uploads/2017/08/Not%C4%83-de-fundamentare-4.pdf>

and financial autonomy, calculates amortization and organizes and directs accounting according to the Accounting Law no. 82/1991, republished, with subsequently amendments and additions, as well as the applicable accounting regulations. (2) The National Institute operates in accordance with the provisions of the Government Ordinance no. 57/2002 on scientific research and technological development, approved with amendments and additions by Law no. 324/2003, with subsequently amendments and additions, as well as of this Regulation

► art. 2 par. 2 - The National Institute participates in the elaboration of development strategies in the field of tourism and related branches, it carries out research and development activities for the achievement of the objectives included in the national research strategy, it constitutes bases of scientific and technological competence, of expertise, of improvement of resources human and scientific and technical documentation

► art. 3 par. 1 after letr.d were introduced two new letters - letr.e and f - (1) The object of activity of the national institute consists mainly of: e) within the sectorial research and development Plans of central and local public authorities, f) within other research plans, programs and research projects

► art. 3 par. 1 letr.b and c of the letter A were abrogated - A.2. applied research for developing and increasing the efficiency of tourism activity, that reffers to: optimal valorization of tourism resources and their protection, modernization and development of Romanian tourism as a whole, atsectorial and territorial level, attraction of new markets, efficiency of tourism activity, increasing the competitiveness of the Romanian tourist offer and services on the foreign market, Romania's promotion through tourism; A.3. studies and researches on: internal and international market trends, sociological investigations in the field, analyzes and forecasts, tourism strategies, marketing and tourism management policies, tourism heritage monitoring and management, computerization, tourism databases, projection and design in tourism arrangement and development, synthesis and technical-scientific documentation; A.4. studies and research on: economic, social and environmental impact, elaboration of criteria for the identification and classification norms of tourism resources, determination of support capacity in localities and areas for tourism purposes, elaboration and improvement of research methods and methodologies in the field

► art.3 par.1 letr. A - letrs.A.2, A.3. and A.4 and are introduced letrs. A.5-A.5.fundamental and / or applied research within international partnerships

► art. 3 par. 1 letr.B with letr. a), b), c) and d) were abrogated

► art. 3 par. 1 to letr. B was amended letr.g - g) consultancy and specialized technical assistance for the organization / reorganization of the tourism economic agents

► art. 3 par. 2; art.4; par. 3 and 5 art. 4 were abrogated

►after art. (4) a new article was introduced – 4<sup>1</sup> (1) The results of researches obtained on the basis on the performance of a research development or innovation contract partly or totally financed by public funds belong to the contractors who directly execute the activities stipulated in the financing contract and / or their employees, according to the financing agreements and the legislation in force regarding industrial property titles and copyright. In case of execution by several contractors, the assignment between contractors of the rights on the results is made in accordance with the prior written agreement of the contractors. (2) The results of the researches provided in par. 1 are managed by their owners, with all rights deriving from ownership. (3) In order to capitalize its own results, the national research and development institute may set up commercial companies or acquire stocks or shares in commercial companies, in accordance with the law, with the agreement of the board of directors and the scientific board of the institute. For this, the institute can exclusively engage the scientific and technological accumulated experience, methods, techniques, schemes, plans, processes, recipes, or other forms of knowledge and experience, including those protected by titles of intellectual property

►art. 5 par. 1 and 2 - (1) The national institute may have in its structure subunits, with or without legal personality, departments, sections, laboratories and other organizational structures necessary for the accomplishment of its object of activity. The headquarters of the subunits are stipulated in the decision to set up the national institute, their establishment or abolition is approved by a decision of the Government. (2) The organizational structure of the national institute is approved by order of the head of the coordinating ministry and includes, besides the organizational structure stipulated in paragraph 1, and the following compartments: the legal compartment, the marketing department, the financial-accounting department, the public internal audit department, the public relations and media office, the acquisitions

►after art. 7, was introduced art. 7<sup>1</sup> - (1) The relations between the subunits within the structure of the national institute, as well as their relations with third parties are assigned by the general manager, who may grant delegation powers on behalf of the national institute, with the notification of the board of directors. (2). The leaders of the subunits within the national institute structure respond to the board of directors and the general manager for the performance of all the duties, responsibilities and competences assigned to them

►art. 8 par. 1 and 2 and were introduced par. 2<sup>1</sup> and 2<sup>2</sup>, also to this article after par. 3 was introduced paragraph 4 -(1) The Board of Directors consists of 7 members, Romanian citizens, appointed by order of coordinating ministry administrator, at the proposal of the management of the authority

from which they come, for a renewable term of four years.(2) The board of directors includes mandatory: a) the general director of the national institute, who is the chairman of the board of directors;b) the president of the scientific council of the national institute;c) a representative of the Ministry of Research and Innovation; d) a representative of the Ministry of Public Finance;e) a representative of the Ministry of Labor and Social Justice.(2<sup>1</sup>)

<sup>3</sup>The other members of the board of directors are specialists in the specific field of activity of the national institute, who fulfill the conditions established by order emitted by the administrator of the coordinating ministry.(22) From the specialists category may also take part representatives of the central specialized public administration body in the specific field of activity of the national institute

► art. 10 par. 1, art.10 letr. b and d (besides content's amendment of the two letters, has modified also the operative part of this article) - (1) The board of directors has the following main responsibilities:b) proposes the amendment of the organizational and functional structure of the national institute, the forming, dissolution and merging of subunits within its structure;d) analyzes and approves the annual financial statements, which it submits to the coordinating ministry for approval and approves the management report on the activity carried out by the national institute in the previous year

► art. 11 - (1) The board of directors decides on matters concerning the activity of the national institute, except those which, according to the law, are given to the competence of other bodies.(2) The Board of Directors operates its activity on the basis of its own organization and functioning regulation, elaborated on the basis of the Framework Regulation for the organization and functioning of the national research and development institutes, approved by H.G. no. 637/2003 and endorsed by the administrator of the coordinating ministry

► art. 12 par. 1 - (1) The board of directors meets as a rule once a month or whenever the interests of the National Institute require it, at the convocation of the President or at the request of one third of the members of the board of directors

► art. 14 - At the meetings of the board of directors, as a standing guest, a representative of the representative union of the national institute or a representative of the employees, in case they are not constituted in the trade union

► art. 19 par. 2 - (2) At the meetings of the Steering Committee participates, as a permanent guest, a representative of the representative union of the

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<sup>3</sup> <https://www.juridice.ro/528377/completarea-hg-ref-institutul-national-de-cercetare-dezvoltare-turism-proiect.htm>

national institute or a representative of the employees, in case they are not constituted in the trade union

► art. 21 –was introduced art. 21<sup>1</sup> - (1) At the level of the subunits within the national institute, is organized and functionsthe management committee, that carries out its activity in accordance with its own organization and functioning regulations approved by the board of directors of the national institute and is chaired by the director of the respective subunit.(2) The Management Committee exercise attributions and has responsibilities within the limits of the competences established by the general manager of the National Institute and approved by the board of directors

► art. 22 - (1) The current activity of the national institute is led by the general manager, appointed for a period of 4 years, on the basis of the results of the selection contest organized according to the methodology elaborated by the coordinating ministry and approved by a Government decision.At the expiration of this date, depending on the performance achieved, the appointment of the general manager may be extended for up to 4 years.(2) The appointment and dismissal of the general manager are made by order of the administrator of the coordinating ministry.(3) The general manager, appointed under par. (1), concludes a management contract with the administrator of the coordinating ministry.(4) The evaluation of the manner of fulfilling the duties and obligations of the general manager, established by the management contract, are made on the basis of a procedure approved by order of the administrator of the coordinating ministry

► art. 24 par. 2 - (2) The Scientific Council is composed of researchers with special achievements in the field, employees of the national institute, elected for 4 years by secret vote by cadres with the status of researchers from the national institute

► art. 25 lit. a and d (besides the amendment of the content of the two letters, was also modified the operative part of this article) - a) participates in the elaboration of the advancement strategy for the research – development activity and in the elaboration of its own research and development plans; d) endorses the decisions of the board of directors that involves the research policy of the national institute and the branch

► art. 26 par. 1- (1) The National Institute draws up annually the budget of revenues and expenditures according to the methodological norms elaborated by the Ministry of Public Finance and the financial statements according to the applicable accounting regulations

► art. 31 par. 2 - (2) The coordinating ministry shall include in its budget revenues and expenditures the necessary funds for investments, endowment, equipment purchase, equipment and appliances for the national institute



- art. 32 par. 1 - (1) The collecting and payments operations of the national institute are effectuated through accounts opened with commercial banks based in Romania and by treasury units
- art. 33 - The National Institute will organize its own preventive financial control, financial management control and internal audit, according to the law
- art. 35 par. 1 was abrogated and par. 2 has other content than that of the old regulation - (2) Amendments and additions of the present Regulation may be made at the proposal of the Board of Directors, in compliance with the legal provisions in force
- art. 36 - The status of the national institute is renewed according to the terms and conditions established by the Government Ordinance no.57 / 2002 on scientific research and technological development, approved with amendments and additions by Law no.324 / 2003, with the subsequent amendments and additions<sup>4</sup>

## CONCLUSIONS

The national system of scientific research, technological development and innovation is organized and led by the Ministry of Research and Innovation, which in its turn is organized and functions under the Government. The National Research and Development Institutes carry out their activity according to the provisions of Government Ordinance 57/2002 on scientific research and technological development, approved with amendments and additions by Law 342/2003 and Government Decision 1122/2004 with subsequent amendments.

By these normative acts was constituted the right to administer public and private property of the state. For these goods, maintenance and conservation works were insured, which implied the additional spending of the funds from the state budget. Thus, in order to prevent this, legal solutions had to be found to provide extra-budgetary sources to cover these costs. These solutions were made by the amendments to the normative act presented in the paper.

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<sup>4</sup> <http://idrept.ro/DocumentView.aspx?DocumentId=00075956-2004-08-02&DisplayDate=2017-10-26>

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