



LEGAL NEWSLETTER – 15.04.2014

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LEGAL UPDATES

GENERAL

1. **Law no. 17** regarding regulatory measures for the sale and purchase of agricultural lands located outside city limits and **for modifying Law no. 268/2001** regarding the privatization of commercial companies that hold in administration public and private property lands for agricultural purpose and establishing the State Domains Agency

The law does not apply to the agricultural lands located within the city limits. It requires the approval of specialized bodies for lands located near borders, specialized objectives, on archeological sites or for lands included in certain special categories, such as historical monuments. It is stipulated that in case of sale and purchase of agricultural lands located outside city limits, the provisions of the Civil Code concerning the right of first refusal must also be complied with. Therefore, the seller will register at the city hall where the land is located an application through which he will require the display of the offer for sale of the agricultural land located outside city limits, in order for it to be brought to the attention of the preemptors. In this respect, the law stipulates the entire procedure that has to be followed.

The law will not apply to the alienations between relatives up to the third degree inclusively, neither for pre-contracts and option agreements that were authenticated by a notary prior to their entry into force. Regarding the amendments to Law no. 268/2001, they only refer to matters related to the functioning and organization of the State Domains Agency.

2. **Circular no. 11 on the interest rates paid on the mandatory minimum reserves starting with the application period 24th February to 23rd March 2014**

Starting with the application period 24th February – 23rd March 2014, the interest rate paid on the mandatory minimum reserves established in RON is 0.49% per year and the interest rate paid on the mandatory minimum reserves established in USD is 0.19% per year.

3. **Order no. 117 approving the State aid scheme “Support for strengthening and upgrading the productive sector through investments made by large enterprises”**

The State aid scheme is exempted from the obligation to notify the European Commission and through this, financial support is granted only for large enterprises operating in certain areas of activity stipulated in the order. The estimated number of beneficiaries of this State aid scheme is 15, this can be applied for until the 30th June 2014. The State aid scheme is granted in the form of non-refundable financing, in installments, and the maximum value is of up to 5 million EUR.

In order to be considered eligible, the beneficiaries of this State aid scheme will have to meet all the conditions stipulated in the order. Among these, the beneficiary of the state aid will have to make the proof of his contribution of at least 40%, respectively 50% of the eligible expenses for the Bucharest - Ilfov Region, depending on the region where the project will be implemented and the level of the state aid. The order also stipulates the eligible activities and expenses within the state aid.

AGRICULTURE

- 1. Order no. 439 modifying the implementation and control Procedures, as well as the necessary forms for the State aid granted for gas used in agriculture, approved by the Ministry of Agriculture and Rural Development no. 1.229/2013**

The main modification brought by this order refers to the fact that for 2014, the quantities of oil that can be purchased in full or in tranches, by reimbursement beneficiaries and the state aid payment will be given in installments, by the 3 quarterly payment requests, that can each include maximum ½ of the total oil quantity calculated and established through the previous amending agreement.

- 2. Order no. 212 amending the annex to the Ministry of Agriculture and Rural Development and of the Ministry of Environment and Forests Order no. 30/147/2010 approving agricultural and environmental conditions in Romania**

The order states the amendment of the annex referring to the agricultural and environmental conditions – GAEC in Romania. The annex contains provisions regarding the standards for avoiding soil erosion; the standards for maintaining the optimal content of organic matter in the soil, the standards for maintaining the soil structure, the standards for maintaining a minimum level of maintenance of agricultural lands and the standards for protecting and managing water.

ENERGY

- 1. Order no. 118 approving the technical norms for the design and execution of the natural gas pipelines**

The technical norm covers the projection and execution of the upstream alimentation pipelines and gas pipelines exceeding the 6 bar pressure. These are applied to the gas pipelines projected and executed after the entry into force of the technical norms, in order to issue the licenses to authorize the execution of the constructions located in the safety zone of the upstream alimentation pipelines and the gas pipelines and to establish protection and safety areas along the pipelines path.

The stations, systems, pipelines and equipment for which these technical norms do not apply are also provided. The projection and execution of the pipelines will only be realized by companies authorized by the National Regulatory Authority in The Natural Gas Sector. The projection stages of the pipelines will contain: a pre-feasibility study, a technical project and execution details.

The technical norms stipulate certain minimum technical requirements for the pipelines elements, but also dispositions referring to the path of the pipeline, the working aisle, parallelisms and crossings, the projection, assembly and protection of the pipelines and the protection zones.

- 2. Order no. 14 on updating the limit value of green certificates trading and of the equivalent of a non-acquired green certificate, applicable for 2014**



The order sets the limit-values for trading green certificates on the green certificates market for 2014, therefore the minimum value is of 130.69 RON/green certificate (respectively 29,280 EUR/green certificate) and the maximum value is of 266.22 RON/green certificate (respectively 59,647 EUR/green certificate).

The equivalent of the green certificate not acquired by economic operators who are required to purchase annual green certificates, in case of failure to comply with the mandatory quota for green certificates acquisition for 2014 will be of 532.44 RON/non T acquired green certificates (respectively 119,293 EUR/non T acquired green certificates).

3. Order no. 15 approving the Procedure for determining the technological consumption in the electricity distribution networks

The procedure establishes the way of determining the achieved and projected values of the technological consumption associated with the electricity distribution networks, at a monthly and hourly level, in order to create a unitary framework for separating the distribution and supply activities.

This will be applied by the distribution operators for their own distribution areas, in order to establish the electricity associated with the technological consumption, with the projected and achieved values. The procedure provides the method of calculating the technical consumption and the hourly value.

LEGAL PROJECTS IN DEBATE

GENERAL

1. Law regarding the insolvency prevention and insolvency procedures

The law's purpose is to establish a collective procedure for covering the liabilities of the debtor, with the granting, when possible, of the chance of recovery of his activity. The law would apply to the autonomous administrations and to the professionals, excepting the ones who exercise liberal professions and the ones for whom there are provided special dispositions regarding their insolvency regime. Pre-university and university units and institutions are also exempted from the application. Therefore, the law will also cover the procedures referring to the ad-hoc mandate and the preventive concordat as insolvency preventing procedures.

Regarding the professionals, it will be considered that they are insolvent if after 60 days from the maturity of the certain debts, liquid and due, they have not paid their debts to the creditor. The limit value for introducing the application for opening the insolvency procedure is diminished to 40.000 RON and is applicable to claims of creditors and debtors.



The draft law provides special dispositions that are applicable to the bankruptcy of credit institutions and insurance and reinsurance companies, but also cross-border insolvency specific procedures and regulations regarding international private law relations in the credit institutions and insurance and reinsurance companies sector.

AGRICULTURE

1. Urgency ordinance for the recognition of inter-professional organizations for food products

The project proposes the recognition of the inter-professional organizations for a product or a group of food products at a national level, but also the main objectives, activities, rights and obligations. The inter-professional organizations must represent a significant part of the production and the processing and/or the trading, including the distribution of food products at a national level and cannot independently perform activities of production, processing and trading.

This can be a Romanian legal entity of private law, of public interest, with professional character, without patrimonial purpose, formed by all or part of the professional organizations in the food product chain and it will be recognized by the Ministry of Agriculture and Rural Development.

The professional organizations that are members of the inter-professional organizations will conclude inter-professional agreements in order to create a stable and predictable business environment by developing a competitive food product sector and in line with the customers' expectations. The draft ordinance also provides the objectives that should be met by these inter-professional organizations.

2. Decision on the way of granting the financial support from the Union for wine producers in 2014-2018

Under this draft decision, the measures for which financial aid will be granted refer to the restructuring and conversion of the vineyards, information in the member states in order to inform consumers regarding the moderate wine consumption and the European Union's systems referring to the origin designations and geographical indications, as well as promotion activities in third party countries, in order to improve the competitiveness of wines for which the grape-vine variety is indicated, ensuring the grape harvest by the wine producers and other investments. The annual amount of financial support from the European Union for the above mentioned measures is of 47.7 mil EUR. The beneficiaries of the financial support are the wine producers, natural, legal persons and associations.

3. Livestock Law

The draft law aims to regulate the growth and improvement of animals, aiming to ensure the continuity of the growth and improvement activities for the livestock at a higher level,



maintaining and enhancing the value of genetic diversity of the animals, using growth methods that would correspond to the environment protection norms, the animals protection norms, the public health norms, sanitary-veterinary norms in force, respectively the market's demands, improving the animal products quality, the profitability and market competitiveness of the achieved production, the preservation of the genetic fund of native species, the existing livestock, the genetic fund diversity for these species and ensuring the alignment with international standards. The law is applied for growing animals from the following species: cattle, buffaloes, horses, sheep, goats, pigs, rabbits, fur animals, dogs, cats, birds, bees and silkworms.

4. Law establishing regulatory measures for the agricultural products market

The draft law proposes regulations for the exploitation of agricultural products by the natural persons that are agricultural producers and for practicing trade with these products. The law provides information that will be inserted in the producer license and the procedure for obtaining it. The natural persons who are agricultural producers and who practice wholesale or retail trading activities with agricultural products obtained in their own farm/household will practice these activities under a license for trading agricultural products. The products acquired from third parties cannot be sold under the trading license.

ENERGY

1. Law completing art. 241 of Law no. 220/2008 establishing the system of energy production from renewable energy sources

The project establishes that in order to locate photovoltaic systems for producing renewable energy, the local and county competent authorities will issue construction authorizations only on unproductive or degraded lands that cannot be improved and fitted according to the law, as well as on polluted and unusable sites that cannot be decontaminated and fitted, situated within or outside the administrative unit's limits.

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