

LEGAL NEWSLETTER – JULY 2014

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LEGAL UPDATES

GENERAL

1. Law no. 97 for the amendment and completion of the Government Urgency Ordinance no. 6/2011 for stimulating the establishment and development of micro-enterprises by young entrepreneurs

According to the new legal provisions, through this program there are granted facilities for the new established micro-enterprises, led by business debutant entrepreneurs, performing economic activity for the first time, through a limited liability company.

Among other conditions that must be met by the business debutant entrepreneur, beneficiary of the program, who is a major individual, he will have to have full legal exercise capacity. In addition, the minimum age condition was eliminated. Another convenience that the micro-enterprise of the debutant entrepreneur will benefit from is that in addition to the exemption from payment for the registration operations performed by the offices of the trade registry for registering the micro-enterprise, he will benefit from the exemption of the payment for publishing in Romania's Official Gazette, Part IV.

2. Circular no. 22 on changing the mandatory minimum reserves ratio for the foreign currency funds

The Board of the National Bank of Romania has decided that starting with the application period 24th July – 23rd August 2014, the mandatory minimum reserves ratio for the foreign currency with a maturity of less than 2 years from the end of the observation period and the foreign currency with a residual maturity of more than 2 years from the end of the observation period that stipulate contractual clauses referring to reimbursements, withdrawals, anticipated transfers is established at a level of 16%.

3. Circular no. 23 on the interest rates paid for the mandatory minimum reserves established in LEI and EURO starting with the application period 24th June – 23 July 2014

The Board of the National Bank of Romania has decided that starting with the application period 24th June – 23rd July the interest rate paid on the mandatory minimum reserves established in LEI is of 0.41% per year and the interest rate paid on the mandatory minimum reserves established in EURO is of 0.34% per year.

AGRICULTURE

1. Order no. 1043 completing the Order of the Ministry of Agriculture and Rural Development no. 1.253/2013 approving the rules regarding the operators registration in organic agriculture

The changes concern the introduction of a new period for registering the activity of operators in organic agriculture for 2014. Therefore, they will also have the possibility of registering between 1st – 31st July 2014.

2. Law no. 108 for the transport of vegetal agricultural products on public roads

The purpose of the law is to establish specific regulation measures for the road transport of vegetal agricultural products on public roads for the smooth running of the harvesting activities for vegetal agricultural products and their transport from the field in spaces destined for storage and/or processing, in order to ensure the national nutritional safety.

To the extent that the vegetal agricultural products obtained after harvesting, coming from agricultural holdings, are transported from the harvesting points to the personal storage areas of the agricultural holdings to the reception/storage bases of the processing units or to other storage areas than the ones that belong to the agricultural holding or to other points of discharge authorized for the storage or sale, within a distance of maximum 70 km from the loading place, the products will have to be accompanied only by the waybill. In case the transport of the vegetal agricultural products obtained after harvesting on the lands of the agricultural holdings, from the harvesting points to other storage areas than the ones belonging to the agricultural holdings or to other points of discharge authorized for the storage or sale, on distances larger than 70 km from the loading point, will be accompanied by the legal specific documents of the transport, by the waybill and also by the weight slip.

The law also stipulates penalties for non-compliance with the above-mentioned provisions.

3. Order no. 994 approving the oil quantities for the first quarter – 2014 that benefit from the state aid granted under the form of reimbursement

Through Order no. 994 there were approved the oil quantities for the first quarter – 2014 that benefit from the state aid granted under the form of reimbursement. Therefore, the total quantity of oil is of 59.859.412, 306 litres and the total value of the corresponding state aid is of 87.740.065, 66 LEI. The vegetal sector, the livestock sector and the land improvements sector will benefit from this state aid.

ENERGY

1. Order no. 57 approving the regulated tariffs applied by the last resort suppliers to the residential clients and related residential clients who have not exercised their eligibility right

Moving the clients from one type of regulated tariff to another one is allowed in the following instances: 12 months after the last change, excepting the residential clients that chose to switch to the social tariff or have to switch from a social tariff to another type of tariff, under the current regulations or when new types of tariffs appear, even though there haven't been 12 months from the last change or on the abolition of the tariff applied to the client.

The social residential tariff is granted exclusively for the consumption realised by residential clients who request the application of this tariff for the consumption place from their residence and who have, according to the documentation accompanying the request, a net monthly income per family member that is less or equal to the minimum wage per economy established by the current laws.

The order also establishes other types of tariffs and the conditions for classifying to one of these: residential tariff, monomial type, on power tranches, residential tariff, monomial type, with included consumption and the active electricity tariff.

2. Resolution no. 495 for the establishment of a state aid scheme regarding the exemption of certain end consumers categories from the application of Law no. 220/2008 establishing the promotion system for producing energy from renewable energy sources

The beneficiaries of the state aid will be the enterprises that operate only in certain sectors. The state aid is granted under the condition that the beneficiaries of the aid pay at least 15 % of the number of green certificates corresponding to the mandatory quota, without the reduction granted through the present exemption scheme.

The validity period of the state aid scheme is of 10 years. The total maximum value of the state aid scheme cannot exceed 85% of the maximum value stipulated in the decision of the European Commission for authorising the support scheme SA33134/2011. The estimated number of beneficiaries of state aid granted based on this resolution is of 300 and the total estimated budget allocated for the state aid scheme represents the equivalent in LEI of the amount of 750 million EURO. The resolution that regulates the state aid enters into force starting with 1st August 2014.



In addition, the resolution specifies in annex 1 what the issuing procedure for the exemption agreement is.

3. Order no. 62 establishing the obligation of natural gas producers and suppliers to conclude transactions on the centralized markets in Romania

Starting with 15th July 2014 until 31st December 2014, the natural gas producers or their affiliated economic operators, if any, have the obligation to conclude transactions on the centralized markets, transparently and non-discriminatory, for the sale of minimum 20% of the quantity of natural gas from the internal production destined for the domestic consumption of the competitive market.

There are also established the formulas for calculating the quantities of natural gas from the internal production destined for the internal consumption of the competitive market corresponding to each producer or affiliated economic operator.

The order establishes a series of documents that must be transferred by the natural gas producers and their affiliated economic operators and by the natural gas suppliers that have in their portfolio end clients, establishing at the same time the terms until each of these documents must be sent.

LEGAL PROJECTS IN DEBATE

GENERAL

- 1. Law for amending and completing Law no. 26/1990 regarding the trade registry, republished, with the subsequent amendments and supplements, the Companies Law no. 31/1990 republished, with the subsequent amendments and supplements and Law no. 359/2004 regarding the simplification of formalities when registering in the trade registry individuals, family associations and legal persons, their fiscal registration, as well as the operation authorization for legal persons, with the subsequent amendments and supplements**

The law proposes that on the web page of the National Office of the Trade Registry and on its online services portal the following information should be available without charge: the name and legal form of the person registered in the trade register, the registered/professional office of the person registered in the trade register and the member state in which it is registered, the serial number from the trade register of the recorded/registered person, the unique European EUID identifier and the unique tax registration code and the status of the company.

The Romanian legal persons that open offices abroad will have the obligation to mention them at the Trade Registry Office in Romania, after their registration in the respective states.

Regarding the amendments brought to the societies law, the mortgage lenders can execute the legally established mortgage over the shares or social parts under the provisions of the Civil code. In addition, a change is wanted in the cases where the interested persons and the National Trade Registry Office can request the dissolution of a company. There are proposals for amending other articles related to the liquidation of companies and to the fusion procedure.

- 2. Law completing the Government Urgency Ordinance no. 50/2010 on credit agreements for consumers**

The draft law proposes the introduction of a new section referring to the information and the rights that must be included in the credit agreements in foreign currency. Therefore, it is wanted that in any credit agreement is stipulated the consumer's right to convert the loan agreement in an alternative currency. The alternative currency would be the one in which the consumer receives his income or holds the assets with which he finances the payment of the credit, the currency of the EU member state in which the consumer had the residence at the moment of the conclusion of the contract or where he currently lives or any other currency



requested by the consumer. In addition, the consumer would have the right to prepay the loan in the alternative currency.

The proposed legislative changes would also apply to the credit agreements that are ongoing.

AGRICULTURE

1. Order approving the rules regarding the organisation of the inspection and certification system in the organic agriculture

The order sets out the approval conditions of the inspection and certification entities, known as mandated entities. It is necessary for them to obtain a series of approvals and certifications stipulated in the draft order. In addition, the persons responsible for the inspection and certification activities have to meet a series of cumulative conditions referring to graduate/postgraduate specialty studies, a high level of theoretical and practical knowledge regarding the method of organic production and to be employed under an individual employment contract. The documents required for approval shall be submitted to the Ministry of Agriculture and Rural Development, at the structure with responsibilities in elaborating the policies in the organic agriculture field, the order specifies which they are.

The approval certificate of a mandated entity is valid for one year and is issued for certain groups of products. The order stipulates the cases in which such an approval can be rejected, cases in which the approval can be withdrawn, but also the attributions of the mandated entities.

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