

# Hammond Bogaru & Associates

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## **State Secretaries Must Quit Management Boards, Shareholder Assemblies – Romanian Fin Minister Order**

Romania's Finance Minister Sebastian Vladescu has signed an order whereby secretaries of state and members of their Cabinets must withdraw from the management boards and General Assemblies of Shareholders. The Finance Ministry said that, if secretaries of state and members of their Cabinets do not apply the order by Monday, May 18, the finance minister will ask for them to be dismissed.

The Minister also demanded that the sums received by the dignitaries, according to a draft emergency ordinance of the Interior Ministry commissions, committees and councils be transferred in the country's solidarity account starting May.

## **Romanian city halls may borrow up to 1.5 billion lei (EUR1=RON4.1997) from the Finance Ministry to repay overdue debts to service.**

In their turn, the City Halls will use the money to pay their debts to the state, the document noted. The money will come from the finance ministry's privatization funds. The potential loans to local city halls will carry an interest rate of 6.25% per year and will mature in up to five years, with one-year grace period.

According to the interior ministry's draft document, the loans aim at reducing the high level of indebtedness of municipal governments toward economic operators.

## **Romanian President promulgated the law which approves Government emergency decree 6/2010 which bans the sale of psychoactive plants.**

On April 8 2010, Romania's Senate adopted Government emergency decree no. 6/2010 which bans the sale of 36 ethno botanic products which are considered drugs. The Government motivated its move to ban the sale of such plants citing the appearance of numerous stores selling psychoactive substances, or so-called "legal drugs", which have been proven dangerous to human health.

## **Romanian central public institutions looking to purchase cars, computers, furniture, fuel, IT services, cleaning, insurance or air transport services will do so through a centralized system, via a new body under the authority of the Ministry of Finance.**

According to a draft Government decision, the new structure, called the Centralized Unit for public purchases of products and services for the central public administration, will develop a strategy and buy products for other public bodies. The Unit should improve efficiency and transparency, and allow wider access to interested economic operators. The Unit will be run by a director, appointed through an order of the Minister of Finance, and will be staffed by 50 employees transferred from the internal purchasing departments of relevant bodies.

**Romanian IT developers will continue to enjoy income tax exemption, and the Government's letter of intent to the IMF and memorandum of understanding with the EU make no mention of eliminating this advantage, says a Finance Ministry press release issued Thursday.**

A draft emergency ordinance, which amends the Fiscal Code, included a provision whereby computer programmers would no longer be exempt from paying income tax. After this information was made public, the Romanian Alliance of Employers' Organizations came out in criticism of the Government's plan, arguing that levying the income tax on IT developers would lead to an exodus of specialists and investors and turn Romania into a software importer.

**Romania's letter of intent to the IMF, no longer stipulates that 150 of the country's most inefficient hospitals will have their licenses revoked, and enables the Health Ministry to maintain a functioning healthcare system, within budget limits.**

The previous version of the letter of intent, distributed to members of Parliament stated that the Government would not renew the licenses of at least 150 of the country's most inefficient hospitals by the end of the year. The measure was not included on the document approved by the Government, and only mentions that the total number of hospital beds needs to be cut by 9,200.

A new paragraph was introduced, according to which the Health Ministry and the National Health Insurance Fund will maintain a functioning healthcare system, within the limits of the 2010 budget. After the previous version was distributed, Health Minister Cseke Attila said he had not demanded that any particular number of hospitals be shut down. He added that the hospitals have been divided into categories and will be rendered more efficient through a World Bank program. The Minister added he has not discussed license annulments for inefficient hospitals with the World Bank.

Romania's Health Ministry announced on April 16 that 373 hospitals will be placed under the administration of local authorities, and 62 will remain under Ministry management.

**Romania's Government will introduce new measures aiming to fight tax evasion, through an emergency ordinance.**

According to the draft ordinance, the sale of more than 10,000 improperly stamped cigarettes or more than 200 litres of alcohol, or the possessing of such quantities outside a bonded warehouse, will be punished by one to four years in prison.

The bill proposes reverse taxation and introduces VAT on trade with cereal, fruit, vegetables, meat, fish, flowers and construction materials within the European Union. It also raises excises by EUR100 per hectolitre for intermediary alcoholic drinks and introduces excises for fermented drinks, other than beer and wine.

The bill also reintroduces excises taxes on luxury items, such as yachts, perfumes, furs, hunting weapons and jewellery and the Government will shut down duty-free shops by not renewing their licenses when they expire.

Further, individuals crossing the Romanian border without declaring amounts equal to or greater than EUR10,000 will be charged with a crime and can be imprisoned for two to seven years.

The Government will also extend the powers of the Financial Guard and Customs Authority inspectors and will allow them to stop vehicles for spot checks. In 2009, the Government allowed the Financial Guard inspectors to seize goods and search public places, courtyards, facilities and gardens if there was evidence that these places were used for activities related to tax evasion or were used to hide documents or goods.

The Government will no longer grant licenses to duty-free shops and currently valid licenses are set to expire in five years from their date of issue. The quantity of tobacco products and alcohol that can be sold to individuals in duty-free shops will also be limited.

A “Registry of intra-community agents” will also be set up on July 1, and will comprise of all legal persons and firms which carry out intra-community trade. The registry’s aim is to enable better monitoring and to increase higher budget revenue and fight tax evasion.

### **Romania To Guarantee Homeowner Loans For Thermal Rehabilitation**

Loans contracted by homeowners or homeowners’ associations to thermally rehabilitate apartment buildings will be guaranteed by the state via the guarantee fund for small and medium-sized enterprises, according to a draft law drawn up by the Romanian Regional Development and Tourism Ministry. The law targets to ease homeowners’ access to loans for thermal rehabilitation.

The annual guarantee threshold, the conditions attached to state guarantees, the eligibility criteria for beneficiaries, banks and constructors, as well as management rules, are all established through the methodological norms needed to enforce the law, as drawn up by the Finance and Regional Development Ministries and approved through government decision within 60 days of the law coming into force.

### **Romanian House Labour Committee Sets Retirement Age At 63 For Women, 65 For Men**

The labour committee in Romania’s Chamber of Deputies adopted an amendment to the country’s new pension bill setting the retirement age at 63 for women and 65 for men. The Government-endorsed bill set the retirement age at 65 for both men and women. The amendment to lower the retirement age for women by two years received only one vote against. Committee members also maintained retirement age at 60 for both men and women working in the defence system.

### **European Commission Takes Action Against Romania Over Payment Services**

The European Commission has taken action against Romania and four other member states, which will receive letters requesting them to fully implement the Payment Services Directive, the foundation for the Single Euro Payments Area (SEPA). “Cyprus, Greece, Spain, Poland, Romania and Sweden will receive reasoned opinions requesting them to fully implement the Payment Services Directive (PSD) in their national laws,” says a press release published by the European Commission.

The directive aims to ensure that electronic payments within the European Union (credit transfer, direct debit and card payments) become just as easy, efficient, and secure as domestic payments within a Member State. It also provides the legal foundation to make the Single Euro Payments Area (SEPA) possible. The European Commission has also taken action against Austria, Denmark, Estonia,

Greece, Luxembourg and Spain, requesting that they implement the Remedies Directive, “which aims to improve the national review procedures that businesses can use when they consider that a public authority has awarded a contract unfairly”.

If a member state does not reply satisfactorily to the European Commission's letter within two months, the Commission may take the government in question to the Court of Justice. Mirela Palade, manager of Transfond (the Electronic Payments System operator in Romania), said in October last year that the institution is preparing the banking payments system platform for the move to SEPA standards. The service should become available to banks in late-2010.

### **Romanian Govt Approves Program To Upgrade 10,000 Km of County Roads**

Romania's Government approved the 2010-2013 program targeting to rehabilitate and upgrade 10,000 kilometres of local and county roads. The program will be allotted an overall sum of over EUR 2 billion, but only 500 kilometres will be upgraded from state funding this year, given the reduced state budget. In mid-May, the Development Minister contracted the modernization of a further 2,063 kilometres with non-refundable financing obtained via the European Union's Regional Operational Program. County roads will be upgraded depending on their economic or social significance or their connection with various landmarks. In addition, as some of these roads cross several counties, the auctions for upgrade works could be transferred from the county councils into the ministry's authority.

The initial memorandum on the upgrade of 10,000 kilometers of county roads, was adopted by the Romanian Government in late September last year.

### **Romania's Ordinance Fighting Tax Evasion Breaches EU Legislation – European Commission**

The European Commission reported that Romania's ordinance regarding the country's new measures to fight tax evasion “raises a number of concerns with respect to its compliance with European Union tax and excise legislation.”

The Romanian Government did not take into account the Commission's remarks on the matter. “The European Commission has been consulted by the Romanian authorities very late in the drafting of this ordinance and with a very short deadline for giving its comments. This ordinance raises a number of concerns with respect to its compliance with European Union tax and excise legislation. Due to an earlier than planned adoption by Romanian authorities, they did not take into account the Commission's remarks on this subject”.

The European Commission highlighted it will reiterate its remarks on the ordinance and will call on Romanian authorities “to address the points that are not in line with European Union law as soon as possible.” Romanian Prime Minister Emil Boc said the Government decided to implement through an emergency decree new measures to fight tax evasion. The ordinance has not yet been published in the Official Journal.

The emergency decree proposes reverse taxation and introduces VAT on trade with cereal, fruit, vegetables, meat, fish, flowers and construction materials within the European Union. The bill also reintroduces excises on luxury items, such as yachts, perfumes, furs, hunting weapons and jewelry, even though the country risks to be sanctioned by the European Commission for breaching the

European Union legislation. In October 2009, the Government had decided that, starting 2010, excises on luxury products, including yachts or other vessels, would be eliminated to avoid European Commission infringement procedures against Romania.

The Government will shut down duty-free shops by not renewing their licenses upon expiry and will extend the powers of the Financial Guard and Customs Authority inspectors and will allow them to stop vehicles for checks. Individuals crossing the Romanian border without declaring amounts equal to or greater than EUR10,000 will be charged with a crime and can be imprisoned for two to seven years.

A "Registry of intra-community agents" will be set up on July 1, comprising all legal persons and firms which carry out intra-community trade. The registry aims to enable better monitoring, provide higher budget revenue and fight tax evasion. Under the new European Union VAT system, intra-community supplies of goods are exempt from VAT in the member state of dispatch when they are made to a taxable person in another member state who will account for the VAT on arrival.

### **Romanian Govt approved Loan Agreement With Japan To Build New Subway Mainline**

The Romanian Government approved the draft law on the loan agreement signed between Romania and the Japan International Cooperation Agency to construct a subway mainline linking Bucharest's main train station to the international airport in Otopeni.

According to the normative act, the two countries' Governments signed an agreement by which Romania will receive 41.87 million yen (EUR 338.9 million) through the Japan International Cooperation Agency. The money will be used for the construction of a subway mainline to link capital Bucharest to the Henri Coanda International Airport in Otopeni, near the capital. The loan agreement between the two countries was signed in Tokyo in March 2010 when Romanian President Traian Basescu was on an official visit to Japan.

The subway line will be 15.79 kilometers long and will have 19 stops and one depot.

### **Romanian Securities Commission Could Ease Free-Float Rules On Rasdaq-BVB Switch**

Some of the Rasdaq-listed companies seeking to transfer to the main market of the Bucharest Stock Exchange could be relieved of the minimum free-float requirements, according to the president of securities regulator CNVM. Rasdaq is a locally regulated market, but CNVM cannot transfer the companies listed on this market, in bulk, to the main market, because some of them do not meet the requirements for listing.

"The CNVM could allow derogation from the 25% minimum free-float requirement, but some of the companies still fail to meet the requirements for listing on the bourse". The regulator has recently approved the creation of an alternative trading system on the bourse, CAN-BVB, which could include some of the companies that cannot be listed on the main market.

### **Romanian Govt Lends RON 1.5B To Mayoralties To Pay Overdue Debts To Suppliers**

The Romanian Government will lend to Town Halls up to 1.5 billion lei (EUR1=RON 4.2322) in 2010, using privatization proceeds, which will allow the Town Halls to pay debts due on December 31, 2009 to suppliers of public works and services. Suppliers, in their turn will use the money collected to pay overdue debts to the state budget.

The debt write-off mechanism was finalized by the Government and is pending approval through a recently amended emergency decree. Thus, providers of public works and services will be able to cover their debts due until March 31, 2010 (not only until December 31, 2009, as initially forecast), and the default interest calculated until the debt is written off, for failure to pay interest rates in due time, will be set at 0.05% per day, not at 0.1% per day.

Of the total sum of RON 1.5 billion the overall fiscal obligations owed by economic operators with debts higher than RON 250,000 amounts to RON 847.4 million. The emergency decree stipulates the high volume of overdue payments owed by administrative-territorial units to economic operators, providers of services and works of public interest, which triggers a series of debts owed by economic operators to the state budget.

Loans will have an interest of 6.25%, refund deadline of maximum five years and a one-year grace period. Loans will be paid back in monthly installments, starting with the first month upon the completion of the grace period.

Loans will not be included within thresholds set in 2010 for reimbursable financings that can be contracted and for withdrawals from reimbursable financings contracted or to be contracted by administrative-territorial units.

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*Hammond, Bogaru and Associates are an international law firm based in Bucharest, Romania. We can be contacted on +40 21 326 6053 and more information regarding the Firm can be found on our web site [www.hbalaw.eu](http://www.hbalaw.eu)*