

# Hammond Bogaru & Associates

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## **Romania's Senate adopted the Law on public-private partnership and the amended Law concerning the attorney profession.**

The Senate adopted the Law on public-private partnership, re-examined on President Traian Basescu's request. The law establishes the way projects developed through a public-private partnership are financed, divides the risk between the public and private parties and sets up a Central Office for the Coordination of Public-Private Partnership Activities (UCCPP), within the Ministry of Finances.

The Senate also adopted amendments to Law 51/1995 concerning the attorney profession. The amendments concern the instances and conditions for legal assistance and state the procedure through which bars select attorneys to provide legal assistance.

## **The Romanian Government decided to put off annulling the emergency decree which punishes Romanian citizens crossing the border without a visa.**

The bill's authors argue that Government Emergency Decree no. 112/2001 was adopted because it was a condition of EU accession. The decree punishes Romanian citizens or residents of Romania crossing foreign borders illegally by suspending their passport or denying a passport to people convicted of illegally crossing the borders of a foreign state.

After Romania's accession to the EU, Romanian citizens gained the status of "people enjoying the community right to free movement," so the decree is no longer justified. Furthermore, people without citizenship who reside in Romania also enjoy the right to free movement, on the basis of Regulation (EC) 539/2001 and potentially a right to three-month residence within six months of entering a EU member that has implemented Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents. Also, the decree's provision whereby a Romanian citizen found to have been travelling illegally could be denied a passport or could have their passport suspended is obsolete, as Romanians are currently allowed to travel holding their national ID card.

## **Romanian telecoms regulator ANCOM will refund the seven companies interested in acquiring the first two digital television licenses the amount paid for the auction taskbook, after the Government postponed the switch to digital TV for 2015.**

Government Decision 833/2010 amended the Strategy on the conversion from analog to digital television, postponing the switch to January 1, 2015. It also states the companies which already registered for the auction should be refunded the amount paid for the auction taskbook – 1,500 lei. The companies are: RCS&RDS, Romtelecom, TDF SAS, the National Radio-communication Society (SNR), Media Sat, Österreichische Rundfunksender GmbH&Co KG and General Satellite Sofia.

ANCOM officials said the regulator is currently analyzing the Decision 833/2010 and will return soon with a statement concerning its legal effects on the auction for the first two digital TV licenses.

**The European Central Bank Monday rebuked Romania for the second time over plans to trim payrolls at the central bank.**

“The ECB notes that the draft emergency ordinance maintains the decrease of the central bank’s salaries, although the Romanian State is not the formal employer of central bank staff,” ECB said in a note. “Member states may not put a central bank in a position where it has limited or no control over its staff, or where the government of a member state can influence its policy on staff matters,” it added.

In July, ECB warned Romania that extending a 25% public salary cut to central bank staff would be a breach of the monetary financing prohibition stipulated by European laws.

Subsequently, the Romanian Finance Ministry requested ECB to deliver an opinion on planned amendments to the Law 118/2010 on certain measures necessary for the restoration of budgetary balance, including a provision that the central bank keeps some of the funds resulting from the salary decrease.

The ECB understands (...) that certain salary rights are still intended to be and others have already been transferred to the state budget. For the latter, any such already transferred rights must be transferred back adequately to avoid any breach of the monetary financing prohibition in Article 123 of the EU Treaty. As to the funds not yet transferred to the state budget, the ECB notes that a decrease of staff salaries will de facto decrease the central bank’s operational costs, hence increasing its financial results leading to a potential increase in its financial resources. However, if this related increase of the central bank’s financial resources is directly transferred to the state, this would effectively mean increasing Romania’s funding at the central bank’s expense, ECB said.

**The Chamber of Notaries Public in Bucharest will reduce by 10% the fees charged for real estate transaction signed in Bucharest and in five other counties, namely Calarasi, Giurgiu, Ialomita, Ilfov and Teleorman, starting September 1, 2010.**

The Chamber of Notaries Public in Bucharest decided to lower notary fees for property deals made in the areas mentioned, citing the situation of the real estate market in the first seven months of the year.

The 2010 grid by which notaries public calculate minimum taxes and fees for property transactions in Bucharest was set up based on realty deal values reduced by 30% to 40%, following the fall of the real estate market in 2009. The Guide which includes these values was drawn up by firms Euro-Expert and Expert Valuation for the Chamber of Notaries Public in Bucharest at the end of 2009, in line with the Tax Code. Notaries update once a year data regarding property transaction values, and the updated grid is forwarded to the local departments of the Finance Ministry.

**The Romanian Government approved a normative act that regulates online interaction between public institutions and service providers, as the country implements the Point of Single Contact (PSC) electronic system.**

The normative act amends Government emergency ordinance 49/2009 on the freedom to provide services and select service providers, through which Romania implemented EC Directive 2006/123.

The setting up of the Point of Single Contact is stipulated in the emergency ordinance, which states that Romanian authorities must also adopt a normative act to regulate activities that can be carried out using the electronic system.

The PSC will make national and international companies' access on the market faster and more transparent.

**Bonuses paid by employers in Romania to their employees for Christmas, Easter or International Women's Day, which exceed 150 lei will be counted for the purposes of social security contributions, according to a draft Government Ordinance.**

The draft ordinance states that financial aid to cover the cost of funerals, losses caused by natural disasters, birth, serious and incurable illnesses, transport to and from the workplace, treatment and rest services, as well as gifts to employees' minor children or to female employees, as provided by the collective labor contract, shall not be subject to taxation for the purpose of social security contributions.

On the other hand, bonuses granted on various occasions, with a value exceeding RON150, will be taxed.

The draft ordinance says Romanians who gain income from freelance activities will pay, starting with 2011, social security contributions of at least 25.36% and up to 35% of their income, nearly double from the current level of contributions. Under current law, they pay social security contributions in the amount of 16.5% of their income.

Furthermore, the pension insurance contribution is to increase to 24.43% from 10%, the health insurance contribution is to increase to 8.35% from 5%, while the contribution to the unemployment aid fund is to increase to 0.78% from 0.5%.

The draft ordinance amending Law 571/2003 on the Fiscal Code was put up for public debate on Thursday. It should enter force on January 1, 2011, and be applicable to income earned in January 2011.

**Romanian employers will have to withhold, declare and calculate the pension insurance contribution and the contribution to the unemployment fund for their employees' income from copyright.**

Companies will be obliged to submit monthly, until the 25th of the month following that in which the income for freelance activities was paid, a statement regarding the nominal registration of people who gain income from freelance activities, other than salary income.

The ordinance also says that companies are obliged to declare, calculate, withhold and pay individual social contributions only for pension and unemployment insurance, not for health insurance. Romania's Government approved on August 2 the application norms for recent amendments to the Fiscal Code, which extend the tax pool and introduce social security contributions for income gained from copyright.

**Romanian large and medium companies will be required to file their fiscal statements online as of October 25, while other taxpayers will have a choice between the traditional and online method of submitting tax documents.**

The documents may be submitted to the web-site [www.e-guvernare.ro](http://www.e-guvernare.ro) if the company possesses a certificate issued by an authorized certification service provider.

Small and medium companies have had the option of filing their fiscal statements with e-guvernare.ro since April 2007. Before that, the operation was only available to large taxpayers.

The Government's objectives include developing the e-Romania national platform and the National Electronic System (SEN), as well as raising the share of firms using the Internet as the main means of communication with the state to 70%.

**Natural persons may no longer register cars originating in the EU without proof of VAT payment, in the case of new cars, or a certificate exempting them from VAT payment, in the case of used cars.**

The order, states that people not registered for VAT purposes who request the registration of an automobile newly-purchased inside the European Union must submit a "Certificate proving the payment of the value-added tax, for intra-community purchases of new vehicles," issued by the National Fiscal Administration Agency.

In the case of used cars, the requesting person must present a document proving the car is not subject to VAT.

This rule does not apply to legal entities, whose registration for VAT purposes will be verified electronically, according to the new norms.

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