

# Hammond Bogaru & Associates

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## **European Commission (EC) has started infringement procedures against Romania and 19 other European Union members for delays in implementing new EU telecom regulations.**

The Commission has sent information requests to the 20 EU states which have not yet notified measures to fully implement new EU telecom rules into national law. The deadline to transpose the new rules into national legislation was May 25, 2011.

The states facing infringement procedures are Romania, Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxemburg, the Netherlands, Poland, Portugal, Slovakia, Slovenia and Spain.

The new telecom norms give companies and consumers new rights regarding phones, mobile services and Internet access. These include the right for customers to switch telecom operators in just one day without changing their phone number, the right to more clarity about the services customers are offered and better protection of personal data online.

The 20 EU states have two months to reply to the letters sent by the EC. If they fail to answer or the Commission is not pleased with the information received, the EC may send the respective states a formal request to implement the legislation and ultimately refer them to the EU Court of Justice.

## **European Commission asks Romania for results in the recovery of proceeds from crime.**

The EC recommends improving coordination of anti-corruption policies at highest-level and developing a new robust multi-annual strategy to prevent and sanction corruption following the recommendations of an independent impact assessment. The EC also wants Romania to put together a monitoring group, in cooperation with civil society, to oversee the implementation of this strategy.

The Commission recommends demonstrating convincing results in the recovery of the proceeds of crime by following best practice in other EU Member States, adopting a new law on extended confiscation and strengthening judicial practice. Romania should also demonstrate a proven track record in pursuing money laundering as a stand-alone offence. The EC also recommends developing rules for the prevention of conflict of interest in the management of public funds and within the authorities that regulate, verify and decide on complaints in the area of Public Procurement, as well as strengthening the procedures and capacity of the competent authorities, including by following up on the ongoing functional review in this area."

### **Romania will eliminate the special tax charged in customs from international cargo trucks.**

The tax was introduced in 1975 and the collection system was last revised in 1992. Current laws allow the customs authority to charge a special tax for each vehicle and trailer used in international cargo transport. Exemptions are granted only to vehicles registered in Romania or in countries that do not charge such taxes for Romanian vehicles.

### **Romanian bread producers will be required to sell products weighing at least 200 grams.**

Controls have found that many bread producers vary in the weight per piece, regularly reducing the quantity by 5-20 grams, in order to increase their profits, but deceiving consumers, who are unable to notice these variations.

According to the draft act, a bread product will have to weigh at least 200g. Its weight may be raised by the producer only in increments of 100g. Bread sold in quantities larger than 1000g, which is weighed in the store, will be an exception.

### **Fines will be increased in the railway and subway transport sectors.**

Inspections carried out by the Romanian Railway Safety Authority have highlighted the need to set a new level for the fines, allowing a higher level of stringency of sanctions. The fines will be given for 43 violations, including: transporting goods which are not fixed and secured, lack of train signals, failure to carry out brake tests, taking delivery of damaged cars, late requests for or intervention in the case of snow, using rolling stock that does not meet technical operation requirements, refusing to provide information to accident inquiry committees. The fines for individuals will increase 8, 12 and 20 times: the minimum fine will be RON 1,600 and the maximum fine will be RON 20,000. The fine charged to companies will be raised 60 times in all cases and will amount to RON 9,600-RON 300,000.

### **The state pre-financing ceiling for EU-funded projects has been reduced drastically.**

This new system will be applied as of the end of July 2012. Up until now, the European Commission allotted 15% as a down payment for project pre-financing, while the Government covered the difference up to 30% of the contract value. Many companies that receive pre-financing fail to later send the authorities their expense bills, so the ministries in turn are unable to request reimbursements from the EU and the Commission denies further funds until these gaps are covered.

According to the new system, up to 10% of the project's eligible value will be provided as pre-financing, in at least two instalments, except in the case of major projects, for which the pre-financing cap can be 20% (compared to 40% currently). The first instalment will make up at least 5% of the project's eligible value (compared to 15%) and the remaining instalments will be provided only after authorized expenses amount.

The EU fund management authorities will be tasked to recover the entire amount of pre-financing provided for projects whose beneficiaries have sent no reimbursement request within

four months of receiving the money. Currently more than two billion lei (EUR472 million) has been allotted for pre-financing for various projects which sent back no refund requests.

**Romania and North Korea will have a bilateral legal framework.**

The Romanian Foreign Ministry has published a bill on its website, to ratify the Protocol between the Government of Romania and the Government of the Democratic People's Republic of Korea regarding the bilateral agreements signed in 1956-1989, signed in Pyongyang on January 20, 2011.

The bill aims to clarify the legal status of the 150 agreements signed in that period and create the foundation of an updated legal framework, in accordance with the new political realities.

Since 1990, bilateral relations have been limited. There have been no visits or high-level political contact. Trade between the two states amounted to \$50,000 in 2009. In 2007, 2008 and 2010, Romania granted scholarships to North Korean students. There are, however, no Romanian citizens residing in North Korea, nor any North Korean residents in Romania.

**Romania's Government has increased the fines for inaccurate price tags on food and clothing.**

The minimum fines for incomplete labels of food and clothing have been raised to RON 1000 from RON 500. The new penalties will enter force when the act is published in the Official Journal. The Government stated that inspections or calls from consumers have revealed numerous cases of incomplete or inaccurate labels.

**Romanian National Authority for Public Procurement Regulation and Monitoring will check auction participation announcements before contract awarding procedures.**

The auction participation announcement will need the authority's authorization before it is published. Contracting authorities will send contract awarding paperwork to the Authority to check before publishing the auction participation announcement. Checkups will target public procurement contracts whose estimated value exceeds the equivalent in lei of EUR 15,000.

Management authorities will be tasked with implementing and carrying out EU-funded projects. The authority will be allowed to check auctions, auction participation announcements and contract awarding paperwork. The Office Checking Public Procurement will verify contract awarding procedures during auctions, while management authorities will have direct responsibility for projects after auctions are ended.

The Authority will issue an authorization to start contract awarding procedures, within 14 days from accessing the paperwork in the electronic system, if the respective documents observe legal provisions regulating public procurement, or will inform the contracting authority about any possible irregularities.

**Romanian Government will decide the sum to be paid to public sector employees who won salary rights in court.**

According to a draft fiscal strategy for 2012-2014 the Government considers reducing the tranche to be paid next year to public sector employees who won salary rights in court to 5% from 34%. According to the document, the measure will help the Government meet its obligations and increase salaries of public sector employees so the latter will recover the money lost following wage-cut measures implemented in 2010.

Government emergency ordinance 71/2009 states that wage rights won by public sector employees in court will be paid in tranches: 34% in 2012, 33% in 2013 and 33% in 2014. The decree also applies to teachers who have recently won salary increases in court. Salary rights won in court by public sector employees by December 31, 2010 amount to about 7.5 billion lei (about EUR 1.7 billion). The Government should pay about RON 3 billion in 2012 (0.5% of the gross domestic product).

**Romanian tax authority ANAF will pay value added tax refunds to companies worth 1.37 billion lei (EUR322 million) in August.**

The VAT refunds will be paid in three tranches, on the 8th, the 24th and the 29th of the month. In July, ANAF refunded VAT payments worth RON1.47 billion.

**Increased fines charged to homeowners and local authorities who fail to carry out technical inspections and start rehabilitation on buildings having a high seismic risk.**

According to a draft decree fines will increase five times and will range between RON 2,500 (about EUR 586) and RON 75,000, from RON 500 – RON 15,000 under current regulations.

Fines ranging between RON 50,000 and RON 75,000 lei will be applied to local authorities who fail to observe a two-year deadline to start repair works on buildings included in annual rehabilitation programs.

Owners of homes considered to have a high seismic risk must draw up rehabilitation plans within two years from receiving a notification, and carry out repairs within two years from drawing up the rehabilitation plan. Technical inspection and repairs on buildings owned or administered by public institutions will be financed from their budget. Firms will have to ensure the funds needed to finance repairs on buildings included in their portfolio.

**Romania's Transport Ministry will take over Telecomunicatii CFR.**

The debt was accrued mainly as a result of delays in receiving payment for Telecomunicatii CFR's services rendered to railway companies. Following the budget revision made in early August, CFR SA will pay Telecomunicatii CFR the sum of RON 173.06 million to settle its debts. The remaining RON 61.4 million consists of taxes and other budgetary contributions.

As per the agreement with the International Monetary Fund, Telecomunicatii CFR will be changed from a branch of CFR SA into a company under the authority of the Ministry of Transport. The debt will be converted into equity at par value. Telecomunicatii CFR's capital is currently RON 16.57 million, divided into 6.62 million shares with a nominal value of RON2.5.

**Only the sale of fire safe cigarettes will be permitted in all European Union member states starting November 17.**

Fire safe (or Reduced Ignition Propensity) cigarettes extinguish more quickly than standard cigarettes if not smoked actively. This will reduce the number of fires resulting in deaths, injuries and property damage. After November 17, producers of non-fire safe cigarettes will be fined 3,000 to 30,000 lei (EUR 700-7000), while distributors of such cigarettes will be fined RON 700-7000 or RON 2000-4000.

**Romania's Government wants to sell food products at a discount to pensioners each week.**

The pensioners' basket will include flour, sugar, oil, maize, rice and other products with a long shelf life, chosen by the county council (or General Council in the case of Bucharest). The county councils and local councils can set up companies to sell these basic food products to pensioners.

The document points out that the program is not a budgetary burden, since it gives no subsidies or financial aid, and there is no impact on VAT collections; the document does not state a source for the funds used to purchase the products through auction. The National State Reserve Administration will provide storage space for the products, for a fee set by order of the minister of Interior.

The quantity that may be purchased each month through the program by one pensioner will be set by joint order of the Minister of Interior and the Minister of Health. Other organizational rules will be established through county council decisions. To implement the program, local authorities may collaborate with non-governmental organizations involved in pensioner assistance, says the document.

**Romania's Government decided to keep the requirement for gaming operators to have an office registered in Romania.**

According to the decision approved by the Government, gaming fans may now place online bets with Romanian companies. Romanian law currently neither allows, nor bans trans-border online games, but used to forbid Romania-registered companies from organizing online games. The new rules allow gambling to be organized in Romania by phone or through the Internet. Such companies are required to pay the state 10% of their earnings, but no less than 400,000 lei (EUR 93,000), if they run a bingo game, or 5% of their earnings, but no less than RON 250,000, if they take bets. Other forms of gambling are subject to a tax of 1.5% of the earnings, but not less than RON 400,000.

The act also says bingo games held online or via phone must award at least 60% and a maximum of 80% of their gross receipts, with the exception of games awarding special prizes, where only the minimum level shall apply. The European Commission had sent the Government a document concerning the draft decision on gambling, which points out that requiring game operators to be registered as Romanian firms with headquarters in the country is a serious violation of community norms.

### **Public-private partnership law is still incompatible with EU norms.**

The public-private partnership law, which entered force in October 2010, was amended by the Government in April to avoid an infringement procedure. In a new letter to the Government, the Commission says the law is still in many aspects incompatible with European directives on public procurement and that the proposed mechanism for cooperation between the Public Procurement Verification and Control Unit (UCVAP) and the National Public Procurement Regulation and Monitoring Authority (ANRMAP) is not a safeguard against the differences in interpretation that may appear regarding applicable rules.

The Commission warns that the line between the domain of the public-private partnership procedure and that of public procurement rules is not clearly defined, and the partnership law seems to apply to contracts below its established value threshold. Furthermore, the partnership law provides no rules for instances where additional work is required as a result of unforeseen circumstances.

### **European Commission approved Spain's request to restrict its labour market to Romanian workers until December 31, 2012.**

The European Commission has approved Spain's request to restrict its labour market to Romanian workers until 31 December 2012 due to serious disturbances on its labour market.

The unprecedented fall in GDP (3.9% between 2008 and 2010) has resulted in the highest unemployment rate in the EU, over 20% since May 2010 and the continuous increase of Romanian residents in Spain and their high level of unemployment have had an impact on the capacity of Spain to absorb new inflows of workers. European Commissioner for Employment, Social Affairs and Inclusion said that the decision has been taken because of the very specific employment situation in Spain.

In Thursday's decision, the European Commission authorizes Spain to temporarily impose restrictions on Romanians to access its labour market until December 31, 2012. These restrictions will apply to activities in all sectors and regions, but will not affect Romanian nationals who are already active on the Spanish labour market. The European Commission will inform the Council of its decision and any member state may request the Council to amend or annul the Commission's decision on the suspension of EU law within two working weeks.

### **The Bucharest Court postponed till September 1 talks on the registration of the country's opposition Social Liberal Union (USL) as a political party.**

A new court term has been set of September 1 because of a procedural error. The Social Democratic Party and the Centre-Right Alliance, an alliance formed by the Liberal and Conservative parties, submitted their documents in view of registering their Social Liberal Union in March 2011. The new party's registration has been postponed so far because a small political party intervened in court and opposed the move.

*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).*

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