

Romanian News Letter

Romanian government will approve taking a EUR1 billion precautionary loan from the World Bank to be used in case of emergency.

In April 2011, Romania secured EUR 5 billion in financing from the International Monetary Fund and the European Union a second such package following a EUR 20 billion bailout received during 2009-2011. The new financing is supported by a EUR 400 million credit line from the World Bank. Romania has treated the agreements as precautionary and has not drawn any funds so far.

The World Bank's board will meet mid-June to decide whether to approve the loan.

Romania's national settlement board has suspended an auction for consultancy services to update a feasibility study in view of awarding a lease for the construction of the Comarnic-Brasov highway section.

The settlement board suspended the auction for the 23.6 million lei (EUR5.3 million) contract because the award documentation was faulty. At the beginning of the year, the Transport Ministry said it would revise the feasibility study for the Comarnic-Brasov highway section, a project that had been abandoned in 2010. Early May, CNADNR launched an auction to find a consultant to update the feasibility study for RON 23.6 million, net of VAT.

The consultant will update the feasibility study for the highway section, will draft the contract award documents and will recommend the financial structure most prone to get competitive bids from the private sector. The winning consultant will also be required to ensure technical, legal and financial assistance in preparing, launching and awarding the lease contract for the highway section.

Romania's Senate on Monday adopted the bill ratifying the European Union's fiscal stability treaty, following its adoption by the Chamber of Deputies two weeks ago.

At the beginning of March, the leaders of 25 EU countries signed a new fiscal treaty to enforce tougher fiscal regulations that would consolidate euro zone financial markets and would prevent a repetition of the sovereign debt crisis. The states that join the treaty must observe several rules: their annual budget deficit should not exceed 3% of the gross domestic product and their public debt should be lower than 60% of the GDP.

The United Kingdom and the Czech Republic were the only two EU members to refuse the new treaty, which imposes strict limits on national budget deficits and public debts and requires transparency of fiscal policies.

The treaty will take effect on January 1, 2013, after having been ratified by at least 12 signatory states in the euro zone, or on the first day of the month after the 12th signatory state in the euro zone ratified the protocol.

Romanian and U.S. Ambassador to Bucharest decided to set up an expert workgroup tasked with analyzing the impact of shale gas exploitation.

In March, Romania approved a series of gas exploration deals signed with U.S. oil and gas company Chevron, which allow the latter to drill for shale gas at three blocks in the Black Sea. Romania's new government, which took office at the beginning of May, imposed a moratorium on shale gas exploitation until European Union-commissioned studies to assess possible environmental damage of hydraulic fracturing are finalized.

The moratorium will be lifted once the results of the studies are made public and if they show shale gas exploitation poses no environmental risk. Shale gas exploitation is banned in Bulgaria and France.

Emergency draft act amending Romania's Tax Code.

The turnover ceiling above which Romanian companies have to pay value added tax be increased from 119,000 lei (EUR 26,796) to RON 220,000. .

The draft also targets to eliminate the right to sales tax deductions on car purchases, currently set at 50%, for vehicles used by the taxable individuals solely for business operations. The Romanian Government decided in the spring of 2009 to eliminate VAT deductions and, at the end of last year, it decided this type of expenditure can be 50% deducted.

Also, in order to ease the transfer of non-performing receivables in the banking sector, the Finance Ministry suggests allowing deductions on calculating the taxable profit, by means of tax provisions, for taxpayers acquiring these receivables, with a view to recovering the money.

Intermediaries or investment management companies will calculate and retain taxes for each transaction as early payment. Intermediaries will also establish the gains or losses registered by clients throughout the year. Also, brokers and fund managers will be obliged to inform their clients in writing on the profit or loss registered, as well as the taxes calculated and retained as early payment for transactions concluded throughout the year, until the last day of February of the current year, for the year that ended.

Under the current tax collection system, each investor on the capital market is obliged to calculate, declare their earnings on a quarterly basis and pay corresponding taxes on a quarterly basis.

According to the draft, crude oil and excise-based energy products from the local production or imports, shall be marked and colored in a move to reduce tax evasion. The draft bans the use, transport, storage outside tax warehouses and sale of unmarked crude oil.

European Commission formally notified Romania it has filed legal action over the country's faulty natural gas cross-border trade regulations.

In November 2011, the Commission decided to take Romania and Bulgaria to the EU Court of Justice, saying the two countries were not in line with EU gas market rules. The

Commission said that Bulgaria and Romania offer no interruptible reverse flow capacity (also known as 'backhaul') at all interconnection points, blocking the access of newcomers to the markets. In addition, Transgaz (TGN.RO) does not "entirely respect" the EU transparency requirements, the Commission said.

Government has banned public institutions and state-owned companies from buying consultancy and legal assistance services if they have specialized employees and will force them to cut staff and travel spending by 30%.

According to a decree, exceptions from the ban will require Government or local and county council approval. The bill forbids public authorities, institutions, and state-owned companies from buying consultancy or legal assistance and representation services and forces authorities and managers of state-owned companies to lower protocol spending by 30% in the second half of the year. Ministers, minister-delegates, state secretaries and other public officials may be accompanied by two assistants at most when traveling abroad in official capacity, to lower travel spending.

Government acknowledges to the IMF that it is behind on restructuring the state-owned companies and selecting private management, with CE Oltenia being the only company with a new board.

The membership of the board of administrators, which together with the private management should prevent political influence and ensure the company performs well, is in fact the main concern, according to the Government's latest letter of intent to the International Monetary Fund (IMF).

The letter says the new managers and boards should have been selected by the end of April 2012. CE Oltenia is the only company with fresh management, although the Government is worried about the board members' capability. The authorities have pledged to reevaluate the appointments at CE Oltenia and use only "credible and independent" recruitment companies.

The Government has also put forward a new calendar, according to which the new board members and management will be appointed to Oltchim, Hidroelectrica and Electrica Furnizare by the end of June. The new board of Nuclearelectrica, Romgaz and CE Oltenia will be appointed by the end of September. At Transgaz, the board and management will be selected by the end of the year, under the new calendar.

European Commission has urged Romania to bring the national legislation in line with community rules by updating the ban on the use of hazardous materials like lead, mercury and cadmium in vehicle construction.

The member states were supposed to have these measures in place by the end of 2011, a Commission press release said.

"The Commission sent letters of formal notice to Romania and Slovakia on 30 January 2012. Romania responded that a law transposing the Directive was currently in consideration but it has not yet been adopted and no timetable for the adoption has been communicated to the Commission. Slovakia replied that a decree transposing the legislation would be adopted in April 2012 but this has not yet come to pass."

"On the recommendation of Environment Commissioner Janez Potočnik, the Commission is therefore sending reasoned opinions and asking the countries to comply within two months. If they fail to do so, the Commission may refer the cases to the EU Court of Justice."

Romania's Competition Council will not extend restrictions regarding drugstore network expansion, which expire at the end of the year.

The restrictions were valid until 2010 and were extended for two more years. During talks with the Health Ministry at that time, the ministry was not ready to lift restrictions.

According to Competition Council, there are over 7,000 pharmacies in Romania, of which 1,040 belong to networks and the remainder to individual owners. The Romanian legislation sets demographic criteria for the opening of new drugstores. According to the demographic criterion, there should be one drugstore per 4,000 inhabitants in capital Bucharest, one per 3,500 inhabitants in county towns and one per 3,000 inhabitants in other cities and towns.

Romanian insurers that cover natural disasters must hold reserves based on estimations regarding underwritten premiums.

The authority has set a new formula to compute the reserves needed by companies which offer insurance against natural disasters. The formula will be applied both to companies that sell voluntary insurance against natural disasters and to the Pool of Insurance against Natural Disasters (PAID). Reserves will be set taking into account estimations regarding revenues from underwritten premiums on this segment and reinsurance programs.

Hammond, Bogaru and Associates are a 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. If you wish to subscribe to our monthly newsletter you can do that by either using the form on the website or sending an e-mail to admin@hbalaw.eu.

Disclaimer. The information given in this note is for general information only, should not be relied upon as specific legal advice given by Hammond, Bogaru & Associates on any matter, and should not be relied upon in relation to any transaction or legal problem. If specific legal advice is required, you are asked to contact Hammond, Bogaru & Associates and discuss it with them.