

LEGAL NEWSLETTER

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Company law

We bring to your attention the publication of Government Decision no. 322/2008 on granting facilities for updating the object of activity in accordance with the Classification of Activities within the National Economy („NACE Rev. 2”). According to NACE Rev. 2, the object of activity of legal entities and of their units with no legal personality, as well as that of registered individuals authorized to perform economic activities

independently or that of family businesses, shall be updated, upon request of the interested persons, by the National Trade Register Office through the trade register offices attached to tribunals, without there being any need for payment of the taxes associated with registering mentions in the trade register. The update of the object of activity shall be recorded in the trade register without there being any need for

publication in the Official Gazette or submitting a consolidated version of the articles of incorporation. Following the update, a new registration certificate shall be issued.

Fiscal

We bring to attention the publication of Order no. 858/2008 issued by the Ministry of Economy and Finance with respect to submitting fiscal statements via electronic means of remote communication (the "Order"). According to the Order, in order to submit fiscal statements via electronic means for remote communication, taxpayers may use the service for "submitting statements online", available on the website of the Ministry of Economy and Finance (www.mfinante.ro), where instructions for the use of the service may also be found. Amongst the fiscal statements which can be submitted via electronic means of remote communication, we mention: (i) the statement on payment of

dues to the state budget; (ii) the statement on profit tax and (iii) reimbursement of VAT. The fiscal statement shall be deemed to have been submitted on the date when it was registered on the website of the Ministry of Economy and Finance, and such date shall be communicated to the taxpayer by means of an electronic confirmation of receipt delivered upon the registration of the statement. The Order also provides that, in order to submit fiscal statements via electronic means of remote communication, taxpayers may request a digital certificate to be issued by the National Agency for Fiscal Administration. We note the publication of Order no. 514/2008 of the Ministry of Economy and Finance on extending the

application of the method for submitting fiscal statements via electronic means of remote communication (the "Order"). According to the Order, taxpayers from the counties of Alba, Botoșani, Buzău, Covasna, Giurgiu, Maramureș, Satu Mare, Sălaj, Suceava and Tulcea, except for large taxpayers administered by the General Directorate for the administration of large taxpayers and the secondary offices thereof, may submit fiscal statements by electronic means of remote communication in accordance with the provisions of Order no. 2210/2006 of the Minister of Public Finance on the submission of fiscal statements via electronic means for remote communication.

Securities

We note the publication of the Order no. 36/2008 of the National Securities Commission on the approval of the National Securities Commission Regulation no. 2/2008 for the implementation of Directive no. 2007/16/CE for the enforcement of Directive no. 85/611/CEE on coordinating acts having the power of law and administrative acts concerning certain undertakings for collective investments in transferrable securities („OPCVM”) as

regards the clarification of certain definitions (the "Regulation"). The Regulation sets out rules for the enforcement of certain provisions of Law 297/2004 on the capital market, as further amended and supplemented, as well as of the National Securities Commission Regulation on the authorization and operation of investment management companies, collective investments undertakings and mutual fund custodians.



Competition

We submit to your attention the publication of Order 632/2008 on the approval of the „De minimis aid scheme for facilitating small and medium sized enterprises access to broadband and related services”, related to operation 3.1.1 “Support for access to broadband and related services”, major intervention field 3.1 “Support for the use of information technology”, priority axis 3 “Information and communication technology for the private and public sectors”, within the Sectorial Operational Plan “Increase of Economic Competitiveness” (the „Scheme”). The de minimis aid within the Scheme shall be

granted only in compliance with the criteria for the de minimis aid provided in the European Commission Regulation no. 1998/2006 for the application of Art.87 and Art.88 of the EC Treaty to de minimis aid. According to the provisions of the abovementioned Regulation, the Scheme is not subject to the obligation to notify the European Commission. The objective of the Scheme is to facilitate access to information and communication technology. The Scheme sets out the eligibility conditions for applicants for the de minimis aid, the project selection criteria, as well as the method of granting the de minimis aid. The

de minimis aid cannot exceed 80% of the project's eligible expenses, representing at most the RON equivalent of EUR 25,000. The de minimis aid granted within the Scheme cannot be cumulated with other state aid granted for the same eligible costs, if such accumulation generates a state aid intensity higher than the maximum intensity established for each individual case through block exemption regulations or decisions of the European Commission.

² Official Gazette, Part I, no. 242 of March 28, 2008

³ Official Gazette, Part I, no. 172 of March 6, 2008

⁴ Official Gazette, Part I, no. 216 of March 20, 2008

Health

We note the publication of Order 318/2008 of the Ministry of Public Health for the approval of the criteria for inclusion, non-inclusion or exclusion of medicines on/from the List of international non-proprietary medicines names (INN) available for insurance beneficiaries, with or without a personal contribution (the "INN List"), approval of the documentation to be submitted by applicants for the inclusion of a drug on the said list and, approval of the working procedure of the Therapeutic Strategy Commission (the "Order"). According to the Order, as of 2009, the INN List, may be revised annually in accordance

with the Government's health and budgetary policies. Such revision is to be completed for the following year by June 30 of the current year. In order for an INN to be included in the INN List, it needs to be compensated in at least three EU member states for a continuous period of one year, and meet several criteria. We note the publication of Law no. 37/2008 supplementing Law no. 282/2005 on the organization of the activities of blood transfusion, human blood and blood components donation, as well as ensuring sanitary quality and safety, for therapeutic use of the aforementioned (the "Law").

According to the supplements brought to the Law, the Romanian Radio Broadcasting Company, the Romanian Television Company and the Ministry of Education, Research and Youth shall promote, on a national scale, humanitarian campaigns for blood donation. Blood can be donated both in transfusion centres located in the counties and Bucharest, as well as in mobile units belonging to blood sampling centres, which must be adequately equipped and travel to collect blood from possible donors.

Forestry

We submit to your attention the publication of Law 380/2008 on the Forestry Code (the "Code"). The code defines the national forestry fund as all woods, lands intended for forestation, those used for cultivation, production or forest administration requirements, ponds, creek beds, and other forest and non-productive lands within forest amenities as at January 1, 2008 or included thereafter, in accordance with the law, regardless of the nature of the property. According to the Code, sustainable forest

management is implemented through observance of the following principles: (i) continuity of tree planting; (ii) functional efficiency; (iii) ensuring conservation and encouragement of biodiversity; (iv) economy. Infringement of the Code may result, as the case may be, in disciplinary, civil, contraventional or criminal liability.



Other regulations

Privatization strategy in the mining sector

We note the publication of Government Decision no.225/2008 (the "Decision") on amending Government Decision no. 590/2006 on approving the Strategy for restructuring, privatization and attracting investments in the following state-owned companies active in the mining sector metal ores extractions (non-coal/ other than coal extraction): „Cupru Min” S.A. Abrud, „Moldomin” S.A. Moldova Nouă, the National Company for Copper, Gold and Iron „Minevest” S.A. Deva, „Băița” S.A. Știei, the National Company for Precious

and Non-ferrous Metals „Remin” S.A. Baia Mare, „Minibucovina” S.A. Vatra Dornei, as well as the subsidiaries thereof. According to the amendments introduced by the Decision, during the privatization process of the aforementioned companies, inter alia, the following aspects shall be considered: (i) observance of legal provisions regarding environment protection and (ii) observance of the obligation to implement the restructuring programs related to mining companies who have obtained decisions authorizing state aid for restructuring.

Intellectual property

We bring to attention the publication of

Government Decision no. 211/2008 approving the Regulation for Application of Law no. 129/1992 on protection of drawings and patterns (the „Regulation”). According to the Regulation, failure to observe the deadlines for submitting supplements requested by the State Office for Inventions and Trademarks („O.S.I.M.”) shall lead to dismissal of the registration request. The bibliographical data of the request for drawing or pattern registration, as well as the graphic representation thereof, for which the statutory deposit was created, shall be published in the Official Bulletin of Industrial Property, Drawings and Patterns section, within no more than 4 months as of the date of the statutory deposit.

⁵ Official Gazette, Part I, no. 202 of March 17, 2008
⁶ Official Gazette, Part I, no. 238 of 27, 2008

⁶ Official Gazette, Part I, no. 210 of March 19, 2008
⁹ Official Gazette, Part I, no. 244 of March 28, 2008

⁷ Official Gazette, Part I, no. 227 of March 25, 2008
¹⁰ Official Gazette, Part I, no.181 of March 10, 2008

Installations / equipments

We bring to attention the publication of Law no. 407/2008 on the safe operation of pressurised installations, lifting installations and fuel consuming machines (the „Law”). According to the Law, classical pressurized installations and lifting installations, fuel consuming machines and spare parts thereof, as well as pressurized installations, lifting installations, certain installations within nuclear objectives, as well as spare parts thereof shall be subject to an authorization and technical verification regime in order to ensure the safe operation thereof. The marketing, commissioning and/or use of the aforementioned are allowed under the conditions set out under the Law. Prior to marketing and/ or commissioning the installations / equipments, the manufacturers must request and obtain the homologation thereof. The relevant central administration entity responsible for ensuring the safe operation measures pertaining to these installations and equipments is the State Inspectorate for Control of Boilers, Pressure Vessels and Lifting Installations („ISCIR”).

Culture

We bring to your attention the publication of Law no. 26/2008 on protection of immaterial cultural patrimony (the „Law”). The Law establishes the general legal framework for the identification, documentation, research, protection, preservation, promotion, exploitation, transmission and revitalization of elements within the immaterial cultural patrimony. The immaterial cultural patrimony is passed down from generation to generation, it is permanently recreated by communities and human groups, it interacts with their nature and history and gives them

a feeling of identity and continuity contributing at the same time to the promotion of respect towards cultural diversity and human creativity. In case for a certain occupation which can be deemed to be a traditional cultural expressions, e.g. fairytales, or for a field within the immaterial cultural patrimony, e.g. techniques related to traditional hand-crafting, there are persons in Romania which are perceived by their community as the only ones who can perform the respective expressions in the form and with unaltered traditional means, such persons receive the title of living human thesaurus. No person can use the law, in whole or in part, to obtain protection of an element pertaining to the immaterial cultural patrimony through normative acts regulating industrial property or copyright. The traditional distinctive mark, used to identify authentic original popular creations in relation to similar creations from other ethnographic areas in the country and abroad, is homologated by the National Centre for the Preservation and Promotion of Traditional Culture. The measures aimed at preserving the immaterial cultural patrimony concern (i) preservation of community traditional cultural manifestations and (ii) promoting the immaterial cultural patrimony.

Fishing and aquaculture

We note the publication of the Government Emergency Ordinance no. 23/2008 on fishing and aquaculture (the „Ordinance”). The Ordinance regulates the preservation, administration and exploitation of living aquatic resources, the aquaculture activity, processing and marketing products obtained from fishing and aquaculture. The Ordinance is the general legal framework on the basis of which secondary legislation

pertaining to the field of fishing shall be issued. The Ordinance establishes, inter alia, measures concerning (i) organization and administration of fishing field; (ii) aquaculture; (iii) scientific research in the fishing field and (iv) liabilities and penalties.

Emergency calls

We submit to attention the publication of the Government Emergency Ordinance no. 34/2008 on the organization and functioning of the Unique National System for Emergency Calls („SNUAU”). The purpose of SNUAU is to give citizens access to the 112 Emergency Service, which ensures reception of the citizens' emergency calls and, if need may be, conveying such calls to specialized intervention agencies or the direct alert of the intervention teams in order to resolve such emergencies. SNUAU is organized and operates in compliance with the standards and recommendations of the European Institute for Telecommunication Standardization and with the European practices in this respect.

Republications

We note the republication of the following normative documents:

- Government Ordinance no. 106/1999 on agreements concluded outside the commercial spaces;
- Government Emergency Ordinance no. 97/2001 on regulating production, circulation and marketing of food;
- Law no.340/2004 on prefects and the prefect's institution;
- Law no. 296/2004 on Consumer Code.

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This report is a summary of recently published normative acts that we consider important for our clients and our friends and generally for the business environment in Romania.

The report does not provide legal assistance on specific issues.

Should you need further information and/or comments on the enactments or on specific

legal issues, please contact one of the following attorneys-at-law:

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¹¹ Official Gazette, Part I, no. 240 of March 25, 2008

¹⁴ Official Gazette, Part I, no. 246 of March 28, 2008

¹⁷ Official Gazette, Part I, no. 225 of March 24, 2008

¹² Official Gazette, Part I, no. 168 of March 5, 2008

¹⁵ Official Gazette, Part I, no. 168 of March 5, 2008

¹⁸ Official Gazette, Part I, no. 224 of March 24, 2008

¹³ Official Gazette, Part I, no. 180 of March 10, 2008

¹⁶ Official Gazette, Part I, no. 168 of March 5, 2008