

# LEGAL NEWSLETTER

4 / 2009

## Public procurement

Please note the publication of Government Decision no. 370/2009 (the “**Decision**”)<sup>1</sup> for the amendment and supplementation of the Rules on the enforcement of provisions relating to the award of public procurement agreements by electronic means, set forth in Government Emergency Ordinance no. 34/2006 regulating the awarding of public procurement agreements, of concession agreements on public works and of

concession agreements on services, as approved by Government Decision no. 1.660/2006<sup>2</sup>. The amendments operated by the Decision refer to provisions concerning the procedure applicable to the renewal of the registration in the public procurement electronic system, as well as to the provisions concerning the amount of the fee pertaining to participation in the proceedings by electronic means.

## Small and medium-sized enterprises

We are drawing attention to the publication of Order no. 658/2009 of the Minister of small and medium-sized enterprises, trade and business environment concerning the approval of the Regulation on the organization and functioning of the Projects

and Programmes Implementation Agency for Small and Medium-Sized Enterprises (the “**Agency**”)<sup>3</sup>. The Agency is a public institution with legal personality, meant to carry out the Government's policy in terms of projects and programmes

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implementation for small and medium-sized enterprises with a view to promote and encourage the establishment and development thereof.

## Financial regulations

We are bringing into attention the publication of Law no. 93/2009 on non-bank financial institutions (the “**Law**”)<sup>4</sup>. The Law sets forth the conditions to be observed in order to access and perform crediting activity in Romania through non-bank financial institutions, which conditions were established in order to ensure and preserve the financial stability.



<sup>1</sup> Official Gazette of Romania, Part I, no. 215 of 3 April 2009.

<sup>2</sup> Official Gazette of Romania, Part I, no. 978 of 7 December 2006.

<sup>3</sup> Official Gazette of Romania, Part I, no. 263 of 22 April 2009.

<sup>4</sup> Official Gazette of Romania, Part I, no. 259 of 21 April 2009.

## Health

Please note the publication of Order no. 326/2009 of the Minister of health regulating the establishment of specialized commissions within the Ministry of Health and the National Transparency

Commission (the “**Order**”)<sup>5</sup>. Pursuant to the Order, the specialized commissions have advisory role in the coordination of the activity pertaining to the health industry, whilst the National Transparency

Commission prepares and reviews the list of common international denominations of the human use medicines insured persons benefit from, with or without personal contribution.

## Other regulations

### AGRICULTURE

Law no. 98/2009 (the “**Law**”)<sup>6</sup> approving Government Ordinance no. 28/2008 on the agricultural register<sup>7</sup> was published. The Law amends, among other provisions, the deadlines within which natural or legal persons have the obligation to submit the data to be registered in the agricultural register.

### TRANSPORTATION

We are signalling the publication of Law no. 94/2009 on security auditing in the field of civil aviation (the “**Law**”)<sup>8</sup>. Pursuant to the Law, security auditing in the field of civil aviation shall be carried out, on a mandatory basis, every 2 years by auditors authorized with the Ministry of

Transportation and Infrastructure and registered in the List of the civil aviation security auditors.

### LEGISLATIVE BRIEFING

Please note the publication of the following enactments:

- Law no. 88/2009 on the approval of Government Emergency Ordinance no. 82/2007 for the amendment and supplementation of Companies' Law no. 31/1990 and of other normative acts<sup>9</sup>;
- Decision no. 2/2009 for the amendment and supplementation of the Regulation on the organization and functioning of the National Supervisory Authority for Personal Data Processing<sup>10</sup>;

- Law no. 96/2007 regulating the performance of dental technician profession, as well as the establishing, organization and functioning of the Romanian Dental Technicians Order<sup>11</sup>;
- Law no. 81/2009 on the approval of Government Emergency Ordinance no. 125/2008 for the amendment and supplementation of Art. 29 of Law no. 188/1999 on the Public Officers Statute<sup>12</sup>.

We are signalling the re-publication of:

- Law no. 94/1992 on the organization and functioning of the Romanian Court of Accounts<sup>13</sup>.

## ECHR case law

We are bringing into attention the publication of the European Court of Human Rights (“**ECHR**”) Decision dated July 1, 2008 in the case Calmanovici versus Romania<sup>14</sup>. The plaintiff filed a claim to ECHR invoking the unlawful and superfluous enforcement of his preventive detention, as well as the unfairness of the criminal proceedings undertaken against

him. Moreover, the plaintiff alleged the breach of his rights to privacy and family life, as well as his freedom to vote following the supervision measures applied to him and the *ex lege* deprivation of his parental rights and right to vote during the imprisonment. ECHR held that the plaintiff's rights to liberty and fair trial were breached by his detention and by the fact that the he has not been

immediately brought before a judge. At the same time, his right to privacy and family life was violated through the interception of the plaintiff's telephone calls and by the fact that he was deprived of his parental rights. Therefore, the Romania was compelled to pay moral damages and court expenses.

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This report is a summary of recently published legislative acts, which we deem important for our clients and friends, and for the Romanian business environment in general.

The report does not provide legal advice with regard to particular aspects.

Should you require additional information and/or comments with regard to the legislative acts or to specific legal matters, please contact

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<sup>5</sup> Official Gazette of Romania, Part I, no. 218 of 6 April 2009.

<sup>6</sup> Official Gazette of Romania, Part I, no. 253 of 16 April 2009.

<sup>7</sup> Official Gazette of Romania, Part I, no. 628 of 29 August 2008.

<sup>8</sup> Official Gazette of Romania, Part I, no. 250 of 15 April 2009.

<sup>9</sup> Official Gazette of Romania, Part I, no. 246 of 14 April 2009.

<sup>10</sup> Official Gazette of Romania, Part I, no. 277 of 28 April 2009.

<sup>11</sup> Official Gazette of Romania, Part I, no. 269 of 24 April 2009.

<sup>12</sup> Official Gazette of Romania, Part I, no. 221 of 6 April 2009.

<sup>13</sup> Official Gazette of Romania, Part I, no. 282 of 29 April 2009.

<sup>14</sup> Official Gazette of Romania, Part I, no. 283 of 30 April 2009.