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CEE LEGAL NEWSLETTER

LEGAL NEWS FOR INVESTORS AND ENTREPRENEURS

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HUNGARY

LEGAL NEWS

OVERVIEW OF RECENT LEGAL AMENDMENTS AND NEW LAWS AND REGULATIONS

AMENDMENT: Eleventh Amendment to the Fundamental Law of Hungary

On 19 July 2022, the Hungarian Parliament adopted the Eleventh Amendment to the Fundamental Law, stipulating that local elections shall be held at the same time as European parliamentary elections.

The amendment also includes a change in the provisions on the territorial division of the country: the name of the counties (in Hungarian: “*megye*”) will be changed to “castle-counties” (verbatim translation of the new Hungarian designation: “*vármegye*”) from 1 January 2023, showing respect for the historical traditions of Hungary.

However, the change of denomination won't be apparent in English language documents, as explained by the Hungarian Office for Translation and Attestation Private Limited Company (Hungarian abbreviation: “*OFFI*”). The English translation of the new “*vármegye*” designation will remain the same, i.e. “county” according to OFFI, which is the only agency authorized to prepare certified translations in Hungary.

AMENDMENT: The State Architectural Planning Council, chaired by the Chief State Architect, is given veto power over major construction projects

On 16 August, the Government Decree No. 315/2022. (VIII. 16.) amending certain government decrees on construction, heritage protection, property management and government administration (hereinafter referred to as the “*Amending Decree*”) has been published in the Hungarian Official Gazette, thus a small but significant change has been introduced to the building permit procedure.

As stated in the Amending Decree, from 17 August, the State Architectural Planning Council, chaired by the Chief State Architect, will give its opinion on the architectural and technical documentation for buildings larger than 5,000 square metres and for multi-apartment residential buildings of new construction with a total useful floor area of more than 1,500 square metres on a single building plot and consisting of at least six apartments.

The Amending Decree also states that applications for preliminary building permits, building permits or retroactive building permits which were not recommended for implementation by the State Architectural Planning Council will be refused by the building authority.

Certain experts fear that the Amending Decree – by creating another administrative barrier for medium-sized office or residential projects – will result in a reduction of the number of building permits issued, thus will end up affecting supply and demand in the office and residential property market.

PROPOSAL: on amending the rules of criminal procedure in order to reach an agreement with the European Commission

A bill was submitted on 19 July 2022 under number T/706, aiming to amend the Code of Criminal Procedure. The planned amendment would introduce a single special procedure called "*Procedure in the case of a major offence related to the exercise of public authority or the management of public property*". The purpose of the legislation is to lay down the new procedural provisions which, by way of derogation from the general rules on investigation, judicial remedies and prosecution, are to be applied in proceedings for certain offences covered by the special procedure. The key player in these new proceedings is the person who, being completely outside of the procedure and having no direct private interest in the offences concerned, wishes to act in the public interest and who is given the right to intervene by judicial means in order to obtain a successful investigation and, where appropriate, a judicial decision on the question of guilt.

In essence, therefore, the proposed legislation would allow for a form of public interest litigation, the bringing of charges in the course of investigations and the possibility of an "actio popularis" in judicial proceedings, with a view to identifying and settling in a satisfactory manner any alleged irregularities in the exercise of public authority or the spending of public funds, which could give rise to criminal law considerations. The starting point of the concept is to enable anyone to request the judicial review of the prosecution's decision to terminate an investigation in the case of offences within the scope of the procedure.

The scope of the special procedure covers crimes of corruption, abuse of authority, aggravated cases of budget fraud, and more serious offences against national wealth and assets managed by public trust funds.

The aim of the legislation is to allow anyone to obtain a review of the refusal to prosecute or the closure of investigations for such offences by creating a tiered regulation with the possibility of two rounds of judicial review.

PROPOSAL: on establishing the Integrity Authority and the Anti-Corruption Task Force in order to reach an agreement with the European Commission

As, on 18 September, the European Commission proposed suspending about €7.5 billion of funds allocated to Hungary due to rule-of-law concerns, the Hungarian government has introduced bills to prove to the EU their commitment to reduce corruption risks.

One of these bills aim to establish the **Integrity Authority** and the Anti-Corruption Task Force. According to the explanatory memorandum of the said bill, the Authority will operate as an autonomous public administrative body, independent of the government and other agencies.

The Authority will be headed by a board, composed of a president and two vice-presidents, which will report annually on its activities to the National Assembly and send its report to the European Commission as well. The president and his/her deputies will be appointed by the President of the Republic, on a proposal from the president of the State Audit Office, for a term of six years. Nor the president nor the vice-presidents of the Integrity Authority may be reappointed.

The Integrity Authority will act of its own motion or on a complaint from anyone if it finds fraud, conflict of interest, corruption or other irregularities in the use or control of EU funds. The government intends the Authority to prevent or remedy irregularities that seriously jeopardise the sound financial management of the EU budget or the EU's financial interests.

In practice, this means carrying out integrity risk assessments, producing annual integrity analysis reports, issuing recommendations, and requiring national bodies to take action when called upon to do so. In the case of suspected serious infringements, the Authority can propose suspending the public procurement procedure, which must be notified to the European Anti-Fraud Office and the European Public Prosecutor's Office, although Hungary is not a member of the latter.

The **Anti-Corruption Task Force** will be a body attached to the Authority with analytical, proposing, advisory and preparatory functions, and will operate for an indefinite period.

It will be chaired by the president of the Authority and will include non-governmental actors active in the fight against corruption, with members representing public bodies, but may also include permanent and ad hoc invitees. The vice-president of the Task Force will be elected by majority decision from among the members representing non-governmental actors.

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BULGARIA

LEGAL NEWS

OVERVIEW OF RECENT LEGAL AMENDMENTS AND NEW LAWS AND REGULATIONS

Bulgaria is to hold another round of national elections on 2 October 2022 following the resignation of the government in June. As a result, there are a number of key legislative amendments regarding energy, infrastructure and property management that are suspended until the new Parliament is elected and starts its work (e.g., the Energy Law amendment outlined in our previous issue).

AMENDMENT: Labour Code revised to the benefit of employees

The latest amendments of the Labour Code effective as of 1 August 2022 provide for certain additional benefits to the employees. The main revisions to be considered by the employers are the following:

- A new, shorter probation period is introduced for short-term employment contracts – unlike the 6-month period applicable until now to all contracts regardless of their term (fixed or not), the probation period for an employment of fixed term of less than one (1) year cannot exceed one (1) month. The shorter probation period is ultimately to the benefit of the employee since after its expiration the employer cannot terminate the contract without cause and the general rules and formalities for termination would apply.
- Employers are required to inform their employees about the options available for training to enhance or maintain their professional qualifications. When the training is obligatory, it should be done during working hours and is to be accounted for as tenure. Respectively, if the training continues beyond the working hours, it will qualify as extra time.
- The scope of the ban on second employment contract is now limited – the employers can oppose to the intention of the employee to work for another employer in parallel only on grounds of confidentiality and/or conflict of interest. Notwithstanding, the case law has been consistent that an employee owes a duty of loyalty to his/her employer that would prevent any parallel employment or arrangement with competitors of the current employer during the term of the employment with the latter. Hence, each case is to be reviewed in the light of the specific circumstances allowing the employers sufficient leeway to object to the additional working projects of its employees.

Certain provisions of the Labour Code are improved to take account of the conflicting interpretation in their application. For example, parents of children under the age of 12 can take sick leave when their child is under quarantine even when the restriction apply to his/her class only not to the entire school. Family paid leave of up to two (2) months is now available also to fathers and men who adopt a child under the age of 8 and the employers should provide for this option.

AMENDMENT: The Zoning Law to be updated and improved

The Zoning Law (Закон за устройство на територията) sets out the framework for all investments related to property development and construction, expropriation and infrastructure projects. As such, since its enactment in 2001, it has been the key source of challenges and complications as it strives to regulate the complex real estate environment of Bulgaria after the transition from predominantly state-owned land to private property and entrepreneurial development. Its amendments are done on a regular basis with varying degrees of foresight, solving existing problems and creating new ones.

The current project to update and improve the Zoning Act, initiated by the Ministry of Regional Development, is motivated by the decision of the Constitutional Court adopted in March 2022, which revoked the moratorium on the acquisition of state and municipal property by limitation. The ban was introduced as a temporary short-term measure in 2006 to allegedly protect public interest in the turbulent times of restitution and was consistently extended for 17 years. The ruling of the court now requires that the authorities act to settle any dormant issues relating to state and municipal assets and opens the door for investors – certain private properties, which have been designated for expropriation or have been expropriated might be available again for private projects. In the capital city of Sofia, investors have been waiting for years for the municipality to take action on expropriation projects for alleged infrastructure and public welfare needs – in the process numerous land plots in promising areas of the city have been excluded from urban development. The pending amendments of the Zoning Act aim to structure the procedure and impose transparent rules for the application of the ruling of the Constitutional Court.

Another practical issue that the bill aims to resolve is the statute of the technical infrastructure built or renovated without all the required documents. As a general rule, the absence of key documents such as construction permits, approved designs and/or commission permits would render the construction illegal and subject to demolition even if in fact it is compliant with the relevant rules and norms for safety. The law already provides for a procedure to bring such constructions into conformity or at least to grant them an exemption of the general rule. With respect to technical infrastructure, the issue is even more pertinent as the issue of noncompliant documentation has a major impact on the networks of utility operators.

The amendment will also set out additional requirements for connecting infrastructure for safety reasons and for treating wastewater for environmental reasons. The public debate on the bill will close on 12 October 2022 – thereafter, the bill is likely to be revised based on the proposals filed during the debate and sent to Parliament.



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ROMANIA

LEGAL NEWS

OVERVIEW OF RECENT LEGAL AMENDMENTS AND NEW LAWS AND REGULATIONS

AMENDMENT: Major changes to the Romanian Fiscal Code

Government Decree No. 16/2022 published on 15 July 2022 has introduced significant changes to the Romanian Fiscal Code. The amendments entered into force for most of them on 1 August 2022 and the others will enter into force on 1 January 2023. They are related to corporate income tax, micro-enterprise tax regime, local taxes, income tax, social security contributions, health insurance contributions, VAT and excise duties.

For details, please read our special Client Alert here: <https://dornano-partners.com/en/romania-major-changes-to-the-romanian-fiscal-code/>

AMENDMENT: New rules on registrations with the Trade Registry and amendments to the Company Law

On 26 July 2022, the corporate legislation has been modified by Law No. 265/2022 regarding Trade Registry and amending and supplementing other legal enactments having impact on registrations with the Trade Registry (hereinafter referred to as the "New Law"), including certain provisions of the Company Law No. 31/1990. The new provisions will enter into force on 26 November 2022.

1. Main amendments related to the registration with the Trade Registry

- The New Law has introduced a new electronic platform for publication, the Electronic Bulletin of the Trade Registry, which will replace publication in the Official Gazette for certain corporate operations, acts and facts.
- The New Law regulates the status of the registrar, a legal specialist clerk in charge of analysing and deciding on registration requests submitted to the Trade Registry.
- New rules regarding the electronic signature have been introduced in order to facilitate the registration procedure.
- Stricter rules have been introduced regarding the language of the documents to be submitted to the Trade Registry.
- Templates of the articles of association for each type of company shall be made available on the Trade Registry's website and online portal.
- The New Law has simplified the registration procedure, the filing of various supporting documents being eliminated, among others the sworn statements by the founders, legal representatives (directors, managers, members of the corporate bodies) and auditors or financial auditors on the fulfilment of the requirements and conditions imposed by law and the signature specimen for legal representatives. It will also no longer be necessary to submit the proof of payment of contributions, nor proof of availability and reservation of the company's name.

- The formalities for setting up a company will be accessible online. The articles of association can be drawn up online by filling in a standard form with predefined options. The applications for registration and the supporting documents, drawn up by lawyers or public notaries may be signed with a qualified electronic signature and submitted online.

2. Main amendments to the Company Law

- The New Law has introduced new mandatory clauses that need to be included in the articles of association of companies.
- In case of limited liability companies, the vote of all members is no longer required for the adoption of resolutions amending the articles of association. As a consequence, members will have to set precisely the voting requirements for the approval of such amendments, otherwise such amendments will be adopted by a simple majority of the members, unless the law provides otherwise.
- The deadline for implementing the resolution of the general meeting of shareholders on the increase of the share capital has been extended from 12 to 18 months.
- Members of limited liability companies will no longer be required to pay the entire registered capital upon incorporation, and will be able to pay an amount representing 30% of the subscribed registered capital no later than 3 months from the incorporation date, but before commencing operations in the name of the company, and the difference to be paid within 12 months of registration in case of cash contribution, or within 2 years of registration in case of in-kind contribution.
- New provisions have been introduced with respect to dissolution: the Trade Registry shall ascertain the fulfilment of the conditions for the dissolution of the company, either at the request of any interested person or ex officio, in some limited cases.
- The liquidation of a company must be completed no later than one year after the date of registration of the dissolution in the Trade Registry. This period may be extended three times by successive periods of one year.

AMENDMENT: New rules on the development of renewable energy production capacities on extra-muros lands

Land Law No. 18/1991 was modified on 24 July 2022 by Law No. 254/2022 to facilitate investments in renewable energy projects by reducing land planning formalities.

The following amendments will apply until 31 December 2026:

- The projects for the production of electricity from renewable energy sources (solar, wind, biomass, bioliquid and biogas, storage capacities, transformer stations and other similar systems) can be developed on agricultural lands located in the extra-urban area with fertility class III, IV and V as well as on those developed with land improvement works, up to 50 hectares, on the basis of the building permit and the approval of permanent or temporary removal from the agricultural circuit. Thus, it is no longer necessary to designate land inside city limits or to draw up the related zonal urban plan (PUZ).

- The new Law introduced the dual use of agricultural lands (except for arable lands) located outside the city limits, that can be used both for agricultural production and for electricity production from renewable energy sources. As per the Law, in such cases, permanent or temporary removal from the agricultural circuit shall be made only for the part used for the renewable energy projects.
- The fees for the removal from agricultural circuit shall be paid only for the area transferred from the agricultural circuit and used for the development of the renewable energy project.

AMENDMENT: Amendments to public procurement legislation

On 12 July 2022, the Law No. 208/2022 amended the Romanian public procurement legislation to facilitate public investments in the context of the implementation of Romania's national recovery and resilience plan (PNRR). The new amendments entered into force on 10 September 2022. The new law provides for double thresholds for direct award of contracts, price adjustment in exceptional economic circumstances and new rules for actions relating to public procurement.

Implementation of the Restructuring Directive

The law amending and supplementing Law No. 85/2014 on insolvency prevention and insolvency proceedings and other normative acts has been adopted on 15 July 2022. This law transposes the Restructuring and Insolvency Directive (EU) 2019/1023, which aims to harmonise Member States' legislation in the field of restructuring, increase the chances of companies, especially SMEs, to restructure, create an efficient framework for preventive restructuring, insolvency and debt write-offs (waiver/dismissal) and reduce the costs of proceedings, maximising the recovery of claims.

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CROATIA

LEGAL NEWS

OVERVIEW OF RECENT LEGAL AMENDMENTS AND NEW LAWS AND REGULATIONS

AMENDMENT: Further digitalisation and speeding up of civil and criminal procedures

Amendments to the Croatian Civil Procedure Act and the Criminal Procedure Act entered into force on 19 July 2022 and introduces significant changes aimed at speeding up and modernising civil and criminal dispute resolution. This is hoped to be achieved in both procedures through expanding the scope of subjects obliged to file their motions only by electronic means, as well as by introducing sound recordings of court hearings and reinforcing the technical and procedural framework for remote hearings.

Economic efficiency of civil procedures is further ensured by the obligation for judges to implement procedural management plans and to observe mandatory deadlines for certain procedural steps. Namely, the preliminary hearing in civil procedures will, from now on, have to be held within 3 months as of filing the response to the action, while the main hearing must be held within 6 months after the conclusion of the preliminary hearing. The entire civil proceedings before the court of first instance have to be concluded within 3 years as of the date on which the action was brought.

AMENDMENT: Introduction of paternity leave in the Croatian maternity and parental benefits system

The newly amended Maternity and Parental Benefits Act (in force as of 1 August 2022), foresees the introduction of paternity leave as a new right in the Croatian system of maternity and parental benefits. Under these new rules, an employed or self-employed father may take his paternity leave from the day of the child's birth until the child's sixth month of age, for the following periods: (i) 10 working days for one child or (ii) 15 working days for twins, triplets or simultaneous birth of several children.

The employer is obliged to allow the employee to take paternity leave, provided that the employee submits a written request at least 30 days before the start of the leave. When exercising the right to paternity leave, the father's salary compensation (up to the prescribed state maximum) is paid at the expense of the state budget.

NEW REGULATION: Government Decree on elimination of disturbances on the domestic energy market

The Decree on the Elimination of Disturbances on the Domestic Energy Market was adopted on 9 September 2022 by the Government of the Republic of Croatia. The Decree adopted special crisis measures for the trade in electricity, gas and thermal energy, aimed primarily at securing stable energy supplies and limiting prices of electricity, gas and thermal energy for certain categories of customers (among others for entrepreneurs). The special measures hope to provide relief to both households and businesses of entrepreneurs and shall be in force for the period from 1 October 2022 to 31 March 2023.

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It is expected that the Government of the Republic of Croatia will adopt additional measures in the coming months in order to alleviate the consequences of the current crisis.



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SERBIA

LEGAL NEWS

OVERVIEW OF RECENT LEGAL AMENDMENTS AND NEW LAWS AND REGULATIONS

In Q3 2022, activities of the National Assembly were reduced since the National Assembly was only convened in August 2022 after the general elections which were held in April 2022. Consequently, legislative activities remained at a low level.

New minimum wage: New Decision on the minimum wage for the period from January to December 2023

Government of Serbia has adopted a new Decision on the minimum wage for the period from January to December 2023 (hereinafter referred to as the "Decision") by which minimum wage per working hour is increased to RSD 230 (approximately EUR 2) for 2023. Previously applicable minimum wage per working hour was RSD 201,22, so the increase is 14,3%. Effectively, average minimum monthly wage will amount to approximately RSD 40,000 (around EUR 338), depending on the month in question.

To ease the increased burden on employers, the Government has announced an increase in the non-taxable amount of wages and a slight reduction in the percentage of social security contributions.

NEW RULES: Restrictions on exports of certain commodities

Due to the global crises caused by the war in Ukraine, the Government has prolonged restrictions on exports of certain fuels (e.g. certain wood products that are of importance for the upcoming heating season, diesel fuel). The restrictions are only temporary.

Intervention by the National Bank of Serbia: Intervention regarding the unfounded increase of insurance premiums for motor third party liability insurances

Due to increases of the premiums for the motor third party liability insurances in the previous period, which were imposed by numerous insurance companies (average increase was around 22%), the National Bank of Serbia (hereinafter referred to as the "NBS") intervened and informed the insurance companies concerned to restore insurance premiums to the previous level, as it considered that such increases were not founded in the majority of the cases.

Additionally, insurance companies have been ordered to reimburse their clients for part of the insurance premiums which were collected in excess.

UKRAINE

LEGAL NEWS

OVERVIEW OF RECENT LEGAL AMENDMENTS AND NEW LAWS AND REGULATIONS

On 22 August 2022, the Law of Ukraine “On Prolongation of Total Mobilization” No. 2501-IX entered into force. The martial law in Ukraine shall last until 21 November 2022.

Alongside with the prolongation of martial law, the following novelties were introduced:

Employment

New termination grounds:

- if a private entrepreneur-employer is drafted to military, declared as being missed or dead;
- in case of an employee’s death or in case an employee is declared as being missed;
- in case an employee is absent from work for four months without any information about the reasons;
- in case an employer is not capable of providing the employee with working conditions due to the destruction of production facilities, production means or an enterprise’s property, resulting from hostilities. For such a case a separate termination procedure is established (ten days’ notice instead of two months’ notice, etc.).

Cancelation of average salary hold for mobilized employees. Employers are not obliged to preserve the average salary of mobilized employees.

Compensation sources. The law foresees that labour-related damages, debts and expenses incurred due to aggression are expected to be compensated by the aggressor state, as well as funds for the recovery of Ukraine.

On-call works. From 10 August 2022, employment contracts with unfixed working hours may be concluded (i.e., on-call work).

Simplification for small & medium businesses. This simplified regime can be applied in the following cases:

- the employer is a small or medium-sized enterprise with an average number of employees not exceeding 250 in a calendar year; **or**
- a monthly salary of the employee is more than 8 minimum wages established by law.

This regime allows the individual terms and conditions of the employee's employment to be established (e.g., additional rights, obligations and responsibilities of the parties; conditions of financial support; termination grounds).

Audits

As from 31 August 2022, it is allowed to carry out unscheduled audits on the basis of the decision of the competent ministry in following cases:

- threat of significant negative impact on the rights, legitimate interests, life and health of a person, protection of the environment, ensuring the security of the state;
- in order to fulfill Ukraine's international obligations.

Currency

According to Resolution No. 154, as from 21 July 2022, the National Bank of Ukraine has set the official exchange rate of the UAH against the USD at UAH 36,5686 per US dollar.



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