



PACHIU & ASSOCIATES
ATTORNEYS AT LAW

LEGAL UPDATE

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Special points of interest:

- Procedure for Authorization of the Activities with a Significant Environmental Impact
- Amendments of Professions Classification of Romania
- New Statute of Lawyer Profession

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ENVIRONMENTAL LAW

Procedure for Authorization of the Activities with a Significant Environmental Impact

Order No. 876/2004 approving the Procedure for authorization of the activities with significant environmental impact was published in Official Gazette No. 31 of January 11, 2005.

The authorization procedure for the activities with a significant environmental impact (the "Procedure") governs the terms for applying and issuing of an environmental authorization (the "**Authorization**"), the period of validity and the method for reviewing and extending such authorization as well as the taxes and related charges for authorization of economic agents carrying out activities with a significant environmental impact.

The central public authority for environmental protection is the Ministry of the Environment and Water Management (the "**MEWM**"), and the territorial public authority for environmental protection is the Territorial Agency for Environmental Protection (the "**TAEP**") and, respectively, the "Delta Dunarii" Biosphere Reservation Administration.

The application for the issuance of the environmental authorization is mandatory both for performing current activities as well as for commencing new activities.

In compliance with the Procedure, the authorization shall be issued by the territorial public authority for environmental protection of jurisdiction.

The legal term for the issuance of such authorization is a maximum of 90 business days as of the date of filing with the TAEP of the complete documentation by the entity conducting such activity.

The environmental authorization shall be issued with or without a conformity program.

The conformity program shall be established by the TAEP and may have two parts:

1. measures to reduce the current and future effects of the performed activities on the environment;
2. measures to cure the effects of previously performed activities on the environment.

The validity term of such authorization shall be maximum 5 years and may be extended provided that the data considered upon issuance have not changed.

Upon change of the holder who conducts the activity, the conformity program shall be reconsidered upon mentioning the financing resources and the liability, if required.

The environmental authorizations which fail to be endorsed annually shall lose validity.

Upon change of the holder, the name and legal form of the company, the authorization shall be transferred to the new holder or for the new name of the company, if the activities shall continue to be performed in the same conditions for which the environmental authorization was issued.



LABOR LAW

Order No. 9/14 of the Ministry of Labor, Social Solidarity and Family and of the President of the National Institute of Statistics regarding the amendment of Professions Classification of Romania was published in Official Gazette No. 83 of 25 January 2005

Amendments of Professions Classification of Romania

Order 9/14/2005 (“**the Order**”) sets forth new professions in fields like banking, insurance, public administration, social assistance, agriculture.

The banking system has two new basis professional groups: “**managers and other higher officers in the banking system**” referring to the presidents, vice-presidents and other higher officers of the banking system who represent and bind the bank before third parties, clients and jurisdiction bodies; execute the documents regarding expenses; organize and coordinate the activity of the bank and “**banking experts**” who are applying the

bank policy for the promotion and sale of the banking products and services; are liable for client management and assess the goods brought as credit security. Among the new banking professions are: branch manager and similar, bank consultant, bank general manager, bank advisor, general bank inspector, accountant chief/bank financial manager, banking operational unit manager, bank executive manager, bank economist, bank manager, bank customers manager, bank officer, bank president, bank agency manager, telebanker, bank security system administrator, bank administrator.

The insurance system has also two new profession groups: “**Insurance experts**” who negotiate and conclude insurance and re-insurance policies, collect the insurance premium, perform advisory activity in insurance, and “**Assessment experts**” who make assessments related to the four forms of ownership. Examples of new professions in insurance are insurance sale adviser, specialized insurance inspector, risk inspector, insurance specialist.

Other new professions mentioned in the Order are: tax expert, manager assistant, assessment experts.

Government Decision No. 2346/2004 for the establishment of the minimum base gross salary at national level was published in Official Gazette No. 1 of January 3, 2005

Minimum Base Gross Salary

Starting with January 1, 2005, the minimum base gross salary was established to ROL 3,100,000 monthly. Such salary was calculated for a fulltime working schedule of approximately 177 average hours per month in year 2005,

representing approximately ROL/hour 18,000.

The provision in a labor agreement of a salary under ROL 3,100,000 represents a minor offence and shall be punished with a fine between ROL 10,000,000 and ROL 20,000,000.

BANKING

Reference Interest Rate for January 2005

Circular No. 1/2005 regarding the reference interest rate of the National Bank of Romania for January 2005 was published in Official Gazette No. 14 of January 5, 2005.

The reference interest rate established by the National Bank of Romania for January 2005 is 17.31% per year, lower by 0.65 units than the rate established for December 2004.

ACCOUNTING

Order No. 1.775/2004 regarding the accounting rules was published in Official Gazette No. 27 of January 10, 2005.

Order No. 1.775/2004 (the "Order") intends to harmonize our accounting legislation with the European Directives.

The Simplified Accounting Rules harmonized with the European Directives and the Accounting Rules harmonized with the IVth Directive of the European Economic Community (the "EEC") and the International Accounting Standards (the "IAS") may be applied by the legal entities who, at the end of 2004, met the following criteria:

1. turnover exceeding EUR 7.3 million;
2. total assets exceeding EUR 3.65 million;
3. average number of employees exceeding 50.

The commercial companies whose securities are accepted for sale on a regulated market and the national corporations shall restate their financial statements for the year 2004. The Simplified Accounting Rules harmonized with the European Directives shall be effectively applied as of January 1, 2005.

The other legal entities who meet the criteria mentioned above may choose to apply the regulations harmonized with the European Directives or to further apply the Simplified Accounting Rules.

The financial statements of 2004 must

be submitted within the following terms:

1. 150 days as of the end of the financial year for entities applying the Accounting Rules harmonized with the EEC Directives and with IAS;
2. 120 days as of the end of the financial year for the entities applying the Simplified Accounting Rules, harmonized with the European Directives, including microenterprises;
3. 60 days as of the end of the financial year for entities who have not conducted business as of their establishment.

In Romania, the coordinating measures provided by the 6th Directive No. 78/660/EEC of the Council regarding the annual accounts of certain types of commercial entities shall apply to the following types of legal entities:

1. the commercial companies provided by Law No. 31/1990 regarding commercial companies;
2. the companies and national corporations, autonomous regies, national research and development institutes, cooperative companies and other legal entities who, based on special organization laws, operate on the principle of a commercial company.

Upon enforcement of this Order, Articles 6, 7 and 8 of Order No. 1.827/2003 amending and supplementing certain regulations in accounting shall be abrogated.

Amendments to the Accounting Rules

Accounting Law No. 82/1991 was republished in Official Gazette No. 48 of January 14, 2005

Accounting Law No. 82/1991 was republished pursuant to the amendments provided by Government Ordinance No. 29/2004.

Emergency Government Ordinance No. 28/1999 regarding the obligation of the undertakings to use fiscal electronic markers was republished in Official Gazette No. 75 of January 21, 2005

Emergency Government Ordinance No. 28/1999 regarding the obligation of the undertakings to use fiscal electronic markers was republished pursuant to the amendments provided by Government Ordinance No. 94/2004 regarding the establishment of certain financial measures as amended.

Accounting Law was Republished

Emergency Government Ordinance regarding Fiscal Electronic Markers was Republished

LEGAL PROFESSION

New Statute of Lawyer Profession

The Statute of Lawyer Profession was published in Official Gazette No. 45 of January 13, 2005

The new Statute (**the “Statute”**) establishes a more complete legal regime for the profession of lawyer in accordance with the provisions of the Law No. 51/1995 regarding organizing and performing of the lawyer profession and the European Deontological Code.

The Statute provides that the professional confidentiality is a matter of public order. The lawyer can under no circumstances be compelled to reveal professional secrets except if strictly required by his defense if the lawyer is criminal or disciplinary pursued, or if there are complaints about the due fee. The lawyer is free to use information regarding previous clients, if such information became of public knowledge.

In accordance with the new provisions, the correspondence and information between lawyers or between a lawyer and his client, may not be used as evidence in a legal action, and shall be confidential.

The limitations from the old statute regarding the participation of lawyers in commercial companies were changed. According to the Statute, a lawyer may hold the position of president of a board of administration not only in joint stock companies but also in limited liability companies. Lawyers shall notify to the dean of the Bar Association if holding the capacity of member of a board of administration in a joint stock company or a limited liability company. If the Bar’s Council considers that such capacity is incompatible with the dignity and rules of behavior imposed upon lawyers, may request withdrawal of the board of administration.

The legal services agreement represents a special mandate for the activities explicitly provided as its scope, under which the lawyer may conclude under private signature or in authenticated form, conservation, administration or disposition documents for and on behalf of the client.



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