

Tax & Legal Weekly Alert

13 – 17 July 2015

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Law no. 152/2015

On 13th of July 2015, Law no. 152/2015 for amending and supplementing legislative acts regarding trade registry registrations (“**Law no. 152/2015**”) was published in the Romanian Official Gazette no. 519, Part I. The law amends the following enactments: **Companies Law no. 31/1990**, **Law no. 26/1990** regarding the Trade Registry, **Law no. 359/2004** for simplifying the formalities of registration in the Trade Registry of natural persons, family associations and legal persons, their fiscal registration, as well as the authorization for functioning of legal persons, and **Emergency Government Ordinance no. 116/2009** for establishing some measures regarding registration in the Trade Registry.



1. Amendments to Companies Law no. 31/1990

(i) Enforcement of shares issued by a limited liability company and establishment of mortgages over shares

- The possibility of the shareholder's creditors to seize and sell the shares issued by a limited liability company of their debtor (before this procedure was stipulated just for shares in joint stock companies) was introduced. The publicity of the garnishment and of the seizure is made through the Trade Registry, at the request of the enforcement agent.
- The possibility to execute the legally established mortgage over the shares (both issued by a joint stock company and by a limited liability company) was expressly regulated. The setup of mortgages over the shares issued by a limited liability company in favor of third parties is allowed only if it is approved by the shareholders representing at least three quarters of the share capital.
- The obligation of the directors and the members of the company's directorate to provide to the creditor or to the enforcement agent any necessary information for evaluating the shares and also to facilitate their takeover was established.

(ii) Dissolution of the companies

- New situations in which any interested person may request the dissolution of the company were introduced, as follows:
 - following the expiry of term of the document attesting the right to use the company's headquarters, thus the conditions regarding the company's headquarters no longer being fulfilled;
 - in case the company did not submit the annual financial statements, as well as the accounting reports to the competent authorities, within the period provided by the law, if the delay period exceeds 60 working days;
 - in case the company did not submit to the competent authority, in the period provided by the law, the statement that it has not performed activities starting with its registration, if the delay period exceeds 60 working days.
- The list of the companies for which the National Office of the Trade Registry will file dissolution requests is published on its website or on the online portal with at least 60 days before and it is sent to the National Agency for Tax Administration.
- In the case of the liquidation procedure, the liquidator's remuneration is established at a fixed amount of Lei 1,000.
- It was introduced the possibility of any interested person to request to the tribunal the deregistration from the Trade Registry of a company under dissolution on the basis of Article 237, if no request for appointing a liquidator was submitted within the period provided by the law.

(iii) Liquidation of the companies

- The period with which the termination of the voluntary liquidation can be extended was changed, respectively by another period of 1 year, but no more than two prolongations.
- The period in which the liquidators must be appointed, after the registration of the liquidation to the Trade Registry, was extended from 30 to 60 days.
- The sanction for not submitting the request for deregistration to the Trade Registry, within a period of 15 days after the termination of the liquidation, was reduced from Lei 200 to Lei 20 for each day of delay.
- The provision according to which the shareholders receiving the assets remained after the liquidation of the company are liable for satisfying any claims within the limit of the assets' value was removed.

2. Amendments to Law no. 26/1990 regarding the Trade Registry

(i) The interconnected system of the trade registries

As a novelty, the National Office of the Trade Registry and the trade registries held by trade registry offices near tribunals are part of the interconnected system of the trade registries from the European Union's member states.

This system consists of the trade registries from the European Union's member states and the central European platform and has the purpose to provide to the public documents and information regarding entities registered in the Trade Registry.

The information can be obtained through the online portal of the National Office of the Trade Registry as well as through the Unique Electronic Point of Contact (PCU).

The natural and legal persons registered in the Trade Registry will also have a unique indicator at European level (EUID), which will include the Romanian identification element, the national registry identification element, the number of the person from the respective registry and, if the case, other elements in order to avoid identification errors.

(ii) Situation of the branches

- The Romanian legal persons who register branches abroad have the obligation to notify such registration to the Romanian Trade Registry, after the registration of the branch in the respective country.
- In case a legal person from a European Union member state was deregistered from the trade registry, the Romanian trade registry deregisters ex officio its branches from Romania, based on the information provided by the interconnected system of the trade registries.

3. Amendments to Law no. 359/2004

(i) Term for documents release

The term for issuing the registration certificate and the ascertaining certificate was changed to 3 working days as of the date of the registration of the request – excepting situations when the person resolving the request decides otherwise, for completion of the documentation.

(ii) Publication terms in the Romanian Official Gazette, Part IV

- The Trade Registry communicates to the Romanian Official Gazette for publication the necessary documents in the following working day after making the registrations in the Trade Registry.
- The publication in the Romanian Official Gazette is made within maximum 21 working days from the date of registration of the request to the Trade Registry. The Official Gazette has a term of 17 working days to publish the documents, calculated from the date of receiving the documents.

4. Companies in liquidation for more than 7 years

In case of companies falling under the scope of Law no. 314/2001 for regulating the situation of some companies and Law no. 359/2004, the National Office of the Trade Registry deregisters, ex officio, the companies which are in liquidation for more than 7 years.

Entering into force

The provisions of Law no. 152/2015 enter into force on 16th of July 2015, with the following exceptions:

- the amendments presented in Section 2 point (i) as well as any provisions regarding the mentioning in the registration/mentions certificate of EUID enter into force starting with 7th of July 2017;
- the obligation described in Section 2 point (ii) first paragraph enters into force in 90 days from 13th of July 2015.

Please note that the above-mentioned are only some of the amendments implemented by Law no. 152/2015 and we remain at your disposal for further clarifications.



For further questions regarding the aspects mentioned in this alert, please contact us.

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