

New law simplifies procedures regarding Romanian companies

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On 2nd of July 2020, the Law no. 102/ 2020 amending the Romanian Companies' Law (Law no. 31/1990) was published in the Romanian Official Gazette. As of July 5th 2020, this law removes some long criticized bureaucratic obstacles regarding the incorporation of Limited Liability Companies and the activity of Romanian companies.

The Law no. 102/ 2020 had previously passed through the Romanian Parliament twice and was even reviewed by the Romanian Constitutional Court. It provides, among others, the following topics:

Prohibition on sole shareholders in LLCs lifted

Based on the old version of the Companies' Law, no person was allowed to be the sole shareholder in more than one Romanian LLC ("**SRL**"). Similarly, an LLC owned by a single shareholder could not, in its turn, become a sole shareholder of an LLC. Any infringement of such provisions could have led to the judicial dissolution of the respective Romanian SRL. This provision was abolished. Therefore, currently every person can be a sole shareholder in any number of SRLs, whereas an LLC held by a single shareholder can, in turn, act as sole shareholder in an SRL.

This means that entrepreneurs intending to incorporate Romanian companies no longer have to plan for the additional participation of a second shareholder. Up until now, investors planning to establish companies in Romania have often faced the problem that the future sole shareholder was, in turn, held by a single shareholder.

In practical terms, this particularly benefits company groups. The current version of the Company Law eases the construction of holding structures, for e.g. a constellation in which a private holding company alone holds the shares in several operational SRL. Such a corporate structure had so far been ruled out in Romanian practice.

Furthermore, the amendment of art. 17 para. (1) of the Companies' Law is relevant. According to the previous version of this norm, when incorporating a company, along with the proof of reservation of the company name, an affidavit regarding the status as sole shareholder in a single SRL had to be submitted to the Commercial Register. According to the present version of the Companies' Law, the second abovementioned document is removed.

More companies in the same space

The old version of the Companies' law (art. 17 paragraph 4) prohibited multiple companies from having their headquarters in the same building, unless the structure and surface of such building allowed the simultaneous existence of several separate headquarters. This had to be demonstrated, which involved additional time and costs.

This prohibition was also canceled by the Law no. 102/ 2020. The current regulation's wording allows for the headquarter registration of an indefinite number of companies in the same space.

Additional simplifications regarding the company headquarters

The process of registering or moving the seat of Romanian companies was also significantly simplified. The registration with the Commercial Register previously required proof registered by the financial administration regarding the right of use of the property, as well as a certificate issued by the financial administration proving the exclusive right of use. If the rental of the same property was registered several times in the archives of the financial administration, according to the previous version of the Companies' law, the owner of such building had to submit a notarized affidavit declaring that the respective property is suited as the headquarters of several companies (*declarație de nesuprapunere*). With the amendment of the Companies' law, the last two abovementioned documents are removed.

Also, the previous requirements regarding the neighbors' approval and the owners association's consent were lifted. According to the old regulation, such approvals had to be obtained if the company were to sit in a residential building with several parties. However, the new regulation only applies if the administrators declare that no activities are carried out at the headquarters.

Conclusion

It is commendable that the simplifications have been published despite long discussions about their negative effects. This illustrates the desire of the Romanian state to follow the general trend towards less bureaucracy.

In practice, the new regulations will have a positive impact on the incorporation process and will also enable company groups to introduce simplified structures. This will lead to less bureaucracy in the Romanian practice regarding the corporate field. Furthermore, this new regulation should enable Romanian practice to be adapted to the now usual practices of other EU member states. Entrepreneurs operating in Romania can be very pleased with the new legal situation.

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