

## Romania passes law removing bureaucracy when operating limited liability companies

**Romania's President signed into force Law no. 223/2020 on the simplification of the process for transferring shares to third parties and the subscription of share capital in Romanian limited liability companies (LLCs). The law will enter into force in 3 days as of its publication in the Romanian Official Gazette, after being signed into force by Romania's President.**

### **Removal of the two-step procedure for the transfer of shares in an LLC**

Previously under Romanian Companies Law, the transfer of shares in a Romanian LLC to third parties (i.e. entities or individuals that were not already shareholders of the concerned company) was performed by following a two-step procedure, which usually took two to three months to complete, unless opposition was submitted:

→ As a first step, a shareholders' resolution approving the share transfer needed to be passed and submitted to the Romanian Trade Registry in order to be published in the Romanian Official Gazette. Creditors of the company, as well as any interested person, could challenge the shareholders' resolution within 30 days after its publication in the Romanian Official Gazette. If an opposition was filed, it automatically blocked the transfer of shares until final settlement by the competent court.

→ As a second step, after the expiry of the 30-day term mentioned above, if there was no such opposition, or after receiving a court decision rejecting any opposition that was made, a subsequent file of documents was submitted to the Trade Registry to finalise the transfer of shares.

The most important change introduced by the new law is the removal of this two-step procedure, which reduces formalities, time and costs.

This two-step procedure and the related formalities created difficulties in previous cross-border transactions especially in respect to the organisation of a closing, as it was problematic to align the procedure with transfer formalities in other jurisdictions and with other pre-closing actions and conditions. The new law, among other benefits, makes it easier to organise and synchronise the closing of cross-border transactions with a Romanian nexus.

Another advantage introduced by the new law is the removal of potential abuses by creditors submitting oppositions. In most cases, oppositions were submitted by the Romanian fiscal authority for unpaid taxes regardless of the amounts due or the merits of their claim, which triggered delays in the entire share-transfer process.

Based on the new law's provisions, unless the articles of association of the company provide otherwise, the transfer of shares in an LLC to third parties should be allowed if approved by the shareholders representing at least three-quarters of the share capital of the company. Consequently, shareholders have more flexibility to agree upon rules governing the transfer of shares to third parties. However, the obligations to register the share transfer in the shareholders' registry and with the Trade Registry remain valid.

### **Removal of the minimum threshold for the share capital of an LLC**

Another significant change brought on by the new law is the removal of the minimum threshold (of RON 200 – approx. EUR 41) for the share capital of an LLC and the removal of the minimum nominal value of a share (RON 10 – approx. EUR 2) in an LLC. Moreover, the new law also removes the obligation to submit evidence of share

capital subscription to the Trade Registry when an LLC is incorporated.

This change will align Romania with the standards of other countries where there is no requirement for minimum share capital for LLCs, with the aim to reducing the migration of businesses to other jurisdictions where incorporation rules are less cumbersome.

In other countries where the minimum threshold for share capital was removed, positive effects were noticed. Romania expects a similar outcome as a result of the rules brought on by this new law since it will make incorporation of businesses easier, which should in turn attract investment and fuel economic growth.

*For more information on this law, contact your regular CMS advisor or local CMS experts: **Rodica Manea** and **Elena Andrei**.*