

CMS | România passes law on Trade Registry and amendments to Company Law



On 26 July 2022, Law No. 265/2022 regarding the Trade Registry and amending and supplementing other legal instruments applicable to the registration with the Trade Registry (“Law no. 265/2022”) was published in the Official Gazette no. 750/2022.

Law no. 265/2022 transposes the digital solutions contained in EU Directive 2019/1151, which amends Directive (EU) 2017/1132 regarding the use of digital tools and procedures in Company Law. The law proposes a unitary approach for the registration process with the Trade Registry and continues the simplification of the regulation framework applicable to incorporation and the operation of companies and the switch to the gradual digitalisation of communication with all companies of the Romanian public authorities.

The following are the main objectives of Law no. 265/2022:

- Creation of on-line access to all formalities for the setting-up of a new company and the registration of a branch of a foreign entity by using electronic identification and communication means;
- Simplification of the registration procedures with the Trade Registry, allowing for the submission of documents in electronic format and confirming the fulfilment of legal conditions through communication with the authorities, and the use of information or documents already on file with these authorities;
- New rules regarding registration proceedings with the Trade Registry for legal controls made by the registrar, and the status of the registrar of the Trade Registry;
- Regulation of on-line access to company information, including companies registered in other EU member states, and access to extended and updated information on the incorporation and operation of companies; and
- Systematisation of legislation on registrations with the Trade Registry concerning the rules on companies, money laundering prevention and combat and protection of personal data.

Among the main amendments contained in Law no. 265/2022 regarding Trade Registry registration proceedings, the following are considered highly important:

- *New legal concepts*

The “designated persons” who currently act as clerks in charge of registration with the Trade Registry will be replaced with “registrars with the Trade Registry”. The new law also establishes the requirements that individuals appointed as registrars must meet.

- *New central electronic platform*

A central electronic platform at national level, which will be known as the “Electronic Bulletin” and will be organised via the on-line services portal of the Trade Registry, will be set up. The Electronic Bulletin will be interconnected with Electronic Bulletins in other EU countries, thus making information available to the public on individuals and companies registered in the Trade Registry. The available information will include corporate name, legal form of companies, the headquarters or state of registration, sole registration number, state of the entity, and legal representatives.

The Electronic Bulletin will also provide information on the beneficial owners (in Romanian “*beneficiari reali*”) of companies in EU countries.

Templates of the articles of association for each type of company will remain available on the electronic platform. Even though concluding the articles of association and registration with the Trade Registry will be fully possible by completing the given templates on-line, the old manual procedure will also remain in place.

Paper documents and information will be converted into electronic format by the Trade Registry relevant offices as quickly as possible. Documents registered prior to 31 December 2006 will only be electronically converted upon receiving a registration request or a request to issue certified copies of those documents.

- *Direct communication of the Trade Registry with public institutions*

The Trade Registry must request an electronic copy of the authorisations or licences from the competent public institutions or central public administration bodies, thus implementing a faster and easier procedure than the one currently in place where all such authorisations and licences must be provided by the applicant as a prior condition to incorporation.

- *Actions performed by the Trade Registry*

The Trade Registry is the authority that will check and ensure that no confusion arises when using terms such as “national”, “român”, “institut” or derivatives thereof in the name of a company. This replaces the current requirement for the applicant to obtain approval from the General Secretariat of the Government or the prefect.

If the founders are Romanian legal entities registered with the Trade Registry, information on their respective status, legal representatives and representation powers must be obtained by the Trade Registry from its own database. If the founders are legal entities established in other EU countries, this information must be obtained via the interconnection system of the Trade Registries, instead of such documents being submitted by the applicant.

- *Duration of the reservation of the company name*

Law 265/2022 reduces the validity period for the reservation of a company name from three months to one month after issuance.

- *Simplification and increase of celerity of Trade Registry proceedings*

The application for registration and the articles of association may be signed in wet ink or with a qualified electronic signature.

Sworn statements (i.e. those statements executed by a shareholder/director/manager, confirming compliance with legal requirements) must be signed as private deeds and notarisation or other formalities are no longer be required.

Specimen signatures (i.e. documents that must be submitted by the company's legal representatives and other representatives registered with the Trade Registry) are also removed.

Upon incorporation, registrars will settle the application for registration within one business day.

If the processing of an application has been postponed and the applicant submits a request for the change of the processing period, the applicant will be granted a term of one business day.

The resolutions of registrars may be challenged by the applicant or by any interested person within ten days, instead of the current 15-day term.

- *Transitory provisions*

Most of the provisions for Law no. 265/2022 will enter into force within four months from its publication in the Official Gazette of Romania (i.e. by 26 November 2022).

Any procedures initiated prior to the entry into force of this Law will continue to be governed by the previous applicable provisions.

Within 60 days after the entry into force of Law no. 265/2022 (i.e. by 26 January 2023), the Minister of Justice should issue an order implementing the regulations for maintaining the Trade Registry.

Watch for the upcoming Law-Now article on the changes that Law no. 265/2022 is expected to bring to Romanian Companies Law as well.

For more information on this legislation and company registration issues in Romania, contact your CMS client partner or local CMS experts: **Rodica Manea** and **Elena Andrei**.

