

corporate - legal changes published in February 2018

Decision no. 24/2017 on the examination of appeals in the interest of the law formulated regarding the interpretation and application of art. 72 and art. 15312 of Law no. 31/1990, in relation to the provisions of art. 1552 and 1554-1555 of the Civil Code of 1864 and of Art. 2030 of the Civil Code.

The HCCJ has been notified for a decision to ensure the unitary interpretation and application of the provisions of art. 72 and art. 15312 of Law no. 31/1990, in relation to the provisions of art. 1552 and 1554-1555 of the Civil Code of 1864 and of Art. 2.030 of the Law no. 287/2009 regarding the Civil Code, namely, whether in a joint stock company, the statutory director whose mandate expired, without the company extending this mandate expressly or appointing another director, still has the prerogative of representation of the company.

in the case law:

- In a first opinion, it was deemed that the expiration of the director's mandate does not lead to the loss of the capacity to legally represent the company, the director will represent the company after the expiration of the mandate until the appointment of another director;
- In a second opinion it was considered that the expiry of the mandate of a company's director and the non-registration of another director does not confer to the old director the status of legal representative of the company without the explicit acceptance of the appointment to the position of director.

The HCCJ has determined that in the interpretation and uniform application of the provisions of art. 72 and art. 15312 of Law no. 31/1990, referring to art. 1.552 of the Civil Code from 1864, respectively in Art. 2.030 of the Law no. 287/2009 on the Civil Code, applying art. 54 par. (2) of the Law no. 31/1990, **the director of the joint stock company whose mandate expired, without an act of appointing a new director and their acceptance, holds the prerogatives of representation until the termination of the position has been published in accordance with the law.**

Decision no. 24/2017 was published on February 19, 2018.

Government Decision no. 33/2018 regarding the establishment of misdemeanors under the Prevention Law no. 270/2017, as well as the model of the remediation plan was published in the Official Gazette of Romania, Part I, no. 107 of February 5, 2018.

The Government Decision establishes misdemeanors under the Prevention Law no. 270/2017, misdemeanors which are set out in Annex no. 1. Of these, we mention :

- Article 13 (1) of the Law no. 67/2006 on the protection of employees' rights in case of transfer of business;
- Article 113 let. a), b), e), h) of the Law no. 76/2002 on the unemployment insurance system and the stimulation of employment;

- Art. 217 par. (1) let. c) of the Social Dialogue Law no. 62/2011;
- Article 270 par. (1) and (2) of the Companies Law no. 31/1990;
- Article 337 par. (1) of the Law no. 85/2014 on insolvency and insolvency prevention procedures;
- Article 26 par. (1) let. g) of Law no. 50/1991 regarding the authorization of the execution of the construction works;
- Article 24 of Law no. 15/1994 regarding the amortization of capital immobilized in tangible and intangible assets

Annex no. 2 sets out the model of the remedial plan that is attached to the report of the finding and sanction of misdemeanors.

Government Decision no. 33/2018 entered into force on 5 February 2018.