

Legal Changes of August 2019

Voicu & Filipescu is a full service law firm, covering all legal areas relevant to your company's activity. This issue of our monthly newsletter provides you with a brief description of some of the recent legal amendments in:

- Corporate
- Data Protection
- Employment

+ VF News

Voicu & Filipescu is pleased to announce that two of the transactions in which the Firm was involved in 2018 were included among the most important deals on the Romanian M&A market in the research made by the specialists of the Ziarul Financiar newspaper for the 2019 edition of their Top Deals directory. [Click here](#) to read the article.

Chambers and Partners Europe, 2019 edition recommends Voicu & Filipescu for Corporate and M&A practice.

IFLR 1000, 2019 edition recommends Voicu & Filipescu for our lawyer's activity in three practice areas: M&A, Banking and Finance and Project Development.

Legal500 EMEA 2019 edition recommends Voicu & Filipescu for our lawyers' activity in 6 practice areas: Corporate, Commercial and M & A, Employment, PPP and Procurement, Real Estate and Construction, Restructuring and Insolvency and TMT. Daniel Voicu, Mugur Filipescu, Marta Popa, Roxana Negutu, Raluca Mihai, and Mariana Popa are also recommended by the prestigious guide for their activity.

corporate - legal changes published in August 2019

Law no. 162/2019 for amending par. (2) art. 6 of the Companies Law no. 31/1990 was published in the Official Gazette of Romania from August 2, 2019

On August 5, 2019, Law no. 162/2019 amending art. (6) paragraph (2) of the Companies Law no. 31/1990, namely the provision regarding the situations where one cannot have the status of founder of a company.

According to the new regulations, a person cannot be the founder of company if, according to the law, they are incapable or has been prohibited by definitive court decision to exercise the status of founder, as a complementary sentence to the conviction for committing one of the following offenses:

- offenses against patrimony by abuse of trust;
- corruption offenses;
- misappropriation;
- forgery;
- tax evasion;
- offenses provided by Law no. 129/2019 for the prevention and sanctioning of money laundering, as well as for instituting measures to prevent and combat the financing of terrorist acts;
- offenses provided by the Companies Law.

The amendment also applies to persons wishing to occupy the position of directors, managers, members of the supervisory board and of the board of directors, auditors or financial auditors.

The old regulations stipulated that the persons who, according to the law, are incapable or have been convicted for the mentioned crimes cannot be founders (or occupy one of the above positions).

Law no. 162/2019 was republished in the Official Gazette of Romania, part I, no. 644 of August 2, 2019 and entered into force on August 5, 2019.

data protection - legal changes published in August 2019

The National Supervisory Authority for the Processing of Personal Data applied a fourth fine for GDPR infringement

On August 6, 2019, The Authority published a statement regarding the completion of an investigation at the controller UTTIS INDUSTRIES SRL and found that it violated the provisions of art. 12 and art. 5 paragraph (1) let. c) corroborated with art. 6 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General data protection regulation).

The sanctions were applied because the controller:

- could not prove that the data subjects were informed about the processing of personal data/ images through the video surveillance system, which they have been doing since 2016 - violation of the provisions of art. 12 of the GDPR (transparency obligation);
- disclosed the PNC (personal numeric code) of the employees, by displaying the Report for the training of the authorized ISCIR personnel for the year 2018 to the company notice board and could not prove the legality of the processing of the PNC, by disclosure, according to art. 6 GDPR - violation of the provisions regarding art. 5 paragraph (1) let. c) corroborated with art. 6 of the GDPR (Principles of processing and basis for processing).

The authority applied the sanction as a result of notifications dated 21.03.2019, stating that UTTIS INDUSTRIES SRL has video surveillance cameras installed, without issuing carrying out information obligation regarding the video surveillance, as well as the fact that it illegally disclosed the name and the PNC of the employees, by displaying these personal data at the company's notice board.

According to art. 12 of the GDPR, the controller had the obligation to take appropriate measures to provide the data subject with any information mentioned in art. 13 and 14 of the GDPR (information obligation).

The Swedish Data Protection Authority applied the first fine for GDPR infringement

The Swedish Data Protection Authority issued the first GDPR fine of about EUR 20,000 for the use of a video surveillance system that offered the possibility of facial recognition of students.

The system was used to monitor the school attendance of students and had been active for 3 weeks and had already affected 22 students when the Supervisory Authority was notified.

According to art. 4 point 13 GDPR, the biometric data (which were collected through the facial recognition system) represent special categories of personal data, the processing of which is possible only under certain conditions (see Article 9 GDPR).

Moreover, these data were processed without the consent of the students, which in any case would not have been sufficient, as, in the opinion of the Supervisory Authority, the students are in a position of subordination.

The Bulgarian data protection authority fined a bank by half a million EUR for GDPR infringement

The DSK bank was fined with the equivalent of about half a million euros for the violation of art. 32 pt. 1 let. b) of Regulation (EU) 2016/679, that is, the unlawful disclosure of the personal data of its clients.

Within the one-month control conducted by the Authority, it was found that Banka DSK did not take adequate technical and organizational measures and did not offer the capacity to guarantee permanent confidentiality, integrity, availability and sustainability of the systems and services for the processing of personal data of natural persons - clients of the Bank and other third parties.

Thus, the data of 33,492 customers and third parties have been illegally accessed by third parties. Among the accessed data there were: name, personal identification data, addresses, copies of ID cards, biometric data etc.

employment - legal changes published in August 2019

Government Ordinance no. 22/2019 on establishing measures for the application of Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), access of workers to mobility services and better integration of labor markets and amending Regulations (EU) no. 492/2011 and (EU) no. 1.296 / 2013 was published in the Official Gazette of Romania, Part I, no. 708 of August 28, 2019, coming into force on the same date.

Among other things, the Ordinance lays down the conditions which a private legal entity must meet to become **a EURES member**. Thus, in addition to all the conditions set out in Regulation (EU) 2016/589 and the criteria set out in Annex no. I, legal entities must also meet the following requirements:

- (a) **To have the headquarters, to be registered and to operate in Romania**, to have worked at least 2 years before submitting the application for admission as EURES members, to have as main scope of activity "*Activities of employment placement agencies*", **NACE code 7810, or "Temporary employment agency activities", NACE code 7820, and be registered with the territorial labor inspectorate in whose area they are based as employment placement agents for employment abroad** or as specialized service providers for employment placement, under the conditions provided by Law no. 156/2000 regarding the protection of Romanian citizens working abroad, republished, or accredited as specialized service providers for the stimulation of employment, under the conditions provided by the Criteria for accreditation of the specialized service providers for the stimulation of employment, approved by Government Decision no. 277/2002, with the subsequent modifications and additions, or to be accredited as temporary employment agents, under the conditions provided by the Government Decision no. 1.256/2011 regarding the operating conditions, as well as the procedure for authorizing the temporary employment agent;
- (b) **To have the necessary conditions and facilities for the smooth running of the activity**, namely space, personnel and equipment;
- (c) **To own a website / portal or self-service tools or similar**, through which job applicant and employers can access the services offered and visibly ensure interoperability with the EURES portal, through a link posted on the managed website/portal;
- (d) **To have databases on the applications and offers for employment, apprenticeship and internship abroad**, as the case may be, information regarding the conditions of the employment and the

qualifications and skills of the applicants in their records, communicated to the EURES National Bureau of Coordination in the State of origin;

- (e) **To provide all EURES services provided for in the Regulation, free of charge, to job applicants, employers and / or workers;**
- (f) **To prove the fulfillment of the payment obligations** under the law;
- (g) **To prove that they are not in the state of insolvency**, in the process of mandatory enforcement, judicial reorganization, bankruptcy, dissolution, liquidation or special administration, they have not suspended the activities by which they provide the EURES services and that they have no restrictions on them;
- (h) **To prove that they have not been sanctioned for minor offences in the last 2 years** for violating the legal provisions regarding the mediation of employment;
- (i) To prove that **they have at least 2 full-time employees**, qualified in the field of human resources and who know at least one foreign language of European circulation;
- (j) **The personnel involved in the management, coordination and provision of EURES services shall be available to be qualified and trained** to perform the tasks deriving from the status of EURES membership.

Private legal entities in Romania also have the option of becoming **EURES partners** by fulfilling a smaller number of requirements than those provided for membership.

Government Decision no. 634/2019 for amending Government Decision no. 34/2019 regarding the establishment of the quota of newly admitted workers on the labor market in 2019 was published in the Official Gazette of Romania, Part I, no. 719 of August 30, 2019, coming into force on the same date.

Thus, by this Decision, the Government increases the number of newly admitted workers, who can enter the Romanian labor market by the end of 2019, from 20,000 workers to 30,000.

For additional details on this material, please do not hesitate to contact us.

Voicu & Filipescu SCA

31 General Ernest Brosteanu Street

010527, Bucharest, Romania

Tel: +40 21 314-02-00

Fax: +40 21 314-02-90

E-mail: office@vf.ro

Web: www.vf.ro