



Simplification and debureaucratization of formalities in the case of transfer of shares

The amendments made by Law No. 223/2020

With the intention of creating a more attractive business environment, as well as to align itself with more friendly jurisdictions regarding the easy and fast establishment of companies, the Romanian legislator amended the old Law on companies no. 31/1990 through Law no. 223/2020 for the simplification and debureaucratization of the transfer of shares and the payment of the share capital ("**Law no. 223/2020**"), the amendments aiming mainly at the following:

- elimination of the opposition procedure in case of a transfer of shares;
- the possibility for the shareholders to establish by the articles of association a smaller majority for the approval of the transfer of shares to third parties;
- elimination of the requirement regarding the minimum share capital of RON 200 at the establishment of a limited liability company;
- elimination of the need for prior registration with ANAF (National Agency for Fiscal Administration) of the document proving the right of use over the premises for the registered office;
- elimination of the need to prove the payment of the share capital for limited liability companies.

Elimination of the opposition procedure in case of a transfer of shares to third parties

Until now, the transfer of shares to a third party (natural or legal persons who did not have the status of shareholders in the company) involved a two-stage procedure, by submitting to the Trade Register Office the resolution of the general meeting of shareholders approving the transfer in order to be published in the Official Gazette and then by waiting for the fulfillment of the opposition term of 30 days as of the date of publication. In practice, in order for the transfer of shares to operate, it was necessary, firstly, to wait for the publication of the resolution, which was generally made within about 2-3 weeks as of the date of submission of the decision to the Trade Registry and, secondly, to wait for the 30-days opposition deadline to pass. Thus, the entire procedure of the transfer of shares could take up to 2-3 months, and if during the period of 30 days oppositions were formulated, the procedure was extended until the final settlement of the oppositions by the court. Most of the time, the tax authorities were the most active in introducing oppositions, sometimes for very small tax debts, which in any case prolonged the completion of the transfer procedure by about 3-6 months.

By Law no. 223/2020, the legislator simplifies and debureaucratizes the procedure of transfer of shares by eliminating the opposition procedure, the transfer operating only based on the shareholders' resolution adopted under the conditions established by the

articles of association of the company. Of course, the obligations to register the transfer in the register of shares and in the Trade Registry are still maintained.

Approval of the transfer of shares to third parties

Until now, any transfer of shares to a third party had to be approved by the shareholders representing $\frac{3}{4}$ of the company's share capital. Thus, the transfer of shares could be blocked by the shareholder without whose vote the majority required by law would not have met.

Law no. 223/2020 allows the shareholders to establish, by the articles of association of the company, a majority of less than $\frac{3}{4}$ which is necessary for the approval of the transfer of shares to third parties, creating the possibility, in some cases, for the selling shareholder to dispose of its shares without depending on the other shareholders, within the limits established by the articles of association.

Publication in the Official Gazette and entry into force

Law no. 223/2020 was published in the Official Gazette no. 1018 of November 2, 2020 and enters into force on November 5, 2020.

The information provided herein presents general information and should not be relied on as legal advice when analyzing and resolving a specific legal issue. If you have specific questions regarding a particular fact situation, please address your queries to:

Voicu & Filipescu SCA, at marta.popa@vf.ro or telephone no. +4021 314 02 00

