

24 May 2013

Legal Bulletin



Corporate and Commercial Law

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New rules concerning the form of promissory agreements

Law No. 127 of 26 April 2013 approving the Government's Emergency Ordinance No. 121/2011 amending and supplementing certain enactments („Law No. 127/2013”) has been published in the Official gazette No. 246 dated 29 April 2013 and entered into force on 02 May 2013.

Law No. 127/2013 amended the text of Government's Emergency Ordinance No. 121/2011 („GEO No. 121/2011”), among other aspects, in what concerns the latter's amendment of the Cadastre and Real Estate Publicity Law No. 7/1996 („Law No. 7/1996”). More specifically, article VII⁵ was introduced into the text of GEO No. 121/2011, which in paragraph 3 provides that Article 24 of Law No. 7/1996 will be supplemented with paragraph 5, reading as follows:

„(5) The promise to conclude a contract concerning the property right over an immoveable or another real right in relation thereto, as well as the amalgamation and allotment of immoveables registered in the Land Book shall be concluded in authentic form, under the sanction of absolute nullity.”

Consequently, as of 2 May 2013, all contracts where one or both parties promise the future execution of a contract concerning any real right related to an immoveable asset (known as promissory agreements), will require the execution in authentic form in front of a notary public, under the drastic sanction of absolute nullity. Prior to the entry into force of Law no. 127/2013, while the transfer of property was mandatorily concluded in authentic form, the execution of the promissory agreement was possible as private writing

This amendment will lead to certain changes related to the costs of the transfer of property or other real rights concerning immoveables. More specifically, according to the Norms on tariffs for the services provided by notaries public, approved through Order No. 46/C/2011, the tariff for the promissory agreement is established in relation to the portion of the price paid, regardless of the nature of the asset, pursuant to annex no. 2 par. XII letter a), i.e. 1% of the paid portion, but no less than 150 lei. If the promissory agreement does not confirm receiving a portion of the price, the notary fee is established pursuant to annex no. 1 par. 6, i.e. 150 lei. If the transfer agreement is notarised at the same notary office where the promissory agreement was concluded, the fee for the promissory agreement will be deducted from the final fee for the transfer agreement.

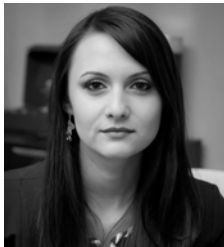
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