

Note

Regarding the suspension *de iure* of the Urbanism Certificate no. 105/27.07.2007 for the Project Rosia Montana.

According to the applicable legal provisions, the Urbanism Certificate is an evidencing document necessary throughout the entire procedure of environment impact assessment and of issuance of the environment agreement. Such document, together with its Annex for the environment agreement, is requested as from the beginning of the aforementioned procedure. It has a particular importance because it contains official information regarding the legal, economical and technical regime of immovable properties and the legal requirements to complain for the achievement of construction (including industrial and mining) projects.

The issuance or the rejection of the environment agreement is based on the evaluation by the environment authorities of the results of the environment impact assessment study, of the comments of the interested public, of the applicant's answers thereof. Such evaluation of the aforementioned data regarding the environmental impact of the intended project has to take into account the information contained in the evidencing documents (and particularly in the Urbanism Certificate).

As regards the specific case of the Project Rosia Montana, prior to the Urbanism Certificate no. 105/27.07.2007, there have been filed two other Urbanism Certificates (*i.e.* the Urbanism Certificate no. 68/20.08.2004 and the Urbanism Certificate no. 78/26.04.2004). Both these last mentioned Urbanism Certificates have been suspended by the courts of law. The suspension of the Urbanism Certificate is a decision taken by the court that stops the effects of this administrative act, in case of a pending litigation having as object the annulment of such act.

The Urbanism Certificate no. 105/27.07.2007 has been filed by the applicant to the environment agreement dossier, after the last Urbanism Certificate (no. 78/26.04.2004) has been suspended by the Court and has the same content as that of the last Urbanism Certificate.

On 02.08.2007 entered into force Law no. 262/2007 that modified Law no. 554/2004 on administrative litigation. One of the newly enacted provisions states for the suspension *de iure* of an administrative act that has the same substance as other administrative act suspended by a court.

Such provision intends to limit the attempts of eluding the suspension decisions held by the courts by issuing or obtaining other administrative acts having the same substance as the suspended administrative act.

As the above is a legal provision regarding the administrative litigation procedure, it is considered a legal norm of immediate applicability, pertaining hence to all future effects of administrative acts, including those of the acts issued before the entering into force of Law no. 262/2007.

The newly enacted suspension *de iure* operates directly by force of law, without necessity of being pronounced by a court, and it is mandatory. Such suspension *de iure*, is compulsory also in case of the Urbanism Certificate no. 105/27.07.2007 for the project Rosia Montana, as this has the same substance as the Urbanism Certificate no. 78/26.04.2004, that has been suspended by the court.

For this reason, the Ministry of Environment and Sustainable Development is in impossibility of continuing the procedure of environment impact assessment and issuance of the environment agreement.

For clarifying such issue, there is a pending litigation before Alba County Tribunal, to which the Ministry of Environment and Sustainable Development is a party. The Ministry of Environment and Sustainable Development will comply with the decision to be held by this court. If the suspension *de iure* will be confirmed, the procedure cannot continue until there is filed an Urbanism Certificate that produces effects, or ceases the suspension the Urbanism Certificate no. 105/27.07.2007. If the suspension *de iure* will be infirmed by the court, and this court does not suspends itself this Certificate, than the procedure shall continue.

We emphasize the fact that the Ministry of Environment and Sustainable Development cannot and will not assess the validity of the Urbanism Certificate no. 105/27.07.2007, such assessment being only the attribute of the courts of law. The Ministry of Environment and Sustainable Development has only taken act of the suspension *de iure* of this Certificate, in accordance with the applicable law.