

NEW LEGAL UPDATES: ENVIRONMENTAL STUDIES, THE CERTIFICATION OF THE ENVIRONMENTAL SPECIALISTS AND ATTESTATION COMMISSION

1. New provisions regarding environmental studies

On 27 May 2020, Order of the Minister of Environment, Water and Forest no. 1.134 from May 20, 2020 was published in the Official Gazette no. 445. (the “**Order no. 1.134/2020**”).

Order no. 1.134/2020 established new provisions regarding the following environmental aspects:

- (i) the requirements for the drawing – up the environmental studies;
- (ii) the criteria for the accreditation of the persons able to draft environmental studies;
- (iii) the Accreditation Commission;
- (iv) the requirements for the Professional Association in the environmental field.

The following economic fields referred to under Order 1.134/2020 are:

- (i) agriculture, forestry and aquaculture;
- (ii) extractive industry;
- (iii) energy industry;
- (iv) nuclear energy;
- (v) production and processing of metals;
- (vi) mineral industry;
- (vii) chemical industry;

- (viii) food industry;
- (ix) textile, leather, wood and paper industry;
- (x) rubber industry: the production and the treatment of elastomeric products;
- (xi) transport infrastructure (air transport, road transport, rail transport, water transport – including port system);
- (xii) waste management infrastructure;
- (xiii) water management infrastructure;
- (xiv) tourism and leisure activities;
- (xv) telecommunication;
- (xvi) permanent racing and test tracks for motorised vehicles;
- (xvii) waste disposal installations;
- (xviii) wastewater treatment plan;
- (xix) sites for the storage of sludge from treatment plants;
- (xx) scrap depots of end-of-life vehicles;
- (xxi) test benches for engines, turbines or reactors;
- (xxii) installations for the manufacture of artificial mineral fibres;
- (xxiii) facilities for the recovery or destruction of explosive substances;
- (xxiv) animal shelter centres.

According to Order no. 1.134/2020 the following studies are considered environmental studies (the “**Environmental Studies**”):

- (i) the environmental report;
- (ii) the environmental impact assessment;
- (iii) the environmental assessment;
- (iv) the site report (or the baseline report)
- (v) the risk assessment;
- (vi) the appropriate assessment;

- (vii) air quality assessment and management;
- (viii) assessment and management of environmental noise.

All the Environmental Studies shall be developed by authorised, natural persons or legal entities holding an attestation certificate issued for each type of Environmental Study (the “**Attestation Certificate**”).

2. Certification of environmental specialists

The natural persons as well as the legal entities may be certified as environmental specialists in the field of Environmental Studies by the Accreditation Commission which will issue an Attestation Certificate. Until the Accreditation Commission is formed, the Attestation Certificates shall be issued by the Environmental Protection Authority but only for a limited duration of 18 months as of the date of the entry into force of Order no. 1.134/2020 (which is May 27, 2020).

2.1. Authorisation of natural persons - environmental specialists

Natural persons may be authorised for Environmental Studies on two levels:

- (i) assistant level – for persons with 2 years or less experience in the field;
- (ii) main level – for persons with more than 2 years’ experience in the field.

The Attestation Certificates are valid for a limited period and may be renewed:

- (i) 1 year for assistant level;
- (ii) 3 years for main level.

2.2. Authorisation of legal entities - environmental specialists

A legal entity may be certified as an environmental specialist only if it has an employment or a collaboration agreement for an indefinite period with one or more natural person holding an Attestation Certificate.

The Attestation Certificate may be issued for the same Environmental Study field as the one for which the natural person (with whom the legal entity has the employment or collaboration agreement) has his own Attestation Certificate.

Like the natural persons, legal entities may be authorised for Environmental Studies on two levels:

- (i) assistant level – for persons with 2 years or less experience in the field;
- (ii) main level – for persons with more than 2 years’ experience in the field.

The Attestation Certificates are valid for one year for assistant level and three years for main level and may be renewed.

3. The procedure for the issuance of the Attestation Certificate

To obtain the Attestation Certificate, the natural person or the legal entity needs to submit a request accompanied by the documents proving the relevant experience in the respective Environmental Studies field.

The secretary of the Attestation Commission shall verify the documents and shall issue an evaluation assessment for each request.

The natural person, respectively the employee/collaborator of the legal entity, shall hold a written on-line test and an interview before the Attestation Commission.

After the exam, the admitted person shall be listed on the Registry of the Certified Experts.

Any person unsatisfied with the result may challenge the result before the Ethics and Arbitration Committee of the Profession Association. The challenge may be submitted within 10 days after the results are published on the website of the Professional Association.

The Ethic and Arbitration Committee may only issue a recommendation, the final decision on the challenge belongs to the Attestation Commission.

Against the final decision of the Attestation Commission, the unsatisfied person may submit an appeal before the court according to the provisions of the Administrative Law no. 554/2004.

4. Authorisation for residents of the European Union or European Economic Area

The European Union or European Economic Area residents, other than Romania, natural persons or legal entities, who want to draw – up Environmental Studies in Romania (the “**Interested Person**”), need to accomplish the following conditions:

- (i) to be a resident in a member state of the European Union or of the European Economic Area;
- (ii) to have an attestation for Environmental Studies issued by a member state of the European Union or of the European Economic Area.

The Interested Person shall notify the intention to develop Environmental Studies in Romania to the National Agency for Environmental Protection (the “**Environmental National Agency**”). Such notification shall be accompanied by the attestation documents

issued by the relevant member state, translated into Romanian language by an authorised translator.

To verify the legality of the documents submitted by the Interested Person, the Environmental National Agency shall send the notification and the documents to the respective member state. After receiving the response from the member state, the notification and the documents shall be sent to the Accreditation Commission.

The Accreditation Commission shall establish the Interested Person's competence in the Environmental Studies field and shall register it in the relevant list of persons holding accreditation to develop Environmental Studies in Romania. The list shall be published on the website of the Minister of Environment, Water and Forest.

5. The Accreditation Commission

The Accreditation Commission operates under a Professional Association that fulfils the criteria below and it is nationally recognized by the Minister of Environment, Water and Forest as an attestation and certification body.

The Professional Association may set up an Attestation Commission only if fulfils the following conditions:

- (i) it has a public utility;
- (ii) it has an ISO 14000 certificate (or certificate with the same value);
- (iii) it has a continuous activity for at least 3 years;
- (iv) it has a national activity;
- (v) it has collaboration agreements with other environmental organisation, public authorities, educational organisations;
- (vi) it has his own estate, members and employees;
- (vii) it may present letter of recommendation from authorities or institution from environmental protection field;
- (viii) it has members with experience in the Environmental Studies.

The Accreditation Commission is formed by 5 members nominated by the Professional Association who are reputed experts in the environmental protection field. The decisions are taken by the Commission with the simple majority of the votes of the five members.

The activity of the Accreditation Commission may be supported by other experts, outside the Professional Association members, as well as by 5 representatives of the Minister of Environment, Water and Forest and 2 representatives of the General

Inspectorate for Emergency Situations, acting as observers. None of them has the right to vote.

This article contains general information and should not be considered as legal advice.



Dana Rădulescu

Partner

dana.radulescu@mprpartners.com



Ada Pascu

Senior Associate

ada.pascu@mprpartners.com