

# Briefing

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## Amendments to Mining Law

Mining Law no. 85 of 18 March 2003 has recently been amended by Law 275/2020. The recent amendments cover several areas, such as: payment of royalties due for certain types of mining activities, transfer of mining licenses that are pending approval for entry into force, legal regime of mining cavities, approval formalities and entry into force of mining licenses, commencement of mining activities.

As a matter of novelty, part of the royalties for mining activities regarding surface resources and natural mineral waters will be due to the local budgets. Mining royalties will be distributed between the local budget and the state budget as follows: (i) 35% to the local budget of the county on the territory of which the mining activities are performed, (ii) 45% to the local budget of the commune, city or municipality on the territory of which the mining activities are performed, and (iii) 20% to the state budget.

In what concerns the approval of mining licenses, the involvement of the Government in the procedure has been limited to approval by Government Decision of licenses for the exploitation of aluminium ores, aluminous rocks, ferrous ores, non-ferrous ores, noble metals, radioactive ores, rare and dispersed earth and coal. Exploitation licenses for other mineral resources and exploration licenses are approved by order of the president of NAMR and enter into force upon the publication of the NAMR order in the Official Gazette.

The amended Mining Law expressly regulates the possibility of the titleholder to transfer licenses that have been concluded and have not yet entered into force, but for which the National Agency for Mineral Resources ("**NAMR**") has commenced the legal procedure for their entry into force ("**License Pending Approval for Entry into Force**"). Transfer of Licenses Pending Approval for Entry into Force may be done with NAMR's approval in limited situations, such as merger of the titleholder with another legal entity, total or partial divestment of the titleholder, reorganisation of the titleholder or transfer of assets pertaining to the corresponding mining activity. In all cases the transfer of a License Pending Approval for Entry into Force is allowed to a very limited number of transferees, i.e. only to the entity resulting from the reorganization of the titleholder or the entity that acquires the mining assets. When assessing a request for a transfer of a License Pending Approval for Entry into Force based on a transfer of mining assets, NAMR will evaluate the technical and financial capacity of the buyer and may reject the transfer if it deems the buyer does not hold the technical and financial capacity for performing the obligations provided in the licenses.

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