



NUCLEARELECTRICA

**ENDORSED,
BOARD OF DIRECTORS
PRESIDENT
ALEXANDRU SANDULESCU**

NOTE

Regarding the contracting approval, by S.N. Nuclearelectrica S.A., for legal consultancy services, advice and/or representation regarding different specific and particular aspects of the company's activity

1. General aspects/competency

According to the incident current legal provisions (art. 113 paragraph 1 letter m) of the Law no. 31/1990 regarding companies, republished, with subsequent amendments and additions), The General Extraordinary Meeting of Shareholders has the competency to approve any other change of the articles of incorporation or **any other decision for which it is requested the approval of the General Extraordinary Meeting.**

The incidental legal base is represented by:

- Company Law no. 31/1990, republished, with subsequent amendments and additions ("Law no. 31/1990");
- Law no. 297/2004 regarding capital market („Law no. 297/2004”);
- Government Emergency Ordinance no. 26/2012 regarding certain measures to reduce public costs and supporting the financial discipline and amending and adding some regulative documents, approved by Law no. 16/2013 (“GEO no. 26/2012”).

Art. 13 paragraph 3 letter n) of the Articles of Incorporation of the Societatei Nationale Nuclearelectrica S.A. (“SNN”), corroborated with the provisions of art. 113 paragraph 1, letter m) of the Law no. 31/1990 establish that **the General Extraordinary Meeting of Shareholders SNN has the competency to approve any other decision for which the approval of the General Extraordinary Meeting is requested.**

The provisions of art. I paragraph (1) of the GEO no. 26/2012 establishes that national companies, national companies and companies with state integrated or majority state capital, as well as the autonomous administrations having in their organization their own legal personnel cannot acquire legal consultancy service, advice and/or representation. Paragraph (3) letter a) of the same articles establishes the waiver from the previously mentioned rule, in the sense that **in justified situations, when legal consultancy activities, advice and/or representation,**

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necessary for the national companies, national companies and companies, as well as for the autonomous administrations provided at paragraph (1), cannot be provided but by special legal personnel employed by these entities, services of this nature can be acquired, according to the law, only with the approval and authorization of the state representatives in their leadership bodies by the main credit release authority, in case of those where state is fully or the majority shareholder.

2. Presentation

In the organizational structure of SNN, at the current moment there is the Legal and Corporate Affairs Division, with 5 legal advisers. Beside them, there is still, at the executive office level, another legal adviser, at the Human Resource Department (with exclusive attributions in this field of activity), and also, at the level of the two branches of the company, another 3 legal advisers. All are company's employees and, considering, mainly their small number compared to the high number and complexity of issues the company and its branches is dealing with, the activity of the legal advisers considers, mainly, the provision of the legal support for the current, daily activity, (authorization of the internal legal documents, of the decisions and other internal documents, of justifying notes, contracts and, in general, of the documents corresponding to acquisition procedures, at the request of the SNN organizational structures, of documentations and electrical energy agreements and, as the case may be, thermal energy, authorization in the field of labour right issues, providing the representation of SNN in litigations of any nature, taking part in the activities of some international bodies and international profile organizations – work groups, expert groups in the field of nuclear law etc.).

Moreover, regarding the activity of the legal advisers, in general, we also make the following statements:

- By their nature of company's employees, they are in a dependent relation with the company, which is their employer. Such status generates, in certain situations, obvious, normal situations, concerning the possible interest conflicts;
- The involvement of the legal advisers in certain commercial litigations, usually due to the rather significant valuable stakes, rises, in the end, the issue of material responsibility, as employees. It currently appears the situation when state's control authorities (Account Administration, ANAF etc.) rises the issue of their responsibility, being guilty of the so-called damaging of the company, following the loss of such litigations. Also, there are many examples of the practice, according to which at the level of the assisted companies, from significant litigations (and from the valuable point of view and object), by the legal advisers, discussions and debates arose regarding the way in which legal advisers represented the employee companies in such trials (in some situations it was even said that they lacked the necessary detachment, providing them a high degree of objectivity in approaching such litigations, especially in the conditions in which legal deeds generating such litigations – commercial agreements, mainly – were authorized, in general, the company's legal advisers).
- The status of employees, of legal advisers, leads inevitably to a specialization they have, depending on the issue – recurrent – of their daily activities. In another words, and in regards to the legal advisers, as in the case of any other employee fulfilling, more or less, the same daily tasks, can intervene (and it usually does) a certain type of routine. In this context, depending on the clear circumstances, some specific issues occur in the company, needing a certain specialty, that the company's legal advisers cannot objectively cover in an adequate manner, as long as they don't have the experience in such fields of activity (litigations and international arbitration, activities connecting the specific issues of the European right and the relationship between the European law standards and of the national law, the relationship and procedures with the European

Institutions, special authorization procedures with a high complexity degree, advice in the field of different projects financing, especially investments etc.).

In this context, we consider that the involvement of some company/third party law offices mainly represent a way in which the company's management may get independent legal opinions (from a third party) and strictly special legal advice, regarding all those issues where the involvement of the company's legal advisers does not lead, from objective and independent reasons, to reaching those goals, for example: implementing the reorganizational measures, restructuring and efficiency of the company's activity, including the implementation of certain measures about corporative management, implementing an internal efficient control, legal advice/assistance/representation in the field of relations and labour litigations, for litigations between major professionals (from the point of view of their object or value) or considering a certain specific aspect, including the international one, advice/assistance in the field of different authorization procedures, especially those representing a certain specific, advice and/or legal assistance about the specific issue of the European law and relation between the European law standards and those of the national law, the relationship and procedures with the European Union institutions, legal opinions on specific exact issues etc.

Due to the above reasons, as examples, for the particular case of the project Units 3 and 4 from Cernavoda NPP, by Decision no. 27/23.12.2013 of the SNN General Extraordinary Meeting of Shareholders was approved the service acquisition of legal assistance/advice and/or representation regarding this project and, similarly, by the Decision no. 11/18.12.2014 of the SNN General Extraordinary Meeting of Shareholders was approved the acquiring, in 2015, of legal assistance/advice and/or representation services concerning the development of this project.

For all the reasons previously shown, we consider that it is necessary and advisable for the company to contract legal assistance services, advice and/or representation, with different companies/law offices, depending on their specialty and effective necessity of legal services, on exact and complex issues, in situations exceeding the competency and degree of the company's legal advisers. Contracting these services is going to be done according to the legal provisions in this matter, making sure to comply with the principles managing the law of acquisition: competitiveness, transparency, indiscrimination, equal treatment, proportion, fund use efficiency. We mention that fact that the amounts necessary to cover the costs for contracting these services, estimating at a value of EUR 100,000 per year, can be covered from chapter "Other costs" within the BVC proposal of SNN on 2015.

We stress the fact that legal consultancy service acquisition, assistance and/or representation will comply with the provisions of the EGO no. 26/2012.

3. Proposals

Compared to those presented in this Note, **we submit to the approval of the General Extraordinary Meeting of Shareholders, the acquisition of legal consultancy services, assistance and/or representation, from different companies/law offices, depending on the company's specialty and actual necessity of legal services, on exact and complex issues, in situations exceeding the competency and the degree of preparation of the company's legal advisers.** Contracting these services is following to be done as many times as necessary, by the company's leadership, based on justifying notes motivating the necessity and opportunity, according to the legal provisions in this matter, making sure to comply with the principles managing the law of acquisition: competitiveness, transparency, indiscrimination, equal treatment, proportion, fund use efficiency. The costs for contracting such services will not exceed the amount of EUR 100,000.

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