

COMMERCIAL LAW

No. 29

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EUROPEAN UNION

CUSTOMS LAW

The previous customs laws containing customs norms and implementing measures were annulled in the Baltic states on 01.05.2004 when the **EU Customs legislation** entered into force. There are numerous Regulations containing the regulatory framework on all necessary customs procedures in the EU, which are now directly applicable in the EU including now also the Baltic States. Therefore, the positive result is that the customs procedures will from now on be the same in the Baltics and in the other EU countries irrespective of the place of import or export of the goods. The essence of customs procedures has not been changed drastically, however, there are some additional customs procedures that were not available before in Estonia and Lithuania. One example is the internal transit procedure, under which Community goods can move from one point to another within the customs territory of the Community passing through the territory of a third country without any change in the customs status.

In addition to the EU customs legislation, the three Baltic states will benefit from the simplified transit regulation of goods between European Union and EFTA countries under the Common Transit Convention.

For example, the local legal acts were substituted by the Combined Nomenclature (Council Regulation 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff). The single customs tariff provided for in the Combined Nomenclature is imposed to goods entering the European Union regardless of the entry point. Once released to free circulation in the European Union the goods can move freely throughout the territory of the Union.

It is important to note that due to the EU protective policies with respect to the internal goods and products, higher customs duties will apply as of now. For example, in Latvia there was no duty on most of the industrial (non-agricultural) goods, but now higher duties will be chargeable on many imports from third countries.

Probably the most positive and most anxiously awaited impact of the enlarged Europe is that no customs formalities are allowed on the intra-community trade, this will only be the case for the import or export with the third countries.

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ESTONIA

AGREEMENT WITH EEA

On 07.04.2004, the Parliament ratified the **agreement concerning the participation of the new member states of the European Union in the European Economic Area** (*Leping Euroopa Liidu uute liikmesriikide osalemise kohta Euroopa Majanduspiirkonnas*). The agreement entered into force with regard to Estonia on 01.05.2004. The agreement established the conditions of accession of Estonia and the other acceding countries to the European Economic Area. By the agreement on the European Economic Area the common market of the European Union shall also extend to the three EFTA states — Norway, Iceland and Liechtenstein. The objective is to

Estonia

Several amendments to national legal system due to EU accession

Latvia

Requirement to have at least 1/2 of members in Management Board as residents of Latvia has been abolished

Lithuania

New Law on Tax Administration adopted

Sorainen Law Offices

Law firm "Petrovs & Taukacs" joined Sorainen Law Offices in Riga

Latvian Legal Update - now available in Russian

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strengthen the commercial and economic relations of the contracting parties in equal competition conditions. The tools for achieving the objectives of the agreement comprise four economic freedoms, common competition rules and cooperation in other areas, such as research and development.

The commercial policy of the European Economic Area does not equal that of the European Union, because although the European Economic Area establishes a free trade area, it does not establish a customs union employing uniform customs tariffs. The scope of application of the Agreement of the European Economic Area does not include taxation policy. Neither does the Agreement handle common commercial, agricultural, fisheries, economic or monetary policy.

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EMPLOYMENT LAW

On 22.04.2004 the Parliament amended the **Employment Contracts Act** (*Töölepingu seadus*), the amendments entered into force on 01.05.2004. As of 01.05.2004 the following provisions are mandatory in the employment contract:

1. details of parties (name, ID-code or registration code; place of residence or location);
2. date of entering into employment contract and the date of commencement of employment;
3. length and grounds of specified term employment contract;
4. official or professional title or the qualification requirements and description of duties;
5. the location or area of employment;
6. wage conditions;
7. standard working time;
8. length of annual and additional holiday, also grounds for giving additional holiday;
9. terms of advance notice of termination of employment contract or the terms of assessment thereof;
10. reference to collective agreement, if applicable.

Every employment agreement concluded after 01.05.2004 must contain the abovementioned mandatory provisions and the present employment contracts should be renewed accordingly.

The amendments also prescribe for a transitional period, that is, employment contracts entered into prior to 01.05.2004 should be brought into conformity by 01.01.2005. Since there will be probably a completely new employment act adopted before 01.01.2005, it is advisable to renew the existing agreements, as soon as the new act is adopted.

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On 1.05.2004, the act **Working conditions of foreigners posted to Estonia** (*Eestisse lähetatud töötajate töötingimuste seadus*) came into force. The basis for this act is the EU directive 96/71/EC and the purpose is to protect the workers posted to Estonia to ensure the basic working conditions with local workers of the same position. The act requires that the posting business must guarantee that its posted workers shall enjoy basic conditions in the country of destination: maximum working time and minimum rest periods, minimum salary (including extra working hours), safety and health protection and hygiene at work etc. In case the posted worker shall enjoy more favourable conditions arising from the worker's country of origin acts (which are also applicable), the provisions more favourable to the employee shall apply.

According to the EU directive 96/71/EC, each member state regulates the guarantees for its foreign workers within the sphere of provision of services. Respectively, an enterprise planning to send its workers to the other member states of the EU should confirm the local working conditions and guarantees. It should also be noted that in some member states the provisions of the collective agreements apply to the workers working in a certain area/branch, despite the worker being a member of the trade union or employer a party to the collective agreement.

Moreover, the adopted act also provides that the workers from the non-EU countries must receive equal treatment as the workers from the EU countries, therefore the same working conditions must be ensured to the workers coming from non-EU countries.

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FINANCIAL LAW

On 01.05.2004, the new **Investment Funds Act** (*Investeeringifondide seadus*) entered into force, which was adopted because the regulation of the Investment Funds Act valid since 1997 had become outdated and it was necessary to make supplements in relation to the harmonisation of EU directive 85/611/EEC.

Since currently there are no funds in Estonia founded for public limited companies, the act mostly updates the regulation concerning contractual funds. The so-called *euro-funds* have been pointed out as a separate category of funds, opened as public contractual investment funds and subject to the so-called European passport — the offering of the units of the *euro-funds* in the states which are contracting parties to the EEA Agreement has been regulated and simplified on the level of the European Union.

As compared to the former act, the regulation of the cross-border activities of management companies of investment funds has been supplemented and the provisions concerning offering of the units of a foreign fund in Estonia have been introduced. Management companies of investment funds may provide their services abroad by founding a branch or providing cross-border services, while the procedure for providing services differs in third countries and in the states, which are contracting parties to the EEA Agreement.

Persons established abroad may act as management companies of investment funds in Estonia by founding a branch here or providing cross-border services, if they are allowed to provide the fund management service in their country of origin.

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INFORMATION SOCIETY SERVICE

On 14.04.2004, the **Information Society Service Act** (*Infoühiskonna teenuse seadus*) was adopted, which provides the requirements for the providers of the information society service and which entered into force on 01.05.2004. The information society service is a service that is provided in the framework of economic and professional activities at the direct request of the user of the

service, and in the case of which data are processed, stored and forwarded in digital form by electronic means. Doing that, the parties are not simultaneously at the same place. The information society service is not a service forwarded by a fax or telephone call or broadcasting.

The information society service provided via a place of business located in Estonia must comply with the requirements arising from Estonian law regardless of the member state of the EU or European Economic Area in which the service is provided.

The act defines commercial notice, which comprises communication of any type of information that is directly or indirectly intended to promote the offering of goods or services on behalf of the service provider or to promote the image of the service provider. A commercial notice must be, *inter alia*, clearly identifiable as a commercial notice. A commercial notice may be sent to a natural person only with the prior consent of the addressee and provided that the addressee is notified of how to refuse the receipt of commercial notices in the future and an opportunity is ensured to the addressee to refuse himself the receipt of commercial notices via data communication network.

However, the act does not specify whether all the three conditions must be complied with simultaneously.

The service provider shall register the addressee's consent or refusal. If the addressee refuses, the service provider must not communicate commercial notices to the addressee in digital form. Supervision over adherence to the requirements is exercised by the Communications Board and the Data Protection Inspectorate that have the right to inspect compliance with the requirements, receive information from the service provider and issue precepts. Unless a precept is observed, a penalty payment may be imposed, the upper limit of which is 10 000 kroons.

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TAX LAW

The new **VAT Act** (*Käibemaksuseadus*), implementing a number of EU directives, entered into force on 01.05.2004. Although the principles of levying the VAT remain the same, the new act

changes registration obligations, procedures and sometimes payment of VAT, especially as regards intra-community trade. Upon conducting intra-Community trade, it is advisable to verify regularly VAT registration numbers of the foreign business partners in order to benefit from the tax regime. If a VAT taxable person is engaged in intra-Community supply of goods or participate as reseller in triangular transaction it will be obliged to submit quarterly report on intra-Community supply of goods.

Those foreign companies that intend to expand their business activities in Estonia, especially, upon importation of goods from non-EU countries bordering with Estonia are capable of registering under certain requirements as VAT taxable persons in the Estonian Customs and Tax Department. Such registration will enable VAT taxable persons to submit VAT declarations on a monthly basis and claim the refund of input VAT upon purchasing of goods and services in Estonia.

Foreign companies engaging in distance selling of goods to Estonian consumers will be required to register as VAT payers in Estonia upon exceeding the registration threshold of 550 000 EEK (35 256 EUR). It is possible to register prior to meeting the threshold.

The new VAT Act provides for the regulation under which a person will be required to register as a VAT taxable person with limited liability. In particular, the registration is mandatory if persons acquire certain service including consultation, advertisement etc. from foreign taxable persons or exceed threshold of 160 000 EEK (10256 EUR) in case of intra-Community acquisition of goods.

All VAT taxable persons in Estonia are required to follow new guidelines upon issuance of invoices. According to the VAT Act the seller should indicate the name and address of purchaser and to add VAT registration number if the purchaser is liable to account for VAT. In order to verify VAT registration number the seller can access online Customs and Tax Department web page or VAT Information Exchange System on the official web page of the European Union. In addition to the requirements indicated above, the purchaser must, in certain cases (including the application of 0% rate), make reference to respective VAT Act provision or Sixth Directive provision.

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The accession to the European Union has caused Estonia to adopt several amendments to its **Income Tax Act** (*Tulumaksuseadus*) changing some of the aspects related to the taxation of interests, dividends and royalties in Estonia. Some of these amendments are already in force and some are expected to be passed by the parliament shortly and those will be effective retroactively from 01.05.2004. Therefore, the following information is based not only on current Income Tax Act, but also on the upcoming amendments.

One of the important upcoming changes is that the dividends distributed by an Estonian company to a non-resident natural person will no longer be subject to withholding tax. The purpose of this particular amendment is to guarantee equal treatment of non-resident natural persons, since resident natural persons have benefited from single taxation for a long period of time.

The amendments to the Income Tax Act provides for the regulation on the tax credits to non-resident legal persons upon receipt of dividends from other non-resident legal person through its permanent establishment in Estonia. This regulation will substantially ease the tax burden of non-resident legal person upon distribution of dividends through Estonian taxable person.

The taxation of interests paid to non-resident legal and natural persons will be changed probably retroactively from May 1st, 2004. Council Directive 2003/49/EC on common system of taxation applicable to interest and royalty payments made between associated companies of different Member States has been fully implemented in Estonia. The interest paid by the Estonian resident to non-resident legal and natural person will not be subject to withholding tax any longer. The withholding tax can be imposed on such interest, if the interest rate paid substantially exceeds the rate of the interest receivable from the similar debt instrument on the market.

Council Directive 2003/48/EC on taxation of savings income in the form of interest payments was also introduced into the Income Tax Act. The respective amendments contain a number of informative obligations for the financial institutions, which pay saving interests to natural persons of other EU Member State.

The royalties paid by a resident legal person will not be subject to withholding tax if the beneficial owner and resident legal person are associated companies. In order to benefit from exemption, the

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beneficial owner should have a direct minimum holding of 25% in the capital of the resident legal person for a period of two years. The withholding tax would not be imposed if, on the opposite, resident legal person has a direct minimum holding of 25 % in the capital of the beneficial owner.

According to the Council Directive 90/435/EEC profits distributed by a subsidiary to its parent company are exempt from withholding tax. However Estonia has negotiated a transition period until the end of 2008 during which the so-called "distribution tax" on profit distributed by Estonian subsidiaries to their parent companies will still be imposed.

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TRADE LAW

On 24.03.2004, the Parliament adopted the **Packaging Excise Duty Act** (*Pakendi-aktsiisi seadus*), which entered into force on 01.05.2004, and which introduced to the Packaging Excise Duty Act the provisions governing the taxation of the packaging brought into Estonia from any other European Union member state.

Bringing of a packaging into Estonia from another European Union member state for the purposes of enterprise is intra-Community acquisition of packaging. In the case of intra-Community acquisition of packaging, the tax liability is created upon the transfer of the packaging or its use for self-consumption. Packaging brought to another European Union member state from Estonia is exempted from excise duty.

The term for presenting a report concerning recovery of the packaging is amended and a specific term for presenting the report is provided, which is the 15th of February. According to the former regulation, a report concerning recovery of the packaging had to be presented by the 15th day of the second month after the date of expiry of the certificate.

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On 24.03.2004, the Parliament adopted the **Product Safety Act** (*Toote ohutuse*

seadus), which repealed the act adopted in 1998. The objective of the Product Safety Act is to ensure the safety of the products placed on the market and it entered into force on 01.05.2004. The Product Safety Act is applied to the products intended for the consumer and placed on the market in the course of commercial activities in two cases: 1) in case of products which do not fall within the scope of application of any other legal act governing safety; 2) with regard to such qualities, risks or categories of risks which are not governed by any other act.

For the purposes of the act, a product means any movable item intended for a consumer, including those that are likely to be used by a consumer even if they are not intended for the consumer. A product is safe if it ensures the safety and protection of the health of the consumer on reasonable conditions of use. The Product Safety Act prohibits the manufacturing, placing on the market, importing and exporting of dangerous products having a misleading appearance. Such products are understood as products that are not edible but the qualities of which are such that consumers (especially children) may mistake the products for food.

The act distinguishes between producers and distributors, who have different duties according to the act. The act also regulates issues related to the reclamation of products from consumers and disposal from the market.

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On 08.04.2004, the amendments to the **Food Act** (*Toiduseadus*) were adopted, which entered into force on 01.04.2004. The main objective of adopting the act was to bring the Food Act into accordance with the European Union legislation, as the earlier wording of the Food Act was in conflict with the principle of free movement of goods.

Earlier, a requirement for a permit for handling of food for particular nutritional uses applied, which was in conflict with the EU directives, providing notification of placing on the market in the case of special food for particular nutritional uses. According to the new Food Act, the person placing a product on the market shall notify the Health Protection Inspectorate upon the placing on the market for the first time of such food for particular nutritional purposes, which is

intended for use due to medical reasons or concerning which the Estonian Government has not established component and quality requirements.

Amendments are made to the requirements related to the presentation of information about raw material for food and food on the labelling or provided in any other manner. The earlier requirement for using Estonian has been excluded, as this is not in conformity with the principle of free movement of goods. In the case of goods intended for transferring to consumers it is generally justified to demand presentation of labelling in a particular language.

The definition of the health mark has been introduced in the act. The health mark indicates conformity of food and the raw material for food used for processing it and the food business with the food hygiene rules. A health mark on a product or its packaging is a precondition for the free movement of goods on the European Community market, indicating the conformity of food, raw material for food and food business with the established requirements.

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On 07.04.2004, the Parliament adopted the **Charge Payable for Surplus Stock Act** (*Üleliigse laovaru eest makstava tasu seadus*), which sets out the bases of and procedure for payment of the charge for surplus stock of agricultural products in possession of the handler on 01.05.2004. The act entered into force on 01.04.2004. The act is not applied to handlers who, as of 01.05.2004, possess agricultural products of one type in the amount of up to 500 kg or cereals of one type in the amount of up to 5 tonnes.

The objective of the measures provided in the act is to ensure equal competition conditions on the common market of the European Union after the enlargement of the European Union. Holding of surplus stock is regarded as state aid in the association agreement and is not considered as compatible with the common market.

Both sugar and other agricultural products the numerical codes of which have been provided in the European Commission regulation 1972/2003/EC are regarded as agricultural products. The handler shall pay a one-off payment, in order to fulfil the monetary obligations under the public law.

The amount of the payment is determined according to the rates provided for in European Commission regulations 1972/2003/EC and 60/2004/EC.

In Estonia, a discussion arose about whether the establishment of such a payment was in compliance with the Estonian Constitution. The imposition of the payment may damage the legitimate expectations of undertakings, which have already acquired stocks exceeding those permitted by the act and have to pay a payment to the state budget.

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RELEVANT ACTS

Selection of relevant acts and amendments adopted 01.03 – 30.04.2004

- Act for Accession to the North Atlantic Treaty (in force as of 18.03.2004)
- Act on Ratification of the European Code of Social Security (in force as of 12.04.2004)
- Act Amending the Acts Related to the Economic Activities Registry Act and to the Commercial Activities Act (in force as of 15.04.2004)
- Act Amending Fertilizers Act, State Fees Act and Pollution Charge Act (in force as of 01.05.2004)
- Veterinary Supervision of Trade, Import and Export of Animals and Animal Proceeds Act (in force as of 01.05.2004)
- Act Amending Property Law Act, Estonian Central Register of Securities Act, Credit Institutions Act, Insurance Activities Act, Bankruptcy Act, Law on Obligations Act, Private International Law Act and Securities Market Act (in force as of 01.05.2004)
- Act Amending Republic of Estonia Employment Contracts Act and the Republic of Estonia Supreme Council Decision "on the Implementation of the Republic of Estonia Employment Contracts Act" (in force as of 01.05.2004)
- Act Amending the Fisheries Market Regulation Act (in force as of 01.05.2004)
- Act Amending Aliens Act and Other Acts Deriving from the abovementioned Act (in force as of 01.05.2004)
- Act Repealing the Ratifying Acts of the Free Trade Agreements and Some Other International Agreements in Connection to the Republic of Estonia Accession to the European Union (in force as of

01.05.2004)

- Gender Equality Act (in force as of 01.05.2004)
- Act Amending the Competition Act (in force as of 01.05.2004)
- Act Amending the Acts Regulating the Legal Protection of Industrial Property and Other Acts Relating to those Acts (in force as of 01.05.2004)
- Act on Ratification European Convention on Social and Medical Assistance and its Protocol (in force as of 03.05.2004)
- Act Amending Road Transport Act and State Fees Act (in force as of 07.05.2004)
- Act Amending Telecommunications Act Article 9 (in force as of 07.05.2004)
- Act on Ratification the Protocol and the Interpretation Agreements Concluded via the Exchange of Letters of the Treaty between the Government of the Republic of Estonia and the Government of the United States of America for the Encouragement and Reciprocal Protection of Investment (in force as of 07.05.2004)
- Act on Ratification the Treaty Concerning the Termination of the Free Trade Agreement between the Government of the Republic of Estonia and the Government of the Kingdom of Denmark and the Local Government of Faeroe Islands (in force as of 07.05.2004)

Selection of relevant draft acts presented to the Parliament 01.03 – 30.04.2004:

- Act Amending Value Added Tax Act Article 15
- Act on Ratification the Convention between the Government of the Republic of Estonia and the Federal Council of Switzerland for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital Gain and the Protocol therewith.

LATVIA

COMPANY LAW

On 21.05.2004 the significant changes into the **Commercial Law** (*Komerclikums*) come into effect. The most important amendments are as follows:

1. Requirement to have at least 1/2 of

members in the Management Board as residents of Latvia abolished;

2. So far the minimum number of members of the Management Board of a public limited liability company [AS] was three. After amendments there can be also one member in the Management Board of AS. If shares are publicly traded – then there should be at least three members in the Management Board of AS.

3. Currently the application to the company register, the articles of association and the foundation agreement must be signed before a notary public. After amendments only the application shall be signed before a notary public, which will reduce costs related to establishment of a company.

4. The right of the Management Board and the Supervisory Board members to leave their position at any time has been set more clearly. So far this was only provided for the Management Board members of public limited liability companies. The result was that in practice a Management Board member of a private limited company could resign from his position, but his resignation could not be registered with the Commercial Register until a respective general meeting's decision was taken.

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CONSUMER PROTECTION

As of 01.05.2004, the new changes to the law **On Liability for Defective Goods and Services** (*Par Atbildību par Preces un Pakalpojuma Trūkumiem*) are in force. As a result of Latvia joining the EU, any person that imports goods, in order to issue them to free circulation in the EU internal market, will now be considered as an importer in the sense of the law. The changes have been prepared with the view to harmonise the law with the EU requirements. Pursuant to the amendments the manufacturer will not be under an obligation to prove that at the moment when the goods were issued for circulation, they were not defective so as to cause the damage, or that the defect, that caused the damages, appeared after the issue of the goods into circulation in the market. If it is reasonable and justifiable to regard that the goods were not defective when those were put into circulation, then their manufacturer cannot be held liable for the damages caused. The regula-

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tion is now applicable with regard to the manufacturer's liability for defective services.

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ENVIRONMENTAL LAW

New significant amendments have been introduced to the **Law On Natural Resource Tax** (*Par dabas resursu nodokli*), effective as of 01.07.2004. On 17.02.2004, the parliament (*Saeima*) adopted the Law On Management of Depreciated Transport Vehicles, whereby transport vehicles upon their first-time registration in Latvia are subject to the natural resource tax. The former wording of the Law On Natural Resource Tax did not prescribe this type of taxable object. Under the new amendments, the manufacturer/distributor of the transport vehicle is exempt of the natural resources tax payments if it concludes an agreement with the Ministry of Environment for the management of depreciated transport vehicles.

Amendments to the Law On Natural Resource Tax prescribe that as of 01.05.2004, there are changes introduced to the method for tax calculation and payment on goods and products harmful to the environment, packaging of goods and radioactive substances to be sold and used in Latvia after being imported from other EU member states. Henceforth, the tax on the said objects is payable on a quarterly basis, similar to the procedure laid down for domestic manufacturers.

On 18.12.2003, the parliament adopted amendments to the **Law On Pollution** (*Par piesārņojumu*), whereby the operators discharging greenhouse gases from their equipment and failing to submit the discharge quotas according to the procedure prescribed by the law will be subject to the natural resource tax. The former wording of the Law On Pollution did not set forth this type of taxable object.

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INSURANCE LAW

On 01.05.2004, the new **Law on Compulsory Insurance against Civil Liability in Respect of Motor Vehicles**

(*Sauszemes transportlīdzekļu īpašnieku civiltiesiskās atbildības obligātās apdrošināšanas likums*) came into force. Pursuant to the new law the state no longer determines the amount of insurance premium. Moreover, the insurance liability limits have been increased up to 250 000 Latvian lats with regard to the liability amount for the compensation of damages caused to individuals and up to 70 000 Latvian lats for the damages caused to the motor vehicles. In addition, it is provided for that the persons who suffered in the road accident will now be able to claim compensation for nonmaterial damage – pain and suffering – which was impossible before the amendments came into force. Finally, the new law provides for higher protection standards for the pedestrians, since they will receive insurance indemnity even if the fault of the driver that caused the road incident will not be provable.

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IMMIGRATION LAW

As of 01.05.2004, with Latvia's accession to the EU, there are some changes in the procedure with regard to EU citizens obtaining residence and work permits. Pursuant to the new law EU citizen is to attend in person the Foreigners Services Centre and present the following documents: 1) passport; 2) two photos (3x4cm); 3) application form; 4) employment contract. Foreigners Services Centre has to prepare residence permit with allowance to work in 30 days period. This service is free of charge.

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TAX LAW

On 01.05.2004, amendments to the **Law On Value Added Tax** (*Par pievienotās vērtības nodokli*) took effect. The amendments were required due to several reasons. The former wording of the law did not regulate the application of the value added tax to transactions on the internal market of the European Union. The amendments to the law:

1. Define the circle of persons taxable with value added tax for transactions in the internal market of the European Union;

2. Define the territory where the value added tax is applied to transactions on the internal market of the European Union;

3. Set forth stricter requirements for the value added tax invoices;

4. Define that the VAT taxable persons of other member states are to register themselves with the VAT taxable persons' register of the State Revenue Service;

5. Clarify other provisions in line with the requirements of the Sixth Council

6. New requirements on VAT invoice specification were introduced compared to the previously required 8 items there are now 17 to be included in the specification;

7. Before the amendments the VAT was payable on export to any countries, but now it will only be taxable on export deliveries to the third, non-EU countries;

8. The law prescribes that an input tax on services may be deducted upon the receipt of the service or tax invoice;

9. The application of VAT did not previously depend on whether the person is registered for VAT purposes in another countries but as from now the VAT registration number should be asked from all business partners registered in the EU, since it may influence the applicable rate of VAT.

Directive of 17.05.1977 77/388/EEC (hereinafter – the Sixth EU Directive) in the area of the value added tax, including the application of the value added tax to transactions with second-hand goods, the obligation of state budget institutions to register themselves as VAT payers, the tax payment procedure in financial lease transactions.

The law also incorporates provisions whereby a person not registered in the Community territory has to register itself in any of the EU member states as a provider of electronic services in the Community territory if the said person is offering electronic services to the EU member state persons who are not registered as VAT payers.

The law also incorporates provisions supplementing the norms for the application of a reduced VAT rate (5% instead of former 9%) to certain categories of services, including funeral services, entrance fees to sporting events and cinemas, except for theatrical movies of erotic and pornographic contents. The said services were previously exempt of the value added tax, which was in conflict with the requirements of the Sixth EU Directive, since under Annex H of the Sixth EU Directive the said services are taxed according to a reduced VAT rate.

There have been supplementary provisions introduced to the listing of VAT exempt transactions that, under the Sixth EU Directive, must be exempt of the tax, and the listing now includes also dentistry services and private classes given by teachers. Several provisions incompliant with the Sixth EU Directive have been excluded from the listing as objects not eligible for tax exemption, such as religious and cultic services provided by religious organisations. Excluded were also fire safety services, which correspond to state authority functions and are therefore non-taxable.

The new Cabinet Regulations Nr. 427 **On the Procedure on Application of the Law "On Value Added Tax" (Likuma "Par pievienotās vērtības nodokli" normu piemērošanas kārtība)**, which is an important legal act prescribing in details the new procedure of the VAT taxation.

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The new Cabinet Regulations Nr. 313 **On the Procedure for Repayment of Value Added Tax to the Persons Taxable in the European Union Member States and the Persons Registered and Taxable in the Third Countries (Kārtība, kādā atmaksājams pievienotās vērtības nodoklis citu Eiropas Savienības dalībvalstu ar pievienotās vērtības nodokli apliekamajām personām un trešajās valstīs vai trešajās teritorijās reģistrētām ar pievienotās vērtības nodokli apliekamajām personām)**. The regulations prescribe the procedure pursuant to which the persons not registered with the Latvian Enterprise registrar collect repayment of value added tax in Latvia. The demand for VAT repayment may be submitted three months after the transaction provided that the amount of repayment is more than 135 Latvian lats (approximately EUR 203). The positive decision will be issued within 30 days as of the submission of the application for the repayment of VAT and the negative - within 15 days. The grounds for refusal of repayment are as follows: inappropriately proceeded documents; as a result of the verification, the authorities found out that the transaction is fictitious; the VAT is to be paid in relation to the real estate acquisition, construction or real estate renovation, reconstruction or restoration services; the VAT is taxed on the goods and services for personal allowance.

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RELEVANT ACTS

Selection of relevant acts and amendments adopted 01.03.2004 – 30.04.2004:

- Amendments to Waste Management law (in force as of 23.03.2004);
- Amendments to the Law on Environmental Impact Assessment (in force as of 26.03.2004);
- Two amendments to the Law on Value Added Tax (in force as of 01.05.2004 and 01.04.2004);
- Cabinet Regulations No.235 Regulations on the Contents and Form of Public Procurement Announcements (in force as of 01.04.2004);
- Amendments to the Law on Public Procurement for State or Local Government Needs (in force as of 14.04.2004);
- Amendments to Construction Law (in force as of 01.05.2004);
- Amendments to Civil Procedure Law (in force as of 01.05.2004);
- Amendments to the Law on Procedures for the Coming into Force of the Commercial Law (in force as of 01.05.2004);
- Amendments to the law Liability for Defective Goods and Services (in force as of 01.05.2004);
- Amendments to the Law on Natural Resources Tax (in force as of 01.05.2004);
- Amendments to the Law on Trademarks and Geographical Indications (in force as of 01.05.2004);
- Amendments to the Law on Environmental Protection (in force as of 01.05.2004);
- Amendments to the Law on Excise Tax (in force as of 01.05.2004);
- Cabinet Regulations No.243 Requirements for the Recycling of Depreciated Vehicles and on Protection of Environment for Recycling Companies (in force as of 01.05.2004);
- Electronic Connections Law (in force as of 01.05.2004);
- Law on Compulsory Civil Liability Insurance for Owners of Motor Vehicles (in force as of 01.05.2004);
- Customs Law (in force as of 01.05.2004);
- Amendments to Commercial Law (in force as of 21.05.2004).

Selection of the relevant draft acts presented to the Parliament 01.03.2004 – 30.04.2004:

- Amendments to the Law on Insurance Companies and the Supervision Thereof;
- Amendments to the Civil Procedure Law;

- Amendments to the Law on Credit Institutions;
- Cabinet regulations on the Procedure of Turnover of Excise Goods.

LITHUANIA

BANKING

The **Law on Banks (Bankų įstatymas)** adopted on 30.04.2004 entered into force on 01.05.2004. The Law introduced a number of new rules into the banking law of the Republic of Lithuania. Some of the most important novelties are listed below:

1. There are two types of banks – commercial and specialized banks. A specialized bank is the bank, which is either not entitled to provide all licensed financial services or which is entitled to provide all financial services, but only to the limited group of persons;

2. The Law provides for additional restrictions in respect of the rights held by the bank's shareholders. If the shareholder violates the legal requirements or causes negative impact on the management of the bank, his voting right may be suspended or his shares may be subject to squeeze-out procedures initiated by the supervisory authority;

3. The Law requires obtaining a permit from the supervisory authority in order to establish a bank. However, such permit is not required for the establishment of the bank's branches, representative offices and other divisions in Lithuania and in the EU member states. The permit from the supervisory authority is also required for the establishment of a bank or its branch outside the EU, for the acquisition of the qualified portion of the share capital or the voting rights in a foreign bank, which is licensed in the non-EU country;

4. Foreign banks, which are not licensed in an EU member state, are entitled to establish branches or representative offices in Lithuania only upon receipt of the permit from the Lithuanian supervisory authority. In order to acquire the qualified portion of the share capital and (or) voting rights in the banks operating in Lithuania the foreign banks are required to receive the consent of the supervisory authority;

LEGAL UPDATE

5. The provision of financial services in Lithuania by the foreign banks is subject to licence issued by the state authority. Such licence is not required for the foreign bank licensed in the EU member state for the establishment of the branch or for the provision of financial services without having established a branch in Lithuania under the licence or permit issued by the supervisory authority of its home country;

6. The Law establishes limitations on the investment in shares, immovable property, internal lending, lending to related persons etc.;

7. Pursuant to the Law, the supervisory authority is entitled to issue a permit to liquidate the bank only in case the bank is capable of making settlements with its creditors.

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On 01.05.2004, the **Law on Financial Collateral Arrangements** (*Finansinio užtikrinimo susitarimų įstatymas*), adopted on 15.04.2004, took effect. The Law was drafted pursuant to the provisions of the Directive 2002/47/EC. The financial collateral arrangements include transactions, which are aimed at securing the fulfilment of contractual obligations and the object whereof is financial instruments and money. Depending on whether the ownership title to the financial collateral is transferred to the collateral taker or remains with the collateral provider, the mentioned transactions may be either title transfer financial collateral arrangements or security financial collateral arrangements. The Law is applied in respect of the financial collateral arrangements, concluded by the state institutions of either Lithuanian or other EU member states, central bank, financial institutions, insurance companies, investment companies with variable capital, management companies, and settlement agents, clearing houses or other subjects specifically listed in the Law.

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COMPANY LAW

On 01.05.2004, certain amendments and supplements to the **Code on Administrative Offences** (*Administracinių teisės pažeidimų kodekso 172², 224, 259¹ straipsnių pakeitimo ir kodekso*

papildymo 172²⁷ straipsniu įstatymas) came into effect. The amendments were adopted by the Parliament on 27.04.2004. The Code was supplemented by the article establishing administrative liability for the failure to indicate the mandatory information in the documents of the legal person, its branch, representative office, which is used in communication with the third parties. The mandatory information is listed in Article 2.44 of the Civil Code of the Republic of Lithuania and it includes:

- the name of the company, its branch or representative office;
- the legal form and address;
- the identity code and register, where the registration data on the legal person, its branch or representative office is kept.

In addition, other information may be required to be submitted on such documents depending on the case (e.g. VAT payer's code in case the legal person is a VAT payer etc.).

Further, the provision of the Code establishing liability for the failure to provide the Commercial Register with the required information was amended. From the date of entry into force of the amendments, the liability is established for the failure to submit by the legal person, its branch or representative office to the Commercial Register of the following documents and information:

- the registration data and the amendments thereto;
- the financial statements;
- the annual reports;
- the audit reports.

The head of the legal person, its branch or representative office is liable for the aforementioned offences.

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COMPETITION LAW

On 15.04.2004, the amendments to the **Law on Competition** (*Konkurencijos įstatymas*) were adopted and came into effect on 01.05.2004. The amendments are aimed at harmonizing the national legislation with the requirements of the Regulation No. 1/2003.

The provisions regulating individual exemptions for the anti-competitive agreements of the business undertakings

were abolished. Following the entry into force of the amendments to the Law, business undertakings are entitled, assuming their own liability and risk and without applying to the Competition Council, to enter into anti-competitive agreements, which are in conformity with the conditions of the exemptions established in the Law.

While the aforementioned amendments to the Law create much greater legal and economic risk, it is recommended that the business undertakings revise consistently their business actions and agreements with respect to their compliance with competition rules.

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EMPLOYMENT LAW

On 24.03.2004, by Resolution No. 316 the Government increased the **minimum salary tariffs** (*Dėl minimaliojo darbo užmokesčio didinimo*). Pursuant to the Resolution, for employees employed in companies, institutions and organizations the following minimum salary tariffs were approved as of 01.05.2004:

- the minimum hourly salary rate – LTL 2,95 (approx. EUR 0,9);
- the minimum monthly salary – LTL 500 (approx. EUR 145).

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INTELLECTUAL PROPERTY

On 19.02.2004, the Parliament adopted amendments to the **Law on Trade Marks** (*Prekių ženklų įstatymas*). The amendments took effect on 01.05.2004. The amendments are aimed at implementing the provisions of the EU law (Directive 89/104/EEC) and harmonizing the national law with certain EU legal requirements (Regulation (EC) No. 40/94).

After the EU accession date the Community trademarks give rise to protection in all the 25 EU member states, including Lithuania. This is likely to result in the increased difficulty to obtain registration because of the larger pool of potential conflicts within the expanded EU community. While the number of official EU languages increased from 11

to 21, it may be more difficult to create a mark that is neither descriptive, nor generic in any of the EU languages. The Community trademark is obtained by registration with an Office for Harmonization in the Internal Market (OHIM) according to the procedure established by the Regulation (EC) No. 40/94, i.e. applications might be presented directly or through the local State Patent Office. A Community trademark that is invalid in one of the EU member states may be converted into national registration in all member states where it is valid, without loss of the filing date.

The business trade across the EU is affected by the exhaustion of rights to trade marks. The principle of exhaustion of IP rights within the EU is essential in order to achieve both IP protection and free movement of goods throughout the area. Under this principle, IP-protected goods placed on to the market by the rights owner (or with its consent) can no longer be prevented from being resold within the EU and the EEA.

Among other amendments introduced to the Law, it was established that the registration of the trade mark shall be declared invalid also in case the trade mark is identical with, or similar to, an earlier Community trade mark and it is applied for or registered for goods or services which are not similar to those for which the earlier trade mark is registered, where the earlier trade mark has a reputation in the European Community and where the illegal use of the later trade mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.

Further, the Law abolished the requirement for the residents or companies of the EU member states to act through the patent attorney in relations with the State Patent Bureau. Therefore, since 01.05.2004, the residents or companies of the EU member states may apply to the State Patent Bureau directly or through any duly authorized person.

On 01.05.2004, the amendments to the **Law on Design** (*Dizaino įstatymas*), adopted on 29.04.2004, entered into effect.

The aim of the amendments is to implement the provisions of the Directive 98/71/EC in the national legislation and to harmonize the Lithuanian legislation with the Regulation (EC) No. 6/2002. Much like Community trademarks,

Community designs grant protection throughout the EU with the filing of a single application and payment of a single fee. As of the date of accession, all Community designs and applications (for both registered and unregistered designs) were automatically extended to the new member states, including Lithuania. Unregistered Community design enjoys smaller scope of protection than the registered Community design.

It should be noted that the principle of exhaustion of IP rights within the EU also applies in respect of the rights to design. Like the Law on Trade Marks the said Law abolished the requirement for the residents or companies of the EU member states to act through the patent attorney in relations with the State Patent Bureau.

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TAX LAW

The new version of the **Law on Tax Administration** (*Mokesčių administravimo įstatymas*) was adopted on 13.04.2004 and entered into force on 01.05.2004. The most important novelties include the following:

1. The Law is also applied in respect of the administration of the customs duties;
2. The new tax legislation may enter into force not earlier than 6 months following the adoption thereof;
3. The ambiguities of and discrepancies between the tax law provisions have to be interpreted for the benefit of the tax payer;
4. The Law provides for the possibility to conclude the agreement between the tax administrator and the tax payer on the tax amount in case the tax amount may not be calculated in the usual manner and it is not possible to determine the exact amount of the tax obligation;
5. The possibility to extend the term of the submission of the tax declaration was established;
6. Persons, which temporarily do not conduct any business activities, may be released from conducting tax reporting;
7. As a general rule, the tax administrator is required to provide the taxpayer with the prior notification of its intention to conduct the tax audit.

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RELEVANT ACTS

Selection of relevant acts and amendments adopted 01.03.2004 – 30.04.2004:

- Amendments to the Civil Code (in force as of 30.04.2004)
- Amendments to the Law on Income Tax (in force as of 30.04.2004)
- Law on Customs (in force as of 01.05.2004)
- Law on European Companies (will enter into force on 11.05.2004)
- Amendments to the Law on Enterprise Bankruptcy (in force as of 01.05.2004)
- Amendments to the Law on Restructuring of Enterprises (in force as of 01.05.2004)
- Amendments to the Law on Securities Market (in force as of 01.05.2004)

Selection of relevant draft acts presented to the Parliament 01.03.2004 – 30.04.2004:

- Amendments to the Labour Code
- Law on Labour Councils

Contributed by Lea Liigus, Rosa Rotko, Estonia; Julija Jerneva, Latvia; Justina Gutauskaite, Tadas Milasius, Lithuania. Edited by Girts Ruda, Latvia.

We are switching from a printed version of the Baltic Legal Update to an electronic version

The readers of the Baltic Legal Update have expressed an increasing wish to receive our newsletter in an electronic format.

In order to guarantee the continuous receipt of the updates we kindly ask the readers, who currently receive the update only in a printed form, to contact us (e-mail: sorainen@sorainen.ee or fax: +372 6651 881) and confirm your wish to receive the updates in paper version or inform us of your email address.

Please also be informed that the recipients, whose email address is known to us and who have not informed us otherwise, shall start to receive the electronic version of the Baltic Legal Update starting from May-June issue.

We offer our readers the Latvian Legal Update in Russian language

The Legal Update published by Sorainen Law Offices is the only pan-Baltic update, since 1997 giving an insight into the latest changes in the legislation of the three Baltic countries. Until this issue we were offering the Legal Update in English, Latvian, Estonia, Lithuanian as well as in German languages.

For the reason that the increasing number of our clients is Russian-speaking, as well as in order to improve our services and to emphasise our individualised approach to differentiated needs of our clients, from now on we will prepare the Latvian Legal Update in the Russian language, as well.

In order to receive our newsletter in Russian we kindly ask the readers to contact us (e-mail: sorainen@sorainen.lv or fax: +371 7365 001) and confirm the wish to be updated on the recent development in Latvian legislation in the Russian language.

NEWS IN SORAINEN LAW OFFICES

Law firm joins Sorainen Law Offices in Riga

Law firm "Petrovs & Taukacs" joined Sorainen Law Offices in Riga as of 01.04.2004. Both partners of the law firm "Petrovs & Taukacs" Attorneys-at-Law Mr. Janis Taukacs and Mr. Dmitrijs Petrovs worked in KPMG for many years before establishing their own law firm, which, in its turn, was closely related with KPMG. Mr. Petrovs and Mr. Taukacs are also certified insolvency practitioners. Mr. Petrovs and Mr. Taukacs service clients in Latvian, English and Russian. Sorainen Law Offices' merger with "Petrovs & Taukacs" is a result of clients' increased activity in the mergers & acquisitions sector and the demand for VAT consulting due to the accession to the EU. As a result of the merger, Sorainen Law Offices will strengthen its mergers & acquisitions and tax practice and prove its position further as one of the leading law firms in Latvia. The merger is subject to respective regulatory issues to be finalised in due course by the end of 2004.

The European Legal 500 recommends our offices

The European Legal 500, 14th edition 2004, a guide, reporting and analysing the practices of thousands of law firms in 55 jurisdictions in Europe and the Middle East, recommends our Tallinn office in the following areas of practice: Banking and Finance, Corporate and Commercial, Intellectual Property, IT and Telecoms, Maritime and Transport and Tax. Furthermore, our Riga office is listed among the recommended law firms in Latvia for Banking and Finance, Corporate and Commercial, Foreign Investment, Intellectual Property, Real Estate and Construction, Shipping and

Transport and Tax. Our Vilnius office is listed in the categories of Banking and Finance, Corporate and Commercial, Foreign Investment, IT and Telecoms, Intellectual Property, Maritime and Transport, Real Estate and Construction and Tax.

International Financial Law Review 1000 ranks the top international and local firms

IFLR 1000, a guide focusing on the leading law firms advising on international corporate finance - covering banking, capital markets, insolvency and restructuring, M&A and project finance, has listed Sorainen Law Offices in all Baltic countries among recommended law firms. Tallinn office was recommended in Banking, Capital Markets, M&A and Project Finance, Riga office in Banking and Corporate/Commercial and Vilnius office in Capital Markets, M&A and Project Finance.

Professional representative in trademark matters

Riga office senior associate Mrs. Brigita Terauda has become professional representative in trademark matters before the Office for Harmonisation in the Internal Market (Trade Marks and Designs). She is now entitled to represent natural or legal persons in trademark matters before the Latvian Patent Office.

Recent deals

Sorainen Law Offices represented private investors in the sale of a consumer finance business to the largest consumer finance company in the world. General Electric Capital Corporation purchased a leading consumer finance company in Latvia (RD Lizinga Grupa AS) from several private investors for an un-

disclosed purchase price. Firm's Riga office provided full legal support to the sell-side and other sellers' advisers. By this transaction Sorainen Law Offices strengthened its leading position in M&A transactions in Latvia and gained extra experience in finance and retail sectors.

Sorainen Law Offices advised Finkino Oy of the largest Finnish media group Sanoma WSOY in acquisition of 75% shareholding in the leading retail and wholesale and rental of video films in the Baltics, AS V&K Holding, operating under the brand Videoplanet. The legal team was lead by our Tallinn partner Mr. Toomas Prangli. The deal included also concentration notification in Latvia where the lawyer in charge was our Riga associate Ms. Julija Jerneva.

Sorainen Law Offices has recently advised some of the worlds leading car manufacturers to modify and upgrade their car distribution and service agreements in the Baltic States due to changing EU competition law and new group exemption rules.

Articles

Three articles "What are the legal consequences upon conclusion of a pre-contract for transfer of an immovable in unattested written form?" written by Reimo Hammerberg, "The rocks to be run upon in the management board agreement" written by Karin Madisson and "What to take into account when going to court?" written by Andres Vinkel were published in the business magazine Director within the March and April issues respectively.

Article written by Karin Madisson "Management board agreement or employment contract?" was published in the journal of Estonian Economy No 3(154)/2004.

Konstantin Kotivnenko has written an article "Accessing the EU with the new customs laws",

which was published in business newspaper Delovaja Estonia on 08.03.2004.

The article "What are the common mistakes on calling the general meeting of shareholders?" written by Karin Madisson was published in the Estonian business newspaper Äripäev on 25.03.2004.

The article "The transfer of undertaking to third party and the protection of employees' rights", by Agris Repss was published on 09.03.2004 and on 16.03.2004 in the Official Gazette "Latvijas Vēstnesis".

The article "Conditions for success of joint ventures in the Baltic countries" by Gints Vilgerts, was published in December 2003 Issue of the Eastern European Forum

The article "Customs formalities: no transitional period", by Janis Taukacs was published in the Russian newspaper Business & Baltics on 01.04.2004.

Sorainen Law Offices Riga has launched a new project with The Baltic Times giving replies to readers' questions in the column Taking counsel. The first article gave answer to a question "As a citizen of the EU who has just arrived in Latvia to work full time, where will I have to pay my income tax for 2004? What if I work part of the year here and part of the year in my home country?" Janis Taukacs prepared a reply to the question above and it was published in the 6-12 May 2004 issue.

The aforementioned articles can be found on our website www.sorainen.com

Seminars

The Baltic Business Law Seminars organized by Sorainen Law Offices were successfully held on 05.05.2004 in Tallinn, Estonia and on 19.05.2004 in Riga,

Latvia. The presentations given at the seminars reflected the topics related to the most recent and relevant business law issues, as well as the changes in the law and business practices in the light of the accession of the Baltic countries to the EU.

On 11.05.2004, Paul Künnap lectured in Jyväskylä, Finland for 60 businessmen from Central Finland. The subject of Mr. Künnap's lecture was "Baltic business environment".

On 19.04.2004 Sorainen Law Offices in cooperation with Law Firm Magnusson Wahlin Qvist Stanbrook and Stockholm Chamber of Commerce organised a seminar in Stockholm "Business possibilities in the Baltic States" to introduce the possibilities for doing business in the Baltics, the new EU countries, and the legal issues related thereto.

On 15.04.2004, Kaido Loor made a presentation "Free movement of construction services and Estonian construction entrepreneurs' possibilities in the neighbouring countries", at the Estonian Construction Entrepreneurs Union annual meeting in Tallinn.

On 13.04.2004, Karin Madisson made a presentation regarding the new bankruptcy law at the seminar organised by World Trade Centre Tallinn.

On 12.04.2004, Karin Madisson lectured at the Estonian Business School Executive Training Centre. The presentation was titled "Relationship between management bodies in a company, responsibilities of management body member".

New hires

Ms. **Jane Eespõld** joined the team of Tallinn office legal staff as an Associate, effective as of 01.04.2004. For the past 7 years she has been working in Hansapank as a Legal Counsel.

Her areas of expertise are financing and securities and property and construction law. Ms. Eespõld speaks Estonian and English.

Ms. **Elen Rohtla** has joined our Tallinn office as a General Assistant. She is currently studying in the Faculty of Law of Tartu University, Institute of Law. Ms. Rohtla speaks Estonian, English, Finnish and Russian.

On 22.04.2004 Ms. **Ingrida Burgmeistare** joined the Riga office as a General Assistant. Ms. Burgmeistare graduated "School of Business Administration Turiba" and she received a Bachelor degree in Business Economics in 2002. She speaks Latvian, English and Russian.

On 01.05.2004 Mr. **Edgars Briedis** joined the team of Sorainen Law Offices in Riga as an Associate. He will graduate from the Law Faculty of the University of Latvia in two months time. Mr. Briedis speaks Latvian, English, Russian, and some Finnish.

On 15.03.2004 Mrs. **Renata Bartkiene** joined the Vilnius office as a Translator. Mrs. Bartkiene has 10 years experience in translating legal texts. She speaks Lithuanian, English and Russian.

Please also see the table on the following pages reflecting the changes before and after the EU accession

	BEFORE MAY 1, 2004	AFTER MAY 1, 2004
	Taxation Law	
ESTONIA, LATVIA and LITHUANIA	<ul style="list-style-type: none"> • Cross-border sales and purchases under import-export regime as regards VAT and customs. • One type of VAT declaration was submitted monthly. • VAT registration number of the customer was irrelevant. 	<ul style="list-style-type: none"> • Sales to EU member states are regarded as intra-community trade. Full applicability of intra-community provisions on distance sales to consumers in other member states, sale of goods to another member state through a trader residing in third member state (triangular trade), electronic commerce, additional VAT registration requirements, etc. Sales to non-member states are under EU import-export regime. • In addition to monthly VAT declarations, report on intra-community supply of goods must be submitted as well as Intrastat reports for statistics purposes. • VAT registration number of a customer must be stated on the invoice to EU customer. Failure to do so may result in less favourable taxation. There are also other mandatory additions to the content of invoices.
ESTONIA	<ul style="list-style-type: none"> • Participation requirement for non-resident parent company to qualify for exemption of withholding tax of dividends distributed by subsidiary was 25%. • Dividends distributed to the non-resident natural person were subject to withholding tax. • Withholding tax was imposed on the payment of royalties distributed to non-residents. • VAT was added on regular basis to payments under operation and financial leases. 	<ul style="list-style-type: none"> • Participation requirement for non-resident parent company to qualify for exemption of withholding tax of dividends distributed by subsidiary is 20%. • Dividends distributed to the non-resident natural person are not subject to withholding tax. • The royalties paid by resident legal person to an associated company in another Member State are not subject to withholding tax. • Full VAT amount must be paid immediately upon transfer of property in case of financial lease.
LATVIA	<ul style="list-style-type: none"> • VAT reduced rate of 9%. • In case of reverse charge supplies an invoice had to be issued by recipient to itself. • Dividend distribution to a foreign company by a Latvian company incurred a withholding tax of 10%. Tax Treaties ordinarily reduced the withholding tax to 5% (for example, in the case of the Netherlands or Finland). 	<ul style="list-style-type: none"> • Reduced rate of 5% instead. • Recipient not required to issue invoice to itself. • Participation exemption to the withholding tax for EU resident parent companies holding 25% of a shareholding and voting rights in a Latvian subsidiary for at least two years. The exemption is subject to some formalities. Undistributed profits of the previous years can also be paid out taking advantage of the new relief.
LITHUANIA	<ul style="list-style-type: none"> • Extensive list of goods and services exempt from VAT. • Invoices must be printed on special blank forms purchased from tax authorities. 	<ul style="list-style-type: none"> • VAT exemptions reduced. • Form of invoice free provided that it contains the information required by law.
	Property Law	
ESTONIA, LATVIA and LITHUANIA	Restrictions for foreigners acquiring agricultural and forestry land.	Restrictions for foreigners shall remain. EU member states: 7-years transitional period commenced on the May 1, 2004 during which the restrictions (specific conditions) shall remain for acquiring the agricultural and forestry land: - in Estonia for the EEA's member state legal persons whose branches have been registered in Estonia and citizens acquiring 10 hectares or more. - in Latvia for EU citizens and legal persons. - in Lithuania for EU, EEA, OECD, NATO member states citizens and legal persons For further information please seek for legal assistance.
LATVIA	Restrictions for foreigners acquiring the city land.	EU citizens and legal persons may acquire land plots in the cities on the same grounds as the Latvian citizens and legal persons. For further information please seek for legal assistance.
LITHUANIA	Restrictions for foreigners acquiring the land.	EU, EEA, OECD, NATO member states legal and natural persons may acquire land (except forestry and agricultural) on the same grounds as Lithuanian legal and natural persons. For further information please seek for legal assistance.
	Company Law	
ESTONIA	The residence of at least one-half of the members of the management board must be in Estonia.	The amendments to the Commercial Code, which provide that at least one-half of the management board members shall be EU citizens are expected to enter into force as of January 1, 2005.
LATVIA	The residence of at least one-half of the members of the management board must be in Latvia.	This requirement shall be abolished as of May 21, 2004.
LITHUANIA	The residence of the managing director must be in Lithuania.	This requirement shall stay in force also in the near future.
	Mergers & Acquisitions	
ESTONIA	Upon transfer of enterprise or its independent part (i.e. business transfer), the employment contracts shall be considered automatically transferred to the buyer.	In addition to automatic transfer of employment contracts, the seller and the buyer of the business are obliged to inform the employee representatives or, in their absence, the employees about the transfer at least one month beforehand and consult the changes affecting the employees (the similar obligation has already been in force in Latvia for some time, whereas there is no such obligation yet implemented under Lithuanian national law).
LATVIA	Upon transfer of enterprise or its independent part (i.e. business transfer), the transferee and transferor are jointly and severally liable for those liabilities of the transferred enterprise that have been incurred before the transfer and that become due within five years after the transfer, unless the parties agree otherwise.	The parties to a transfer will not be allowed to agree on different liability regime, thus the parties will be always jointly and severally liable for those liabilities of the transferred enterprise that have been incurred before the transfer and that become due within five years after the transfer. Estonian laws provide the similar regime of joint and several liabilities.

	BEFORE MAY 1, 2004	AFTER MAY 1, 2004
Mergers & Acquisitions		
LITHUANIA	No major changes.	No major changes.
Environmental Law		
ESTONIA	There is no obligation for the the produrer to ensure the collection, recovery or disposal of the formed waste in case of problematic products (eg batteries, accumulators, motor vehicles).	According to the Waste Act, in case of some specific products the producer is obliged to ensure the collection, recovery or disposal of the formed waste at their own expense. Such products are products, which cause or could cause hazard to health or environment, e.g. batteries, accumulators, motor vehicles.
LATVIA	<ul style="list-style-type: none"> • No natural resources tax was imposed upon import of vehicles in Latvia. • The Law On Natural Resources Tax provided that upon import into Latvia of certain products harmful to environment the respective fee is to be paid at the border. 	<ul style="list-style-type: none"> • Law on Depreciated Vehicles Management will establish additional expenditures for the owners of vehicles, because pursuant to the law On Natural Resources Tax the additional fee is to be levied for every vehicle imported into Latvia. • As of May 1, 2004 the fees provided for in the Law On Natural Resources Tax will be levied for the import of products harmful to environment pursuant to the new procedure: <ul style="list-style-type: none"> - The products imported from the non-EU states will be charged a duty at the border but - The products imported from the EU Member States will be charged once per quarter, like it used to be for the inland companies.
LITHUANIA	EU directives requirements related to management of oil, electrical and electronic equipment, and packaging waste and end-of life vehicles were not fully implemented in Lithuanian legislation.	The Law on Waste Management came into effect which imposed for manufacturers and importers certain obligations related to management of oil, vehicles, electrical and electronic equipment, taxable products and packaging waste. Manufacturers and importers are obliged to perform certain waste management tasks approved by the Government of Lithuania.
Employment Law		
ESTONIA	The Employment Contracts Act provides a list of mandatory provisions of employment contracts.	The amendments of the Employment Contracts Act provide for additional mandatory provisions (among them also length of annual holiday, terms of advance notice of termination, reference to collective agreement, if applicable etc) in the employment contract. The present employment contracts should be brought into conformity by January 1, 2005. For further information please seek for legal assistance.
LATVIA	No major changes.	No major changes.
LITHUANIA	No major changes.	No major changes.
Intellectual Property		
ESTONIA, LATVIA and LITHUANIA	<ul style="list-style-type: none"> • No protection to Community trade marks (CTM) in Estonia, Latvia, Lithuania. 	<ul style="list-style-type: none"> • Protection of the CTM has been automatically extended to new member states. CTM are protected equally as the national trade marks. Proprietor of a national trade mark registered prior to May 1, 2004 is entitled to claim the prohibition of the use of a CTM in Estonia, Latvia and Lithuania, as any rights acquired prior to May 1, 2004 are considered as an earlier right. • CTM is obtained by registration with an Office for Harmonization in the Internal Market (OHIM), applications might be presented directly and also through the local Patent Offices.
ESTONIA, LATVIA and LITHUANIA	When registering a trade mark in the local Patent Office foreigners and foreign companies had to act through patent agents only.	When registering trade mark <ul style="list-style-type: none"> - in Estonia no representation by patent agents is needed by foreigners and foreign companies. Person with no residence, seat or commercial or industrial enterprise operating in Estonia shall act thought patent agents only for performing acts related to the legal protection of a trade mark. - in Latvia foreigners and foreign companies have to act through patent agents only. - in Lithuania foreigners, excluding citizens and companies of EU Member States, have to act through Lithuanian trade mark agents only.
ESTONIA, LATVIA and LITHUANIA	<ul style="list-style-type: none"> • In Estonia world wide exhaustion of rights. • In Latvia and Lithuania exhaustion of rights limited to national markets mainly. • No protection to Community designs in Estonia, Latvia, Lithuania. 	<ul style="list-style-type: none"> • EEA wide exhaustion of rights, meaning that the proprietor of a trade mark is not entitled to prohibit further commercial exploitation of goods which have been put on the market of the European Economic Area under that trade mark by the proprietor or with the proprietor's consent. • Protection of Community designs has been automatically extended to all new Member States, including Estonia, Latvia and Lithuania, provided however that any rights acquired in Estonia, Latvia or Lithuania prior to May 1, 2004 is considered as an earlier right.
Competition & Agency & Distribution		
ESTONIA, LATVIA and LITHUANIA	<ul style="list-style-type: none"> • The applicability of EU competition rules, including Articles 81 and 82 was unclear. 	<ul style="list-style-type: none"> • EU competition rules are fully applicable in Estonia, Latvia and Lithuania. • All distribution agreements, intellectual property licensing agreement and franchising agreements that may affect trade between Member States must comply with provisions of the Regulation 2790/1999. For further information we suggest to seek for legal assistance.