

THE BILL OF LAW NBR. 7989 DATED 8 APRIL 2022 REFORMING THE RIGHT OF ESTABLISHMENT

The bill submitted to the Parliament by the Minister of Small and Medium-Sized Enterprises on April 8th, 2022, amending the Law of 2 September 2011 regulating access to the professions of craftsman, trader, industrialist and certain liberal professions, aims at reforming the right of establishment (business licences) in order to take into account the evolution of the Luxembourgish economic environment.

The main modifications contemplated by this bill of law are the following:

- the right for an economic operator to a second chance after bankruptcy through the implementation of the "second chance principle". This second chance applies in cases of (i) bad luck (e.g. a company that has gone bankrupt or is being wound up by court order due to a substantial decline in its activity for reasons beyond its control or its will) or (ii) bad management;
- the holder of the business licence shall have a real link with the company by being the owner (if he/she carries out his/her activity in his/her own name) or by being in charge of the daily management (in case of a legal entity), and shall be duly registered with the Trade and Companies Register. The holder of the business licence shall no longer be a partner, shareholder or employee of the company;
- it is now specified that the holder of the business licence may be domiciled anywhere in the European Economic Area, provided that he/she demonstrates a regular presence in the establishment in Luxembourg;
- the identification of certain specific commercial activities, which may be subject to AML control requirements, by the creation of specific denominations, such as commercial activities and services for the sale of motor vehicles, for the sale of high-value movable goods.
- a simplification and dematerialization of the procedure for obtaining the business licences;
- the "creation" of two additional real estate professions: the real estate business provider ("*apporteur d'affaires*") and the accommodation operator ("*l'exploitant d'hébergement*").

Key issues

- Reform of the right of establishment: what's new to expect regarding the business licences?

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