

ROMANIA  
ARGEŞ COMMERCIAL COURT  
B-dul I.C. BRĂTIANU NR. 7  
PITEȘTI

(stamp: *ELECTROARGES SA,*  
*No. 4597/10.12.2020*)

**Recipient:**  
**ELECTROARGES SA**  
**REPRESENTED BY**  
**THE CHAIRMAN OF THE BOARD**  
**OF DIRECTORS CONSTANTIN**  
**ȘTEFAN**  
Curtea de Argeș, Str. Albești, nr. 12,  
Județul ARGEȘ

**CASE NO. 232/1259/2020**

Subject matter: Professional liability litigation  
Procedural stage of the case: Merits  
Object of the case: Claims based on the GEO 116/2009  
request for intervention upon request for the registration of mentions  
no. 51332/20.08.2020  
Juducial panel: c2cc-merits

**COMMUNICATION**  
**CIVIL COUNSEL CHAMBER DECISION**  
NO. 185/2020 OF October 28th, 2020

Dear Sir/Madam,

Please find attached the copy of the civil decision no. 185/2020, pronounced on October 28th, 2020,  
by the ARGEȘ COMMERCIAL COURT

**PRESIDENT**  
**(stamp)**  
*(Romania, ARGES SPECIALIZED COURT)*

**Court Clerk,**  
*(signature)*

D.G. 02.12.2020 08:49:46

ROMANIA  
ARGEȘ SPECIALIZED COURT

Case no. 232/1259/2020

SENTENCE No. 185/C-C

Counsel Chamber Meeting of October 28th, 2020

Judicial panel consisting of:

PRESIDENT: Ungureanu Mihaela

COURT CLERK: Galbenu Diana Ionela

Pending for settlement is the request formulated by the petitioners Electroarges SA, with the registered office in Curtea de Argeș, str. Albesti nr. 12, jud. Argeș, J3/758/1991, Tax Code 156027 and Amattis SA, with the registered office in Galați, Str. Narciselor nr. 47, camera 1, jud. Galați, J17/902/2005, Tax Code 17532193, respondent being Electroarges SA, with the registered office in Curtea de Argeș, str. Albesti nr. 12, jud. Argeș, J3/758/1991, Tax Code 156027, having as object claims based on the GEO 116/2009.

The debates took place in the counsel chamber meeting of 07.10.2020, the motivations of the parties being recorded in the conclusion of that date, which is an integral part of this decision and when the court, needing time to rule, postponed the judgement for 21.10.2020 and further for today, 28.10.2020.

After ruling:

THE COURT:

On this request finds that:

Under no. 232/1259/2020 on August 24th, 2020, a request for intervention was registered for settlement at Argeș Specialized Court, request for intervention formulated by the petitioner ELECTROARGES S.A. represented by Constantin Ștefan – the Chairman of the Board of Directors, upon the request no. 51332/20.08.2020 for the registration in the Trade Registry Register attached to the Argeș County Court of the mentions regarding ELECTROARGES S.A., based on the decision no. 1/5.08.2020 of ELECTROARGES S.A.'s Ordinary General Meeting of Shareholders regarding the administrators/authorized persons/legal representatives, request formulated by Balâc Gheorghe in his capacity as an authorized person. The petitioner requested the rejection of the request for the registration of mentions.

In sustaining the request, the petitioner showed that, essentially, the request for the registration of mentions submitted at the Trade Registry Office attached to the Argeș County Court is not submitted by a company and does not know the persons who formulated the request and the reasons on which it is based. The petitioner also mentioned that it has no obligation to register on 21.08.2020 no mention of those provided at letter a-g or h of art.21 of the Law no. 26/1990. It was also declared that no other person can submit a request for the registration of mentions at the Trade Registry Office due to the fact that the provisions of art.22 paragraph 2 of the Law no. 26/1990 could not be met, provisions which condition other persons' right to register mentions at the Trade Registry Office by the company's failure to carry out the registration of the mentions. The petitioner also declared that they registered within the legal term all the mentions provided by law. By law, the provisions of art.7 ind. 1 of the G.E.O no. 116/2009 were invoked, and writings were used as records.

Also under no. 232/1259/2020, on 24 August 2020, a request for intervention was registered for settlement at the Argeș Specialized Court, formulated by the petitioner AMATTIS S.A., by the

administrator Procopenco Ala, upon the request no. 51332/20.08.2020 for the registration in the Trade Registry register attached to the Argeş County Court of the mentions regarding ELECTROARGES S.A.

Both requests for intervention were registered at the Trade Registry Office and submitted to the court by the Trade Registry Office attached to the Argeş County Court in a single letter.

Writings were also submitted along with the intervention.

Information were requested from the National Trade Registry Office (provision of information no. 1544442/1.09.2020).

By the sentence no. 507/9.09.2020 pronounced in this case, it was ordered: "Finds that the petitioner AMATTIS S.A. waived the settlement of the request for intervention formulated upon the request no. 51332/20.08.2020 for the registration of mentions at the Trade Registry Office attached to the Argeş County Court regarding ELECTROARGES S.A. concerning the decision no. 1/5.08.2020 of the ELECTROARGES S.A.'s Ordinary General Meeting of Shareholders."

The petitioner filed to the case Meeting Minutes and writings.

Examining the request for intervention related to the filed documents, the court holds the following:

By the resolution no. 12372/21.08.2020 of the person appointed by the Manager of the National Trade Registry Office, given in the case no. 51332/20.08.2020, the file of the case no. 51332 of 20.08.2020 was submitted together with the Request for intervention of the Argeş Specialized Court for jurisdiction and settlement in accordance with art. 7<sup>1</sup> paragraph 1 of the G.E.O. no. 16/2009, approved and amended and supplemented by the Law no. 84/2010.

In the resolution was held the fact that by the request registered under no. 51332 of 20.08.2020 it was requested the registration in the trade register of the mentions regarding the amendment of the Articles of Incorporation, regarding: the revocation, appointing authorized persons. On 21.08.2020 a request for intervention no. 51453 was submitted formulated by CONSTANTIN ŞTEFAN, and on 21.08.2020 a request for intervention no. 51410 was submitted by PROCOPENCO ALA. It was also mentioned that "the appointed person checked the file and the writings submitted and found that are no observations".

By the request for registration in the trade register no. 51332 of 20.08.2020, formulated by Balâc Gheorghe in his capacity as authorized person by the decision no. 1 of 5.08.2020 on behalf of ELECTROARGEŞ S.A., it was requested the registration in the trade register of the mentions regarding the administrators/authorized persons/legal representatives. In the content of the request form, the writings filed at the same time with the request were mentioned, respectively the decision no. 1/5.08.2020, affidavits associates/administrators/censors, signature sample, copies of ID cards, provision of information, form 30, statements of acceptance.

The writings filed in sustaining the request for registration in the trade register were submitted along with the request for intervention.

According to the writing filed, by the decision no. 1/5.08.2020 of the ELECTROARGEŞ S.A.'s Ordinary General Meeting of Shareholders legally held on 05.08.2020, 11.00, at the company's registered office in jud. Argeş, Curtea de Argeş, str. Albeşti, nr. 12, with the shareholders amounting up to 9,781,003 of the company shares, representing 14.02% of the company's share capital, following the debates which took place, the General Meeting of shareholders decided: „ART. 1. Approves with 9,781,004 votes "for", representing "100% of those attending and 14.02% of the total number 69,764,650 of the company's shares, - the revocation from position of the 5 (five) company administrators. ART. 2 Approves with 9,781,004 votes "for", representing "100% of those attending and 14.02% of the total number 69,764,650 of the company's shares, - the revocation from position of the Chairman of the company's Board of Directors Mr ŞTEFAN CONSTANTIN. ART. 3 Approves the Board

of Directors with the following structure: 1. BALÂC VLAD, with a number of 9,781,003 votes "For" 2. BALÂC CERASELA, with a number of 9,781,003 votes "For" 3. LUNGU GIANINA, with a number of 9,781,003 votes "for", as well as art. 4 Approves the appointment of Mr BALÂC VLAD on the position of Chairman of the Board of Directors".

According to the provisions of art.7 ind. 1 of the G.E.O. no. 116/2009, for the establishment of actions regarding the trade registration activity, if requests for intervention are submitted with the requests for registration, the manager of the trade registry office attached to the county court and/or the person or persons appointed submit to the court the entire file, which contains the request for registration in the trade register and the request for intervention, as well as the writings submitted to support them, the provisions of art.6 paragraph 4 (the complaint is submitted and it is mentioned in the trade register where the registration was made; within 3 days of submission, the trade registry office submits the complaint to the court) are properly applied, the settlement of the requests for registration and the requests for intervention is made with the citation of the party and the interveners, the court rules urgently, in accordance with the conditions of art.49 – 56 of the Code of Civil Procedure, the decision given is enforceable and is subject to appeal only.

For the settlement of the request for intervention formulated upon the request for the registration of mentions at the Trade Registry Office, according to the provisions of art.7 ind. 1 of the G.E.O. no. 116/2009 for the establishment of some actions regarding the trade registration activity, it is applicable the judicial non-contentious procedure provided by art. 527 – 536 of the Code of Civil Procedure (art.536 – applicable rules – the provisions of art.527 – 535 relating to the non-contentious procedure is completed with the provisions of the contentious procedure, to the extent as the latter are compatible with the non-contentious nature of the request; the non-contentious matters in respect of which the law provides a special procedure are subject to those provisions, which will be completed with those of the present book) related to art.61-67 of the Code of Civil Procedure.

The reference to the provisions of the Code of Civil Procedure which regulate the voluntary intervention, respectively the court rules urgently, under the conditions of art.61-67 of the Code of Civil Procedure, must be understood as referring to the provision according to which the intervention is settled at the same time with the main request.

By the request for intervention formulated by the petitioner company, by the legal representative (according to the mentions registered at the National Trade Registry Office) upon the request no. 51132/20.08.2020 for registration at the Trade Registry Office attached to the Argeş County Court of the mentions regarding ELECTROARGES S.A., based on the decision no. 1/5.08.2020 of the ELECTROARGES S.A.'s Ordinary General Meeting of Shareholders regarding the administrators/authorized persons/legal representatives, request formulated by Balâc Gheorghe, in his capacity as authorized person, several criticisms were made, essentially claiming that the decision invoked does not exist, has not been adopted by the company's ordinary general meeting of shareholders, there was not such meeting summoned for 5.08.2020 and the person who formulated the request for registration of mentions was not authorized by the company in this sense, being unable to formulate requests for mention, make decisions regarding the company.

As it results from the information provided by the National Trade Registry Office, ELECTROARGES S.A. is a joint stock company administrated by five administrators which form a board of directors, therefore according to the provisions of art.137 of the Law no. 31/1990, administered in a unitary system. As Chairman of the board of directors Mr Ştefan Constantin is mentioned, and the date the term of office expires: 20.09.2021.

The object of the dispute is the registration of the mentions regarding the administrators/authorized persons/legal representatives, respectively the persons appointed as

administrators and chairman of the board of directors by the decision no. 1/5.08.2020 of the ELECTROARGEȘ S.A.'s Ordinary General Meeting of Shareholders.

Thus the court invested with the settlement of the requests for registration and the requests for intervention checks the formal conditions inserted in the special rules mentioned, regarding the writings that must come together with the request for registration regarding the administrators/authorized persons/legal representatives, as in the case brought before the court.

Regarding the formal conditions of adopting the document based on which is requested the registration of mentions regarding the administrators/authorized persons/legal representatives, from the corroboration of the documents submitted by the company respondent, we hold that the decision invoked, respectively the decision no. 1/5.08.2020 of the ELECTROARGEȘ S.A.'s Ordinary General Meeting of Shareholders is not entered in the Electroarges' Register of meetings and conferences of general meetings for 2020, Electroarges did not adopt the Decision no. 1/5.08.2020, the numbers of the Electroarges decisions being different from the ones mentioned in the document in question. The Electroarges OGMS Decision no. 107/04.08.2020 and the Electroarges EGMS Decision no. 108/04.08.2020, having a different agenda than that mentioned in the document submitted to the National Trade Registry Office, the summoning published in the Official Gazette issue 2242 of 03.07.2020 and on BSE on 02.07.2020, from which it follows that the Electroarges OGMS and EGMS have never been summoned for 05.08.2020 (only the second summoning was for this date, but the meeting took place at the first summoning of 04.08.2020), and that there is no summoning with the agenda contained in the Decision no. 1/5.08.2020, but with another agenda, excerpt from the BSE site regarding all the events concerning Electroarges in 2020, from which it follows that in 2020 there was no meeting summoned with the agenda mentioned in the Decision no. 1/5.08.2020.

Also, the company respondent declared that from the Excerpt of the Shareholders' Register held by Depozitarul Central S.A. and the synthetic structure with the shareholders that hold at least 10% of the share capital, results that Balâc Gheorghe has no capacity in the Electroarges S.A.'s executive (cannot summon the GMS) and that he holds a number of 15 Electroarges shares from the total of 69,764,650 shares, and in the Decision no. 1/5.08.2020 a number of 9,781,003 votes are invoked, about which it is not known to whom it may belong.

According to art.177 paragraph 1 letter a and letter b of the Law no. 31/1990, apart from the records provided by law, the companies must have: a register of shareholders showing, where applicable, the name and surname, the Personal number, the designation, the shareholders' domicile or registered office, as well as the payments made in the shareholders' account. The records of the traded shares on a regulated market/alternative trading system is made in compliance with the capital market-specific legislation; a register of meetings and conferences of the general meetings.

In the case of the company respondent are also applicable the special provisions of the Law no. 24/2017 on the issuers of financial instruments and market operations and the Law no. 126/2018 on the financial instrument markets, regarding the central depository, being a company whose shares are traded on a regulated market, the market operator being Bucharest Stock Exchange.

Thus, we hold that the imperative legal provisions regarding the form and documents that must accompany the request for registration regarding the administrators/authorized persons/legal representatives were not followed, on the one hand, because the decision invoked is not registered in the register of meetings and conferences of the general meetings, and, on the other hand, of the Shareholders' Register held by Depozitarul Central S.A. and the synthetic structure with the shareholders that held at least 10% of the share capital, results that Balâc Gheorghe has no legal capacity to justify the action to formulate a request for registration at the Trade Registry Office regarding

the company respondent (he is just a minority shareholder, insignificant in the sense of the Law no. 24/2017).

In this context, we hold that the request for the registration of mentions does not comply with the requirements provided by art. 21 letter b and letter h of the Law no. 26/1990.

In view of the de facto reasons given in the request, related to the applicable legal provisions and the de facto situation previously held, we consider that the request for intervention formulated by the petitioner ELECTROARGES S.A., represented by Constantin Ștefan – the Chairman of the Board of Directors, upon the request no. 51332/20.08.2020 for the registration in the register of Trade Registry attached to the Argeș County Court of the mentions regarding ELECTROARGES S.A., based on the decision no. 1/5.08.2020 of the ELECTROARGES S.A.'s Ordinary General Meeting of Shareholders regarding the administrators/authorized persons/legal representatives, request formulated by Balâc Gheorghe, in his capacity as authorized person, is grounded, following to be admitted based on art.7<sup>1</sup> of the G.E.O. no 116/2009.

As a consequence, we will order the rejection of the request for the registration in the Trade Registry attached to the Argeș County Court of the mentions regarding ELECTROARGES S.A., based on the decision no. 1/5.08.2020 of the ELECTROARGES S.A.'s Ordinary General Meeting of Shareholders regarding the administrators/authorized persons/legal representatives, request formulated by Balâc Gheorghe, in his capacity as authorized person.

FOR THE FOREGOING REASONS,  
IN THE NAME OF THE LAW  
DECIDES

Admits the request for intervention formulated by the petitioner ELECTROARGES S.A., with the registered office in Curtea de Argeș, str. Albesti nr. 12, jud. Argeș, J3/758/1991, Tax Code 156027, represented by Constantin Ștefan – the Chairman of the Board of Directors, upon the request no. 51332/20.08.2020 for the registration in the Trade Registry Register attached to the Argeș County Court of the mentions regarding ELECTROARGES S.A., based on the decision no. 1/5.08.2020 of ELECTROARGES S.A.'s Ordinary General Meeting of Shareholders regarding the administrators/authorized persons/legal representatives, request formulated by Balâc Gheorghe in his capacity as an authorized person.

Rejects the request for the registration in the Trade Registry of the mentions regarding ELECTROARGES S.A., with the registered office in Curtea de Argeș, str. Albesti nr. 12, jud. Argeș, J3/758/1991, Tax Code 156027, based on the decision no. 1/5.08.2020 of ELECTROARGES S.A.'s Ordinary General Meeting of Shareholders regarding the administrators/authorized persons/legal representatives, request formulated by Balâc Gheorghe in his capacity as an authorized person.

Enforceable.

With the possibility for appeal within 30 days of communication. The appeal shall be submitted at the Argeș Specialized Court.

Pronounced by submitting the settlement to the parties by the court registry, today, October 28th, 2020, at the Argeș Specialized Court.

PRESIDENT  
Ungureanu Mihaela  
Prepared/Edited U.M.  
Ex.5/28.11.2010

COURT CLERK  
Galbenu Diana Ionela  
(certified true copy)  
(signature)

ROMANIA  
ARGEȘ SPECIALIZED COURT

Case no. 232/1259/2020

CONCLUSION

Counsel Chamber meeting of October 21<sup>st</sup>, 2020

Judicial panel consisting of:

PRESIDENT: Ungureanu Mihaela

COURT CLERK: Galbenu Diana Ionela

Pending for settlement is the request formulated by the petitioners Electroarges SA, with the registered office in Curtea de Argeș, str. Albesti nr. 12, jud. Argeș, J3/758/1991, Tax Code 156027 and Amattis SA, with the registered office in Galați, Str. Narciselor nr. 47, camera 1, jud. Galați, J17/902/2005, Tax Code 17532193, respondent being Electroarges SA, with the registered office in Curtea de Argeș, str. Albesti nr. 12, jud. Argeș, J3/758/1991, Tax Code 156027, having as object claims based on the GEO 116/2009.

The debates took place in the counsel chamber meeting of 07.10.2020, the motivations of the parties being recorded in the conclusion of that date, which is an integral part of this decision and when the court, needing time to rule, postponed the judgement for 21.10.2020.

After ruling:

THE COURT,

Needing time to rule, under art.396 of the Code of Civil Procedure,

FOR THE FOREGOING REASONS,  
IN THE NAME OF THE LAW  
DECIDES

Postpones the decision for October 28th, 2020, which will be done by submitting the settlement to the parties by the court registry.

With the possibility for appeal at the same time with the merits.

Pronounced today, October 21st, 2020, at the Argeș Specialized Court.

PRESIDENT

Ungureanu Mihaela

D.G. October 21st, 2020

COURT CLERK

Galbenu Diana Ionela

*(certified true copy)*

*(signature)*

ROMANIA  
ARGEȘ SPECIALIZED COURT

Case no. 232/1259/2020

CONCLUSION

Counsel Chamber meeting of October 7th, 2020

Judicial panel consisting of:

PRESIDENT: Ungureanu Mihaela

COURT CLERK: Galbenu Diana Ionela

Pending for settlement is the request formulated by the petitioners Electroarges SA, with the registered office in Curtea de Argeș, str. Albesti nr. 12, jud. Argeș, J3/758/1991, Tax Code 156027 and Amattis SA, with the registered office in Galați, Str. Narciselor nr. 47, camera 1, jud. Galați, J17/902/2005, Tax Code 17532193, respondent being Electroarges SA, with the registered office in Curtea de Argeș, str. Albesti nr. 12, jud. Argeș, J3/758/1991, Tax Code 156027, having as object claims based on the GEO 116/2009.

At the roll call made in the counsel chamber meeting answered the petitioner Electroarges SA, who is also respondent, represented by Attorney Maier Mircea, with the power of attorney filed to the case.

The procedure was legally met.

The Court Clerk read the facts and presents the court the fact that, on 02.10.2020, by the registry service, the petitioner filed meeting minutes, copies of writings, and then.

When questioned by the court, the attending parties declare they have no further claims.

The attorney, on behalf of the petitioner and respondent Electroarges SA, shows that he took an excerpt from the BSE, from Depozitarul Central, because for the GMS the law obliges them with 30 days before the GMS date, it had a reference date and took an excerpt from the shareholders' register on the date on which it was held, it is in an electronic format and he took for August 4<sup>th</sup>, when the GMS was held, being the last register that he had and printed only where the main shareholders are and where holds Mr Balâc the 15 shares.

The attorney, on behalf of the petitioner and respondent Electroarges SA, when questioned by the court regarding the writings from the Bucharest Stock Exchange, shows that the Bucharest Stock Exchange has the obligation to submit, specify and communicate to the Stock Exchange any GMS summoning and any GMS decision and submitted everything for 2020 to see that no GMS has ever been summoned with this agenda and this decision no. 1 of August 5<sup>th</sup> has never been approved to fully prove that it does not exist, at the same time presenting that on the site there are the Electroarges decisions.

The court takes note that these writings on the Bucharest Stock Exchange site contain information regarding the company's obligation to notify the Bucharest Stock Exchange about any company's summoning and decision.

When questioned by the court, the attending parties show that they have no further claims.

The attorney, on behalf of the petitioner and respondent Electroarges SA, asks the court to admit the intervention, to acknowledge that this request does not visit a company writing, and thus a document that evidently does not belong to the company cannot be published in the trade registry.

The court reserves judgment on the request.



THE COURT

Needing time to rule, under art.396 of the Code of Civil Procedure,

FOR THE FOREGOING REASONS,  
IN THE NAME OF THE LAW  
DECIDES

Postpones the decision for October 21st, 2020, which will be done by submitting the settlement to the parties by the court registry.

With the possibility for appeal at the same time with the merits.

Pronounced today, October 7th, 2020, at the Argeş Specialized Court.

PRESIDENT  
Ungureanu Mihaela

D.G. October 09, 2020

COURT CLERK  
Galbenu Diana Ionela  
*(certified true copy)*  
*(signature)*