

dispute resolutions - legal changes published in April 2018

Decision of the High Court of Cassation and Justice no. 5/2018 regarding the examination of the referral filed by the Bacău Court of Appeals - the Criminal Section and for Minors and Family Affairs in Case no. 8.618/279/2016, requesting a prior decision for the resolution of certain issues of law, published in the Official Gazette of Romania, Part I, no. 355 of 24 April 2018, applicable from the same date.

By decision 5/28.02.2018, the HCCJ admitted the referral requesting a preliminary ruling for the principle resolution of the following legal problem: "*What is meant by the word injury provided by art. 75 lit. b) the 2nd thesis from EGO no. 195/2002 on the circulation on public roads, in the interpretation and application of the provisions of art. 338 par. (1) of the Criminal Code on the offense of leaving the accident scene?*". Thus, in the interpretation and application of the provisions of art. 338 par. (1) of the Criminal Code regarding the offense of leaving the accident scene, the HCCJ has determined that the word *injury* provided by art. 75 lit. b) the 2nd thesis of the Government Emergency Ordinance no. 195/2002 on public roads, republished, shall be interpreted as "*traumatic injuries or damage to a person's health, the severity of which is assessed by days of medical care (at least one day) or by one of the consequences provided by art. 194 par. (1) let. a), c), d) and e) of the Criminal Code*".

Decision of the High Court of Cassation and Justice no. 16/2018 regarding the examination of the referral filed by the Braşov Court of Appeals - administrative and fiscal section in File no. 4.833/ 62/2016, on the issuing of a preliminary ruling, published in the Official Gazette of Romania, Part I, no. 319 of 11 April 2018, applicable from the same date.

The HCCJ admitted the referral filed by the Brasov Court of Appeal - administrative and fiscal section and, consequently, in interpreting and applying the provisions of art. 15 par. (1) and (2) of Law no. 200/2006 regarding the establishment and use of the Guarantee Fund for the payment of salary claims, as amended, in conjunction with the provisions of art. 7 of the Methodological Norms for the application of Law no. 200/2006 regarding the establishment and use of the Guarantee Fund for the payment of salary claims, approved by the Government Decision no. 1850/2006, established that: (i) the maximum period of 3 months for which the Guarantee Fund may take over and pay the claims of an employer in insolvency shall be within the reference period of 3 months immediately preceding the opening of the insolvency procedure - 3 months immediately following the opening of the insolvency proceedings and (ii) the 3-month period for which the Guarantee Fund can take over and pay the claims of an employer in insolvency, relates only to the date of opening the insolvency proceedings.

Decision of the High Court of Cassation and Justice no. 3/2018 regarding the examination of the referral filed by the Constanta Court of Appeals - Criminal and Minors and Family section in Case no. 17.774/212/2013/a2, requesting the High Court of Cassation and Justice to solve a matter of law, published in the Official Gazette of Romania, Part I, no. 327 of 13 April 2018, applicable from the same date.

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The HCCJ admitted the referral filed by the Constanța Court of Appeal - the Criminal and for minor and family criminal cases section in Case no. 17.774 /212/2013/a2, requesting a preliminary ruling on the issue of the law: "*If, in interpreting and applying the provisions of art. 19 of Law no. 682/2002 on the protection of witnesses, provided that the defendant has facilitated the identification and prosecution of the person denounced in another criminal case and has benefited from the halving of the punishment limits, the effects of the said criminal provision apply to all criminal cases in the courts, without any limitation*" and established that the effects of the legal grounds of reduction of the punishment provided by art. 19 of Law no. 682/2002 on the protection of witnesses occur exclusively in the specified criminal case, having as object one or more crimes committed before or during the criminal prosecution or the trial of that cause by the person who denounced and facilitated the incrimination of serious crime offenders. In this respect, the author of the denunciation cannot benefit from halving of the special limits of punishment in distinct criminal cases, even if they are related to concurrent crimes committed by them.