

## **litigation and arbitration - legal changes** published in February 2020

**Decision of the High Court of Cassation and Justice no. 31/2019 regarding the examination of the appeal in the interest of the law formulated by the Governing Board of the Brasov Court of Appeal, which is the subject of the case no. 1.142/1/2019 and which was published in the Official Gazette of Romania, Part I, no. 133 of February 19, 2020 and is applicable from the same date.**

The court granted the appeal in the interest of law and established that, when interpreting the provisions of art. 131 of the Code of Civil Procedure, if the first court invokes the objection of material/functional lack of jurisdiction after the moment expressly established in art. 131 of the Code of Civil Procedure (art. 131 stipulates the compulsory verification of jurisdiction by the court on the first court hearing), the court subsequently invested may decline its jurisdiction in favor of the first court, reasoning that this court has become competent to judge the case, as a result of issuing an interlocutory conclusion in which it held that it has material/functional jurisdiction.

**Decision of the High Court of Cassation and Justice no. 3/2020 regarding the settlement of the complaint made by the Iași Court of Appeal - Criminal and for cases regarding minors Section, in the case no. 5.916/99/2016, by which the High Court of Cassation and Justice is requested to settle a question of law, which was published in the Official Gazette of Romania, Part I, no. 138 of February 21, 2020 and is applicable from the same date.**

The Court admitted the complaint stating that the use or presentation in bad faith of forged private signature documents, which resulted in unfairly obtaining funds from the European Union budget or from the budgets administered by it or on its behalf, committed by the same person who, as author or secondary participant, contributed to the forgery, fulfills the content of the offense of using or presenting in bad faith false documents or inaccurate or incomplete statements, provided by art. 181 par. (1) of Law no. 78/2000 for the prevention, finding and sanctioning of corruption deeds and forgery in documents under private signature, provided by art. 322, paragraph (1) of the Criminal Code, in multiple offences.

**Decision of the High Court of Cassation and Justice no. 2/2020 regarding the settlement of the complaint made by the Constanta Court of Appeal, Criminal and for cases regarding minors and family Section, in Criminal Case no. 11.252/256/2017, by which the High Court of Cassation and Justice is requested to settle a question of law was published in the Official Gazette of Romania, Part I, no. 135 of February 20, 2020 and is applicable from the same date.**

The court admitted the complaint and established that, in the case of the family abandonment offense established in art. 378 par. (1) c) of the Criminal Code, the deadline for introducing the preliminary complaint provided in the content of art. 296 par. (1) and (2) of the Code of Criminal Procedure, - of 3 months from the day the injured party or their legal representative learned about the offense - it starts from the date when the injured party or their legal representative became aware of the offense. The 3 months period provided in art. 296 par. (1) and (2) of the Code of Criminal Procedure

may run from three different moments, as follows: a) from the moment the offence is committed, if this moment is identical with that of the knowledge of the crime; b) from the moment of becoming aware of the offence, which can be between the moment of committing it until the moment of its exhaustion, and c) from the moment of the exhaustion of the crime or after it, once it becomes known, in which case the limitation period for the criminal liability should have not been fulfilled.

**Decision of the High Court of Cassation and Justice no. 32/2019 regarding the examination of the appeal in the interest of the law formulated by the Governing Board of the High Court of Cassation and Justice, which is the subject of Case no. 2.060/1/2019, and which was published in the Official Gazette of Romania, Part I, no. 148 of February 25, 2020 and is applicable from the same date.**

The court granted the appeal in the interest of the law, stating that, in interpreting and applying the provisions of art. 64, paragraph (3) of the Code of Criminal Procedure, the judge who participated in the trial of a case may not participate in the trial of the same case in an extraordinary way of appeal, in the admissibility in principle stage (appeal for annulment, review and appeal in cassation).