

litigation and arbitration - legal changes published in October 2020

Decision of the High Court of Cassation and Justice (HCCJ) no. 45/2020 regarding the examination of the notification formulated by the Gorj Tribunal - Civil Section I, in File no. 14725/318/2019, requesting HCCJ to issue a preliminary ruling in order to resolve in principle a matter of law, was published in the Official Gazette, Part I no. 961 of October 20, 2020 and is applicable from the same date. The HCCJ panel for resolving legal issues admitted the notification formulated by the Gorj Tribunal - Civil Section I, in File no. 14725/318/2019 for the issuance of a preliminary ruling and, consequently, established that, in the interpretation and application of the provisions of article 182 and article 183 paragraph (1) and (3) of the Code of Civil Procedure, as amended by Law no. 310/2018 for the amendment and completion of Law no. 134/2010 on the Code of Civil Procedure, as well as for amending and supplementing other normative acts, procedural documents sent by fax or e-mail, on the last day of the procedural term which is counted by days, after the hour when the activity ceases in court, is deemed to have been filed in due time.

Decision of the Constitutional Court of Romania no. 604/2020 regarding the admission of the exception of unconstitutionality of the provisions of article 524 paragraph (3) of the Code of Civil Procedure was published in the Official Gazette, Part I no. 976 of October 22, 2020 and is applicable from the same date. The Constitutional Court admitted the exception of unconstitutionality raised by Alexandru Maghiar in File no. 2493/271/2016 of the High Court of Cassation and Justice - Administrative and Fiscal Litigation Section and found that the provisions of article 524 paragraph (3) of the Code of Civil Procedure, according to which the appeal regarding the delay of the process is solved by the panel invested with the trial of the case, are unconstitutional, these contravening to article 21 paragraph (3) and article 124 paragraph (2) of the Romanian Constitution and article 6 paragraph 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms, due to the lack of judges' objective impartiality.

The Decision of the European Court for Human Rights of March 3, 2020 ruled in the Mircea Case against Romania (Application no. 17274/13) was published in the Official Gazette, Part I no. 1004 of October 29, 2020 and is applicable from the same date. The application is based on claims amounting to EUR 1 million for non-pecuniary damage suffered due to the stress which the applicant suffered as a result of being convicted of theft. The European Court for Human Rights has ruled that article 6 § 1 and § 3 letter c) of the Convention has been breached and that the finding of a violation in itself provides a sufficient level of satisfaction for the non-pecuniary damage suffered by the applicant, therefore is not the case for granting the amount requested under the form of damages.