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News in Laws – Legal Monthly Newsletter
November 2020

EU Data transfers after Schrems II – What would be a defensible position going further? A few recommended practical steps

by Marta Popa, Senior Partner Voicu & Filipescu

On July 16, 2020, the European Court of Justice has resolved, in its ruling granted in cause C-311/18 - Data Protection Commissioner against Facebook Ireland and Maximillian Schrems, upon invalidation of Decision no. 2016/1250 on the adequate character of protection offered by the EU – U.S. Privacy Shield and rendered valid Decision no. 2010/87 of the Commission regarding the standard contractual clauses for the transfer of personal data to processors established in third countries.

Read more here…

Legal Changes of October 2020

Voicu & Filipescu is a full service law firm, covering all legal areas relevant to your company's activity. This issue of our monthly newsletter provides you with a brief description of some of the recent legal amendments in:

- Data Protection
- Employment
- Litigation & Arbitration

VF News

Article "FDI Screening Regulation in Romania. Implementation of Regulation (EU) 2019/452." by Dumitru Rusu, Partner Voicu & Filipescu, published on Universul Juridic. Click here to read the article.

The dedicated VF task force addressing Coronavirus (COVID-19) concerns continues to be active in providing legal solutions and strategies for the benefit of companies impacted by the health crisis. Read more here.

Voicu & Filipescu is pleased to announce that two of the transactions in which the Firm was involved were included among the most important deals on the Romanian M&A market in the research made by the specialists of the Ziarul Financiar newspaper for the 2019 edition of their Top Deals Directory. Click here to read the details.

Legal500 EMEA 2020 edition recommends Voicu & Filipescu for our lawyers' activity in 6 practice areas: Corporate, Commercial and M & A, Employment, PPP and Procurement, Real Estate and Construction, Restructuring and Insolvency and TMT.

IFLR 1000, 2020 edition recommends Voicu & Filipescu for our lawyer's activity in three practice areas: M&A, Banking and Finance and Project Development. Also, Mr. Dumitru Rusu – Partner, head of the Banking and Finance practice, was selected as a *Highly Regarded Lawyer* for the practice areas of Capital Markets and Banking.

Chambers and Partners Europe, 2019 edition recommends Voicu & Filipescu for Corporate and M&A practice.

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On July 16, 2020, the European Court of Justice has resolved, in its ruling granted in cause C-311/18 - Data Protection Commissioner against Facebook Ireland and Maximillian Schrems, upon invalidation of Decision no. 2016/1250 on the adequate character of protection offered by the EU – U.S. Privacy Shield and rendered valid Decision no. 2010/87 of the Commission regarding the standard contractual clauses for the transfer of personal data to processors established in third countries.

Subject matter of the case brought before the European Court of Justice (ECJ)

ECJ Ruling in case C-311/18 - Facebook Ireland and Maximillian Schrems is of special importance, highlighting the fundamental right to privacy in case of transfer of personal data to third countries as well as a series of non-compliances in the treatment of personal data mainly as regards observance of the necessity and proportionality principles, which eventually led to the invalidation of the Privacy Shield previously applicable between the EU and the US.

The case was initiated in 2015 by Max Schrems, a data privacy activist who succeeded in getting the previous 'Safe Harbor' transfer mechanism invalidated. Following the success of his safe harbor challenge, he turned his attention to Facebook's use of model clauses (also known as standard contractual clauses or 'SCCs') fortransferring personal data to its US headquarters and made a further complaint to the Irish Data Protection Commission ('DPC'). As part of his complaint, Schrems argued that the US approach to personal data undermined the EU's high data protection standards, and that personal data should not be exported to the US irrespective of the transfer mechanism.

The Irish DPC also raised concerns about the use of model clauses in general, and the case ended up before the ECJ).

The ECJ has found that the Privacy Shield is no longer a valid mechanism of transfer of personal data between the EU and the US and although SCCs remain a valid mechanism for cross-border transfers of personal data, they cannot be relied on by Facebook in this instance to transfer personal data to its US headquarters on the basis that Facebook is subject to US surveillance laws.

In more concrete words, "the requirements of US national security (from CIA or FBI or NSA – our note) and the requirements of public interest and law enforcement have primacy, thus condoning interference with the fundamental rights of persons whose data are transferred to that third country".

Furthermore, it was found that the complaint mechanism within Privacy Shield (the ombudsman mechanism) did not give any real right of to EU data subjects who wanted to complain about the way their data was being processed in the US.

Thus, even though SCCs do remain, in principle. a valid mechanism for cross-border transfers of personal data, in order to rely on SCCs the data exporters and the data importers must undertake assessments of the level of protection and take supplementary measures/additional safeguards to show that the receiving country can guarantee the same protections for EU data subjects, if there is no equivalent protection.

BCRs are also affected by Schrems II just like the SCCs, as U.S. law has primacy over this transfer tool too.

A rather unique ruling, as it obligates the Data Protection Authorities to order the deletion of data, suspension or end of unlawful data transfers rather than to impose penalties

The ECJ ruling generated many concerns for controllers and processors regarding mainly the level of due diligence they have to carry on in relation to SCCs and whether or not other transfer tools are still valid. Other difficult questions include how to effect transfers to countries where the level of data protection is not deemed adequate, such as China or Rusia, or non-EU countries such as UK or Japan.

Further, the ECJ also emphasized that supervisory authorities (DPAs) have the right to audit and review SCCs and suspend or stop data transfers where they find there is no adequate protection afforded by the receiving country. And these orders that DPAs may take can actually affect much more a company or a business than a fine.

Schrems II has thus become a Board/CEO-Level issue for entities involved in the international transfer of data.

A few recommended practical steps in consequence of "Schrems II" ruling

What kind of analysis is required to controllers and processors to demonstrate the due-dilligence they took in regard of the SCCs to comply with EU data protection law? Should it be the same standard applied for an EC adequacy decision under Article 45 GDPR? Could derogations set under Article 49 apply, since even SCCs are sometimes not enough? What paperwork needs to be put in place and what is to be done in case of a control from a supervisory body and what if such body is not in agreement with the due-diligence findings and strikes down the transfers? And how about countries with less protection for the transferred data, such as China or Russia?

However, on October 29, 2020, the European Data Protection Board (the "EDPB") has pointed out, in its document for approval of the Strategy for European institutions regarding Schrems II ruling, that compliance with such ruling should build around **cooperation and responsibility** of controllers in order to **achieve a compliance degree essentially equivalent to that guaranteed within the EU**. Also, the ECJ advised EU institutions to:

i. not transfer data within new processing activities (which includes US-owned Cloud and SaaS providers, regardless of where servers are located) or conclude new contracts with services provided located in the U.S.;

ii. complete Transfer Impact Assessments (TIAs) for all data transfers; and

iii. expect joint EDPS/EDPB guidance, compliance audits and enforcement actions for transfers towards the U.S. or other third countries on a case-by-case basis.

We are proposing below a few steps aimed at minimizing the risk of an inadequate analysis and use of the SCCs in case of ongoing and future international transfers:

1. Map cross-border transfers;

2. Perform Transfer Impact Agreements (TIAs);

3. Look into derogations under Article 49 GDPR;

4. Put supplementary measures/additional safeguards in place (pseudonymization, for example);

5. Improve contractual provisions with processors for legal and commercial comfort; and

6. Keep cross-border transfers under review.

On November 11, 2020, the EDPB put under public consultation a series of recommendations containing a roadmap of the steps that data exporters must take to find out if they need to put in place supplementary measures to achieve a level of compliance and protection essentially equivalent to that in the EU as well as recommendations on the European Essential Guarantees for surveillance measures. At the date hereof, the recommendations were not yet published; however, we will revert with more details once recommendations will be published.

data protection - legal changes published in October 2020

I. ROMANIA

1. ANSPDCP. MEGAREDUCERI TV SRL WAS SANCTIONED WITH A FINE IN THE AMOUNT OF 3,000 EUR FOR NON-COMPLIANCE WITH THE CORRECTIVE MEASURE

On Thursday, October 1, 2020, the National Supervisory Authority for Personal Data Processing informed that it has completed an investigation at **Megareduceri TV SRL**, in which it found that the controller did not carry out the corrective measure willing **to respond to requests of ANSPDCP**, thus violating the instructions of the institution, deed provided in art. 83 para. (5) lit. e) of Regulation (EU) 679/2016, according to a press release.

The controller was sanctioned with a fine in the amount of RON 14,519.1 (equivalent to the amount of EUR 3,000) and a corrective measure was applied, to send the Authority a response to the addresses previously communicated within 5 calendar days.

2. ANSPDCP. CONTROLLER SANCTIONED WITH 2,000 EUR FOR NON-COMPLIANCE WITH THE CORRECTIVE MEASURE

On Thursday, October 1, 2020, the National Supervisory Authority for Personal Data Processing informed that it has completed an investigation at the **Association of Military Owners R**, Chiajna commune, Ilfov county, in which it found that the owners' association did not bring fulfillment of the corrective measure willing to send a response to the ANSPDCP requests.

The owners' association was sanctioned with **a fine in the amount of RON 9,659, the equivalent of the amount of EUR 2,000. At the same time, a corrective measure** was applied to the owners' association, to send in writing to the Authority all the information requested through the address previously communicated, within 5 calendar days.

3. ANSPDCP. CONTROL ACTIVITY JANUARY - SEPTEMBER 2020

On Friday, 2 October 2020, the National Supervisory Authority for Personal Data Processing informed that, between **January and September 2020**, it received a number of 3952 complaints, 176 notifications and 128 notifications regarding security incidents, on the basis of which investigations have been opened, according to a statement.

As a result of the investigations carried out, **22 fines were imposed in a total amount of EUR 68,900**. A fine in the amount of RON 10,000 was applied under Law no. 506/2004. Also, 46 warnings were applied and 42 corrective measures were ordered.

4. ANSPDCP. CONTROLLER SANCTIONED WITH EUR 3,000 FOR NOT ADOPTING SUFFICIENT SECURITY MEASURES

On Thursday, October 15, 2020, the National Supervisory Authority for Personal Data Processing informed that it has completed an investigation at **Marsorom S.R.L.**, finding the violation of art. 25 and art. 32 of the General Data Protection Regulation as the controller has not adopted sufficient security measures to prevent unauthorized access and disclosure of personal data of customers who have placed orders on this site, according to a statement.

The controller Marsorom S.R.L. was sanctioned with a **fine in the amount of RON 14,574.9, the equivalent of the amount of EUR 3,000.**

The investigation took place as a result of a notification claiming that some personal data of its customers could be viewed on the controller's website.

5. ANSPDCP. CONTROLLER WAS SANCTIONED WITH EUR 2,000 FOR NOT PROVIDING THE REQUESTED INFORMATION

On Tuesday, October 20, 2020, the National Supervisory Authority for Personal Data Processing informed that it had completed an investigation at **Globus Score SRL** and found that it had not complied with the **corrective measure provided to provide the information requested by the Authority**, violating thus the instructions of our institution, deed provided in art. 83 para. (5) lit. e), reported to art. 58 para. (1) of the General Data Protection Regulation, according to a press release.

The controller Globus Score SRL was sanctioned with a **fine in the amount of RON 9,713.14, the equivalent of EUR 2,000.**

II. EUROPEAN UNION

1. THIRTY-NINTH PLENARY SESSION OF THE EUROPEAN DATA PROTECTION BOARD

On Thursday, October 8, 2020, the thirty-ninth Plenary Session of the European Data Protection Board, a body with legal personality of the European Union, established pursuant to art. 68 of the General Regulation on Data Protection, according to a statement.

Within this, **Guidelines 09/2020 on relevant and reasoned objection under Regulation 2016/679 - version for public consultation (GDPR).**

This Guide aimed at clarifying the notion of **relevant and reasoned objection**, defined in art. 4 point 24 of the General Regulation on Data Protection, in order to ensure an adequate application in the cooperation mechanism between the national data protection authorities, established by art. 60 of this Regulation.

This Guide aimed at clarifying the notion of relevant and motivated objection, defined in art. 4 point 24 of the General Regulation on Data Protection, in order to ensure an adequate application in the cooperation mechanism between the national data protection authorities, established by art. 60 of this Regulation.

2. HAMBURG COMMISSIONER FINES H&M € 35.3 MILLION FOR DATA CENTER BREACHES IN SERVICE CENTER

German authority fined **H&M** in case of monitoring of **hundreds of employees** of Nuremberg H&M Service Center by its management.

Since 2014, some employees have undergone extensive processing of details about their privacy. After absences, such as vacations and sick leave - even short absences - the heads of the surveillance team organized so-called *welcome back discussions* with their employees. After these discussions, in many cases not only **concrete vacation details of employees** were recorded, but also **disease symptoms and diagnoses**.

In addition, some supervisors found and noted extensive information about the **privacy life of their employees** through personal discussions, ranging from fairly harmless details to family issues and religious beliefs. Some of this information was recorded, digitally stored and partially readable by another 50 managers from across the company.

3. NORWEGIAN DATA PROTECTION AUTHORITY: DECISION TO FINE THE MUNICIPALITY OF BERGEN

The Norwegian Data Protection Authority fined the city of Bergen with an administrative **fine of around EUR 276,000** for non-compliance with technical and organizational measures, as personal information from the communication system between school-parent was not sufficiently secure. In addition, these data belonged to a category of vulnerable individuals, namely children.

In October 2019, the Authority was notified of the personal data breach by the municipality of Bergen regarding the new community system for communication between school and parents. The new system contained a way for the school and parents to communicate through a portal or application. The municipality has not established or communicated the necessary guidelines to ensure the personal information of children and parents with a confidential address before the system is used.

4. THE LITHUANIAN AUTHORITY IMPOSES A FINE FOR IMPROPER PROCESSING OF THE PERSONAL DATA OF THE PARENTS OF AN ADOPTED CHILD

The Lithuanian Data Protection Authority has fined the Vilnius municipality administration for infringing the GDPR with a **fine of EUR 15,000** for improper processing of the personal data of the parents of an adopted child.

When the parents completed an application for the education of the adopted child, when updating the data, the data of the original parents were passed instead of the adoptive parents.

5. THE NORWEGIAN AUTHORITY FINED ODIN FLISSENTER FOR CARRYING OUT A CREDIT CHECK ON AN OWNER, WITHOUT HAVING A LEGAL BASIS FOR PROCESSING

The Norwegian Data Protection Authority sanctioned Odin Flissenter AS (tile distributor) with an **administrative fine of EUR 13,905** for carrying out a credit check of an owner, without having a legal basis for processing.

One person filed a complaint alleging that Odin Flissenter performed a credit check on an owner who had no relationship with customers or any other connection to the company.

employment - legal changes published in October 2020

Order of the Minister of Labor and Social Protection no. 1468/2020 regarding the amendment of annex no. 1 to the Order of the Minister of Labor and Social Protection no. 741/2020 for the approval of the template of the documents provided in art. XII para. (1) of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus, with amendments and completions brought by Government Emergency Ordinance no. 32/2020 for the amendment and completion of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus and for establishing additional social protection measures was published in the Official Gazette of Romania, Part I, no. 933 of October 12, 2020, entering into force on the same date.

Through the Order, Annex no. 1 to the Order of the Minister of Labor and Social Protection no. 741/2020 was amended, which contains the template of the documents necessary for obtaining the indemnities from which the employees benefit for the period of temporary suspension of the individual employment contract, at the initiative of the employer, according to article 52 paragraph (1) letter c) of the Labour Code, as a result of the effects produced by the SARS-CoV-2 coronavirus. The amendments take into account the alignment with the recent legislative provisions and the extension of the state of alert on the Romanian territory.

Government Decision no. 856/2020 on the extension of the state of alert on the Romanian territory starting with October 15, 2020, as well as the establishment of the measures applied during it to prevent and combat the effects of the COVID-19 pandemic was published in the Official Gazette of Romania, Part I , no. 945 of October 14, 2020, entering into force on the same date.

The Decision extended the state of alert on the Romanian territory starting with October 15, 2020 with another 30 days.

The Decision maintains the obligation to wear a protective mask in closed public spaces, commercial spaces, means of public transport and at the workplace.

Also, for all the public or private institutions and economic operators, the obligation to analyze the way of carrying out the activity and the organization of the work in teleworking regime or working from home is established. If it is not possible for the employee to implement the teleworking regime or working from home and, in order to avoid the congestion of public transport, the public and private institutions and economic operators shall organize the work

schedule so that the staff is divided into at least two groups to start or end the activity at a difference of at least one hour.

Order of the Minister of Labour and Social Protection no. 1477/1056/2020 on amending and supplementing the Classification of occupations in Romania - occupation level (six characters), approved by the Order of the Minister of Labour, Family and Social Protection and of the President of the National Institute of Statistics no. 1832 / 856/2011 was published in the Official Gazette of Romania, Part I, no. 965 of October 20, 2020, entering into force on the same date.

The Classification of occupations in Romania was supplemented with the following occupations: administrator of national communicable diseases programs, communicable diseases network agent, naval architect, assistant coordinator of national curative programs and non-communicable diseases, external public auditor, ship researcher, medical receptionist, technical manager with execution, hair extensions stylist, medical transcriber.

Order of the Minister of Finance no. 2810/1352/2020 on establishing the value of the indexed monthly amount that is granted in the form of nursery vouchers for the second semester of 2020 was published in the Official Gazette of Romania, Part I, no. 978 of October 23, 2020, entering into force on the same date.

The Order establishes that, for the second semester of 2020, starting with October 2020, the value of the monthly amount granted in the form of nursery vouchers is Lei 470. This value also applies for the first two months of the first semester of 2021, respectively February 2021 and March 2021.

Order of the Minister of Finance no. 2876/1452/2020 for establishing the indexed nominal value of a meal ticket for the second semester of 2020 was published in the Official Gazette of Romania, Part I, no. 978 of October 23, 2020, entering into force on the same date.

According to the Order, for the second semester of 2020, starting with October 2020, the nominal value of a meal ticket cannot exceed the amount of Lei 20.01. This value also applies for the first two months of the first semester of 2021, respectively February 2021 and March 2021.

Government Emergency Ordinance no. 180/2020 for the amendment and supplementation of Law no. 136/2020 on the establishment of measures in the field of public health in situations of epidemiological and biological risk, Government Emergency Ordinance no. 158/2005 on leave and social health insurance benefits, as well as for establishing measures regarding the granting of medical leave was published in the Official Gazette of Romania, Part I, no. 982 of October 23, 2020, entering into force on the same date.

In the content of Law no. 136/2020 on the establishment of measures in the field of public health in situations of epidemiological and biological risk are introduced the following provisions:

- until confirmation of infection with an infectious disease, persons who show signs and symptoms suggestive specific to the case definition, as well as those who, after confirmation of the diagnosis of infectious disease by specific paraclinical investigations, according to the case definition show no signs or symptoms suggestive or show symptoms which does not require isolation in a health facility or, as the case may be, in an alternative location attached to the health facility, shall be isolated at home or in another location of its choice for a period which may not exceed the disease-specific period of contagion determined by the pathogen agent, established according to existing scientific data; if the respective persons do not agree with the isolation measure, under the above mentioned conditions, the measure is established by decisions of the county public health directorates, respectively of the municipality of Bucharest (art. 8 paragraph 3 ind.1);

- the persons in the above mentions situations shall inform the family physician of the situation in which they find themselves, including the place where they have decided to isolate themselves or the isolation has been instituted; the family physician has the obligation to record and monitor the health of the persons concerned and to send to the county public health directorate, respectively, of the municipality of Bucharest, the monitoring file of the isolated person, whose template is approved by order of the Minister of Health;

- in case the persons refuse the measure of isolation or if the persons violate the measure of isolation established at home or at the declared location during it, even if they have previously consented, the family physician or, as the case may be, the control bodies immediately inform the public health directorate. county or the municipality of Bucharest, which may confirm or overturn the measure of isolation at home or at the declared location, by an individual decision, which will be issued within two hours from the information made by the family physician or, as appropriate, by the control bodies and shall be communicated immediately to the person concerned.

The Government Emergency Ordinance no. 158/2005 on leave and social health insurance benefits, as well as for establishing measures regarding the granting of medical leave is amended as follows:

- it is established that, for the insured persons for whom the measure of isolation was ordered, under the conditions of article 8 paragraph 3 ind. 1 of Law no. 136/2020, the medical leave certificates are issued by the family physicians who have registered and monitored these persons, for a period established according to the evolution of the disease and the duration of the monitoring;

- it is established that, for the insured persons for whom the measure of isolation was ordered, under the conditions of article 8 paragraph 3 ind. 1 of Law no. 136/2020, and following specific paraclinical investigations the diagnosis of infectious disease was not confirmed, the family physician grants the medical leave for quarantine based on the document issued by the county public health directorate or, as the case may be, Bucharest and for the period registered in it.

Of these 2 provisions also benefit the insured persons for whom the county or Bucharest public health directorates have instituted the measure of isolation at home or at a declared location until the date of entry into force of the Emergency Ordinance. In these cases, the medical leave certificates are granted by the family physician, based on the documents issued by the public health directorates and for the period registered in them, within 30 days from the date of entry into force of the Emergency Ordinance.

The Emergency Ordinance further provides that, for the purpose of collecting and correlating the strictly necessary data provided by the entities involved in combating the effects of SARS-Cov-2 coronavirus, as well as for the purpose of recording persons confirmed with SARS-Cov-2 coronavirus or infection with this virus, the Ministry of Health, in the exercise of its legal powers, uses computer systems and applications, including the computer application Corona-forms, developed and technically managed by the Special Telecommunications Service.

Government Emergency Ordinance no. 182/2020 for supplementation of the Government Emergency Ordinance no. 147/2020 on granting days off for parents to supervise children, in case of limitation or suspension of teaching activities that involve the actual presence of children in schools and early childhood education units, following the spread of SARS-CoV-2 coronavirus, as well as art. 6 of the Government Emergency Ordinance no. 132/2020 on support measures for employees and employers in the context of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus, as well as to stimulate employment growth was published in the Official Gazette of Romania, Part I, no. 993 of October 27, 2020, entering into force on the same date.

The Government Emergency Ordinance no. 147/2020 is amended as follows:

- it is established that the provisions of this G.E.O. also apply to the parent or legal representative who has in the care, supervision and support of one or more school children, with chronic diseases for which the family physician or specialist has issued certificates for education under the conditions provided in annex no. 1 - Guide on health and protection measures in pre-university education units during the pandemic COVID-19 to the annex to the Order of the Minister of Education and Research and the Minister of Health no. 5487/1494/2020;

- for the situation provided above, the parent will submit to the employer a copy of the certificate issued by the family physician/ specialist;

- it is mentioned that the provisions of this G.E.O. also apply in the situations where the application of scenario 2 has been established "Daily participation of all preschoolers and students in primary education, students in grades VIII and XII, in compliance with and application of all rules of protection and Partial return by rotation of 1-2 weeks of students in other middle school classes and high school, in compliance with and application of all protection rules", respectively scenario 3 "Participation of all preschoolers and students in online activities/ lessons"; in these situations, the number of days off is granted depending on the period provided by the decision of the county committee for emergency situations/ of the Bucharest Municipality Committee for Emergency Situations; the days off are granted only after the employer has applied the legal regulations in force for carrying out the activity through teleworking regime or working from home, if the workplace of the parent allows it.

G.E.O. no. 182/2020 also amends article 6 of G.E.O. no. 32/2020, stipulating that the support granted to employers for each teleworker in the amount of Lei 2,500 in order to purchase packages of technological goods and services necessary for carrying out the teleworking activity is not granted to the employers who sent in the General Register of Employees the data regarding the elements of the employment relationship, through which it was established the development of the activity in teleworking regime, after the expiration of the legal term for registering the change.

Order of the Minister of Health no. 1818/1111/2020 for the amendment of the Norms for the application of the provisions of the Government Emergency Ordinance no. 158/2005 on leave and social health insurance benefits, approved by the Order of the Minister of Health and the President of the National Health Insurance House no. 15/2018/ 1311/2017 was published in the Official Gazette of Romania, Part I, no. 993 of October 27, 2020, entering into force on the same date.

The Norms for the application of the provisions of the Government Emergency Ordinance no. 158/2005 on leave and social health insurance benefits are supplemented with the following aspects:

- the insured persons for whom the measure of isolation has been undertaken, according to the law, in health units or in an alternative location attached to a health unit benefit from medical leave for the whole period for which this measure has been undertaken;
- for the insured person for whom the measure of isolation was undertaken, according to the law, exclusively in health units or in an alternative location attached to a health unit, the attending physician issues the medical leave certificate at hospital discharge, both for hospitalization and for the discharge period, as the case may be, by entering the corresponding indemnity code; the medical leave certificates are issued for periods of maximum 30/31 calendar days; if, after the expiry of the medical leave granted on leaving the hospital, the insured person's state of health does not allow the resumption of the activity, the family physician may extend the medical leave for the same condition;
- for the insured person for whom the measure of isolation has been undertaken in a health unit or in an alternative location attached to a health unit and which can be discharged, provided the isolation at home or at the location declared by the person to be isolated, the hospital that cared for and discharged the patient issues the medical leave certificate for the duration of the hospitalization and may grant medical leave on discharge until the maximum term of the isolation period or for a period established by it;
- if the date of hospitalization of the insured person is later than the date of collection of the first sample confirming the infectious disease, for this period the medical leave certificate is granted by the family physician, based on the document issued by the public health directorate, which contains information on the date of collection the first test, the date of confirmation of the infectious disease and the date of hospitalization of the sick person;
- the insured person confirmed with an infectious disease for which the measure of isolation has been undertaken at home or at a declared location, on the recommendation of the physician who performed its assessment without hospitalization, in order to ascertain and limit the risk of transmitting an infectious disease, by the family physician, for the entire period specified in the document issued by the Public Health Directorate, which includes information on the physician who assessed the case, the health unit in which he works, and the recommendation on the establishment of the isolation measure, specifying the period for which this measure is ordered;
- the medical leave certificates granted to the persons for whom the isolation measure was ordered are issued after the last day of the termination of the isolation period, but not later than 30 calendar days from the date of the last day of its termination; if the length of the isolation period exceeds 90 days, the opinion of the social security physician expert is not required for these medical leave certificates;

- the gross monthly amount of the isolation and quarantine allowance is determined according to art. 10 of the G.E.O. no. 158/2005 and is fully supported from the budget of the Single National Health Insurance Fund, except for the situations where according to the legal provisions it is provided otherwise.

Order of the Minister of Finance no. 2814/1536/1806/2020 for the approval of the template, content, method of submission and management of the "Statement on obligations to pay social security contributions, income tax and nominal records of insured persons" was published in the Official Gazette of Romania, Part I, no. 1005 of October 29, 2020, entering into force on November 1, 2020.

The need to update the Statement no. 112 was imposed by the legislative changes in the field of social protection, in the context of the epidemiological situation. Thus, the form, as well as the instructions for its completion, have been adapted accordingly.

The Statement no. 112 has been amended as follows:

- introduction of new cassettes in Annex 1.1. - Employer Annex, Sections C2, C3, E2 and E3, for the separate centralization of medical leave for temporary incapacity for work due to an infectious-contagious disease for which the quarantine measure or the isolation measure is required;
- introduction of new cassettes in Annex 1.2. - Insured Annex - Section B.4, for the distinct declaration of the calculation bases of the indemnities granted based on the provisions of art. XI para. (11) of the G.E.O. no. 30/2020 and based on the provisions of art. 1 para. (4) and art. 3 para. (1) of the G.E.O. no. 132/2020, as well as the related social insurance contribution;
- introduction in the Nomenclature "Insured type" from Annex no. 4 of the form, of new types of insured persons, as follows:
    i. Employee who benefits from the allowance provided in art. 1 paragraph (4) of the G.E.O no. 132/2020, borne from the unemployment insurance budget;
    ii. Cooperating member, employee based on the individual labour agreement, provided by Law no. 1/2005 regarding the organization and functioning of the cooperation, which benefit from the indemnity provided in art. 3 para. (1) of G.E.O. 132/2020, for which the insurance contribution for work is not due;
    iii. Employee who benefits from the allowance granted according to G.E.O. no. 147/2020;
    iv. Individuals whose individual employment contracts have been terminated as a result of collective redundancies, according to the law, who receive amounts representing compensatory payments calculated on the basis of average net wages per unit;
    v. Change of the name of the type 5 of insured person - Individuals dismissed through collective redundancies, who receive individual monetary compensations, supported from the salary fund, according to the provisions provided in the employment contract;

vi. Individuals who receive income from salaries and assimilated to salaries or incomes whose tax treatment is assimilated to income from salaries and assimilated to salaries and who are not found, during the reporting period, in the other types of insured persons provided in the Nomenclature "Insured type" of Annex no. 4. This type of insured will be used only in the case of legislative interventions that lead to the amendment of this order, so that until the order and the computer application are amended accordingly, the employers/ income payers will fulfill their declaratory obligations within the legal term.

- the introduction in Annex 5 - Nomenclature "Indicative of special conditions", of two new values related to the two new jobs in special conditions, introduced by Law no. 234/2019 and G.E.O. no. 10/2020.

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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.

For additional details on this material, please do not hesitate to contact us.
Voicu & Filipescu SCA
31 General Ernest Brosteanu Street
010527, Bucharest, Romania
Tel: +40 21 314-02-00
Fax: +40 21 314-02-90
E-mail: office@vf.ro
Web: www.vf.ro