

litigation and arbitration - legal changes published in September 2020

The Decision of the European Court of Human Rights dated February 26, 2020 in the Case of Ana Ionescu and others against Romania (Application no. 19.788/03 and 18 other applications) was published in the Official Gazette, Part I no. 870 of 24 September 2020 and is applicable from the same date. The applicants stated that they had obtained final judgments finding that the nationalization of their property by the former communist regime had been illegal and that they had not ceased to be the rightful owners of those properties. Despite the fact that their property titles were not challenged, the applicants were unable to regain possession of the property, as the latter had been sold by the State to third parties. The applicants did not receive compensation for those properties. Through its rectified decision dated June 13, 2019, the Court declared that the heads of request formulated pursuant to art. 1 of Protocol no. 1 were found admissible, except for the end of the request made in Application no. 12.838/07, and the rest of the heads of claim were found inadmissible and, deciding that art. 1 of Protocol no. 1 of the Convention is applicable, established: a) that the respondent State must pay to the applicants, within three months from the date of the judgment, in accordance with art. 44 § 2 of the Convention, the amounts indicated in the annexed list, plus any taxable amount, which must be converted into the national currency of the respondent State at the exchange rate applicable on the date of payment and b) that, of upon expiry of that period and until payment has been made, these amounts shall be increased by a simple interest rate at a rate equal to the marginal lending rate of the European Central Bank applicable during that period and increased by three percentage points, rejecting the applications. grant equitable redress for the other claims made by the applicants.

The above judgment of the Court was **revised by the Decision of 3 March 2020 in the Case of Ana Ionescu and Others v. Romania (Application No. 19.788/03 and 18 other applications), published in the same Official Gazette,** the Court establishing that: the defendant state must pay jointly and severally to Ms. Emma Albu and to the other applicants in Application no. 36.384/03 (Mrs. Daniela Șandru, Mr. Traian Petru Mihăilă and Mrs. Ileana Viorica Oancea), within three months from the date of the decision, in accordance with art. 44 § 2 of the Convention, the amounts indicated in point 4 of the annexed list, for pecuniary damage, non-pecuniary damage and legal costs, plus any taxable amount, to be converted into the national currency of the respondent State at the exchange rate applicable on the date of payment; (b) that, from the expiry of that period until the payment has been made, these amounts must be increased by a simple interest rate at a rate equal to the marginal lending rate of the European Central Bank applicable during that period, plus three percentage points.

The above judgment of the Court was **revised by the Decision of 3 March 2020 in the Case of Ana Ionescu and Others v. Romania (Application No. 19.788/03 and 18 other applications), published in the same Official Gazette,** the Court establishing that: the defendant state must pay jointly and severally to Ms. Emma Albu and to the other applicants in Application no. 36.384/03 (Mrs. Daniela Șandru, Mr. Traian Petru Mihăilă and Mrs. Ileana Viorica Oancea), within three months from the date of the decision, in accordance with art. 44 § 2 of the Convention, the amounts indicated in point 4 of the annexed list, for pecuniary damage, non-pecuniary damage and legal costs, plus any taxable amount, to be converted into the national currency of the respondent State at the exchange rate applicable on the date of payment; (b) that, from the expiry of that period until the payment has been made, these amounts must be increased by a simple interest rate at a rate equal to the marginal lending rate of the European Central Bank applicable during that period, plus three percentage points.

Decision of the High Court of Cassation and Justice no. 14/2020 regarding the referral of the Board of Galati Court of Appeal with the resolution of the appeal in the interest of the law regarding a legal issue was published in the Official Gazette, Part I no. 875 of 25 September 2020 and is applicable from the same date. The High Court admitted the appeal in the interest of the law formulated by the Board of Galati Court of Appeal and, consequently, established that in the unitary interpretation and application of the provisions of art. 472 and art. 491 of the Code of Civil Procedure, the incidental appeal or second appeal cannot be limited to the object of the main appeal or second appeal, but it can concern any other solutions contained in the operative part of the contested decision and/or its considerations.