

litigation and arbitration - legal changes published in August 2020

The Decision of the European Court for Human Rights dated March 3, 2020 in the Case of Convertito and others against Romania (Application no. 30,547 / 14 and four other applications) was published in the Official Gazette, Part I no. 743 of August 17, 2020 and is applicable from the same date. The application concerned the cancellation of the bachelor's degrees obtained by the applicants for administrative irregularities concerning the procedure for enrollment in the first year of study. The applicants blamed the national authorities for the unpredictable cancellation of their diplomas, on grounds which cannot be attributed to them, after devoting six years to university studies and claim that their right to privacy has been infringed (Article 8 of the Convention). The court ruled that art. 8 of the Convention has been breached, establishing: a) that the respondent State must pay to each applicant, within three months from the date on which the judgment becomes final, in accordance with art. 44 § 2 of the Convention, the following amounts: (i) EUR 10,000 (ten thousand euros), plus any taxable amount, for non-pecuniary damage; (ii) EUR 3,000 (three thousand euros), plus any amount that may be due for this amount of tax claimants, for the costs; 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 and increased by three percentage points.

The Decision of the European Court for Human Rights dated April 23, 2019 in the Case of Elisei-Uzun and Andonie against Romania was published in the Official Gazette, Part I no. 722 of 11 August 2020 and is applicable from the same date. At the origin of the Case is the Application (no. 42,447 / 10) against Romania, by which two Romanian nationals, Mr. Constantin Elisei-Uzun and Mr. Adrian Vlad Andonie ("the plaintiffs"), notified the Court on April 9, 2010, pursuant to art. 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"). They claimed that their right to a fair trial had been violated. In particular, they claimed that in its Decision of October 14, 2009 the Court of Appeal rejected their application without examining the relevant facts or laws, in particular the Labor Code and the Convention. They argued that these laws were the legal basis for their action and had been examined as such by the lower court. The applicants also stated that they had not had an opportunity to present their arguments after the annulment of the final decision of May 30, 2008, as the Court of Appeal had ruled at the same hearing on both the extraordinary appeal (the annulment appeal), as well as on their initial action. In that regard, they argued that the Court of Appeal should have issued two separate decisions, one for each of the subsequent appeals examined: first the extraordinary appeal and then the ordinary appeal against the original action. They relied upon the provisions of art. 320 in conjunction with art. 309-312 of the former Civil Procedure Code. The Court stated, unanimously, that the requests regarding art. 6 of the Convention and art. 1 of Protocol no. 1 of the Convention are admissible, that art. 6 § 1 of the Convention as regards the general fairness of proceedings has been breached and decided, unanimously, (a) that the respondent State must pay to the applicants, within three months of the date on which the judgment became final, in accordance with Art. 44 § 2 of the Convention, the following amounts to be converted into the national currency of the respondent State at the exchange rate applicable on the date of payment: (i) EUR 4,000 (four thousand euros) to each claimant, plus any tax, for non-pecuniary damage; (ii) EUR 1,350 (one thousand three hundred and fifty euros), plus any sums due from the tax claimants, for the costs; (b)

VOICU FILIPESCU

Attorneys at Law

News in Laws – Legal Monthly Newsletter
September 2020

that, from the expiry of the above-mentioned three-month period until payment is 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 this period and increased by three percentage points.

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