

Legal Changes of March 2021

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

+ VF News

20 years of Business Catalysts. Founded in 2001, Voicu & Filipescu provides valuable expertise to its clients, being involved over time in large-scale projects for the local and regional business environment.

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.](#)

Chambers and Partners Europe, 2021 edition recommends Voicu & Filipescu for our lawyer's activity in the field of dispute resolution.

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.

data protection - legal changes published in March 2021

I. ROMANIA – sanctions

1. ANSPDCP. A natural person was sanctioned for violating the General Regulation on Data Protection with a fine in the amount of RON 2,437.35 (the equivalent in EUR 500)

The National Supervisory Authority completed on 16.02.2021 an investigation into a natural person, who held, at the same time, the position of Secretary General within a sector branch in Bucharest of a political party.

The person was sanctioned because on a social network, on the personal page of this individual, was published a list of 10 positions with signatories / supporters for election of the General Council and the Mayor of Bucharest, in which their personal data are accessible, disclosing name and surname, signature, citizenship, date of birth, address, series and number of identity card, political option of signatories / supporters.

2. ANSPDCP. BNP Paribas Personal Finance SA Paris Sucursala was sanctioned with a fine in the amount of RON 10,000

BNP Paribas Personal Finance SA was sanctioned as a result of the fact that an individual received an SMS commercial message on his telephone number.

Following the investigation, it was found that the controller did not prove the existence of the prior consent of the person concerned, according to art. 12 of Law no. 506/2004, although the petitioner had previously exercised, repeatedly, the right to oppose the processing of her data for marketing purposes.

3. ANSPDCP. Medcover was sanctioned with a fine of RON 9,749.6 (equivalent to EUR 2000)

The investigation was initiated as a result of the transmission by the controller of successive notifications of personal data breach, which reported **unauthorized disclosure and unauthorized access to personal data** such as: name and surname, CNP, series and no. CI, CI address, correspondence address, contact telephone number and e-mail, respectively name and data on health status, sent to individuals other than the recipients, to the e-mail address or postal address.

Following the investigation, the supervisory authority found that the controller did not implement adequate technical and organizational measures to ensure that any natural person acting under the authority of the controller and having access to personal data only processes them at the request of the controller, which led to unauthorized disclosure and unauthorized access to personal data transmitted to individuals other than the recipients, to the e-mail address or postal address.

4. ANSPDCP. TELEKOM ROMANIA MOBILE COMMUNICATIONS S.A. was sanctioned with a fine in the amount of RON 48,748.00 (equivalent to EUR 10,000) and a fine in the amount of RON 15,000

The investigation found that the controller did **not implement adequate technical and organizational measures to ensure a level of security appropriate to the risk of processing, which led to unauthorized disclosure and / or unauthorized access to personal data**, such as: customer ID, code customer, name and surname, CNP, date of birth, sex, telephone number, e-mail, address (country, city, street), the amount of debts associated with the customer code of a number of **99,210** targeted persons / customers. Thus, their billing addresses were erroneously entered in the database with individual customers, sent to a contractual partner under a debt assignment contract, which led to the sending to the wrong addresses of notifications sent to customers.

It was also found that the controller did **not take adequate technical and organizational measures to ensure the security of the processing of personal data, likely to protect personal data stored or transmitted against illicit storage, processing, access or disclosure, which led to unauthorized access to personal data in MyAccount accounts** (account holder name; date of birth; phone numbers used; home address; email address; subscriber code; contracted services; active extra options on account; simple invoice history) of a number of **413** targeted persons / Telekom Romania customers.

II. EUROPEAN UNION - regulation

1. The Forty-fifth Plenary Session of the European Data Protection Board

The following documents were mainly adopted at the Plenary of the European Data Protection Board, held online on March 9, 2021:

- [Guide no. 9/2020 on relevant and reasoned objection](#) (final form after public consultation)
- [Guide no. 1/2020 on connected vehicles](#) (final form after public consultation)
- [Guide no. 2/2021 on virtual voice assistance](#) (form for public consultation until 23.04.2021)
- [Joint opinion with EDPS no. 3/2021 on the proposal for a Regulation of the European Parliament and of the Council on data governance](#)
- [Statement on the draft ePrivacy Regulation.](#)

More information is available at: https://edpb.europa.eu/news/news_en

2. The forty-seventh Plenary Session of the European Data Protection Board

During the Plenary of the European Data Protection Committee, held online on March 30-31, 2021, **Opinion no. 4/2021 jointly with EDPS on the Proposal for a Regulation of the European Parliament and of the Council on the legal**

framework for issuing, verifying and accepting vaccination, testing and recovery certificates intended to facilitate free movement during the Covid 19 pandemic (digital green certificates).

Through this document, the EDPB and the EDPS have highlighted certain aspects that would lead to the proposal's compliance with the principles of necessity and proportionality enshrined in the General Data Protection Regulation, together with the provision of appropriate safeguards specific to the processing involved.

More information is available at: https://edpb.europa.eu/news/news_en

employment - legal changes published in March 2021

Government Decision no. 293/2021 on the extension of the state of alert on the Romanian territory starting with March 14, 2021, 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. 245 of March 11, 2021, entering into force on the same date.

According to the Decision, it was established that starting with March 14, 2021, the state of alert will be extended for another 30 days on the entire territory of the country.

The Decision stipulated the obligation for the economic operators that carry out trade/ service activities in closed and/ or open spaces, public and/ or private, to organize and carry out their activity between 5:00-21:00. In the localities where the cumulative incidence at 14 days is higher than 4 and less than or equal to 7.5/ 1,000 inhabitants, these economic operators have the obligation to carry out their activity on Fridays, Saturdays and Sundays in the time interval 5:00-18:00. In the localities where the cumulative incidence at 14 days exceeds 7.5/ 1,000 inhabitants, the activity will be carried out between 5:00-18:00 every day.

Also, the travel ban outside the home/ household is maintained in all localities between 22:00-5:00, with the following exceptions:

- a) travelling in professional interest, including between the home/ household and the place/ places where the professional activity takes place and back;
- b) travelling for medical assistance that cannot be postponed or performed remotely, as well as for the purchase of medicinal products;
- c) travelling outside the localities of persons who are in transit or make journeys whose time interval overlaps with the prohibition period, such as those made by plane, train, coach or other means of passenger transport, and which can be proved by ticket or any other way proving the payment of the trip;
- d) travelling for justified reasons, such as the care/ accompaniment of the child, the assistance of the elderly, sick or disabled persons or the death of a family member.

In the localities where the cumulative incidence at 14 days is higher than 4 and less than or equal to 7.5/ 1,000 inhabitants, it is forbidden to travel outside the home/ household on Fridays, Saturdays and Sundays between 20:00 - 5:00, except for the reasons indicated above. In the localities where the cumulative incidence at 14 days exceeds 7.5/ 1,000 inhabitants, the movement of persons outside the home/ household is prohibited between 20:00-5:00, regardless of the day, except for the same reasons mentioned above.

In order to verify the reason for the trip, the persons are obliged to present, at the request of the competent authorities' personnel, the service card or the certificate issued by the employer or a statement on their own responsibility, previously filled in.

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

Also, for all public or private institutions and economic operators, the obligation to decide the organization of work to working from home or teleworking regime is maintained, where the specificity of the activity allows, under the conditions of art. 108-110 of the Labour Code, as well as those established by the Law no. 81/2018 on teleworking activity.

In the situation where the employee cannot work in teleworking or work from home regime, in case there are more than 50 employees, the employers have the obligation to organize the work schedule so that the staff is divided into groups to start or end the activity at a difference of at least one hour.

Senate Decision no. 19/2021 on the proposal for a Directive of the European Parliament and of the Council on adequate minimum wages in the European Union - COM (2020) was published in the Official Gazette of Romania, Part I, no. 296 of March 24, 2021.

Through the Decision, the Senate established that the proposed legislative act [which is based on Article 153 para. (1) of the Treaty on the Functioning of the EU, which stipulates that the Union must support and complement the actions of the Member States in the field of labour conditions, within the principles of subsidiarity and proportionality] does not establish a common statutory minimum wage at Union level and no concrete methods of calculation are imposed on the basis of the average salary or the median salary in each Member State, being exclusively intended for the Member States that have established statutory minimum wages, such as Romania.

Based on this Directive, clear criteria will be set up for establishing the minimum wage. The national criteria will need to include at least the purchasing power, the general level of the gross wages and their distribution, the rate of growth of the gross wages and developments in labour productivity.

As a consequence of the above, the Senate requested the Government of Romania to implement the Law no. 174/2020 for the amendment and supplementation of the Government Emergency Ordinance no. 217/2000 on the approval of the minimum monthly consumption basket.

For additional details on this material, please do not hesitate to contact us.

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