

## litigation and arbitration - legal changes published in January 2021

### **The Decision of the European Court of Human Rights dated 6 October 2020 ruled in Giurgi against Romania Case (Application no. 40.124/13) was published in the Official Gazette, Part I no. 44 dated January 14, 2021 and it is applicable from the same date.**

The application is based on claims of EUR 120 in title of compensation for the applicant's pecuniary damage, which is the equivalent value of the fine imposed on the applicant, as well as compensation for the non-pecuniary damage of EUR 300, incurred to challenge the non-criminal fine imposed for public order disturbance. While the applicant was returning home through an area where there was taking place an unsanctioned anti-government demonstration, he was imposed a fine of Lei 500 by a gendarme who took the applicant for a participant in the unsanctioned demonstration. Therefore, the European Court of Human Court decided as follows: a) the respondent State must pay the applicant the sum of EUR 300 within three months, to be converted into the respondent State's currency at a rate valid on the payment date, plus any sum that may be payable in title of tax for this sum; b) from the expiry of that period until payment is made, these sums shall be subject to simple interest, at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points.

### **The Decision of the European Court of Human Rights dated 29 September 2020 ruled in the Dimitrie Dan Popescu against Romania Case (Application no. 39.480/03 and 24 other applications) was published in the Official Gazette, Part I no. 40 dated January 13, 2021 and it is applicable from the same date.**

The applications concern the applicants' impossibility to exercise their property rights, acknowledged by the domestic courts, over certain immovable properties nationalized by the State during the totalitarian communist regime, seeing as the respective assets were sold by the State to tenants living in them. Albeit the applicants had obtained final and unchallenged judgments, they could not reacquire possession over the immovable properties, nor could they be paid compensations for loss of property. Thus, the European Court of Human Court held that Article 1 §1 of Protocol 1 had been violated and ruled as follows: a) the respondent State must give back the respective immovable properties, within three months; b) in the event of failure to do so, the respondent State shall be ordered to pay, within the same time-limit of three months, the sums indicated in the table of the Judgment (approximately Euros 2,880,000); c) in any case, the respondent State must pay the applicants, within the same time-limit of three months, the sums indicated in the appended table, plus any sum which may be payable to the applicants in title of tax for such sums to cover the non-pecuniary damage and court fees and expenses; d) the sums indicated in the table shall be converted to the respondent State's national currency at the exchange rate applicable on the payment date, except for sums awarded to the applicants in the applications no. 29.712/05, 41.411/05, 27.808/07, 46.902/07, 61.539/08, 53.085/09 and 35.610/14; e) that, from expiry of the mentioned period until payment is made, these sums shall be subject to simple interest, at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points.

**Decision of the High Court of Cassation and Justice no. 68/2020 on the examination of the referral submitted by Bucharest County Court – Criminal case Division I in the case file no. 24.527/302/2019, was published in the Official Gazette, Part I no. 99 dated January 29, 2021 and it is applicable from the same date.**

The High Court granted the referral submitted by Bucharest County Court – Criminal case Division I in the case file no. 24.527/302/2019 in order to deliver a preliminary judgment so as to release a point of law and consequently, determined that, in the interpretation and application of the provisions of Article 452 paragraph (1) of the Criminal procedure code, an application for review relying upon the provisions of Article 453 paragraph (1) letter f) of the Criminal procedure code, may be brought against a final criminal sentence as well, ruled in order to settle an application based on the provisions of Article 595 of the Criminal procedure code.

**Decision of the High Court of Cassation and Justice no. 54/2020 on the examination of the referral submitted by the High Court of Cassation and Justice - Civil case matters in the case file no. 21.840/3/2016, in order to make a preliminary ruling was published in the Official Gazette Part I no. 63 of January 20, 2021 and is and it is applicable from the same date.**

The High Court granted the referral submitted by the Civil matters division I in the case file no. 21.840/3/2016 and determined that, in the interpretation and application of the provisions of Article XVIII paragraph (2) second thesis of Law no. 2/2013 on certain measures for relieving courts and to prepare the implementation of Law no. 134/2010 on the Civil procedure code, as amended, judgments ruled in the applications on the repair of damages caused by judicial errors, respectively judgments ruled in the applications lodged under Article 538 of the Criminal procedure code are not subject to second appeal.

**Decision of the High Court of Cassation and Justice no. 25/2020 on the examination of the appeal in the interest of the law submitted by the Leading Board of Bucharest Court of Appeal was published in the Official Gazette, Part I no. 31 dated January 12, 2021 and it is applicable from the same date.**

The High Court granted the referral submitted by the Leading Board of Bucharest Court of Appeal relating to the settlement of appeal in the interest of the law and, consequently, held that in the interpretation and unitary application of the provisions of Article 55 of the Emergency Government Ordinance no. 80/2013 on judicial stamp duties, as subsequently amended and supplemented, sets out that for trials begun under the rule of Law no. 146/1997 on judicial stamp duties, as subsequently amended and supplemented, with regard to all the applications submitted within them, ancillary, incidental and procedural occurrences applications, as well as ordinary and extraordinary remedies, the provisions of this law with regard to the judicial stamp duty are applicable, not those of the Emergency Government Ordinance no. 80/2013.