



litigation and arbitration - legal changes published in June 2021

Decision of the High Court of Cassation and Justice no. 5/2021 on the examination of the appeal in the interest of the law submitted by the Management Board of Constanta Court of Appeals was published in the Official Gazette, Part I no. 608 dated June 18, 2021 and it is applicable from the same date.

The High Court granted the referral submitted by the Management Board of Constanta Court of Appeals, relating to the settlement of an appeal in the interest of the law and, consequently, held that in the interpretation and application of the provisions of article 96 para. (1) and (2) letter b), article 100 para. (3), article 101 para. (3), article 102 para. (3) and article 109 para. (9) of the *Emergency Government Ordinance* no. 195/2002 regarding traffic on public roads, republished, as subsequently amended and supplemented, in conjunction with provisions of article 5 para. (5), article 21 para. (3) and article 34 para. (1) of Government Ordinance no. 2/2001 regarding the legal regime of contraventions, approved as amended and supplemented by Law no. 180/2002, as subsequently amended and supplemented, the Court invested with ruling on the contravention complaint against the offence report, by which it was applied the supplementary sanction of temporary suspension of the right to drive a motor vehicle, agricultural or forestry tractor or trolley, shall not have the possibility to examine the proportionality of this supplementary sanction.

Decision of the High Court of Cassation and Justice no. 8/2021 on the examination of the appeal in the interest of the law submitted by the Management Board of Constanta Court of Appeals was published in the Official Gazette, Part I no. 627 dated June 25, 2021 and it is applicable from the same date.

The High Court granted the referral submitted by the Management Board of Constanta Court of Appeals, relating to the settlement of the appeal in the interest of the law and, consequently, held that in the interpretation and application of the provisions of article 135 and article 136 of Civil procedure code, in conjunction with provisions of article 54 of Law no. 304/2004 on the judicial organization, republished, as amended and supplemented, the competent jurisdiction panel invested with ruling the jurisdictional conflict in appeal or in second appeal, shall be consisted in accordance with the law applicable for the procedural status of the case in which the conflict appeared, except the conflicts referred by the law as being in the jurisdiction of the High Court of Cassation and Justice, which shall be settled in panels consisting of three judges according to article 31 para. (2) of Law no. 304/2004, or in panels consisting of 5 judges, in the case referred to in article 136 para. (3) of Civil procedure code.

Decision of the High Court of Cassation and Justice no. 21/2021 on the examination of the referral submitted by Iasi Court of Appeals – Contentious Administrative and Fiscal Matters Section in order to issue a preliminary ruling was published in the Official Gazette Part I no. 572 dated June 4, 2021 and it is applicable from the same date.

The High Court granted the referral submitted by Iasi Court of Appeals – Contentious Administrative and Fiscal Matters Section in order to issue a preliminary ruling and consequently, determined that, in the interpretation and application of the provisions of article 24 para. (4) of the Law of Administrative Litigation no. 554/2004, as subsequently amended and supplemented by the Law no. 138/2014, after the issuance of the decision of the enforcement court on the creditor's application consisting in determining the amount due as penalties or, in absence of such application, after the expiry of the enforcement's statute of limitation term, it is no longer admissible for the creditor to submit, grounded on these special provisions, an application for establishing the compensation damages for in-kind non-performance of the compliance obligation, which involves a personal fact of the debtor.