



Legal Changes of May 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
- Litigation & Arbitration

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 2021 edition](#) recommends Voicu & Filipescu for our lawyers' activity in 6 practice areas: Corporate and , Commercial, Employment, PPP and Procurement, Real Estate and Construction, Restructuring and Insolvency and TMT.

[IFLR 1000, 2021 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 May 2021

I. Romania – sanctions

1. ANSPDCP. World Class Romania S.A. was sanctioned for violating the provisions of General Data Protection Regulation with a fine in the amount of RON 9,851 (the equivalent of the amount of EUR 2,000)

During the investigation started following the receipt of a complaint, the National Supervisory Authority found that the controller **World Class Romania S.A. posted on the WhatsApp group of its employees a resignation request of one of its employees**, thus allowing unauthorized access of all members of that WhatsApp group to certain personal data (name, surname, address, serial number and identity card, code personal information, information related to the request for termination of employment).

Also, **a corrective measure** was also applied to the controller World Class Romania S.A. Thus, within 30 days from the date of communication of the minutes, the controller was ordered to ensure compliance with the General Data Protection Regulation, personal data processing operations, by implementing appropriate technical and organizational measures in case of remote transmission of personal data, including in terms of regular employee training.

2. ANSPDCP. Telekom Romania Communications S.A. was sanctioned with a warning and a fine in the amount of RON 9,851.40 (equivalent to the amount of EUR 2,000)

The sanctions were applied following a complaint alleging that **the petitioner had been contacted on his telephone number for marketing purposes by a Telekom representative, although he had withdrawn his consent** to the use of his personal data upon termination of the relationship. contractual with the operator.

Subsequently, the petitioner **exercised his right to object** to the processing of his personal data for marketing and advertising purposes by requesting to the controller to delete his telephone number and e-mail address from Telekom's database.

However, **the petitioner was contacted again by a Telekom representative for marketing purposes**. Thus, the petitioner sent the controller a new request not to be contacted and to have his telephone number and e-mail address deleted from the database.

Following this request, the controller informed the applicant that his e-mail address and telephone number had been deleted from the customer management system, confirming, at the same time, that he had been called by a Telekom representative, who, due to a human error, he did not realize that he did not have the petitioner's permission to call him.

3. ANSPDCP. A natural person, as a controller, was sanctioned with a fine in the total amount of RON 974.89 (equivalent to the amount of EUR 200)

The investigation was started as a result of receiving several notifications complaining that through the website <https://declaratiepr.ro>, by filling in a form that generates a statement on their own responsibility necessary to leave the home during the state of emergency, they processed certain personal data, namely name, surname, parents' first name, domicile, personal numerical code, series and number of the identity document, the address of the house in fact, the place of travel, the purpose of the trip and the signature.



During the investigation, the National Supervisory Authority found that the **controller did not present evidence to show that he had legally processed personal data**, collected and stored on the website <https://declaratieppr.ro>.

At the same time, it was found that **the controller did not present evidence showing that he provided information to the data subjects** about the processing of their personal data, collected on the same site.

Also, the controller (natural person) **did not take adequate security measures** to ensure that the file containing the personal data of the data subjects is not subject to processing risks, generated in particular, accidentally or illegally, by destruction, loss or loss, modification, unauthorized disclosure or unauthorized access to personal data transmitted, stored or otherwise processed.

4. ANSPDCP. Banca Comercială Română S.A. was sanctioned with a fine of a total amount of RON 9,855.8 (equivalent to EUR 2,000)

The investigation was initiated following the receipt of a complaint alleging that Banca Comercială Română S.A. **used, without consent, the personal data of a natural person, in enforcement proceedings for debts resulting from a credit agreement of which he was unaware.**

The petitioner therefore complained about the unauthorized use of his personal data for purposes other than those authorized by him, as well as the use of an address that was no longer relevant and for which the petitioner considered that the bank had illegally accessed a database. He also complained about the lack of information regarding the source of collecting this information according to art. 14 of the GDPR, as well as the failure to receive a response regarding several requests addressed by it to BCR S.A.

During the ANSPDCP investigation, it was found that **Banca Comercială Română S.A. processed the personal data of the petitioner without legal grounds, by erroneously assigning the status of guarantor in 2019, extracting outdated data, using and disclosing his personal data, in notification procedures carried out through a bailiff, regarding arrears to a credit agreement accumulated by a company, client of the bank, with which the petitioner had no relationship, in violation of art. 5 para. (1) lit. a) and d) and art. 5 para. (2), as well as of art. 6 of the GDPR.**

The National Supervisory Authority applied to the controller Banca Comercială Română S.A. and the **corrective measure** to ensure compliance with the GDPR of the operations of collection and further processing of personal data, by implementing effective methods of respecting the exact and current nature of the data, from the moment of data collection and their entry in the controller's database throughout the processing period.

5. ANSPDCP. Vodafone Romania S.A. was sanctioned with a fine of RON 5,000

The investigation was initiated as a result of a **notification of personal data breach** that was transmitted by the controller, based on the provisions of art. 33 of the General Data Protection Regulation.

It was found that **the related invoices of some Vodafone customers were erroneously sent to the e-mail addresses of third parties.** This led to the processing and unauthorized access to certain personal data of Vodafone customers, such as name, surname, telephone number, customer code, address.

Therefore, the National Supervisory Authority found that the controller did not take adequate technical and organizational measures to ensure the security of the processing of personal data, ensuring that personal data can be accessed only by persons authorized for the purposes authorized by law and protect personal data stored or transmitted against unlawful processing, access or disclosure.



6. ANSPDCP. An Owners Association from Iași was sanctioned with a fine of a total amount of RON 2,463.3 (equivalent to EUR 500)

The investigation was carried out as a result of a complaint alleging that **the controller displayed the payment lists detailing the name and surname of each member of the Owners Association**. The petitioner also complained about the **posting of a defamatory document in which his personal data** (name and surname) were mentioned.

As the controller did not respond to the Authority's requests, although he confirmed their receipt, he was fined.

7. Summary of ANSPDCP activity - the first four months of 2021

In the first four months of 2021, the National Supervisory Authority received **1733 complaints, notifications and notifications regarding security incidents**, based on which **288 investigations** were opened.

As a result of the investigations, **15 fines were applied in the total amount of RON 110,545.7**.

Also, **37 warnings** were applied and **30 corrective measures** were ordered.

In the first four months of 2021, regarding the activity of solving complaints, the Supervisory Authority received **1600 complaints**, on the basis of which **155 investigations** were initiated.

Regarding **the security incidents**, during the period considered the data operators transmitted, both under the GDPR and Law no. 506/2004, **84 notifications, and the notifications regarding possible non-compliances with the provisions of the GDPR amounted to 49**.

As a result of the notifications received and the security breaches notified by the controllers, during the first four months of 2021, **133 investigations were initiated ex officio** at the level of the Supervisory Authority.

At the same time, **352 requests were submitted to our institution for various points of view** regarding the interpretation and application of Regulation (EU) 679/2016 and other incidental regulations, by controllers and their processors, in the field of public and private, by other entities as well as by individuals.

We also mention that **15 requests** were received under Law no. 544/2001, mainly **from the media**.

Regarding the activity of representation in court, in the first four months of 2021, the National Supervisory Authority managed a total of **98 cases pending before the courts** at various stages of proceedings. During the same period, **5 new requests** for summons were received, which had as object the contestation of the minutes of contestation / sanctioning of the contraventions concluded by the National Supervisory Authority.

II. European Union – regulations

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

At the Plenary Session of the European Data Protection Board, held online on 19 May 2021, the following were mainly adopted:

- Opinion 16/2021 on the draft decision of the Belgian Supervisory Authority on the "EU Code of Conduct on Data Protection for Cloud Service Providers", presented by Scope Europe;
- Opinion 17/2021 on the draft decision of the French Supervisory Authority on the European Code of Conduct presented by cloud infrastructure service providers (CISPE);
- Declaration on the Law on data governance in the light of legislative developments;



- Recommendations on the legal basis for storing credit card data for the sole purpose of facilitating additional online transactions;
- Opinion 18/2021 on the draft standard contractual clauses (Article 28 (8) GDPR).

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

III. European Union – sanctions

1. The Norwegian Data Protection Authority has notified Disqus Inc. (Disqus) that intends to impose a fine of NOK 25,000,000 for non-compliance with the GDPR rules on accountability, legality and transparency

Disqus is an American company owned by Zeta Global. The company offers a public online comment sharing platform, which was previously used by a number of Norwegian online newspapers and also provides scheduled advertising services.

The Norwegian Data Protection Authority was informed about this issue through the news articles of the Norwegian National Broadcaster (NRK). According to NRK, Disqus illegally tracked visitors to Norwegian sites using the Disqus plugin. Their data was then disclosed to third-party advertising partners. NRK also wrote that this happened because Disqus did not know that GDPR applied in Norway, which was confirmed by Disqus' parent company, Zeta Global, in an interview.

Disqus argued that their practices could be based on the test of the legitimate balance of interests as a legal basis, despite the fact that the company does not know that GDPR applied to the data subjects in Norway.

2. The Icelandic Data Protection Authority fined InfoMentor for violating the provisions of the GDPR with a fine of EUR 23,100

The Icelandic authority fined InfoMentor for failing to ensure the correct security of personal data within the Mentor system, an information system for schools and other entities working with children.

Due to a vulnerability that led to the visibility of each user's six-digit number in the URL of a specific page in the Mentor system, unauthorized persons gained access to the national identification numbers and avatars of over 400 children. The incident was reported as a data breach in February 2019.

InfoMentor acknowledged that the company was aware of the vulnerability and that a solution had already been created. Due to a human error, the solution was not fully implemented in the system until the data breach occurred. InfoMentor also incorrectly sent national identification numbers of students affected by data breaches to the wrong schools and the data protection officer.

3. The Finnish Data Protection Authority has fined ParkkiPate with a fine of EUR 75,000 for breach of the provisions on the processing of personal data

The Authority received several complaints regarding the activities of the controller. Those who complained to the Authority requested information from the controller, inter alia, the source of their personal data and the basis for their processing. In addition, the applicants had requested access to or deletion of their data.

The controller refused to deliver the data until it verified the identity of the applicant. For this verification, the controller asked those requesting to disclose information such as their personal identity codes and addresses. The operator considered that it could not sufficiently identify the parking tickets in question only by the names of the persons concerned and the case numbers assigned to the parking ticket. However, the



data originally held by the controller did not include personal identity codes, so it could not have compared a personal identity code provided by a data subject with the data already in its possession.

4. The Dutch Data Protection Authority fined Locatefamily.com a fine of EUR 525,000

The site publishes people's addresses and phone numbers, often without their knowledge. Anyone who wanted to remove the details from the site could not do so easily, because Locatefamily.com does not have a representative in the EU. The lack of a representative in the EU is a breach of the General Data Protection Regulation (GDPR) and is the reason why the fine was imposed.

5. The Norwegian authorities fined the electricity company Dragefossen a fine of EUR 15,000

The electricity company had a panoramic webcam mounted above its office building in the center of Rognan, with a panoramic facility. The images were streamed live on YouTube and on the company's own website. Until the Authority contacted the company, it was possible to run live stream recordings for up to 12 hours.

The area captured by the webcam included public roads, car parks and entrances to two supermarkets, a pharmacy, the local bank, the town hall and a number of other buildings.

6. The Norwegian authorities have fined the Municipality of Asker with a fine of EUR 100,000

The municipality has been fined for publishing confidential personal data and national identity numbers (NID) on its website.

On 19 May 2020, the Council was notified by a citizen that the titles of the documents relating to a total of 170 entries in the Council's correspondence diary contained 127 names and NIDs. Visible data included the title of the document, in addition to names and NIDs. The data were visible on the municipality's website for a year.

7. The Norwegian authorities sanctioned a company with a fine of EUR 25,000 for illegally forwarding an employee's emails

The name of the company was not publicly disclosed to protect the identity of its employees.

The investigation came as a result of a complaint from someone who found that his employer had started sending emails automatically.

The employer has asked the employee to set up automatic forwarding from the email account to a third-party email account for operational reasons.

8. The Norwegian authorities sanctioned the municipality of Ålesund for using the Strava application

At two schools in Ålesund, teachers asked students to download the Strava fitness app to use during their physical education lessons. Students were then given assignments, while teachers used the application tracking feature to check that all students had completed the assigned tasks.

The download of the application was mandatory and was downloaded on students' private mobile phones. The use of the tracking function must be considered as the processing of personal data.



9. The Norwegian authorities fined Basaren Drift AS with a fine of EUR 20,000 for illegal CCTV monitoring

After investigating a complaint concerning CCTV surveillance of a restaurant, the Norwegian Data Protection Authority concluded that Basaren had no legal basis for its surveillance.

The illegal CCTV surveillance targeted the employees, the rooms covering the relaxation areas of the guests in the restaurant. Restaurant guests have a legitimate expectation not to be filmed while dining there. In places used for relaxation, recreation and social gatherings, the privacy of guests must therefore be given considerable weight.

10. The Spanish authority sanctioned EPD Comercializadora, S.A.U. with a fine in the amount of EUR 1,500,000 Euros

The Authority considers that EDP COMERCIALIZADORA, S.A.U has not adopted technical and organizational measures to verify whether a person who contracts his services on behalf of another natural person is authorized to perform the contracting. Nor has it adopted technical and organizational measures to verify whether the person acting on behalf of another natural person is authorized by that person to consent to other processing of personal data on their behalf. These consents were requested during the recruitment procedure, for two purposes: to send their own commercial and third-party communications and to profile information from third-party databases for automatic decision-making, to send personalized commercial proposals and to allow certain services to be contracted.



employment - legal changes published in May 2021

Government Emergency Ordinance no. 36/2021 on the usage of advanced electronic signature or qualified electronic signature, accompanied by the electronic time stamp or qualified electronic time stamp and the qualified electronic seal of the employer in the field of labour relationships, and for amending and supplementing some normative acts was published in the Official Gazette of Romania, Part I, no. 474 of May 6, 2021, entering into force on the same date.

The Ordinance implements a number of important changes in the field of labour relationships, as follows:

I. Amendment of the Labour Code

a) Aspects related to the electronic signature – the following are established:

- the parties may choose to use, at the conclusion of the individual employment contract /addendum to it, as appropriate, the advanced electronic signature or qualified electronic signature, accompanied by the electronic time stamp or the qualified electronic time stamp and the qualified electronic seal of the employer [all these concepts are defined in Regulation (EU) No. 910/2014 of the European Parliament and of the Council of July 23, 2014];
- the employer may choose to use the advanced electronic signature or the qualified electronic signature, accompanied by the electronic time stamp or the qualified electronic time stamp and the qualified electronic seal of the employer, for preparing all the documents/ acts in the field of labour relationships resulting from the conclusion of the individual employment contract, during its execution or at the termination of the individual employment contract, under the conditions established by the Internal regulations and/ or the applicable collective labour contract, according to the law;
- the individual employment contracts and the addenda concluded using the advanced electronic signature or the qualified electronic signature, accompanied by the electronic time stamp or qualified electronic time stamp and the qualified electronic seal of the employer, as well as the documents/ acts in the field of employment relationships are archived by the employer in compliance with the provisions of the Law on National Archives no. 16/1996 and of Law no. 135/2007 regarding the archiving of documents in electronic form and will be made available to the competent control bodies, at their request;
- the written form of the documents required by this law is also considered fulfilled if the document is drawn up in electronic form and is signed with advanced electronic signature or qualified electronic signature, accompanied by electronic time stamp or qualified electronic time stamp and qualified electronic seal of the employer, under the conditions of the law;
- in the employer's relations with the public authorities, when preparing documents/ acts in the field of labour relationships/ security and health at work, the employer may use the advanced



electronic signature or the qualified electronic signature, accompanied by the electronic time stamp or the qualified electronic time stamp and the qualified electronic seal;

- the employer may not oblige the person selected for employment or, where appropriate, the employee to use the advanced electronic signature or the qualified electronic signature, accompanied by the electronic time stamp or the qualified electronic time stamp and the employer's qualified electronic seal, at the conclusion of the individual employment contract/ addendum to it or of other documents issued in the performance of the individual employment contract, as appropriate;
- at the conclusion of the individual employment contract/ addendum to it or of other documents issued during the execution of the individual employment contract, the parties must use the same type of signature, i.e. handwritten signature or advanced or qualified electronic signature, accompanied by the time stamp electronic or qualified electronic time stamp and qualified electronic seal;
- the employer may bear, in order to fulfil the legal obligations referred to in this Emergency Ordinance, the costs of purchasing advanced electronic signatures or qualified electronic signatures accompanied by the electronic time stamp or the qualified electronic time stamp and the employer's qualified electronic seal used for the signature of documents/ acts in the field of labour relationships/ safety and health at work;
- among the elements on which the person selected for employment or the employee must be informed and which must be found in the content of the employment contract, the following was also introduced: *"the procedures for using the advanced electronic signature or qualified electronic signature accompanied by the time stamp electronic or qualified electronic time stamp and the qualified electronic seal of the employer."*

b) Aspects related to working from home regime:

- the provision according to which the employees that work from home have the obligation to respect and ensure the confidentiality of information and documents used during the working from home regime was introduced.

II. Amendments of the Law no. 81/2018 on teleworking

- the phrase *"at least one day a month"* has been removed from the definition of the telework activity; the telework activity is therefore the form of organisation of work whereby the employee, on a regular and voluntary basis, performs the tasks specific to the function or occupation he/ she holds in a place other than the workplace organised by the employer, using the information and communication technology;
- it is provided that the verification of the activity of the teleworker shall be carried out by the employer mainly by the use of information and communication technology, under the conditions



laid down in the individual employment contract, the Internal Regulations and/or the applicable collective labour contract, under the terms of the law;

- from the list of elements to be provided for by the employment contract/ addendum regarding the telework activity, the following was deleted: "*place/places in which the telework activity is carried on, agreed by the parties*" [art. 5 para. (2) letter c)];
- the obligation of the teleworkers to respect and ensure the confidentiality of information and documents used during the teleworking regime has been introduced.

III. Amendments of the Occupational Safety and Health Law no. 319/2006

- it is established that proof of occupational safety and health training to be provided to employees by the employer (as provided for in Article 20 of the Law) may be provided in electronic form or paper form depending on the manner chosen by the employer, as laid down in the Internal Regulations;
- in case the electronic form is used, the proof of training must be signed with an advanced electronic signature or a qualified electronic signature accompanied by the electronic time stamp or the qualified electronic time stamp and the qualified electronic seal of the employer.

Government Emergency Ordinance No. 37/2021 for the amendment and supplementation of Law no. 53/2003 - The Labour Code was published in the Official Gazette of Romania, Part I, no. 474 of May 6, 2021, entering into force from the same date.

Through the Ordinance:

- the provision according to which the elements from the information provided in para. (3) in art. 17 of the Labour Code must also be found in the content of the individual employment contract, except for the job description for the employees of micro-enterprises defined in art. 4 para. (1) letter a) of Law no. 346/2004 on stimulating the establishment and development of small and medium enterprises (micro-enterprises are defined as those enterprises that have up to 9 employees and achieve a net annual turnover or have total assets of up to EUR 2 million, equivalent in Lei), for which the specification of the duties of the job can be done verbally was introduced;
- there is an exception to the abovementioned rule: at the written request of the employee of a micro-enterprise, the employer is obliged to communicate to him/ her the job description in written form, specifying the duties of the job;
- it is established that, for the mobile employees, employees working from home and employees of micro-enterprises, the employer shall keep records of the daily worked hours by each employee under the conditions established with the employees by written agreement, depending on the specific activity carried out by them;



- another exception is established concerning the preparation of the Internal Regulations, namely: it shall be prepared by any employer, with the exception of micro-enterprises, in consultation with the trade union or the employees' representatives, as appropriate.

Government Decision no. 531/2021 on the extension of the state of alert on the territory of Romania starting with May 13, 2021, as well as the establishment of the measures to be applied during its period for preventing and combating the effects of the COVID-19 pandemic, was published in the Official Gazette of Romania, Part I, no. 488 of May 11, 2021, in force from the same date.

The Decision establishes that from May 13, 2021 the state of alert shall be extended by another 30 days throughout the country.

As a preliminary point, we mention that the Decision was subsequently amended by several legislative acts by which relaxation measures were established: Government Decision no. 550/2021 (published in the Official Gazette no. 506 of May 14, 2021, in force from the same date) and Government Decision no. 580/2021 (published in the Official Gazette no. 555 of May 28, 2021, in force since June 1, 2021).

The Decision stipulates that in public spaces, markets, fairs, flea markets, public transport stations, commercial spaces, means of public transportation and at the workplace, the obligation to wear a protective mask may be established so as to cover the nose and the mouth, under the conditions established by the joint order of the Minister of Health and the Minister of Internal Affairs.

Furthermore, for all public or private economic institutions and operators, the obligation to implement the working from home regime or teleworking is maintained, where the specific nature of the activity permits, under the conditions of Article 108-110 of the Labour Code, as well as those laid down by the Law no. 81/2018 on teleworking.

In the situation in which the employee cannot carry out the activity in teleworking/ working from home regime and in order to avoid the congestion of the public transportation, the employers in the private system, central and local public authorities and institutions, regardless of the method of financing and subordination, as well as the autonomous municipal companies, national companies and companies in which the share capital is wholly or mainly owned by the state or by an administrative-territorial unit, with a number of more than 50 employees, have the obligation to organize the work schedule so that the personnel to be divided into groups to start or finish the activity at a difference of at least one hour.

It is also established that the organisation of work shall be carried out in compliance with the legal provisions issued by the competent authorities with regard to the prevention of SARS-CoV-2 virus contamination and for the safety and health at the workplace, taking into account also the degree of vaccination of the employees at the workplace, as reflected in a certificate of vaccination against the SARS-CoV-2 virus presented by the employees for whom 10 days have passed since the completion of the full vaccination scheme, as well as the number of employees who are between the 15th day and the 90th day following the confirmation of the SARS-CoV-2 virus infection and who hold and present to the employer a certificate issued by the family physician.



Law no. 138/2021 for the amendment of Article 34 of Law no. 153/2003 - the Labour Code was published in the Official Gazette of Romania, Part I, no. 501 of April 13, 2021, in force starting with April 16, 2021.

It is provided that, if the employer is in insolvency, bankruptcy or liquidation proceedings in accordance with the legal provisions in force, the judicial administrator or, where appropriate, the judicial liquidator shall be obliged to issue to the employees a document attesting the activity carried out by them, to cease and to transmit in the general register of employees the termination of individual employment contracts.

Order of the Minister of Health no. 699/67/2021 for the amendment of the Order of the Minister of Health and the Minister of Internal Affairs no. 874/81/2020 on the obligation to wear protective masks, epidemiological triage and mandatory hand disinfection to prevent contamination with the SARS-CoV-2 virus during the state of alert was published in the Official Gazette of Romania, Part I, no. 506 of May 14, 2021, in force from the same date.

It is established that starting with May 15, 2021 is implemented the obligation to wear a protective mask in enclosed public spaces, means of public transportation, at the workplace, commercial spaces, and in open public spaces, such as, but not limited to, markets, fairs, flea markets, shopping spaces, public transport stations, and other areas with the potential for crowds determined by decision of the county/municipal committee of Bucharest for emergencies situations.

General measures concerning wearing of the mask are also amended, providing that there may be the following exceptions from wearing it, depending on the risk assessment carried out by the unit's occupational medicine physician, namely:

- a) the employee is alone in the office / all the people in the office are vaccinated against the SARS-CoV-2 virus for whom 10 days have passed since the completion of the full vaccination scheme;
- b) the person suffers from diseases that affect the oxygenation capacity;
- c) the person carries out intense physical activities and/or in demanding working conditions (high temperatures, high humidity, etc.);
- d) TV presenters and their guests, provided that the distance of 3 metres between persons exists;
- e) children under the age of 5.

Order of the Minister of Health no. 700/68/2021 for the amendment of the Order of the Minister of Health and of the Minister of Internal Affairs no. 874/81/2020 on the establishment of the obligation to wear a protective mask, epidemiological triage and mandatory hand disinfection to prevent contamination with SARS-CoV-2 virus during the alert was published in the Official Gazette of Romania, Part I, no. 507 of May 15, 2021, in force from the same date.



The Order reviewed one of the exceptions to the mandatory wearing of the mask at the workplace. Specifically, it is stipulated that the protective mask should not be worn if the employee is alone in the office. Previously, the exception consisted of 2 alternative situations (regulated by the Order of the Minister of Health no. 699/67/2021 mentioned above): either the employee is alone in the office, either all the people in the office are vaccinated against the SARS-CoV-2 virus for whom 10 days have passed since the completion of the full vaccination scheme.



litigation and arbitration - legal changes published in May 2021

Decision of the European Court of Human Rights dated 17 November 2020 ruled in Mihancea against Romania Case (Application no. 26.354/14) was published in the Official Gazette, Part I no. 478 dated May 7, 2021 and it is applicable from the same date. The application concerns an infringement of the applicant's right of access to a court in order to oblige the Financial Supervisory Authority and a third party to reimburse the amounts invested in the financial market. The applicant considers that the annulment of his appeal by the High Court of Cassation and Justice due to the said failure to pay the stamp duty was the result of an error occurred during the procedure. The applicant also considers that this represents a violation of article 6 § 1 of the Convention. Thus, the European Court of Human Rights, unanimously, held as follows: (i) that there has been a violation of article 6 § 1 of the Convention; (ii) the respondent State shall pay to the applicant, within three months from the date on which the judgment becomes final in accordance with article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State, at the exchange rate applicable at the date of settlement: (a) EUR 5,000 (five thousand euros) for non-pecuniary damage; (b) EUR 1,000 (one thousand euros) for other taxes.

Decision of the High Court of Cassation and Justice no. 28/2021 on the examination of the referral submitted by Oradea Court of Appeal – 2nd Civil Section in order to issue a preliminary ruling was published in the Official Gazette Part I no. 544 dated May 26, 2021 and is and it is applicable from the same date. The High Court granted the referral submitted by Oradea Court of Appeal – 2nd Civil Section in case file no. 482/111/C/2018*, in order to issue a preliminary ruling and consequently, determined that, *"the hypotheses of exclusion of the associate, provided by article 222 of Law no. 31/1990, republished, as amended and supplemented, is not to be completed with the provisions of article 1,928 of the Law no. 287/2009 regarding the Civil Code.*

Decision of the High Court of Cassation and Justice no. 22/2021 on the examination of the referral submitted by the Bucharest Court of Appeal – 3rd Civil matters and for cases with minors and family Section in order to issue a preliminary ruling was published in the Official Gazette Part I no. 480 dated May 10, 2021 and it is applicable from the same date. The High Court granted the referral submitted by Bucharest Court of Appeal – 3rd Civil matters and for cases with minors and family Section in case file no. 22,239/3/2017, in order to issue a preliminary ruling and consequently, determined that, *"in the interpretation of the provisions of article 43 of Law no. 165/2013 regarding the measures to complete the process of restitution, in-kind or by compensation, of properties abusively taken over during the communist regime in Romania, as amended and supplemented, in applications covered by this text of law, the status of entitled person, for lands that fell within the scope of application of the land fund laws on the date of entry into force of Law no. 165/2013, shall be established according to the provisions of these laws".*



Decision of the Constitutional Court no. 136/2021 regarding the admission of the constitutional challenge of article 539 of the Criminal procedure code was published in the Official Gazette Part I no. 494 dated May 12, 2021 and it is applicable from the same date. The Constitutional Court upheld the constitutional challenge raised by Cristian Marius Nișă in case file no. 25,090/63/2017 of Dolj Country Court – 1st Civil Section and determined that *“the legislative solution contained in the provisions of article 539 of the Criminal procedure code which excludes the right to damage repartion in case of deprivation of liberty, ordered during the criminal proceedings, resolved through a decision of closing the case, according to the provisions of article 16 paragraph (1) a)-d) of the Criminal procedure code or acquittal is unconstitutional”*.

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