



Litigation & Arbitration – Legal changes published in October 2021

Decision of the High Court of Cassation and Justice no. 9/2021 on the examination of the referral submitted by the Management Board of Constanta Court of Appeals in order to issue a preliminary ruling was published in the Official Gazette Part I no. 976 dated October 13, 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 in order to issue a preliminary ruling and consequently, determined that, in the interpretation and application of the provisions of article 4 para. (1) of the Law of Administrative Litigation no. 554/2004, as subsequently amended and supplemented, the unlawfulness exception shall be invoked also in relation to administrative acts of individual nature, adopted or issued before entering into force of the Law no. 554/2004.

Decision of the High Court of Cassation and Justice no. 42/2021 on the examination of the referral submitted by Iasi Court of Appeals – Civil Section in order to issue a preliminary ruling was published in the Official Gazette Part I no. 1009 dated October 22, 2021 and it is applicable from the same date. The High Court granted the referral submitted by Iasi Court of Appeals – Civil Section in order to issue a preliminary ruling and consequently, determined that, in the interpretation and application of the provisions of article 123 para. (1), (3), (9) of Law no. 85/2014, the actions for termination of a contract with continuous performance maintained by the judicial receiver or judicial liquidator shall not be admissible, when initiated by common law procedure, after the moment of starting of the bankruptcy procedure, for failure of the defendant debtor to comply with the contractual obligations consisting in payment of the amounts that were overdue before start of this procedure.

Decision of the High Court of Cassation and Justice no. 10/2021 on the examination of the appeal in the interest of the law submitted by the Management Board of Alba Iulia Court of Appeals was published in the Official Gazette, Part I no. 1033 dated October 29, 2021 and it is applicable from the same date. The High Court granted the referral submitted by the Management Board of Alba Iulia 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 28 of Law no. 50/1991 regarding the authorization of the execution of the construction works republished, as subsequently amended and supplemented, in case that the party has not initiated or have not finalized, within the period of time granted, procedure for compliance with the legal provisions, and the authority has not obtained a resolution for demolition of the construction, the time limit set in the contravention ascertaining minutes shall be a term of recommendation.