



dispute resolution - legal changes published in March 2022

Decision of the High Court of Cassation and Justice no. 1/2022 regarding the issuance of an appeal in the interest of the law regarding the request that forms the object of Case File no. 2.905/1/2021, formulated by the Management Board of the Suceava Court of Appeals was published in the Official Gazette, Part I no. 284 of March 24, 2022 and it is applicable from the same date. The High Court admitted the request made by the Management Board of the Suceava Court of Appeals in order to issue an appeal in the interest of the law and, consequently, established that in the unitary interpretation and application of the provisions of art. 603 para. (3) of Civil procedure code, the phrase "after the examination (...) that the conditions have been complied with" concerns the examination of the formal conditions of the arbitral decision and not the ones concerning the merits of the case.

Article 603 para. (3) of the Civil procedure code provides that: *Where the arbitral decision refers to a dispute concerning the transfer of ownership and/or the establishment of another right in rem over the immovable asset, the arbitral decision shall be submitted to the court or to the notary public in order to obtain a judgment or a notarial deed, as applicable. After the examination by the court or the notary public that the conditions have been complied with and after the fulfilment of the procedures provided for by law and payment by the parties of the tax on the transfer of ownership, the property shall be registered in the land register and the transfer of ownership and/or the establishment of another right in rem over the immovable asset shall take place.*

In support of the ruling it was argued that the arbitral decision has the force of *res judicata* and that an examination of the dispute's merits ruled through arbitration proceedings, it would question the very rationale of the procedure regulated by art. 603 of the Civil procedure code. Compared with non-contentious proceedings, the arbitral regulation shall be compatible only with a formal examination of the arbitral decision by the court.

Decision of the High Court of Cassation and Justice no. 2/2022 regarding the issuance of an appeal in the interest of the law regarding the request that forms the object of Case File no. 2.943/1/2021, formulated by the Management Board of the Cluj Court of Appeals was published in the Official Gazette, Part I no. 256 of March 16, 2022 and it is applicable from the same date.

The High Court admitted the request made by the Management Board of the Cluj Court of Appeals in order to issue an appeal in the interest of the law and, consequently, established that in the unitary interpretation and application of the provisions of art. 416 para. (1) of Civil procedure code, in case of optional suspension, order by court in accordance with art. 413 para. (1) pt. 1 of Civil procedure code, until the judgement of the Court of Justice of the European Union of a preliminary ruling, as a result of a request from a national court or courts of another member state of the European Union, the extinction of the statement of claim shall not occur, or, if appropriate, of the legal remedy, in the case where the interested party shall not request to redocket the case within 6 months of the date of delivery of the preliminary ruling by the Court of Justice of the European Union, the court being required to order, ex officio, the resumption of the trial.

Decision of the High Court of Cassation and Justice no. 5/2022 regarding the issuance of an appeal in the interest of the law regarding the request that forms the object of Case File no. 3.065/1/2021, formulated by the Ombudsman was published in the Official Gazette, Part I no. 279 of March 23, 2022 and it is applicable from the same date. The High Court admitted the request made by the Ombudsman in order to issue an appeal in the interest of the law and, consequently, established that in the unitary interpretation and application of the provisions of art. 684 and 687 of Law no. 95/2006 and art. 94 pt. 1 letter k) and art. 95 pt. 1 of Civil Procedure Code, the material jurisdiction for the adjudication of the dispute whose object is represented by the obligation, on tort liability ground, of the defendants to pay the material damages and/or non-material damages for



malpractice, in the situation where the procedure governed by the provisions of article 679-685 of Law no. 95/2006 has not been followed, lies with the district court.