



dispute resolution - legal changes published in February 2022

Decision of the High Court of Cassation and Justice no. 27/2021 regarding the issuance of an appeal in the interest of the law regarding the request that forms the object of Case File no. 2.618/1/2021, formulated by the Management Board of the Bucharest Court of Appeals was published in the Official Gazette, Part I no. 135 of February 10, 2022 and it is applicable from the same date.

The High Court admitted the request made by the Management Board of the Bucharest 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. 131 para. (1), art. 714 para. (1) and art. 719 para. (7) of the Code of Civil Procedure, the court where the motion for temporary suspension of the enforcement has been filed must verify the jurisdiction according to the general provisions and in the event that the court ascertains that has no jurisdiction to rule the case on the merits, it must deliver a judgement and decline its competency in favour of the enforcement court.

Decision of the Romanian Constitutional Court no. 19/2022 regarding the admission of the constitutional challenge of the Law for supplementing the Government Ordinance no. 2/2001 regarding the legal regime of contraventions was published in the Official Gazette, Part I no. 183 of February 24, 2022 and is applicable from the same date.

The Government Ordinance no. 2/2001 regarding the legal regime of contraventions has been supplemented by introducing a new article, respectively art. 361 which stipulates the possibility for the misdemeanant who submitted the complaint to require the trial hearings in first instance and in appeal to be carried out exclusively via audiovisual telecommunications systems which allow to verify the identity of the parties and shall ensure security, integrity, confidentiality and quality of the transmission and the courts shall order the necessary actions for this purpose.

In support of the ruling, among others, the Court pronounced upon the fact that the criticized law does not establish the grounds regarding the admission or not of the misdemeanant's complaint in accordance with the contravention matter exclusively via audiovisual telecommunications systems. Therefore, in compliance with the expressed critics, the Court held that the admission of the request to rule on cases in contravention matters via audiovisual telecommunications systems must be determined by clear and precise rules, in accordance with the exigencies provided by art. 20 of the Romanian Constitution in relation with art. 6 – the right to a fair trial of the Convention for protection of the human rights and fundamental freedom.

Therefore, the Constitutional Court admitted the constitutional challenge formulated by the Romanian Government and decided that the provisions of the Law for supplementing the Government Ordinance no. 2/2001 regarding the legal regime of contraventions are not constitutional.

Decision of the High Court of Cassation and Justice no. 81/2021 regarding the examination of the request formulated by Bucharest Municipal Court - Civil Section VI in order to issue a preliminary ruling for resolving a matter of law was published in the Official Gazette, Part I no. 194 of February 28, 2022 and is applicable from the same date.

The High Court admitted the request made by Bucharest Municipal Court - Civil Section VI in order to issue a preliminary ruling for resolving a matter of law and, consequently, established that in the interpretation and application of the provisions of art. 719 para. (4) point 1 of Code of Civil Procedure, the effects of the mandatory suspension of the enforcement procedure shall occur until the settlement of the complaint against enforcement by the first instance court, while a request having the same object shall not be reiterated in the appeal against the enforcement's court ruling.