



dispute resolution - legal changes published in April 2022

Decision of the High Court of Cassation and Justice no. 4/2022 regarding the examination of the request formulated by Bucharest Court of Appeals - Criminal Section II regarding the request that forms the object of Case File no. 2.813/1/2021 in order to issue a preliminary ruling for resolving a matter of law was published in the Official Gazette, Part I no. 335 of April 5, 2022 and is applicable from the same date. The High Court admitted the request made by Bucharest Court of Appeals - Criminal Section II in order to issue a preliminary ruling for resolving a matter of law and, consequently, established that in the situation in which the theft is committed by a person who wears a mask, in a space where wearing a mask it is mandatory, there shall be applicable the provisions of the aggravated theft laid down in art. 228 para. (1) – art. 229 para. (1) letter c) of Criminal Code.

Therefore, the Court stated that the fulfilment of the obligation to wear a protective mask, which may hide the characteristics of the face, in public spaces where the normative acts in force stipulate the requirement of wearing the mask, attracts the aggravating circumstance laid down in art. 229 para. (1) letter c) of Criminal Code.

Decision of the High Court of Cassation and Justice no. 6/2022 regarding the issuance of an appeal in the interest of the law regarding the request that forms the object of Case File no. 3.123/1/2021, formulated by the Ombudsman was published in the Official Gazette, Part I no. 337 of April 6, 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 (i) art. 39 para. (1) of Law no. 188/2000 on bailiffs, republished, as subsequently amended and supplemented, of (ii) Order of the Minister of Justice no. 2.550/C/2006 for the approval of the minimal and maximal fees for the services provided by bailiffs, as amended and (iii) of the provisions of art. 670 para. (2) of Code of Civil Procedure, the bailiff's maximum fees, as provided by art. 39 para. (1) of Law no. 188/2000 on bailiffs and by Order of the Minister of Justice no. 2.550/C/2006, shall not include the value added tax provided by art. 265 of Fiscal Code in relation to the services provided by bailiffs during enforcement proceedings.

Decision of the High Court of Cassation and Justice no. 3/2022 regarding the examination of the request formulated by Cluj Court of Appeals - Criminal Section regarding the request that forms the object of Case File no. 2.763/1/2021 in order to issue a preliminary ruling for resolving a matter of law was published in the Official Gazette, Part I no. 375 of April 15, 2022 and is applicable from the same date. The High Court admitted the request made by Cluj Court of Appeals - Criminal Section 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. 3 of Law no. 143/2000 concerning the fight against illicit drug trafficking and use, in the situation in which a person travels in Romania by plane, having drugs in its possession, the drugs shall be considered introduced into the country (with the consequence of consuming the offense) in the moment in which the person on board of the aircraft crosses the border, therefore, entering the airspace between the state borders, without the customs control being relevant in relation with the consumption of the offense.