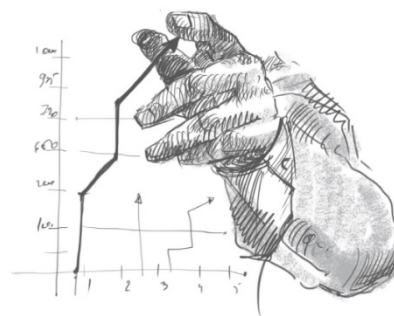




Legal Changes of March 2023

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**
- **Dispute resolution**
- **Employment**



Recent recognition

Voicu & Filipescu legal activity receives new recognition in **the 2023 edition of the Legal 500 EMEA Guide** being strongly appreciated by clients in several practice areas – Commercial, Corporate and M&A, Employment, PPP and Procurement, Real estate and Construction, Restructuring and Insolvency and TMT.

VF News

Chambers and Partners Europe, 2023 edition recommends Voicu & Filipescu for our lawyer's activity in the field of dispute resolution.

IFLR 1000, 2022 edition recommends Voicu & Filipescu for our lawyer's activity in three practice areas: M&A, Banking and Finance and Project Development.





data protection - legislative changes published in March 2023

I. ROMANIA

1 SANCTIONS APPLIED BY THE NATIONAL SUPERVISORY AUTHORITY (ANSPDCP)

1.1 TEHNOPLUS INDUSTRY SRL was sanctioned for violating the provisions of Article 6 and Article 5 para. (1) points a), c), e) and para. (2) of the GDPR with a fine amounting to LEI 24,496.50 (the equivalent of EUR 5,000)

As a result of the investigation, it was found that the controller had unlawfully processed personal data.

In particular, the data were collected via the GPS system installed on the company car of an employee of the controller, without the employee having been informed in advance about the monitoring, purpose, legal basis or duration of data storage.

The investigation was initiated following a complaint by the data subject and corrective measures were imposed in addition to the fine in order to ensure GDPR compliance of the processing operations.

1.2 PARTIDUL UNIUNEA SALVAȚI ROMÂNIA was sanctioned for violating the provisions of Article 32 para. (1) point a) and para. (2) of the GDPR with a fine amounting to LEI 19,646.00 (the equivalent of EUR 4,000)

As a result of the investigation, it was found that the controller had caused a personal data breach.

The security breach occurred as a result of the loss of confidentiality and integrity of the data stored on a server of the controller that hosted an application on which a phishing cyber-attack occurred. The unauthorised access concerned the following data: name, surname, personal number, e-mail, telephone number and political affiliation data.

The investigation was launched following a personal data breach notification sent by the controller.

1.3 MED LIFE S.A. was sanctioned for violating the provisions of Article 32 para. (1) point b), para. (2) and para. (4) of the GDPR with a fine amounting to LEI 14,7550.50 (the equivalent of EUR 3,000)

As a result of the investigation, it was found that the controller did not implement adequate technical and organisational measures to ensure a level of security appropriate to the processing risk.

It was found that one patient received by e-mail, in addition to his own investigation report, a series of attachments containing the results of investigations belonging to five other patients. The attachments contained the name, surname, date of birth, date of examination, reason for examination, result of examination, diagnosis and conclusions resulting from the medical examination.

The investigation was initiated following a complaint from the data subject.



II. EUROPEAN UNION

1 RELEVANT ISSUES AT THE EUROPEAN DATA PROTECTION BOARD (EDPB) LEVEL

1.1 EDPB adopts the second version of Guidelines no. 09/2022 on personal data breach notification under GDPR.

At its Plenary Session held on March 28, 2023, the EDPB adopts the second version, after public consultations, of Guidelines no. 09/2022 on personal data breach notification under GDPR.

The Guidelines cover the conditions that should be met by such a notification, and this version is adopted as a result of the need to clarify the personal data breach notification requirements for locations outside the EU. Therefore, the paragraph on this issue has been revised and updated, while the rest of the recommendations remain unchanged.

The document is available at the following web address:

[edpb_guidelines_202209_personal_data_breach_notification_v2.0_en.pdf \(europa.eu\)](https://edpb.europa.eu/edpb/files/2023/03/2023_03_28_guidelines_09_2022_en.pdf).

2 SANCTIONS APPLIED IN THE EU

2.1 The French Protection Authority ("CNIL") imposed to CITYSCOOT a fine of EUR 125,000 for breaches of the GDPR

As a result of the investigation, the CNIL found that the controller processed personal data in violation of the principle of data minimisation.

Specifically, while customers were renting a scooter, the controller collected data on the geolocation of the vehicle every 30 seconds and kept records of the routes taken. Approximately 250,000 data subjects were affected. The investigation was launched following an ex officio referral from the CNIL.

2.2 The Spanish Data Protection Authority ("AEPD") imposed to Vodafone España, S.A.U. a fine of EUR 136,000 for breaches of the GDPR.

As a result of the investigation, the AEPD found that the controller did not implement adequate technical and organisational measures to ensure a level of security appropriate to the risk presented by the processing.

In particular, the controller executed a fraudulent request for data portability without requesting the correct security information in order to establish the identity between the applicant and the contract holder. The customer had notified the controller of previous cases of identity theft and also requested protection of his personal data. The investigation was initiated following a complaint from the data subject, who received a duplicate invoice without a request.

2.3 The Norwegian Data Protection Authority ("Datatilsynet") imposed to Argon Medical Devices a fine of EUR 220,000 for breaches of the GDPR

As a result of the investigation, Datatilsynet found that the controller did not meet the deadline for submitting the data breach notification.



Specifically, the controller exceeded the 72-hour deadline provided by Article 33 of the GDPR, considering that the report should have been made after all information and consequences related to the incident had been gathered and analysed. Such justification was not received by Datatilsynet.

The investigation was initiated following the notification submitted by the controller.



dispute resolution - legal changes published in March 2023

Decision of the High Court of Cassation and Justice no. 75/2023 regarding the examination of the request formulated by Dolj Municipal Court – Administrative and Fiscal Section regarding the request that forms the object of Case File no. 7.578/63/2021 in order to issue a preliminary ruling for resolving a matter of law was published in the Official Gazette, Part I no. 182 of March 03, 2023 and it is applicable from the same date.

The High Court admitted the request made by Dolj Municipal Court – Administrative and Fiscal Section in order to issue a preliminary ruling, in the interpretation and application of the provisions of art. 154 para. (1), (6) and (6)1, art. 163 para. (5), art. 164 para. (4) and art. 175 para. (1) of Civil Procedure Code, regulating that:

Conducting the summoning procedure in accordance with the provisions of art. 154 para. (6) of Civil Procedure Code, if the party has requested and provided the proper data for this purpose, represents the main way of communicating procedural documents, without being conditioned to conduct the procedure in written form, in accordance with the provisions of art. 154 para. (1) of the same normative act.

The act of summoning the party to the proceedings, in a way other than that invoked in the claim submitted to the court, shall become null on the grounds of the provisions of art. 175 para. (1) of Civil Procedure Code, if the failure to comply with the procedure has caused the party a damage which can be removed only by its cancellation, without being conditioned by the use of the forgery procedure, under the provisions of art. 163 para. (5) and art. 164 para. (4) of Civil Procedure Code.



employment - legal changes published in March 2023

Law no. 52/2023 on supplementing para. (1) of Article 139 of Law no. 53/2003 - Labour Code was published in the Official Gazette, Part I, no. 186 of March 06, 2023, in force as of March 09, 2023.

The law introduces two additional days among the nationally recognized public holidays, namely **(i)** the 6th of January - the Baptism of the Lord and **(ii)** the 7th of January - the Feast of the Holy Baptist John the Baptist.

Government Emergency Ordinance no. 10/2023 amending and supplementing Government Emergency Ordinance no. 158/2005 on social health insurance leave and allowances was published in the Official Gazette, Part I, no. 218 of March 16, 2023, in force from the same date.

The Ordinance provides for a series of amendments to Government Emergency Ordinance no. 158/2005 on social health insurance leave and allowances, as follows:

- The income related to the payment of the contribution rate of 1% for leave and allowance insurance is, according to the new regulation, the monthly income or the average monthly income registered in the tax declaration submitted for the payment of the health social insurance contribution, according to the Fiscal Code, which may not be less than the value of the national minimum gross basic salary guaranteed in payment and may not exceed 3 times its value.
- The basis for calculating the allowances for the persons insured in the health social insurance system based on the insurance contract is determined as the average of the insured incomes, as stated in the insurance contract, for the last 6 months of the 12 months of the insurance period, up to a limit of 3 gross minimum wages per country guaranteed in payment.

Order of the Ministry of Finances and of Ministry of Labour and Social Solidarity no. 1.121/655/2023 on the determination of the indexed monthly amount to be granted in the form of childcare vouchers for the first semester of 2023 was published in the Official Gazette, Part I, no. 258 of March 29, 2023, in force from the same date.

The Order establishes that, for the first semester of 2023, starting with April 2023, the amount of the monthly amount to be granted in the form of childcare vouchers is LEI 600. The nominal amount thus established will also apply for the first 2 months of the second semester of the year 2023, namely for the months August and September 2023.

Law no. 67/2023 on amendment of Art. 6 para. (2) of Law no. 361/2022 on the protection of whistleblowers in the public interest was published in the Official Gazette, Part I, no. 257 of March 28, 2023, in force as of March 31, 2023.

The Law provides that a report that does not contain **(i)** the name, surname, **(ii)** contact details or **(iii)** signature of the whistleblower in the public interest shall be examined and resolved to the extent that it contains **indications of violations of the law**, compared to the previous regulation which provided that well-grounded indications were required for such report to be examined and resolved.



Order of the Ministry of Labour and Social Solidarity no. 798/2023 approving the Procedure for the classification in collective bargaining sectors of the units defined under Article 1, point 21 of Law no. 367/2022 on social dialogue was published in the Official Gazette, Part I, no. 259 of March 29, 2023, in force from the same date.

The Order approves the Procedure for the classification in the collective bargaining sectors of the units and, at the same time, provides that the classification in the requested collective bargaining sector shall be carried out during the period of validity of the collective labour bargaining agreement, from the date of registration of the request, and shall be extended by right if there is no other request from the employer concerned.

The aim of the procedure is to inform the parties involved in sectoral collective bargaining of the choice of a unit to be included in a collective bargaining sector. The procedure is carried out by publishing the request for classification in one of the collective bargaining sectors on the website of the Ministry of Labour and Social Solidarity. This application is submitted by the representative of the unit, in writing, to the Ministry of Labour and Social Solidarity's registry office or sent by e-mail to the Ministry.

In order to submit the application, the representative of the unit shall submit the following documents:

- written request for publication on the website, as set out in Annex no. 1 to the Procedure;
- a power of attorney signed by the employer, if the person requesting publication is not the employer's legal representative;
- a copy of the identity card of the employer's legal representative or of the person authorized by the employer, as appropriate;
- a copy of the certificate of registration with the National Trade Registry Office/tax registration certificate;
- a copy of the incorporation documents or articles of incorporation/statutes of the beneficiary, indicating the CAEN Codes related to the fields of economic activity;
- an affidavit, as set out in Annex no. 2 to the Procedure, certifying that the applicant is the legal representative of the employer or the employer's authorized representative, if the documents referred to above are sent by e-mail.

Order of the Ministry of Finances no. 1235/2023 updating the amount of the delegation/secondment allowance and the amount of the accommodation allowance provided for in the Annex to Government Decision no. 714/2018 on the rights and obligations of staff of public authorities and institutions during delegation and secondment to another locality, as well as in the case of travel on official business was published in the Official Gazette, Part I, no. 261 of March 29, 2023, in force from the same date.

The Order states that, as of April 1, 2023:

- the amount of the delegation allowance set out in the Annex to Government Decision no. 714/2018 shall be increased from Lei 20 to Lei 23;



- the amount of the accommodation allowance provided for in the Annex to Government Decision no. 714/2018 shall be increased from Lei 230 to Lei 265;

Order of the Ministry of Finances and of the Ministry of Culture no. 1.098/2.748/2023 on the determination of the amount of the indexed amount to be granted in the form of cultural vouchers for the first semester of 2023 was published in the Official Gazette, Part I, no. 246 of March 24, 2023, in force from the same date.

The Order establishes that the amount to be granted monthly or occasionally in the form of cultural vouchers for the first semester of 2023 is of maximum of Lei 200/month and of maximum of Lei 400/event. This nominal amount also applies to the first two months of the second semester of 2023, *i.e.*, August 2023 and September 2023.

Law no. 69/2023 amending and supplementing Law no. 227/2015 on the Fiscal Code was published in the Official Gazette, Part I, no. 265 of March 30, 2023, in force as of April 2, 2023.

According to Law no. 69/2023, income from salaries or assimilated to salaries obtained by non-resident individuals with the status of digital nomad, defined according to the provisions of Government Emergency Ordinance no. 194/2002 on the regime of foreigners in Romania, is not taxable and is not included in the basis of calculation of the social insurance contribution and the social health insurance contribution if the individual is present on the territory of Romania for a period or periods not exceeding 183 days during any period of 12 consecutive months ending in the calendar year concerned.

A digital nomad is defined as a foreigner who is employed under an employment contract by a company registered outside Romania and who provides services using information and communication technology or who owns a company registered outside Romania in which he/she provides services using information and communication technology and is able to perform the activity of an employee or the activity within the company remotely using information and communication technology.

For additional details on this material, please do not hesitate to contact us.

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