



NEWSFLASH

Fines Applied During the State of Emergency are Unconstitutional

Dear Ladies and Gentlemen,

Due to the latest developments, please find hereinafter a special edition of our newsflash, informing you about the recent decision of the Constitutional Court of Romania. This decision turns all fines imposed for non-compliance with the Lockdown measures during the state of emergency illegal and thus contestable.

The general legal frame in Romania with regard to emergency situations is defined by the Emergency Ordinance ('EO') no. 1/ 1999. On 31.03.2020, these provisions have been modified and completed by the Romanian Government through EO no. 34/ 2020. The most important modification significantly raised the amount of fines applied for any breach of the measures instituted during the state of emergency, partially increasing to 20 times the prior amount.

On 06.05.2020, Romania's Constitutional Court admitted a request of the Ombudsman (ro. *Avocatul Poporului*) and declared some of the provisions of EO no. 1/ 1999 and EO no. 34/ 2020 in its entirety as unconstitutional. As per the court's press release (the decision is not published yet), this was motivated by technical reasons related to the drafting of the above mentioned provisions and to the competence of deciding measures leading to the limitation of fundamental rights. We will not go into further legal details here.

Based on the decision of the Constitutional Court, all fines applied by agents of the state during the emergency period for misdemeanors related to the specific obligations during the emergency period could be successfully contested with high chances of success.

Note that the cancelation of the protocols by which such fines were applied does not happen *ex officio*. This requires an express request to the competent court within 15 days. The term – which normally runs from the date of such protocol – shall in this case start only after the end of the state of emergency, i.e. on 16.05.2020 (based on the current situation).

We will be happy to answer any questions you may have pertaining to this subject.

Sincerely,

STALFORT Legal. Tax. Audit.

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