



LEAUA DAMCALI DEACONU PAUNESCU  
Attorneys & Counselors

EITHER WE WILL FIND A WAY  
OR WE WILL MAKE ONE!

## LEGAL NEWSLETTER

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## Major legislative amendments

LEAUA DAMCALI DEACONU PAUNESCU – LDDP provides legal advice and representation of its clients in transactions and in international and domestic disputes, in a wide range of areas, such as: romanian and international commercial law, corporate law – mergers and acquisitions, insolvency law, commercial competition law, civil law and real rights, public law, administrative and constitutional law, public procurement, concessions and public-private partnerships, tax law, financial and banking law, insurance law, transport law, notably aviation law, construction law and urbanism law, natural resources and energy law, environment law, intellectual property law, personal data protection, IT law and electronic communications, labour law.

The lawyers of LEAUA DAMCALI DEACONU PAUNESCU – LDDP are members of various international associations: Chartered Institute of Arbitrators – CIArb, International Bar Association – IBA, Swiss Arbitration Association – ASA, International Fiscal Association – IFA, Romanian subsidiary, Union des Avocats Européens (U.A.E.) Bruxelles, INSOL Europe.

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### USE OF A CONSTRUCTION ONLY AFTER RECEPTION UPON THE COMPLETION OF WORKS

By Law no. 97/2019 for amending and completing Law no. 10/1995 on quality in constructions, the construction quality obligation of "allowing the use of the construction only after taking delivery of the construction works, both in the case of new investments and in the case of interventions on existing constructions which have not been used during the execution of the construction works" was introduced for investors. Also, the owners of the constructions will have the obligation "to allow the use of the construction only after taking delivery of the construction works for the interventions on the existing constructions which have not been used during the execution of the construction works ."

Published in the Official Gazette no. 359/9.05.2019

### COPYRIGHT AND RELATED RIGHTS IN THE EU DIGITAL SINGLE MARKET

Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, lays down rules which aim to harmonise further Union law applicable to copyright and related rights in the framework of the internal market, taking into account, in particular, digital and cross-border uses of protected content. It also lays down rules on exceptions and limitations to copyright and related rights, on the facilitation of licences, as well as rules which aim to ensure a well-functioning marketplace for the exploitation of works and other subject matter.

Published in the European Official Journal L 130/17.05.2019

### NEW EU RULES ON CONTRACTS FOR THE SUPPLY OF DIGITAL CONTENT AND DIGITAL SERVICES

Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services, lays down rules which aim to contribute to the proper functioning of the internal market while providing for a high level of consumer protection, by laying down common rules on certain requirements concerning contracts between traders and consumers for the supply of digital content or digital services

Published in the European Official Journal L 136/22.05.2019

### **SOLVING LEGAL ISSUES BY THE HIGH COURT OF CASSATION AND JUSTICE: enforcement of an enforceable title in tax matters**

By Decision no. 16/2019 regarding the interpretation of art. 226 para. (1) and (3) of the Fiscal Procedure Code to the effect that a judgment in civil matters rendered in favor of a public institution financed by the State budget is assimilated, in the enforcement procedure, to a tax enforceable title, the High Court of Cassation and Justice has determined that in the interpretation of art. 226 para. (1) of Law no. 207/2015, a court decision in civil matters, regarding the refund of damages granted on the basis of Law no. 10/2001, is assimilated to execute an enforceable title relating to budgetary claims arising from contractual legal relationships. Also, in the interpretation of art. 226 para. (10), in the enforcement of claims due to public institutions financed by the state budget, provided by judgments which do not include obligations to pay interest and penalties for delay, tax authorities cannot calculate and establish *ex officio*, through tax enforceable titles (in the absence of provisions of the enforceable title sent for enforcement), related tax obligations, such as interest and late payment penalties.

**Published in the Official Gazette no. 402/22.05.2019**

### **SOLVING LEGAL ISSUES BY HIGH COURT OF CASSATION AND JUSTICE: determining when the statute of limitation period for criminal liability begins to run**

By Decision no. 5/2019 on the establishment of a unitary practice on the date when the statute of limitation period for criminal liability begins to run in the case of simple offenses whose objective side implies causing damage/an undue advantage over a period of time, the High Court of Cassation and Justice has determined that the date when the statute of limitation period of criminal liability begins to run in case of simple offenses whose objective side involves causing damage or an undue advantage over a period of time is the moment of occurrence of the first damage or first undue use.

**Published in the Official Gazette no. 334/2.05.2019**

### **SOLVING LEGAL ISSUES BY HIGH COURT OF CASSATION AND JUSTICE: who can be the active subject of the offense of false witnessing**

By Decision no. 10/2019 on the possibility of being an active subject of the offense of false witnessing the participant committing an offense who has been judged separately from the other participants and subsequently heard as a witness in the disjoined case with regard to the latter participants, the High Court of Cassation and Justice has admitted the referral and determined that the participant committing an offense which has been judged separately from the other participants and subsequently heard as a witness in the disjoined case cannot be the active subject of the offense of false witnessing provided by art. 273 of the Penal Code.

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