

The Effects Brought by the SARS-CoV-2 Virus over the Civil Law Reports in Romania

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ABSTRACT: The birth and spread of the SARS-CoV-2 virus has exerted an influence over social and professional areas. Many domains of activity had to be restrained and suspended, due to the measure represented by the social distancing, implemented for the safety and protection of the citizens. In this manner, numerous social relationships were reduced, other being postponed for an unknown period. Also, the hold posted on the courts processes made the closing of some civil cases rather impossible. The right to property suffered modifications, composed by the restrictions placed on it. As an example, we can bring into evidence the option to transmit a property from one person to another, which could not be done in the last months at full capacity. The presidential decree emitted in Romania, in the first part of the pandemic, with the purpose of instating the state of emergency, has brought consequences over the civil law reports. The current paperwork will analyze the effects of the state of emergency over the civil part of the law. Next, the article will explore the alternatives used by the subjects of the law to complete the civil processes in the conditions provided. The conclusions will clarify the information in order to provide a better understanding of the consequences resulted from the tackling with this disease.

KEYWORDS: pandemic, civil law, legal, decree, restrictions, Civil Code, The Romanian Constitution, rights and freedoms, social relationships

The impact of SARS-CoV-2 on social activities

The year 2020 began with the appearance and widespread spread of the new type of coronavirus, a plague that is characterized in particular by the fact that it is highly contagious, can last a long time on surfaces and is contacted by air and touch. This disease mainly affects the elderly and those suffering from serious medical conditions, helping to increase the risk of accelerated development of existing injuries.

The symptoms of the virus may or may not be felt depending on various factors, including immunity, the degree of degradation of the body, the already existing medical conditions of the infected subject and others. Thus, there may be people who, although they have come into contact with the disease, have no symptoms, and this makes the pathogen all the more dangerous as it can pass from one person to another without leaving visible traces, and therefore, it can spread in different environments for which a history of the contagious route cannot be made, most often passing from young to old.

The massive presence of SARS-CoV-2 among young people can be explained by the fact that they carry out a much wider and more energetic range of social activities compared to older people, interacting with a wide range of subjects who may be carriers disease, and their health and increased immunity make them often asymptomatic, making a significant contribution to the spread of infection.

In an attempt to stop the spread of the infection, the Romanian state has adopted a series of mandatory measures that have affected social activities and certain civil rights and freedoms. In this way, several intertwining branches of law have been affected, such as labor law, constitutional law, criminal law, tax law, commercial law, administrative law and, last but not least, civil law.

Among these branches of law, civil law was more seriously affected, the situation being explained by the fact that one of the main measures adopted was social distancing, which made it

difficult to form new civil legal relationships or continuity in the situation of existing ones. Two psychological components also contributed to the decision-making factor in creating such legal relationships, namely the individual fear of the citizen to contact the virus and the instinct of conservation and protection of family and loved ones.

Another element that hindered the possibility of initiating civil relations was the suspension of the activity of the courts, a measure aimed at minimizing physical contact between citizens and officials of legal institutions. Thus, more and more people who wanted to set up companies, associations, non-governmental organizations or other entities were forced to postpone their decision until the resumption of court activity (Trușcă P. and Trușcă A. 2017, 46).

Also during this period, the time limits for extinction stopped from their normal flow, being suspended and thus leading to a freezing of the expression of will of the parties who were in civil legal relations before the adoption of measures to prevent and combat the spread of the disease, This resulted in very significant financial losses of some production, retail or service execution companies.

The effects of the pandemic on constitutional rights in close connection with civil rights

On March 16, 2020, the state of emergency was established by the President of Romania by Decree no 195. After 30 days this measure was extended by another month. During this period it was issued Military Ordinances no 12 which restricted some fundamental rights such as free movement, the right to education, the right to health, freedom meetings, the right to strike, economic freedom, the right to private property and others (Hegheș 2020, 90).

A fundamental right guaranteed by the Romanian Constitution is the right to strike or any other protest activity against one or more decisions adopted by the decision-making body in the state and which is manifested by the possibility of citizens to protest to express their dissatisfaction with certain laws, certain decisions or legislative impositions arising from the legislative activity carried out by the competent institutions endowed with this prerogative (The Constitution of Romania, The European Convention for Human Rights, The Chart of Fundamental Right of the European Union, 10th Edition, 2018, Chapter II, Article 43).

In Civil Law, this prohibition materialized in the suspension of the activity of certain organizations whose object of activity is the organization and coordination of protests, socio-cultural manifestations meant to warn the political class about certain social dissatisfaction and other social activities (Ionescu 2014, 314).

Another constitutional right affected by the presidential decree is that of free movement, the effect of which, by making it difficult for citizens to move or work in certain areas or territories, has led to a lack of opportunity to express their will at the conclusion of certain civil acts which would otherwise have ended (Trușcă P. and Trușcă A. 2016, 67).

The right to private property, which is a fundamental constitutional right and is closely linked to the civil obligation to give, do or not do something by transferring ownership to another person, has undergone substantial changes amid the forecast of a crisis affecting the entire furniture and real estate market (Boroi and Anghelescu 2012, 73).

Regarding the freedom of assembly, the imposition of social distance between citizens who are not part of the same family made it impossible to convene general meetings in the management forums of certain companies, which contributed to the impossibility of new acquisitions, even in some cases, there was a decrease in their assets.

Not only individuals and legal entities were directly affected by the measures taken by the authorities, but also public administration institutions suffered some significant losses during the pandemic. Certain civil relations that are closely linked to administrative law have undergone functional changes. This was done by reducing the physical contact between interested parties and civil servants at the tax collection points, at the pension or health houses and at any of them (Mihăilescu 2016, 134).

Thus, the institutions of public administration and those of control and management of the state have significantly changed the way of exercising their prerogatives. In this way, the Romanian Parliament, which is the authority in charge of adopting laws, had to approach a way of organizing the meetings of the two reunited chambers based on the online system, reducing the number of deputies and senators present in the chamber, often encountering technical problems transmission of information (Bejan 2010, 28).

The influence of the state of emergency on labor law with effects in civil law

The issuance of the presidential decree, which materialized through the establishment of the state of emergency on the entire territory of Romania, affected many small and medium-sized companies whose object of activity was, in particular, social interaction. Thus, many service providers, numerous restaurants or bars and an impressive number of small casinos had to suspend their activity, and, from a financial point of view, this measure was manifested by significant losses of assets (Chelaru 2012, 128).

Significant budget cuts among small and medium-sized enterprises have led employers to the inability to meet their salary obligations stipulated in the individual or collective employment contract concluded between the company and employees. That is why many jobs have become vacant, the staff occupying them being forced out of technical unemployment (Ciochină-Barbu and Popescu 2016, 317).

The state thus took over the salary obligations of the companies, adopting a bill that would allow those left without a source of income to meet some primary needs, allocating a certain amount of money, calculated as a percentage of gross income of the unemployed citizen.

With regard to simple civil relations between natural and legal persons, the reduction of the budget as a result of the partial or total loss of employment has made it possible for potential debtors to waive the obligation to give creditors' claims reflected on the global economy of the state (Ungureanu and Munteanu 2013, 83).

There were also changes in the debtors' plan of obligations to do. Some service providers have been unable to meet their existing civil liability at the time of the emergency, because, due to social distance, they have been unable to interact personally and physically with customers or third parties, in the absence of which the object of the assumed contract could not be realized (Ungureanu 2013, 62).

Manifestation of the effects of the pandemic on bank receivables

The most important economic contribution to a state budget is the financial activity of the National Bank and the branches of private economic entities. Any change that has the effect of decreasing their turnover directly affects the state economy and thus the smooth running of social activities (Coșea 2006, 117). During the pandemic, credit applicants, due to their forced entry into technical unemployment, were unable to honor the loan obtained before this period, contributing to the impossibility of banks to recover their debts. Therefore, economic entities had to find ways to survive without claiming compliance with contractual obligations. One way to achieve this was to implement a form by which the unemployed citizen can suspend the fulfilment of his contractual obligation, assumed after obtaining the loan, until a date that allows him to honor the agreement.

Another cause for which the economic entities decided this way to keep their active receivables was the suspension of the bailiffs' activity, in the absence of which the bank does not have legal and efficient tools to determine the payment of the credit rate by its clients.

The effects of the decision to suspend bank receivables have made their benefits felt on several levels of interest. On the one hand, they meant a psychological and financial relaxation for credit borrowers, which allowed the continuation of vital and low-value economic activities for

them, ensuring the continuity of the existence of as many small and medium enterprises as possible their object of activity is retail and the food industry. On the other hand, it has significantly contributed to the state's ability to implement certain decisions to ensure the needs of its citizens such as directing important funds to the health and medical system, facilitating the cleaning and disinfection of the public domain, taking over the obligations of employees and many others.

Conclusions

The year 2020 began with the emergence and spread of the new type of coronavirus SARS-CoV-2 which had a devastating impact on the social activity of citizens in all states of the world. It manifested itself on several levels both from an economic-financial point of view and from a psycho-social point of view.

In Romania, the presence of this impact was felt starting on March 16, 2020, when the incumbent President imposed by presidential Decree no 195, the state of emergency, a situation that influenced several branches of law. The most important measure to prevent and combat the spread of the virus was social distancing. In this way it can be stated that the branch of law most affected by the pandemic was Civil Law, all other branches that are closely related to it being affected in the intersection elements.

Thus, from the point of view of Constitutional Law, we find certain restrictions on fundamental rights guaranteed and protected by the Romanian Constitution such as the right to free movement, the right to education, the right to private property, the right to association and others. By restricting the right to association in close connection with social distancing, it has become impossible to organize demonstrations of popular discontent such as strikes, protests and the activities of trade unions and employers.

Another effect of the pandemic was felt in the field of Labor Law in which, due to lack of training, but also due to decreased capacity for social interaction, many small and medium enterprises were forced to suspend their activities, thus causing an economic collapse on profit and the need to lay off technically unemployed employees. This measure was materialized by the impossibility of the citizens to conclude certain patrimonial civil legal acts or to honor certain previously assumed obligations, which had a significant impact on the economic activity of the society.

In order to reduce the impact of security measures, the Romanian state has adopted a method by which it has taken over some of the salary obligations from employers through the commitment to pay technical unemployment for all those who have been temporarily or permanently unemployed.

The banking economic entities in Romania also contributed to this state initiative by suspending the loans contracted by customers before and during the pandemic, a method that had the effect of a psychological and financial relaxation of the people. The decision of the banks to suspend the payment of loans until a later date more favorable from a financial point of view for customers was also due to the suspension of the activity of bailiffs and courts, their trials being postponed until the critical situation is overcome.

Currently, the state of alert has been established throughout Romania, which has meant a relaxation of restrictions and, implicitly, an economic and social recovery, which leads to the legal and financial stabilization of the Romanian state and which generates new opportunities for recovery a normal labor market.

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