



ROMANIA

THE CONSTITUTIONAL COURT

Palatul Parlamentului

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4 November 2020

PRESS RELEASE

I. On 4 October 2020, the Constitutional Court, **within the a posteriori constitutional review**, unanimously **upheld** the exception of unconstitutionality and found unconstitutional the provisions of Article 229 (3) of Law No 71/2011 for the implementation of Law No 287/2009 on the Civil Code, according to which: “(3) *Until the entry into force of the regulation referred to in paragraph (1), the powers of the court of guardianship to exercise guardianship regarding the property of the minor or of interdict or, as the case may be, regarding the supervision of the way in which the guardian manages his property shall belong to the child welfare authority*”.

The Court noted that the transitional situation regulated by the legal provision criticised in this case remains from the date of entry into force of the Civil Code, respectively from 1 October 2011, until present. Therefore, the lack of intervention of the legislator, within the meaning of the regulation, by the law on judicial organization, of the organization and functioning of the court of guardianship and family, is likely to contravene the provisions of Article 1 (5) on the principle of legality, in its component referring to the quality of law, as well as the provisions of Article 124 of the Fundamental Law on the application of justice, given that it does not ensure a good administration of justice, by failing to correlate with the rules of substantive law established in the Civil Code,

which regulate within the jurisdiction of the court of guardianship and family the powers to exercise guardianship on the interdict's property or, as the case may be, on the supervision of the way in which the guardian manages his property.

The Court also held that, under the criticised transitional rule, an administrative body, subordinated to the local public authority, respectively the child welfare authority, decides on the exercise of guardianship on the interdict's property or, as the case may be, on the supervision of the way in which the guardian manages his property, without an appeal before the law court, although these powers have been regulated by the Civil Code in the jurisdiction of the court of guardianship and family.

The decision is final and generally binding and shall be notified to the two Chambers of the Parliament, the Government and the law court which brought the matter before the Constitutional Court, respectively Bucharest Law Court – III Civil Division.

The arguments retained as grounds for the solution delivered by the Constitutional Court shall be presented in the decision, to be published in the Official Gazette of Romania, Part I.

II. Regarding:

- The referrals of unconstitutionality of the Decision of the Parliament of Romania No 29/2020 on the appointment of Mr Florin Iordache as President of the Legislative Council, referrals formulated by the head of the Parliamentary Group of the Union "Salvați România" within the Chamber of Deputies and, respectively, the head of the Parliamentary Group of the National Liberal Party within the Chamber of Deputies.

- The referral of unconstitutionality of the Decision of the Parliament of Romania No 30/2020 on the appointment of Mr George Edward Dircă as President of the Section of Official Record of Legislation and Documentation of the Legislative Council, referral formulated by the head of the Parliamentary Group of the Union "Salvați România" within the Chamber of Deputies;

The Constitutional Court postponed the debates for **11 November 2020**.

- The objections of unconstitutionality of the Law amending and completing Law No 227/2015 on the Civil Code, objections formulated by the People's Advocate and, respectively, the High Court of Cassation and Justice,

The Constitutional Court postponed the opening of debates for **8 December 2020**, given the impossibility of sitting as a full court and the fact that the views of the Presidents of the two Chamber of the Parliament, required pursuant to Article 16 (2) and Article 17 of Law No 47/1992, and all the information required to several public authorities pursuant to Article 77 of Law No 47/1992 have been yet transmitted to the case file.

**External Relations, Press and Protocol Department
of the Constitutional Court**