



# ROMANIA THE CONSTITUTIONAL COURT

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## PRESS RELEASE

I. On 8 July 2020, the Plenum of the Constitutional Court, as part of the pre-promulgation review, debated:

A. The objection of unconstitutionality of Law amending Article 1 (1) of Law No 239/2007 on the regulation of the legal regime of some immovable property used by places of worship, objection formulated by deputies belonging to the Parliamentary Groups of the Parliamentary Groups of the Union “Salvați România”, of the Democratic Union of Hungarians in Romania and by non-affiliated deputies;

Following the deliberations, the Constitutional Court, by a majority of votes, rejected, as unfounded, the objection of unconstitutionality and found that the provisions of Law amending Article 1 (1) of Law No 239/2007 on the regulation of the legal regime of some immovable property used by places of worship are constitutional in relation to the criticisms formulated.

The decision is final and generally binding and shall be notified to the President of Romania.

B. The objection of unconstitutionality of the Law amending and completing Law No 218/2002 on the organization and functioning of the Romanian Police, as well as amending Law No 360/2002 on the status of the

policeman, objection formulated by the Government of Romania;

Following the deliberations, the Constitutional Court, by unanimous vote, decided:

1. It upheld the objection of unconstitutionality and found that the provisions of Article I points (4) and (5), Article II point (1), referring on the amendment of Article 69 ind. 1 (3) and (4) of Law No 360/2002 on the status of the policeman, as well as Article II point (2) of Law amending and completing Law No 218/2002 on the organization and functioning of the Romania Police, as well as amending Law No 360/2002 on the status of the policeman are unconstitutional.

2. It rejected, as unfounded, the objection of unconstitutionality and found that the other criticised provisions of Law amending and completing Law No 218/2002 on the organization and functioning of the Romanian Police, as well as amending Law No 360/2002 on the status of the policeman are constitutional in relation to the criticisms formulated.

The decision is final and generally binding and shall be notified to the President of Romania, to the Presidents of the two Chambers of the Parliament and to the Prime Minister.

**II.** The Plenum of the Constitutional Court also ruled on the exception of unconstitutionality of the provisions of Article 15 (2) of Law No 200/2006 regarding the establishment and use of a guarantee fund for debt salaries, in the interpretation given by Decision No 16 of 5 March 2018 of the High Court of Cassation and Justice – The Panel competent to resolve law issue.

Following the deliberations, the Constitutional Court, by unanimous vote, upheld the exception of unconstitutionality and found that the provisions of Article 15 (2) of Law No 200/2006 regarding the establishment and use of a guarantee fund for debt salaries, in the interpretation given by Decision No 16 of 5 March 2018 of the High Court of Cassation and Justice – The Panel competent to resolve law issue, are unconstitutional.

The provisions of Article 15 (2) of Law No 200/2006 read as follows: “(2) *The period referred to in paragraph (1) shall be the period prior to the date on*

*which the rights are applied for and shall precede or succeed the date of the opening of insolvency proceedings”.*

In essence, the Court found that the above-mentioned wording, in the interpretation given by Decision No 16 of 5 March 2018 of the High Court of Cassation and Justice – The Panel competent to resolve law issue, is unconstitutional in terms of Article 41 (2) in relation to Article 16 (1) of the Constitution, as the limitation of the period of granting salary rights paid from the guarantee fund for debt salaries, established by Law No 200/2006, in the first 3 months following the date of opening the insolvency proceedings disregards the fact that the right of administration – *sine qua non* condition for the provisions of salary debts – may be also restricted after the expiry of the 3 months *if the insolvent debtor employer opts for the general insolvency proceedings and declares his/her intention of reorganisation*. Thus, there is the legal possibility for the right of administration to be restricted at a later stage in the general insolvency proceedings (the observation or judicial reorganisation period), including in the final stage of insolvency, in which the syndic judge decides bankruptcy and finds the dissolution of the debtor employer, and the right of administration is automatically restricted.

The decision is final and generally binding and shall be notified to the two Chambers of the Parliament, to the Government and to the law courts which referred matters to the Constitutional Court.

**III.** On the same day, the Plenum of the Constitutional Court debated the request to resolve the legal conflict of a constitutional nature between the Parliament of Romania – the Senate, on the one hand, and the Public Ministry – Prosecutor’s Office attached to the High Court of Cassation and Justice – Directorate for Criminal Investigation and Prosecution, on the other hand, request formulated by the President of the Senate.

The Constitutional Court postponed the debates for **15 July 2020**.

**IV.** Regarding:

- The objection of unconstitutionality of Law for declaring June 4<sup>th</sup> as the

Day of the Trianon Treaty, objection formulated by the President of Romania,  
The Constitutional Court postponed the debates for **15 July 2020**.

- The objection of unconstitutionality of Law approving the Government Emergency Ordinance No 37/2020 on granting facilities for the credits given by credit and non-banking financial institutions to certain categories of debtors, objection formulated by deputies belonging to the Parliamentary Group of the National Liberal Party,

The Constitutional Court postponed its decision for **15 July 2020**.

- The objection of unconstitutionality of the provisions of Law on the consumer protection against excessive interest rates, objection formulated by deputies belonging to the Parliamentary Group of the National Liberal Party,

The Constitutional Court postponed its decision for **23 September 2020**.

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

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