

Decision No 415 of 26 June 2019
on the objection of unconstitutionality of the provisions of Article I (3) [with reference to Article 2 (6) and (9) of Law No 192/2006] and of Article I (16) [with reference to Article 61 (3) and (4) of Law No 192/2006] of the Law amending and supplementing Law No 192/2006 on mediation and the organisation of the profession of mediator
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Summary

I. As grounds for the objection of unconstitutionality, first were presented the provisions of Law No 192/2006 on mediation and the organisation of the profession of mediator, found to be unconstitutional through the decisions of the Constitutional Court No 266 of 7 May 2014 and No 560 of 18 September 2018. A violation of Article 147 (4) of the Constitution was alleged - the *erga omnes* effects of the decision ascertaining the unconstitutionality, because Article 2 (6) and (9), as well as Article 61 (3) and (4) of Law No 192/2006 contradict the optional nature of the mediation procedure.

II. By examining the objection of unconstitutionality, the Court noted that it referred to provisions contained in the Law amending and supplementing Law No 192/2006 on mediation and the organisation of the profession of mediator, adopted after review by Parliament in order to put it in line with Decision No 560 of 18 September 2018, published in the Official Gazette of Romania, Part I, No 957 of 13 November 2018. Through this decision, the Court dismissed as groundless the objection of unconstitutionality and found that the provisions of Article I (6), Article I (12) and Article I (18) of the law were constitutional in relation to the pleas filed. It also upheld the objection of unconstitutionality regarding the provisions of Article I (10), of Article I (16) and of Article I (21) of the mentioned law.

The Court found that both Article I (3) [with reference to Article 2 (6) and (9) of Law No 192/2006] and Article I (16) [with reference to Article 61 (3) and (4) of the same law] were present, in an identical wording, in the form of the law on which the Constitutional Court ruled by Decision No 560 of 18 September 2018. The only differences refer to the numbering of the texts of the law, Article I (18) of the initial law becoming Article I (16) of the law adopted after review, respectively to legislative technique, in the sense that the phrase “Code of Civil Procedure”, contained in Article I (18), was replaced with the phrase “Law No 134/2010, republished, as subsequently amended”, contained in Article I (16).

By Decision No 560 of 18 September 2018, the Court found the constitutionality of Article I (18), establishing that there is no contradiction of the optional nature of the mediation procedure, enshrined by Decision No 266 of 7 May 2014, and, consequently, the provisions of Article 147 (4) of the Constitution are not violated. Article I (18) appears in an identical form in Article I (16) of the law.

As for Article I (3), this was not the subject-matter of Decision No 560 of 18 September 2018, nor did it undergo any changes during review. In this context, the rule that pleas of unconstitutionality must refer only to the changes that have been made to the law during review applies.

III. For all these reasons, unanimously, the Court dismissed, as inadmissible, the objection of unconstitutionality of the provisions of Article I (3) [with reference to Article 2 (6) and (9) of Law No 192/2006] and of Article I (16) [with reference to Article 61 (3) and (4) of Law No 192/2006] of the Law amending and supplementing Law No 192/2006 on mediation and the organisation of the profession of mediator.