

BY THE JUDGEMENT DATED 18 DECEMBER 2018, THE CONSTITUTIONAL COURT DEEMS POSSIBLE TO SUBMIT SECOND APPEALS IN ALL CASES, IRRESPECTIVE OF THE VALUE OF THE DISPUTE

## LEGAL AND TAX ALERT, 20 December 2018



Through the press release dated 18 December 2018[1], the Constitutional Court of Romania announces that it deems unconstitutional the interpretation that was given by the High Court of Cassation and Justice to civil procedural provisions concerning the inadmissibility of second appeals submitted in litigations commenced before 20 July 2017, relating to claims amounting to RON 1,000,000 or less.

Initially, the Law[2] stated that the second appeals might only be submitted for claims amounting above RON 1,000,000. For all other claims worth RON 1,000,000 or less, the only means to challenge them was the appeal. The scope of this rule was the decongestion of the activity of the High Court of Cassation and Justice, the court which traditionally rules upon second appeals. Subsequently[3], this limitation was deemed unconstitutional, so that, as of 20 July 2017, second appeals could be submitted in all disputes, irrespective of their value.

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[1] Published on the official website of the Romanian Constitutional Court, accessed at [https://www.ccr.ro/files/statements/Comunicat\\_de\\_presa\\_18\\_decembrie\\_2018.pdf](https://www.ccr.ro/files/statements/Comunicat_de_presa_18_decembrie_2018.pdf).

[2] Law no. 2/2013 on measures for reduction of the congestion of the courts, as well as for the preparation of the implementation of Law no. 134/2010 on the Civil Procedure Code, published in the Official Gazette, Part I no. 89 of February 12, 2013, art. XIII paragraph (2).

[3] Decision no. 369/30.05.2017, published in the Official Gazette, Part I no. 89 of July 20, 2017.

This decision which confirms the admissibility of second appeals in all disputes has led to difficulties in court practice. Questions were raised whether it is possible to submit second appeals in all disputes which were pending at the date of the decision of unconstitutionality, or the possibility to submit second appeals is granted solely in disputes commenced as of 20 July 2017. The issue was clarified by a decision of the High Court of Cassation and Justice[4], which found that second appeals can be submitted for claims amounting to RON 1,000,000 or less only in disputes commenced as of 20 July 2017, while the initial rule of inadmissibility was maintained for disputes commenced before 20 July 2017.

In this context, through the new Constitutional Court decision announced on 18 December 2018, the Constitutional Court settled the controversial issue and determined that the interpretation given by the High Court of Cassation and Justice is unconstitutional. Thus, by the new decision, the Constitutional Court establishes that second appeals against rulings in cases involving claims amounting to RON 1,000,000 are admissible regardless of the date of promotion, or the date of the final judgment.



The decision enters into force as of the date of its publication in the Official Gazette, and all second appeals thereof shall be ruled upon following the general rules of the Civil Procedure Code, irrespective of the date of submission of the legal action, or the date of the final judgement.

The new decision aims to ensure better observance of the principle of free access to justice and to grant the equality of citizens in the exercise of their procedural rights, by eliminating the artificial and unjustified distinction based solely on the value of the claim. The aspects mentioned above indisputably prevail as opposed to the congestion of the activity of the Supreme Court.

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[4] Decision no. 52/2018 in the interest of the law, published in the Official Gazette, Part I no. 609 of July 17, 2018.



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