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ROMANIA

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PART I
LAWS, DECREES, DECISIONS AND OTHER ACTS

Friday, 4 July 2025

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ACTS OF SPECIALISED BODIES OF THE CENTRAL PUBLIC ADMINISTRATION

MINISTRY OF DEVELOPMENT, PUBLIC WORKS AND ADMINISTRATION

ORDER

for the approval of the technical regulation

“Design Code for Reinforced Concrete Frame Structures, reference number NP 007-2025”

In accordance with the provisions of Article 10(2) of Law No. 10/1995 on quality in construction, republished, as subsequently amended and supplemented, of Article 2(3) of the Regulation on regulatory activity in construction and the related categories of expenditure, approved by Government Decision No. 203/2003, as subsequently amended and supplemented, of Article 5 point 31 of Government Decision No. 477/2020 regarding the organization and functioning of the Ministry of Development, Public Works and Administration, as subsequently amended and supplemented, as well as of Government Decision No. 1016/2004 on measures for organizing and implementing the exchange of information in the field of standards and technical regulations, as well as rules relating to information society services between Romania and the Member States of the European Union and the European Commission, as subsequently amended and supplemented,

Having regard to the Minutes of the Opinion No. 2 of 26 September 2024 of the Technical Committee for Specialization CTS A – Mechanical Resistance and Stability, Subcommittee for civil, industrial and agricultural constructions, and Approval Minutes No. 2 of 22 May 2025 of the General Technical Coordination Committee, as well as the fact that the technical regulation was adopted in compliance with the notification procedure laid down in Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, published in the Official Journal of the European Union, Series L, No 241 of 17 September 2015,

Pursuant to Article 12(6) of Government Decision No 477/2020, as subsequently amended and supplemented,

The Minister of Development, Public Works and Administration issues this Order.

Article 1. The technical regulation “Design Code for Reinforced Concrete Frame Structures, reference number NP 007-2025”, set out in Annex*), which forms an integral part of this Order, is hereby approved.

Article 2. This Order shall not apply to investment objectives/projects, irrespective of the source of funding, whether public or private:

- a) for which a town planning certificate has been issued and is valid at the date of entry into force of this Order, on the basis of which the permitting procedure has been initiated,
- b) for which the public procurement procedures for feasibility studies/technical approval documentation for intervention works/technical execution projects have been initiated prior to the entry into force of this Order, by transmitting for publication the contract notice or issuing the invitation to participate,
- c) whose technical execution projects are under preparation or, as the case may be, under preparation based on the feasibility studies/technical approval documentation for intervention works referred to in letter b),
- d) whose feasibility studies/technical approval documentation for intervention works/technical execution projects have been accepted by the public or private investor/beneficiary or have been submitted for approval prior to the entry into force of this Order,
- e) for which the technical and economic indicators have been approved prior to the entry into force of this Order,
- f) for which, at the date of entry into force of this Order, a building permit is valid, even if the commencement of works

has not yet been notified, in accordance with Law No. 50/1991 on the authorization of construction works, republished, as subsequently amended and supplemented,

- g) for which a financing agreement is in force at the date of entry into force of this Order,
- h) whose works are under execution at the date of entry into force of this Order.

Article 3. On the date of entry into force of this Order, Order No 1/N/13.01.1997 of the Minister of Public Works and Land Management approving the “Design Code for Reinforced Concrete Frame Structures, reference number NP 007”, published in Construction Bulletin No 10/1997, shall cease to apply.

Article 4. This order shall be published in the Official Gazette of Romania, Part I and shall enter into force 180 days after its publication date.

* The Annex shall be published in the Official Gazette of Romania, Part I. No 630 bis, which can be bought from the Centre for Public Relations at the address Șos. Panduri nr. 1, bloc P33, parter, sectorul 5, Bucharest.

Minister for Development, Public Works and Administration,
Cseke Attila-Zoltan

Bucharest, 23 June 2025.
 No. 880.

ACTS OF THE HIGH COURT OF CASSATION AND JUSTICE 9

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THE HIGH COURT OF CASSATION AND JUSTICE *i* > *i*
 PANEL FOR THE RESOLUTION OF QUESTIONS OF LAW

DECISION No 170

of 19 May 2025

Case No. 2656/1/2024

Mariana Constantinescu	– Vice-President of the High Court of Cassation and Justice - President of the Panel
Carmen Elena Popoiag	– President of the First Civil Division
Adina Oana Surdu	– President of the Second Civil Division
Elena Diana Tâmagâ	– President of the Administrative and Fiscal Litigation Division
Adina Georgeta Nicolae	– judge in the First Civil
Beatrice Ioana Nestor	– judge in the First Civil
Cristina Trutescu	– judge in the First Civil
Mariana Hortolomei	– judge in the First Civil
Daniel Marian Drâghici	– judge in the First Civil
Cosmin Horia Mihăianu	– judge in the Second Civil Division
Valentina Vrabie	– judge in the Second Civil Division
Petronela Iulia Nitu	– judge in the Second Civil Division
Stefan Ioan Lucaciuc	– judge in the Second Civil Division
Marcela Marta Iacob	– judge in the Second Civil Division
Carmen Maria Ilie	– judge in the Administrative and Fiscal Litigation Division
Luiza Maria Păun	– judge in the Administrative and Fiscal Litigation Division
Gheza Attila Farmathy	– judge in the Administrative and Fiscal Litigation Division
Adriana Florina Secreteanu	– judge in the Administrative and Fiscal Litigation Division
Alina Nicoleta Ghica-Velescu	– judge in the Administrative and Fiscal Litigation Division

1. The Panel for the Resolution of Points of Law, vested with the settlement of Case File No. 2656/1/2024, was constituted in accordance with the provisions of Article 520(8) of the Code of Civil Procedure and of Article 35(1) of the Regulation on the administrative organization and functioning of the High Court of Cassation and Justice, approved by Decision No. 20/2023 of the Governing Board of the High Court

of Cassation and Justice, as subsequently amended and supplemented (the "Regulation").

2. The hearing is presided over by Ms. Judge Mariana Constantinescu, Vice-President of the High Court of Cassation and Justice.

3. Ms. Elena Adriana Stamatescu, judicial assistant, appointed in accordance with Article 36 of the Regulation, participates in the hearing.

4. The High Court of Cassation and Justice - the Panel for the Resolution of Points of Law examined the request submitted by the Alba Iulia Court of Appeal - First Civil Division, in Case File No. 2853/85/2022.

5. The judicial assistant presents the report on the case, stating that the report prepared by the reporting judges has been filed with the case file and communicated to the parties, in accordance with Article 520(10) of the Code of Civil Procedure; the parties have not submitted any viewpoints regarding the point of law.

6. The judicial assistant also reports that national courts have submitted judicial decisions and theoretical opinions expressed by judges in the matter forming the subject of the request, and that the Public Ministry - the Prosecutor's Office attached to the High Court of Cassation and Justice has communicated that, at present, there is no consistent judicial practice justifying the promotion of an appeal in the interest of the law with regard to this legal issue.

7. Following deliberations, the High Court of Cassation and Justice - the Panel for the Resolution of Points of Law remains seized of the referral for the purpose of delivering a preliminary ruling.

THE HIGH COURT,

Having considered the legal issue referred to it, the Court finds as follows:

I. The referring party and the subject matter of the request

8. The Alba Iulia Court of Appeal - First Civil Division, by its interlocutory ruling of 23 October 2024, in Case File No. 2853/85/2022, ordered the referral to the High Court of Cassation and Justice, pursuant to Article 2(1) of Government Emergency Ordinance No. 62/2024 on certain measures for the resolution of proceedings concerning the remuneration of personnel paid from public funds, as well as proceedings concerning social insurance benefits (Government Emergency Ordinance No. 62/2024), for the purpose of delivering a preliminary ruling on the following point of law:

Whether the performance by the claimant, a physician within the Public Health Directorate - Public Health Diagnosis and Investigation Laboratory - Microbiology Laboratory, of both

activities for which she benefits from an allowance of 15-25% of the basic salary, pursuant to Article sole point 7 of Annex No. 1 to the Framework Regulation on the determination of workplaces, categories of personnel, the specific amount of the allowance for working conditions provided for in Annex No. II to Framework Law No. 153/2017 on the remuneration of personnel paid from public funds, as well as the conditions for granting it, for the occupational family of budgetary functions "Health and Social Assistance", approved by Government Decision No. 153/2018, as subsequently amended and supplemented (the Framework Regulation approved by Government Decision No. 153/2018), as well as of activities for which she benefits from an allowance of 55-85% of the basic salary, pursuant to Article sole letter A point 2 of Annex No. II to the Framework Regulation approved by Government Decision No. 153/2018 (HIV/AIDS activity), entitles her to the higher allowance for the entire working schedule, or whether the provisions of Article 8 of the Framework Regulation approved by Government Decision No. 153/2018 apply, regarding the granting of each allowance proportionally to the time worked under those conditions.

9. The referral was registered on the docket of the High Court of Cassation and Justice on 18 November 2024, under No. 2656/1/2024, the hearing being scheduled for 19 May 2025.

II. The provision of domestic law forming the subject matter of the referral to the High Court of Cassation and Justice for the delivery of a preliminary ruling

10. *The Framework Regulation on the determination of workplaces, categories of personnel, the specific amount of the allowance for working conditions provided for in Annex No. II to Framework Law No. 153/2017 on the remuneration of personnel paid from public funds, as well as the conditions for granting it, for the occupational family of budgetary functions "Health and Social Assistance", approved by Government Decision No. 153/2018, as subsequently amended and supplemented:*

Article 8. "1. Allowances for working conditions shall be granted in proportion to the time worked at the workplaces provided for in the framework regulation.

2. Personnel of other units who carry out their activity at one of the workplaces provided for in the annexes to this framework regulation shall benefit from the allowance applicable to those workplaces, in proportion to the time during which they perform their activity at such workplaces.

3. Personnel who, within their working schedule, perform their activity in a split manner at several workplaces provided for in the annexes to this framework regulation, with different allowances, shall benefit from the allowance applicable to each workplace, depending on the actual time worked in those workplaces. The record of the actual time worked, in hours and days, at different workplaces where allowances are granted at different rates, as well as the certification thereof, shall be carried out by the head of each department/section/laboratory/structure.

4. The allowance provided for in Annex No. 2 to Article sole letter A point 9, second sentence, granted for the epidemiological risk situation caused by the spread of the SARS-CoV-2 coronavirus, may not be granted cumulatively with other allowances for particularly hazardous working conditions. In the event that, for the activity carried out within the normal working schedule, allowances for working conditions that cannot be cumulated may be granted, the personnel shall benefit from the allowance with the higher amount."

Annex No. 1 - The amount of the allowance for hazardous working conditions granted pursuant to Article 7(1)a) of Chapter II of Annex No. II to Framework Law No. 153/2017, as subsequently amended and supplemented

Sole article. "Personnel carrying out their activity under hazardous conditions shall benefit from the allowance provided for in Article 7(1)a) of Chapter II of Annex No. II to Framework Law No. 153/2017, as subsequently amended and supplemented, as follows: Allowance ranging from 15% to 25% of the basic salary: (...)

7. specialist healthcare personnel and auxiliary healthcare personnel working in laboratories/departments for medical analyses, bacteriology, parasitology, inframicrobiology, microbiology, virology, immunology, enzymology, sanitary chemistry, toxicology, chemical, biological, biochemical and cytological analyses; (...)"

Annex No. 2. The amount of the allowance for particularly hazardous working conditions granted pursuant to Article 7(1)b) of Chapter II of Annex No. II to Framework Law No. 153/2017, as subsequently amended and supplemented

Sole article. "Personnel carrying out their activity under particularly hazardous conditions shall benefit from the allowance provided for in Article 7(1)b) of Chapter II of Annex No. II to Framework Law No. 153/2017, as subsequently amended and supplemented, as follows:

A. Allowance ranging from 55% to 85% of the basic salary: (...)

2. specialist healthcare personnel and auxiliary healthcare personnel carrying out their activity in microbiology laboratories within public health directorates, performing HIV/AIDS testing; (...)"

111. Brief presentation of the proceedings in which the point of law was raised

11. By the statement of claim registered with the Sibiu Tribunal - First Civil Division, on 29 November 2022, under No. 2853/85/2022, the claimant X requested, in proceedings against the Sibiu County Public Health Directorate:

- the ordering of the defendant to pay the allowance for particularly hazardous working conditions, in the amount of 85% per month of the basic salary, starting from 29 November 2019 and for the future, due to healthcare personnel carrying out their activity in the Public Health Diagnosis and Investigation Laboratory - Microbiology Laboratory, under particularly hazardous conditions;

- the ordering of the payment of the differences between the allowance for particularly hazardous working conditions set at 85% per month of the basic salary and the allowance actually paid of 18%, starting from 29 November 2019 and for the future, updated with the inflation index and statutory interest, from the due date until the date of actual payment.

12. *By Civil Judgment No. 815 of 18 October 2023*, the objection of limitation of the substantive right of action, raised by the defendant, was dismissed; the action was partially upheld, and the defendant was ordered to pay the claimant an allowance for particularly hazardous working conditions in the amount of 55%, calculated on the basic salary, starting from 29 November 2019, as well as the resulting difference between the allowance granted at a rate of 18% and the allowance for particularly hazardous working conditions in the amount of 55%, calculated on the basic salary, starting from 29 November 2019 and for the future, such amounts to be updated with the inflation rate and default statutory interest, from the due date until the date of actual payment.

13. *In reaching this judgment, the tribunal* held that the claimant is employed by the defendant as a senior specialist physician in laboratory medicine, carrying out her activity within the microbiology laboratory.

14. On the merits of the case, it was held that the claimant is remunerated in accordance with Framework Law No. 153/2017 on the remuneration of personnel paid from public funds, as subsequently amended and supplemented (Framework Law No. 153/2017), which, under Article 23, regulates the granting of allowances for working conditions. For the application of this legal provision, the Framework Regulation approved by Government Decision No. 153/2018 was adopted.

15. The allowance granted at the workplace where the claimant carries out her activity is regulated in Annex No. 2 to the Framework Regulation.

16. From the documents in the case file, it results that the defendant, by decision of 7 May 2018, established different allowance percentages for employees, namely 18% for the claimant, calculated by reference to an allowance of 15-25%, pursuant to Article sole point 7 of Annex No. 1, and an allowance of 55-85%, pursuant to Article sole letter A point 2 of Annex No. 2 to the Framework Regulation approved by Government Decision No. 153/2018, for HIV/AIDS-related activity; by this act, an average was calculated consisting of 4 days at 55% and 16 days at 15%, by rotation, one month per semester.

17. Thus, the defendant combined the allowance of 55-85%, granted for particularly hazardous conditions, with the allowance of 15-25%, granted for hazardous conditions.

18. The court of first instance considered that this method of differentiating the allowances is unlawful, since the provisions of Article 8 of the Framework Regulation approved by Government Decision No. 153/2018 are not applicable to the claimant, as she is neither employed within other units nor carries out her activity in a split manner at several workplaces, and Article 7(4) of Chapter II of Annex No. II to Framework Law No. 153/2017 provides that the allowance for hazardous conditions and that for particularly hazardous conditions may not be granted cumulatively to the same person.

19. Having examined the documents and evidence administered in the case, the court of first instance found that, in view of the claimant's activity and workplace, the provisions of the sole Article of Annex No. 2 to the Framework Regulation approved by Government Decision No. 153/2018 are applicable, such that the claimant is entitled to an allowance ranging from 55% to 85% of the basic salary.

20. *Against this judgment, the defendant* lodged an appeal to Sibiu County Public Health Directorate, seeking that the appeal be upheld, the judgment be amended and the action be dismissed on procedural grounds as time-barred, and, on the merits, as unfounded.

21. In its statement of reasons, as regards the merits of the case, the appellant-defendant essentially argued that the claimant's action is unfounded and unlawful with respect to the granting of the maximum allowance of 85% for hazardous conditions, having regard to the activity carried out in the Public Health Diagnosis and Investigation Laboratory within the Sibiu County Public Health Directorate; that the provisions of Article 8 of the Framework Regulation approved by Government Decision No. 153/2018 are applicable in the case; and that, pursuant to Article 25(2) of Framework Law No. 153/2017, the total amount of allowances and indemnities granted cumulatively at the level of each principal authorizing officer may not exceed 30% of the total basic salaries, to which the amount of on-call duties without allowance is added.

22. At the hearing of 25 September 2024, the court raised, for discussion with the parties, the necessity of referring the matter to the High Court of Cassation and Justice, pursuant to Article 2(1) of Government Emergency Ordinance No. 62/2024, for the interpretation of the indicated legal issue.

23. By the interlocutory ruling delivered on 23 October 2024, the referral to the High Court of Cassation and Justice was ordered, as well as the suspension of the proceedings.

IV. The grounds of admissibility identified by the referring court

24. The referring court held that the conditions of admissibility provided for by Government Emergency Ordinance No. 62/2024 for the referral to the High Court of Cassation and Justice for the delivery of a preliminary ruling are fulfilled.

25. Thus, the claims brought before the court fall within the scope of determining and/or paying salary rights or salary-related rights of personnel paid from public funds, within the meaning of Article 1(2) of Government Emergency Ordinance No. 62/2024, since the claimant, an employee of the Sibiu County Public Health Directorate, is remunerated from public funds.

26. The case is at the appeal stage and is pending before a judicial panel of the Alba Iulia Court of Appeal - Civil Division.

27. As regards the condition relating to the existence of a point of law whose clarification is decisive for the resolution of the case on the merits, the Court held that the resolution of the case depends on the clarification of that point of law, given that the claimant seeks an allowance of 55-85% for particularly

hazardous working conditions for the entire working schedule, pursuant to Article sole point 2 of Annex No. 2 to the Framework Regulation approved by Government Decision No. 153/2018 (HIV/AIDS activity), whereas the defendant seeks the application of Article 8 of the Framework Regulation approved by Government Decision No. 153/2018, concerning the granting of each allowance proportionally to the time worked under such conditions, namely the combination of the allowance of 55-85% granted for particularly hazardous conditions with the allowance of 15-25% granted for hazardous conditions.

28. The Court also found that the High Court of Cassation and Justice has not ruled on the legal issue raised, and that it does not form the subject of a pending appeal in the interest of the law.

V. The parties' views on the resolution of the point of law

29. The parties did not express views on the point of law, other than through the procedural positions resulting from the submissions filed in the case.

VI. The view of the panel of judges that made the referral regarding the resolution of the point of law

30. The referring court stated that the proportional application of different types of allowances according to the time worked, in relation to each specific activity, concerns only personnel who carry out their activity at several workplaces, with different allowances, which is not the case of the claimant, who performs her activity at a single workplace - the microbiology laboratory. Therefore, the provisions of Articles 8 and 11 of the Framework Regulation approved by Government Decision No. 153/2018 are not applicable in the present case. It is not relevant that the personnel work only occasionally with HIV/AIDS patients, as the legislator's intention was to grant this allowance to the categories of personnel provided for in Framework Law No. 153/2017, without the distinctions invoked by the appellant, precisely in order to financially compensate for the risk to which persons working in environments with a risk of contamination are exposed - a risk which exists even if at a very low level, but which, had it been negligible, would not have been regulated by law as an allowance for particularly hazardous working conditions.

VII. Case-law of the national courts in the matter

31. At the request of the High Court of Cassation and Justice, the national courts submitted a limited number of judicial decisions and theoretical opinions regarding the legal provisions forming the subject of the referral.

32. Thus, the Bucharest Tribunal - Eighth Division for labour disputes and social insurance, the Iași Court of Appeal - Division for labour disputes and social insurance, the Iași Tribunal - First Civil Division, and the Timișoara Court of Appeal - Division for labour disputes and social insurance, considered that the provisions of Article 8(3) of the Framework Regulation approved by Government Decision No. 153/2018 are applicable, and that personnel who carry out both the activities regulated by Article sole letter A point 2 of Annex No. 2 and those regulated by Article sole point 7 of Annex No. 1 to the Framework Regulation approved by Government Decision No. 153/2018 shall benefit from the allowance applicable to each workplace, depending on the actual time worked in those workplaces.

33. Other courts (the Ilfov Tribunal, the Cluj Court of Appeal - Fourth Division for labour disputes and social insurance) considered that neither the provisions of Article 8(3) nor those of Article 11 of the Framework Regulation approved by Government Decision No. 153/2018 are applicable. In view of the claimant's activity and workplace, the provisions of the sole Article of Annex No. 2 to the Framework Regulation approved

by Government Decision No. 153/2018 are applicable in the present case, meaning that she is entitled to an allowance ranging from 55% to 85% of the basic salary. The allowance provided for particularly hazardous working conditions should be granted at least at the minimum level provided by law.

34. The other courts of appeal did not identify relevant case-law in the matter and did not submit theoretical opinions.

35. *The Public Ministry - the Prosecutor's Office attached to the High Court of Cassation and Justice* communicated that, at the level of the Judicial Section - Civil Judicial Service, there is currently no established judicial practice warranting the promotion of a possible appeal in the interest of the law with regard to the legal issue forming the subject of the referral.

VIII. Case law of the Constitutional Court

36. By Decision No. 63 of 28 February 2023, published in the Official Gazette of Romania, Part I, No. 658 of 18 July 2023, the Constitutional Court, dismissing the exception of unconstitutionality of the provisions of Article 7(1) and (3) of Chapter II of Annex No. II to Framework Law No. 153/2017, held as follows:

"27. With regard to allowances and the protection they enjoy under the constitutional provisions, the Court, by Decision No. 666 of 29 September 2020, published in the Official Gazette of Romania, Part I, No. 119 of 4 February 2021, paragraphs 18 and 19, held, in essence, that allowances, bonuses and other incentives granted to public officials and other employees by normative acts represent additional salary rights, and not fundamental rights enshrined and guaranteed by the Constitution. The Court also held that the establishment and reduction of allowances, their granting for a certain period of time, their modification or the cessation of their granting, as well as the determination of the categories of salaried personnel benefiting from them, together with other conditions and criteria for granting them, fall within the exclusive competence and discretion of the legislator, subject only to the constitutional requirement that the measures adopted apply equally to all categories of personnel in an identical situation.

28. As regards the delegation of the determination of the amount of the allowance for working conditions through secondary legislation, as provided for by Article 23 of Framework Law No. 153/2017, the Court, by Decision No. 666 of 29 September 2020, cited above, paragraph 28, held that, far from constituting a denial of the Parliament's role as the sole legislative authority, the contested legal provisions merely give effect to the legislator's option in regulating allowances for working conditions, without infringing Article 61 of the Constitution. Thus, the margin of discretion of public administration authorities in determining the amount of the allowance for working conditions is not unlimited, but is exercised, in accordance with the law, within the maximum limits provided by law. (...)

32. (...) as regards the provisions of Article 7(1) of Chapter II of Annex No. II to Framework Law No. 153/2017, the Court notes that these regulate the allowances that may be granted to specialist healthcare personnel and auxiliary healthcare personnel in healthcare and medico-social units, depending on the conditions under which their activity is carried out. The provisions of paragraph (3) of the same article provide that the workplaces, categories of personnel, the specific amount of the allowance, as well as the conditions for granting it, shall be determined by the authorizing officer, in consultation with trade unions or, as the case may be, with employees' representatives, within the limits of the provisions of the regulation adopted pursuant to this law, on the basis of determination reports or, as the case may be, expert assessments issued by the competent authorities.

33. The Court finds that these provisions maintain the legislative approach also reflected in Articles 23-25 of Framework Law No. 153/2017, regarding the discretion granted by the legislator to administrative authorities to determine, depending on the specific circumstances of the activity concerned, the workplaces, categories of personnel, the specific amount of the allowance, as well as the conditions for granting it. Thus, the considerations set out above with regard to Articles 23 and 25 of Framework Law No. 153/2017 are also applicable to the provisions of Article 7(1) and (3) of Chapter II of Annex No. 2 to Framework Law No. 153/2017. (...)"

IX. The report on the point of law

37. The reporting judges found that the conditions for the admissibility of the referral, as provided for in Article 2(1) of Government Emergency Ordinance No. 62/2024, are not cumulatively met, in that the requirement of the existence of a real, genuine and difficult point of law, justifying the delivery of a preliminary ruling, is lacking.

X. The High Court of Cassation and Justice

Having examined the referral for the purpose of delivering a preliminary ruling, the report drawn up by the reporting judges and the point of law submitted for determination, finds as

follows:

38. As a preliminary matter, it is noted that the referring court formulated two questions, which it addressed to the High Court of Cassation and Justice, both deriving from the dispute with which it was referred and from the factual situation established in the case, according to which the claimant, a physician within the Public Health Directorate - Public Health Diagnosis and Investigation Laboratory - Microbiology Laboratory, performs both activities for which she could benefit, under the law, from an allowance of 15-25% of the basic salary [the allowance of up to 25% of the basic salary, for the performance of activities *under hazardous conditions*, granted to personnel in units, sections and departments of infectious diseases, neonatology, delivery rooms and medical analysis laboratories - Article 7(1)(a) of Annex No. II to Framework Law No. 153/2017], as well as activities for which she could benefit, under the law, from an allowance of 55-85% of the basic salary [the allowance of up to 85% granted to personnel carrying out their activity *under particularly hazardous conditions*, in the workplaces listed in Article 7(1)(b) of the same normative act]. In this factual context, the two questions raised concern:

- whether this factual situation entitles the claimant to the allowance provided by law in the higher amount, applicable to the entire working schedule performed; or

- whether the provisions of Article 8 of the Framework Regulation approved by Government Decision No. 153/2018 become applicable, concerning the granting of each allowance proportionally to the actual time worked under those conditions.

39. The legal basis of the referral is constituted by the provisions of Government Emergency Ordinance No. 62/2024, a normative act containing special rules governing the preliminary ruling procedure, with the aim of ensuring uniform judicial practice in matters concerning labour disputes of personnel paid from public funds, as well as in the field of social insurance, partially derogating from the ordinary procedure governed by Articles 519-521 of the Code of Civil Procedure.

40. According to Article 1(1) of Government Emergency Ordinance No. 62/2024, "this emergency ordinance shall apply to proceedings concerning the determination and/or payment of salary rights or salary-related rights of personnel paid from public funds, including those concerning the obligation to issue administrative acts or the annulment of administrative acts issued for such personnel and/or those concerning the employment and service relationships of such personnel", and, pursuant to paragraph (3) of the same article, "(...) this emergency ordinance shall apply irrespective of the nature and subject matter of the proceedings referred to in paragraphs (1) and (2), the status of the parties or the court having jurisdiction to hear them".

41. According to Article 2(1) of the same normative act, "where, in the course of adjudicating the proceedings referred to in Article 1, the panel of judges vested with the settlement of the case at first instance or on appeal, having verified and established that, in relation to a point of law on whose clarification the resolution of the case on the merits depends, the High Court of Cassation and Justice has not ruled and that such question does not form the subject of a pending appeal in the interest of the law, shall request the High Court of Cassation and Justice to deliver a ruling providing a principled resolution of the point of law referred to it".

42. From the analysis of the aforementioned legal provisions, it follows that, in proceedings of the type listed in Article 1(1) of Government Emergency Ordinance No. 62/2024, the initiation of the preliminary ruling procedure is possible only where the following conditions of admissibility are cumulatively met: a) the existence of a case pending before a court, falling

within the scope of Article 1 of Government Emergency Ordinance No. 62/2024; b) the panel of judges is vested with the settlement of the case at first instance or on appeal; c) the existence of a *point of law* on whose clarification the resolution of the case on the merits depends; d) the point of law does not form the subject of a pending appeal in the interest of the law and has not been previously ruled upon by the High Court of Cassation and Justice.

43. As regards the *point of law* on whose clarification the resolution of the case on the merits depends, in the absence of a definition of this concept in Government Emergency Ordinance No. 62/2024 or in Article 519 of the Code of Civil Procedure, this condition of admissibility is subject to a case-by-case assessment by the Supreme Court, having regard to the elements which, in the view of the referring courts, justify the initiation of the preliminary ruling mechanism, taking into account also the purpose of the normative act on which the referral is based, as well as the need to ensure a uniform, coherent and predictable judicial practice.

44. In this respect, from the prior case-law of the High Court of Cassation and Justice, developed within the mechanism for the unification of case-law represented by the preliminary ruling procedure for the resolution of questions of law, it follows that the condition relating to the difficulty of the point of law is not met: a) where the clarity of the provision, namely the correct application of the law, is so evident that it leaves no room for doubt as to the manner in which the question raised should be resolved; b) where the Supreme Court is requested to determine the applicable legal rule to a legal relationship, a function which falls within, and must remain within, the jurisdiction of the court adjudicating the case; c) where the point of law whose resolution is sought has already been clarified in judicial practice, as the examined decisions show that the legal provisions in question have received the same interpretation; d) where the preliminary ruling procedure is used to request the completion of the law; e) where clarification is sought on issues already resolved in the consistent and clear case-law of the Court of Justice of the European Union, the European Court of Human Rights, the Constitutional Court or the High Court of Cassation and Justice; f) where there exist prior rulings of the Supreme Court, having binding effect in the field concerned by the point of law raised by the referring court, which may provide concrete guidance for interpretation, useful in resolving cases, through their application in each particular case, depending on its specific circumstances.

45. Furthermore, as regards the existence of a point of law on whose clarification the resolution of the case on the merits depends, in its prior case-law, the High Court of Cassation and Justice has emphasized that what is decisive for this procedure is that it seeks the interpretation, as a matter of principle, of a rule of law (uncertain or unclear), identified as applicable in the case by the referring court and capable of leading to the resolution of the dispute, and not the determination, in concreto, by the Supreme Court of the elements shaping the legal reasoning, which would then be applied by the referring court to the specific legal relationship under examination, since this is not the purpose of the mechanism for the unification of judicial practice. Within this procedure, the Supreme Court cannot be vested with the interpretation and application of the law to the specific circumstances of the case pending before it, such function necessarily remaining within the exclusive jurisdiction of the panel of judges lawfully vested with the settlement of the case (Decision of the Panel for the Resolution of Points of Law No. 62 of 28 October 2024, published in the Official Gazette of Romania, Part I, No. 1,277 of 18 December 2024).

46. In this regard, the High Court of Cassation and Justice

has previously emphasized in its case-law that it is necessary “to identify a point of law which clearly requires clarification, presenting a sufficient degree of difficulty to justify the intervention of the Supreme Court for the purpose of providing a principled resolution of the legal issue and removing any uncertainty that may affect the legal certainty of the relationships under examination” (for example, Decisions of the High Court of Cassation and Justice — Panel for the Resolution of Points of Law No. 90 of 4 December 2017, published in the Official Gazette of Romania, Part I, No. 191 of 1 March 2018; No. 20 of 20 May 2019, published in the Official Gazette of Romania, Part I, No. 651 of 6 August 2019; No. 17 of 17 February 2020, published in the Official Gazette of Romania, Part I, No. 508 of 15 June 2020, etc.).

47. Having examined the referral of the referring court from the perspective of the fulfilment of the admissibility conditions set out *above*, it is noted that the first two conditions, required by Articles 1 and 2 of Government Emergency Ordinance No. 62/2024, are met.

48. Thus, the dispute in the context of which the referral to the High Court of Cassation and Justice was ordered falls within the scope of Article 1 of Government Emergency Ordinance No. 62/2024, since it concerns the claimant's entitlement to benefit from the allowance regulated by Article 7(1)b) of Annex No. II to Framework Law No. 153/2017, in conjunction with the provisions of the Framework Regulation approved by Government Decision No. 153/2018, as well as the amount of that allowance to which the claimant is entitled.

49. It is also noted that the referral to the High Court of Cassation and Justice was ordered by the Alba Iulia Court of Appeal - First Civil Division, in Case File No. 2853/85/2022, namely by the panel vested with the settlement of the dispute on appeal.

50. Likewise, the point of law referred to the Supreme Court has not been the subject of a prior specific ruling by the High Court of Cassation and Justice through any of the mechanisms for the unification of case-law.

51. However, having regard to the admissibility requirements set out *above*, it follows that the referral does not meet the condition of admissibility consisting in the requirement that it concern a “point of law” which is *real, genuine and difficult*, arising from the need to clarify the meaning and scope of an imperfect, incomplete or unclear legal provision, capable of giving rise to divergent interpretations and, consequently, to inconsistent case-law.

52. From a first perspective, it is observed that, with regard to one of the questions raised by the referring court - namely, the possibility of cumulating several allowances proportionally to the time worked under the specific conditions for granting them - the High Court of Cassation and Justice has already been referred in Case File No. 1695/1/2024, delivering in this respect Decision No. 62 of 28 October 2024, published in the Official Gazette of Romania, Part I, No. 1277 of 18 December 2024.

53. By that decision, the joined referrals submitted by the Bucharest Tribunal - Eighth Division for labour disputes and social insurance, in Case Files No. 13194/3/2024 and No. 6498/3/2024, were dismissed as inadmissible, seeking the resolution of the following point of law: “*The possibility of granting cumulatively the allowances regulated by Article 7(1)a)-f) and (h) of Chapter II of Annex No. II to Framework Law No. 153/2017 (...), as reflected in Annexes Nos. 1-6 and 8 to the Framework Regulation (...) approved by Government Decision No. 153/2018 (...)*”.

54. Even though the referral was dismissed as inadmissible, in the reasoning of that decision, the High Court of Cassation and Justice emphasized that: “60. (...) only one court (the Ploiești Court of Appeal) identified case-law resolving the legal issue referred, the conclusion drawn from the

communicated judicial decisions being that the accumulation of allowances is prohibited; the case-law submitted by the Iași Court of Appeal is not relevant to the legal issue referred, the appellate court concluding in the decision submitted that the issue was not one of cumulating allowances, but rather of granting the allowance corresponding to the classification of the claimants' workplace in that case. As far as legal opinions are concerned, only the Bucharest Court of Appeal has published the outcome of its consultation with judges specialising in labour disputes, , *the conclusion being that it is not possible to combine the various allowances (...)*".

55. In the reasoning of the same decision, it was further held that:

1. 3. *The very wording of the normative acts underlying the referrals provides the solution as regards the possibility*

of cumulating the various allowances recognized for the occupational family of budgetary functions 'Health and Social Assistance', the referring courts having failed to substantiate, in the content of the referrals, the alleged difficulty or ambiguity of the legal provisions which would justify the activation of the mechanism for the unification of case-law."

64. Further examining the admissibility of initiating the mechanism for the unification of judicial practice, it is noted that, by the first referral, the High Court of Cassation and Justice - the Panel for the Resolution of Points of Law is requested to clarify the method of determining/calculating the allowance, in the event that the possibility of its accumulation with another already recognized and granted allowance is established.

65. It is noted that this complaint does not fall within the scope of a legal issue, as defined both by the provisions of the Code of Civil Procedure and by the provisions of Government Emergency Ordinance No 62/2024. The question of the specific method for calculating the allowance, as raised in the proceedings before the referring court, falls within its exclusive jurisdiction.

66. As already stated, what is decisive for this procedure is that it seeks the interpretation, as a matter of principle, of a rule of law (uncertain or unclear), identified as applicable in the case by the referring court and capable of leading to the resolution of the dispute, and not the determination, in concreto, by the Supreme Court of the elements shaping the legal reasoning, which would subsequently be applied by the referring court to the specific legal relationship under examination, since this is not the purpose of the mechanism for the unification of judicial practice. Within this procedure, the Supreme Court cannot be vested with the interpretation and application of the law to the specific circumstances of the case pending before it, such function necessarily remaining within the exclusive jurisdiction of the panel of judges lawfully vested with the settlement of the case.

67. Therefore, the verification of the premises of the referrals, determined by the specific circumstances of the disputes and the questions raised, leads to the conclusion that they do not raise an issue of difficulty concerning the interpretation, in principle, of the legal provisions indicated in the referral, such as to require the intervention of the Supreme Court, but rather seek, in the particular context of the cases, the actual determination of the solution to be adopted by the referring court."

56. In the context of the case law outlined above, it is observed that, although, by the aforementioned decision, the appeals were dismissed as inadmissible by the Supreme Court, the grounds for that decision remain valid in the context of the present appeal, with regard to the prohibition on granting multiple allowances, amongst those regulated by Article 7(1) of Annex II to Framework Law No. 153/2017. Moreover, such a conclusion follows in the clearest possible manner from the wording of Article 7(4) of the same annex to Framework Law No. 153/2017, according to which "the allowances provided for in paragraph (1) a)-f) and h) may not be granted cumulatively to the same person", a principle reiterated, in similar terms, by Article 4(1) of the Framework Regulation approved by Government Decision No. 153/2018.

57. Furthermore, neither the referring court (nor the court of first instance hearing the case in which the questions were raised) encountered any difficulty in interpreting these legal provisions, emphasizing in the referral order addressed to the Supreme Court that the proportional application of different types of allowances, according to the time worked in relation to each activity, concerns only personnel who carry out their activity at several workplaces, with different allowances, which is not the case of the claimant, who performs her activity at a single workplace, namely the microbiology laboratory;

therefore, the provisions of Articles 8 and 11 of the Framework Regulation approved by Government Decision No. 153/2018 are not applicable in the present case.

58. Consequently, the second part of the question addressed to the High Court of Cassation and Justice by the referring court, concerning the possibility of granting cumulatively several allowances among those listed in Article 7(1) a) and b) of Annex No. II to Framework Law No. 153/2017, proportionally to the actual time worked, does not concern a genuine and difficult point of law within the meaning established in the prior case-law of the Supreme Court, since the provisions of Article 7(4) of the same normative act expressly and unequivocally prohibit the cumulative granting, to the same person, of several allowances among those provided for in Article 7(1) a)-f) and h), and the referring court did not identify any difficulty in understanding and applying that legal provision.

59. On the other hand, as regards the issue relating to a person's entitlement to the allowance in the higher amount, applicable to the entire working schedule, in the event of carrying out, whether permanently or only temporarily and sporadically, activities each of which falls within the conditions for granting different allowances, it is noted that the referring court did not indicate which specific legal provisions applicable to the legal relationship under examination would be unclear, ambiguous or incomplete, such as to require the intervention of the Supreme Court through the preliminary ruling mechanism for the resolution of a point of law, in order to prevent the development of non-uniform case-law at national level.

60. In this context, it must be recalled that, as regards the existence of a point of law on whose clarification the resolution of the case on the merits depends, the prior case-law of the High Court of Cassation and Justice has shown that the task of identifying the applicable legal provisions and their potential to give rise to divergent interpretations lies exclusively with the court seized with the settlement of the dispute, given that the purpose of this mechanism for preventing non-uniform case-law is to provide an interpretation, as a matter of principle, of a rule of law (uncertain or unclear), identified as applicable in the case by the referring court and capable of leading to the resolution of the dispute, and not the determination, in concreto, by the Supreme Court of the elements shaping the legal reasoning, which would then be applied by the referring court to the specific legal relationship under examination.

61. In the manner in which the question is formulated, the referring court proceeds from the premise that the allowances listed in Article 7(1) of Annex No. II to Framework Law No. 153/2017 are due *ope legis* to persons who carry out, even if only sporadically, activities falling within the conditions for granting the various allowances regulated by Article 7(1) of Annex No. II to Framework Law No. 153/2017, although the provisions of that legal text confer only a legal entitlement to benefit from one of the allowances listed therein. In this respect, the provisions under analysis, contained in Article 7(1) of Annex No. II to Framework Law No. 153/2017, refer to allowances that "*may be granted*", depending on the conditions under which the activity is carried out, to specialist healthcare personnel and auxiliary healthcare personnel in healthcare and medico-legal units, *in compliance with the applicable legal provisions*, which entails an examination of all legal provisions governing the conditions for granting such allowances and the limits within which they may be granted.

62. From this perspective, the provisions of Article 7(3) of Annex No. II to Framework Law No. 153/2017 establish, as a matter of principle, the conditions for granting the allowances listed in paragraph (1), providing that "the workplaces (and not sporadic activities), the categories of personnel, the specific

amount of the allowance, as well as the conditions for granting it, shall be determined by the authorizing officer, in consultation with trade unions or, as the case may be, employees' representatives, within the limits of the provisions of the regulation adopted pursuant to this law, on the basis of determination reports or, as the case may be, expert assessments issued by the competent authorities".

63. Examining these legal provisions, the Constitutional Court emphasized that "these provisions maintain the legislative approach also reflected in Articles 23-25 of Framework Law No. 153/2017, regarding the discretion granted by the legislator to administrative authorities to determine, depending on the specific circumstances of the activity concerned, the workplaces, categories of personnel, the specific amount of the allowance, as well as the conditions for granting it" (Decision No. 63 of 28 February 2023, paragraph 33).

64. At the same time, also relevant to the dispute under examination, having regard to the claimant's status as an employee of a public health directorate, are the provisions of Article 7(5) of the same normative act, according to which "personnel within public health directorates may benefit, depending on the working conditions, from the allowances provided for in paragraph (1) a), b), c) and e), if they carry out their activity under the same conditions as the personnel who benefit from such allowances".

65. Furthermore, the provisions of the Framework Regulation approved by Government Decision No. 153/2018 establish the criteria for classifying workplaces into one of the categories provided for in the annexes, namely hazardous, harmful, particularly hazardous, heavy working conditions, hazardous and harmful, special conditions (Article 7 of the Framework Regulation), while at the same time conferring upon the authorizing officer the prerogative to designate the personnel benefiting from allowances by workplaces, categories of personnel and the specific amount of the allowance, within the limits established by the Regulation, in consultation with representative trade unions at unit level/trade unions affiliated to a representative federation at the level of groups of units/sector or, as the case may be, employees' representatives.

66. Last but not least, it is observed that the appellant-defendant argued in its defence that the claimant did not challenge the decision establishing the allowances for working conditions issued in the application of the Framework

Regulation approved by Government Decision No. 153/2018, nor the method of determining them, and further that the claimant cannot benefit from the allowance for particularly hazardous working conditions, ranging from 55% to 85%, established by Article 7(1)b) of Annex No. II to Framework Law No. 153/2017, since she does not perform her entire working schedule under the specific working conditions that would justify the granting of such allowance, the granting of which beyond the limits established by law would lead to exceeding the ceiling of 30% imposed by Article 25(2) of Framework Law No. 153/2017.

67. Without undertaking an analysis of the factual situation established, from the perspective of those defences, of the aforementioned legal provisions and of the considerations arising from the prior case-law of the Constitutional Court referred to above, the referring court transposed the claimant's request, as formulated in the statement of claim, regarding her alleged entitlement to benefit from the allowance for particularly hazardous working conditions provided for by Article 7(1)b) of Annex No. II to Framework Law No. 153/2017, into the form of a question addressed to the Supreme Court through the mechanism for preventing the development of non-uniform case-law. In reality, the referring court requested the Supreme Court to validate a particular line of legal reasoning and a specific conclusion which it seeks to draw from the factual situation submitted for adjudication, according to which, where the defendant-employer established a salary allowance for the claimant by cumulatively combining several allowances, in disregard of the prohibition on granting cumulatively several allowances to the same person, that person should benefit from the most advantageous allowance, namely the one with the highest amount, for the entire working schedule performed, even if only part of the activities carried out within the normal working schedule would fall within the specific conditions justifying the granting of that allowance.

68. Thus formulated, the question addressed to the Supreme Court, without identifying a deficient legal provision susceptible to multiple interpretations or one that is unclear, ambiguous or incomplete, and on whose correct interpretation and application the resolution of the case would depend, leads to the conclusion that the referral is inadmissible, as the condition of the existence of a genuine and difficult point of law, within the meaning already established in the prior case-law of the High Court of Cassation and Justice, as set out in the reasoning above, is not met.

THE HIGH COURT OF CASSATION AND JUSTICE

In the name of the law

RULES:

Dismisses, as inadmissible, the referral submitted by the Alba Iulia Court of Appeal - First Civil Division, in Case File No. 2853/85/2022, for the purpose of delivering a preliminary ruling on the following point of law:

Whether the performance by the claimant, a physician within the Public Health Directorate - Public Health Diagnosis and Investigation Laboratory - Microbiology Laboratory, of both activities for which she benefits from an allowance of 15-25% of the basic salary, pursuant to Article sole point 7 of Annex No. 1 to the Framework Regulation on the determination of workplaces, categories of personnel, the specific amount of the allowance for working conditions provided for in Annex No. II to Framework Law No. 153/2017 on the remuneration of personnel paid from public funds, as well as the conditions for granting it, for the occupational family of budgetary functions "Health and Social Assistance", approved by Government Decision No. 153/2018, as subsequently amended and supplemented, as well as of activities for which she benefits from an allowance of 55-85% of the basic salary, pursuant to Article sole letter A point 2 of Annex No. 2 to the Framework Regulation approved by Government Decision No. 153/2018 (HIV/AIDS activity), entitles her to the allowance in the higher amount, applicable to the entire working schedule, or whether the provisions of Article 8 of the Framework Regulation approved by Government Decision No. 153/2018 apply, concerning the granting of each allowance proportionally to the time worked under those conditions.

Binding, pursuant to Article 521(3) of the Code of Civil Procedure.

Delivered in public hearing today, 19 May 2025.

VICE-PRESIDENT OF THE HIGH COURT OF CASSATION AND JUSTICE
MARIANA CONSTANTINESCU

Judicial Assistant,
Elena Adriana Stamatescu

DECISION No 176**of 19 May 2025**

Case No. 2,674/1/2024

Mariana Constantinescu	– Vice-President of the High of Cassation and Justice - President of the Panel
Carmen Elena Popoiag	– President of the First Civil
Adina Oana Surdu	– President of the Second Section Division
Elena Diana Tâmagâ	– President of the Administrative and Fiscal Litigation Division
Andreia Liana Constanda	– judge in the First Civil Division
Mariana Hortolomei	– judge in the First Civil Division
Irina Alexandra Boldea	– judge in the First Civil Division
Daniel Marina Draghici	– judge in the First Civil Division
Mihaela Glodeanu	– judge in the First Civil Division
Mărioana Isailă	– judge in the Second Civil Division
Roxana Popa	– judge in the Second Civil Division
Rodica Zaharia	– judge in the Second Civil Division
Petronela Iulia Nitu	– judge in the Second Civil Division
Simona Maria Zarafiu	– judge in the Second Civil Division
Carmen Maria Ilie	– judge in the Administrative and Fiscal Division
Liliana Visan	– judge in the Administrative and Fiscal Division
Luiza Maria Păun	– judge in the Administrative and Fiscal Division
Doina Visan	– judge in the Administrative and Fiscal Division
Carmen Mihaela Voinescu	– judge in the Administrative and Fiscal Division

1. The panel for the resolution of points of law, appointed to hear Case No. 2674/1/2024, is lawfully constituted in accordance with the provisions of Article 520(8) of the Code of Civil Procedure and Article 35(1) of the Regulations on the organisation and administrative functioning of the High Court of Cassation and Justice, approved by Decision No. 20/2023 of the Governing Board of the High Court of Cassation and Justice, as subsequently amended and supplemented (*Regulations*).

2. The hearing is presided over by Ms. Judge Mariana Constantinescu, Vice-President of the High Court of Cassation and Justice.

3. At the hearing, Ms. Georgiana Toader, judicial assistant within the Joint Sections, appointed pursuant to Article 36 of

the Regulation, participated.

4. The High Court of Cassation and Justice - the Panel for the Resolution of Points of Law examines the referral submitted by the Suceava Tribunal - Administrative and Fiscal Litigation Section, in Case File No. 2846/86/2023.

5. The judicial assistant presents the report on the case, stating that the report prepared by the reporting judges has been filed with the case file and communicated to the parties, no observations having been submitted in respect thereof.

6. Finding that there are no preliminary issues to be addressed, the High Court of Cassation and Justice - the Panel for the Resolution of Points of Law remains seized of the referrals for the purpose of delivering a preliminary ruling.

THE HIGH COURT,

Having considered the legal issue referred to it, the Court finds as follows:

I. The referring parties and the subject matter of the referrals

7. The Suceava Tribunal - Administrative and Fiscal Litigation Section, by its interlocutory ruling of 24 October 2024, in Case File No. 2,846/86/2023, ordered the referral to the High Court of Cassation and Justice, pursuant to Article 2 of Government Emergency Ordinance No. 62/2024 on certain measures for the resolution of proceedings concerning the remuneration of personnel paid from public funds, as well as proceedings concerning social insurance benefits (*Government Emergency Ordinance No. 62/2024*), for the purpose of delivering a preliminary ruling providing a principled solution to the following point of law:

Whether, as regards female civil servants, the right to retirement may be exercised simultaneously with the option to continue the service relationship until reaching the retirement age provided by law for men, namely until the age of 65.

8. The referral was registered on the docket of the High Court of Cassation and Justice on 19 November 2024, under No. 2,674/1/2024, the hearing being scheduled for 19 May 2025.

II. Legal provisions subject to interpretation

9. Government Emergency Ordinance No. 57/2019 on the Administrative Code, as subsequently amended and supplemented:

Article 517(1) - "The existing service relationship shall cease by operation of law:

(d) on the date of the cumulative fulfilment of the standard retirement age and the minimum contribution period for retirement, unless the person competent to make the appointment to the public office decides to apply the provisions of paragraph (2)."

Article 517(2) - "In exceptional cases, upon a request submitted 2 months prior to the date of the cumulative

fulfilment of the standard retirement age and the minimum contribution period for retirement, and with the approval of the head of the public authority or institution, the civil servant may be maintained in the public office held for a maximum of 3 years beyond the standard retirement age, with the possibility of annual extension of the service relationship. During the period in which continuation in service is approved, the provisions of Article 378 may apply.”

III. Brief presentation of the proceedings in which the point of law was raised

10. By the application lodged with the court on 22 August 2023 and registered under No. 2846/86/2023, the claimant, in proceedings against the Iași Regional Directorate General of Public Finance - with elected domicile at the Suceava County Public Finance Administration, requested that the court order: i) the annulment of Decision No. 3272 of 16 May 2023 concerning the termination by operation of law of the service relationship; ii) reinstatement in the position of Grade I counsellor, senior professional grade, grade level 5, within the Service for taxpayer registry, tax returns and financial statements for legal entities - Suceava County Public Finance Administration; iii) the ordering of the defendant to pay compensation equivalent to indexed, increased and recalculated salaries, together with all other rights to which the claimant would have been entitled from 17 May 2023 until the date of reinstatement; iv) the awarding of legal costs.

11. In support of her claim, she stated that, in fact, by Letter No. ISR DSI 2853 of 7 April 2023, the Iași Regional Directorate General of Public Finance requested her to provide, by 8 May 2023, proof of the suspension of her pension rights, failing which it would ascertain the termination by operation of law of the service relationship, without specifying in the letter the date from which the pension rights were to be suspended. However, she requested the Suceava County Pension House to suspend the payment of her old-age pension and received Decision No. 360068 of 5 May 2023 regarding the suspension of the payment of the old-age pension, which she submitted to the Iași Regional Directorate General of Public Finance.

12. Subsequently, the Iași Regional Directorate General of Public Finance issued Decision No. 3272 of 16 May 2023, communicated on 30 June 2023, whereby it was found that the service relationship had terminated by operation of law “as of 17 May 2023”.

13. Against that decision, the claimant filed a prior complaint, which was rejected by the Iași Regional Directorate General of Public Finance by Letter No. ISR_DSI 7731 of 28 July 2023, on the grounds that paragraph 29 of Decision No. 112/2021 of the Constitutional Court expressly provides that, where a civil servant (female) opts for the opening of the right to a pension, the existing service relationship shall terminate by operation of law.

14. The appellant argued that the measure of termination by operation of law of the service relationship is unlawful, given that, at the time of issuing Decision No. 3272 of 16 May 2023, she was cumulatively receiving both pension and salary, and such accumulation is permitted by Law No. 263/2010 on the public pension system (Article 118).

15. At the same time, the considerations set out in paragraph 29 of Decision No. 112 of 23 February 2021 of the Constitutional Court are not applicable to her case, since this would infringe the principle of non-retroactivity laid down in Article 15(2) of the Constitution.

16. Therefore, the considerations of the aforementioned decision do not produce effects on her right to a pension, which

had already been definitively established in accordance with the law as early as December 2020, nor on her service relationship, which continued after the granting of the pension until reaching the age of 65, in accordance with the applicable legal provisions, and the accumulation of pension and salary is permitted under the law in force.

17. Consequently, pursuant to Article 527 of the Administrative Code, in conjunction with Article 18 of Law No. 554/2004, the annulment of the administrative act terminating the service relationship and the awarding of compensation equivalent to the salary rights which she would have been entitled to from 17 May 2023 until her reinstatement were sought.

18. By the statement of defence, the defendant argued that, in fact, during the period from 17 May 2020 to 16 May 2023, the claimant was maintained in the public office held, through the annual extension of the service relationship, in accordance with Article 517(2) of Government Emergency Ordinance No. 57/2019, as subsequently amended and supplemented, with the approval of the head of the institution.

19. It requested that it be noted that the Iași Regional Directorate General of Public Finance duly complied with and correctly applied the legal provisions governing the termination by operation of law of the service relationship of a civil servant, namely Government Emergency Ordinance No. 57/2019 on the Administrative Code, as subsequently amended and supplemented.

20. It further stated that Decision No. 3272 of 16 May 2023 was issued in compliance with the applicable legal provisions.

21. It also submitted that the claimant's request for the annulment of Decision No. 3272 of 16 May 2023 and her reinstatement for the continuation of the service relationship in the position of Grade I counsellor, senior professional grade, grade level 5, within the Service for taxpayer registry, tax returns and financial statements for legal entities - Suceava County Public Finance Administration, as well as the obligation of the institution to pay compensation equivalent to indexed, increased and recalculated salaries, together with all other rights to which she would have been entitled from 17 May 2023 until the date of actual reinstatement, are unfounded, since, as of 19 August 2022, the claimant had the status of a pensioner within the public pension system, and salary rights cannot be claimed as the claimant is no longer an employee of the defendant and cannot be remunerated for an activity which she did not perform.

IV. The grounds identified by the referring court regarding the admissibility of the procedure

22. The referring court found that the conditions for the admissibility of the referral to the High Court of Cassation and Justice are met, having regard to the provisions of Article 2 of Government Emergency Ordinance No. 62/2024.

V. The parties' views on the resolution of the point of law

23. The claimant considers that the subject matter of the action does not fall within the scope of Government Emergency Ordinance No. 62/2024, since that normative act concerns the payment of salary rights or pension rights. She also submits that the Constitutional Court has established that the accumulation of salary and pension is permitted, and that her release from office took place 8 months before reaching the age of 65.

24. The defendant takes the view that it is necessary to refer the matter to the High Court of Cassation and Justice for

the delivery of a preliminary ruling and to suspend the proceedings pending such ruling, in relation to the head of claim concerning the annulment of the decision terminating the service relationship, and considers that the dispute falls within the scope of Article 1, second sentence, of Government Emergency Ordinance No. 62/2024.

VI. The views of the panels which made the referrals on the resolution of the point of law

25. The referring court expressed its view on the point of law by supplementing the referral order on 17 December 2024, considering that the claimant is not entitled to have her claim upheld, on the following grounds:

26. Article 517 of Government Emergency Ordinance No. 57/2019 establishes the general rule regarding the termination by operation of law of the service relationship, as well as an exception to that general rule, applicable in exceptional circumstances and subject to the approval of a request justifying the maintenance of the applicant in the public office.

27. With a view to preventing discrimination, the legislator establishes, by paragraph (2) of Article 517 of Government Emergency Ordinance No. 57/2019, the possibility of approving, by way of exception, the continuation of a service relationship in the event of reaching the retirement age and the minimum contribution period.

28. In paragraph 29 of Decision No. 112/2021 of the Constitutional Court, it is stated that the right to a pension cannot be exercised simultaneously with the option to continue the service relationship until reaching the retirement age provided for men, and the tribunal considered that the aforementioned decision remains applicable.

VII. Case-law of the national courts

29. The Courts of Appeal of Alba Iulia, Bucharest, Cluj, Iași and Ploiești submitted relevant judicial decisions concerning the questions of law referred.

30. According to a first line of case-law, it was held that imposing an obligation to suspend the right to a pension, under the sanction of termination by operation of law of the service relationship, is unlawful.

31. According to a second, more nuanced line of case-law, it was held that female civil servants cannot request the continuation of the service relationship until reaching the retirement age of 65 provided by law for men, simultaneously with requesting the right to a pension, taking into account also the date of publication of Decision No. 112 of 23 February 2021 of the Constitutional Court of Romania.

32. The other courts of appeal did not identify relevant case-law in the matter and did not submit theoretical opinions.

33. The Public Ministry - the Prosecutor's Office attached to the High Court of Cassation and Justice communicated that, at the level of the Judicial Section - Civil Judicial Service, there is currently no established judicial practice warranting the promotion of a possible appeal in the interest of the law with regard to the legal issue forming the subject of the referral.

VIII. Case law of the Constitutional Court

34. Decision No. 112 of 23 February 2021 of the Constitutional Court was published in the Official Gazette of Romania, Part I, No. 353 of 7 April 2021. Paragraph 29 of that decision, states that the right to a pension cannot be exercised simultaneously with the option to continue the service relationship until reaching the retirement age provided for men:

"29. In the first scenario, where the civil servant opts for the opening of the right to a pension, the existing service relationship shall terminate by operation of law. On the contrary, where the female civil servant opts to continue the service relationship until reaching the retirement age provided by law for men, the exercise of the right to work is not subject to the employer's will, but the right to a pension may not be exercised simultaneously. The Court notes that, pursuant to Article 53(1) of Law No. 263/2010, the standard retirement age is 65 years for men and 63 years for women, but that reaching this age is achieved through the gradual increase of the standard retirement ages, in accordance with the schedule set out in Annex No. 5 to that law. Where the legislator chooses to amend the retirement ages, these considerations shall remain

valid, and the provisions in force at the date on which the female civil servant reaches the retirement age shall be taken into account."

35. Relevant are also the considerations of Decision No. 891/2021 of the Constitutional Court, published in the Official Gazette of Romania, Part I, No. 345 of 7 April 2022, concerning the exception of unconstitutionality of the provisions of Article 517(1)(d) of Government Emergency Ordinance No. 57/2019, which, in paragraphs 15 and 16, state as follows:

"15. Examining the exception of unconstitutionality, the Court notes that, by Decision No. 112 of 23 February 2021, published in the Official Gazette of Romania, Part I, No. 353 of 7 April 2021, the constitutional court upheld the exception of unconstitutionality of the provisions of Article 98(1)d) of Law No. 188/1999 on the Statute of Civil Servants, in the wording prior to the amendment by Article I point 24 of Law No. 156/2018, of Article 98(1)d) of Law No. 188/1999, as amended by Article I point 24 of Law No. 156/2018, and of Article 517(1)d) of Government Emergency Ordinance No. 57/2019 on the Administrative Code, and held that these provisions are constitutional insofar as the phrase 'standard retirement age conditions' does not exclude the possibility for a woman to request the continuation of the exercise of the service relationship, under identical conditions to those applicable to a man, namely until reaching the age of 65. The Court took into account the fact that the contested legal provisions have a similar content to those of Article 56(1)c), first sentence, of Law No. 53/2003, and that, by Decision No. 387 of 5 June 2018, published in the Official Gazette of Romania, Part I, No. 642 of 24 July 2018, the Court upheld the exception of unconstitutionality and held that those provisions are constitutional insofar as the phrase 'standard retirement age conditions' does not exclude the possibility for a woman to request the continuation of the individual employment contract, under identical conditions to those applicable to a man, namely until reaching the age of 65. The Court held that the termination of a woman's employment relationship at a lower age than that of a man may and must remain her option, in the current social context. Transforming this legal benefit into a consequence consisting in the termination of the individual employment contract by operation of law acquires unconstitutional characteristics insofar as it disregards the woman's will to be subject to equal treatment with that applicable to men.

16. Consequently, in the present case, having regard to the date on which the Constitutional Court was seized with the exception of unconstitutionality (13 January 2020), which is prior to the publication in the Official Gazette of Romania, Part I, of Decision No. 112 of 23 February 2021, and taking into account the decision to uphold the exception delivered by the Constitutional Court in that decision, the exception of unconstitutionality of the provisions of Article 517(1)d) of Government Emergency Ordinance No. 57/2019 is to be dismissed as having become inadmissible, pursuant to Article 29(3) of Law No. 47/1992, according to which provisions previously declared unconstitutional by a decision of the Constitutional Court may not form the subject of an exception of unconstitutionality."

36. Decision No. 435/2023 of the Constitutional Court, published in the Official Gazette of Romania, Part I, No. 974 of 26 October 2023, by which the exception of unconstitutionality of the provisions of Article 517(1)d) of Government Emergency Ordinance No. 57/2019 on the Administrative Code was dismissed as having become inadmissible, and the exception of unconstitutionality of the provisions of Article 517(2) of

Government Emergency Ordinance No. 57/2019 was dismissed as inadmissible, the exception having been raised by the same claimants in the same case files before the same courts.

“23. However, as a result of the upholding of the exception of unconstitutionality of the provisions of Article 517(1)d) of Government Emergency Ordinance No. 57/2019 by Decision No. 112 of 23 February 2021 of the Constitutional Court, cited above, the provisions of Article 517(2) of Government Emergency Ordinance No. 57/2019 are no longer applicable in cases brought before the courts, with the consequence that the plea of unconstitutionality raised has become devoid of purpose. In these circumstances, the Court finds that the exception of unconstitutionality of those legal provisions is inadmissible and must be dismissed as such (see, to the same effect, Decision No. 806 of 7 December 2021 of the Constitutional Court, published in the Official Gazette of Romania, Part I, No. 129 of 8 February 2022).”

IX. Case-law of the High Court of Cassation and Justice

37. By Decision No. 91/2024, delivered by the High Court of Cassation and Justice - Panel for the Resolution of Points of Law, published in the Official Gazette of Romania, Part I, No. 77 of 29 January 2025, the referral submitted by the Suceava Tribunal - Administrative and Fiscal Litigation Section in Case File No. 867/86/2024 was upheld for the purpose of delivering a preliminary ruling, and, consequently, it was held that: “In the interpretation and application of the provisions of Article 517(2) of Government Emergency Ordinance No. 57/2019 on the Administrative Code, as subsequently amended and supplemented, in the situation where the public service relationship is maintained at the request of the civil servant after fulfilling the conditions for retirement, the issuance of the retirement decision determines the termination by operation of law of the service relationship, even if the civil servant had requested the suspension of the payment of the pension.”

38. By Decision No. 141/2025, delivered on 7 April 2025[†]) by the High Court of Cassation and Justice - Panel for the Resolution of Points of Law (unpublished), the referral submitted by the Bacău Court of Appeal - Second Civil, Administrative and Fiscal Litigation Section, in Case File No. 2883/103/2023, for the purpose of delivering a preliminary ruling, was upheld, and, consequently, it was held that: “The provisions of Article 517(2) of Government Emergency Ordinance No. 57/2019 on the Administrative Code, as subsequently amended and supplemented, concerning the phrase ‘the possibility of annual extension of the service relationship’ shall be interpreted as meaning that the duration of the extension is one year.”

X. The report on the point of law

39. The reporting judges considered that the referral for the delivery of a preliminary ruling is inadmissible, as not all the conditions of admissibility provided for in Article 2(1) of Government Emergency Ordinance No. 62/2024 are met.

XI. The High Court of Cassation and Justice

40. The legal basis of the present referral is constituted by the provisions of Government Emergency Ordinance No. 62/2024.

41. The procedure for referring a matter to the High Court of Cassation and Justice for the delivery of a preliminary ruling requires the cumulative fulfilment of the following conditions of admissibility:

(i) the existence of a case pending before a court, at

first instance or on appeal;

- (ii) the case must fall within those exhaustively listed in Article 1 of Government Emergency Ordinance No. 62/2024, irrespective of the nature and subject matter of the proceedings, the status of the parties or the court having jurisdiction to hear them, namely that the dispute concerns the determination and/or payment of salary rights or salary-related rights of personnel paid from public funds, including those concerning the obligation to issue administrative acts or the annulment of administrative acts issued for such personnel and/or those concerning their employment and service relationships, or the determination and/or payment of pension rights, including those resulting from the updating/recalculation/revision of pension rights and/or other social insurance benefits of personnel paid from public funds;
- (iii) the existence of a point of law capable of giving rise to divergent interpretations, requiring a principled resolution;
- (iv) the resolution on the merits of the case must depend on the clarification of the point of law;
- (v) the point of law must not have been previously ruled upon by the High Court of Cassation and Justice, nor be the subject of a pending appeal in the interest of the law.

42. The first condition is met, since the case in which the referral was made is pending before the Suceava Tribunal - Administrative and Fiscal Litigation Division, at first instance.

43. The second condition is also met, as the dispute concerns a female civil servant and relates to the annulment of the decision regarding the termination by operation of law of the service relationship, reinstatement in the previously held public office, and the payment of compensation equivalent to salary rights, following the issuance of the decision suspending the payment of the old-age pension.

44. However, the third condition of admissibility is not met, namely the existence of a point of law capable of forming the subject of a referral for the delivery of a preliminary ruling, for the reasons set out below.

45. The concept of a “point of law” is not defined in Government Emergency Ordinance No. 62/2024; however, its meaning must be clarified having regard to the principles set out by the delegated legislator in the preamble of that emergency ordinance and to the need, pursuant to Article 4 thereof, to supplement its special provisions with the rules of general law contained in the Code of Civil Procedure, as well as with the case-law of the High Court of Cassation and Justice - Panel for the Resolution of Points of Law, developed in the interpretation of general law provisions, which has shaped the autonomous concept of a “point of law” capable of being interpreted through the preliminary ruling mechanism.

46. As regards the requirement of the existence of a genuine and difficult point of law, the case-law of the High Court of Cassation and Justice has established the following:

- a) the point of law which requires clarification must display a sufficient degree of difficulty so as to justify the intervention of the Supreme Court, for the purpose of providing a principled resolution and eliminating any uncertainty that could affect the legal certainty of the relationships at issue;
- b) the point of law submitted for resolution must involve

[†] Decision No. 141/2025 was published in the Official Gazette of Romania, Part I, No. 524 of 5 June 2025.

serious difficulties in the interpretation of legal provisions that are imperfect, incomplete or contradictory, and not the mere performance of interpretative and application operations of

one or more legal provisions in relation to the particular circumstances characterising each dispute, nor the existence of simple obstacles that could be overcome through a more thorough reflection by the judge of the case;

c) in order to qualify as a genuine point of law, the complexity or, as the case may be, the deficiency of the regulation, likely to lead to divergent interpretations, as well as the difficulty of the panel in adopting a particular interpretation, must be reflected in the referral order, which must be reasoned, capable of revealing consideration of the various possible interpretations together with the corresponding arguments, and in such a manner as to make explicit the level of difficulty of the question and the extent to which it exceeds the ordinary obligation of the court to interpret and apply the law in the course of resolving a dispute, since a mere uncertainty as to the meaning of a legal provision cannot constitute grounds for triggering the preliminary ruling mechanism. In this regard, it has been held that, within the preliminary ruling procedure, the High Court of Cassation and Justice does not substitute itself for the fundamental role of the courts, namely the interpretation and application of the law, but is limited to assisting the judge in eliminating ambiguities or difficulties in legal provisions.

47. With respect to the referral of the Suceava Tribunal, registered under No. 2674/1/2024, the point of law submitted for resolution does not meet the requirement of constituting a genuine point of law, arising from an incomplete or unclear legal provision, susceptible to contradictory interpretations, such as to warrant determination within the preliminary ruling procedure. Rendered in a generic manner, without indicating specific legal provisions, the preliminary question raises for debate the possibility for female civil servants to request the right to a pension simultaneously with the option to continue the service relationship until reaching the retirement age provided by law for men, namely until reaching the age of 65.

48. In essence, the referring court seeks clarification of the point of law concerning the possibility for a female civil servant to request the right to a pension simultaneously with the option to continue the service relationship until reaching the retirement age provided by law for men, namely until reaching the age of 65, which would entail the interpretation of Article 517(1)d) of Government Emergency Ordinance No. 57/2019 on the Administrative Code, provisions which were not expressly indicated by the referring court in the referral.

49. The High Court finds that the referring court seeks the interpretation of legal provisions which do not present any real and serious difficulty such as to warrant determination within the preliminary ruling procedure, since only a simple judicial reasoning is required, through a grammatical and systematic analysis of the legal provisions considered relevant in the case.

50. Thus, according to Article 517(1)d) of Government Emergency Ordinance No. 57/2019: "(1) The existing service relationship shall terminate by operation of law: (...)

d) on the date of the cumulative fulfilment of the standard age conditions and the minimum contribution period for retirement, unless the person competent to make the appointment to the public office decides to apply the provisions of paragraph (2)."

51. The correlation of clear legal provisions, not susceptible to divergent or contradictory interpretations - an aspect uncontested even by the reasoning of the statement of claim - falls within the jurisdiction of the court, without requiring the intervention of the Supreme Court through the preliminary ruling mechanism.

52. Thus, by Decision No. 44 of 12 June 2017, published in the Official Gazette of Romania, Part I, No. 575 of 19 July 2017, the High Court of Cassation and Justice - Panel for the Resolution of Points of Law held that the point of law for which clarification is sought must arise from the interpretation of a legal provision, and not from its application to the particular circumstances of the case, an operation which falls within the exclusive jurisdiction of the court seized with the case.

53. Where the referral does not seek to establish the meaning or content of the legal provision, but rather, starting from a certain result of the systematic interpretation of the legal provisions, aims only at the application of the rule in order to identify the solution to be adopted in the case, the referral is inadmissible.

54. In the request under consideration, the referring court does not seek to identify the conceptual content of the legal provisions, but rather to determine the manner in which they are to be applied to the factual situation of the case, an operation which falls outside the scope of the powers of the panel constituted for the delivery of a preliminary ruling.

55. This aspect is apparent even from the opinion expressed by the judge in the supplement to the referral order, it being evident that the referring court interpreted the relevant legal provisions without any difficulty.

56. Accordingly, the examination of the premises of the referral shows that it does not raise a specific difficulty in the interpretation of a legal provision indicated in the referral, such as to require the intervention of the Supreme Court, but rather seeks a validation of the opinion expressed, the referring court proceeding from the erroneous premise that a referral to the High Court of Cassation and Justice for a preliminary ruling is mandatory in all cases involving salary-related disputes, pursuant to Government Emergency Ordinance No. 62/2024.

57. The fact that the referring court has no difficulty whatsoever in interpreting the legal provisions clearly follows from the content of the referral order itself, which emphasizes the mandatory nature of the referral, as well as from the subsequent reasoning set out in the supplement to the referral order, concerning the possibility for female civil servants to request the right to a pension simultaneously with the option to continue the service relationship until reaching the retirement age provided by law for men, namely until reaching the age of 65.

58. Furthermore, in the case of the present referral, the lack of a genuine point of law is all the more evident since the most important aspects have already been clarified by Decision No. 91 of 25 November 2024 of the High Court of Cassation and Justice, delivered for the resolution of questions of law, referred to under point IX of the present decision, which, although it concerns the interpretation of Article 517(2) of Government Emergency Ordinance No. 57/2019, also established, in a correlated manner, that the suspension of the

payment of the pension does not render inapplicable the termination by operation of law of the public service relationship, as long as the retirement decision was issued at the request of the civil servant.

59. Thus, in the reasoning set out in paragraphs 55, 56 and 73 of Decision No. 91 of 25 November 2024, the High Court held as follows:

56. . It is necessary to determine the consequences of acquiring the status of pensioner from the perspective of the opening of the right to a pension and the consequences of suspending the payment of the pension in relation to the already acquired status of pensioner. *For the resolution of this issue, it is necessary to correlate Article 517(2) of the Administrative Code with Article 517(1)d) of the same code*, which establishes as a premise that the existing service relationship shall terminate by operation of law on the date of the cumulative fulfilment of the standard age conditions and the minimum contribution period for retirement, this being the rule; the exception established by the legal provision concerns the situation in which the existing service relationship does not terminate by operation of law on that date, where the person competent to make the appointment to the public office has decided to apply the provisions of paragraph 2. (...)

73. Therefore, it is concluded that the suspension of the payment of the pension does not render inapplicable the termination by operation of law of the public service relationship, as long as the retirement decision was issued at the request of the civil servant."

60. Moreover, the disputed issue concerning the possibility for a female civil servant to opt for the continuation of the service relationship until reaching the retirement age provided by law for men has also been examined on several occasions by the Constitutional Court, through the decisions referred to under point VIII of the present decision, in which, through binding reasoning, the Constitutional Court held that the right to a pension cannot be exercised simultaneously with the option of a female civil servant to continue the service relationship until reaching the retirement age provided by law for men.

61. In this respect, relevance is attached to Decision No. 112 of 23 February 2021 of the Constitutional Court, published in the Official Gazette of Romania, Part I, No. 353 of 7 April 2021, concerning the exception of unconstitutionality of the provisions of Article 98(1)d) of Law No. 188/1999 on the Statute of Civil Servants, in the wording prior to the amendment by Article I point 24 of Law No. 156/2018 for the amendment and supplementation of Law No. 188/1999 on the Statute of Civil Servants, of Article 98(1)d) of Law No. 188/1999, as amended by Article I point 24 of Law No. 156/2018, and of *Article 517(1)d) of Government Emergency*

Ordinance No. 57/2019, as well as of the provisions of Article 98(3) of Law No. 188/1999.

62. Particularly relevant are paragraphs 28 and 29 of the aforementioned decision, which state, on the one hand, that upon reaching the statutory retirement age, a woman has the right to choose either to open her right to a pension and terminate the existing service relationship, or to continue that relationship until reaching the retirement age provided for men, and, on the other hand, that the right to a pension cannot be exercised simultaneously with the option to continue the service relationship until reaching the retirement age provided for men:

"28. Therefore, the termination of a woman's service relationship at a lower age than that of a man may and must remain her option, in the current social context. Turning this legal entitlement into a consequence consisting in the termination of the service relationship by operation of law acquires unconstitutional characteristics insofar as it disregards the woman's will to be subject to equal treatment with that applicable to men. Thus, the provisions of Article 98(1)d) of Law No. 188/1999, in the wording prior to the amendment by Article I point 24 of Law No. 156/2018, are constitutional only insofar as, upon reaching the statutory retirement age, they grant *the woman the right to choose either to open her right to a pension and terminate the existing service relationship, or to continue that relationship* until reaching the statutory retirement age provided for men at that time.

29. In the first scenario, where the civil servant opts for the opening of the right to a pension, the existing service relationship shall terminate by operation of law. On the contrary, *where the female civil servant opts to continue the service relationship until reaching the retirement age provided by law for men, the exercise of the right to work is not subject to the employer's will, but the right to a pension may not be exercised simultaneously*. The Court notes that, pursuant to Article 53(1) of Law No. 263/2010, the standard retirement age is 65 years for men and 63 years for women, but that reaching this age is achieved through the gradual increase of the standard retirement ages, in accordance with the schedule set out in Annex No. 5 to that law. Where the legislator chooses to amend the retirement ages, these considerations shall remain valid, and the provisions in force at the date on which the female civil servant reaches the retirement age shall be taken into account."

63. In light of the considerations set out above, following the finding that the condition of admissibility relating to the existence of a genuine point of law is not fulfilled, pursuant to Article 2(1) and Article 4 of Government Emergency Ordinance No. 62/2024, as well as Article 519 of the Code of Civil Procedure, the referral must be dismissed as inadmissible.

THE HIGH COURT OF CASSATION AND JUSTICE

In the name of the law

RULES:

Dismisses, as inadmissible, the referral submitted by the Suceava Tribunal - Administrative and Fiscal Litigation Division, in Case File No. 2846/86/2023, for the purpose of delivering a preliminary ruling on the following point of law:

Whether, as regards female civil servants, the right to a pension may be exercised simultaneously with the option to continue the service relationship until reaching the retirement age provided by law for men, namely until reaching the age of 65.

Binding, pursuant to Article 521(3) of the Code of Civil Procedure.

**Judicial
Assistant,**
Georgiana Toader

Delivered in public hearing today, 19 May 2025.

VICE-PRESIDENT OF THE HIGH COURT OF CASSATION AND JUSTICE
MARIANA CONSTANTINESCU

**Judicial
Assistant,**
Georgiana Toader

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