Mediation. The Incipient Procedure for Solving Conflicts/ Labor Disputes

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Abstract: With the entry into the force of the New Code of Civil Procedure, an element that has emerged as novelty is the introduction of the obligation to advance information on the benefits of mediation. Although legally consecrated since 2006, by Law no. 192/2006 on the Mediation and Mediation Profession Mediation (Mediation Law), mediation is still unknown for both legal practitioners and practitioners in law, and as any unknown in this field, creates the impression of uselessness, an aggravation of the act of justice. In the specific case of individual litigation, the advantages of choosing mediation as a way to resolve the conflict are, inter alia, in: (a) a procedure of which duration is shorter, the duration of the action in court, (b) the costs involved in the hearing/mediation sessions are potentially lower than those involved in legal action, (c) the control of the final outcome belongs totally to the parties, etc. Also, a non-negligible aspect of the mediation procedure is of course confidentiality.

Keywords: mediation; labor disputes; conflict resolution work

I. Introduction

The Law on Mediation[2] was amended by Law no. 115/2012 in the sense of introducing the obligation of the prior information procedure on the advantages of mediation in a series of litigations that were considered not of less importance than other potential litigations, but for which it was considered more appropriate to resolve the conflict through good understanding of the parties only by deducting it from the courts for settlement. This solution was designed to relieve the activity of the courts and to make the act of justice as effective as possible.

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[2] Law 192/2006 regarding the mediation and organization of the mediator profession, published in Official Monitor, Part I, no. 441, May 22, 2006.

The provisions of the mediation law and the specific provisions of the Labor Code, which establishes the prohibition of employees to waive the minimum rights recognized by law, significantly restrict the aim of the labor law cases that might be resolved through this alternative procedure.

II. Mediation - An Alternative Model for Solution of Legal Differences[1]

By Law no.192 / 2006[2], mediation was established as a way[3] of alternative solution of conflicts amicably with the help of a third person specialized as a mediator, in conditions of neutrality, impartiality, confidentiality - as art. 1 par. (1) of that law.

The 2002 Green Paper[4], which was widely debated and consulted, provided an alternative solution to civil and commercial litigation between individuals and businesses, consisting in promoting "mediation" in the field of judicial procedures[5].

The Directive on mediation in civil and commercial[6] matters is the result of such concerns.

[1] Alternative Methods of Dispute Resolution sau Alternative Dispute Resolution are designated in the documents of the ex-community institutions, but also in the juridical language everywhere through the acronym of the ADR, *apud* (Deleanu, 2013, p. 855)**.**

[2] Law no. 192/2006 regarding the mediation and organization of the mediator profession, published in the Official Monitor of Romania, Part I, no. 831 of May 22, 2006**,** subsequently amended by Law no. 76/2012 for the implementation of Law no. 134/2010 on the Civil Procedure Code and Government Emergency Ordinance no. 4/2013 (published in the Official Monitor of Romania, Part I, no. January 31, 2013, as well as by Law no. 214/2013 for the approval of Government Emergency Ordinance no. 4/2013 amending Law no. 76/2012 for the implementation of the Law no. 134/2010 regarding the Civil Procedure Code, as well as the modification and completion of normative, (published in the Official Monitor of Romania, Part I, no.388 of June 28, 2013).

[3] In its primary form, art. 1 par. (1) of the law, mediation is an "optional" way; in the form acquired through Law no. 370/2009, this attribute has been removed, so it is possible to hasty and wrong understand that mediation is a "mandatory" dispute settlement. The final part of the current art. 1 par. (1) of the Law provides that the mediation presupposes the "freedom of conscience of the parties', apud Ion Deleanu, op. cit., p. 855.

[4] On modernizing labor law to meet the challenges of the 21st century. Green Papers are documents belonging to the European Commission in order to be launched in public debates on specific areas of Community policies

[5] Such a solution was endorsed by the Commission Recommendation of 4 April 2001 on the principles applicable to organs dealing with the consensual resolution of disputes in consumer protection.

[6] Directive no.2008/52/EC of the European Parliament and of the Council of 21 May 2008 on Certain Threats of Mediation in Civil and Commercial Matters (JOL 136 of 24 May 2008) came into force on 12 June 2008 and applicable in Member States on 25 May 2011, except art. 10 for which the insurance must meet the latest place on November 21, 2010.

Starting August 1, 2013, it is a pre-requisite procedure for solving individual labor disputes by courts. (Țiclea, 2014, p. 997)

It is stipulated that they are subject to mediation and "work disputes arising from the conclusion, execution and termination of individual labor contracts", and the provisions of Law no. 192/2006 "shall also apply in the mediation of conflicts of rights which the parties may dispose of in the work"[1].

Thus, with the entry into force of the New Code of Civil Procedure, an element that has emerged as novelty is the introduction of the obligation to advance information on the benefits of mediation. Although legally consecrated since 2006, by Law no. 192/2006 on the mediation and organization of mediator profession (Mediation Law), mediation is still unknown for both lawyers and practitioners in law, and as any unknown in this field creates the impression of futility, difficulty of the act of justice.

The Law on Mediation was amended by Law no. 115/2012 in the sense of introducing the obligation of the prior information procedure on the advantages of mediation in a series of litigations that were considered not of less importance than other potential litigation, but for which it was considered more appropriate to resolve the conflict through good understanding of the parties only by deducting it from the courts for settlement. This solution was designed to relieve the activity of the courts and to make the act of justice as effective as possible.

Mediation is an alternative way of resolving conflicts, a voluntary and confidential procedure whereby a neutral, impartial, non-decision-maker - the mediator - helps the parties to come together to a mutually accepted agreement to end the mediated conflict.

We consider that the sphere of disputes that can be solved by mediation must be delimited by analyzing the specificity of each type of labor dispute by checking the incidence of the provisions of art. 38 Labor Code.

As regards labor disputes, the provisions of art. 38 of the Labor Code, according to which the employees cannot renounce their rights recognized by the law, being nullified by any transaction aimed at giving up the rights recognized by the law to the employees or limiting these rights[2], corroborated with the provisions of art. 167

[1] See also art. 60[1]alin. (1) lit. e) and art. 732par. (2) Law no. 192/2006.

[2] Concerning the constitutionality of art. 38 of Law no.53/2003 – Labor Code, also see: Constitutional Court Decision no. 494/2004 (published in the Official Monitor of Romania, Part I, no. 59 of January

of Law no. 62/2011, Law on social dialogue, which implies the obligation or, as the case may be, the possibility of a preliminary procedure for amicable settlement of the conflict, including through mediation, the opinion expressed in the legal literature (Deleanu, 2013, p. 869), with which we are in agreement is in the sense that mediation is possible but is limited, in terms of results, by the imperative provisions of Art. 38 of the Labor Code.

Moreover, this conclusion is supported by the provisions of Art. 73 par. (2) of Law no.192/2006, which, by the new form, has accredited this solution: "The provisions of the present law also apply to the mediation of conflicts of rights which the parties may dispose of within labor conflicts."

By Law no. 192/2006 regarding mediation and organization of mediator profession, as amended by O.U.G. no. 90/2012, a pre-litigation procedure was instituted, the procedure consisting in the obligation of the parties to participate in the information meeting on the advantages of mediation in order to resolve the dispute between them.

Among the disputes for which the obligation to perform such a prior procedure has been established, labor litigations are present, with certain limitations:

1. Work disputes for which it is not mandatory to attend the meeting on the advantages of mediation according to Law no. 192/2006 on mediation and organization of mediator profession

As regards the field of labor disputes, this is partly covered by the above mentioned procedure, in this respect the provisions of art. 601 par. (1) lit. e) of Law no. 192/2006, according to which "in the disputes which may, according to the law, make the object of mediation or another alternative form of conflict resolution, the parties and/or the interested party, as the case may be, are required to prove that they have participated in the meeting information on the benefits of mediation in the following matters: ... e) in litigation arising from the conclusion, execution and termination of individual employment contracts;".

By interpreting this law in relation to labor law rules, the following types of labor disputes are exempted from the prior information procedure on the advantages of mediation:

18, 2005) and the Constitutional Court Decision no. 365/2005 of Romania, Part I, no. 825 of September 13, 2005). In this regard, the Court has essentially held that, in the field of employment, freedom of contract is bounded by imperative provisions, in order to protect the employees, in the light of the discrepancies between the parties to the contract of employment in terms of economic potential.

Actions relating to collective labor agreements. A first observation is that only disputes arising from individual employment relationships are taken into consideration, with the exception of those relating to collective labor agreements, such as, for example, actions for the nullity of clauses of such contracts.

Disputes arising from collective labor disputes. Also, the text does not deal with disputes arising from collective bargaining, such as, for example, the action in the nullity of the strike, which is also the jurisdiction of the courts under Art. 198-200 of the Law no. 62/2011.

Actions to challenge representativeness. Another category of labor law actions that are exempted from this procedure are those related to the contestation of the representativeness of the trade union or employers' organizations, under art. 222 of the Law no. 62/2011.

We also do not take into account the actions regarding the acquisition of representativeness, since they are carried out in the non-contentious procedure, which excludes ab initio mediation, the specific nature of the non-contentious procedure being the absence of parties with contrary interests or the establishment of opposing rights.

2. Work disputes for which it is not mandatory to attend the meeting on the advantages of mediation by applying the provisions of art. 38 Labor Code

A second limitation of the sphere of labor disputes to which mediation applies is generated by the provisions of art. 73 par. (2) of the Law no. 192/2006, according to which "the provisions of this law shall also apply in the mediation of conflicts of rights which the parties may have in the context of labor conflicts."

At first analysis, it can be concluded that this text limits the scope of art. 601 par. (1) lit. e) in the sense that the obligation to participate in the mediation information meeting does not exist in the case of labor disputes arising from the conclusion, execution and termination of individual labor contracts if the parties cannot dispose of those rights inferred from the court.

This text is to be correlated with the provisions of Art. 38 Repealed Labor Code, according to which "employees cannot renounce their rights recognized by law, any transaction that seeks to waive the rights recognized by law or to restrict those rights is nullified."

Article 38 of the Labor Code is a text that has generated numerous controversies both in doctrine and in judicial practice, and on the basis of this it develops the so-called theory of rights won, and we appreciate that this provision is intended to protect the legal rights of a as it is difficult to accept that such protection also acquires the rights that employees have acquired through negotiation, either in a collective labor contract or in the individual.

In conclusion, if the subject matter of the dispute consists of rights with a minimum character guaranteed by law, the law does not allow it to be settled by mediation. We consider this interpretation naturally, provided that any transaction of the parties in this respect would be nullified; the outcome of mediation cannot, at best, be but a transaction of the parties.

For example, such disputes are those in which the employee seeks to oblige the employer to provide the minimum wage for the economy, to the minimum number of days of rest leave provided in art. 145 Labor Code, etc.

In the sense of the above, the provisions of art. 61 of Law no. 192/2006, according to which "if the conflict has been inferred from the court, its settlement through mediation may take place on the initiative of the parties or at the proposal of any of them or at the recommendation of the court, regarding the rights which the parties may dispose of according to the law."

Thus, according to art. 60 ind. 1 par. 1 lit. the parties and/or the interested party, as the case may be, are required to prove to the court that they have participated in the information meeting on the advantages of mediation in the following matters: in litigation arising from the conclusion, execution and termination of individual employment contracts.

Therefore, with the entry into force of the New Civil Procedure Code, in individual work disputes concerning the conclusion, execution and termination of individual labor contracts between employees and employers, it will be mandatory to go ahead with the introduction of the call for action, namely information on the benefits of mediation.

Mediation per se differs fundamentally from the pre-litigation procedure established by the New Civil Procedure Code in labor disputes, with regard to the purpose, costs of the procedure and the procedure itself.

Firstly, in the case of labor disputes, mediation seeks to resolve the conflict between the employer and the employee (or vice versa) amicably, while the preliminary

information session seeks to raise the awareness of the future parts of the contentious procedure of the existence of an alternative potentially less costly and short-lived than the deduction of the conflict to solve the courts.

Secondly, unlike the mediation procedure itself, the preliminary information session is undertaken by the mediator, without any fee, which is expressly forbidden by the law.

Third, I mention that mediation, as an alternative way of settling conflicts, differs from the prior information procedure on the benefits of mediation through the procedure itself. Thus, the mediation procedure is a complex procedure that begins with the signing of the mediation contract and involves the mandatory participation of all parties to the conflict, with the ultimate goal that the parties will reach an understanding of the existing conflict between them, a materialized understanding through the mediation agreement.

As regards the prior procedure for informing about the advantages of mediation, which is compulsory in the case of labor disputes arising from the conclusion, execution or termination of the individual labor contract, it was carried out as follows:

If a conflict related to the conclusion, execution or termination of the individual employment contract arose between the employer and his/her employee, the party wishing to deduct the conflict from the court was obliged, prior to the filing of the appeal, a mediator authorized under the Mediation Law to provide prior information on the benefits of mediation.

The interested party had two options in this case. The first is to take the necessary steps to participate together with the opposing party at the mandatory information meeting so that the mediator can inform the two parties present. The second option consists in concluding a pre-mediation contract between the interested party and the mediator. On the basis of this contract and a written request from the applicant, the mediator would address the other party with an acknowledgment of receipt to participate in the mandatory and free[1] information meeting.

In case of impossibility to present any of the parties convened at the prior information meeting, the mediator will agree with all the parties involved a new date and time for the information to be made.

[1] Guide to Organizing the Mediation Information Meeting Set up by the Mediation Council.

At the same time, if one of the parties refuses to participate in the information meeting in writing, does not respond to the invitation or does not appear on the date set for the information meeting, a minute shall be drawn up, which shall be filed with the court file.

If all the parties involved in the conflict appear before the mediator to participate in the mandatory prior procedure, the latter will inform them (individually or concurrently) about mediation. The prior information meeting consists of a briefing by the mediator of the definition and purpose of mediation, the role of the mediator, the principles and procedure in mediation, as well as the advantages of this procedure.

In the specific case of individual labor disputes, the advantages of choosing mediation as a way of settling the conflict are, inter alia, in: (a) the much shorter duration of the mediation procedure, compared to the duration of the action in court, (b) the costs involved the hearing/mediation sessions are potentially lower than those involved in legal action, (c) control over the final outcome belongs totally to the parties, etc. Also, a non-negligible aspect of the mediation procedure is of course confidentiality.

Following the participation in the prior information meeting, the parties have the following options: (a) to accept mediation as an alternative way of resolving the conflict; or (b) to refuse to participate in the mediation procedure.

If the parties, by mutual consent, decide to address the mediator in order to settle the conflict between them, after the signing of a contract, the mediation procedure itself shall be triggered. The mediation procedure shall be terminated in one of the following ways: (a) by the conclusion of a settlement between the parties following resolution of the conflict; (b) mediator's finding of mediation failure; (c) by the submission of the mediation contract by one of the parties.

Understanding the parties through which they overcome the existing conflict between them materializes in a mediation agreement, which has the value of a private signature. In this case, the parties may, in accordance with the provisions of Art. 59 para. 2 of the Mediation Act, as amended by OUG 90/2012, to appear before the competent court, so that, in a council chamber, it may issue a decision of expediency in order to take note of their understanding.

Jurisdiction to give a ruling on the understanding of the parties materialized in the mediation agreement belongs either to the court in whose jurisdiction the place of residence or residence or, where appropriate, to the headquarters of either party or to

the court in whose jurisdiction is located the mediation agreement was concluded, as opposed to the situation in which the labor dispute would have been deducted from the court, where the power of resolution always belongs to the court.

If, on the contrary, the participation in the prior information procedure on the advantages of mediation does not produce the expected effects and the parties refuse to settle the conflict through mediation, the mediator will issue to them a certificate of participation, which will prove before the court the fulfillment of the mandatory preliminary procedure.

Another novelty item brought by G.E.O. 90/2012 consists in the fact that Art. 2 par. 1 ind. 2 stating that if the applicant does not fulfill the obligation to participate in the information meeting on the advantages of mediation, the court will reject the application as inadmissible. Thus, not only has labor law brought an obligation for the plaintiff (employee or employer) to go through a prior procedure, and moreover, the sanction for failing to carry out such a prior procedure is the inadmissibility of the petition for legal action.

The most important sanction that intervenes in the absence of the information procedure was the one stipulated by the provisions of art. 2 par. (1^2) of Law no. 192/2006, which states that "the court will reject the petition for inadmissibility in the event of the applicant's failure to attend the mediation information meeting prior to the introduction of the call for trial, or after the trial has commenced until the first court term for that purpose."

We consider that the wording of this article clearly showed that mediation was in fact not mandatory, but that it was information about the advantages of mediation, a procedure that the complainant should initiate and that this sanction is exaggerated because it becomes absurd that the lack of information procedure be sanctioned by the dismissal of the petition for incrimination as inadmissible in circumstances where the right to information is a constitutional right that must be exercised freely and without procedural disciplinary constraints which becomes contrary to free access to justice, enshrined in the provisions of art. 21 of the Romanian Constitution.

Par. (1) of art. 2 and par. (1) of art. 2 has ceased to have legal effect following the application of the Constitutional Court's decision no. 266 of May 7, 2014.[1]

[1] Published in Official Monitor, nr. 464, 25 June 2014.

Also, in the field of labor conflicts, the principle of celerity, provided by the Labor Code and the Law for Social Dialogue[1], is violated.

In the same sense, critical legal opinions on the sanction of inadmissibility were expressed in the legal literature (Gheorghe, Ciobanu, & Nicolae, 2016, p. 553) because the mediation procedure was not enacted by rules that protect a public interest, but essentially the private interest of the parties, provided that mediation is not conceivable in the absence the willingness of the parties to make efforts and concessions to reconcile by waiving their mutual claims by extinguishing the dispute.

In the same vein, another opinion (Deleanu, 2013, p. 855) has shown that such a sanction for non-fulfillment of such an obligation is intolerable, resulting in the right to access to justice in the very substance of the law, as proclaimed in art. 21 par. (2) of the Constitution of Romania[2], "no law" can "bind" it, but above all cancel.

By art. 4 of the Law no.214 / 2013[3] amended and supplemented art. 2 par. (1^3)[4] and (1^4)[5] of Law no.192/2006. However, the provisions of art. 2 par. (1^1)[6] on the incidence of the sanction of inadmissibility of the petition for legal action in the event of the applicant's failure to participate in the mediation hearing prior to the filing of the request for legal action or after commencement of the trial by the court for that purpose. However, it was foreseen that the judge, the prosecutor, the legal counselor, the lawyer, the notary could proceed with the procedure for informing the mediator's advantages, and that he should certify himself in writing.

At the theoretical level, the balance is in favor of such a procedure, which would lead the justices to have an alternative way of resolving conflicts, with a direct impact on the reduction of court activity and, implicitly, on the quality of the act of justice.

[1] Law no. 62/2011 of the Social Dialogue Updated by Law 1/2016 for the modification of the completion of the Social Law no. 62/2011 (published in Official Monitor no. 26 of 14 January 2016)
[2] (2) No law may limit the exercise of this right.
[3] To approving OUG 4/2013 regarding the modification of the Law no. 76/2012 for the implementation of Law no. 134/2010 on the Procedural Law, as well as for the modification of the completion of normative acts
[4] Par. (1^3), art. 2 was the product of item 4 of art. from LAW no. 214 of June 28, 2013, published in Official Monitor no. 388 of June 28, 2013, introducing art. VI ^ 1 of the EMERGENCY ORDINANCE
[5] (1^4) Provided Services under the provisions of paragraph (1) and (1 ^ 1) are free of charge, and can not be charged, taxed any other, irrespective of the title with which the claim is to be made.
[6] Par. (1) of art. 2 was the product of item 2 of art. I from the EMERGENCY ORDINANCE no. 90 of 12 December 2012, published in Official Monitor no. 878 of 21 December 2012.

On the other hand, there were opinions that the prior information procedure on the benefits of mediation would only be an obstacle to overcome in order to gain access to justice.

Taking into account the numerous opinions regarding the obligation of mediation in the case of labor disputes arising from the conclusion, execution or termination of the individual labor contract, as well as those regarding the sanction for failure to fulfill such an obligation, in 2014, the Constitutional Court established by Decision no. 266 of 7 May 2014[1] that the provisions of art. 2 par. (1) Unless the law provides otherwise, the parties, natural persons or legal persons are obliged to attend the information meeting on the advantages of mediation, including, where appropriate, after a trial has been opened before the competent courts, with a view to resolving this (12) "The court shall reject the petition for legal action as inadmissible in the event of the applicant's failure to participate in the proceedings, at the mediation information session prior to the filing of the request for legal action or after the trial has been initiated by the court for that purpose, for litigation in the matters provided by art. 601 par. (1) lit. a) -f). of Law no. 192/2006 are unconstitutional.

Given that the preamble to Directive 2008/52/EC[2] of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters states that "mediation should be a voluntary procedure, in the sense that the parties are themselves responsible for the procedure and can organize it as they wish and end at any time." Also, Art. 3 lit. a) of the Directive defines mediation as a "process in which two or more parties to a dispute seek, on their own initiative, to reach agreement on the settlement of the dispute between them ...". Article 5(1) entitled "Recourse to mediation" states that "a court to which an action has been brought may, where appropriate and in the light of all the circumstances of the case, invite the parties to mediate to settle the dispute, also invite the parties to participate in an information session on recourse to mediation if such sessions are organized and are easily accessible."

As such, the provisions of this directive only refer to the possibility and not the parties' obligation to follow the mediation procedure, so nothing binding on

[1] Regarding the exception of unconstitutionality of the provisions of art. 200 of the Civil Procedure Code, as well as those of art. 2 par. (1) and (12) and Art. 601 of Law no. 192/2006 on mediation and organization of mediator profession

[2] Published in *Official Journal of EU serial* no. 136 din 24 May 2008.

mediation, and even less to the prior information procedure on the benefits of mediation.

Thus, if the parties opt for mediation, in order to resolve the disputes between them, they will present themselves at the information meeting on the advantages of mediation only if they consider it necessary to attend such a meeting, for information and clarification on the benefits of mediation. On this occasion, the mediator is obliged to give any explanation to the parties about the mediation activity, so that they understand the purpose, the limits and the effects of mediation, especially on the relations that are the subject of the conflict. Participating in the information meeting will no longer be an obligation for the parties, but a voluntary option for those concerned to resort to such an alternative, optional, conflict resolution method.

The Court also considers that the criticized legal regulation, art. 2 par. (1) of the Law no. 192/2006, whereby the parties are obliged to go through the mediation information procedure, overturn the irrefutable presumption "*nemo censetur ignorare legem*", it is interpreted in this sense that the citizen enjoys the presumption of knowledge of the law.

Undoubtedly, this obligation imposed under any sanction, not only under the inadmissibility of the petition, is contrary to the provisions of Art. 21 of the Constitution, which stipulate that no law may restrict the exercise of free access to justice. Obligation to participate in informing about the advantages of mediation is a restriction of free access to justice because it forms a filter for the exercise of this constitutional right, and by sanctioning the inadmissibility of the petition, this right is not only forbidden but even forbidden.

Therefore, as of August 10, 2014, the provisions of Art. 2 par. (1) and (1 ^ 2) of Law no. 192/2006 on the mediation and organization of the profession of mediator ceases its legal effects, the legislator not intervening for the modification of the contested provisions.

By the Decision of the Romanian Constitutional Court no. 560 of September 2018 in response to the objection of unconstitutionality of amendments to the Labor Law regarding the optional nature of the mediation procedure, the Court dismissed as ungrounded the objection of unconstitutionality and the mediation procedure remains a voluntary procedure.

The Court also noted that, by Decision No. 576 of 29 May 2012, published in the Official Monitor of Romania, Part I, no. 506 of July 24, 2012, the Court has stated that no review is carried out by means of the review itself and that the fact that the

same court which adjudicated in the judgment also considers the review request is not such as to influence the judges' assessment. This is because the issues examined by the review are different from those examined at the time, being unknown at that time. In this matter, as in all other cases, the legislature has conditioned the exercise of a right to exercise it within a certain period of time; this was not the intention to restrict free access to justice, of which the interested person obviously benefited within the established term, but only in order to establish a climate of order indispensable for the exercise of the constitutional right by art. 21, thus preventing abuse and ensuring the protection of the legitimate rights and interests of the other parties. Moreover, the Court has consistently held that the legislating, within the limits of its competence conferred by the Constitution, on the conditions for the exercise of a right, whether subjective or procedural, including the establishment of time limits, does not constitute a restriction of its exercise, but only an effective way to prevent its abusive exercise, to the detriment of other rights holders, equally protected[1].

So, through this decision, mediation has returned to what it was supposed to be at the beginning, i.e. an amicable way of solving individual labor conflicts, wholly within the free will of the parties. (Ștefănescu, 2017, p. 1005)

III. Conclusions

Therefore, in all cases, the parties are not under the obligation to participate in the information meeting on the benefits of mediation, as the possibility for the court to reject as inadmissible the petition to sue the applicant who did not attend the hearing. Without any legal hindrance of this nature, the applicant, part of an individual labor dispute, is seeking a court.

In conclusion, similar to the current compulsory mandatory procedure provided by the law of administrative litigation, the prior procedure for trying to settle the dispute through mediation is viable, possible and constitutional, it can provide an advantageous solution for both parties in dispute and greatly reduces the number of files having subject to administrative litigation, implicitly court costs, and relieves the state of higher expenditures with lost trials due to bad law enforcement, failure

[1] Decision no. 580/2018 regarding the rejection of the unconstitutionality exception of the provisions of art. 324 par. 1 point 1, second sentence, of the Civil Procedure Code of 186.

to accountability, non-availability of public information, failure to grant a justified right, adding damages, penalties, increases.

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Decision of the Constitutional Court no. 580/2018 regarding the rejection of the unconstitutionality exception of the provisions of art. 324 par. 1 point 1, second sentence, of the Civil Procedure Code of 186.