

**«FAIR TRIAL IN AN OPTIMUM AND FORESEEABLE TIME»
COUNCIL OF EUROPE'S RECOMMENDATION THROUGH
EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
AND EXPRESS LEGAL PROVISION IN THE NEW ROMANIAN
CODE OF CIVIL PROCEDURE**

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***ABSTRACT:** An important role, in promoting and assuring the procedural guideline consisting in the fair trial in an optimum and foreseeable time, has the Council of Europe Organization through its special Commission for the Efficiency of Justice/Commission européenne pour l'efficacité de la justice.*

In its 2011 Activity Programme CEPEJ stated some general responsibilities and specific objectives and also tasks meant to achieve the objectives envisaged. In concreto, CEPEJ has assumed responsibilities concerning the quality of judicial systems and courts in the Member States of Council of Europe. As specific objectives regarding the above mentioned responsibility European Commission for the Efficiency of Justice has assumed to: measure the perception that users have on their judicial system (measuring their satisfaction as regards the public service provided by the justice system); develop tools to assess the performance of the territorial court organization (judicial map); develop indicators to assess the quality of the court work; develop measures to promote the quality of the work of judicial experts; ensure the promotion of the CEPEJ's tools in the field of quality of justice.

In this line of thinking, having an in-depth knowledge of the timeframes of proceedings for reaching optimum and foreseeable judicial time is also a responsibility assumed by the Commission for the Efficiency of Justice. As specific objective relating to this responsibility is the commitment of CEPEJ to develop tools for supporting the courts in achieving optimum and foreseeable timeframes and as a specific task on this issue it will be setting up an Observatory of judicial timeframes aimed at collecting quantitative and qualitative data on judicial timeframes and the court management of backlogs.

Article 6 paragraph 1 from second chapter - which mentions The fundamental guidelines of the civil trial - of the New Romanian Code of Civil Procedure (Law nr. 134/2010 published in the Official Journal of Romania, part. I, nr. 485/15th of July 2010) - enshrines The right to a fair trial, in an optimum and foreseeable time, meaning that „Every person has the right to a fair examination of its case, in an optimum and foreseeable time, by an independent, impartial and legal established court. In achieving

this purpose the court is obligated to take all the measures permitted by law and to assure the celerity of the trial activity”.

It is also important to mention the fact that the close related principles of «due process/fair trial» and «the rule of law» are fundamental to the protection of human rights, in general, because such rights can only be protected and enforced if the citizens have recourse to judicial bodies (courts and tribunals) - independent in the «power system» of a State - which resolve disputes in accordance with fair procedures. The protection of procedural guarantee of fair trial is not, in itself, sufficient to protect human rights abuses and violations, but it is the «foundation stone» for substantive protection against state power. So, the due process/fair trial represents only one of the (procedural) instruments adequate to contribute to the protection of human rights in a democratic society.

KEYWORDS: *fair trial, European Convention on Human Rights, Charter of Fundamental Rights of the European Union, optimum and foreseeable time, Council of Europe, European Commission for the Efficiency of Justice, New Romanian Code of Civil Procedure.*

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