

**CRITICAL CONSIDERATIONS ON DECISION NO. 7/2016
OF THE HIGH COURT OF CASSATION AND JUSTICE,
REGARDING THE INTERPRETATION AND APPLICATION
OF ART. 127 PAR. 1 AND 3 CODE OF CIVIL PROCEDURE**

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ABSTRACT: *The article critically analyzes the solutions taken into consideration by the High Court of Cassation and Justice in the Decision no. 7/2016, which admitted the appeal on points of the law concerning the interpretation and application of art. 127 par. (1) and (3) Code of Civil Procedure and determined that the phrase "the court of operation" should be interpreted restrictively, in the sense that it refers to the situation where the judge actually operates in the court that is competent to adjudicate on the request of the proceedings at first instance.*

In our opinion, the correct interpretation is the extensive one, which refers to judges of all procedural cycles of judgment, whatever the court is in which they operate, as long as they belong to the district court of appeal in whose jurisdiction the court belongs, which would have usually had the resolving power.

Also, the Supreme Court has established that art. 127 par. (1) and (3) Code of Civil Procedure is to be interpreted in terms of the concept of "registrar" in the sense that it is also applicable in the case of claimants belonging to the auxiliary personnel (registrar) in the prosecutors' offices courts.

On the contrary, we believe that the restrictive view is correct, which refers only to those registrars who actually operate in the court that settles the case.

KEYWORDS: *optional jurisdiction; judge at first instance; registrar of courts at the prosecutors' offices*

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