

REPETITIO EST MATER STUDIORUM
L'INDÉPENDANCE DE LA JUSTICE, L'IMPARTIALITÉ ET LA
RESPONSABILITÉ DU MAGISTRAT

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« Rien ne pousse à l'ombre des grands arbres » Brâncuși

ABSTRACT: *If the independence of the court authority is guaranteed by the Constitution of Romania revised in 2003, the problem brought into discussion is the way it is effectively achieved. (Article 124 paragraph 3). **Independence** assumes action and decision without restrictions or presuppose from another authority. **Impartiality** requires the magistrate to decide in the even balanced and equitable scale of goddess Themis, on purpose blindfolded, in order to be equal with all litigants, regardless of their position occupied in society, the position they have in the state. **Responsability** falls on the magistrate, as he, according to the law but also according to his conscience, must not violate the great principles of the criminal trial, to judge ie. to reason, to analyze and evaluate only the evidence, to decide only based on the evidence as this public service is found in a permanent mission - to protect the rights and liberties of the citizens. Facing the exorbitant power of the prosecutor who is opposing a weak defense due to the disloyalty of law, there is only a single "counterweight" in the justice mechanism that can offer confidence and trust in justice – the court judgment. This leads to the question, which are the guarantees that the Constitution and law can provide so that justice is impartial and responsible? Regardless of the way it manifested, according to the historical stages completed, "justice", the activity of the justice bodies and of the magistrate was and will remain indebted, like any public service, to act as an "art in the service of man, of good and of equity", otherwise it transforms from the virtual to the real" inquisition of the 21st century. Therefore, "quo vadis Themis"? However, does the question require an answer? Pending a response, I resumed the ideas of an old survey, published in this Review, hoping for their settlement within an absolutely necessary reform (Chiriac, no. 2/2013).*

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