



dispute resolution - legal changes published in July 2022

Law no. 199/2022 for amending Law no. 134/2010 concerning the Civil procedure code was published in the Official Gazette of Romania, Part I, no. 643 of June 29, 2022, in force starting with July 02, 2022.

The law regulates new provisions concerning the justice field by introducing new articles in the Civil procedure code, which regulates aspects regarding the procedure for the settlement of the appeals against the delay of the trial.

Therefore, currently, the appeal shall be filed in writing and shall be submitted to the court invested with the settlement of the trial in relation to which the delay of the trial is invoked. The appeal can also be formulated verbally during the hearing, in which case it will be recorded, together with the reasons indicated by the party, in the closing of the hearing.

Jurisdiction lies with the hierarchically superior court, which resolves the case in a three judges panel. When the case is heard by the High Court of Cassation and Justice, the appeal shall be resolved by a five judges panel and when the case is heard by a five judges panel, the appeal shall be resolved by another panel of five judges.

The court charged with judging the case will immediately submit the appeal to the competent court, along with a certified copy of the case file. When possible, the documents are sent to the hierarchically superior court in electronic format.

The appeal does not suspend the trial. The time limit for the settlement of the appeal is 10 days from the receipt of the file and the judgment is made in closed session, with the summons of the parties, through a judgment that is not subject to any appeal, which must be motivated within 5

If the court finds that the appeal is grounded, it orders to the court resolving the case to perform the procedural act or to take the necessary legal steps, indicating the latter and setting, where appropriate, a time limit for their performance.

When the appeal was made in bad faith, the complainant can be obliged to pay a judicial fine from Lei 500 to Lei 2,000, as well as, at the request of the interested party, to pay compensation for the damages caused by submitting the appeal.

The Decision of the European Court of Human Rights dated 16 November 2021 ruled in Toma against Romania Case (Application no. 19.146/18) was published in the Official Gazette, Part I no. 673 dated July 6, 2022 and it is applicable from the same date. The application has as subject matter the violation of the applicants' rights to a fair trial and the prohibition of torture, as referred to in art. 6 § 1 and 3 of the Convention. In fact, the applicants were involved in a dispute which resulted in their injury and sanction for participating in the brawling. The complainants claimed that they were subjected to ill-treatment by several other private individuals and that no effective investigation was carried out in this regard. They also report the injustice of the procedure that led to their sanctions.

Consequently, the European Court held that there has been a violation of Article art. 6 § 1 and 3 of the Convention and that the respondent State shall pay to the applicant, within three months, the following amount, which shall be converted into the currency of the respondent State, at the exchange rate applicable at the date of payment: (i) EUR 10,000 plus any other amount that may be due as a tax for this amount for the non-pecuniary damage; (ii) EUR 2,600 plus any other amount that may be due as a tax for this amount for the court fees; (iii) that from the expiry of the above-mentioned period and until payment, these amount must be increased with simple interest, at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points.

Furthermore, the Court dismissed the application for equitable relief on the other heads of claim.



Decision of the High Court of Cassation and Justice no. 23/2022 regarding the examination of the request formulated by Brasov Municipal Court – Criminal Section regarding the request that forms the object of Case File no. 13.117/197/2019/a1 in order to issue a preliminary ruling for resolving a matter of law was published in the Official Gazette, Part I no. 665 of July 3, 2022 and it is applicable from the same date.

The High Court admitted the request made by Brasov Municipal Court – Criminal Section in order to issue a preliminary ruling, namely, whether the document shall be verified concerning legal aspects and the merits by the superior prosecutor and what is the deadline within such verification shall occur.

Therefore, the Court held that the document by which the prosecutor fixes the irregularities of the indictment, under the conditions provided for in Article 345 para. (3) of the Code of Criminal Procedure, is not subject to the verification concerning legal aspects and the merits by the superior prosecutor.