THE STANDARDIZATION OF JUDICIAL PRACTICE AND HARMONIZATION WITH THE ECHR, IMPERATIVE OF JUSTICE: LEGISLATIVE PROPOSALS FOR ENSURING UNIFORM JUDICIAL PRACTICE

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The book entitled „The Standardization of Judicial Practice and Harmonization with the ECHR, Imperative of Justice: Legislative Proposals for Ensuring Uniform Judicial Practice" represents the final result of the research activity developed during the implementation of the Project no. PNI-IDEI/2009, cod CNCSIS ID 1094, supported by CNCSIS-UEFISCU.

The authors structured the information in two volumes. First of these volumes is entitled The Role of the Jurisprudence in Judicial System and it contains studies elaborated by all the research team members concerning the main aspects of the investigated domain. As main issues we can indicate: the role of the jurisprudence in common law system and the role of the jurisprudence in Roman-Germanic law systems. In the same volume is included a study focused on the appeal in the interest of the law, as a mechanism to ensure the standardization of the jurisprudence. Regarding the juridical nature of this instrument, the authors observe the controversial approach in the Criminal law doctrine. In one opinion, the appeal in the interest of the law is an exceptional remedy in the court. The other opinion, accepted by the researchers in the project, considers that the appeal in the interest of the law represents only a procedural instrument to unify the jurisprudence.

The first volume of this book has, also, a European dimension as it points the issue of the European courts jurisprudence influence over the national courts decisions. The same importance is awarded to The European Union Court of Justice and to the European Court of Human Rights, and the authors underlines correctly the particularities or each mechanism to influence the Romanian courts activity. The European Union Court of Justice has a very powerful instrument to influence the national jurisprudence and to give it a common line in order to respect the European treaties – the decisions regarding the prejudicial questions addressed by the Member States which accepted the courts jurisdiction. According to the article 267 from The Treaty on the Functioning of the European Union, The European Union Court of Justice has jurisdiction to give preliminary rulings concerning: (a) the interpretation of the Treaties; (b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union. Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon. According to the paragraph 3 of the same Treaty, where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court. In

this way, the European Union Court has the possibility to unify the jurisprudence in the Member States.

As it regards the European Court of Human Rights, the authors observed that the Romanian legislator operated – in 2006 - a modification of the Criminal Procedural Code and, article 385^{14}, as a result of European court jurisprudence against Romania. In these cases the European Court decided that the right to a fair trial was violated when a person was convicted by the Romanian Supreme Court without being interrogated although he was present in front of the court. As a result, the new paragraph 1^1 of the article 385^1 from the Romanian Criminal procedural Code stipulates now that when a court judges the recourse, it is bound to hear the defendant, when he/she has not been audited in the previous stages of the trial, and also when these previous courts have not pronounced a condemnation decision.

The second volume of this book gives more valuable instruments for practitioners in law field, as it concerns the causes of the inconsistency of the jurisprudence. In the beginning of this volume, the authors indicate the causes of the inconsistency: the lack of more effective instruments to ensure the jurisprudence uniformity, frequent modifications of law, law imperfections, reduced number of judges considering the number of cases, the impossibility to have a real-time access to other judges' decisions, weaknesses of the judicial systems organization, inexistence of any continuous training program, and the lack of financial resources for the judicial system.

At the same time, in this volume, the book includes a valuable exam of the decisions in the appeal in the interest of the law Romanian High Court of Justice pronounced. The study is more useful to the practitioners as it awards the same importance to different fields of jurisprudence: criminal law, criminal procedural law, administrative law, fiscal law, labour law, civil law, and so on.

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