

THE ROLE AND FUNCTIONS OF THE ROMANIAN JUDGE WITH REGARDS TO THE COMMUNITY LAW

Marin VOICU¹

Rezumat: În procesul integrării comunitare sistemul juridic intern, ca și justiția comunitară, au un rol proeminent, asigurând și garantând drepturile și libertățile individuale, respectarea și aplicarea tratatelor U.E. Așadar, buna funcționare a justiției, calitatea și celeritatea în înfăptuirea actului de judecată, în acord cu marile principii ale Dreptului Comunitar - prioritatea, aplicarea imediată, subsidiaritatea și proporționalitatea - interesează întreaga societate și constituie parametri esențiali ai drumului îndelungat al integrării juridice comunitare.

Abstract: Within the process of the European Union integration, the internal judicial system, as well as the Community justice, has a significant role, granting each individual's rights and liberties, also assuring the observance and implementation of the European Union Treaties. Therefore, the efficiency of justice, the quality and celerity in achieving the act of judgment, according to the great principles of the Community Law – priority, immediate application, subsidiarity and proportionality – concern the entire society and represent essential parameters of the long road of the community legal integration.

Keywords: National judge, Juridical European integration, Legislative and Euro jurisprudential Compatibility, Competence of Internal Judge in the Application of Communitarian Law

I. EUROPEAN LAW – A NEW NORMATIVE AND JURISPRUDENTIAL ENVIRONMENT FOR THE ROMANIAN JUDGE

1. Preliminaries

1.1. During the latest 6 decades (starting with 1950) the Romanian nation has been completely absent from the ideological space and, in particular, from the real space of the European growth, during which time 6, then 10, 12, 15 and 27 nations have enlightened and extended the European Union, as other nations, like the Swiss and the Norwegian, “have only denoted a discreet enthusiasm regarding the European construction”². However, all Europe's nations benefited from the European construction, directly or indirectly, taking into consideration the “peace dynamics”, the development consequences and the progressive massive integration in the European Union. For the Romanian judge the Community Law and the jurisprudence of the European Court of Justice in Luxembourg have been “western enigmas” until December 1989, and subsequently they have become, in a relatively short time, more and more emphasised, “fantastic elements”, small

¹Professor, Ph D, Jurist, Former judge at the European Court of Human Rights.

²Jacot-Guillarmont, Oliver, *Juge national face au droit Européen*, Bruxelles, Bruylant, 1993, p.23