

Image not found or type unknown

Published in: **Law Business Research Ltd.** (**<http://www.TheLawReviews.co.uk>**)
Written by: **Levana Zigmund**
Article link: /web/pdf/en/articles/The_Dispute_Resolution_Review_Tuca_Zbarcea___Asociatii_Romania_2015.pdf

Publisher: <#>

The Romanian dispute resolution framework is currently experiencing one of the most significant, substantial and extensive reforms of the last century, due to the enactment of a new Civil Procedure Code alongside a new Civil Code already in force; new Criminal and Criminal Procedure Codes have also been enacted. The reform seeks to put in place a legal framework able to answer the needs of contemporary developments of societal relations, with a clear view to coordination with EU law essentials. High expectations are placed on the system's ability to absorb the new provisions aimed at speeding up trials, and avoid future allegations of systemic failure to settle disputes within 'a reasonable time'. Particular applications of the legislator's need for acceleration of trial proceedings include newly instituted duties of the judge to develop a written correspondence with the claimant in order to ensure the fulfilment of all validity requirements concerning his or her application, and then to coordinate the submitting of the parties' written materials and the organisation of the hearing within a very strict time frame.

New legislation also puts in place a rapid mechanism by which parties can challenge any unjustified delays in the development of a trial, and obtain the fast completion of lacking measures – a procedural challenge against trial tergiversation. Such challenge is available in all instances where courts have failed to act within or pay heed to an established legal deadline, and will have to be settled within five days from application. If the challenge is granted, the court will immediately take measures to eliminate the causes of trial tergiversation.

Trial filtering has been instituted in order to avoid court overburdening: claims lacking formal elements will be dismissed if such omissions are not remedied in short deadlines, final appeals will undergo a preliminary admissibility check performed by a three-judge panel with a view to assessing whether the application complies with formal requirements, as well as whether the final appeal is ostensibly unfounded. This latter screening procedure is expected to lead to a reduction in the number of final appeal cases on the dockets of the High Court of Cassation and Justice.

A fast-track, optional procedure is designed to accommodate claims valued below 10,000 lei. Such procedure is entirely written and aspires to relieve the volume of minor disputes courts are currently faced with. The enforcement phase of the trial will be conducted almost entirely by bailiffs, with a view to guaranteeing that the rights of the debtor are fully observed, and that enforcement procedures are carried out lawfully, efficiently and rapidly.

It is still too early to assess whether these welcomed changes will suffice to address the substantial difficulties Romania faces in its attempt to shape an efficient, cost-effective dispute resolution system. Jurisprudence is yet to develop on many of the novel procedures described above, and interpretation controversies have already emerged. Nevertheless, the decisive step of legislation enactment has been accomplished.

To read the entire article, please download the .pdf attached.