

The evolution of the regulatory norms as regards the right of defence in Romanian legislation

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Abstract

The settlement of the right to defence represents the most powerful guarantee offered to a person investigated by the judiciary authorities that the respective person will not be subject to abuse within the investigation and the trial. Regardless of its modalities of expression - the assistance or the representation of the investigated person - the right to defence must be understood as the whole of legal means for invoking and finding the circumstances which support the defence as well as for applying the favourable legal dispositions. If nowadays the legal profession is regulated by a distinct law regarding its organization and exertion, things were very different once. During the mediaeval period, the defence of an investigated person was assigned to one of his relatives or to the husband (in case of a married woman). Subsequently, this duty was assigned to „vechilului judiciar”, to the lawyers with „cu știință de pravilă”, and in Transylvania, to „procatorilor” or „procuratorilor”. The modern age, strongly influenced by Western Europe, brought about the creation of an unprecedented legislative framework for the Romanian Countries, powerfully connected to the realities of those times. The result was that, at the same time with the adoption of a Criminal Procedure Code, of French and later Italian influence, real guarantees of the right to defence were conferred within the criminal trial. Eventually, under the strong influence of Soviet legislation, this underwent numerous limitations. Nowadays, due to the transposition into national law of international juridical instruments to which Romania is a part, the right to defence is acknowledged as an integral part of the human rights.

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