

## ROMANIA



### HIGH COURT OF CASSATION AND JUSTICE

According to the Romanian Constitution, as revised in 2003, justice is administered by the High Court of Cassation and Justice and the other courts established by the law. The High Court of Cassation and Justice ensures the unitary interpretation and implementation of the law by the other courts, in accordance with its competence.

The High Court of Cassation and Justice is the Supreme Court in the Romanian courts hierarchy and, according to the Law no. 304/2004 on the organisation of the judiciary, republished in 2005, the High Court of Cassation and Justice is organised as follows:

- 4 Chambers:
  - The Civil and Intellectual Property Chamber;
  - The Criminal Chamber;
  - The Commercial Chamber;
  - The Chamber of Administrative and Fiscal Contentious;
- the Panel of 9 judges;
- the Joint Chambers.

The High Court of Cassation and Justice is structured as follows:

- the President of the High Court of Cassation and Justice;
- the Vice-president of the High Court of Cassation and Justice;
- 4 Presidents of the High Court of Cassation and Justice Chambers;
- the judges of the High Court of Cassation and Justice.

The management of the High Court of Cassation and Justice is ensured by:

- the President;
- the Vice-president;
- the Managing College.

The Managing College comprises the President, the Vice-president and 9 judges representing each of the High Court of Cassation and Justice Chambers, elected by the General Assembly of judges for a 3 years mandate.

According to Romanian legislation, the access to the High Court of Cassation and Justice is ensured in civil, commercial, criminal, administrative and fiscal contentious cases, mainly as a result of the competence rules provided by the Code of Civil Procedure, the Code of Criminal Procedure and the Administrative Contentious Law no. 554/2004, as recently amended by Law no. 262/2007.

Taking into account the above-mentioned competence rules, the Romanian High Court of Cassation of Justice is a recourse court, mainly as the third degree of jurisdiction, in a significant number of cases, both in civil commercial and criminal matters, and a recourse court, as the second degree of jurisdiction, in most of the administrative and fiscal contentious matters.

Exceptionally, the High Court of Cassation and Justice tries criminal cases, as a first-degree court, according to the *rationae personae* competence of the Court.

### **Code of Civil Procedure**

In civil and commercial matters, the competence of the High Court of Cassation and Justice provided by the Code of Civil Procedure was revised in 2005.

In accordance with the civil procedure provisions in force, the High Court of Cassation and Justice tries, as the third degree of jurisdiction, the recourses in commercial cases whether the value of the claim is over 100.000 RON or the object of the claim cannot be evaluated (Commercial Chamber) and - with certain exceptions - the recourses in civil cases whether the value of the claim is over 500.000 RON (Civil and Intellectual Property Chamber).

Also, the High Court of Cassation and Justice tries, as the third degree of jurisdiction, the recourses in other civil cases, such as cases concerning the intellectual and industrial property, expropriation, adoption or damages compensation caused by the judicial errors committed in criminal cases.

Last, but not least, the High Court of Cassation and Justice tries the recourses in cases regarding all the claims filed based on Law no. 10/2001 on the legal regime of certain real state property abusively taken by the state between March 6, 1945 and December 22, 1989.

## **Code of Criminal Procedure**

In criminal matters, the competence of the High Court of Cassation and Justice was revised in 2006.

According to the criminal procedure provisions regarding the competence, as amended, the Criminal Chamber of the High Court of Cassation and Justice tries, as court of third degree of jurisdiction, the recourses in cases concerning serious offences, such as homicide, aggravated deprivation of liberty, aggravated rape, aggravated robbery, aggravated fraud, passive and active bribery, trade in influence, certain offences against the justice, smuggling having as object weapons, ammunition, explosives or radioactive substances, intentional offences having as result the death of the victim, money laundering, fraudulent bankruptcy concerning the banking system or offences concerning intellectual and industrial property. All these cases are tried by the tribunals, as courts of first instance, and by the courts of appeal, as appeal courts.

As court of second degree of jurisdiction, the Criminal Chamber of the High Court of Cassation and Justice tries the recourses in cases solved by the courts of appeal, as courts of first instance. These cases mainly concern the state security offences, conflict of interest offence, aggravated railway security offences or offences against peace and humankind.

Also, as second degree of jurisdiction, the Panel of 9 judges of the High Court of Cassation and Justice tries the recourses in cases solved by the Criminal Chamber of the Court as a court of first instance. The Criminal Chamber of the Court tries, as a court of first instance, according to the *rationae personae* competence, for example, offences committed by members of the Parliament, members of the Government, judges of the Constitutional Court, members of the Superior Council of Magistracy, judges and assistant magistrates of the High Court of Cassation and Justice, judges of the courts of appeal, prosecutors of the prosecutors offices attached to these courts and prosecutors of the National Anticorruption Department.

## **Administrative Contentious Law no. 554/2004, as amended by Law no. 262/2007**

In administrative and fiscal contentious matters, the Administrative and Fiscal Contentious Chamber of the High Court of Cassation and Justice tries, as a rule, in second degree of jurisdiction, the recourses in cases solved by the administrative and fiscal contentious chambers of the courts of

appeal, and in few case also as court of first instance, according to the Code of Civil Procedure and the Administrative Contentious Act no. 554/2004, as amended by Law no. 262/2007.

These recourse cases concerns, on one hand, the administrative acts issued or concluded by the central public authorities, the administrative contracts and, on the other hand, taxes, contributions, custom debts and other related charges, whether the value of the claim exceeds 500.000 RON.

Also, the Administrative and Fiscal Contentious Chamber of the High Court of Cassation and Justice tries, as court of second degree of jurisdiction, the recourses in cases solved by the administrative and fiscal contentious chamber of the courts of appeal, as courts of first instance, concerning the illegality exception of the unilateral administrative acts having an individual nature issued by the central public authorities.