

## ON THE REAL SWIFTNESS OF JUSTICE, WITH AND WITHOUT ARTIFICIAL INTELLIGENCE

**SEPTIMIU IOAN PUT**  
*Babeş-Bolyai University  
Cluj-Napoca, Romania  
septimiu.put@law.ubbcluj.ro*

**Abstract:**

*With its specific techniques and algorithms, AI seems to be ubiquitous in contemporary society. As a social phenomenon, law cannot be an exception. In the procedural field, AI brings indisputable advantages in terms of making normative, doctrinal and case-law databases accessible, but also in terms of speeding up judicial proceedings because the use of algorithms generates effects in real time. If either the legal remedies are ineffective or they intervene very late in relation to the time of the violation of the rights, the preservation of the rights is no longer possible or current, which is tantamount, in practice, to the non-existence of remedies to protect the rights.*

*Improvements in AI will certainly speed up the processing of legal information in the future, but it is impossible to predict whether this will be accompanied by an increase in the quality of case resolution, bearing in mind that the law is subject to the action of a multitude of factors: moral, religious, economic and social.*

**Keywords:** law; procedural celerity; artificial intelligence; homo juridicus roboticus.

**JEL Classification:** K40.

### 1. ENSURING SPEED – A CONDITION FOR THE PRESERVATION OF RIGHTS

Starting from the W. Gladstone's motto that justice delayed is justice denied, we focus our research on natural rights, which in the ideal dimension, are recognized and respected; rights are created normatively, by regulation, are not only guaranteed by the state, but also enforceable against it, and rights in the legal relations between legal subjects are negotiated and assumed, legal obligations are performed according to the assumption.

In the real world, however, there are a multitude of factors which affect rights, and which require judicial protection aimed at restoring or limiting the infringement of those rights. In most cases, judicial protection must be immediate and effective, so as not to deprive the right itself of its content. If either the legal remedies are ineffective or they intervene very late in relation to the time of the violation of the rights, the preservation of the rights is no longer possible or

current, which is tantamount, in practice, to the non-existence of remedies to protect the rights.

The expeditiousness of proceedings is not only a desideratum, but also one of the essential procedural objectives. The desire to ensure that cases are settled in due time does not imply any abdication of the quality requirements of the judicial act, regardless of the subject matter in which it is to be decided.

In order to identify a procedural model that meets the requirements of swiftness, it is necessary to take a comparative overview of the sequential elements of procedures that are often used in practice, starting with the ordinary civil procedure, passing through the tax procedure and ending with the sports procedure specifically designed for the world's major sporting competitions.

## **2. COMMON CIVIL PROCEDURE AND ADMINISTRATIVE-FISCAL PROCEDURE**

Observing from a distance the provisions of para. (1) art. 241 of the Civil Procedure Code: *"For the investigation of the lawsuit, the judge shall set short deadlines, even from one day to the next"*, the impression given would be that in civil trials in Romania, benefiting from short deadlines enshrined in law, cases are settled in a very short period of time, almost instantaneously.

In reality, in the common judicial procedure, at the level of the first court in the pyramid of the judicial system, not only are terms not currently granted from one day to the next, that is, two terms in one week, but the counter-performance has reached the point where terms are granted from one year to the next, which marks a negative historical record in this area.

It is problematic that even the special procedures enshrined in the Code of Civil Procedure, such as the issuing of payment orders or small value claims, are marked by a hard-to-explain immobility which is antithetical to the need to resolve cases urgently.

As a result, the requirements of speed, which are extremely important in a functioning justice system, are not ensured in the ordinary civil judicial procedure, which represents an unacceptable departure from one of the fundamental principles and desires on which the new Code of Civil Procedure was built in Romania (Put, 2024).

A slow justice system induces and maintains in the minds of the litigants not only the procedural uncertainty of the solution, but also the uncertainty of when it will be pronounced and when the litigation will be finalized. This leads to a decline in public confidence in the efficiency and reliability of the justice system, which is not only a legal but also a social problem.

The tax inspection is the epitome of tax control, the procedural framework in which the effects of rights and the reverberations of tax obligations are intertwined. Lato sensu, tax inspection is "the activity carried out by the competent bodies with a view to establishing the tax situation, identifying the appropriate tax

treatment and verifying the accuracy with which taxpayers fulfill their tax reporting and payment obligations, in accordance with the legislation in force". (Costaş, 2016)

From the perspective of the duration of the tax inspection, the provisions of Art. 126 of the Tax Procedure Code are clear: "(1) The duration of the tax inspection shall be determined by the tax inspection body, depending on the objectives of the inspection, and may not exceed:

(a) 180 days for large taxpayers, taxpayers/payers with secondary establishments, regardless of size, and non-resident taxpayers;

b) 90 days for medium taxpayers;

c) 45 days for other taxpayers.

(1), which does not include the periods of legal suspension of the tax inspection, the tax inspection shall cease, without issuing a tax inspection report and a tax assessment decision or a decision not to change the tax base. In this case, the tax inspection body may resume the tax inspection, with the approval of the hierarchical body superior to the one that approved the initial tax inspection, once for the same period and the same tax liabilities, subject to the provisions of Article 117 paragraph. (1)".

Depending on the nature of the taxpayers and taking into account their classification into large, medium and small taxpayers, the legislator sets the maximum legal duration of the tax inspection. However, tax practice confirms the existence of two circumstances that tend to extend the legal duration: the various suspension periods that the tax authority may impose with unquestionable factual autonomy, and the various cases where the periods laid down by law are exceeded without any effective penalty.

In the case of unannounced inspections and documentary checks, which are other forms of tax inspection which should be carried out quickly, and anti-fraud inspections, the legislature does not lay down the legal time-limits, as it does in the case of tax inspections. As regards the verification of personal tax situation, according to the provisions of para. (6) of Art. 140 of the Tax Code: The duration of the personal tax audit shall be determined by the central tax authority and may not exceed 270 days calculated from the date of commencement of the tax audit.

Taking into account the fact that very often the issuance of the tax assessment decision does not also mark the finalization of the procedures and the finalization of the taxpayer's payment obligations, it is certain that adding the period during which the tax appeal is settled, i.e. the actual duration of the tax judicial process, will lead to a long period of time between the beginning of the tax inspection and the finalization of the court decision, which is likely to seriously affect the desire for speed.

In practice, the impression is that the procedure is accelerated when the tax is to be levied, whereas when the situation is uncertain and a basis for the tax is being sought, the procedure drags on.

Summarizing the elements that describe the specific nature of the matter, we consider that the requirements of celerity are not ensured in the tax procedure in Romania. The situation is even more dramatic if criminal proceedings start and develop in parallel with tax proceedings. Apart from the uncertainty regarding the priority of the procedural institutions, the duality of tax and criminal proceedings also creates uncertainty regarding the duration of tax proceedings, which depends on the duration and outcome of criminal proceedings. In this context, as has been rightly pointed out in the doctrine, several hypotheses of parallel proceedings must be taken into account, the fate and duration of the tax proceedings also depending on the prior determination of tax liabilities by a tax assessment decision, the outcome of the civil action in the criminal tax evasion proceedings, the principle of the uniqueness of the tax inspection (Costaş and Tofan, 2023).

### **3. PROCEDURE BEFORE THE CAS AD HOC CHAMBERS**

The Court of Arbitration for Sport in Lausanne is known and recognized in the international sports and legal world for the specificity of the appeal procedure, which is the one in which, after going through the appeals of the domestic sports procedure, sports disputes of a patrimonial nature are finally settled, at least in principle, and which, in terms of duration, is within the limits of the expectations of the sports world.

In addition to the appeals procedure, the conduct of major international sporting competitions calls for the establishment of specialized 'tribunals' to settle disputes that arise before, in particular in connection with qualification for, or, more particularly, during, such competitions, quickly and in real time.

The CAS Ad-hoc Chamber offers a real model of fast-track justice, while preserving the classical judicial principles of impartiality, adversarial proceedings, active role, etc. It is made up of arbitrators appearing on a special list, a president, a co-president and a Court Bureau. The special list of arbitrators is published before the opening of the Olympic Games. The CAS will set up an ad-hoc Chamber Court Office on the site of the Olympic Games. This office is placed under the authority of the CAS Secretary General. The arbitration will be conducted in English or French.

According to Article 18 of the Rules of Arbitration applicable to the CAS ad hoc Division for the Olympic Games: "*The Panel shall take a decision within 24 hours of the submission of the Request. In exceptional cases, this time limit may be extended by the President of the ad hoc division if circumstances so require*". Article 21 of the same Regulation provides that "*the decision shall be immediately enforceable*".

Thus, built on the model and principles of the arbitration courts, the sports arbitration conducted by the CAS in major sports competitions is the epitome of efficient, swift and real justice, offering solutions in hours rather than years. Therefore, the ad hoc arbitration institutionalized and conducted by the CAS truly

embodies the qualitative and swift justice which, in the common, public procedure, unfortunately remains a mere wish.

#### **4. ARTIFICIAL INTELLIGENCE – BETWEEN SPEED AND QUALITY**

Artificial intelligence is one of the most discussed and disputed topics in public discourse lately. In a world where time is a most precious, irreversible commodity, AI's indisputable advantages, such as quality and speed of execution, standardization and rhythmicity, or the lack of problems that an ordinary employee may have with pay, leave or family issues, make AI a highly tempting option.

With its specific techniques and algorithms, AI seems to be ubiquitous in today's society, taking over and subjugating the vulnerabilities of "Generation X", the world's teenagers.

It has been emphasized that artificial intelligence (AI), as a technological revolution and through its uses, generates multiple and major challenges for human society in general, and for the legal world in particular, with the implications that go with it. It is increasingly also becoming a legal object, and some even a subject of law (Dutu, 2024). After the multiplication of ethical charters and other soft law instruments, particularly international and European, and the transition to the stage of accentuated legality (through national laws or relevant European regulations), the law of artificial intelligence is becoming progressively more consistent and constraining, tending towards an implacable automation.

We are of the opinion that AI falls under the notion of legal object, and not under the legal category called "subject of law" reserved exclusively for human beings, at least in the context of the "classical law" that we know and practice, but this topic remains open in the perspective of the future legal status that will most likely have to be conferred to robots (Put, 2024).

##### **4.1. State of play**

At the moment, the appearance is that artificial intelligence is little emergent in the domestic judicial order. However, reality confirms the incidence of AI in law from many perspectives. Thus, while in the past the judge used to dictate to the court clerk what should be recorded and the clerk typed on a typewriter, today not only does the court clerk use a computer and predefined models of the procedural documents, but, for some years now, audio recordings from the courtroom have also been introduced to ensure the accuracy of the recordings in case the content of the discussions between the persons in the courtroom is at issue.

Then, the accessibility of information on EU legislation, comparative law, pending proceedings, real-time case-file data are major benefits of information technology and progress in informatics (*E.g.* <https://www.curteadeapelcluj.ro/> is

an extremely useful website for litigants and lawyers because it allows not only to track the judicial status, but also to consult the case file, which is scanned and available by using the file number and password communicated exclusively to the litigants).

The legislative programs which allow articles from legislative acts to be directly and quickly retrieved and transposed into procedural documents, in particular into the actual court decisions, and the various websites containing case-law collections are useful for judges, lawyers and legal advisers.

The websites of the various public institutions and of national, European and international courts facilitate effective access for individuals to the legal information necessary for voluntary legal compliance.

## **4.2. Legitimate expectations**

Looking prospectively and realistically, we expect the impact of AI in the common process to grow exponentially in the future. Law is an essentially social phenomenon, created by people for people. Therefore, regardless of the inherent technological evolution, law, according to its primary function, will not be able to be completely robotized, i.e. neither the judge, the prosecutor nor the litigants are substitutable by a robotic surrogate. What could be replaced in the future might not be the decision-maker, but possibly the recorder, the person who records the conduct of judicial proceedings, such as the court clerk.

However, it is doctrinally supported and propagated the so-called theory of transhumanism that anticipates a future combination of humans and machines (robots) that will generate cyborgs that will be *"more capable and powerful than either of them"*, which would emphasize the idea that *"artificial intelligence is the next stage of evolution"* (Craiovan, 2023). From this perspective, it is difficult to predict what this distortion of the human being through and under the influence of technology might look like, and even more difficult to predict what a judicial process might look like in 50 years' time in the USA, Japan, Saudi Arabia or Romania.

Legislative bodies and governments must establish transparent regulatory frameworks for AI. These regulations must delineate principles of ethics, foster transparency mandates, and stipulate the responsibility of these AI systems. Achieving an optimal equilibrium between fostering innovation and safeguarding the rights of individuals is a highly challenging endeavor and requires the training of regulators and lawmakers to understand these technologies. (<https://unu.edu/article/ai-and-law-navigating-future-together>)

From a speed perspective, robotization will also mean speeding up judicial procedures. Algorithms will certainly bring the added speed that the justice system so badly needs, but will they also bring added quality, will they maintain a specifically human empathy, will they be able to achieve a proportioning of circumstances, a highlighting and valorization of the specifics of each case, an

identification of the genuine judicial truth? These are questions to which honest, realistic answers cannot yet be provided.

Despite the fact that a large number of algorithm-based systems are being used in justice, they will not replace the judge in the near future. However, it seems that it is only a matter of time before we see more widespread use of these systems to assist judges in their decision-making. In other words, the role of AI will be that of an adjunct, an assistant in the decision-making process (Pășcui, 2020).

Lastly, at both normative and judicial level, in the specific juris-dictio, not only purely legal, but also moral, religious and social elements must be taken into account. "*Can law be understood without including any necessary reference to those values that it may seem desirable for law to embody, notably morality and justice? Is it possible, in other words, and it is desirable, to identify valid law without reference to other kinds of normative or evaluative standards*"? (Veitch *et al.*, 2018).

## 5. CONCLUSIONS

From the foregoing on the actual implications and impact of AI, it is clear that we are currently at an intermediate stage of evolution in terms not only of the judicial component, but of all the social sectors concerned.

In this context, it is uncertain and impossible to predict how the transition from homo juridicus to homo juridicus roboticus can be made. Ab initio, we can easily predict that the development or generalization of algorithms in the judiciary will certainly speed up proceedings at all levels, but we do not know whether the solutions will also improve in quality.

## References

- 1) Cosmin, F.C. (2016). *Codul de procedură fiscală. Comentariu pe articole*. București: Solomon Publishing House.
- 2) Costăș, F.C. and Tofan, M. (2023). *Drept financiar*. București: Universul Juridic Publishign House.
- 3) Craiovan, I. (2023). *Tratat de teoria generală a dreptului*, 5<sup>th</sup> Ed. București: Universul Juridic Publishing House.
- 4) Dutu, M. (2024). *Inteligența artificială: obiect sau subiect de drept? Aceasta-I întrebarea!* [online] Available at: <http://www.apastyle.org/elecsources.html> [Accessed 14.07.2025].
- 5) Pășcui, G.V. (2020). The algorithms. From the fundamental concept of informatics to the impact on the legal field. *Curierul Judiciar* nr. 6/2020
- 6) Puț, S.I. (2024). *Teoria dreptului*. București. Hamangiu Publishing House.
- 7) Veitch, S. Christodoulidis, E. and Goldoni, M. (2018). *Jurisprudence. Themes and concepts*, 3<sup>rd</sup> Ed. Abingdon: Routledge.