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Mister Chairman, ladies and gentlemen,

In the framework of judicial reform in Romania, Law No. 72/1992 regarding judicial organization, Law No. 56 of July 9, 1993 regarding the Supreme Court of Justice, and Law No. 54 of July 9, 1993 regarding the organization of the military proceedings and courts, have been adopted.

In aid of the law concerning the judicial organization, the Courts of Appeal and the Public Ministry have been re-created, institutions which functioned in the period between the two wars and which exist in the majority of democratic countries, but which were suppressed by the communist dictatorship. In this context it has been necessary to modify the civil, as well as the penal codes of procedure.

The establishment of the competence of the instances is based on the principles of the law on judicial organization, attributing the majority of competence to the courts (of the first instance), the essential link of the legal system.

As a function of the nature and complexity of cases, it has been anticipated that the majority be judged by the tribunals of the first instance and of appeal; others in the first instance, as for example, those of a commercial nature and on appeal, by the courts of appeal.

In a matter of administrative litigation regarding the actions of local administration, competence in the first instance has been attributed to the tribunals, having the right of recourse before the courts of appeal.

For actions of the central administration, competence of the first instance is established with the courts of appeal, having the right of recourse to the Supreme Court of Justice, but without appeal.

As far as the basic distribution of competence is concerned--in the first instance and on appeal--one has to keep in mind that currently there is a network of tribunals of the first instance already formed, to avoid postponing justice for the citizens and charging the cost of the process, requiring a supplementary effort of the state budget.

There has been accorded to the dissatisfied party in the arrest process of the first instance, consistent with the principle of a double jurisdiction appeal stipulated in the law of judicial organization, the right to declare another appeal to another superior instance.

The appeal--an institution that had existed in Romania until the justice reform of 1952--is conceived as a way of recourse by which the the superior instance is authorized, based on the motives invoked by the parties, to proceed to a new judgment of the case which can administer new proof or to examine those administered in the first instance. After this new judgment, the instance of appeal

pronounces a halt which becomes definitive, that is to say, it basically cannot be challenged but can be subject to recourse by legal motives.

Recourse--it is an ordinary path where one can invoke, as a general rule, limited legal motives in the law and permit the controlling instance--to verify the modality of application and how the law has been respected.

After the decision of the recourse or if no party has declared recourse, the arrest becomes irrevokable and cannot be subject to any ordinary way of recourse.

By this method of the regulation of appeal and recourse, the new law gives the parties the opportunity for judicial control, the adopted system being more democratic compared to the previous situation when the state body - the prosecutor's office - was imposed between a party and the instance of judiciary control, which could exercise the discretionary right to use the opportunity to give a way to extraordinary recourse.

In spite of that, dictated by the superior interests of justice, for example to guarantee the existence of an exceptional legal means for eliminating the abuses in justice, to assure a united jurisprudence, of which a unity in the application of the law one introduced again in the code of civil and penal procedure the institutions of recourse in the interest of the law and of recourse in annulment; the last two can be exercised by the general attorney's personal initiative or at the request of the minister of justice.

One must mention that recourse, in the interests of the law envisaged by the Supreme Court of Justice in the reunited section, does not affect the relationships between the implicated parties in a certain case and it is destined to orient the practice of jurisdiction.

The laws on which we ourselves have reported, although they are operated with important modifications in the judicial system of Romania, cannot cover the necessity of elaborating in the future new codes of procedure and of rights, legislative work that will be the final point in the reform of Romanian justice.