General Principles and Challenges of Public Administration Organization in Romania

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ABSTRACT

This study attempted to proceed from the foundations, exhaustively treating the topic of administrative law, and following the imposed thread of country presentations. It addressed several aspects from both theoretical and practical perspectives, primarily considering the case law of the Constitutional Court. Opinions expressed in Romanian doctrine – both post-war and post 1990 – and foreign doctrine were considered and viewpoints, suggestions and *de lege ferenda* proposals were expressed. Regarding Romania, it may be stated that bringing administrative law in step with the times is the merit of the doctrine as well as an intense codification activity in this field of law. Romania's first Administrative Code was adopted in 2019, a unique legislative act in Europe where codes for administrative procedures exist. The Administrative Code establishes a comprehensive approach to Romania's administrative territorial organization and to the organization and functioning of the authorities of local public administration, seeking to clarify the roles, powers, and competences at each administrative territorial level by complying with the principles of decentralisation, subsidiarity, and local autonomy. Citing the works of Neil Armstrong, the head of the NASA Apollo 11 mission in 1969: 'one small step for a man, one giant leap for mankind', the study asserts that it is perhaps a small step for the beginning, however a giant leap towards a more qualitative form of public administration in Romania.

KEYWORDS

Administrative Code, constitutional order, public administration, general principles, administrative territorial unit, administrative reform

1. General social, geographical and economic presentation

Administration may be regarded as a universal and permanent entity, and the large variety in its effectiveness may not be solely explained by the economic or demographic importance of states. It is necessary to consider the structures, mores, and political practices of each nation. Among other things, the administration represents

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a force. This translates the immediate problems, concerns, and aspirations of often heterogeneous national communities.[1]

As a phenomenon, the organization of state administration emerged simultaneous to the state, although scientific theories on it were shaped much later, with the emergence and development of administrative law and science in the 19th century.[2]

A view in administrative doctrine holds that the evolution of the organization of administration in Romania was primarily influenced by military and geographical factors, which in time were supplemented by other factors such as economic, political, cultural, and religious.

Administrative organization is a particular manifestation of a state's specificity and identity. Most often, it represents the result of a long historical evolution marked by national particularities, which consequently appear predestined to resist European influences.[3]

A traditional problem raised by an administrative organization is whether the tasks to be performed are entrusted to a single state administration or distributed between several bodies, each with its own powers, for different portions of the territory.[4]

Research on the organization of public administration requires the study of all bodies formally constituting this system, the relationships between them, the particularities of each component, and applicable principles.[5] Thus, from an organic viewpoint, as a rule, contemporary public administration is characterised by a lack of subordination of local administration to central administration, with the Romanian Constitution and legislation establishing diverse forms of indirect control over local administration, as for example, the procedure of administrative supervision. However, from a material perspective, the acts of local administrative authorities should comply with the norms provided for in acts emanating from central administrative authorities as acts of superior legal force.

Public administration has always been of interest in administrative law and science. Western doctrine has had a different position depending on traditions, the nature of the political regime, the view on the relationship between constitutional and administrative law, and between administrative law and administrative science.[6]

After 1990, the transition from a socialist economy to an economy based on and led by free market forces was complex and relatively difficult to handle, and characterised by the strengthening and emergence of new types of structural, social, and spatial imbalances. Beginning in 1994, the context was further complicated by the

1 Bertrand, 1973, p. 372.
2 Iorgovan, 2005, p. 251.
3 Schwarze, 1996, p. 801.
4 Becet, 1992, p. 23.
5 Bălan, 2002, p. 48.
6 Iorgovan, 2005, p. 249.

emergence of negotiations for European Union (EU) accession,[7] finalised with a series of requirements and conditions which Romania had to comply with to adhere to the EU (institutional, legislative, and territorial/regional requirements). The primary condition for EU access was the establishment of development or (statistical) planning regions which represented the basis for implementing cohesion and regional development policies.

In Romania, regional policies led to the formation of eight development regions created in 1998 by the Law on Regional Development, which were included in the Eurostat system and the NUTS.[8] To receive financing through the cohesion policy, regions are evaluated using economic and social indicators (the most important being GDP per capita). Compared with the average value of the above indicator, there are important discrepancies between development regions in Romania and those in the EU, as seven of the eight regions present gross domestic product (GDP) values below the European average, except the Bucharest-Ilfov region, which has a value that exceeds the community average.[9]

Historically, regions have played a secondary role within the framework of territorial reforms, as counties represent the primary territorial administrative units. In 1925, aiming at common economic interests and to render public services more efficient, the Law on administrative unification allowed counties to associate and form 'regions' coordinated by a management council comprising delegates appointed at the level of each county. Subsequently, the Law on the Organization of Local Administration was adopted (1929), which is considered the first law aimed at the decentralisation of administrative territorial units in Romania. Consequently, seven administrative centres and local inspections were established (with headquarters in Bucharest, Cernăuţi, Chişinău, Cluj, Craiova, Iaşi and Timişoara).[10]

During 1929-1931, decentralisation of the central power was one of the objectives of regional policies. To this end, seven superior regional structures with legal personalities were established and coordinated by seven local ministerial directorates.[11]

7 The *acquis communautaire* related to Chapter 21 'Regional policies and the coordination of structural instruments' did not define how the structures specific to the actual administration of structural funds should have been created, however, left it to Romanian authorities. To access funds, Romania had to have an adequately implemented system by the date of accession (01.01.2007). On the date of EU accession, it should have complied with the following requirements: adequate legislative framework, a territorial organization compatible with that of EU member states, programming capacity, financial and budgetary administration. Romania should have provided information regarding its co-financing capacity and the level of public or equivalent spending related to structural actions.

8 EU Nomenclature of Territorial Units for Statistics (NUTS). Level NUTS 2 represents the region which forms the basis for the implementation of cohesion and regional development policies in the EU.

9 Eurostat: Regions and cities Illustrated (RCI) [Online]. https://ec.europa.eu/eurostat/cache/RCI/#?vis=nuts2.economy&lang=en (Accessed: 1 February 2023).

10 Săgeată, 2012, p. 34.

11 Although this formula could have been viable (it respected rather faithfully the historical regions, with a proportionate urban network at territorial level), it was abolished in 1931.

From 1938, the Constitution introduced a new type of political organization of the Romanian state and a new administrative law which established a new type of region, called 'province'. Thus, ten provinces were established which had the role of 'administrative territorial constituencies' with legal personality. The actions of the central authorities in the region were supervised within these provinces, and they sustained local interests. The ten provinces were: Olt, with its seat in Craiova, Bucegi (Bucureşti), Mării (Constanţa), Dunărea de Jos (Galaţi), Prut (Iaşi), Mureş (Alba Iulia), Someş (Cluj), Timiş (Timişoara), Nistru (Chişinău), şi Suceava (Cernăuţi).[12]

The 1968 Constitution abandoned the concept of provinces and established counties[13] as basic administrative territorial units in addition to municipalities and towns (subunits). At that time, it was considered that the introduction of counties in place of provinces was the primary solution for increasing the efficiency of the rational administration of the territory.

Romania's territorial policy was characterised by a high level of administrative territorial instability until 1968,[14] which was followed by a high level of centralisation secondary to a reduction in the number of villages/communes (through mergers) and an increase in the number of towns (as a result of industrialisation).

After 1968, industrialisation became the primary factor with the highest impact on territorial development in Romania, and the location of industrial capacities in the vicinity of raw material sources determined an increase in the level of urbanisation and full use of the local labour force.[15]

After the fall of communism, the new Constitution of 1991[16] and Law No. 69/1991 on local public administration maintained the county as the basic administrative territorial unit (in addition to municipalities, towns, and communes), representing the central element of economic development and territorial planning policies. The increased number of administrative territorial units in Romania (the number of municipalities had increased by approximately 2,2 times and that of towns by 1,15 times) was primarily determined by an increase in population from 19,72 million inhabitants (1968) to 20,12 million inhabitants in 2011. According to preliminary data from the Population and Housing Census from 2021 presented by the National Institute of Statistics at the beginning of 2023, the resident population

12 Antonescu, 2003, p. 53.

13 Article 15 of the Romanian Constitution from 1968: 'The territory of the Romanian Socialist Republic is organised in administrative-territorial units: counties, towns and communes. Bucharest municipality is the capital which is divided into sectors. More important towns may be organised as municipalities'.

14 With less important modifications in 1981, 1989, 1990, 1993, 1996. After 1996, the country was divided into 42 counties (41 counties and Bucharest municipality which, although holding a special administrative status, is named municipality).

15 For details see Săgeată, 2004, 2006 and 2011.

16 Article 3 (3) of the Constitution from 1991: 'Administratively, the territory is organised in communes, towns and counties. Under the terms of the law, certain towns are declared municipalities'.

of Romania has decreased to 19,05 million persons compared with the last census from 2011.[17]

After the regime change in 1990, fragmentation increased at the local level through the establishment of 173 communes, 13 towns, and 47 municipalities. Communes were established through their separation from certain existing ones; in the majority of cases, based on historical antecedents, others were declared towns, whereas some towns were declared municipalities if complying, in the majority of cases, with the minimal requirements of urban status.[18]

At present, the composition and name of administrative territorial units, municipalities that are county seats, and villages that are communal seats are established in Law No. 2/1968 on the administrative organization of Romania's territory. According to the 1991 Constitution and the specific legislation in force,[19] the territory is organized into counties, municipalities, and communes. The present constitutional provisions allow for the preservation of the administrative territorial organization from 1968 (Law No. 2/1968), as the territory of the country comprises 41 counties, in addition to the Bucharest municipality.

Counties are administrative territorial units comprising communes, towns and, as the case may be, municipalities, depending on the geographical, economic, social, ethnic conditions and the cultural and traditional bonds of the population, declared as such by law, according to Article 101 of Emergency Government Ordinance No. 57/2019 on the Administrative Code.

Localities may be urban or rural, depending on the proportion of the labour force employed in agricultural or non-agricultural activities, and the importance and socio-oeconomic influence on its neighbourhoods. The law establishes a series of indicators for urban localities differentiated by municipalities and towns, of which the number of inhabitants is the most important (at least 25.000 inhabitants for municipalities and at least 5.000 inhabitants for towns).[20] Towns and communes are basic administrative territorial units (as a rule comprising several localities). In addition to towns and communes, there are other types of units, such as metropolitan areas, which are independent, have legal personalities, and are formed by means of voluntary association of basic administrative territorial units.

Communes are basic administrative territorial units which comprise a rural population united by a community of interests and traditions constituting one or more villages, depending on their economic, social, cultural, geographical, and

17 For details regarding preliminary data of the Population and Housing Census from 2021, see Institutul Naţional de Statistică, 2022.

18 See Se schimbă legea organizării administrativ-teritoriale a României, 2016.

19 The territorial-administrative reorganization of Romania is discussed since 2010, however, the political factor has not assumed this reorganization so far, see for example Reorganizarea administrativă a României – din 42 de județe vor rămâne doar 15 [Online]. Available at: https://www.refleqtmedia.ro/reorganizarea-administrativa-a-romaniei-din-42-de-judete-vor-ramane-doar-15/ (Accessed: 3 February 2023).

20 According to Law No. 351/2001 on the approval of the National Territorial Development Plan – Section IV. The network of localities.

demographic conditions. The economic, social, cultural, and household development of rural localities is ensured through the organization of communes. Communes may comprise several rural localities, called villages, that do not have legal personalities. A village where the communal public administration authorities have seats is a village-communal seat.

Towns are basic administrative territorial units declared by law, based on fulfilling the criteria provided by legislation on national territorial development. Towns are administrative territorial units comprising at least one urban locality, and may also comprise rural localities called dependent villages.

Municipalities are administrative territorial units declared under law. Municipalities are composed of residential, industrial, and business areas, with multiple buildings having administrative, industrial, economic, political, social, cultural, and scientific functions aimed at serving the population of a geographical area which is wider than its administrative limits and situated as a rule in an area larger than that of the town. In municipalities, administrative territorial subunits may be created, which are delimited and organized according to the law. The Bucharest municipality is divided into six administrative territorial subunits, called sectors.

Counties are administrative territorial units comprising communes, towns, and, in some cases, municipalities, depending on the geographical, economic, social, and ethnic conditions and the cultural bonds and traditions of the population, as declared by the law.[21]

In addition to mayors (executive authorities), local, communal, town, and municipal councils, which are deliberative authorities, play important roles in the management of the administrative territorial units through which local autonomy is accomplished.[22]

Organization of the territory in large administrative regions has not yet been implemented in Romania. Most initiatives were annulled, protracted, or reviewed. The primary reason for this is the lack of a real sense of belonging to the idea of regions (and all that is entailed).

In conclusion, evolutions in the field of administrative territorial reform were, in particular, the consequence of political will and geopolitical evolution. Correlated and integrated with economic and social changes, administrative reforms sought to create territorial structures which would contribute to enhanced efficiency in the implementation of measures and actions designed to reduce economic, social, and other imbalances between regions, as well as better overall control over these imbalances. The impact of these reforms was reflected in a series of phenomena which entailed both quantitative (reduction or increase in the number of counties, communes, towns, and their surfaces) and qualitative (renaming certain towns, establishing new categories of administrative territorial units, etc.) adjustments.

21 According to the provisions of Articles 98-101 of the Administrative Code.

22 The powers and competences of local public deliberative and executive authorities (local council, mayor, county council, president of the county council) are presented in detail in Article 105-276 of the Administrative Code.

At present, we are witnessing new solutions aimed at a territorial-administrative reorganization which should proceed from a correct understanding of the past, of the origins of inequalities that have never been eliminated but have perpetuated and sometimes even strengthened. Thus, the reduction of territorial inequalities could be the consequence of a real, stable, gradual, predictable, and transparent decentralisation process based on objective criteria and rules, by ensuring the necessary resources for the exercise of powers transferred to the local level, on equity, participative democracy, as well as an efficient and effective spending of financial resources.

2. Public administration and constitutional order

Once the separation of powers was established, administrative norms acquired distinct importance. Thus, in literature it is considered that administrative law had emerged as a branch of law 'after the introduction of the principle of the separation of powers into the Constitution of the United States of America (1787) and the French Constitution (1791)'.[23]

The large majority of contemporary legal systems enshrine the separation of powers, understood as delimiting legislative, executive, and judicial functions within the activities of a state. The legislative function is fulfilled by the parliament as the sole legislative authority. This function involves the adoption of laws that comprise the impersonal and mandatory norms of social conduct. Its original character distinguishes the legislative function from other state functions, as laws are an expression of the will of the representative body established at the national level, benefiting from a superior legal force compared with other legal norms, with the legislative function emerging as a direct manifestation of the people's sovereignty.[24]

The objective of the executive function is the organization and actual implementation of laws, ensuring the proper functioning of public services established for this purpose, as well as issuing normative and individual acts or conducting material operations by which there is an intervention in the life of individuals to channel their activity or to provide them with certain services.[25] This function of the state is fulfilled by public administration (president, government, ministries, local authorities, public institutions).

The objective of the judicial function is the resolution of conflicts arising in society in relation to the application of laws and it is fulfilled by courts of law 'through decisions having the force of *res judicata* within the framework of a public and adversarial procedure'.[26]

23 Prisăcaru, 2002, p. 18.
24 Drăganu, 1993, p. 100.
25 Petrescu, 1997, p. 6.
26 Petrescu, 1997, p. 7.

2.1. The characteristics of Romanian administrative law

Administrative law is a branch of public law which comprises legal norms regulating social relationships concerning the organization and functioning of public administration based on and for the enforcement of the law.[27] To complement the definition of the notion of administrative law, we shall mention a synthetic definition which specifies that 'in countries following the Roman tradition, administrative law is understood as the totality of specific rules applying to administration'.[28]

The Constitution is the fundamental law of the state, and it is a source of administrative law with supreme legal force, as all other legal acts must comply with it.[29] To underline that the Constitution is a source of law, in doctrine, it used to be emphasised that it is a 'direct or indirect source of all the prerogatives of public administration'.[30] Thus, by analysing the constitutional provisions and speciality literature, we consider that the following categories of norms are direct sources of administrative law:[31] 1) provisions on the organization and functioning of the most important public administrative authorities – president (Title III, Chapter II of the Constitution), government (Title III, Chapter III of the Constitution), speciality central public administration (Title III, Chapter V, Section 1 of the Constitution) and local public administration (Title III, Chapter V, Section 2 of the Constitution), People's Advocate, Court of Auditors; 2) norms on the fundamental rights and obligations of citizens, the recognition and exercise of which imply the intervention of public administrative authorities (e.g. the provisions on citizenship (Title I, Article 5 of the Constitution), the right to life, freedom of expression, the right to vote, to strike, to petition, to information, free movement, and the right of a person injured by a public authority (Title II, Chapter II of the Constitution); and 3) norms concerning the relationships between public administrative authorities and other authorities and the relationships between public administrative authorities and citizens.

Within the Romanian constitutional regime, the central administration comprises the president, government, speciality central bodies (ministries, other bodies under the government or ministries, and autonomous administrative authorities), and central public institutions under the ministries or autonomous administrative authorities (including autonomous economic entities and national companies).

Following the French doctrine model, the current Romanian doctrine is dominated by the argument that the Romanian constitutional system has enshrined a double executive, comprising the Romanian president and the government, headed by the prime minister.[32]

The Romanian president has a series of administrative and political powers, however, most of them are contingent either on the Parliament's (previous or

27 Petrescu, 1997, p. 18; Iorgovan, 2005, p. 130.
28 Schwarze, 1994, p. 111.
29 Petrescu, 1997, p. 20.
30 Iorgovan, 2005, p. 132.
31 Apostol Tofan, 2003, p. 50.
32 Iorgovan, 2005, p. 69.

subsequent) intervention, the government's or the prime minister's proposal, or on the proposal of the Superior Council of Magistracy. The government is a collegiate body that forms the executive power specific to any parliamentary regime in addition to the head of state or president, as the case may be. Within the executive, the balance may be inclined towards a unipersonal body represented by the head of state or towards a collegiate body represented by the government. However, irrespective of the pre-eminence of one of the above two bodies, there are constant tasks that are only incumbent on one, as competencies may only be exercised together. Thus, the task of 'mediating between state powers' belongs to the president or the constitutional monarch, the management of administrative activities to the government, while tasks such as those regarding the conclusion of international treaties or appointing ministers emerge as a result of their collaboration.[33]

2.2. The general principles of administrative organization

Three solutions have been imposed on the organization of the administration: administrative centralisation, administrative deconcentration, and administrative decentralisation. These are also called the general principles of administrative organizations, and they determine the relationships between central and local administrative authorities from the perspective of their organization.

– Administrative centralisation entrusts all administrative powers to central management. In a regime in which this system of administrative organization is applied, administrative territorial units do not have a legal personality and are strictly dependent on central power, being limited to the execution of instructions. The hierarchical control exercised over the activity of inferiors is specific to centralised systems. It may take two forms: a direct form, when orders are given directly by the government or central power, and an indirect form, when the agents of the centralised power convey their orders to the government as its agents.[34] As an example of centralisation, in Romania, certain central institutions are subordinated to a ministry (e.g. the National Agency of Civil Servants functions under the authority of the Ministry of Interior Affairs).

– Administrative deconcentration is a variant of centralisation, characterised by the fact that the local representatives of the central power confer certain decision-making rights; however, in reality, it is the state that decides, not at the level of the central authority, but directly in the administrative territorial units. The central bodies continue to exercise hierarchical control over their territories. In Romania, the external services of ministries in the territory are deconcentrated into general directorates, inspectorates, and agencies.

– Administrative decentralisation comprises the transfer of some attributes of various central authorities to institutions that operate in administrative-territorial units and even local communities. Public administration has become more efficient

33 Vrabie and Bălan, 2004, p. 214.
34 Auby and Ducos-Ader, 1971, p. 83.

and operative through decentralisation, and the problems that the population is interested in are no longer solved in the institutions of the central administrative authorities, but at lower levels under conditions of opportunity and increased operability. This principle is enshrined in the Constitution. According to Article 120 (1) of the Romanian Constitution, public administration in administrative-territorial units is based on the principles of decentralisation, local autonomy, and the deconcentration of public services.

In Romania, administrative decentralisation is of two types:

– Territorial decentralisation implies the right of a local community to be integrated into a greater community, which has the right to manage itself through its own means. Decentralised bodies enjoy autonomy in managing local necessities, however, are not independent. State control is exercised through administrative tutelage. As opposed to hierarchical control, administrative supervision is exercised only in cases expressly stipulated in the law and only by bodies expressly indicated in the law, and it only concerns the legality of administrative acts and not their appropriateness. In Romania, administrative supervision is jurisdictional; that is, it is reduced to the right of the supervisory body (the prefect) to apply to the administrative court.

– Decentralisation may also be by services, when public services are removed from the authority of central bodies and organized autonomously, assigning them their own management bodies and a patrimony that is distinct from that of the authority it has been removed from. The Administrative Code introduced fundamental principles and general rules, as well as an institutional framework for conducting the administrative and financial decentralisation process in Romania.

According to the Administrative Code, decentralisation is the 'transfer of administrative and financial powers from the level of central public administration to the level of public administration in administrative territorial units, together with the financial resources necessary to their exercise'.[35]

According to the Administrative Code, the decentralisation process is conducted according to the following principles:[36]

a) The subsidiarity principle involves the exercise of powers by the local public administrative authority from the administrative level closest to the citizen, which has the necessary administrative capacity.
b) The principle of ensuring adequate sources for the powers transferred.
c) The principle of the liability of local public administrative authorities in relation to their respective powers imposes an obligation to comply with the application of quality and cost standards in the provision of public services and utilities.
d) The principle of ensuring a stable and predictable decentralisation process based on objective criteria and rules does not constrain the activities of local public administrative authorities or limit their local financial autonomy.

35 According to Article 5 (x) of the Administrative Code.
36 According to Article 76 (a-e) of the Administrative Code.

e) The principle of equity implies the provision of access to public services and utilities for all citizens.

2.3. Administrative litigation and rule of law

In Romania, the institution of administrative litigation represents 'the democratic form for the remedy of breaches committed by administrative bodies and authorities, for limiting their arbitrary power, for granting the individual rights of those under their administration' or, more synthetically, 'the legal form of protecting individuals – natural persons or legal entities – from any abuse coming from public administrative authorities'.[37] Therefore, synthetically, administrative litigation represents the totality of legal rules concerning the settlement of administrative disputes in court, through legal proceedings.[38]

Romanian administrative litigation is governed by the provisions of the Constitution, general law on administrative litigation, and special laws.

Thus, Article 52 (1) of the Constitution describes the essence of this legal institution: 'persons injured in their rights or legitimate interests by a public authority by means of an administrative act or by failure to solve a petition within the statutory deadline are entitled to achieve the recognition of their alleged right or legitimate interest, the annulment of the act and remedy for the damages'. Paragraph 2 of the same constitutional text specifies that organic law should establish the conditions and limits for exercising this right.

The term 'injured person' is defined as any person holding a right or legitimate interest, injured by a public authority by means of an administrative act, or by failure to solve a petition within the statutory deadline. Groups of natural persons without legal personality, holders of certain private rights or legitimate interests, as well as social organizations that allege the infringement of either a public legitimate interest or of the rights and legitimate interests of certain determined natural persons by the contested administrative act are assimilated to injured persons.

Within the meaning of the concept of injured persons, two distinct parts can be identified.

– The injured person is, primarily, a natural person or legal entity holding a (subjective) right, with legal capacity and standing. Natural persons have standing in administrative litigation even if they do not hold Romanian citizenship, as the law makes no distinction to this end.[39] Natural persons or legal entities may also be injured in their rights as a result of administrative silence or an unjustified refusal to resolve their petitions, as these administrative deeds are assimilated into administrative acts.

37 Petrescu, 2001, p. 327.
38 Auby and Auby, 1996, p. 251.
39 See the Supreme Court of Justice, Administrative litigation section, Decision No. 2632/2000, Decision No. 1800/2000, in *Buletinul Jurisprudenței Curții Supreme de Justiție, 2000,* pp. 592, 752.

– Natural persons are also associated with the injured persons. The intention of the legislature was to create a type of collective action based on the community of injured rights and interests jointly exercised by several natural persons. In this case, we are in the presence of an objective administrative dispute which seeks the annulment of the concerned administrative act based on public interest. As for other aspects, this action is assimilated into the judicial actions of natural personnel or legal entities injured in their rights. Consequently, the timelines for submitting an application and preliminary administrative procedures are the same. However, we consider that certain elements of actions submitted by injured natural persons or legal entities are not applicable, which primarily concern the possibility of claiming damages (damages may only be claimed within subjective administrative disputes when private, personal rights, and interests are injured). Only legal expenses could be claimed. Moreover, the illegal character of the contested administrative act shall be objective, affecting its objective legality, and not subjective, based on the infringement of the subjective right of the social organization.

The notion of interested social organizations is defined in Article 2 (1) letter s) of Law No. 554/2004 on administrative litigation: non-governmental structures, trade unions, associations, foundations, and other similar organizations involved in the protection of the rights of different categories of citizens or, as the case may be, the adequate functioning of public administrative services.

However, to the benefit of natural persons, for the first time the law regulates an action submitted by the People's Advocate. Thus, upon review by the People's Advocate according to its own organic law, the illegal character of the act or the refusal of the administrative authority to fulfil its legal powers can only be eliminated in court; the People's Advocate may submit an application to the administrative court that is competent according to the applicant's domicile. The petitioner acquires *de jure* the capacity of the claimant, and he/she shall be summoned in this capacity. If the petitioner does not endorse the action submitted by the People's Advocate at the first hearing, the administrative court annuls the application.[40]

During the process of adopting the law, the People's Advocate and the government have criticised the draft law in their opinions, considering that the institution concerned may not substitute itself for citizens in the exercise of their procedural rights, it may not take over the interests of citizens as doing so would contradict the spirit of this institution originating from the institution of the Nordic and European Ombudsman, which acts in accordance with non-adversarial ethics standards when solving petitions, using the procedure of mediation to this end, without beginning a lawsuit.[41] However, in Decision No. 507/2004, the Constitutional Court deemed the text unconstitutional.[42]

40 According to Article 1 (3) of Law No. 554/2004 on administrative litigation.
41 Iorgovan, 2004, pp. 48–55.
42 Published in the Official Journal of Romania No. 1154/07.12.2004.

Similarly, the law regulates the possibility of the Public Prosecutor's Office filing an administrative litigation application on account and behalf of natural persons and legal entities. Thus, when following the exercise of its powers provided for by its organic law, the Public Prosecutor's Office considers that the violation of the persons' rights, freedoms, and interests is because of the existence of certain individual unilateral administrative acts issued by public authorities misusing their power. It resorts to the administrative litigation court from the domicile of the natural person or the seat of the legal entity injured, with their prior approval. By law, the petitioner acquires the capacity of the claimant and is summoned to this capacity.

It is similar to that available to the People's Advocate, with the difference that the People's Advocate may only act on behalf of natural persons and not on behalf of legal entities. The object of the application is an administrative act issued with the misuse of power by a public authority and not an unjustified refusal to solve a petition or administrative silence. Therefore, the contested act may be issued not only by administrative authorities, but by any public authority, that is, by 'any state body or a body of an administrative territorial unit that acts in the exercise of public power', as well as by private legal entities which have obtained public utility status according to law or are authorised to provide a public service as persons assimilated to public authorities according to law.[43]

Analysing the legal provisions, we may conclude that the Public Prosecutor's Office becomes the protector of the rights and freedoms of natural persons and legal entities from possible abuse by public administration.

Simultaneously, based on the provisions of Article 1 (8) of Law No. 554/2004 on administrative litigation,[44] public authorities will be able to act in administrative litigation as representatives of a public legal entity if a subjective right provided by law to the benefit of the public legal entity has been injured, or by themselves if a public interest has been injured.

We are in the presence of a subjective dispute if the rights of a public legal entity are injured, and in the presence of an objective dispute if the object of the application is the annulment of a normative or individual administrative act.

Only public authorities that have the power to represent a public legal entity in court will be able to file applications on behalf of that public legal entity and no other administrative bodies or institutions that manage the assets of the concerned legal entity. For example, the mayor may act on behalf of the commune, however, the local council or institution under it may not.

The institution of administrative tutelage is an established concept in administrative law, representing the control exercised by central bodies over decentralised, autonomous local bodies. Law No. 554/2004 on administrative litigation regulates the right of the prefect to challenge the acts issued by local public administrative

43 According to Article 2 (1) (b) of Law No. 554/2004 on administrative litigation.

44 'The Prefect, the National Agency of Civil Servants and any other subject of public law may submit administrative actions under the conditions of the law herein and of the special laws.'

authorities in administrative courts within the time limits provided for by law if they consider the acts concerned illegal and the possibility of the National Agency of Civil Servants challenging the acts of central and local public authorities which violate the legislation concerning public functions under the conditions of the law. In both cases, the challenged act was suspended until the case was resolved.

3. The organization and functioning of public administrative authorities

3.1. General principles applicable to public administration

The organization and functioning of public administrative authorities are regulated primarily by the Administrative Code.[45]

The general principles applicable to public administration are as follows:[46]

a) The principle of legality: public administrative authorities and institutions as well as their personnel are obligated to act in a manner that complies with legal provisions in force and international treaties and conventions to which Romania is a party.
b) The principle of equality: the beneficiaries of the activities of public administrative authorities and institutions are entitled to be treated in an equal, non-discriminatory manner, correlative with the obligation of public administrative authorities and institutions to treat their beneficiaries equally, without discrimination, based on the criteria provided for by law.
c) The principle of transparency: in the process of elaborating normative acts, public authorities and institutions shall inform and submit to public consultation and debate draft normative acts and allow citizens access to the process of administrative decision-making as well as to data and information of public interest within the limits of the law. The beneficiaries of the activities of public administrative authorities have the right to obtain information from public administrative authorities and institutions, while the latter ones have the correlative obligation to provide information to their beneficiaries, *ex officio* or upon request, within the limits of the law.
d) The principle of proportionality: the activity of public administrative authorities shall take a form that is adequate to satisfy the public interest, and it shall be balanced from the perspective of its effect on persons. The regulations or measures of public administrative authorities are initiated, adopted, and issued only upon evaluation of public interest needs or problems, as the case may involve risks and the impact of the solutions proposed.
e) The principle of satisfying public interest: public administrative authorities and institutions, as well as their personnel, should pursue the satisfaction of

45 Emergency Government Ordinance No. 57/2019 on the Administrative Code was published in the Official Journal No. 555/05.07.2019.
46 According to Articles 6-13 of the Administrative Code.

the public interest before individual or group interests. National public interest is prioritised over local public interest.

f) The principle of impartiality: staff employed in public administration should exercise their legal powers without subjectivism, irrespective of their own beliefs or interests.
g) The principle of continuity: public administration is exercised without interruption in compliance with legal provisions.
h) The principle of adaptability: public administrative authorities and institutions should satisfy societal needs.

3.2. Specific principles applicable to the central public administration

3.2.1. The government

As for the government, in state practice, it is impossible to preponderantly delimit political and administrative powers, considering that the Constitution does not comprise a list of its powers, as opposed to the president, whose powers are enshrined in the Constitution.

Thus, Article 102 (1) of the Romanian Constitution only provides for the government's role in ensuring the accomplishment of internal and external policies and exercising the general management of public administration. The fundamental reason for the government is to ensure the accomplishment of the internal and external political lines of the country, which, from a legal perspective, materialise in the initiation of draft legislation and the adoption of decisions for their implementation, whereas the aim of public administration, whose general management is conducted by the government, is exactly the attainment of these political values.

A distinct chapter in Title III of the Constitution (Public authorities) is dedicated to the relationship between the parliament and government. The government's political role is evident, and it is not expressed in the purely executive sphere but also by means of collaboration with other public authorities, particularly with the legislative authority, for example, in the case of legislative initiatives and legislative delegation.[47]

Exercising the general management of public administration represents the government's command role, by virtue of which measures approved for the achievement of its political role should be implemented. Thus, we find ourselves in the presence of a new constitutional concept concerning the delimitation of executive power and administration, and the correlation of the state's executive function with its accomplishment through the entire public administration, whether state administration or administration pertaining to the administrative authorities of local communities, is highlighted.[48]

Regarding the government's role in exercising the general management of public administration, we note that, in the present Romanian constitutional order, the

47 Iorgovan, 2005, p. 71.
48 Vida, 1994, pp. 86–89.

government has the following administrative relationships: above ministries (or other speciality bodies with the rank of ministry), collaboration with autonomous administrative authorities, and administrative supervision in relation to deliberative authorities elected at the local level. Thus, the government has a general material competence. Article 102 (2) of the republished Romanian Constitution enshrines a general principle that governs the government's activity, that is, cooperation with interested social organizations to perform their duties. Thus, the principle of government transparency is highlighted, which means that the government is neither above civil society nor severed from it.[49]

The government has to cooperate with the representatives of civil society, with public opinion, and it not only has to conduct a demanding activity in its relationship with the parliament, but also with diverse social organisms, trade unions, parties, religious denominations, working together with them and receiving the signals they emit to the executive as exponents of civil society, for the executive to debate and solve certain problems.[50]

The Romanian Constitution uses the concept of government in a restrictive sense; that is, it only refers to the part of the executive power that comprises all the ministers headed by the prime minister, excluding the head of state.[51]

Article 102 (3) of the Romanian Constitution describes the government's structure. From the formulation of the Constitution, it follows that the aim was to regulate the government without an internal hierarchy. Equal legal relationships between all its members are established, including in relation to 'those established by organic law'.[52]

In the absence of a constitutional or organic norm which would specify the number of government members, this number is explicitly set by the decision of the parliament, that is, by the decision to grant a vote of confidence to the government or the decision to approve the modification of the government's structure or political composition as a result of a government reshuffle.

With regard to the composition of the government, substantial modifications may occur at the ministerial administration level at any time, particularly for economic reasons. These aspects are strictly related to the success or failure of a government, and the assumption is that any prime minister should have the ability to mark the optimum governmental formula for achieving the proposed governmental programme.[53]

In the Romanian Constitution, the investment procedure is provided in Article 85 (1), in conjunction with Articles 103 and 104.

Initialised and finalised by the Romanian president, according to Article 85 (1), the investment procedure infers four well-defined procedural phases, however,

49 Constantinescu et al., 1992; Iorgovan, 2005, p. 226.
50 Duculescu, Călinoiu and Duculescu, 1997, pp. 299–304.
51 Petrescu, 2004, p. 90.
52 Preda and Vasilescu, 2007, p. 71.
53 Apostol Tofan, 1997, p. 39.

their weight in its effective accomplishment falls to parliament through the vote of investment. Thus, the fundamental rule of government formation is subject to the acknowledgement that a government may not be invested in and cannot function without parliamentary support.[54]

The four phases of the government's investment are as follows: designating the candidate for the function of prime minister, requesting a vote of investment, granting a vote of confidence by the parliament, appointing the government, and finalising by taking the oath. The decision of the Parliament to grant a vote of confidence shall be communicated to the Romanian president, who will issue a decree for the appointment of the new cabinet.

The appointment of the government's members by the Romanian president is not an 'investment', but a confirmation and nomination of the investment made by the parliament. The 'investment scrutiny' procedure does not affect the content and sphere of subsequent parliamentary control at all, considering that the Parliament does not 'approve' the governmental programme, but only 'accepts' it in principle, as argument of the investment.[55]

Within the complex constitutional relationship that defines the relationship between the government, Parliament and the Romanian president, the relationship with the Parliament is essential, considering that the government is invested in and disinvested with the vote of the Parliament, a trait specific to parliamentary regimes. Therefore, in a parliamentary regime, the position of the government is essentially specific to the cabinet.

Regarding solutions, Romanian political life has been imposed and experimented with according to the Constitution, and different versions concerning the government's composition, structure, and internal organization have been adopted.[56]

3.2.2. Ministries and autonomous administrative authorities

In Romania, ministries form the second level of the public administrative system and are the central speciality bodies that manage and coordinate public administration in various fields and branches.

Their number is determined by the volume of public administrative tasks in different fields of activity as well as by the political ideas and interests of those in the government. Ministries fulfil their management and organizational tasks based on and under the conditions set by law.

The Romanian Constitution has a distinct section concerning the speciality of central public administration in Chapter V, dedicated to public administration.

According to Article 116 of the Constitution, ministries are organized only under the government, whereas other speciality bodies may be organized under the government, ministries, or autonomous administrative authorities. According to Article 117

54 Vida, 1994, pp. 86–89.
55 Deleanu, 2006, p. 652.
56 Preda and Vasilescu, 2007, p. 71.

(1) of the Constitution, ministries are established, organized, and function according to law. Consequently, the doctrine listed several possibilities: the adoption of an organic law[57] which would represent the sole source in the field for all ministries, the adoption of a framework law followed by special norms for each ministry, or the adoption of a special law for each ministry. However, since we are dealing with an ordinary law, as it is indicated, an ordinance[58] could also be adopted instead.[59]

Ministries and ministers are approved by the Parliament by granting a vote of confidence to the government programme and to the entire government list upon investigation, while the prime minister may request the Parliament to modify the government's structure by establishing, dissolving, or, as the case may be, dividing or merging certain ministries that are subject to parliamentary vote.

It follows from the provisions of the law that special laws are only necessary for the organization and functioning of ministries related to national defence and public order. Ordinances may be adopted if the government is empowered to this end, whereas the adoption of government decisions is sufficient for other ministries. Moreover, the law specifies the power of the government to approve, by decision, the role, functions, powers, organizational structure, and number of posts within ministries, considering their importance, volume, complexity, and specific characteristics.

57 According to Article 73 (1) of the Constitution, the Parliament adopts constitutional, organic and ordinary laws. Constitutional laws are those revising the Constitution. Organic laws regulate a limited number of aspects considered fundamental for the organization and functioning of the state. Among the areas reserved for organic laws are the electoral system, the functioning of political parties, the organization of referendums, the state of siege and the state of emergency, the legislation on labor relations, the status of national minorities. Domains not reserved for organic laws belong to ordinary laws. Thus, the Constitution stipulates that organic laws are adopted only in certain express domains, and the rest of the domains are reserved for ordinary laws. Most of the laws in Romania are adopted in the field of ordinary laws, because organic laws are reserved for some exclusive domains of major importance.

58 According to Article 115 (1) of the Constitution, the Parliament can adopt a special law empowering the government to issue ordinances in areas that are not the subject of organic laws. The enabling law will mandatorily establish the scope and date by which ordinances can be issued. If the enabling law requires it, the ordinances are subject to Parliament's approval, according to the legislative procedure, until the end of the enabling term. Failure to comply with the deadline results in the cessation of the effects of the ordinance. The government can adopt emergency ordinances only in extraordinary situations whose regulation cannot be postponed, having the obligation to justify the urgency within them. The emergency ordinance enters into force only after its submission for debate in the emergency procedure to the competent Chamber to be notified and after its publication in the Official Gazette of Romania. The chambers, if they are not in session, must be convened within 5 days of submission or, as the case may be, of sending. If, within no more than 30 days after submission, the notified Chamber does not rule on the ordinance, it is considered adopted and sent to the other Chamber, which also decides in emergency procedure. The emergency ordinance containing norms of the nature of the organic law is approved by the vote of the majority of the members of each Chamber. Emergency ordinances cannot be adopted in the field of constitutional laws, they cannot affect the regime of the fundamental institutions of the state, the rights, freedoms and obligations provided for by the Constitution, electoral rights, and they cannot target measures for the forced transfer of assets into public ownership.

59 Vida, 1994, p. 129.

Article 117 (3) of the Romanian Constitution establishes the principle that autonomous administrative authorities can be established by organic law. These structures are not directly under governmental authority. As a rule, their management is appointed by the Parliament that submits activity reports which are subject to parliamentary debate and approval.[60] The actual names of autonomous administrative authorities differ from one authority to another, such as council, service, commission, court.

The structure and management of autonomous administrative authority can be collegiate or unipersonal. For example, among the autonomous administrative authorities, we list the following: the Supreme Defence Council of the Country, the Romanian Intelligence Service, the Foreign Intelligence Service, and the Protection and Guard Service. All these autonomous administrative authorities, whether expressly mentioned in the Constitution, are organized and function based on organic laws. They have their own management bodies established by their deed of foundation, they have their own organizational structure and special duties which differentiate them from other speciality bodies of the central public administration. Autonomous administrative authorities appear as bodies in different fields which can be grouped into three categories: synthesis, coordination, and supervisory bodies.[61]

3.3. Specific principles applicable to the local public administration

As opposed to central public administration, which is competent at the national level of the entire country, local public administrations are only competent within the limits of the administrative territorial units in which they function.[62]

Local organizations reflect the political regime, transposing its spirit and institutions to the local level.[63] Irrespective of the political regime, the organization of central authorities influences the organization and functioning of the local authorities.

In unitary states, there is a close relationship between central and local public administration, however, there are also dividing lines determined by the fact that the principle of local autonomy, which is enshrined in the Constitution, forms the basis of the organization and functioning of local public administration.[64]

Local autonomy is considered one of the most efficient forms of administrative self-management, granting a high level of democracy, as autonomous territorial communities become 'genuine counterpowers', a quality that allows them to prevent abuses from the central government.[65]

Decentralisation is usually presented as a way of organizing the state and administration from a legal perspective. The doctrine primarily outlined the concept of decentralisation, whereas legislation and jurisprudence played only a secondary role.

60 Bălan, 2002, p. 48.
61 Iorgovan, 2005, p. 447.
62 Prisăcaru, 2002, p. 747.
63 Alexandru et al., 1999, p. 242.
64 Prisăcaru, 2002, p. 748.
65 Manda, 2001, p. 427.

Initially, centralisation and decentralisation were not legal concepts. They expressed tendencies toward administrative policies related to history, constitutional regimes, and practical requirements.[66] Currently, the decentralisation process is common in EU member states and represents a major factor in the contemporary evolution of European institutions.[67]

Within the current Romanian constitutional system, the state administration comprises perfect and deconcentrated services under ministries or other speciality central bodies. The deconcentrated services of ministries are not regulated in a distinct article, but Article 120 (1) of the republished Constitution sets out the basic principles applicable to local public administration, that is, the principles of decentralisation, local autonomy, and the deconcentration of public services.

In Romania, the activity of prefects as territorial authorities of the state administration occurs primarily along two essential components resulting from the quality of their government representatives, as summarised in Article 123 of the Constitution and detailed in special laws. These are the management of deconcentrated public services under the ministries and under other bodies of the central public administration in administrative territorial units, and monitoring the compliance of local public administrative authorities with the law, which is materialised in the possibility of challenging their acts in administrative court if they consider them illegal.

The present doctrine refers to a double dimension of prefects: political and technical. They are the representatives of the 'power' and, they are the depositaries of the state's authority in counties.[68]

According to the provisions of special laws in the field, prefects represent the local government. The government appoints a prefect in each county and municipality of Bucharest at the proposal of the Minister for Internal Affairs. Prefects ensure compliance with law and public order at the local level. Ministers and managers of other central public administrative bodies under the authority of the government may delegate some of their management and supervision powers to the activities of deconcentrated public services under their authority.

The activities of prefects are based on the principles of legality, impartiality, objectivity, transparency, free access to information on public interest, efficiency, accountability, professionalisation, and orientation towards citizens.

According to the Constitution and laws in force, there are no subordinate relationships between prefects, and local councils, mayors, county councils, and their presidents.

Within the present Romanian constitutional system, local public administrations comprise local councils and mayors (basic local administration), as well as of county councils and county council presidents (intermediary local administration).

66 Manda, 2001, p. 307.
67 Delcamp and Loughlin, 2003, p. 11.
68 Bălan, 2002, p. 101.

In the Romanian Constitution, local public administration is regulated by four articles: Articles 120 (basic principles), 121 (communal and town authorities), 122 (county council), and 123 (prefect). As for its wording, the Romanian Constitution has opted for an intermediary legislative technique compared with other European constitutions, which are either confined to inserting a reference norm or comprising an entire title or chapter dedicated to local public administration. Thus, the Romanian Constitution was limited to specifying local public administrative authorities (communal and town councils and mayors) and local authorities at the county level (county councils) as well as the principles governing their relationships.[69]

According to Article 121 (2) of the Constitution, 'Local councils and mayors function, under the terms of the law, as autonomous administrative authorities and solve public issues in communes and towns'. Therefore, local councils have administrative and financial powers in any field unless there is an express prohibition in the law. Therefore, the powers of local councils have general material competence. Local councils have initiatives and decide, under the terms of law, on all matters of local interest, except those that fall within the competence of other local or central public authorities.

4. Challenges in Romanian administrative law

The first Administrative Code of Romania was adopted in 2019. This is a unique piece of legislation in Europe, where administrative procedure codes exist. Therefore, the reactions to its adoption, as expressed by several theorists, are reserved.[70] As a legal act of fundamental character in the field of public administration, the Administrative Code represents the first intensive normative intervention in the process of implementing national strategies that sets the general framework for answering general objectives related to adapting the structure and mandates of the central and local administration to citizens' needs, ensuring an optimum framework for the division of powers between central and local public administration, adapting the system of human resources to the requirements of a modern administration, reducing bureaucracy and simplification at the level of public administration, and consolidating the capacity of public administration to ensure quality and access to public services.

As for the possibility of the Government to adopt this legal act by means of an emergency ordinance, the Constitutional Court of Romania established in its case-law that 'it may be deducted that the prohibition to adopt an emergency ordinance is total and unconditional when it is mentioned that they may not be adopted in the field of constitutional laws and that they may not refer to measures of forcible transfer of assets to public property. In other domains provided for in the text, emergency ordinances may not be adopted if they produce negative consequences, but, in turn, they may be

69 Popescu, 1999, p. 127.
70 Podaru, 2020.

adopted if the provisions therein contained have positive consequences in the fields of intervention'.[71] Moreover, considering the provisions of Article 102 of the Constitution which states that 'the Government shall exercise the general management of public administration', the social and economic impact of not adopting solutions aimed at regulation would have been significant, considering that several defects have been constantly signalled in the practice of local public administrative authorities. In this case, we mention the dissolution of decision-making authorities (local/county councils), primarily determined by council members' inactivity, which affects both council meetings and the decision-making process, with negative effects on the stability of local authorities and on the proper functioning of administrative activities at the local community level, including the achievement of investment objectives.

We would also like to mention several exceptional situations registered at the level of administrative territorial units caused by blockages in the adoption and issuance of administrative acts concerning the contracting and implementation of grants for certain investment objectives.[72]

Furthermore, for the establishment of local/county councils, an impartial and objective legal framework was created for the validation of local/county councillors by eliminating the existing legal treatment (the mandates of mayors were validated by courts of law, and for the validation of the mandates of local and county councillors, a validation committee comprising councillors was established, whose members voted for the validation/invalidation of the other councillors' mandates).

Moreover, measures aimed at consolidating the role and mandate of the National Agency of Civil Servants and its administrative capacity to provide quality management of public functions have been implemented in accordance with the needs of the administration, which also include aspects related to the decentralisation of certain powers of the National Agency of Civil Servants, particularly regarding the issuance of opinions related to recruitment procedures.

Of the arguments related to the urgent character and the extraordinary situation of issues covered by the Administrative Code, which have imposed its adoption by the Government, we shall mention the reasoning of the Romanian Constitutional Court in Decision No. 681/2018 on the objection of unconstitutionality of the Law on the Romanian Administrative Code,[73] which mentions that 'complementary to existing

71 Of relevance in this respect: Decision No. 1189/06.11.2008 of the Constitutional Court, published in the Official Journal of Romania No. 787/25.11.2008.

72 For example, before the adoption of the Administrative Code contracting out public property with the vote of two-thirds of the local/county councillors in office, it was difficult to adopt such decisions, which affected the activity of local public authorities, particularly in the context of the need to implement grants of major interest for local communities. According to the provisions of the Administrative Code, the decision-making process has become more efficient with the introduction of absolute majority (50% + 1 of the number of councillors in office), including for decisions on asset management, except decisions on the transferability of ownership (when the qualified majority of two-thirds of the councillors in office is necessary).

73 Decision No. 681/2018 of the Constitutional Court, published in the Official Journal of Romania No. 190/11.03.2019.

normative codes currently in force, this law regulates an Administrative Code of Romania for the first time, bringing together a large number of legal acts directly linked or related to the field of public law and administrative law', as well as that 'the unitary approach of the Parliament to creating a Code of such complexity addresses the imperative requirement for cohesion, coherence, but also celerity, taking into consideration that this law was adopted by means of an emergency procedure'.

Thus, the Administrative Code corrected a series of substantive shortcomings[74] in existing regulations and legislative techniques[75] which are directly linked or related to the fields of public and administrative law.

As for the use of the mother tongue of national minorities in administration, Articles 194 (2)-(4) of the Administrative Code provide the following: 'in administrative territorial units where citizens belonging to a national minority make up at least 20% of the number of inhabitants, established at the last census, they shall enjoy the right to address the local public administrative authorities, their specialised personnel and the bodies under their authority in their mother tongue, orally and in writing, and they shall receive an answer both in Romanian and in their mother tongue. In order to exercise these rights, public authorities shall make available to citizens belonging to national minorities, forms and widely used administrative texts in bilingual versions, that is, in Romanian and in the language of the national minority. The list of forms and widely used administrative texts in use shall be established by government decision at the proposal of the Department for Interethnic Relations elaborated in cooperation with the Institute for Research on National Minorities, accompanied by the opinion of ministries with competencies in the field of public administration, public finances, and foreign affairs'. The list of forms and widely used administrative texts in the bilingual version (in the language of national minorities and in Romanian) has not yet been established by government decisions; therefore, four years after the adoption of the Administrative Code, there is a gap that should be promptly filled.

Simultaneously, a Code of Administrative Procedure represents a useful step for the administration (public institutions and authorities), both from the perspective of the role of the partner in the relationship with the beneficiaries/clients/those administered, as well as in the role of the beneficiary/client in the relationship with public

74 Of the substantive shortcomings of the regulations in force we shall mention: those that concern ways of collaboration and supervision between prefects and deconcentrated public services; the relationships between prefects and the Government, ministries and their deconcentrated public services; specific rules concerning public and private property of the state or administrative-territorial units; the status of civil servants, provisions applicable to contractual employees from the public administration and records of personnel paid from public funds; administrative liability and public services.

75 Of the shortcomings in legislative technique we shall mention: the lack of unitary definitions of the main concepts employed in public administration; redundant and parallel legal provisions (more frequent in the field of local public administration); the existence of contradictory legal provisions; legal vacuum (particularly regarding the framework legal regime for public services) and difficulties in the implementation of legal provisions in force generated by unclear and uncorrelated legal norms.

authorities or institutions with other similar structures. A Code of Administrative Procedure represents a working tool for simplifying and better correlating specific activities, clarifying and harmonising concepts and procedures, and establishing clearer responsibilities and attributions in relation to those administered. Through its content, a Code of Administrative Procedure could respond to the needs arising from the practice of public administrative authorities, prioritising not only the formalities that are the basis of the issuance of administrative acts or the conclusion of administrative contracts, but also above all, the legal regime applicable to them, that is, aspects related to their form, the effects they produce, their implementation, the vices they may have, and the methods of contestation. Such an approach would ultimately aim to improve administrative practice and implicitly have a beneficial effect on administrative jurisprudence in the sense of gradually reducing the number of actions in administrative courts.

In conclusion, Romania's public administration is currently facing numerous challenges that must be considered efficient. These challenges are related to both the multitude of services that need to be delivered and the growth and diversification of the categories of beneficiaries/clients, as well as challenges that go beyond the national institutional framework, including the fulfilment of Romania's obligations as an EU member state or as part of various international bodies, in terms of cooperation/interoperability, or the need to assume and adjust the tools and means used as a result of technological progress registered at the global level. In this context, the administration must be flexible and able to react promptly, including through regulations, to offer real, grounded, and functional solutions in response to these challenges. However, all these roles and challenges which modern administrations must face also assume a loaded legislative fund, which is increasingly difficult to harmonise and systematise. Therefore, it is necessary to establish rules that are as simple and clear as possible, generally applicable, and help in the proper functioning of public administration.

Bibliography

Alexandru, I., Negoiţă, A., Santai, I., Brezoianu, D., Vida, I., Ivan, S., Popescu Slăniceanu, I. (1999) *Drept administrative*. Braşov: Editura Omnia Uni S.A.S.T.

Antonescu, D. (2003) *Dezvoltarea regională în România, concept, mecanisme, instituții*. Editura București: Oscar Print.

Antonescu, D. (2003) *Romanian regional development policy in context of European Union structure*. București: Institutul de Economie Națională [Online]. Available at: https://mpra.ub.uni-muenchen.de/57728/1/MPRA_paper_57114.pdf (Accessed: 12 September 2024).

Apostol Tofan, D. (1997) 'Interpretarea unor dispoziţii constituţionale privind guvernul şi administraţia ministerială', *Revista de drept public*, 1–2, p. 39.

Apostol Tofan, D. (2003) *Drept administrativ. Tematica prelegerilor. Repere bibliografice, vol.I., (col. Curs universitar).* Bucureşti: Edit. All Beck.

Apostol Tofan, D. (2006) *Drept administrativ, vol. I.* București: Editura All Beck.

Apostol Tofan, D. (2020) *Drept administrativ. Volumul I. Partea introductivă. Administrația publică. Personalul din administrație*. București: Editura C. H. Beck.

Apostol Tofan, D. (2020) *Drept administrativ. Volumul II. Actul administrativ. Contenciosul administrativ. Domeniul public. Răspunderea administrative*. București: Editura C. H. Beck.

Auby, J.M., Auby, J.B. (1996) *Institutions administratives*. 7th edn. Paris: Dalloz.

Auby, J.M., Ducos-Ader, R. (1971) *Institutions administratives, deuxiéme edition*. Paris: Dalloz.

Băhnăreanu, C., Sarcinschi, A. (2012) *Procesul de regionalizare a României și securitatea națională*. București: Editura Universității de Apărare 'Carol I' [Online]. Available at : https://cssas.unap.ro/ro/pdf_studii/procesul_de_regionalizare_a_romaniei_si_securitatea_nationala.pdf (Accessed: 12 September 2024).

Bălan, E. (2002) *Drept administrativ şi procedură administrativă*. Bucureşti: Editura Universitară.

Becet, J.-M. (1992) *Les institutions administratives*. Paris: Economica.

Bertrand, M.J. (1973) 'Pour une géographie du pouvoir exécutif', *Revue Internationale des Sciences Administratives*, 39(4), pp. 369–382 [Online]. Available at: https://doi.org/10.1177/002085237303900405 (Accessed: 13 September 2024).

Bogasiu, G. (2022) *Legea contenciosului administrativ comentată și adnotată. Ediția a V-a, revăzută și adăugită*. București: Editura Universul Juridic.

Constantinescu, M., Iorgovan, A., Muraru, I., Vida, I., Deleanu, I., Vasilescu, F. (1992) *Constituţia României comentată şi adnotată*. Bucureşti: Regia Autonomă Monitorul Oficial.

Delcamp, A., Loughlin, J. (eds.) (2003) *La décentralisation dans les États de l'Union européenne*. Paris: La Documentation Française.

Deleanu, I. (2006) *Instituții și proceduri constituționale*. Bucureşti: Editura C.H.Beck.

Drăganu, T. (1993) *Drept constituțional și instituții politice, vol.I.* Târgu-Mureș: C.H. Beck.

Dragoş, D.C. (2001) 'Principalele noutăţi ale Legii nr.215/2001 a administraţiei publice locale', *Dreptul*, 12(3), pp.3–31.

Institutul Naţional de Statistică (2022) 'Primele date provizorii pentru Recensământul Populației și Locuințelor, runda 2021', *Institutul Naţional de Statistică* [Online]. Available at: https://www.recensamantromania.ro/wp-content/uploads/2022/12/Date-provizorii-RPL_cu-anexe_30122022.pdf (Accessed: 3 February 2023).

Iorgovan, A. (2004) *Noua lege a contenciosului administrativ – geneză şi explicaţii*. Bucureşti*:* Roata.

Iorgovan, A. (2005) *Tratat de drept administrativ*. Bucureşti: Editura All Beck.

Manda, C. (2001) *Drept administrativ. Tratat elementar*. Bucureşti: Editura Lumina Lex.

Mata, D.C. (2022) *Drept administrativ. Volumul I. Ediția a IV-a*. București: Editura Universul Juridic.

Perioada 2021–2027 (2023) *Ministerul Investițiilor și Proiectelor Europene* [Online]. Available at: https://mfe.gov.ro/minister/perioade-de-programare/perioada-2021-2027/ (Accessed: 3 February 2023).

Petrescu, R.N. (1997) *Drept administrativ I&II. Cluj-Napoca*: Editura Cordial Lex.

Petrescu, R.N. (2001) *Drept administrativ, ediţie revăzută şi adăugită*. Cluj-Napoca: Editura Cordial Lex.

Petrescu, R.N. (2004) *Drept administrative*. Cluj-Napoca: Accent.

Petrescu, R.N. (2009) *Drept administrativ.* București: Hamangiu.

Podaru, O., Pop, M.M. (2020) 'Provocările limbajului în Codul administrativ', *Studia Universitatis Babeș-Bolyai. Iurisprudentia,* 65(1), pp. 30–68 [Online]. Available at: https://doi.org/10.24193/SUBBiur.65(2020).1.3 (Accessed: 6 Feburary 2023).

Popescu, C.L. (1999) *Autonomia locală şi integrarea europeană*. Bucureşti: Editura All Beck.

Preda, M.,Vasilescu, B. (2007) *Drept administrativ. Partea specială*. Bucureşti: Lumina Lex.

Prisăcaru, V.I. (2002) *Tratat de drept administrativ român. Partea generală*. București: Lumina Lex.

Puie, O. (2022) *Tratat teoretic și practic de contencios administrativ, vol 1,2 si 3, ediția a II-a revizuită*. București: Editura Universul Juridic.

Săgeată, D.R. (2004) *Modele de regionare politico-administrativă*. Bucureşti: Top Form.

Săgeată, D.R. (2006) *Deciziile politico-administrative şi organizarea teritoriului: studiu geografic cu aplicare la teritoriul României.* București: Top Form.

Săgeată, D.R. (2011) 'Reformele administrative din România- între raţiunile politice și realitățile geografice', *Geograful*, 3(1-2) [Online]. Available at: https://www.academia.edu/download/38849970/Reforma_administrativa_in_Romania.pdf (Accessed: 13 September 2024).

Săraru, C.S. (2022) *Tratat de contencios administrativ.* București: Editura Universul Juridic.

Schwarze, J. (1994) *Droit admistratif europeen*. Bruxelles: Bruylant.

Schwarze, J. (1996) *Le droit administratif sous l' influence de l' Europe. Une étude sur la convergence des ordres juridiques nationaux dans l' Union européenne*. Bruxelles: Bruylant.

Se schimbă legea organizării administrativ-teritoriale a României (2016) Economica.net, 17 October [Online]. Available at: http://www.economica.net/se-schimba-legea-organizarii-administrativ-teritoriale-a-romaniei_127063.html#ixzz4sgGPlNFT (Accessed: 3 February 2023).

Ștefan, E.E. (2022) *Curs de drept administrativ. Manual de drept administrativ. Partea II*. București: Editura Universul Juridic.

United Nations (2023) 'Transforming our world: the 2030 Agenda for Sustainable Development' [Online]. Available at: https://sdgs.un.org/2030agenda (Accessed: 3 February 2023).

Van Lang, A., Gondouin, G., Inserguet-Brisset, V. (1999) *Dictionnaire de droit administratif*. Paris: Armand Collin.

Vedinaș, V. (2022) *Drept administrativ. Ediția a XIII-a, revăzută și actualizată, Doctrină, practică și jurisprudență*. București: Universul Juridic.

Vedinaș, V. (2023) *Codul administrativ comentat. Explicații, jurisprudență, doctrină. volumul I și volumul II*. București: Universul Juridic.

Vida, I. (1994) *Puterea executivă şi administraţia publică*. Bucureşti: Editura Universul Juridic.

Vrabie, G., Bălan, M.M. (2004) *Organizarea politico-etatică a României*. Iaşi: Institutul European.

Zăman, G.H. (2015) *Experienţa tranziţiei României la economia de piaţă (1990–2014).*