

Social Purpose and Administrative Contentious Matter in Romania

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ABSTRACT: The present work has been elaborated in view of pointing out the fact that – as the social practice has demonstrated – the procedure of administrative contentious matters is understood in Romania as a real instrument able to protect the legal rights and the legitimate interests of the subjects of law (individual and moral persons). As a formal element of the social purpose this procedure has become a modality through which justice does come to be materialized. In order to sustain this conclusion we have made use of the statistical data concerning the administrative causes which have been stated upon by the sections of contentious administrative matters which do pertain to a few appeal courts from Romania as well as by the Section of Contentious Administrative and Fiscal Matters from the High Court of Cassation and Justice of Romania. The respective decisions have been issued from 2001 till 2017. We have studied the concepts of social purpose and respectively of contentious administrative matter understood as being naturally correlated. In order to justify the attitude held by the subjects of law towards this procedure we have elaborated a presentation of its assets and of its successive steps. We have as well included to the present work a few elements of comparative law which do concern the courts which are competent to solve the litigations upon contentious administrative matters. We have also analyzed the contribution brought by the Justice Court of the European Union to the solving of administrative contentious matters through the mechanism of the taken “preliminary decision”.

KEYWORDS: administrative contentious matter, social purpose, juridical order, justice, legal right, legitimate interest

1. Introduction

Should it be within a micro- or a macro-group the living together of individuals does suppose the existence of a complex aggregate of relationships of types individual-individual and individual-group. The shape of these relationships is determined by social, political and economical matters. In order to avoid the appearance of dysfunctions within these relationships which would require for the stepping into the knowledge zone of their pathology so that they could be removed for each of the individuals it is necessary to make him feel that he does indeed belong to the group, that he is indeed a part of it. The immediate consequence of this perception is the adoption of an attitude of conformity in respect to the exigencies – rules for living together – which have been defined inside of the group by its members. The acknowledgement of the respective rules does mean the fact that the individual – in order to be able to fulfill some of his own aspirations – does as well give away certain defining features of his own self because he does become aware of the fact that – should it be necessary – this is the only way through which he might be able to impose some conditions of his own to the other members of the group. From the concept of human inter-conditioning we

therefore come to the one of „normative behavioral order.” (Alexandru, Cărașan, Bucur 2005, 14). The history of the human society does illustrate the process of evolution from the existence of some random behavior rules here and there towards a law system which could discipline the behavior of all of the citizens, foreigners and stateless persons who do live within a state as well as the elaboration process in what does concern the rules of international law. Yet the evolution of social relationships has nowadays brought worldwide attention upon the constitution of some macro-collectivities of supra-state size and bearing integrating intentions such as the European Union. For them it has been necessary to define certain juridical norms of a special kind since the social relationships which these are meant to rule over do indeed have some features of their own.

Another social, political and economical phenomenon which has been historically determined and thereby meant to have a strong impact upon the respectively form, contents and juridical strength imparted to juridical norms but simultaneously upon the spiritual assets which do indeed define the human personality is the phenomenon known as globalization (Rotaru 2014, 532). Due to such an impetuous evolution of the current social relationships and to the consequent and continuous process of their re-defining there are some questions which do naturally arise: how does the relationship between on one side the personal aspirations held by each of the group's members and on the other side the collective aspirations of the group itself understood as a collective? Or respectively the relationship between on one side the personal aspirations held by each of the group's members and on the other side the individual aspirations of each of the other fellow members? In order to bring an answer to such issues it is necessary to study the contents held by the concepts of individual welfare, public welfare respectively social goal.

2. Concept of social goal

As it has been as well demonstrated in the specialized literature (Nicu 2007, 13) should the reality that each human being does assume as his own objective the fact of materializing his own aspirations be taken into consideration the social actors which are involved into the process of defining the modality of social organization within the state as well as the social values which could be worthy of being enforced through juridical norms have had to face the challenge of providing an answer to the question: „how the problems of all of the members of society could be solved so that the solutions found should not be embarrassing for anyone or at least for most of them?”

The models of social organization which have been conceived and implemented by starting from the point of view that the supreme political and social objective should be the common welfare did not succeed in proving practically the fact that they do indeed own the quality of being the optimal pattern for a social organizing because they have led the society towards a totalitarian shape. On the other side to consider the individual welfare as the absolute political and social objective instead of the common welfare is wrong because this perspective could lead to alterations of the social relationships. As a consequence the issue to find the theoretical and practical solution through which individual welfare could be achieved as correlated to and simultaneously with general welfare has risen as a primordial necessity. This is how the concept of „social goal” has been created. In order to realize individual welfare upon the background of correlatively and simultaneously achieving general welfare throughout the history of the human society an infinite number of patterns have been experienced under the tangible forms of various social organizations. This process has started with the primitive family and has come to the state-shaped formations. The newest of such

shapes is in our own days the one of supra-state integrating organizations the pattern of which is represented by the European Union.

In specialized literature (Dănişor 1998, 52) it has been demonstrated that in the action of defining the concept of social goal we should start from "the specific nature of society itself" and should continue with the analysis of the differences which do exist between "the nature of individuals" and "the specific nature of society itself". In order to understand the specific nature of society we should take into consideration the fact that the concept of society does suppose the existence of a heterogeneous mixture of individuals among whom are to be established some social relationships. Though the existence of society does suppose the existence of individuals as well as their interaction we are due to imperatively underline the fact that human society is an entity which does have an individuality of its own which is different from the ones of each of the individuals in it. Therefore it does own a nature and existence which are intrinsic and different from the ones of its composing elements.

Insofar the human individual is concerned: in most of cases he is not preoccupied by the matter of the "materiality and corporality of the society, of a psychical life of it materialized, among other things, through a system of law" due to the accelerated rhythm of his own life (Nedelcu, Nicu 2002, 10). The human individual is first of all preoccupied to estimate as accurately as he could if and at what extent he could or not be able to materialize his own aspirations. It is barely as a subsidiary matter that some among people are trying – with more or less competency to do so - to understand what have been the causes which have determined the modality through which society has responded towards the individual issues and to verify if or not their own aspirations are the same as the ones of other people or if or not the problems they do meet in materializing their own aspirations have been encountered by other members of the group. For example, religious freedom is one of the most delicate aspects of human rights (Rotaru 2015, 595).

The necessity of defining the concept of social goal is thereby outlined: the specialists ought to provide an answer to the question if social goal does or not mean simultaneously the individual welfare as well as that type of common welfare which is to be identified through the fact that once it has been defined it is immediately assumed by the human individual as his own goal. According to an opinion (Nedelcu, Nicu 2002, 12) the social purpose is: "that concept which does refer to the common welfare ensured through the preservation of the social order and through the accomplishment of justice – by common welfare understanding the welfare of society as a trans-individual entity. Let us mention that when defining the contents of the common welfare it ought to be considered at whatever moment as simultaneously correlated to the individual welfare that is to say the social purpose is due to own the quality of being able to allow for the concrete individual goals the possibility of materializing themselves as soon as it has been assumed by the individual as his own purpose".

3. Concept of administrative contentious

3.1. Significations sustained in doctrine

The concept of administrative contentious matter does own a *lato sensu* meaning as well as a *stricto sensu* one (Vedinaş 2017, 394). *Lato sensu* administrative contentious does mean the totality of the litigations which do come to be created between the public authorities on one side and the individual or moral persons on the other side when they do consider themselves as being prejudiced in their legal rights or in their legitimate interests through illegal administrative acts the authors of which are the respective public authorities. Such litigations are solved upon the ground of a regime of public

power ruled by the frame law enforced in view of this matter and which pertain to the competency of judicial courts for administrative contentious matters (Ciobanu, Kund 2008, 214).

3.2. *Legal definition*

The Law nr.554 of December 2-nd 2004 – known as the Law on contentious matters - currently updated does define in its art. 2 par. (1) letter f) the administrative contentious as being: "the activity carried on by the judicial courts for administrative contentious matters which are competent for it in virtue of the organic law of resolving the litigations into which at least one of the sides is a public authority and the conflict has arisen suiting the case due to the issue or closing of an administrative act understood in the sense held by the present law or either due to not having resolved it within the legal term or due to an unjustified refusal of solving a request which does concern a right or a legitimate interest". The law does as well define the kindred concepts of administrative act, prejudiced right, legitimate public interest and legitimate private interest. To seize the essential and intrinsic meaning of the concept of administrative contentious does depend upon their correct understanding. In its art. 2 par. (1) letter o) the law does precise the fact that by prejudiced right has to be understood as: "whatever right stated by the Constitution, by the law or by other normative act to which prejudice would be brought through an administrative act". In the text of the Law nr. 554/2004 currently updated in its art. 2 par. (1) letter p) we find out that a legitimate private interest does mean: "the possibility to require a certain behavior in view of taking into consideration the realization of an anticipated, future and predictable subjective right" while into the same Law the article 2 par. (1) letter r) does precise the fact that a legitimate public interest is: "the interest which does aim towards the order of law and the constitutional democracy, the warranting of the fundamental rights, liberties and duties of the citizens, the satisfaction brought to the needs of the community, the achievement of held competencies by the public authorities".

For a rigorously exact perspective upon the juridical institution designated as administrative contentious it is necessary to precise the fact that it does hold a tradition in Romania. Presently this matter is ruled by the Constitution of Romania through its articles 52 respectively 73 paragraph (3) letter k) under its revised form of 2003 and by an organic law – the Law nr. 554/2004 published in the *Monitorul Oficial al României* Part I nr. 1154 of December 7-th 2004 and further modified inclusively through the Law nr. 138/2014, through the Law nr. 207/2015 respectively through the Decision of the Constitutional Court of Romania nr. 898 of December 17-th 2015 concerning the exception of non-constitutionality raised by the dispositions of the Law on contentious administrative matters nr. 554/2004 in its art. 24 and art. 25. In what does concern the tradition held by the juridical institution of administrative contentious we are due to precise the fact that it has appeared in 1864 when the Romanian legislator has founded the State Council in the frame of the executive power of the state suiting by this the model of the French legislation. In 1866 the abdication of the reigning prince Alexandru Ioan Cuza has occurred and the State Council has been ultimately dissolved.

The competencies pertaining to administrative contentious matters have been imparted to the judicial courts. Administrative contentious has therefore become shaped as an indirect control through the modality of the exception of illegality. The sides could raise this exception at whatever court of justice versus any of the administrative acts which could pertain to the causes imparted to the respective courts. The High Court of Cassation has been organized through successive laws in 1905, 1910 and 1912. These laws have offered to the sides the possibility to make use of a direct action in view of resolving the litigations in administrative contentious matters. The professional probity

and impartiality demonstrated by the magistrates who were usually the members of judicial courts and especially of the High Court of Cassation and Justice have brought the development and consolidation of the juridical institution of the administrative contentious. As a result the citizens have come themselves to increasingly trust it (Negoiță 1992, 81). In 1923 the Constitution of Romania has enforced as a constitutional principle the necessity of a judicial control to be exerted upon the legality of all of the administration's acts. The acts of governing and the ones of the military command were the only administrative acts exempted from this control. The above mentioned constitutional principle has been further developed through the Organic Law on the administrative contentious from 1925. This law has ruled over the procedure issues which were raised within the resolving of the litigations which pertained to the administrative contentious. Because of the fact that the Constitution of Romania in 1948 had enforced as a constitutional principle the policy that judicial courts were entitled to verify the legality of administrative acts only when this prerogative had been explicitly stated by the law the juridical institution of the administrative contentious has come to be dissolved in 1948 in virtue of the Decree nr. 128/1948.

The Constitution of Romania from 1965 has enforced as a constitutional principle the requirement of legality for the administrative acts. As its consequence on July 26-th 1967 has been enforced the Law nr. 1 concerning the statement by tribunals upon petitions submitted by persons of which the rights had been prejudiced through illegal administrative acts. This law has produced its effects until after the events of December 1989 that is to say until the enforcement of the Law nr. 29 of November 7-th 1990 – the Law on administrative contentious matters. The superior quality of the regulations by it stated is irrefutable. For example a positive issue is the fact that – in spite of the fact that it has still contained a lot of exceptions from the judicial control over the administrative acts – the Law nr. 29/1990 modified through the Law nr. 59/1993 has yet allowed the use of the administrative contentious procedure for the verifying of the legality of a larger number of categories of administrative acts and this is mostly a consequence of the fact that a new policy has been applied in what does concern the administrative act since the administrative jurisdictional acts have been included to the category of administrative acts which are submitted to the control through the administrative contentious procedure.

3.3. Features of the administrative contentious procedure

From the regulations which do refer to the administrative contentious procedure its following main features do result (Vedinaș 2017, 406-414):

a) in what does concern the type of its contentious procedure it is a full jurisdiction one;

b) in what does concern the object of its litigations the distinctive fact is the one that the administrative contentious procedure is a direct control, through the modality of a lawsuit having as its object the proper administrative acts or the ones assimilated to them (Petrescu 2004, 363);

c) in what does concern the quality of the litigating sides:

- the quality of accused person is held by the public authorities the acts of which are attacked in court or of which the unjustified refusal of resolving a request is criticized in court with the purpose of convincing the court to oblige the accused authority to solve the request and to repair the subsequent prejudices caused through the respective refusal;

- the quality of claimant is held by the following categories of subjects of law: 1. Whatever person which does consider herself as being prejudiced by the public

authority through the administrative act or through the unjustified refusal; 2. A third side in respect to the administrative act - ;third side which is prejudiced through the contested act; 3. The People's Attorney as a consequence of exerting his control prerogative should he appreciate that the illegality of the act could be removed only through the court of law - case in which he may notify the court for administrative contentious issues from the domicile of the author of the petition through which the People's Attorney has been vested with the authority of performing the control; 4. The Public Ministry under the circumstance when as a consequence of exerting its specific prerogatives it should appreciate that the source of the infringement of rights, liberties or legitimate interests is constituted by some individual unilateral administrative acts issued through an excess of power by the public authorities – in this case the prior agreement of the prejudiced persons is necessary before promoting the lawsuit – or under the circumstance when it should appreciate that an administrative act is bringing prejudice to a legitimate public interest; 5. The public authority which has issued the administrative act in the case when it could no more revoke the act because it has already entered in the civil circuit and it has produced some juridical effects; 6. The National Agency of Public Servants; 7. The subjects of public law;

d) the procedure act of formulating a prior complaint is compulsory – the exceptions from it are precisely and restrictively ruled;

e) the competency of solving the litigations which pertain to contentious administrative matters is imparted to the sections for contentious administrative and fiscal issues situated at the respective levels of the tribunals, of the Appeal Courts and of the High Court of Cassation and Justice;

f) the administrative jurisdictional acts may as well be attacked in the administrative contentious court;

g) should indemnifications be requested through the lawsuit for the caused prejudice or for the occurred delay the lawsuit could be as well formulated: "personally versus the person who has contributed to the elaboration, the issue or the closing of the act or suiting the case versus the person who is guilty for the refusal of solving the request that refers to a subjective right or to a legitimate interest" (Vedinaş 2017, 411);

h) the existence of some procedure guarantees which do concern the solving of the causes which pertain to administrative contentious issues and to the effective execution of the definitive and irrevocable judicial decisions.

3.4. Issues concerning the stages of the administrative contentious procedure

3.4.1. Issues concerning the prior procedure

According to the dispositions of article 7 of the Law nr. 554/2004 corroborated with the dispositions of article 2 of the same normative act whatever person which does wish to make use of the administrative contentious procedure is due at first to pass through the prior procedure which does consist in the formulation of a prior complaint. The person which does consider herself as being prejudiced in a legal right or a legitimate interest through an individual administrative act concerning herself or through an individual administrative act addressed to another subject of law is due to formulate this complaint before addressing to the judicial court. The Law nr. 554/2004 in its article 2 paragraph (1) letter j) the precision is brought that a prior complaint does mean a request through which to the public authority which has issued the concerned act or either to the authority which is hierarchically superior to it - should this latter exist suiting the case – is demanded the re-examination of the administrative individual or normative act aiming to the final purpose of – suiting the case – to modify the concerned act or to totally or partially revoke it. The due term within which the prior complaint has to be

formulated is of 30 days since the date when the act has been communicated under the circumstance when the contested act is an administrative individual act addressed to the author of the prior complaint. Should it be an administrative individual unilateral act addressed to another subject of law the due term for the formulation of the prior complaint would be of 30 days since the moment when the prejudiced person has become aware – in whatever way – of the contents of the concerned act. An exception might occur in the case of unilateral administrative acts should irrefutable reasons exist for it. The prejudiced person which does bear the quality of being the recipient of the act does benefit from the possibility of a larger term stated by the legislator as: "not later than 6 months since the date when the act was issued." The term of 6 months is a prescriptive one. Should it be a prior complaint which does refer to an administrative individual unilateral act addressed to another subject of law the prejudiced person would benefit from the possibility of a larger term precised by the legislator as being: "not later than 6 months since the date when she has become aware – in whatever way – of the contents of the concerned act". The term of 6 months is a prescriptive one. Should the prior complaint concern a normative act there would be no time limit and the prior complaint could be submitted at any moment during the period when the respective act is enforced.

3.4.2. Issues concerning the procedure within the judicial court

An important feature of the procedure – thought of by the legislator in order to avoid tiresome trips to the sides – is the fact that the Law on administrative contentious issues has established an alternative territorial competence. The side is therefore entitled to choose where to sue: at the judicial court from his own domicile or either at the one from the domicile of the accused. In what does concern the material competency according to the dispositions of article 10 of the Law nr. 554/2004: the tribunals are primary courts for the essence of the causes which have as their objects the administrative acts issued or closed by the local and departmental public authorities as well as the administrative acts which do concern taxes and duties, contributions, custom claims as well as their accessories up to the value of 1.000.000 lei; the appeal courts are deciding as primary ones upon the essence of the causes which have as their objects the administrative acts issued or closed by the central public authorities as well as the ones which do concern taxes and duties, contributions, custom claims as well as their accessories beyond the value of 1.000.000 lei respectively the causes which have as their objects the administrative acts issued by the central public authorities which have as their objects pecuniary sums which do represent the non-reimboursible financing received from the European Union no matter what might be their respective values.

Through its article 17 the Law on administrative contentious issues does rule over the urgency feature of the lawsuit understood as a modality of protecting the sides in the sense that the incertitude concerning the existence or not of the prejudice suffered due to the action or to the lack of action chosen by the public authorities should last the less time possible. The above mentioned legal text does bring the precision that: "The requests addressed to the judicial court are to be decided upon under an emergency regime and usually within a public session by the panel established by the law" while "The decisions are to be elaborated and motivated within at most 30 days since their issue." Insofar procedure is concerned the admissibility conditions of the lawsuit on contentious administrative issues do present a particular interest. Before submitting its request to the judicial court whatever side ought to verify if the admissibility conditions are or not fulfilled in order to avoid an useless deed. These admissibility conditions are (Vedinaş 2017, 416):

- the attacked act has to be a proper administrative act or an act assimilated to an administrative one;
- the act has to be issued by a public authority;
- the attacked act has to cause a prejudice to a subject of law in what does concern a right acknowledged by the law or a legitimate interest;
- the prior procedure has to be fulfilled;
- the legal procedure terms have to be respected.

The organic law concerning the administrative contentious issues does state a few exceptions from the legality control exerted by the courts for administrative contentious issues. These are precised in its article 5: - the administrative acts issued by the public authorities which do concern their relationships with the Parliament as well as the military command acts respectively the administrative acts for the modifying or annulment of which another judicial procedure is stated by an organic law;

- "The administrative acts issued in order to apply the regime of the state of war, of the siege state or of the state of emergency, the ones which do concern the national defense or security or the ones issued in order to restore the public order as well as for the removal of the consequences brought by natural calamities, epidemics and epizooties" could be attacked only for the motive of excessive use made of power.

3.5. Considerations concerning the entities which are competent to solve the litigations pertaining to administrative contentious issues in various law systems

Several systems have been instituted worldwide in order to solve the litigations which might appear between the private persons and the administration (Iorgovan 2005, 469). In France, until the Revolution of 1789 have existed some administrative organs bearing a jurisdictional role known as the so-called "system of the administrator-judge". Nowadays in France does function "the French system of special and specialized courts vowed to the administrative contentious, of the administrative tribunals ahead of which does stand the State Council as the supreme court for administrative contentious issues". In the Anglo-Saxon system the litigations which pertain to administrative contentious issues are decided upon by the common law courts. In Belgium, Finland, Germany, the Netherlands or in Luxembourg the joint system is enforced (Grigoraş 2014, 13). It is the one in the frame of which the competency does belong "as well to "the ordinary courts as to the administrative and fiscal ones" (Vedinaş 2017, 393).

3.6. Relationships of national courts with the Justice Court of the European Union

Romania has acquired the quality of member state of the European Union. This fact has brought to the Romanian citizen who has thereby become a citizen of the European Union a new reality: The Justice Court of the European Union is entitled to interact with the national courts in what does concern the interpretation which ought to be given to the community's legislation which does now act upon the Romanian citizens complementarily with the internal law. The Court which is formed of two courts – the Tribunal and the Court of Justice – does help the member states to understand and to apply in an unitary way the norms of the community's law. More exactly under the circumstance when a court from a member state does wish to verify if a legislative act or a national practice is or not compatible with the law of the European Union or when the respective court does have its own doubts in what does concern the sense towards which a community's normative act ought to be interpreted or about the validity of such an act it is entitled to make use of the mechanism of the preliminary decisions.

The competency in this matter does belong to the European Justice Court which is as well competent to solve certain annulment lawsuits and certain recourses. Insofar the administrative contentious is concerned an example is edifyingly illustrative about the role held by the Justice Court and by the preliminary decisions towards the Romanian citizens. It is the Court's Decision C-586/14 of June 9-th 2016 in the Budişan cause. Through this decision an answer has been provided to the questions raised in the frame of the preliminary envoys by the Appeal Court of Cluj in what did concern the accurate interpretation of the article 110 TFUE as a consequence of the existence of a litigation between on one side Mr. Vasile Budişan and the Department's Administration of Public Finances from Cluj on the other side about a tax which Mr. Budişan has been due to pay in order to immatriculate in Romania an already made use of auto vehicle the provenience of which had been from another member state. As it does result from the text of the Decision issued on June 9-th 2016 that we have consulted upon the site curia.europa.eu the Court has declared that „The article 110 of the Treaty concerning the Functioning of the European Union ought to be interpreted in the sense that:

- it does not oppose to the fact that a member state could institute a tax upon auto vehicles which would be applied to the imported and already made use of on the occasion of their first ever immatriculation in the concerned member state as well as to the auto vehicles which are already immatriculated in the respective member state on the occasion of the first ever transcription of the ownership right upon them which does occur in the same state;

- it does oppose to the fact that the respective member state could exempt from this tax the already immatriculated vehicles for which a tax which had been enforced before but which had in the meantime been declared as incompatible to the European Union's law has been paid but has not been restituted.” The practical importance held by this preliminary decision does reside in the fact that due to it the Romanian legislator has come to modify the national legislative frame in order to eliminate the tax which had generated the concerned litigation. It had been officially named as "the environment stamp".

4. Statistical data concerning the use made of the administrative contentious procedure

The administrative contentious procedure does include as first stage the prior request. In its frame part of the petitions submitted by the citizens do indeed receive favorable solutions but the statistical ratio of such cases is impossible to be exactly found because the requests coming from the citizens are not public matters and therefore there are no statistical reports concerning this issue. Yet at the level of the judicial courts reports are elaborated concerning the number of lawsuits which do currently exist upon the rolling lists of the courts for administrative contentious matters and from their analyses some interesting conclusions may be drawn.

Table 1. Statistical data concerning the number of files on contentious administrative issues which have been submitted on the rolling list of the High Court of Cassation and Justice during the time period going from 2001 until 2017

Year	Number of files submitted on the rolling list at the Section of Administrative and Fiscal Contentious Matters
2017	13884 of which 7812 on the rolling list at January 1-st 2017 and 6072 new
2016	11496 of which 5772 on the rolling list at January 1-st 2016 and 5724 new
2015	9816 of which 4707 on the rolling list at January 1-st 2015 and 5109 new
2014	9555 of which 4792 on the rolling list at January 1-st 2014 and 4763 new
2013	11655 of which 6316 on the rolling list at January 1-st 2013 and 5339 new
2012	11761 of which 3407 on the rolling list at January 1-st 2012 and 8354 new
2011	9596 of which 3038 on the rolling list at January 1-st 2011 and 6558 new
2010	8834 of which 2424 on the rolling list at January 1-st 2010 and 6410 new
2009	8376 of which 2338 on the rolling list at January 1-st 2009 and 6038 new
2008	7171 of which 1674 on the rolling list at January 1-st 2008 and 5497 new
2007	6575 of which 1949 on the rolling list at January 1-st 2007 and 4626 new
2006	6631 of which 1715 on the rolling list at January 1-st 2006 and 4916 new
2005	7741 of which 3473 on the rolling list at January 1-st 2005 and 4268 new
2004	12586 din care 3886 on the rolling list at January 1-st 2004 and 8700 new
2003	8526 of which 2702 on the rolling list at January 1-st 2003 and 5824 new
2002	6619 of which 3275 on the rolling list at January 1-st 2002 and 3344 new
2001	7504 of which 2913 on the rolling list at January 1-st 2001 and 4591 new

We have analyzed the statistical data which we have found on the site of the High Court of Cassation and Justice of Romania (2019, scj.ro) on April 1-st 2019 - data which we have as well presented in Table 1 and thereby we are entitled to ascertain the fact that from 2001 until December 31-st 2017 the number of files which have been submitted on the rolling list of the Section for Contentious Administrative and Fiscal Matters from the High Court of Cassation and Justice has increased. This fact may be interpreted as a positive result from two different points of view. On one side this increase does demonstrate that the general level of juridical culture has increased since the citizens have become better informed in what does concern this modality of juridical procedure. On the other side the reaching for the judicial courts does stand as a proof of the fact that the involved persons not only are well informed but as well they do trust the juridical process, that they are convinced that the judicial court is indeed able to help them in eliminating the prejudices that they invoke and even in obtaining material and moral indemnifications when the legal requirements for their granting are reunited. The number of lawsuits is, of course, small when compared to the number of persons which are placed under the jurisdiction of the High Court of Cassation and Justice of Romania. This total number does rise to a level of millions of individual and of moral persons but this fact is a positive one in the sense that the small number of litigations which do pertain to the contentious administrative issues does prove that in most of cases the action exerted by the public authorities is a correct one and that – consequently - the

principle of legality understood as a fundamental principle of the public administration is respected.

Table 2. Statistical data concerning the number of files on contentious administrative issues which have been submitted on the rolling lists of the Court of Appeal Bucharest and of its subordinated judicial courts

Year	Number of files submitted on the rolling list at the Section for Contentious Administrative and Fiscal Matters from the Court of Appeal of Bucharest and at its subordinated judicial courts			
	Essence	Appeal	Recourse	Total
2017	16.469	7.937	343	24.749
2016	23.787	11.887	8.369	44.043
2015	26.418	7.274	9.825	43.517
2014	27.238	4.190	14.455	45.883
2013	29.832	380	15.995	46.207
2012	24.176	0	10.820	34.996
2011	22.549	0	10.705	33.254

We have performed our second analysis in what does concern the activity of the sections for contentious administrative and fiscal matters of the Court of Appeal of Bucharest and of its subordinated judicial courts that is to say the Tribunals of: Bucharest, Călărași, Giurgiu, Ialomița, Teleorman. We have also analyzed the statistical data which we have found on the site of the Appeal Court of Buharest (2018) - data which we have presented in Table 2 and thereby we are entitled to ascertain the fact that from 2011 until 2016 the number of litigations has proven to increase while in 2017 the number of files has decreased under the level recorded in 2011. This evolution does indicate a status of normality in what does concern the respect of the principle of legality as well as insofar is concerned the making use by the citizens of the contentious administrative lawsuit as a modality for removing the illegal issues from the practice of the public administration.

The Court of Appeal of Craiova has as its subordinated judicial courts the Tribunals of: Dolj, Gorj, Mehedinți and Olt. Alike the Court of Appeal these courts do contain sections for contentious administrative and fiscal matters. We have as well chosen to study the data concerning the litigations upon contentious administrative issues from this court because, according to the statements from the document entitled "Analysis of the activity performed by the Appeal Court of Craiova in the year 2018" and published upon the site www.curteadeapelcraiova.eu at the level of this Court: "according to the Statis records at the level of the year 2018 a number of 190.410 newly registered files were recorded with a total accumulation of 258.377 causes upon the roll list" which corresponds to the real fact that in respect with the volume of its activity: "The Appeal Court of Craiova does preserve the second rank in the hierarchy of the appeal courts at national level after the Appeal Court of Bucharest" and as well "does hold a ratio of 8,6% from the total number of newly registered files upon the roll lists of the similar courts throughout the country".

Table 3. Statistical data concerning the number of files on contentious administrative issues submitted upon the rolling lists of the Appeal Court of Craiova.

Year	Number of files submitted upon the rolling list at the Section for Contentious Administrative and Fiscal Matters from the Court of Appeal of Craiova (without its subordinated judicial courts)		
	On the rolling list at January 1-st	New files	Total
2018	824	4588	5412
2017	1029	9765	10794
2016	1404	3967	5371
2015	1051	4698	5713
2014	2591	7982	10573
2013	4481	18016	22497
2012	2906	15420	18326
2011	6078	28096	34174

We have analyzed the statistical data which are presented in Table 3 and thereby we are entitled to ascertain the fact that at the Appeal Court Craiova the number of causes pertaining to the competency sphere of the Section for Contentious Administrative and Fiscal Matters has reduced during the period from 2011 till 2018. The smallest number has been recorded in 2016 – 5371 files as well as in 2018 – 5412 files. This is a pleasant fact because it demonstrates that within the territorial area of competency held by the Appeal Court of Craiova the personnel from the public sector has increased the quality of performance in its activity. The number of the alleged infringements of the law which might have justified the promotion of lawsuits at the court for contentious administrative issues has thereby proportionally decreased.

Conclusions

The practice of the judicial courts has demonstrated the fact that the administrative contentious procedure has become a real instrument of social regulation which is successfully used in order to accurately apply the principles of the separation, equilibrium and reciprocal control of the powers within the state as well as for restoring the status of legality when some individual or moral persons do estimate that within the public administration the legal norms have been infringed bringing as results some prejudices to the legal rights and the legitimate interests held by the respective persons. The statistical data do point out the fact that – in respect to the population from Romania – the number of litigations which pertain to contentious administrative issues is relatively small. This fact means that a small percentage only among the Romanian citizens do consider themselves as being prejudiced in their legal rights and legitimate interests due to the action of the public servants whose aim is to materialize practically the enforced legislation. Such a status of the practical facts does correspond to a healthy status of the social relationships which is due to the fact that the principle of legality understood as a fundamental principle of the state of law is indeed duly respected.

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