MINISTERUL EDUCAȚIEI ȘI CERCETĂRII
UNIVERSITATEA „TITU MAIORESCU" DIN BUCUREȘTI
Calea Văcărești, nr. 187, sector 4, București, cod 040051
tel.: 021 316 16 46, fax: 021 311 22 97, e-mail: rectorat@univ.utm.ro, www.utm.ro

UNIVERSITATEA TITU MAIORESCU DIN BUCUREŞTI

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ȘCOALA DOCTORALĂ DE DREPT

REZUMATUL TEZEI DE ABILITARE

Ubi jus, ibi remedium: dreptul administrativ între fiabilitatea cunoașterii clasice și provocările contemporane

Candidat:

Conf. univ. dr. Tudor-Alexandru CHIUARIU

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Ubi jus, ibi remedium: Administrative Law Between the Reliability of Classical Knowledge and Contemporary Challenges

- Habilitation Thesis -

Associate Professor PhD Tudor-Alexandru Chiuariu

Abstract

The habilitation thesis presents a synthesis of the research and teaching activity I have carried out since obtaining my doctoral degree in law in 2012 (Part I), together with the directions for the future development of these activities (Part II).

Part I of the thesis, devoted to my main professional achievements, identifies the two major theoretical blocks within which such research directions and themes fall: *normativity* and *remedies*. The thesis first analyses the state of the discipline of 'administrative law', with reference to international and national scholarship, identifying the elements of convergence among national systems of administrative law: the establishment of common general principles of law; the operation of a common factor of convergence — supranational norms of priority rank, the ECHR and EU law; and the reciprocal influence among European states.

Advancing to the next level of depth within these fields, I have identified the following *research directions*: the legal order in Romania, the sources of legality within a pluralist legal order, and levels of normativity; the ordering of norms through the hierarchy principle, the safeguarding of their conformity, and remedies in cases of conflict of norms; the general principles of law (the principle of legality, the principle of the hierarchy of legal norms, the principle of legal certainty, and the principle of proportionality); the rule of law, incidents of public integrity within the architecture of the rule of law, and the types of administrative liability; and the protection of constitutional values and general principles of law through the instruments of administrative law in the electoral process and in countering extremism.

Within the theoretical block of *remedies*, I have been concerned with the means of effectively protecting rights, fundamental freedoms, general principles of law and constitutional values through *adjudicatory activity*. The *research directions* pursued were: Romanian administrative judicial review — review of legality for the purpose of safeguarding rights; special administrative judicial review in matters of integrity; administrative-jurisdictional procedures, namely special administrative litigation in the field of public procurement and the national anti-doping jurisdiction; and arbitral procedures and their interplay with the field of administrative judicial review, including public policy (*ordre public*) in arbitration on the basis of the ECHR and European Union law.

The theoretical framework is established by identifying two doctrinal orientations in administrative law: the liberal or conservative orientation (the *'red light' theory*), centred on limiting public power and protecting individual rights, and the socialist or progressive orientation (the *'green light' theory*), focused on enabling the state to deliver public services. I situate myself within the first trend, in keeping with the conception that the fundamental purpose of administrative justice is to act as a counterweight to the administration, with human rights at the heart of the judicial act. The thesis proceeds from the premise that Romanian

administrative law can no longer be studied from a purely national perspective: the pluralist legal order instituted by the European Convention on Human Rights and by European Union law continuously reshapes domestic law through their direct effect and primacy, and, through this process of Europeanisation, Romanian administrative litigation becomes European administrative litigation.

In assessing the extent to which this research is relevant in the context of the current state of scholarly inquiry within the thematic field of the specialism, at both the international and national levels, I have identified the ways in which it has been received in scholarship and case law, demonstrating — in a reasoned and well-documented manner — the relevance and originality of my personal contributions, with concrete examples: the request for a preliminary ruling before the CJEU, the request for an advisory opinion before the ECtHR, reversals of case law in the practice of the High Court of Cassation and Justice, the legal opinion sought by that Court, and citations in specialist works across the world.

In my *teaching activity*, covering the subjects of administrative law, administrative litigation, public procurement and arbitration, I have proceeded on the conviction that, first and foremost, students must acquire a clear command of the foundational concepts. This must be the firm ground upon which discussions, theories, controversies and finer distinctions can subsequently rest. In my teaching I have combined the logical and hermeneutic method with the explanatory and empirical one. In a world of transactional, volatile and fragile values, I have sought to restore in students their confidence in the firm values that have underpinned the construction of Western civilisation: the trust in expert systems, the acquisition of expertise through sustained effort, and the necessity of attaining a high level of knowledge as a precondition for the quality of the professional services they will render once they choose to embrace one of legal professions.

In **Part II** of the thesis, I have formulated six future research directions; some continue those pursued thus far, while others are entirely new, but all relate to current developments bearing upon the field of administrative law. The first addresses algorithmic evolution — the integration into administrative law of the changes brought about by algorithmic and artificial intelligence systems, in the context of EU Regulation 2024/1689 — which raises novel questions concerning the legal nature of the algorithmic administrative act and the judicial review of automated decisions. The second concerns the consolidation of the research on the principle of proportionality through the publication of a monograph and a practical guide intended for authorities and courts. The third continues the line of research on human dignity, with emphasis on the means of safeguarding it through the instruments of administrative law and on the ways in which effective remedies for its protection may be legally grounded. The fourth direction will address the new forms of administrative liability, some express, others disguised. The fifth will examine the new forms of administrative judicial review, including the *Seraing* review — a special form of Union review exercised by national courts over arbitral awards, established by CJEU Judgment C-600/23 — intended to ensure their conformity with the principles and provisions that constitute the public policy of the European Union. The sixth direction will follow the geopolitical and legislative developments at EU level: the reform of the classic European public procurement directives through the adoption of a new legislative act — the first step being the presentation of a proposal, envisaged for 2026 — with a recalibration of the objectives of competitiveness, sustainability and strategic sovereignty; and defence procurement in light of the SAFE, EDIP and EDF instruments and the reform of Directive 2009/81/EC.

In the **conclusion** of the habilitation thesis, I emphasised that the radical technological and geopolitical developments of recent times confront administrative law with the cardinal question of whether such developments can still be addressed with the toolkit of classical concepts and theories, or whether it is necessary to adapt the old ones and/or adopt new ones. The answer will emerge from future research, following the conviction that administrative law must continue to discharge its primordial functions — the provision of public services and the guarantee against arbitrariness.