

SUMMARY OF THE DOCTORAL THESIS

The objectives of the thesis are addressed in 8 chapters, each grouped into sections and subsections, making connections between the subjects, accompanied by proposals for *lege ferenda*, the conclusions resulting from the research, related to each chapter discussed, along with the final conclusions and proposals for intervention by the legislator for a unitary image of a superior regulatory framework in terms of legal clarity, if the formulation of such proposals was required.

The paper is structured as follows: Chapter I ("General considerations regarding the legal institution of liability with special regard to administrative liability"), Chapter II ("Civil liability. The significant contribution of the Civil Code in regulating administrative liability"), Chapter III ("Translation from civil liability to administrative liability"), Chapter IV ("Administrative liability in administrative law"), Chapter V ("Administrative-property liability"), Chapter VI ("Administrative-disciplinary liability"), Chapter VII ("Administrative-contraventional liability"), Chapter VIII ("Examination of judicial practice in the matter of liability"), finally concluding with the conclusions of the research and the proposals for *lege ferenda*.

The structure of the work in 8 chapters optimally responds to an ordering imposed by the proposed objectives, presenting in an organized manner, first, the general considerations regarding the legal institution of liability, followed by the constitutional regulations in the member states of the European Union and in other states, being identified and subjected to research (only) the constitutional norms in the field of liability, for the states in which the constituent legislator has conferred the rank of constitutional principle to legal liability.

The first chapter is structured in two sections, each with its own subsections; the first chapter opens the work by evoking the general considerations regarding the legal institution of liability (bearing this name), with the purpose of facilitating the "entry" into the research topic, without allocating too much space, in this section of the work, to notions already covered by scientific research.

We have repositioned the classical terms of law, responsibility in opposition to liability, the synonymy having long been lost, theorists constantly emphasizing the valences of each term in the space of law, removing the confusion of synonymy by repositioning each in its proper place, but the approach aimed to bring new terminological valences, but not necessarily with legal meanings, but those with social valences, highlighting another type of differentiation between the two concepts, of a different nature, an approach less present in specialized works.

We continued, in the second section, with the analysis of the constitutional normative framework, the Constitution being the first fundamental guarantor of the substantive law norms, the Constitution being the supreme benchmark for the subsequent, correct settlement of the regulations contained in the organic laws, the research bringing to attention the regulations in the Constitutions of Romania, the Republic of Austria, the Kingdom of Belgium, the British (of the United Kingdom of Great Britain and Northern Ireland) and Swiss constitutional systems, the Constitution of the Republic of Bulgaria, the Constitution of the Republic of France, the Basic Law of the Federal Republic of Germany (*Grundgesetz*), continuing with the Constitutions of the Republic of Italy, the Kingdom of Spain, ending with the Constitution at the European level.

Redefining the concept of "liability", we turned, in the second chapter of the doctoral thesis, to the institution of civil liability, the backbone of legal liability, recognizing the

significant, even huge, contribution of the Civil Code (through the body of provisions on liability) and in the subsequent regulation of administrative law liability.

The second chapter, consisting of two sections, opens with the section "Procedure for the comparison between civil liability and administrative law liability", a comparative approach with the intended role of underlining the common elements resulting from the process and concluding whether the provisions of administrative liability are or are not an extension of those of civil liability, re-established, however, through their own, particular elements of administrative law or, on the contrary, have outlined their own physiognomy from the beginning.

I continued the research with the study of the institution of tortious civil liability, focusing on the influences of concepts imported from foreign law, offering a comparative perspective on the normative regulations (mainly) of Romanian civil law and French civil law, from the perspective of the theories that have succeeded each other in doctrine, namely the theory of fault (mistake), the theory of risk, that of damage (damage), the latter from a triple approach: from the perspective of the injured party, from the perspective of the author of the illicit act and from the perspective (thesis) of the responsible person, as well as the analysis of the reform act of November 2024 regarding liability for personal acts according to the French Civil Code.

The next section of the same chapter is devoted to contractual civil liability and the liability regime in the stages of contract formation, contractual liability being a form of mutual civil liability of the parties to a contract, carrying out a detailed analysis of the pre-contractual stage of negotiations, the liability regime and the forms in which the participants in the negotiation can respond when the obligations of good faith, fidelity, information during the negotiations stage, maintenance of the offer to contract are violated, as well as the meanings (illicit, prejudicial) of some acts imposed in pre-contractual documents in the form of a letter of intent, a letter of comfort and a solemn undertaking.

The third section of the chapter continues with the analysis of the legal regime of contractual civil liability, taking into debate the illicit act of the co-contractor in the contractual stage.

Also in this chapter of the doctoral thesis, following the study of the specialized literature, I also presented aspects of comparative law with reference to pre-contractual and contractual liability in French, Quebec, Italian, German, Anglo-Saxon law and American law.

The objective of the third chapter entitled "Translation from civil liability to liability in administrative law" identified the legislative technique for creating a new type of (administrative) liability and its construction landmarks, establishing two poles of power, civil power (resulting from civil liability) and public power (exercised in the administrative liability regime), ending with the evocation of aspects of comparative law resulting from the study of French, Spanish and German literature; Also in this section of the paper, I have presented case law references (solutions of civil courts, administrative courts, rulings of the European Court of Human Rights), appreciating that their presence, after evoking theoretical and doctrinal notions, contributes to a better understanding of the logical-judicial reasoning presented in the judgment.

The terminological and conceptual explanations presented in the section aim to capture the two institutions from a different vision, of projection, that of institutions of power in the sphere to which they belong, civil power, respectively public power, through two normative pillars – the Civil Code and the Administrative Code, in fact, a familiarization with the second part of the research topic and the terminology related to it.

Public power has in its composition the public function, the state component, the coercive force of the state, but these attributes would seem, *prima facie*, to attribute to it the character of superiority in relation to civil power.

This hierarchy is not imposed, civil power, the result of engaging civil liability, remains in the same plane of power as the public one, a characteristic given by engaging civil liability through the force of law, and this normative fact is sufficient to place the two powers on an equal footing.

The fourth chapter of the work is dedicated to administrative liability, which falls within our research area facilitated by the preceding chapter, which captured the meeting space of the two institutions, of ideas, of confluence, to allow the understanding of the new institution.

The subsection of the chapter captures the concept of "liability in administration", starting from what has been established doctrinally (the "tradition" element), continuing with new conceptions (presented in the "modernity" element), placing the two normative acts, the Civil Code and the Administrative Code in the mirror, in a metaphorical parallelism expressed, fixing the points of intersection, those similarities or differences in notions in the evolution of the norming process.

The introductory notions in the matter of administrative liability, the subjects of administrative liability, as well as the illicit act in the specific context of this liability are analyzed in sections 3, 4 and 5 of chapter IV.

The guilt requirement of this type of liability, with a focus on the specific requirement of "effective participation in the violation of the law", I have dedicated the following section to, without losing the analysis of the other conditions of liability, that of damage (treated in section 7 in the approach to administrative normativism) and that of the causal relationship between the unlawful act and damage, a common requirement of civil liability and administrative liability (which I subjected to analysis in the last section of the chapter).

The following chapters examine the three forms of administrative liability, namely administrative-property liability (treated in chapter V), administrative-disciplinary liability (treated in chapter VI) and administrative-contraventional liability (chapter VII), dealing mainly with the aspects of novelty, which regulate the content of the form of liability.

Within the framework of administrative-patrimonial liability, the forms in which it is made known are analyzed (from a normative point of view in the provisions of the Administrative Code), namely: patrimonial liability for judicial errors, the notion of "judicial error" being defined and aspects of comparative law presented (similar regulations from Anglo-Saxon law, Australian law, Greek law, French law, German law and Spanish law).

Also within the framework of administrative-patrimonial liability, within the same chapter, we analyzed patrimonial liability for the limits of the public service, a form of liability that allowed us to exploit the only supporting article 574 of the Administrative Code, from the perspective of theoretical explanations, the problems raised, the terminological and conceptual clarifications.

Article 574, in our research, we designated as the pillar article, the one that supports, in fact, the foundation of public service liability.

The first section of the subchapter "Patrimonial liability for the limits of the public service. Terminological and conceptual problems and solutions" analyzes the autonomy of this article (art. 574 C.adm.), which benefited from a separate normative treatment from the framework regulations of the Administrative Code in the field of public services, the second section surprising the semantic characteristics resulting from the norming process that used terms with subjective, even affective, charge.

The third and fourth sections of the subchapter bring to the fore the notion of risk, which in the norm of art. 574 let. a) and let. c) of the Administrative Code has a new attribute, that of "contained risk", determining us to investigate whether, in concrete terms, the administrative norm sets, in fact, the requirement of predictability (seemingly a relative one) of the required risk.

At the same time, I have repositioned (in the fourth section) two abstract concepts of legal language, present in private and public law, in order to see the extent to which the risk in public law (a provision that I considered to be novel) opposes, in terminological terms, the risk in private law (that of private origin).

The novelty of this type of liability results from the official and unique definition of article 574, but also from the meanings of the term "certain" (from the phrase "certain prejudices", which I considered to be restrictive), of the term "deficiencies" (which enters for the first time into the legal space and in the matter of liability of public services that produce acts detrimental to beneficiaries) and of the notion of "limits of the public service", limits that scientific research has set out to identify, being expressed as the "administrative border of liability".

The civil service is present in the equation of administrative liability through administrative-disciplinary liability, structured in the analysis in the sections of chapter 6 with this name.

The opening section of the chapter reaffirms the responsibility of the civil service in the equation of administrative liability.

The following sections focus on the active subject of this form of liability: the public official whose standard of conduct and professional misconduct will be analyzed (in the second section), the professional conduct to which he is obliged (in the third section, in which we will establish the valences of the term "professional conduct" in the context of this form of liability, the duties of public officials and the dilemma over the perspective - administrative or civil - regarding the requirement of damage resulting from the mistakes of the responsible official.

Contraventional liability, the last main form of administrative liability, is the subject of Chapter VII.

Administrative-contraventional liability is "summarized" by the Administrative Code in Article 568, a definition that does not combine any separate terms or other references of a separate structure, referring to the secondary legislation already existing in the legal system.

My capacity as a practitioner has facilitated my access to the jurisprudence of national courts (in which I have also included court decisions pronounced on the merits and appeals in which I acted as editor), a jurisprudential contribution to which I have allocated the last chapter of the work.

The findings of the research are presented at the end of the paper in the form of conclusions, where we will also synthesize the key arguments evoked in the paper in the *lege ferenda* proposals formulated within the sections, reaffirming our belief that they can contribute to the clarity of the norm and to the fixing of its best legal meaning, removing the equivocation that we identified throughout the scientific research.

The final synthesis proposes, in conclusion, several future research directions and the call for a unity of liability, hoping to convince both the legislator and the readers that liability in principle should not be divided, a normative manner in which it can lose more than it could bring (in contribution) single liability, guiding a reflection towards a new (perspective) resettlement of civil liability; In the documentation activity, similar regulations in foreign legislation, especially those of European Union countries, sources of additional information relevant to the debate on the normative act, the case law of the European Court of Human Rights on the matter, the practice of courts in applying the regulations in force, as well as the legal doctrine on the matter, were constantly taken into account.