Some consideration of legal issues that have generated non-unitary practices in the interpretation and application of certain provisions on the legal regime of contraventions

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Abstract
We have analysed throughout this article some legal issues that have generated non-unitary practices in the application of certain provisions on the legal regime of contraventions, in light of doctrinal, normative and jurisprudential references on the subject, our aim being to reveal as an opinion the legal and legitimate solutions identified for correction.
In this regard, we briefly rendered the Decision of the High Court of Cassation and Justice of Romania no. 6/2015, issued on the appeal on points of law raised by the Ombudsman, on the interpretation of the provisions of Art. 17 of the Government Ordinance no. 2/2001 regarding the legal regime of contraventions, framework regulation in relation to certain specific legal regulations on the matter of contravention liability.
We have also revealed the multitude of changes and additions occurred on Government Ordinance no. 15/2002 on the application of user charge and the fee for crossing the national road network in Romania, commenting, as an opinion, the determination of the continuous form of the contravention therein even after ten years of its publication.
Finally, we highlighted the opinion of the European Court of Human Rights, given in the Case Anghel against Romania - The final judgment of 31/03/2008, regarding the presumption of legality of the contravention report which should be considered reasonably, with the observance of fundamental guarantees - including the presumption of innocence - which protects citizens against possible abuses by the authorities in the light of Article 6 of the Convention.
Keywords: *contravention report, appeal on points of law, continuous contravention, presumption of legality, presumption of innocence*

INTRODUCTION

We intend to analyse in this article some legal issues that have generated non-unitary practices in the application of certain provisions on the legal regime of contraventions, in light of doctrinal, normative and jurisprudential references on the subject.

From the historical point of view, contravention originates in the French criminal law that established the demarcation of infractions in "crimes, felonies and contraventions" until after 1948 when contravention has been removed from the criminal area of law and placed in an "administrative legal regime" [1].

The French model was also adopted by Romanian law: "contraventions were originally covered by the Criminal Code in 1865 and 1936, which divided infractions in

crimes, felonies and contraventions"; "Decree no. 184/1954 operated a decriminalisation; contraventions were removed from among infractions and classified as violations of administrative nature." [2]

In the legal doctrine numerous definitions of the contravention were formulated and one of the most complex and complete, in our opinion, is that according to which "contravention is an antisocial offence that consists mainly of breach of public law, it may also intervene for breach of other branches of law, but is, in all its aspects, an institution of administrative law." [3]

According to Art. 1 of Government Ordinance no. 2/2001 regarding the legal regime of contraventions, [4] as subsequently amended and supplemented, "contravention is an offence committed with guilt, established and sanctioned by law, ordinance, by Government decision or, where appropriate, by decision of the local council of the village, town, city or district of Bucharest, of the council county or of Bucharest General Council."

Also, qualified in the doctrine as "one of the forms of administrative liability" contravention has been also defined as "the offence committed with guilt that is provided and sanctioned by law or other regulations and which is a social threat, usually less serious than infraction [5]."

About the contravention liability it has been noted that "it is just a form of administrative liability, contravention being currently a manifestation of the administrative illicit, the most serious form of it" and "its legal regime is predominantly a regime of administrative law"; "liability for contraventions is not a typical form of administrative liability, but an atypical, imperfect form"; "therefore, in terms of synonymy between the administrative and contravention liabilities there are different opinions, instead there is unanimity of opinion in the sense that the grounds of contravention liability, the illicit deed that triggers is, is contravention." [6]

The legal sanctions for contravention are provided for in Art. 5 of Government Ordinance no. 2/2001 and they are main and complementary. The main contravention sanctions are: a) warning; b) contravention fine; c) provision of community activities [Art. 5 par. (2) of the Ordinance].

"The application of contravention sanctions is done through individual unilateral administrative instruments which must be in accordance with the framework legislation (GO no. 2/2001) and with special legal regulations on the matter of contravention liability". [7]

The contravention is established by a report signed by those specifically provided for in the law who define and sanction the contravention, generically called official examiner, according to Art. 15 par. (1) of Government Ordinance no. 2/2001.

On the legal nature of the contravention report, opinions were expressed in literature according to which the contravention report is "the administrative instrument individualizing the unlawful and contravention act", "a contravention administrative act", "a unilateral sanctioning administrative instrument". [8]

The contravention report is "a special administrative instrument, an administrative contravention instrument"; [9] it is "an official written document, being drawn up by a public official, as a state representative. (...) an authentic written document because it produces legal effects without any other formality of approval or confirmation being required." [10]

Government Ordinance no. 2/2001 provides in Art. 16 entries the contravention report will necessarily include, and in Art. 17 it provides the following cases entailing the annulment of the report: "absence of indications on the full name and capacity of the official examiner, full name of the contravener, and for a legal entity absence of name and premises, of the offense committed and of the date on which it was committed or of the official examiner's signature".

According to literature, nullity "is the sanction generally applied to the proceedings concluded without observing the conditions of substance and form prescribed by law" [11], and absolute nullity "occurs for breach of the substantive, essential conditions for the validity of the instrument" and "is characterized by the fact that it sanctions the non-observance at the conclusion of the legal instrument of a rule which protects a general, public interest" [12].

"Moreover, the ruling of the legislator determines the imperative nature of legal norm provision which, protecting the potential contraveners from any abuses of the official examiners, does nothing more but to create the right environment for the

operation of the presumption of innocence as one of the main fundamentals that govern the criminal proceedings and all the more so a contravention". [13]

Regarding the appeals against the report for contravention findings and for the application of the contravention sanction, the court is the one that "will decide on the legality and the grounds of the report and will order the maintenance or cancellation of the sanction imposed". [14]

The jurisdiction of the court also results from Art. 38 par. (3) of Government Ordinance no. 2/2001 which provides for the replacement by the court of the contravention fine by warning sanction; but the court cannot order a severer contravention sanction, "because it would violate the principle that nobody's situation may be aggravated in his own remedy (non reformatio in peius)". [15]

We briefly present hereunder the Decision of the High Court of Cassation and Justice of Romania (HCCJ) no. 6/2015 concerning the interpretation of provisions of Art. 17 of the Government Ordinance no. 2/2001, concerning the lack of indications regarding the signature of the official examiner, that voids the contravention report.

Section 1. The Decision of the High Court of Cassation and Justice of Romania no. 6/2015 - appeal on points of law to the interpretation and unitary application of certain provisions on the legal regime of contraventions

By Decision no. 6/2015 [16], having deliberated on the appeal on points of law, the High Court found the following issues, which we briefly present below in extract.

The issue of law that has generated the non-unitary practice (pt. 1 of HCCJ Decision)

In its appeal on points of law brought under Art. 514 of the Civil Procedure Code, [17] the Ombudsman referred to the High Court of Cassation and Justice to rule on the law issue, which was resolved differently by the courts, on the interpretation of the provisions of Art. 17 of the Government Ordinance no. 2/2001, approved with amendments and supplements by Law no. 180/2002, as amended and supplemented and Law no. 455/2001 on electronic signature, republished [18], in terms of official examiner's signature required for the legality of the contravention report, for contraventions punishable by Government Ordinance no. 15/2002 on the application of user charge and the fee for crossing the national road network in Romania, [19]

approved with amendments and supplements by Law no. 424/2002, as amended and supplemented.

The solutions delivered by the courts (pt. 3 of HCCJ Decision)

In a jurisprudential orientation it has been found that the lack of the handwritten signature of the official examiner, in this case Compania Naţională de Autostrăzi şi Drumuri Naţionale din România (CNADNR) - SA, voids the contravention report concluded for the establishment of contraventions covered by Government Ordinance no. 15/2002.

In another jurisprudential orientation, courts have held that the existence of the electronic signature of the official examiner and not of the handwritten signature, is not likely to void the contravention report.

Ombudsman's opinion (pt. 4 of HCCJ Decision)

The Ombudsman expressed his view in that the electronic signature of the official examiner, in this case CNADNR - SA, is likely to void the contravention report concluded for the establishment of contraventions to the Government Ordinance no. 15/2002.

One of the arguments invoked by the Ombudsman was that: The contravention reports issued under Government Ordinance no. 15/2002 are generated and electronically signed being transmitted to the contraveners not through an electronic system, but on paper by mail services, so it cannot be argued that those written documents bearing the electronic signature of the official examiner would be eligible for legality conditions established, under penalty of nullity, by the provisions of Art. 17 of the Government Ordinance no. 2/2001.

High Court (pt. 7 of HCCJ Decision)

The Court specifically found that the courts have been entrusted with the verification of legality in light of the fulfilment of the requirement regarding official examiner's signature, provided by Art. 17 of the Government Ordinance no. 2/2001, under penalty of absolute nullity, on the reports concluded according to Art. 9 par. (1) a), par. (2) and (3) of Government Ordinance no. 15/2002, by the authorized personnel within CNADNR - SA for continuous contravention provided by Art. 8 of the same law, consisting in the offence of circulating without holding valid vignette.

Art. 9 par. (2) of Government Ordinance no. 15/2002 provides that: “Beginning with October 1, 2010, the establishment of contraventions can also be made with approved technical means placed on the national road network in Romania, which fact shall be entered in the contravention report”. According to art. 9 par. (3) of the same Government ordinance, the report could be concluded in the absence of the contravener. [20]

Art. 10 of the Government Ordinance no. 15/2002 contains a provision referring to Government Ordinance no. 2/2001, so that this regulation is also applicable as general law in respect of the contravention provided by Art. 8 of Government Ordinance no. 15/2002. [21]

These reports, communicated to the persons sanctioned for contravention under the provisions of Art. 27 of Government Ordinance no. 2/2001, by mail, do not contain the handwritten signature of the official examiner, but only the indication that the documents were generated and electronically signed, under the provisions of Law no. 455/2001 and of Government Decision no. 1.259/2001 on the approval of Technical and methodological rules for the application of Law no. 455/2001 [22].

The Court held that the courts which admitted the complaints regarding contravention acted appropriately and found that the lack of the handwritten signature of the official examiner, i.e. CNADNR - SA, voids the report for the establishment of contravention and for the application of the contravention sanction, concluded pursuant to Art. 9 of Government Ordinance no. 15/2002.

As a preliminary action, the High Court considered that some theoretical considerations are required to be made regarding the legal nature of the report for the establishment of contravention and for the application of the contravention sanction, and the form thereof.

The High Court showed that the majority opinion expressed in the literature is in the sense that this report is an administrative act, [23] in a recent paper it was considered that the contravention report is a mixed legal instrument - administrative act and contravention proceeding act [24], and the Constitutional Court case law has ruled that the legal nature of the contravention report is that of an “ascertaining administrative act” [25].

As such, the Court considered, the contravention report, materializing a unilateral manifestation of will by a public authority (through persons acting as official examiners) is a unilateral administrative act with individual character, issued under public power, in order to produce legal effects.

The contravention report must be in writing, as it is the only probative act of a contravention, [26] and must contain the particulars set out in Art. 16 and Art. 19 of Government Ordinance no. 2/2001 otherwise no sanction may be imposed, as no evidence can be brought to establish the contravention.

According to Art. 17 of Government Ordinance no. 2/2001 among the elements that must be included in the contravention report, only lack of some of them voids the report, including the signature of the official examiner. Nullity can also be established ex officio. The doctrine stated that these are grounds for absolute invalidity that cannot be removed in any way [27].

The High Court showed that the settlement of the law issue by appeal on points of law involves several levels of legal analysis.

First, the Court held that the application of Law no. 455/2001 and of the Technical and methodological rules for the application of Law no. 455/2001, approved by Government Decision no. 1.259/2001 is incompatible with the contravention procedure, regulated by Government Ordinance no. 15/2002 - special law - to be completed by Government Ordinance no. 2/2001 - common law on contraventions.
Government Ordinance no. 15/2002 does not include provisions on methods to communicate the contravention report, in which case the provisions of Art. 26 par. (3) and of Art. 27 of Government Ordinance no. 2/2001 which states that the report concluded by the official examiner in the absence of the contravener with notice of payment shall be communicated to him by mail, with return receipt, or by posting at the domicile or premises of the contravener, become incidental.

To determine the field of electronic signature application, in simple or extended form, and of its legal regime, provisions of Art. 4 pt. 1-4 and Art. 5-7 of Law no. 455/2001 are relevant, added the Court.

Analysing the provisions of Art. 4 pt. 1 and pt. 2 of Law no. 455/2001 [28], the Court held that a legal act can enter into the scope of this law only when the

manifestation of the will of the one emanating the act is in electronic form and also reaches the recipient of transmission in the same form, by means of data transmission in electronic format.

The Court noted that the legislator expressly provided in Art. 5 of Law no. 455/2001 [29] that the document in electronic format bearing an extended electronic signature is assimilated an act under private signature, but it is intended exclusively for use in the electronic system.

By Art. 6 of Law no. 455/2001 [30], the legislator has provided the requirement regarding the recognition of the instrument in electronic form to that to which it opposes in order that it has the same legal effect as an authentic document.

In art. 4 pt. 3 of Law no. 455/2001, the electronic signature is defined as “data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of identification”.

From the analysis of the provisions of Art. 4 pt. 4 of Law no. 455/2001 [31] on the extended electronic signature, the Court concluded that the electronic signature can only be attached to a written instrument in electronic format. As such, it cannot be applied to a document on paper.

In conclusion, the High Court held that the report prepared in electronic format that has an extended electronic signature attached, which was not communicated in electronic format to the person sanctioned for a contravention, stored on a computer medium of the authority to which the official examiner belongs, only benefits from presumption of validity prescribed by Art. 283 of the Civil Procedure Code. However, this presumption does not work against third parties (in the cases reviewed, the persons sanctioned for a contravention), but in their favour. [32]

In addition, such an act has no legal effects, since it was not notified in the forms prescribed by law, for which reason it is lacking enforceability conferred to unilateral administrative instruments taken in public power conditions.

Given the report issuance and submission form, the handwritten signature of the official examiner is mandatory. Otherwise, the act cannot benefit from the presumption of authenticity which, as a rule, is specific to administrative instruments issued in compliance with the procedural requirements regarding the form.

Second, the Court held that the report signing method used by the official examiner within CNADR - SA is a lack of signature of the official examiner that attracts the absolute nullity of the instrument, according to Art. 17 of Government Ordinance no. 2/2001.

The Court said that, one cannot assess that, by printing the report on paper and communicating it to the person sanctioned for a contravention in this form required by Art. 27 of Government Ordinance no. 2/2001, with the specification that it was signed with extended electronic signature and indication of a qualified certificate issued by a certification service provider, absolute nullity can be covered, since, in principle, such nullity cannot be removed, the missing element being considered essential by the law.

In this context, the Court considered that the argument for legal interpretation presented in the second jurisprudential guideline according to which Art. 17 of Government Ordinance no. 2/2001 does not impose the handwritten signature of the official examiner as a condition of legality, cannot be accepted.

First, the principle of legality requires a strict interpretation of the legal rule, so that the result of the interpretation is consistent with the will of the legislator [33].

Second, as shown above, by using arguments of logical and systematic interpretation of the provisions of Government Ordinance no. 2/2001 and of those under Law no. 455/2001, the legislator's will was that the report for establishing and sanctioning the contravention be communicated to the person sanctioned on paper. In those circumstances, there is a legal and logical incompatibility between the medium on which the instrument is communicated to the person sanctioned and the extended electronic signature, allegedly applied on said instrument to ensure authenticity thereof.

When the document is received by the addressee on paper, the authenticity of the document, when the written form is required by law ad validitatem is assured only by affixing on this document, the issuing official examiner's handwritten signature (in solemnibus forma dat esse rei).

For the reasons shown under Art. 517 with reference to Art. 514 of the Civil Procedure Code, the High Court of Cassation and Justice, in the name of law, ruled to allow the appeal on points of law raised by the Ombudsman and, therefore, determined that:

In the interpretation and application of Art. 17 of Government Ordinance no. 2/2001, relative to the provisions of Art. 4 pt. 1-4 and Art. 7 of Law no. 455/2001, the reports for establishing and sanctioning contraventions prescribed by Art. 8 par. (1) of Government Ordinance no. 15/2002, concluded according to Art. 9 par. (1) a), par. (2) and (3) of this law, sent to the persons sanctioned for a contravention on paper, they are null and void in the absence of a handwritten signature of the official examiner.
The decision is binding, according to Art. 517 par. (4) of the Civil Procedure Code.

Section 2. Other legal issues regarding the legal regime of contraventions reported in contravention administrative practice

We state that Government Ordinance no. 15/2002 has undergone many changes and additions to the present, both by laws and by simple ordinances or emergency ordinances of the Government, the last of which is the Government Emergency Ordinance no. 8/2015 amending and supplementing certain legislative instruments, published in the Official Gazette no. 285 of April 28, 2015. [34]

It is not insignificant that barely ten years after the entry into force of Government Ordinance no. 15/2002, Art. 8 par. (1) [35] within it was amended and supplemented by pt. 1 of Art. I of Law no. 144/2012 published in the Official Gazette of Romania, Part I, no. 509 of July 24, 2012, in that “the act of circulating without holding a valid vignette is a continuous contravention and is punishable by a fine” versus previous form of the text which does not enshrine the continuous form of contravention consisting of “the act of circulating without holding a valid vignette”.

Until the operation of this change, the contravention administrative practice generated “a very difficult situation to the contravener, disproportionate to the social danger generated” [36], although according to Art. 13 par. (2) of Government Ordinance no. 2/2001 “contravention is continuous if the breach of the legal obligation lasts in time,” and according to Art. 10 of the Government Ordinance no. 15/2002 “contraventions referred to in Art. 8 are being applied the provisions of Government Ordinance no. 2/2001”.

Section 3. The right to the presumption of innocence enshrined in Art. 6 paragraph 1 of the European Convention on Human Rights

The judicial practice showed that "the ascertaining report is evidence until proven otherwise" and "the contravener has the obligation to bring and submit evidence proving the groundlessness and/or the illegality of the instrument". [37]

Recent doctrine has held that "using this stereotype ("the one who makes a proposal before the court must prove it"), situations where courts have "self-reduced" their active role have been created". [38]

The issue of the presumption of legality of the contravention report was brought before the European Court of Human Rights. In the Case Anghel against Romania, the Court found that "allegations of fact and law are found in every legal system; in principle, the Convention does not derogate from them," however (...) Art. 6 par. (2) "requires states to consider these presumptions, within reasonable limits, taking into account the seriousness of the offences and preserving the rights of defence." [39]

The Court held that "the non-observance of fundamental guarantees - including the presumption of innocence - which protects citizens against possible abuses by the authorities, is an issue that must be examined under Article 6 of the Convention" and in this case, the applicant's case was not tried fairly, as provided by Article 6 of the Convention, therefore this provision has been violated. [40]

These findings of the European Court of Human Rights "are somewhat inconsistent with the legal reasoning based on the presumption of legality of the contravention report, practiced by Romanian courts", but they "are forced to consider its provisions and implement them", "with the purpose of ruling legal and accurate decisions, this being, first, to the interest of the party in trial". [41]

The presumption of legality, the principle of legality of administration, respectively, "must guarantee freedom of citizens against obedience of the executive without limits." [42]

CONCLUSIONS

On the one hand, we ask rhetorically the question whether such matters of law generating non-unitary practices in the interpretation and application of provisions on the legal regime of contraventions, serve the public interest and, hence, the citizen.

On the other hand, we cannot but admit that the legislative and judicial interventions in recent years, in matters of legislation specific to the legal regime of contraventions, have produced favourable consequences for the protection of the legitimate public interest – aiming at rule of law and constitutional democracy and, equally, guaranteeing rights, freedoms and fundamental duties of citizens and the realization of public authorities jurisdiction [43].

"There are two ways to do the criticism of law. One concerns the quality or usefulness of rules or legal principles, in which the subject of this criticism is the positive law. The other relates especially to the validity of law, i.e. to the objective truth as expressed by law, legal rule, situation in which law as a science, or the legal science is highly controversial." [44]

Therefore, we did not propose to make a critical approach in this article, on the contrary, our intention was to reveal as an opinion, from subjective and objective points of view, solutions which we consider to be legal and legitimate to correct issues of law that have generated non-unitary interpretation and application of certain provisions on the legal regime of contraventions and, implicitly, dissatisfaction expressed not just by academics and practitioners, but also by public opinion.

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[27] Note no. 8 of HCCJ Decision no. 6/2015: Antonie Iorgovan, op. cit., pag. 428; Mircea Ursuţa, op. cit., pag. 133.
[28] According to art. 4 pt. 1 and 2 of Law no. 455/2001 "data in electronic form are representations of information in a conventional form suitable for creating, processing, sending, receiving or storing it by electronic means" and "written document in electronic format is a database in electronic form between which there are logical and functional relationships and which render letters, numbers or other characters with intelligible meaning, intended to be read by a computer program or other similar device".
[29] Pursuant to Art. 5 of Law no. 455/2001 "document in electronic form having an extended electronic signature included, attached or logically associated based on a qualified certificate unsuspended or unrevoked at the time, and generated using a secured device for creating electronic signature, is assimilated in terms of its requirements and effects, to the document under private signature."
[30] Art. 6 of Law no. 455/2001 states: "A document in electronic form having an electronic signature included, attached or logically associated, recognized by the party to whom it opposes, has the same effect as an authentic document among those who signed it and among those who are representing their rights."
[31] The extended electronic signature defined by art. 4 pt. 4 of Law no. 455/2001: "The electronic signature which meets the following conditions: a) it is uniquely linked to the signatory; b) provides the identification of the signatory; c) is created using means exclusively controlled by the signatory; d) is linked to the data in electronic form to which it relates in such a manner that any subsequent amendment thereto is identifiable".
[32] Note no. 12 of Decision no. 6/2015: Ioan Leş - Noul cod de procedură civilă. Comment on articles, art. 1-1133, C.H. Beck, Bucharest, 2013, comment art. 283 - Presumption of validity of the entry, p. 427: Act stored on computer, bearing the electronic signature of its issuer benefits from the presumption of validity, provided by Art. 283 of the Civil Procedure Code, which requires only the condition of some "sufficiently serious guarantees" for providing credibility of the document and that only works "for third parties" and not against them.
[33] Note no. 15 of Decision no.6/2015: Mihai Adrian Hotca - Drept contravenţional. Partea generală, Editas, Bucharest, 2003, p. 36-37.
[34] Government Ordinance no. 15/2002 has been amended and supplemented by the following legislative instruments: Law no. 424/2002; Government Ordinance no. 51/2004; Law no. 415/2004; Law no. 101/2007; Government Emergency Ordinance no. 157/2007; Law no. 61/2009; Government Ordinance no. 8/2010; Government Ordinance no. 17/2010; Government Ordinance no. 27/2011; Law no. 144/2012; Law no. 2/2013; Government Emergency Ordinance no. 96/2012; Law no. 71/2013; Law no. 187/2012; Government Emergency Ordinance no. 86/2014; Law no. 100/2014; Government Emergency Ordinance no. 8/2015.
[35] Par. (1) of Art. 8 was again amended by pt. 25 of Art. III of Government Emergency Ordinance no. 8 of April 22, 2015 published in the Official Gazette of Romania no. 285 of April 28, 2015: "The act of circulating without a valid vignette is a continuous contravention and is punishable by a fine".
[36] For further reading, see: Piperea şi Asociaţii, 9 nov. 2011, document available on the website : http://www.piperea.ro/blog/gheorghepiperea/wp-content/uploads/2011/11/draft-plangere-rovinieta-cu-jurisprudenta-inclusa.doc., accessed on 16.05.2015: „(...) in the event that a vehicle passes through the national roads for several months, without the driver being aware that he does not possess a valid vignette, he can be fined for contravention by dozens of times and, in addition to this sanction, he has to pay to CNADNR S.A. compensation rates corresponding to the alleged contraventions committed!"
[37] Alexandru Ţiclea, op. cit., p. 39 and footnote 121 on the same page.
[38] Av. Andreea Dumitrescu, Despre procesul verbal de contravenţie şi prezumţia sa de legalitate, Dezbateri, Revista de Note şi Studii Juridice (RNSJ), October 29, 2009, pt. 5-6, available on the website: http://www.juridice.ro/89172/despre-procesul-verbal-de-contraventie-si-prezumtia-sa-de-legalitate.html, accessed on 15.05.2015.
[39] European Court of Human Rights (ECHR), First Section, Case Anghel against Romania (application no. 28183/03) Strasbourg Judgment - October 4, 2007, Final Judgment - 31/03/2008 pt. 60, available on the website: http://www.ier.ro/sites/default/files/traduceri/cedo-28183-03.pdf, accessed on 15.05.2015.
[40] ECHR, Case Anghel against Romania, cited above, pt. 68-69.
[41] Andreea Dumitrescu, art. cit., pct. 7-8.

[42] Verginia Vedinaş, op. cit., p.115 and footnote 5 on the same page: J. Ziller, Droit administrativ européen, Office des publications officciells des Communautés Europeénnes, Bruylant, 1994, Vol. I, p. 219.
[43] Art. 2 par. (1) r) of the Administrative Litigation Law no. 554/2004, published in the Official Gazette of Romania, Part I, no. 1154 of December 7, 2004.
[44] Ioan Alexandru, Democraţia constituţională, utopie şi/sau realitate, Universul Juridic, Bucharest, 2012, p. 99.