ADMINISTRATIVE CONTROL OVER THE ACTS OF LOCAL PUBLIC AUTHORITIES. LEGISLATIVE EVOLUTION AND THE CURRENT LEGAL FRAMEWORK

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Abstract:
This study examines the evolution of administrative control over the acts of local public authorities in Romanian law, tracing the legislative developments from the nineteenth-century administrative reforms to the current legal framework established by the Administrative Code. The research focuses on the two fundamental mechanisms of administrative control: administrative tutelage exercised by the Prefect and internal legality review carried out by the Secretary General of the administrative-territorial unit. The analysis highlights the continuity of the legal conception underlying these institutions despite successive legislative reforms and the codification process completed in 2019. At the same time, it identifies the practical limitations affecting the effectiveness of administrative control, resulting from the insufficient institutional guarantees of impartiality of the supervisory authority and the functional independence of the authority entrusted with internal legality review. The study concludes that the effectiveness of administrative control depends not only on the legislative solutions adopted but also on the institutional architecture and the legal safeguards ensuring the effective implementation of the principle of legality.
Keywords: *administrative control; administrative tutelage; legality review; Prefect; Secretary General of the administrative-territorial unit*

1. General Aspects

Local public authorities are those public administrative authorities whose territorial competence is limited to specific parts of the national territory, generally determined according to the country's administrative-territorial organization [1]. For the purposes of this study, we refer exclusively to those public authorities that belong to local territorial communities and are entrusted with the pursuit of their interests. Depending on the administrative level of the territorial unit, local public authorities operate either at the basic administrative-territorial level or at the intermediate level. Under Romania's current administrative-territorial organization, counties constitute the intermediate level, while communes, towns and municipalities represent the basic administrative-territorial units. The local public authorities are the local council, the mayor, the county council and the president of the county council, all of which reflect a constant feature of Romania's

political and administrative organization, namely the existence of the commune, the town and the county [2].

Although these authorities have undergone significant changes over time, they remain traditional institutions of Romanian public administration, having been established through the administrative reforms introduced during the reign of Alexandru Ioan Cuza [3], reforms that themselves reflected a longer process of institutional development dating back to earlier periods [4]. Their legal status is currently governed by the Administrative Code, adopted through Government Emergency Ordinance No. 57/2019, which systematized and consolidated within a single legislative instrument the provisions previously dispersed throughout the legislation on local public administration.

Administrative control over the acts of local public authorities constitutes a defining element of the political and administrative system of any state, although the forms through which such control is exercised may vary considerably.

According to a distinguished Romanian scholar [5], administrative control may be generally defined as *"the control exercised by public administration over itself"*, or, in other words, the control exercised within or by public administrative authorities.

The forms of administrative control over administrative acts are diverse and may be classified according to several criteria. Among the classifications proposed in the legal literature, the following are of particular relevance.

According to the objective pursued, a distinction is drawn between legality review and expediency (opportunity) review [6].

Legality review concerns the conformity of an administrative act with all legal norms having superior legal force. It represents the principal guarantee of the rule of legality, reflecting the fundamental constraint imposed upon public administration by virtue of its executive character.

Expediency review, by contrast, seeks to determine whether the measures adopted through an administrative act are appropriate for achieving the purpose for which the act was issued, taking into account the specific factual circumstances. Expediency constitutes the practical expression of the administration's power of appraisal in selecting the most suitable means for implementing the law or, as Romanian legal doctrine has consistently emphasized, the expression of its discretionary power, exercised within the

limits established by law and justified by the requirements of effectiveness and administrative efficiency.

According to the relationship between the controlling authority and the controlled authority, administrative control may be either internal or external.

Internal control is exercised by persons belonging to the internal administrative structure of the authority concerned or, as another author has observed [7], where both the controlling and the controlled subjects belong to the same public authority. Internal control is exercised either by the managerial bodies of the institution by virtue of hierarchical authority or by specialized personnel expressly entrusted with control functions.

External administrative control is exercised by one public authority over another within a legal relationship in which the controlling authority and the controlled authority are institutionally distinct. Depending on the nature of the relationship between them, external administrative control may be hierarchical or extra-hierarchical.

Hierarchical administrative control is exercised by superior administrative authorities over subordinate authorities on the basis of hierarchical subordination. Although its scope may vary according to the powers conferred upon the supervisory authority, hierarchical control is generally characterized by full supervisory powers.

With regard to administrative acts, hierarchical control may encompass both legality review and expediency review. It may also involve confirmation of administrative acts and the exercise of directive powers. Depending on the category of act under review, the supervisory authority may revoke, suspend, annul or replace the act concerned [8].

By contrast, extra-hierarchical administrative control concerns relationships between administrative authorities that are not linked by hierarchical subordination. Such control may be exercised only where expressly authorized by law and strictly within the limits established by the relevant legal provisions. The principal forms of extra-hierarchical administrative control are administrative tutelage and specialized administrative control.

Traditionally, the concept of administrative tutelage refers to the control exercised by central state authorities over local public authorities. Depending on the degree of local autonomy recognized by the legal system, administrative tutelage may be either

extensive, where the supervisory authority enjoys powers comparable to hierarchical control, or limited, where it consists exclusively of an ex post legality review.

As regards specialized external administrative control, this is exercised by specialized inspection bodies (for example, the State Health Inspectorate), state inspectorates (such as the State Construction Inspectorate), specialized enforcement authorities (for example, the Veterinary Police), as well as by constitutionally or statutorily established supervisory institutions, including the Romanian Court of Accounts.

The present study focuses exclusively on administrative tutelage and internal legality review exercised over the acts of local public authorities. This choice is justified by the fact that these represent the most significant forms of administrative control, being exercised on a regular basis and, as a matter of principle, covering the entirety of the acts adopted or issued by local public authorities. The analysis traces their historical development from the beginnings of the modern Romanian State while devoting particular attention to the post-1989 evolution of the legal framework.

Subsequent legislative developments have not altered the fundamental principles governing administrative control over the acts of local public authorities; rather, they have resulted in a comprehensive legislative systematization. Through the adoption of the Administrative Code (Government Emergency Ordinance No. 57/2019), both the Local Public Administration Act No. 215/2001 and Act No. 340/2004 on the Prefect and the Institution of the Prefect were repealed, their provisions being consolidated into a single legislative instrument. Consequently, the historical analysis that follows retains its relevance, as it illustrates the institutional continuity preserved through the codification process while also identifying issues that continue to generate practical and doctrinal debate.

2. Administrative Tutelage

The Communal Act No. 394/1864 and Act No. 396/1864 on the Establishment of County Councils introduced an extensive system of administrative tutelage over the acts adopted by local public authorities. Under these statutes, both the acts of communal councils and those of county councils were subject to both legality review and expediency review, exercised prior to their entry into force.

In the case of communal councils, legality review was exercised by the mayor and could ultimately lead to the annulment of the contested act by an ordinance issued by the Ruler (Domnitor) [9]. Expediency review was expressly required for the exercise of most local powers and took the form of prior approval granted by the competent supervisory authority, which varied according to the subject matter concerned [10].

As regards county councils, legality review was exercised by the Prefect, who was under a legal obligation to refer any act considered unlawful to the Government [11]. Unlawful acts were annulled by ordinance of the Ruler [12]. Expediency review likewise applied to the most significant categories of acts and took the form of confirmation by the Ruler [13].

Without entering into unnecessary historical detail—which falls outside the principal purpose of this study—it should be noted that Romanian legal scholarship has shown that this system of administrative tutelage, although subject to successive modifications regarding both the supervisory authorities and the extent of their powers, remained in force until April 1949 [14]. It was then effectively abolished following the establishment of the communist administrative system, under which local administration based on a degree of local autonomy was replaced by provisional committees and subsequently by the People's Councils, created under the Constitution of 1948 as local organs of state power together with their executive committees acting as local organs of state administration.

Following the election of deputies to the People's Councils on 3 December 1950, Romania entered the period of the "democratic centralism" model of local administration [15]. Under this constitutional principle, local administrative bodies were subject to a dual hierarchical subordination: horizontally to the People's Councils and vertically both to the superior executive committees and to the central organs of state administration [16]. This system remained in force until the Revolution of December 1989.

During this period, administrative tutelage disappeared as a legal institution, being replaced by strict hierarchical administrative control. This hierarchical model continued under Decree-Law No. 8/1990 on the organization and functioning of local state administration bodies [17] and Act No. 5/1990 concerning the administration of counties, municipalities, towns and communes pending the first democratic local elections [18].

Following the local elections of 1992, Romania re-established local public authorities founded upon the constitutional principle of local self-government, in accordance with the provisions of the 1991 Constitution [19] and the Local Public Administration Act No. 69/1991 [20].

Under Title III ("Public Authorities"), Chapter V ("Public Administration"), Section 2 ("Local Public Administration") of the 1991 Constitution, the elected local public authorities are the local council, the mayor and the county council. Pursuant to Article 122 of the Constitution, the supervisory authority exercising administrative tutelage is the Prefect, acting as the representative of the Government at local level. The Prefect may challenge before the administrative courts any act adopted by a county council, a local council or a mayor whenever such act is considered unlawful. The contested act is suspended by operation of law.

This constitutional model of administrative tutelage has essentially remained unchanged to the present day. The constitutional revision of 2003 did not alter the constitutional configuration of the legality review exercised by the Prefect, while the reorganization of local government legislation through the adoption of the Administrative Code (Government Emergency Ordinance No. 57/2019) preserved the same underlying conception of administrative tutelage. Today, the Prefect's powers concerning the legality review of acts adopted by local public authorities are regulated by the Administrative Code, without any change in the exclusively legal nature of this form of administrative supervision [22].

The foregoing demonstrates that, even under the current legal framework established by the Administrative Code, Romania continues to operate a system of limited administrative tutelage, at least from a legal perspective. The Prefect exercises ex post legality review exclusively, following the adoption or issuance of the administrative act. Moreover, the Prefect has no authority to annul the act directly but may only refer it to the competent administrative court for judicial review.

From a practical perspective, however, the constitutional rule providing that the contested act is automatically suspended by operation of law may affect the institutional balance of this mechanism of control, given that the office of the Prefect has traditionally retained a significant political dimension.

The attempt to depoliticize the offices of Prefect and Deputy Prefect, initiated through Act No. 161/2003 concerning measures to ensure transparency in the exercise of public offices, the prevention and sanctioning of corruption, ultimately failed to achieve the objectives pursued by the legislature and proved incapable, in practice, of securing genuine political neutrality within the institution of the Prefect [23].

The legislative attempt to depoliticize the offices of Prefect and Deputy Prefect, initiated through Act No. 161/2003 concerning measures to ensure transparency in the exercise of public office, the prevention and sanctioning of corruption, ultimately failed to achieve its declared objective and proved incapable, in practice, of ensuring the genuine political neutrality of the institution of the Prefect [23].

Under this legislation, Prefects and Deputy Prefects were to become senior civil servants, a category of public officials prohibited from holding membership in political parties. Incumbent Prefects and Deputy Prefects, who had initially been appointed on political grounds, acquired senior civil servant status upon relinquishing their party membership and successfully passing a professional certification examination. To the best of our knowledge, none failed this examination. Moreover, the statutory eligibility requirements concerning education and professional experience clearly indicate that these positions were not designed exclusively for career public administrators. Pursuant to Article 9 of Act No. 340/2004 on the Institution of the Prefect [24], eligibility for appointment as Prefect or Deputy Prefect required, inter alia, higher education completed with a bachelor's degree (or its equivalent), together with five years of professional experience in the relevant field for Prefects and three years for Deputy Prefects, as well as either completion of a specialized training programme in public administration or the prior exercise of at least one full parliamentary mandate.

Under these requirements, it was entirely possible, for example, for a physical education teacher with five years of teaching experience and one parliamentary term to be appointed as Prefect and thereby acquire the status of a senior civil servant. The certification procedure applicable to politically appointed Prefects and Deputy Prefects was completed by the end of 2005. Nevertheless, beginning in February 2009, these supposedly "apolitical" and "professional" officeholders were replaced following changes

in the governing coalition by other officeholders presented in similarly professional and politically neutral terms.

Such a regulatory framework creates the possibility that the power of administrative tutelage may be exercised selectively. By challenging an administrative act before the administrative courts, the Prefect may deprive it of legal effects through its automatic suspension, while the failure to challenge an unlawful act allows that act to continue producing legal effects. Consequently, although administrative tutelage is, in theory, limited to legality review, the absence of sufficient guarantees of impartiality and professional independence may transform it into an instrument of political influence, to the detriment of local territorial communities and, ultimately, of public confidence in the institution itself.

It should also be emphasized that the issue of depoliticizing the office of the Prefect is by no means a recent concern. The same problem was extensively debated during the interwar period, without any lasting solution being identified. Referring to the career civil servant Prefect introduced by Article 97(2) of the Administrative Act of 1938, Erast Diti Tarangul observed [25]:

"Replacing the political Prefect with a career civil servant had long been regarded as an imperative necessity for the proper functioning of county administration. (...) The political Prefect was, in reality, the representative of the governing political party within the county and therefore brought party politics into local administration. Subject to political interference and constant political fluctuations, the political Prefect could not become an effective administrator. Moreover, the political Prefect often lacked both an adequate understanding of the administrative system and the practical experience required to manage county administration effectively. Modern administration is complex. It requires knowledge and experience. Today, sound judgment and common sense alone are no longer sufficient. Public administration is both a science and an art; consequently, public administrators cannot simply be improvised. They must be trained and professionally developed."

Tarangul further regretted that this legislative solution was never effectively implemented and that, through a Decree-Law adopted in 1940, Romania returned to the institution of the politically appointed Prefect.

The adoption of the Administrative Code through Government Emergency Ordinance No. 57/2019 did not alter this underlying issue. On the contrary, by consolidating within a single legislative instrument the provisions governing both the institution of the Prefect and the legality review of acts adopted by local public authorities, the legislature reaffirmed the continuity of the constitutional model established by Article 123(5) of the Constitution. The Prefect continues to exercise exclusively legality review, while the lodging of an action before the administrative courts automatically results in the suspension by operation of law of the contested act. Consequently, the observations advanced in the present study concerning the need to strengthen the guarantees of impartiality and professionalism applicable to the supervisory authority remain fully relevant, although they must now be assessed in light of the legislative and judicial developments that have followed the adoption of the Administrative Code.

Against this background, the debate concerning the continued appropriateness of the automatic suspension by operation of law of administrative acts challenged by the Prefect remains open. From the perspective of strengthening local self-government and preserving the institutional balance between administration and the judiciary, a compelling argument may be made for transferring the power to order suspension exclusively to the administrative courts. Such a solution would preserve in full the Prefect's constitutional power to review the legality of acts adopted by local public authorities, while ensuring that the suspension of administrative acts becomes subject to an independent judicial assessment, thereby reducing the risk that administrative tutelage might be employed for purposes other than those envisaged by the Constitution.

3. Internal Legality Review

In our view, internal legality review exists where the internal administrative structure of a local public authority includes either a public official or a specialized administrative unit expressly empowered by law to exercise such review with a degree of institutional independence from the decision-making authorities whose acts are subject to examination.

Prior to 1938, Romanian legislation did not provide for any form of internal legality review of the acts adopted by local public authorities. Within the internal administrative

organization of local authorities, the legality of administrative acts was ensured through hierarchical supervision in accordance with the applicable internal administrative regulations.

The origins of internal legality review may be traced to the Administrative Act of 1938. Article 22 of that Act provided that every commune should have a Secretary, serving both as the head of the communal administrative office and as secretary to the communal council. The Secretary was required to countersign the acts of the mayor and to prepare the minutes of the council meetings. Although the statute did not expressly attribute legal significance to the countersignature, it clearly functioned as a guarantee of legality, since by countersigning an administrative act the Secretary validated it and thereby assumed responsibility for its conformity with the law.

It should also be noted that the Secretary enjoyed a significant degree of institutional independence from the mayor. Under Articles 37 and 40 of the Civil Servants' Statute then in force [26], Secretaries were appointed following a competitive professional examination organised at county level, while Article 136 of the Administrative Act subjected them to the disciplinary jurisdiction of the Administrative Court. These elements satisfy the conditions necessary to identify an early form of internal legality review.

The legislative solution adopted in 1938 was revived three decades later by Act No. 57/1968 on the Organization and Functioning of the People's Councils [27]. Article 30 provided that the executive bureau or executive committee of each People's Council should include a Secretary appointed by the council with the approval of the superior state administrative authority. The Secretary participated, with consultative voting rights, in the meetings of the executive body and was required to countersign its decisions.

Romanian legal scholarship has observed [28] that the appointment of the Secretary for an indefinite term, on the basis of professional competence, was intended to improve the quality of local public administration, particularly from the perspective of legality. In this context, the countersignature once again acquired the significance of a legality guarantee, even though the legislation did not expressly describe it as such. Moreover, the Secretary retained a degree of institutional independence, since appointment and dismissal required not only the decision of the People's Council but also

the approval of the superior administrative authority. Thus, the mechanism of internal legality review first introduced in 1938 was effectively reinstated.

Beginning in 1980, the Secretary was expressly entrusted with the function of preventive legality review in respect of the acts adopted by the People's Council and by its executive bureau or committee. Pursuant to Article 62(5) of the republished version of Act No. 57/1968 [29], the Secretary was under a legal obligation to inform the executive body whenever draft decisions failed to comply with legal requirements. Where an unlawful decision was nevertheless adopted, the Secretary was required to notify the superior administrative authority. This statutory provision leaves little doubt that Romanian legislation had by then established a genuine mechanism of internal legality review.

The first post-communist regulation governing local public administration, Decree-Law No. 8/1990 [30], was remarkably concise, consisting of only eleven articles. It provided that local state administrative bodies should include, among others, a Secretary whose countersignature was required for the validity of the decisions adopted by the authority. Although the legislation did not expressly define the legal significance of this countersignature, it may reasonably be interpreted, particularly in light of the preceding legislative tradition, as constituting a form of internal legality review.

Act No. 5/1990 concerning the administration of counties, municipalities, towns and communes pending the first democratic local elections [31] introduced no substantial innovations in this respect.

The Local Public Administration Act No. 69/1991 marked the completion of Romania's transition towards a system of local public authorities founded upon the constitutional principle of local self-government. In its original version, the Act required each category of local council to have a Secretary who, as a general rule, was required to possess legal or administrative higher education qualifications and was prohibited from belonging to a political party [32]. Among the Secretary's statutory duties was the endorsement of draft council decisions [33].

At the time, Romanian legal doctrine debated the legal nature of this endorsement. Given the professional qualifications required for the office, it could only be understood as a legality endorsement. Its legal effect was merely consultative, since the Act no longer

required the Secretary to countersign the adopted decisions. Consequently, Act No. 69/1991 established a specialized public official entrusted with a significantly attenuated form of internal legality review, consisting exclusively of a prior consultative legality opinion applicable only to council decisions.

In 1996, the Local Public Administration Act No. 69/1991 underwent substantial amendments through Act No. 24/1996 [34], followed shortly thereafter by its republication [35]. One of the most significant institutional changes consisted in replacing the office of Secretary of the Local Council (and, respectively, of the County Council) with that of Secretary of the administrative-territorial unit (Secretary of the commune, town, municipality or county) [36]. This legislative amendment reflected the understanding that the Secretary served the territorial community as a whole rather than merely providing administrative support to the deliberative authority, since the scope of the office extended well beyond the performance of secretarial duties.

At the same time, the mechanism of internal legality review was strengthened and explicitly articulated. The legislation reintroduced the obligation for the Secretary to countersign the decisions adopted by the local council [37] and expressly entrusted the Secretary with the duty of endorsing draft council decisions, thereby assuming responsibility for their legality [38].

Since the Secretary neither adopts the decisions nor possesses any binding authority to prevent their adoption, such responsibility cannot be understood as responsibility for the decision itself but rather as a duty of professional diligence, requiring the Secretary to issue an accurate and well-founded legality opinion.

The second essential element of internal legality review—namely, the relative institutional independence of the reviewing authority—was likewise present. The Secretary of the commune, town or municipality was appointed by the Prefect for an indefinite term following a competitive examination, upon the proposal of the local council acting on the initiative of the mayor. Dismissal likewise belonged to the Prefect but could occur only following a proposal adopted by a qualified two-thirds majority of the local council, initiated either by the mayor or by one third of the councillors.

An analogous system governed the office of the Secretary of the County, whose appointment, dismissal and disciplinary liability fell within the competence of the

Department for Local Public Administration, acting upon a proposal adopted by a qualified majority of the county council.

Against this legislative background, it may reasonably be concluded that, beginning in 1996, Romania established a genuine mechanism of internal legality review concerning the decisions of local and county councils, satisfying both the substantive and institutional conditions necessary for such a system to operate effectively.

This legislative framework, however, proved short-lived. The republished version of Act No. 69/1991 was substantially amended by Government Emergency Ordinance No. 22/1997 [39], resulting in a significant weakening of internal legality review. The Secretary of the administrative-territorial unit again became the Secretary of the Mayor's Office, while the Secretary of the County reverted to the position of Secretary of the County Council. The statutory requirement to countersign council decisions was abolished, and the qualified majority previously required for proposals concerning dismissal or disciplinary sanctions was replaced by an absolute majority.

The Local Public Administration Act No. 215/2001 [40] not only restored the integrity of internal legality review but also considerably expanded its scope.

Several legislative measures support this conclusion.

First, the legislature reinstated the office of Secretary of the administrative-territorial unit, while at county level the official title became Secretary General of the County.

Second, the previous guarantees concerning appointment and dismissal were essentially preserved. The Secretaries of communes, towns and municipalities continued to be appointed by the Prefect, whereas the Secretary General of the County was appointed by the Ministry of Public Administration. Likewise, dismissal or disciplinary sanctions could be imposed only following a proposal adopted by a qualified two-thirds majority of the relevant council.

Third, the Act expressly provided that the Secretary of the administrative-territorial unit should examine draft council decisions from the perspective of legality, assume responsibility for the legality of those drafts and countersign only those decisions considered lawful [41].

Furthermore, the Secretary was entrusted with reviewing the legality of the mayor's orders and of the decisions issued by the president of the county council. Where a council nevertheless adopted a decision that the Secretary considered unlawful, the Secretary was required to present a reasoned legal opinion to the council, to have that opinion recorded in the minutes of the meeting and, where appropriate, to communicate any objections concerning legality to the Prefect together with the adopted decision.

These provisions represented the most comprehensive legislative framework for internal legality review established in Romanian local government up to that time.

The system established by Act No. 215/2001 underwent several subsequent amendments, most notably through Act No. 286/2006 [42], which further strengthened the institutional position of the Secretary and clarified a number of responsibilities relating to legality review. Nevertheless, the fundamental structure of the institution remained unchanged until the adoption of the Administrative Code.

Following the enactment of the Administrative Code through Government Emergency Ordinance No. 57/2019, the office was reorganised and is now regulated under the title Secretary General of the administrative-territorial unit. Although the terminology was modernised and the legislative framework substantially reorganised, the essential functions of the office remained largely unchanged.

Under the current legal framework, the Secretary General continues to occupy a central position within the institutional architecture of local public administration. Beyond providing legal and administrative support to the deliberative and executive authorities, the Secretary General performs a number of functions specifically designed to safeguard legality. These include verifying the legality of draft administrative acts, countersigning the acts for legality where required by law, ensuring compliance with statutory administrative procedures, maintaining the official records of local authorities and assisting in the proper implementation of legislative requirements.

From this perspective, the Administrative Code confirms the continuity of the Romanian legislative model, according to which the Secretary General constitutes the principal internal guarantor of legality within the administrative-territorial unit.

The strengthening of statutory responsibilities, however, should not automatically be equated with a corresponding increase in functional independence. The effectiveness

of internal legality review continues to depend upon the institutional position occupied by the Secretary General within the local administrative structure and upon the legal guarantees enabling that office to issue legality opinions exclusively on the basis of legal considerations, free from administrative or political influence.

Accordingly, the effectiveness of internal legality review remains a matter not only of legislative design but also of institutional practice. Even the most carefully drafted legal framework cannot, by itself, ensure effective legality review unless it is supported by professional integrity, institutional stability and an administrative culture committed to the rule of law.

For this reason, the observations advanced in the present study concerning the institutional role of the Secretary retain their relevance even under the current Administrative Code. The codification process has consolidated the legislative framework governing the office but has not fundamentally altered the institutional challenges inherent in guaranteeing legality within local public administration.

Ultimately, the effectiveness of internal legality review depends not merely upon the statutory powers entrusted to the Secretary General but also upon the existence of institutional safeguards capable of ensuring the objective and independent exercise of those powers. In this respect, legality review should not be understood solely as a procedural requirement but rather as an essential institutional guarantee for the protection of legality, local self-government and the rule of law.

4. Concluding Remarks

The historical development of administrative control over the acts of local public authorities in Romania reveals a remarkable continuity in the legal principles underlying this institution. Although the legislative framework has undergone successive reforms, culminating in the adoption of the Administrative Code in 2019, the essential architecture of administrative control has remained largely unchanged. Administrative tutelage exercised by the Prefect and internal legality review performed by the Secretary General of the administrative-territorial unit continue to constitute the two principal mechanisms through which the legality of local administrative action is safeguarded.

The analysis undertaken in this study demonstrates that the effectiveness of administrative control cannot be assessed solely by reference to the legal powers conferred upon the supervisory authorities. Equally important are the institutional safeguards capable of ensuring that those powers are exercised impartially, professionally and independently. In this respect, legality review represents not merely a procedural requirement but a fundamental institutional guarantee serving the protection of local self-government, legal certainty and the rule of law.

The codification achieved through the Administrative Code has undoubtedly strengthened the coherence and accessibility of the Romanian legal framework governing local public administration. At the same time, however, codification has not eliminated the structural challenges identified throughout the historical evolution of these institutions. Questions concerning the political dimension of the office of the Prefect, the functional independence of the Secretary General and the effectiveness of legality review remain relevant today, albeit within a modernised legislative context.

From this perspective, the Romanian experience illustrates a broader phenomenon that extends beyond national administrative law. The effectiveness of legality review depends not only upon legislative technique but also upon the institutional design through which legal norms are implemented. Consequently, the quality of administrative governance is determined not simply by the existence of legal rules but by the capacity of public institutions to apply those rules objectively, consistently and in accordance with the requirements of the rule of law.

Against this background, the debate concerning the automatic suspension by operation of law of administrative acts challenged by the Prefect remains open. Assigning the power to order suspension exclusively to the administrative courts would preserve the constitutional function of legality review while reinforcing the institutional guarantees of impartiality and judicial protection. Likewise, strengthening the functional independence of the Secretary General should continue to represent a priority in any future reform of local public administration.

Ultimately, the Romanian system of administrative control demonstrates that the enduring challenge is not to choose between local self-government and administrative supervision, but rather to preserve an appropriate constitutional balance between them.

It is precisely this balance that enables legality to function not as a limitation upon local autonomy, but as one of its essential guarantees.

References:

[1] Antonie Iorgovan, *Tratat de drept administrativ*, Vol. I, 4th ed., All Beck Publishing House, Bucharest, 2005, p. 281.
[2] Communal Act No. 394/1864, published in the *Official Gazette of the United Romanian Principalities*, No. 75 of 1/13 April 1864, and Act No. 396/1864 on the Establishment of County Councils, published in the *Official Gazette of the United Romanian Principalities*, No. 76 of 2/14 April 1864.
[3] Corneliu Manda, Cezar Corneliu Manda, *Administraţia publică locală din România*, Lumina Lex Publishing House, Bucharest, 1999, p. 51.
[4] Marilea Marin, Mădălina Botina, "Legal Rules in Ancient Rome between Law, Morality and Religion", *Scientia Moralitas – International Journal of Multidisciplinary Research*, Vol. 5, 2020, pp. 16–23.
[5] Antonie Iorgovan, op. cit., pp. 480–481.
[6] Ioan Santai, *Drept administrativ şi ştiinţa administraţiei*, Vol. II, RISOPRINT Publishing House, Cluj-Napoca, 2005, p. 232..
[7] Rodica Narcisa Petrescu, *Drept administrativ*, Hamangiu Publishing House, Bucharest, 2009, p. 294.
[8] Ioan Santai, op. cit., p. 246.
[9] Article 64 of Communal Act No. 394/1864.
[10] Articles 68–72 of Communal Act No. 394/1864.
[11] Article 107 of Act No. 396/1864 on the Establishment of County Councils.
[12] Article 73 of Act No. 396/1864 on the Establishment of County Councils.
[13] Article 70 of Act No. 396/1864 on the Establishment of County Councils.
[14] Erast Diti Tarangul, *Tratat de drept administrativ român*, Glasul Bucovinei Printing House, Chernivtsi, 1944, pp. 82–89.
[15] Tudor Drăganu, *Drept constituţional*, Didactică şi Pedagogică Publishing House, Bucharest, 1972, p. 400.
[16] Tudor Drăganu, op. cit., pp. 399–400.
[17] Corneliu Manda, op. cit., p. 69.
[18] Published in the *Official Gazette*, No. 4 of 8 January 1990.
[19] Published in the *Official Gazette*, No. 92 of 20 July 1990.
[20] Published in the *Official Gazette*, No. 233 of 21 November 1991 and entered into force following approval by the national referendum of 8 December 1991.
[21] Published in the *Official Gazette*, No. 238 of 28 November 1991.
[22] Currently in force: Administrative Code (Government Emergency Ordinance No. 57/2019), published in the *Official Gazette*, No. 555 of 5 July 2019.
[23] Published in the *Official Gazette*, No. 279 of 21 April 2003.
[24] Published in the *Official Gazette*, No. 658 of 21 July 2004.
[25] Erast Diti Tarangul, op. cit., p. 171.
[26] Statute of Civil Servants, published in the *Official Gazette*, No. 60 of 19 June 1923, as subsequently amended.
[27] Published in the *Official Bulletin of the Socialist Republic of Romania*, No. 168 of 26 December 1968.
[28] Tudor Drăganu, op. cit., p. 438.
[29] Act No. 57/1968 on the Organization and Functioning of the People's Councils, republished in the *Official Bulletin of the Socialist Republic of Romania*, No. 96 of 3 November 1980.
[30] Published in the *Official Gazette*, No. 4 of 8 January 1990.
[31] Published in the *Official Gazette*, No. 92 of 20 July 1990.
[32] Articles 47 and 69 of Act No. 69/1991.
[33] Articles 49 and 70 of Act No. 69/1991.

[34] Published in the *Official Gazette*, No. 76 of 13 April 1996.
[35] Republished in the *Official Gazette*, No. 79 of 18 April 1996.
[36] Articles 51 and 73 of Act No. 69/1991, republished in the *Official Gazette*, No. 79 of 18 April 1996.
[37] Articles 29 and 66 of Act No. 69/1991, republished.
[38] Articles 53 and 73 of Act No. 69/1991, republished.
[39] Published in the *Official Gazette*, No. 105 of 29 May 1997.
[40] Published in the *Official Gazette*, No. 204 of 23 April 2001.
[41] Articles 85 and 120 of Act No. 215/2001.
[42] Published in the *Official Gazette*, No. 621 of 18 July 2006.
[43] Local Public Administration Act No. 215/2001, republished in the *Official Gazette*, No. 123 of 20 February 2007.
[44] Articles 62, 78 and 99 of Act No. 188/1999, republished in 2007.
[45] Published in the *Official Gazette*, No. 530 of 14 July 2008.
[46] Articles 242–243 of the Administrative Code (Government Emergency Ordinance No. 57/2019), published in the *Official Gazette*, No. 555 of 5 July 2019. For an analysis of the institution of the Secretary of the administrative-territorial unit, see Cristina Feurdean, *Statutul juridic al UAT potrivit Codului administrativ*, in E. Bălan, D. Troanță, M. Văcărelu (eds.), *Reglementările şi practicile administraţiei publice între viziunea cercetării ştiinţifice şi avatarurile realităţii*, Wolters Kluwer, Bucharest, 2020, p. 248.
[47] Florica Brașoveanu, "Adaptarea legislaţiei de mediu la noile cerinţe de sănătate publică", *Pandectele Române*, No. 6/2024.