Some Theoretical and Jurisprudential Aspects Regarding the Procedural Quality of Some Subjects of the Right to Apply to Administrative Dispute Courts in Romania

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Abstract

This study aims to analyze theoretical and jurisprudential aspects regarding the procedural capacity of some subjects entitled to refer to administrative courts in Romania. In this regard, we first analyzed some general issues regarding procedural capacity from the perspective of the current Civil Procedure Code. Then, we observed the conditions provided by the Law no. 554/2004 on administrative litigation regarding the possibility of referring to the administrative court and finally, we analyzed the subjects of law that have the possibility of referring to the administrative courts. In preparing this study, we used the updated incident legislation in force as well as the works from the specialized doctrine and relevant case law on the matter.

Keywords: *procedural capacity, conditions for referring to an administrative court, subjects of law, specialized doctrine, relevant case law.*

JEL Classification: K23, K41

DOI: https://doi.org/10.62768/ADJURIS/2025/4/04

Please cite this article as:
Ioniță, George-Bogdan, „Some Theoretical and Jurisprudential Aspects Regarding the Procedural Quality of Some Subjects of the Right to Apply to Administrative Dispute Courts in Romania", in Takemura, Hitomi & Steve O. Michael (eds.), *Public Law at the Crossroads of Technology, Jurisprudence and Governance in Contemporary Europe,* ADJURIS – International Academic Publisher, Bucharest, Paris, Calgary, 2025, p. 55-65.

1. Procedural capacity – general aspects

One of the necessary conditions for exercising an action before the court is the existence of procedural capacity[2]. Therefore, according to art. 36 of the Code of Civil Procedure, "*procedural capacity results from the identity between the parties and the subjects of the litigious legal relationship, as it is brought to*

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[2] According to art. 32 paragraph (1) of the Civil Procedure Code, it establishes that any claim may be formulated and supported only if its author: has procedural capacity, under the law; has procedural capacity; formulates a claim; justifies an interest.

trial. The existence or non-existence of the rights and obligations asserted constitutes a matter of substance[3] *".* In other words, procedural capacity is determined by the transposition into a procedural plan of the subjects of the concrete legal relationship brought to trial.

However, art. 37 of the Code of Civil Procedure establishes that *"in the cases and conditions provided exclusively by law, applications may be filed or defenses may be formulated by persons, organizations, institutions or authorities who, without justifying a personal interest, act to defend the rights or legitimate interests of persons in special situations or, as the case may be, for the purpose of protecting a group or general interest*[4] *".* Procedural capacity can be transmitted legally or conventionally, because of the transmission, under the terms of the law, of the rights or legal situations inferred to the court[5]. Regarding the sanction of a request made by a person without procedural capacity, art. 40 paragraph (1) final sentence of the Code of Civil Procedure establishes that *"in the event of lack of procedural capacity or interest, the court shall reject the request or defense formulated as being made by a person or against a person without capacity or as lacking interest as the case may be*[6] *".*

2. Conditions for exercising the action in administrative litigation

In the case of administrative disputes, the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates[7], establishes in art. 1 that *"any person who considers himself injured in a right or in a legitimate inter-*

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[3] Gabriel Boroi, Mirela Stancu (2023), *Civil procedural law. 6th edition, revised and added*, Hamangiu Publishing House, Bucharest, pp. 60-61; Ioan Leș, Daniel Ghiță (2020), *Treatise on civil procedural law,* Universul Juridic Publishing House, Bucharest, pp. 161-162; Madalina Dinu (2020), *Civil procedural law*, Hamangiu Publishing House, Bucharest, p. 59; Evelina Oprina (2019), *Civil procedural law. Volume I. General theory*, Universul Juridic Publishing House, Bucharest, pp. 90-91; Mihaela Tăbârcă (2017), *Civil procedural law. Volume I – General theory. 2nd edition,* Solomon Publishing House, Bucharest, pp. 205-206.

[4] Gabriel Boroi (Coord.), (2016) *The New Civil Procedure Code. Commentary on Articles. Volume I. art. 1-455. 2nd revised and added edition,* Hamangiu Publishing House, Bucharest, pp. 118-121; Viorel Mihai Ciobanu, Maria Nicolae (Coord.), (2016), *The New Civil Procedure Code commented and annotated. Volume I – art. 1-526.* 2nd revised and added edition, Universul Juridic Publishing House, Bucharest, pp. 185-186.

[5] Art. 38 Civil Procedure Code. See Florin Popa (2023), „Procedural Consequences of the Transfer of the Litigation Right", *Romanian Journal of Private Law,* no. 1. The article can be consulted in its entirety at https://sintact.ro/#/publication/151028809?cm=URELATIONS.

[6] Ioan Leș (2022), *Civil Procedure Code. Commentary on Articles.* 3rd edition, C.H. Beck Publishing House, Bucharest, pp. 96-97; Ion Deleanu (2013), *The New Civil Procedure Code. Commentary on Articles. Volume I. Articles 1-621*, Universul Juridic Publishing House, Bucharest, pp. 89-91; Viorel Mihai Ciobanu, Claudiu Constantin Dinu, Traian Cornel Briciu (2023), *Civil Procedural Law. Revised and Added Edition,* Universul Juridic Publishing House, Bucharest, pp. 159-160.

[7] Published in the Official Gazette, no. 1154 of 07.12.2004.

est, by a public authority, through an administrative act or by the failure to resolve a request within the legal term, may address the competent administrative litigation court, for the annulment of the act, the recognition of the claimed right or legitimate interest and the repair of the damage that was caused to him. The legitimate interest can be both private and public[8]". By *"injured person"* (within the meaning of the legal provisions) is considered to be any person holding a right or a legitimate interest, injured by a public authority through an administrative act or by the failure to resolve a request within the legal term. For the purposes of this law, the injured party is also the group of individuals, without legal personality, holder of subjective rights or legitimate private interests, as well as social bodies that invoke the harm caused by the contested administrative act either to a legitimate public interest or to the legitimate rights and interests of certain individuals[9]. Therefore, any individual or legal entity under private or public law may have an active procedural capacity[10]. To promote an administrative litigation action, it is necessary to cumulatively fulfill several conditions. First, the existence of the subject's capacity to notify the administrative litigation court. Regarding the other subjects that may notify the administrative litigation court, we will return to their analysis in the next chapter.

Another condition necessary for the formulation of an administrative litigation action refers to the fact that the plaintiff has been harmed by one of his rights or in legitimate interest. According to art. 2 paragraph 1, letter o) of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates, by *"infringed right"* is understood any right provided for by the Constitution, by law or by another normative act, which is affected by an administrative act. In the same sense, the legitimate interest injured can be private or public, thus, art. 2 paragraph 1, letter p) of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates, by *"legitimate private interest"* is understood the possibility of demanding a certain conduct, in consideration of the realization of a future and foreseeable, prefigured subjective right, and letter r) of the same article establishes that *"legitimate public interest"* is understood as that interest that aims at the rule of law and constitutional democracy, the guarantee of the fundamental rights, freedoms and duties of citizens, the satisfaction of community needs, the realization of the competence of public authorities[11].

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[8] Emilia-Lucia Cătană (2021), *Administrative Law.* 2nd edition, C.H. Beck Publishing House, Bucharest, pp. 371-372.

[9] Art. 2 paragraph (1), letter a), of Law 554/2004 on administrative litigation, with subsequent amendments and updates.

[10] Regarding the civil capacity of legal entities under public law, see Razvan Scafeș (2024), „Aspects regarding the capacity and civil liability of subjects under public law", *Romanian Journal of Private Law* no. 1. The article can be consulted in its entirety at https://sintact.ro/#/search-unit-related/ 16856600/art(1)/ARTICLE.

[11] Cătălin-Silviu Săraru (2019), *Romanian Administrative Litigation*, C.H. Beck Publishing House, Bucharest, pp. 197-198.

The following condition refers to the fact that the contested act must be an administrative act or an assimilated administrative act. According to the provisions of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates, the notion of *"administrative act"* is understood as a unilateral act of an individual or normative nature issued by a public authority, in the regime of public power, to organize the execution of the law or the concrete execution of the law, which gives rise to, modifies or extinguishes legal relations[12]. As regards assimilated administrative acts, for the purposes of this law, contracts concluded by public authorities whose object is the valorization of public property, the execution of works of public interest, the provision of public services, public procurements are also assimilated[13]. At the same time, this category will also include the *"unjustified refusal"* to resolve a request relating to a right or a legitimate interest or the fact of not responding to the applicant within the legal deadline[14]. In the case of acts not subject to control, administrative acts of public authorities concerning their relations with Parliament as well as military command acts may not be challenged through administrative litigation. In the same sense, administrative acts for the modification or abolition of which another judicial procedure is provided for by organic law may not be challenged through administrative litigation[15].

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[12] Art. 2 paragraph (1), letter c), of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates. See also Loredana Manuela Muscalu, Dragos Brezeanu (2025), *Administrative Law I and II. Lecture notes*, Hamangiu Publishing House, Bucharest, p. 393.

[13] Art. 2 paragraph (1), letter c1), of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates; See also Anton Trăilescu (2020), *Administrative Law. Special Part.* edition 2, C.H. Beck Publishing House, Bucharest, pp. 194-196.

[14] Art. 2 paragraph (2) of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates. Regarding the notion of "unjustified refusal", we recommend also consulting Andreea Tabacu (2017), „Admissibility of the action in administrative litigation. Unjustified refusal", *Romanian Journal of Jurisprudence* no. 3. The article can be consulted in its entirety at: https://sintact. ro/#/publication/151011917?cm=URELATIONS.

[15] Art. 5 paragraphs (1) and (2) of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates. In judicial practice, it was held *that "Decision of the Local Council of Sector 4 no. 262 of 02.11.2023 and Decision of the Local Council of Sector 4 no. 315 of 2023 are not administrative acts within the meaning of art. 2 paragraph 1 letter c of Law no. 554/2004, but technical-administrative operations that encompass the request for expropriation and, respectively, the approval of the technical-economic indicators, which constitute stages within the expropriation procedure according to art. 4 paragraph 1 and art. 5 paragraph 1 of Law no. 255/2010, operations that form the basis for the adoption of Decision of the Bucharest Municipality Council no. 115 of 8.04.2024, administrative act by which the initiation of the expropriation procedure was approved and the value of the compensation was established, administrative act subject to Law no. 255/2010, its legality and the operations from its basis being subject to the control of the common law courts, according to the special procedure in the matter of expropriation, being exempted from the challenge through administrative litigation according to art. 5 of Law no. 554/2004 updated. It follows from the above that the legislator understood to remove the administrative acts initiating the expropriation procedure and establishing the amount of compensation from the general scope of administrative litigation and to regulate a special contestation procedure"*. Bucharest Tribunal,

Another condition is that the contested act must be emanated from a public authority. By *"public authority"* is meant any state body or administrative-territorial unit that acts, under public power, to satisfy a legitimate public interest; private law legal entities that, according to the law, have obtained public utility status or are authorized to provide a public service, under public power, are assimilated to public authorities, within the meaning of this law[16].

Finally, to be able to appeal to the administrative court, the injured person must complete the preliminary administrative procedure[17]. Thus, before addressing the competent administrative court, the person who considers himself injured in a right or in a legitimate interest by an individual administrative act addressed to him must request the issuing public authority or the hierarchically superior authority, if it exists, within 30 days from the date of communication of the act, the revocation, in whole or in part, of it. For good reasons, the injured person, recipient of the act, may file a preliminary complaint, in the case of unilateral administrative acts, even after the previously provided deadline, but no later than 6 months from the date of issuance of the act. At the same time, the injured person is also entitled to file a preliminary complaint concerning one of his rights or in a legitimate interest, through an administrative act of an individual nature, addressed to another subject of law. The preliminary complaint, in the case of unilateral administrative acts, shall be filed within 30 days from the moment the injured person became aware, by any means, of the content of the act. For good reasons, the preliminary complaint may also be filed after the 30-day deadline, but no later than 6 months from the date on which he became aware, by any means, of its content. The 6-month period is a limitation period.

3. Legal entities that may file an administrative action with the court

Returning to the category of injured persons (having the capacity to file an administrative action), in order to exercise the control of legality over administrative acts at the request of associations, as concerned social organizations, the invocation of a legitimate public interest must be subsidiary to the invocation of a legitimate private interest, the latter arising from the direct link between the

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sentence of 26.08.2024. The sentence can be consulted in full at: https://sintact.ro/#/jurisprudence/553956817/1/sentinta-nr-rj-39854-de-96-2024-din-26-aug-2024-tribunalul-bucuresti-anulare-act-administrativ...?cm=URELATIONS.

[16] Art. 2 paragraph (1), letter b), of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates; Verginia Vedinaș (2019), *Administrative Law. 11th edition, revised and updated*, Universul Juridic Publishing House, Bucharest, pp. 442-446.

[17] Art. 7 paragraphs (1) and (3), of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates. See also Mircea Ursuța (2017), „Lack of preliminary procedure. Conditions for invocation. Interest. Interpretation of the term "defendant" provided for in Article 193 paragraph. (2) Civil Procedure Code", *Romanian Journal of Jurisprudence* no. 2. The article can be consulted in its entirety at: https://sintact.ro/#/publication/151011588?cm=URELATIONS.

administrative act subject to the control of legality and the direct purpose and objectives of the association, according to the statute. By *"concerned social organizations"* we will understand those non-governmental structures, unions, associations, foundations and the like, whose object of activity is the protection of the rights of various categories of citizens or the proper functioning of public administrative services[18]. At the same time, any subject of public law may file administrative action. In the same sense, according to the legal provisions, a third party may also have the capacity of plaintiff, that is, the person who has been injured in a right or a legitimate interest by an administrative act of an individual nature addressed to another subject of law. In this case, both the authority that issued the act and the beneficiary of the harmful act will have passive procedural capacity[19].

Another subject of law that can notify the administrative court is the Ombudsman. Thus, following the control carried out, according to its organic law, if it considers that the illegality of the act or the refusal of the administrative authority to perform its legal duties can only be removed through justice, it can notify the competent administrative court at the petitioner's domicile. The petitioner acquires the status of plaintiff by law and will be summoned in this capacity. If the petitioner does not appropriate the action formulated by the Ombudsman at the first hearing, the administrative court cancels the request[20]. To summarize, in the

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[18] Art. 2 paragraph (1), letter s), of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates. In recent judicial practice, it has been held that *"by ministerial order, a plan with an impact on the environment was illegally authorized, a plan that is presumed by law to cause environmental damage through the proposed works, overlapping with a protected natural area, requiring the completion of a special procedure provided for by law (see Government Decision no. 1076/2004), then the legality of such an administrative act must be analyzed within the framework of the action filed within the legal term against it, even if the authorized project has ceased to be applicable in the meantime. The interest in finding the illegality of a normative administrative act that was likely to cause environmental damage is a determined, legitimate, personal interest (considering the quality of the plaintiff as an environmental NGO and interested social body), born and current, at the date of the filing of the lawsuit. The execution of forestry works based on an illegally adopted forestry arrangement will also produce consequences regarding the destruction of protected habitats found in the infringement procedure against Romania, creating the possibility of recovering the damage consisting of costs for the restoration of these habitats, at the expense of the responsible persons (the committee has recourse action against the person who acted unlawfully)"*. High Court of Cassation and Justice, decision no. 1961/2024. The decision can be consulted in full at: https://sintact.ro/#/jurisprudence/520881652/ 1/decizie-nr-1961-2024-din-04-apr-2024-inalta-curte-de-casatie-si-justitie-bucuresti?keyword=or ganisme%20sociale%20interesate&cm=URELATIONS.

[19] Gabriela Bogasiu (2022)*, Administrative Litigation Law. Commented and annotated. 5th edition, revised and added,* Universul Juridic Publishing House, Bucharest, pp. 13-15.

[20] Art. 1 paragraph (3) of Law 554/2004 on administrative litigation, with subsequent amendments and updates; See also Eugenia Marin (2020), *Law on Administrative Litigation no. 554/2004. Commentary on articles*, Hamangiu Publishing House, Bucharest, pp. 3-11. In judicial practice, it was held that *"in the case referred to by the plaintiff, it can only be retained for the institution of the Ombudsman in the constitutionality control of the laws subject to analysis as a legal obligation at*

case of the Ombudsman, it is necessary to have been notified by the injured individual, to assess that the notification is justified and that the illegality of the act or the refusal of the administrative authority can only be removed through justice, however, after the filing of the action by the Ombudsman, the petitioner acquires the status of plaintiff.

In the same sense, when the Public Ministry, following the exercise of the powers provided for by its organic law, considers that the violations of the rights, freedoms and legitimate interests of individuals are due to the existence of individual unilateral administrative acts of public authorities issued with excess of power, with their prior consent, it notifies the administrative court at the domicile of the natural person or at the headquarters of the injured legal entity. The petitioner acquires the status of plaintiff by right and will be summoned in this capacity[21]. Thus, to acquire active procedural capacity, the prior consent of the petitioner is necessary, and the harmful act must have been issued with excess of power (excess of power is defined as the exercise of the right of appreciation of public authorities by violating the limits of competence provided by law or by violating the rights and freedoms of citizens. After the submission of the action by the Public Ministry, the petitioner acquires the status of plaintiff[22]. It should be noted that, in the resolution of requests in administrative litigation, the representative of the Public Ministry may participate, at any stage of the process, whenever it considers it necessary to defend the rule of law, the rights and freedoms of citizens[23].

At the same time, the public authority issuing an illegal unilateral admin-

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this time, which has a double quality (both in objective litigation and in subjective litigation) and which aims to ensure the protection of the public interest while respecting the private interest of the individual whose rights, freedoms or legitimate interests have been violated, without violating art. 21 paragraph (1) of the Constitution of Romania". High Court of Cassation and Justice, decision no. 548/2023. The decision can be consulted in full at: https://sintact.ro/#/jurisprudence/520871062/1/decizie-nr-5485-2023-din-21-nov-2023-inalta-curte-de-casatie-si-justitie-bucuresti?keyword =avocatul%20poporului&unitId=passage_11622.

[21] Art. 1 paragraph (4) of Law 554/2004 on administrative litigation, with subsequent amendments and updates. To be analyzed, Dana Apostol Tofan (2024), *Administrative Law. Volume II. Administrative Act. Administrative Litigation,* C.H. Beck Publishing House, Bucharest, pp. 219-229.

[22] According to art. 1 paragraph (5) of Law 554/2004 on administrative litigation, with subsequent amendments and updates, when the Public Ministry considers that the issuance of a normative administrative act harms a legitimate public interest, it notifies the competent administrative litigation court at the headquarters of the issuing public authority. See, Anton Trăilescu, Alin Trăilescu (2018), *Administrative Litigation Law. Comments and explanations. 4th edition,* C.H. Beck Publishing House, Bucharest, pp. 4-8.

[23] According to art. 1 paragraph (9) of Law 554/2004 on administrative litigation, with subsequent amendments and updates, See also Iuliana Rîciu (2012), *Administrative litigation procedure. Theoretical aspects and jurisprudential references,* Hamangiu Publishing House, Bucharest, pp. 99-102.

istrative act may request the court to annul it, when the act can no longer be revoked because it has entered the civil circuit and produced legal effects. If the action is admitted, the court shall rule, if it was notified by the request for summons, also on the validity of the legal acts concluded based on the illegal administrative act, as well as on the legal effects produced by them. The action may be brought within one year from the date of the issuance of the act[24].

Finally, the *Prefect* and the *National Agency of Civil Servants* may also notify the administrative court, through administrative supervision[25]. According to art. 3 paragraph (1) of the Law no. 554/2004 on administrative litigation, with subsequent amendments and updates, the Prefect may directly challenge before the administrative court the acts issued by the local public administration authorities, if he considers them illegal; the action shall be formulated within the term provided for in art. 11 paragraph (1) of the Law no. 554/2004 on administrative litigation, which begins to run from the moment the act is communicated to the prefect and under the conditions of the law[26]. And paragraph 2 of the same article

[24] See also Robert Cristian Dima (2021)*, Action in administrative litigation. Comments, doctrine and jurisprudence,* Hamangiu Publishing House, Bucharest, pp. 29-31. By Decision no. 74/2023, the High Court of Cassation and Justice admits the notification and establishes that, in the interpretation and application of the provisions of art. 1 paragraph (6) of the Administrative Litigation Law no. 554/2004, with subsequent amendments and completions, the public authority issuing a unilateral administrative act of a normative nature cannot request the court to annul it. In judicial practice, it was held in a case that *"at the date of drawing up the minutes under analysis, the provisions of the Local Council Decision no. 149/2017 were no longer in force, these being repealed by art. 2 of the Local Council Decision no. 249/25.04.2024, which was published in the Local Official Gazette on 16.05.2024. In law, the incidence of the provisions of art. 1 paragraph 6 of Law no. 554/2004 is noted, according to which, "the public authority issuing an illegal unilateral administrative act may request the court to annul it, in the situation in which the act can no longer be revoked because it has entered the civil circuit and produced legal effects. In case of admission of the action, the court shall rule, if it was notified by the request for summons, also on the validity of the legal acts concluded based on the illegal administrative act, as well as on the legal effects produced by them. The action may be filed within one year from the date of issuance of the act". Regarding this aspect, it should be noted that the administrative act under analysis entered the civil circuit, from the moment of being acknowledged under signature by the person sanctioned for the contravention, a circumstance likely to exclude the possibility of revoking this act by the issuing authority"*. Brașov Court, sentence of 14.11.2025. The judgment can be accessed and consulted in full at: https://sintact.ro/#/jurisprudence/553977368/1/sentinta-nr-rj-3954-d-5-d-84-2025-din-14-apr-2025-tribunalul-brasov-anulare-act-administrativ...?keyword=autoritatea%20public%C4%83%20emitent%C4%83&cm=URELATIONS.

[25] For an in-depth analysis of the institution of administrative supervision, we also recommend consulting George-Bogdan Ioniță, *Particularities of the Administrative Oversight in the Context of the Commissioner Exercise of the Action for Annulment Based on the Provisions of the Law no. 554/2004 of the Administrative Contentious and the Administrative Code*, published in the volume Julien Cazala, Velimir Zivkovic (eds.), (2021) *Administrative Law and Public Administration in the Global Social System,* ADJURIS – International Academic Publisher, Bucharest, pp. 83-92, https://www.adjuris.ro/books/alpa/ALPA%202020.pdf.

[26] In judicial practice, it was held in a case that *"in accordance with the provisions of art. 3 para-*

establishes that the National Agency for Civil Servants may appeal before the administrative court the acts of central and local public authorities that violate the legislation on civil service[27].

Bibliography

1. Apostol Tofan, Dana (2024), *Administrative Law. Volume II. Administrative Act. Administrative Litigation,* C.H. Beck Publishing House, Bucharest.
2. Bogasiu*,* Gabriela (2022), *Administrative Litigation Law. Commented and annotated. 5th edition, revised and added,* Universul Juridic Publishing House, Bucharest.
3. Boroi, Gabriel (Coord.), (2016), *The New Civil Procedure Code. Commentary on Articles. Volume I. art. 1-455. 2nd revised and added edition,* Hamangiu Publishing House, Bucharest.
4. Boroi, Gabriel & Mirela Stancu (2023), *Civil procedural law. 6thedition, revised and added*, Hamangiu Publishing House, Bucharest.
5. Cătană, Emilia-Lucia (2021), *Administrative Law. 2nd edition*, C.H. Beck Publishing House, Buchares.
6. Ciobanu, Viorel Mihai & Maria Nicolae (Coord.), (2016), *The New Civil Procedure Code commented and annotated. Volume I – art. 1-526. 2nd revised and added edition*, Universul Juridic Publishing House, Bucharest.
7. Ciobanu, Viorel Mihai, Claudiu Constantin Dinu, Traian Cornel Briciu (2023), *Civil Procedural Law. Revised and Added Edition,* Universul Juridic Publishing House, Bucharest.
8. Deleanu, Ion (2013), *The New Civil Procedure Code. Commentary on Articles. Volume I. Articles 1-621*, Universul Juridic Publishing House, Bucharest.

graph (1) of Law 554/2004 on administrative litigation, the text of the law regulates the administrative guardianship control exercised by the prefect over the acts issued by local public authorities, based on his attribution as guarantor of compliance with the law, conferred by art. 123 paragraph (5) of the Constitution of Romania and by the provisions of art. 252 and 255 of Government Emergency Ordinance no. 57/2019 on the Administrative Code, in order to protect the general interest. Through the judicial action that is the subject of the case, the Prefect of Constanța County criticizes the contested administrative act, invoking the fact that the issuing authority does not have the competence to approve the establishment of a superficies right". Constanța Court, sentence of 09.01.2025. The sentence can be consulted in full at: https://sintact.ro/#/jurisprudence/553967458/1/sentinta-nr-rj-86-g-279978-2025-din-09-ian-2025-tribunalul-constanta-actiune-prefect-tutela...?keyword=prefectul&cm=URELATIONS.

[27] In another case, the court held that *"the fact that the Law No. 554/2004 confers on the National Agency of Civil Servants the status of administrative guardianship authority in matters of civil service does not exclude the prefect's competence within the framework of administrative guardianship control to request the administrative court to annul an act of the mayor that violates the legislation on civil service as long as his powers are limited only to administrative acts as defined in Art. 2 paragraph (1) letter c) of Law No. 554/2004 (typical administrative acts)"*. Bucharest Court, sentence of 04.04.2023. The judgment can be consulted in full at: https://sintact.ro/#/jurisprudence/553839604/1/sentinta-nr-rj-ee-3-e-73255-2023-din-04-apr-2023-tribunalul-bucuresti-anulare-act-administrativ...?keyword=agen%C8%9Bia%20na%C8%9Bional%C4%83%20a%20func%C8%9Bionarilor%20publici&unitId=passage_28257.

9. Dima, Robert Cristian (2021), *Action in administrative litigation. Comments, doctrine and jurisprudence,* Hamangiu Publishing House, Bucharest.
10. Dinu, Madalina (2020), *Civil procedural law*, Hamangiu Publishing House, Bucharest.
11. Ioniță, George-Bogdan (2021), *Particularities of the Administrative Oversight in the Context of the Commissioner Exercise of the Action for Annulment Based on the Provisions of the Law no. 554/2004 of the Administrative Contentious and the Administrative Code*, published in the volume Julien Cazala, Velimir Zivkovic (eds.), *Administrative Law and Public Administration in the Global Social System,* ADJURIS – International Academic Publisher, Bucharest, pp. 83-92, https:// www.adjuris.ro/books/alpa/ALPA%202020.pdf.
12. Leș, Ioan & Daniel Ghiță (2020), *Treatise on civil procedural law,* Universul Juridic Publishing House, Bucharest.
13. Leș, Ioan (2022), *Civil Procedure Code. Commentary on Articles. 3rd Edition*, C.H. Beck Publishing House, Bucharest.
14. Marin, Eugenia (2020), *Law on Administrative Litigation no. 554/2004. Commentary on articles*, Hamangiu Publishing House, Bucharest.
15. Muscalu, Loredana Manuela & Dragos Brezeanu (2025), *Administrative Law I and II. Lecture notes*, Hamangiu Publishing House, Bucharest.
16. Oprina, Evelina (2019), *Civil procedural law. Volume I. General theory*, Universul Juridic Publishing House, Bucharest.
17. Popa, Florin (2023), „Procedural Consequences of the Transfer of the Litigation Right", *Romanian Journal of Private Law,* no. 1. The article can be consulted in its entirety at https://sintact.ro/#/publication/151028809?cm=URELATIONS.
18. Rîciu, Iuliana (2012), *Administrative litigation procedure. Theoretical aspects and jurisprudential references,* Hamangiu Publishing House, Bucharest.
19. Săraru, Cătălin-Silviu (2019), *Romanian Administrative Litigation*, C.H. Beck Publishing House, Bucharest.
20. Scafeș, Razvan (2024), „Aspects regarding the capacity and civil liability of subjects under public law", *Romanian Journal of Private Law* no. 1. The article can be consulted in its entirety at https://sintact.ro/#/search-unit-related/16856600/art(1)/ARTICLE.
21. Tabacu, Andreea (2017), „Admissibility of the action in administrative litigation. Unjustified refusal", *Romanian Journal of Jurisprudence* no. 3. The article can be consulted in its entirety at: https://sintact.ro/#/publication/151011917?cm=URELATIONS.
22. Tăbârcă, Mihaela (2017), *Civil procedural law. Volume I – General theory. 2nd edition,* Solomon Publishing House, Bucharest.
23. Trăilescu, Anton & Alin Trăilescu (2018), *Administrative Litigation Law. Comments and explanations. 4th edition,* C.H. Beck Publishing House, Bucharest.
24. Trăilescu, Anton (2020), *Administrative Law. Special Part.* Edition 2, C.H. Beck Publishing House, Bucharest.
25. Ursuța, Mircea (2017), „Lack of preliminary procedure. Conditions for invocation. Interest. Interpretation of the term "defendant" provided for in Article 193 paragraph. (2) Civil Procedure Code", *Romanian Journal of Jurisprudence* no.

2. The article can be consulted in its entirety at: https://sintact.ro/#/publi cation/151011588?cm=URELAT IONS.

26. Vedinaș, Verginia (2019), *Administrative Law.* 11th edition, revised and updated, Universul Juridic Publishing House, Bucharest.