**ROMANIAN ACADEMY**
**School for Advanced Studies of Romanian Academy**
**"Acad. Andrei Radulescu"**
**Judicial Research Institute**

# SUMMARY OF DOCTORAL THESIS

# ADMINISTRATIVE-DISCIPLINARY LIABILITY IN CASE OF BREACH OF SERVICE OBLIGATIONS

**DOCTORAL SUPERVISOR:**

**Ţop Danuţi Cristin, Univ. Prof. PhD**

**DOCTORAL CANDIDATE:**

**Ghiculescu Adrian Remus**

**2024**

**Contents:**

**Keywords**: *administrative-disciplinary liability, public servant, service obligations, disciplinary offense, disciplinary sanction.*

Disciplinary liability is an important institution of law that ensures the efficiency of logical and real relationships between participants in labor relations, specifically those that occur between employers and employees. The latter have the legal and professional obligation to fulfill their job duties precisely as stated in their appointment documents and job descriptions, as well as to strictly observe order and discipline in the workplace.

Workplace discipline is essential for the correct conduct of activities within an institution, impacting productivity and efficiency. The staff under analysis represents individuals appointed to public positions, and these roles encompass the totality of duties and responsibilities established by law to exercise public power prerogatives by public authorities and institutions.

Public officials, as agents of public administration, must demonstrate special and distinct behavior because they enable public authorities and institutions to fulfill significant tasks related to public services, which are vital for protecting general interests, respecting rights, and satisfying citizens' needs.

Public officials, in particular, must respect the rights and obligations assigned to them, avoid conflicts of interest, and ensure they do not compromise their own prestige or that of the institutions they represent. Disciplinary liability plays an educational and preventive role. Regulating offenses and especially sanctions restricts them and imposes adherence to the mission they are entrusted with. Of course, disciplinary liability also has a sanctioning role through the means of coercion provided by law, aiming for both the actual sanctioning and the correction of those at fault, ensuring they behave responsibly in the future and perform their public duties with respect for the public authority/institution so that beneficiaries of public service can have full confidence in the services they rely on.

The thesis presents significant importance, being the result of in-depth and continuous research regarding Romanian and European legislation, as well as Romanian and foreign doctrine, which has allowed for the formulation of original ideas regarding the investigated institution, leading to relevant conclusions about the importance of disciplinary liability in a national and European context.

The aim of the thesis is to highlight and influence the theoretical and practical aspects on the development of the legislative framework of the Romanian legal system concerning

the subject of our analysis, in relation to its evolution at the European level, as a result of the analysis of foreign specialized doctrine and internal works.

As a judge, I have resolved cases regarding the disciplinary liability of public officials, which has fueled my interest in studying and deepening this topic.

A public official is an individual appointed to a public position[1]. It has been said that public officials "hold the most disputable category of employment relations that takes place between administrative law literature and labor law literature."[2]

It is essential to emphasize a crucial factor, namely that public officials play a very important role in contemporary society. Given this fact, the Romanian legislator found it particularly useful to adopt a new status for public officials, grounded in the norms concerning the Statute of Public Officials.

Currently, the legal framework applicable to public officials is regulated by the Administrative Code, which has been in effect since July 5, 2019, and stands as a testament to the legislator's attention to this category of personnel. Although its development and implementation represented progress in the legislation of the Statute of Public Officials, the normative act needs constant updates, modifications, or supplements, in line with societal evolution, so that public officials can fulfill their assigned duties at the highest standards and with the best results.

With the goal of presenting a detailed overview and improving the legislative framework, the research forms included fundamental (theoretical generalization), predictive (anticipatory), and applicative (case presentation) methods, aiming to find concrete/practical solutions based on case theory.

If we analyze in detail the forms (often using descriptive and explanatory methods in the thesis) and conditions (fundamental, theoretical construction, and applicative-experimental conditions utilized throughout the first three chapters) for invoking the disciplinary liability of public officials, we can observe that they can be improved through modifications and additions to the current legislative framework (using the applied and action-oriented character as a form of scientific research).

[1] E. Bălan, *Administrative Law and Administrative Procedure*, University Publishing House, Bucharest, 2002, p. 220.

[2] F. Roșioru, *Individual Labor Law*, Universul Juridic Publishing House, Bucharest, 2017, p. 64.

This procedure, as a whole, is at European standards, and in some situations even exceeds the legislation of other countries, fulfilling its protective or coercive mission at the domestic level, as applicable.

The research project of the thesis was structured following the study stages established by the domain specialist, emeritus professor at the University of Montreal, Dr. Marie-Fabienne Fortin, who presents an internationally recognized structure in university scientific research. The following elements represented the stages of developing the research for this doctoral thesis and present the "keystone" of the entire scientific endeavor:

- Selection and formulation of the research problem;
- Listing important and relevant bibliographic references related to the problem;
- Developing a theoretical reference framework;
- Establishing the purpose, questions, or hypotheses;
- Choosing a research structure;
- Choosing data collection and analysis techniques;
- Data collection;
- Analysis and interpretation of the data;
- Communication of results[3].

In the first chapter, I conducted a theoretical analysis of aspects related to public officials as subjects of disciplinary liability, public function, and aspects concerning administrative-disciplinary liability as regulated by general legislation, special legislation, and jurisprudence.

In the legislator's conception, public function represents the totality of tasks and duties prescribed by law for the purpose of exercising public power prerogatives by public authorities and institutions. According to this definition, public function exercises public power prerogatives.

By developing a theoretical framework, I found that the administrative-disciplinary liability of public officials is a type of social liability, activated strictly under the law issued to protect society's and citizens' interests. Its invocation is only realized through state institutions, which are the only entities authorized to apply sanctioning measures, and arises

[3] See D. Zait, *Research Methodology*, Doctoral School of Economics and Business Administration, PP, 2015/2016 and D. Zait, A. Spalanzani, *La recherche en management et en economie. Reperes epistemologiques et methodologiques*, L'Harmattan, Paris, 2008.

only when the essential conditions of liability are met based on the type of harmed social relationship.

Subsequently, analyzing legal liability, it was observed that it can take various forms, characterized by their individual elements, such as harmed social values, the form of the violated legal norm, the degree of social danger of the unlawful act, the culpability of the perpetrator, etc.

Furthermore, each branch of law regulates a specific type of liability: disciplinary liability (analyzed by us), civil liability, patrimonial liability, contraventional liability, and criminal liability.

A public official incurs legal liability when their behavior causes harm and affects the image and operation of the institution where they carry out their activities. Depending on the social value harmed, the liability incurred can be disciplinary, contraventional, patrimonial, civil, or criminal.

Regarding the evolution of public function and public officials in our country, I attempted to provide a brief historical introspection, highlighting its extremely important role and complexity, from ancient times to the present.

In the second chapter, by defining the variables subject to research, I aimed to analyze both the constitutive elements of disciplinary offenses applicable to public officials and the measures themselves since the main subject of this thesis is the disciplinary liability of public officials. Utilizing the method of data collection, analysis, and interpretation, I outlined the fundamental element of invoking this type of liability by presenting its general aspects and constitutive elements, the main categories of offenses, and the causes that remove the offense character of an act.

Then, using the method of analyzing[4] and interpreting existing data and information, I examined the disciplinary offenses expressly provided by the provisions of Article 492 of the Administrative Code for public officials.

In the third chapter, using the scientific research method to establish the goal and working hypotheses, disciplinary sanctions were analyzed. First, a general overview was developed, followed by detailed study and analysis of the sanctions imposed on public officials.

[4] D. Dănișor, *Practical Guide for Developing and Defending a Doctoral Thesis: Legal Methodology*, Universul Juridic Publishing House, Bucharest, 2018, p. 138.

Continuing with my thesis, the fourth chapter detailed the procedure for conducting disciplinary investigations necessary for resolving a disciplinary complaint, concluding either with the sanctioning of the public official or, as applicable, with the dismissal of the complaint.

In the following chapter, I presented in detail the resolution of labor disputes by the courts of administrative litigation, this procedure being showcased also through the prism of relevant jurisprudence. This chapter relied significantly on the method of data analysis and interpretation, as the presented cases played a crucial role in underpinning the scientific endeavor regarding proposals for amending the existing legislation, related to the final part of the thesis.

In the sixth chapter, I aimed to provide a brief overview of the administrative-disciplinary liability of public officials according to the legislation of other European countries, such as Italy, France, and Spain. Comparative legal aspects were considered in both the theoretical approach and a potential effort for harmonizing legislation in this field at the European level, concerning coercive disciplinary measures applicable to officials, through a fine justification of a common strategy and a European vision on the addressed issues.

It is worth mentioning that in Spain, there is no single concept of public official common to the entire Spanish legal system; rather, each branch of this system has its own concept of public official applicable only for specific purposes.

In Italy, the employment relationship in the public sector is, therefore, one in which a natural person voluntarily places their work activity, in exchange for compensation, continuously in the service of a public administration, thus assuming a specific status with special rights and duties.

We note that in the analyzed countries, there is a reluctance to define the notion of a public servant. The institution of “responsibility” ensures compliance with all social rules within society. Responsibility is, in fact, a social duty based on which every citizen is obliged to account for the consequences of their actions and to answer for them, regardless of their nature.

Considering the topic addressed in this paper, which deals with disciplinary responsibility from the perspective of the author of the illicit act—the public servant—we find it useful to present some general aspects concerning the active subject of the responsibility relationship.

In the general sense of the term, legal responsibility represents "the consequence resulting from the failure to fulfill a legal obligation."[5]

As we can observe in the specialized literature, there are various opinions regarding the definition of legal responsibility. According to one such opinion, responsibility can take on various forms of manifestation because: "any act that violates a mandatory norm entails responsibility towards society."[6]

Other authors[7] have opined that the area of social responsibility is very vast and encompasses all types of responsibility: moral, political, legal, as well as other different means through which members of society must be accountable for their deviant behavior within society. Furthermore, social responsibility supports democracy, not the other way around.

Therefore, legal responsibility applies primarily to public servants, as public authority is obliged to act promptly to eliminate any suspicion from society members regarding them through effective means of protection against the public institution and holding it accountable.

In these circumstances, being a democratic state, it is normal for all employees to be held accountable for actions committed in the exercise of a public function. The responsibility of public servants and democracy are two inseparable elements.

Following a concrete and applied analysis of all categories of public servants involved in the functioning of the rule of law, based on all regulations applicable to this category of employees, it has resulted from a complex epistemological study that the special status of public servants arises from their duties and responsibilities, as well as from the prohibitions regarding certain rights and freedoms that the fulfillment of their duties implies. The status of a public servant is regulated starting from the selection method, professional training, and education, to the ethical norms and conduct in exercising the public function.

This rule applies in cases where disciplinary actions are committed by all public servants, with or without special status. For example, we mention police officers, who are considered defenders of public safety and the rule of law, and therefore cannot be exempt from the fundamental principles of the rule of law. For this category of public servants with

[5] DEX, p. 891.

[6] Ș. Beligrădeanu, *Material Liability of Employees*, Scientific and Pedagogical Publishing House, Bucharest, 1973, p. 11.

[7] L. Pop, *Treatise on Civil Law: Obligations, Extracontractual Obligations*, Vol. III, Universul Juridic Publishing House, Bucharest, 2020, p. 93 and following.

special status, hierarchical subordination is very important, as the exercise of duties and the holding of positions correspond to their professional rank.

The Romanian legislator has regulated the responsibility of public servants both in terms of ensuring the right of the injured party to request their punishment when they improperly perform their duties, and to protect public servants from the abusive actions of third parties, as their duties are always under the scrutiny of citizens.

In France, initiating disciplinary proceedings is the exclusive competence of the territorial authority and not the deliberative assembly. Depending on the sanction being considered and the status of the agent, it may involve either a procedure without the notification of the disciplinary council or a notification to the disciplinary council.

In Spain, the disciplinary regime of public servants represents the set of legal norms established by the state, which determines the illicit acts that personnel in its service may commit while performing their duties and stipulates the sanctions that may be imposed by the public administration following a specific administrative procedure.

In Italy, disciplinary responsibility arises from the violation of duties related to the employment relationship by the employer.

Thus, I have concretely studied, through temporal and spatial delimitation, the acts of public servants that can attract multiple types of responsibility: disciplinary, civil, and criminal, distinctly analyzing the employment for each situation, in light of the conditions that ensure control over the respective procedures, to verify, on one hand, the legality of the fulfillment of duties by the public servant, and on the other hand, to protect them from direct abusive actions by third parties.

I have narrowed down the actual field of investigation after an exhaustive presentation concerning public servants and concluded that it is necessary for them to constantly bear in mind that this status implies numerous incompatibilities, prohibitions, and obligations, both in the exercise of their functions and during their free time, and that violating, ignoring, or neglecting these attracts disciplinary responsibility.

In our opinion, the significance of the study has highlighted that the Romanian legislator has chosen the optimal method of regulating the disciplinary offenses that can be committed by public servants, through their express and restrictive nomination as a result of applying the principle of “nulla poena sine lege.” Thus, we have identified the offenses and

disciplinary sanctions established by the provisions of Article 492 and the following in the Administrative Code.

In France, there is no definition of a disciplinary offense. It is the responsibility of the territorial authority that intends to sanction the agent to qualify the offense in relation to the professional obligations provided by law or jurisprudence and to prove the existence of the offense.

In Spain, the main consequence for a public servant who fails to comply with some of the obligations derived from this condition is the possibility of being sanctioned. The sanction can be disciplinary, imposed by the employer administration, in accordance with sanctioning administrative law, within which it is integrated.

Additionally, we have attempted to view the scientific approach as an interdependent research study anchored in the context of Romanian reality. At the same time, we have observed that, unlike the legislation in Romania, in the legislation of other EU member states, the legislator has limited itself to describing in very general terms the conditions that can attract the disciplinary responsibility of the public servant.

After direct observation and research, we conducted informal discussions with public servants and emphasized the mutual validation of research instruments. The choice of the Romanian legislator integrates into the Romanian legal landscape, which is dominated by the written form of law, which, until the consolidation of the legislative framework governing the activity of public servants, lacks stability, being viewed with distrust and suspected of arbitrariness in interpretation.

However, with the strict and express regulation of the conditions and circumstances for attracting disciplinary responsibility, as well as following the legislation of the entire disciplinary procedure, there can no longer be any suspicions regarding a non-unitary interpretation of the legislation, let alone doubts regarding a discretionary approach to the investigation procedure of the public servant.

The results of our scientific endeavor aimed to provide structural and essential improvements to the Romanian legislative framework in this field. We are facing a progressive sanctioning regime, and our analysis intended to focus on breaking down and presenting a system into accessible components for both specialists and the general public, to allow for the individualization of sanctions according to the principle of proportionality. In this context, aspects such as the legislation on the right to defense for the investigated public

servant (who may be assisted by a lawyer or a representative of their union, with mandatory hearing recorded in a minutes), the principle of adversarial proceedings (where both parties present evidence in defense while having access to all documents of the case), and the principle of legality of the sanction (which refers to the application of the sanction only after the procedure has been followed and within the limits regulated by the legislator) were highlighted. Additionally, it is mandatory to justify the proposal for sanctioning, as well as the administrative act applying the disciplinary sanction, indicating the competent court and the deadline within which the sanction can be contested, thereby ensuring effective access to justice for the sanctioned individual.

Public authorities imposing disciplinary measures must respect the rights and guarantees within the administrative disciplinary procedure. However, failure to do so does not necessarily constitute a violation of the ECHR, as long as "structural or procedural deficiencies identified within the procedure (...) are remedied during subsequent review by a judicial body with full jurisdiction."[8]

Therefore, the minimum standards in exercising disciplinary powers must be analyzed within judicial review and judicial guarantees. It was also emphasized that the legislator conditioned the access of the publicly sanctioned civil servant to the courts, in cases of the most severe punishment, namely dismissal from public office, on the completion of the administrative complaint procedure, according to the provisions of Law no. 554/2004 on administrative litigation. It is mandatory that this stage be carried out within a certain timeframe and under certain legal conditions, after which the sanctioned public servant is allowed to exercise the right to take legal action, otherwise the action is rendered inadmissible.

In conclusion, the research certainly leads us to proposals for substantial amendments to acts with direct application in the scope of the research conducted or in the subsequent administrative-disciplinary liability of the public servant.

First, it is essential to highlight a crucial factor, namely that the public servant plays a very important role in contemporary society. In light of this fact, the Romanian legislator found it particularly useful to adopt a new statute for public servants, based on the norms concerning the Statute of Public Servants.

[8] Judgment of January 31, 2023, Case Thierry v. France, 37058/19, para. 26; Judgment of November 6, 2018, Case Ramos Nunes de Carvalho e Sá v. Portugal, 55391/13, 57728/13, and 74041/13, para. 132; Judgment of November 3, 2022, Case Dahan v. France, 32314/14, para. 50.

Currently, the legal framework applicable to public servants is regulated by the Administrative Code, in effect since July 5, 2019, and it is a testament to the legislator's attention to this category of personnel. Although its development and implementation have represented progress in legislating the Statute of Public Servants, the normative act needs constant updates, amendments, or completions, in line with societal evolution, so that public servants can fulfill their service duties to the highest standards and with the best results.

In the analysis conducted in this thesis, a multitude of theoretical and practical aspects regarding the disciplinary liability of public servants was discussed, with proposals for future legislation aimed at better regulation of aspects that generate difficulties in interpreting legal provisions (for example, there is no connection between deadlines, or modifications and completions of legal norms are required). Thus:

- Firstly, we emphasize that the legislator did not expressly mention the public servant's obligation to respect labor discipline, as provided by the norms of the Labor Code, nor in the provisions of Law no. 188/1999 or those of the current Administrative Code. Although there was hope for this gap to be filled in special legislation, the legislator only established labor discipline through general regulatory frameworks on this occasion.

Thus, we find in the Administrative Code the provisions of Article 371, paragraph (3), which state that civil servants act, through their activity, with objectivity, professionalism, legality, and impartiality to ensure that public authorities and institutions fulfill the duties established by law. And through the provisions of Article 431, paragraph (1) of the same normative act, the legislator stipulates the obligation of public servants to exercise their public function with objectivity, impartiality, and independence.

As a proposal for future legislation, we believe that such an explicit provision regarding labor discipline could be expressly established in the Administrative Code, as ensuring a healthy organizational climate and the proper functioning of the institution is essential for the staff to perform better in fulfilling their responsibilities.

- Regarding the disciplinary liability of public servants, we found, after conducting a complex analysis, the necessity to amend and complete Article 492 of the Administrative Code by adding two new coercive measures to the existing sanctions, namely: disciplinary transfer to another unit and suspension from the public servant's position, both for limited periods expressly provided by the legislator. These completions are necessary to offer those conducting the disciplinary investigation, as well as the employer, the opportunity to choose a

sanction from a broader range to fully meet the principle of proportionality between the offense committed and the sanction applied. Of course, the adoption of such measures must be contextualized for each individual situation, based on a case-by-case analysis, as it has been observed in practice that there may be numerous particular situations that must be appropriately assessed. For example, we mention a situation where the very placement of the unit in which the investigated public servant worked constituted the determining factor in the emergence of the offender's unlawful attitude. Another proposal concerns the establishment of the employer's ability, in cases of serious but not extreme offenses, to avoid sanctioning the public servant directly reported with the most severe disciplinary sanction—dismissal, so that the latter understands that through the gradual application of sanctions, the coercive force of the statute is essential for changing unlawful behavior.

- Another proposal regarding disciplinary liability refers to modifying Article 493, paragraph (3) of the Administrative Code concerning the obligation to consult the disciplinary committees when considering the appropriateness of applying the sanction provided in Article 492, paragraph (3), letter a) of the same normative act, namely written reprimand. We believe this proposal is both important and timely, considering that this coercive measure has consequences for the sanctioned civil servant professionally (career-wise) and is relevant from the perspective of respecting the principle of equal treatment[9], making it imperative to establish the obligation to apply the same disciplinary procedures to all public servants under disciplinary investigation.

- Another proposal relates to completing the provisions of Article 492, paragraph (9) of the Administrative Code, clause I, by limiting the duration of the suspension of disciplinary proceedings in cases where criminal liability has also been attracted for the same offense, as follows:

"(9) In cases where the act of the public servant has been reported as a disciplinary offense and as a crime, the procedure for imposing disciplinary responsibility is suspended until the decision to dismiss or discontinue the criminal prosecution is made, or until the date when the court decides on acquittal, discontinuation of the application of the penalty, deferral of the application of the penalty, or cessation of the criminal proceedings, but not for more than 2 years from the commission of the act."

[9] See Article 5 paragraph (1) of the Labor Code.

Although in specialized literature it is found that the two forms of responsibility have a relationship of mutual conditioning, they are nonetheless successive because, when both are invoked concurrently, criminal responsibility takes precedence, while disciplinary responsibility is suspended. The consequence of this is the impossibility of conducting disciplinary procedures and, implicitly, sanctioning the public servant involved, if necessary.

Analyzing the French Labor Code[10], we see that disciplinary sanctions can be imposed on those who committed an act that constitutes both a crime and a disciplinary offense. Disciplinary investigations do not hinder the swift progression of the criminal process, considering the goals pursued by the legislator both in the current regulations and with a view to future ones.

However, we must not lose sight of the balance that must exist in service legal relations and, above all, the preventive-punitive-educational purpose of disciplinary responsibility, which is also realized as a result of the speed with which the legal relationship of disciplinary responsibility is resolved. This fact underpins our proposal to limit the suspension period of disciplinary investigations to a maximum of 2 years from the commission of the act. Regarding the category of personnel analyzed throughout this thesis, we have a few legislative proposals as follows:

- Firstly, we believe it is necessary to include both in the provisions of the Administrative Code and in Annex 7 of the Code a specific mention of the disciplinary sanctions for which the prior procedure must be fulfilled in case of contesting them before the court. We consider this addition necessary given that the legislator has imposed this obligation for disciplinary dismissal from public office but has failed to do so for the rest of the sanctions provided by the Administrative Code.

This regulation was previously provided by the provisions of Article 23, paragraph (2) of Government Decision no. 1344/2007, which, however, has not been included either in the provisions of Annex 7 of the Administrative Code or in those of the Administrative Code itself.

We believe this clarification is particularly important to avoid an exhaustive interpretation of these provisions and to ensure their uniform application, considering that not all dismissed public servants have legal studies or can afford to hire a lawyer to inform them

[10] See Article L1332-4 of the French Labor Code.

of the provisions of the Administrative Litigation Law that require the prior procedure for all disciplinary sanctions before contesting them in court.

Moreover, this addition would facilitate access to justice for the sanctioned public servant, preventing the court from rejecting their action as inadmissible.

- The next proposal refers to the mandatory mentions that must be included in the administrative sanctioning act. By carefully studying these elements, we found that the reasons for which the committee rejected the arguments raised by the public servant in their defense are not included among them, should such an event occur. Such a specification is necessary given that there is an obligation to justify the refusal of a request, but not the approval of it.

Another reason is to align the special legislation applicable to public servants with the general labor law norms.

Therefore, considering that the administrative sanctioning act has effects on the career and dignity of the public servant, we believe that this omission should be addressed in the future legislative context.

- Following our analysis, we also found that when the new norms regarding the establishment, organization, and functioning of disciplinary committees, as well as their composition, responsibilities, manner of notification, and disciplinary procedure contained in Annex 7 to the Code were issued, the legislator failed to regulate the procedure for communicating the administrative act and the persons to whom the administrative act of sanctioning the public servant should be communicated.

The disciplinary procedure must be conducted based on the legal provisions in force (Annex 7 of the Administrative Code) and not in consideration of a repealed normative act (Government Decision no. 1344/2007 regarding the organization and functioning norms of disciplinary committees)[11].

The provisions of Article 50, paragraphs (1) and (5) of Government Decision no. 1344/2007 referred to the communication deadline, the department responsible for this task, and the persons to whom the administrative sanctioning act needed to be communicated.

However, in the current regulations, we find in Article 51, paragraph (5) of Annex 7 to the Code only a vague reference to the issuance of the administrative sanctioning act "within 10 calendar days from the date of receipt of the report provided for in paragraph (1), but no

[11] Craiova Court of Appeal, Administrative and Fiscal Section, Decision no. RJ 86453e766/2023 of March 7, 2023, www.sintact.ro, accessed on August 18, 2024.

later than the expiration of the term provided for in Article 492, paragraph (8) of this Code, the person who has the legal appointment authority, according to the law, issues the administrative act of disciplinary sanctioning under the conditions provided for in Article 528, paragraphs (1) and (2) and Article 532 of this Code."

If we analyze the legal norms mentioned above, we will see that it is precisely in Article 528, paragraph (5) of the Code that it is stated that "administrative acts are communicated, through the care of the human resources department, within a maximum of 5 working days from issuance," without any further specification.

Therefore, in our opinion, it is necessary to complete the current provisions of the Administrative Code with regulations that expressly indicate the persons to whom the administrative act must be communicated, namely: the disciplinary committee that prepared and submitted the report, the public servant whose act has been reported as a disciplinary offense, and the person who made the report.

- During our research, we found that concerning the communication of the administrative sanctioning act, the provisions of Article 528, paragraph (7), letter d) of the Code also apply, which regulate the proof of communication of an administrative act, which can also be made through a report that certifies the posting of the administrative act at the place of activity of the public servant. These provisions also apply to the administrative sanctioning act provided for in paragraph (8) of the same article.

However, we found a major contradiction between the provisions mentioned above and those of Law no. 190/2018 regarding the measures for the implementation of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)[12], as well as those of Law no. 363/2018 regarding the protection of natural persons concerning the processing of personal data by competent authorities for the purposes of preventing, discovering, investigating, prosecuting offenses, or executing penalties, educational and safety measures, as well as regarding the free movement of such data[13].

This contradiction arose because the display of the administrative sanctioning act cannot protect the personal data of the sanctioned public official, as this act contains a significant amount of identifying information about the sanctioned official.

[12] Published in the Official Gazette no. 651 on July 26, 2018, subsequently amended.
[13] Published in the Official Gazette no. 13 on January 7, 2019.

Considering this fact, we believe it is necessary to amend Article 528 of the Administrative Code with a new paragraph, paragraph (9), which would exempt the administrative sanctioning act from the application of the provisions of paragraph (7) letter d).

- Not least, another proposal concerns the extraordinary appeal for annulment, which can be utilized by public officials in disputes regarding their service relationships. This is only regulated by the provisions of Article 503 paragraph (2) point (2) of the Civil Procedure Code, and not by those of the Administrative Contentious Law: "The decisions of the courts of appeal may be challenged with an annulment appeal when: (...) the resolution given to the appeal is the result of a material error."

In this case, "material error" can also be interpreted as a wrong decision by the court (in our case, the appellate court) made in a specific case based on distorted reasoning regarding the factual situation or the applicable legal provisions.

The current conditions make this extraordinary appeal exist only in a declarative manner, being minimized by both jurisprudence and specialized literature[14], as it is strictly admissible for procedural errors.

However, for errors in interpreting the applicable legal provisions, evaluating evidence, or actual judicial errors in the cases brought to trial, we believe it is necessary to fill the legislative gap by modifying and completing the provisions regulating the annulment appeal, by judging the relationship of the solution of the challenged decision with the applicable legal provisions specific to the subject of the action.

With our proposal, we want there to be a similarity between the regulations of civil law and criminal law, as the provisions of Article 433 of the Criminal Procedure Code regulate the appeal in cassation, which "aims to submit the challenged ruling to the High Court of Cassation and Justice for examination, under the law, of the compliance of the challenged ruling with the applicable rules of law." However, we do not find this appeal in the provisions of the Civil Procedure Code, which prejudices the right of the litigating parties to access justice when the appellate court has issued an erroneous ruling. Currently, the only way for a party who feels harmed to contest such a decision is at the European Court of Human Rights.

[14] M. Tăbârcă, *Civil Procedural Law*, Vol. III, Appeals, Universul Juridic Publishing House, Bucharest, 2014, pp. 246-251; I. Leș, *The New Civil Procedure Code: Article-by-Article Commentary*, 2nd ed., C.H. Beck Publishing House, Bucharest, 2015, pp. 800-803.

The incompatibility status of the public official is established and sanctioned under the provisions of Law no. 176/2010. Thus, we will refer to the relevant provisions of this law. According to Article 22 paragraph 3, if the report on evaluating the incompatibility has not been contested within a legal term at the administrative contentious court, the Agency initiates, within 15 days, the competent bodies to start disciplinary procedures. Also, Article 25 paragraph 3 of Law 176/2010 states that the act of the person regarding whom the state of incompatibility or conflict of interest has been established constitutes grounds for dismissal from office or, as the case may be, constitutes a disciplinary offense; and for the application of the disciplinary sanction, the National Integrity Agency will communicate the evaluation report to the disciplinary committee, which proposes to the competent body the application of a disciplinary sanction (Article 26 paragraph 1 letter j).

From the aforementioned texts of Law no. 176/2010, we observe the lack of correlation with Article 493 paragraph 2 of the Administrative Code, which states that the sanction in question "is applied directly by the person who has the legal competence to appoint to the public office."

Legally and logically, it is appropriate for dismissal from public office to occur under the aforementioned conditions through the disciplinary committee.

Furthermore, we note that the text of Article 493 paragraphs 3 and 4 of the Administrative Code is deficient in that it refers only to public institutions, ignoring entities designated as public authorities[15].

This is why we are making the proposals for *lege ferenda* and the elimination of the imperfections and inconsistencies mentioned above.

[15] V. Vedinaș (coord.), *Commentary on the Administrative Code: Explanations, Jurisprudence, Doctrine*, Vol. II, Articles 365-368, Universul Juridic Publishing House, Bucharest, 2023, p. 433-435.

## BIBLIOGRAPHY

### I. DOMESTIC REGULATORY ACTS


1. The Constitution;
2. Administrative Code;
3. Labor Code;
4. Civil Code;
5. Code of Civil Procedure;
6. Code of Criminal Procedure;
7. Criminal Code;
8. Law No. 544/2001 on free access to public interest information;
9. Law No. 94/1992 on the organization and functioning of the Court of Accounts;
10. Law No. 182/2002 on the protection of classified information;
11. Law No. 202/2002 on equal opportunities and treatment between men and women;
12. Law No. 161/2003 on certain measures to ensure transparency in the exercise of public offices and in business, and the prevention and sanctioning of corruption;
13. Law No. 319/2006 on health and safety;
14. Law No. 554/2004 on administrative litigation;
15. Law No. 7/2006 on the status of parliamentary public servants;
16. Law No. 176/2010 on integrity in the exercise of public offices and dignities;
17. Law No. 153/2017 on the remuneration of staff paid from public funds;
18. Law No. 190/2018 on measures to implement Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);
19. Law No. 363/2018 on the protection of individuals with regard to the processing of personal data by competent authorities for the purpose of preventing, detecting, investigating, prosecuting, and combating crimes or executing sentences, educational measures, and security measures, as well as the free movement of such data;
20. Law No. 304/2022 on judicial organization;
21. Law No. 367/2022 on social dialogue;

22. Law No. 361/2022 on the protection of whistleblowers in the public interest;

23. Emergency Ordinance No. 80/2013 on judicial stamp duties;

24. Government Ordinance No. 137/2000 on the prevention and sanctioning of all forms of discrimination;

25. Government Decision No. 302/2022 for approving the rules on the constitution, organization, and functioning of joint commissions, their composition, duties, and working procedures, as well as the rules on concluding and monitoring the implementation of collective agreements;

26. Government Decision No. 970/2023 for approving the methodology on preventing and combating harassment on the grounds of sex, as well as moral harassment in the workplace.

**II. COMPARATIVE LAW REGULATORY ACTS**

1. Constitution of Spain;

2. French Civil Code;

3. Italian Civil Code;

4. French Labor Code;

5. General Code of the Public Service in France;

6. Law of September 25, 1948 – Code of Financial Jurisdictions in France;

7. Royal Legislative Decree 5/2015 approving the Basic Statute of Public Employees;

8. Law 734 of 2002 – The Unified Disciplinary Code in Spain;

9. Law 1952 of 2019 – The General Disciplinary Code in Spain;

10. Royal Decree 33/1986 approving the Disciplinary Regulations of Civil Servants in the General Administration of the State in Spain;

11. Legislative Decree No. 165/2001 in Italy.

**III. TREATIES. COURSES. MONOGRAPHIES**

**A. Romanian Authors**

1. I. Alexandru, *Treatise on Public Administration*, Universul Juridic Publishing House, Bucharest, 2008;

2. R. Anghel, *Procedure for Settling Individual Labor Conflicts*, C.H. Beck Publishing House, Bucharest, 2018;

3. E. Bălan, *Administrative Law and Administrative Procedure*, Universitară Publishing House, Bucharest, 2002;

4. A.S. Ciobanu, F. Coman Kund, *Administrative Law, Part II*, 3rd edition, Universul Juridic Publishing House, Bucharest, 2008;

5. Ş. Beligrădeanu, *Material Liability of Employees*, Ştiinţifică and Pedagogică Publishing House, Bucharest, 1973;

6. G. Bogasiu, *Administrative Litigation Law, Commented and Annotated*, 5th edition, revised and enlarged, Universul Juridic Publishing House, Bucharest, 2020;

7. M.N. Costin, *Legal Liability in the RSR Law*, Dacia Publishing House, Cluj, 1974;

8. I. Craiovan, *Treatise on the Criminal Theory of Law*, 4th edition, revised and enlarged, Universul Juridic Publishing House, Bucharest, 2020;

9. V. Dabu, *Legal Liability of Public Officials*, Global Lex Publishing House, Bucharest, 2000;

10. D. Dănişor, *Practical Guide for Writing and Defending the Doctoral Thesis. Legal Methodology*, Universul Juridic Publishing House, Bucharest, 2018;

11. I. Deleanu, *Treatise on Civil Procedure*, Vol. I, Universul Juridic Publishing House, Bucharest, 2013;

12. *Explanatory Dictionary of the Romanian Language* (DEX), Universul Enciclopedic Publishing House, 2016;

13. V. Hanga, *Small Legal Dictionary*, 2nd edition, Lumina Lex Publishing House, Bucharest, 2005;

14. I. Gârbuleţ, *Treatise on the Disciplinary Liability of Judges*, Universul Juridic Publishing House, Bucharest, 2020;

15. D. Gherasim, *Good Faith in Civil Legal Relations*, Academy of the Socialist Republic of Romania Publishing House, 1981;

16. M.A. *Hotca, Manual of Criminal Law, General Part*, Universul Juridic Publishing House, Bucharest, 2017;

17. M. Gaiţă, M.M. Pivniceru, *Jurisprudence of the Court of Appeal Iaşi in Civil Matters in 2001*, Lumina Lex Publishing House, Bucharest;

18. M. Ioan, L. Iamandi (coord.), G.M. Țical, N.-T. Godeanu, Paul Băltățeanu, *The Specific Employment Relations of the Ministry of Internal Affairs Personnel*, Fundației Universitare Dunărea de Jos Publishing House, 2010;

19. I. Leș, D. Ghiță (coord.), V. Lozneanu, C. Murzea, A. Stoica, A. Suciu, *Treatise on Civil Procedural Law*, Vol. I, 2nd edition, revised and enlarged, Universul Juridic Publishing House, Bucharest, 2020;

20. I. Leș, M.N. Costin, C.M. Costin, S. Spinei, *Dictionary of Civil Procedure from A to Z*, 3rd edition, Universul Juridic Publishing House, Bucharest, 2020;

21. I. Leș, *Treatise on Civil Procedural Law, Volume I*, Universul Juridic Publishing House, Bucharest, 2014;

22. I. Leș, *The New Code of Civil Procedure. Comments on Articles*, 2nd edition, C.H. Beck Publishing House, Bucharest, 2015;

23. I. Leș, *Comparative Judicial Systems*, All Beck Publishing House, Bucharest, 2002;

24. I. Leș, *The New Code of Civil Procedure. Comments on Articles*, 2nd edition, C.H. Beck Publishing House, Bucharest, 2015;

25. L. Pop, *Treatise on Civil Law. Obligations, Volume III. Real Non-contractual Obligations*, Universul Juridic Publishing House, Bucharest, 2020;

26. L. Pop, I.-F. Popa, S.I. Vidu, *Civil Law. Obligations*, 2nd edition, revised and enlarged, Universul Juridic Publishing House, Bucharest, 2020;

27. N. Popa, *General Theory of Law*, 6th edition, C.H. Beck Publishing House, Bucharest, 2020;

28. R.N. Petrescu, *Administrative Law*, Lumina Lex Publishing House, Bucharest, 2001;

29. M. Preda, *Administrative Law. General Part*, revised and enlarged edition, Lumina Lex Publishing House, Bucharest, 2000;

30. M.-C. Preduț, *The Labor Code Commented. The New Organization of Work*, 3rd edition, completed and revised, Universul Juridic Publishing House, Bucharest, 2022;

31. V. Prisăcaru, *Treatise on Administrative Law. General* Part, 2nd edition, revised and enlarged, All Publishing House, Bucharest, 1996;

32. O. Podaru, *Administrative Law, Volume I. The Administrative Act. New Milestones for a Different Theory*, Volume 1. Concept, 2nd edition, revised and enlarged, Hamangiu Publishing House, Bucharest, 2022;

33. I. Popescu Slăniceanu, *Theory of Public Office*, Evrika Publishing House, Brăila, 1999;

34. M.-C. Preduț, *The Labor Code Commented*, 4th edition, completed and revised, Universul Juridic Publishing House, Bucharest, 2024;

35. F. Roșioru, *Individual Labor Law*, Universul Juridic Publishing House, Bucharest, 2017;

36. I. Santai, *Administrative Law and Administrative Science*, Risoprint Publishing House, Cluj-Napoca, 2008;

37. A.M. Suciu, *Public Service Deontology*, Techno Media Publishing House, Sibiu, 2010;

38. C.S. Săraru, *Treatise on Administrative Litigation*, Universul Juridic Publishing House, Bucharest, 2022;

39. G. Manu, *Administrative Law. University Course*, Universul Juridic Publishing House, Bucharest, 2022;

40. I.T. Ștefănescu, *Theoretical and Practical Treatise on Labor Law*, 4th edition, revised and enlarged, Universul Juridic Publishing House, Bucharest, 2017;

41. M. Tăbârcă, *Civil Procedural Law, Volume III. Appeals*, Universul Juridic Publishing House, Bucharest, 2014;

42. M. Tăbârcă, *Civil Procedural Law, Volume III. Appeals. Special Procedures*, 3rd edition, Solomon Publishing House, Bucharest, 2023;

43. A. Țiclea, *Theoretical and Practical Treatise on Labor Law*, 2nd edition, revised and enlarged, Universul Juridic Publishing House, Bucharest, 2024;

44. A. Țiclea, A. Duțu, *Collective Agreements. Between Labor Law and Public Service Law*, Wolters Kluwer Publishing House, Bucharest, 2022;

45. A. Țiclea, A. Duțu, *Labor Relations Jurisdiction. Legislation, Doctrine, and Jurisprudence*, Universul Juridic Publishing House, Bucharest, 2021;

46. A. Țiclea, *Disciplinary Liability in Labor Relations*, C.H. Beck Publishing House, Bucharest, 2017;

47. A. Ţiclea (coord.), L. Georgescu, A. Cioriciu Ștefănescu, B. Vlad, *Public Labor Law*, Wolters Kluwer Publishing House, Bucharest, 2010;

48. D.A. Tofan, *Administrative Law*, Volume II, 4th edition, C.H. Beck Publishing House, Bucharest, 2017;

49. M. Tomescu, *Deontology of Public Officials, 5th edition*, revised and enlarged, ProUniversitaria Publishing House, Bucharest, 2021;

50. D. Ţop, *Treatise on Labor Law*, Wolters Kluwer Publishing House, Bucharest, 2008;

51. D. Ţop, *Treatise on Labor Law*, 5th edition, Universul Juridic Publishing House, Bucharest, 2024;

52. V. Vedinaș, *Statute of Public Officials*, Universul Juridic Publishing House, Bucharest, 2009;

53. V. Vedinaș, *Statute of Public Officials (Law No. 188/1999)*, 2nd edition, revised and enlarged, Universul Juridic Publishing House, Bucharest, 2016;

54. V. Vedinaș, *Administrative Law*, 10th edition, revised and updated, Universul Juridic Publishing House, Bucharest, 2017;

55. V. Vedinaș, *Administrative Law. Doctrine, Practice, Jurisprudence*, 13th edition, revised and enlarged, Universul Juridic Publishing House, Bucharest, 2022;

56. V. Vedinaș (coord.), *Commented Administrative Code. Explanations. Jurisprudence. Doctrine*, Volume II, Articles 365-368, Universul Juridic Publishing House, Bucharest, 2023;

57. V. Vedinaș, *Annotated Administrative Code*, 2nd edition, revised and enlarged, Universul Juridic Publishing House, Bucharest, 2020;

58. A.M Vlăsceanu, M.A. Iordache, *Remote Work: Expression of the Flexibility of Labor Relations*, C.H. Beck Publishing House, Bucharest, 2023.

**B. Foreign Authors**

1. G. Auzero, D. Baugard, E. Dockès, *Droit du travail*, 2023, 35e édition, Dalloz;

2. F. Beninato, *La responsabilità della pubblica amministrazione:le nuove frontiere*, Ed. Dike Giuridica, Roma, 2020;

3. L. M. Benítez, *Naturaleza y presupuestos constitucionales de las relaciones especiales de sujeción*. Madrid: Civitas y Universidad de Córdoba, 1994;

4. N. García, *Derecho Administrativo Sancionador*, Madrid: Tecnos. 5ª edición, 2012;

5. F. del Giudice, A. Marano, C. Buffolano, *Manuale di dirritto del lavorro,* XVI edizione, Ed. Simeone Giuridico, 2023;

6. R. Gregoire, *La fonction publique*, Ed. Dalloz, Paris, 2005;

7. C. Katfani, *La formation du concept de fonction publique en France*, Ed. LGDJ, 1998;

8. I. Pedacci, *Elementi Maior. Il lavoro alle dipendenze della pubblica amministrazione*, IX edizione, Ed. Simeone Giuridico, 2023;

9. R. Puig, D. J. Vera Jurado, *Derecho Administrativo*, Tomo IV. Madrid: Tecnos, 2018;

10. J. I. Rincón Córdoba, *La potestad disciplinaria en el Derecho Administrativo*, Buenos Aires: Editores IJ y Universidad de Piura, 2018;

11. Taillefait, *Droit de la fonction publique*,9e édition, Ed. Dalloz, 2022;

12. P. Van Dijk, F. Van Hoof, A. Van Rijn y L. Zwaak (eds.), *Theory and practice of the European Convention on Human Rights*, Cambridge: Intersentia, 2018.

## IV. STUDIES. ARTICLES. COMMENTS

### A. Romanian Authors

1. Ş. Beligrădeanu, *Labor Jurisdiction versus Administrative Litigation*, in *Dreptul* No. 2/2016, p. 83;
2. C. Furtună, S. Cristea, *Theoretical Considerations Regarding the Scope of Application of Law No. 554/2004 on Administrative Litigation and the Deadlines for Filing Actions in Administrative Litigation*, in *Curierul Judiciar* No. 3/2006, pp. 65-67;
3. L. C. Duțescu, *Illegal Service Order, Exonerating Cause for Disciplinary Liability*, in *RRDM* No. 5/2007, p. 107;
4. V. Lozneanu, I.-C. Mincă, *Particularities of the Burden of Proof in Administrative Litigation Cases*, in *RRDM* No. 5/2023, pp. 107-120;
5. Gh. D. Moise, *Brief Considerations Regarding the Employment Relationships of Magistrates*, in *RRDM* No. 3/2022, p. 60;
6. R.R. Popescu, *The New Regulation of Administrative Disciplinary Liability of Public Officials*, in *RRDM* No. 4/2019, p. 50;

7. A.N. Puran, L. Olah, *Disciplinary Sanctions Applicable to Romanian Civil Servants*, in *AGORA International Journal of Juridical Sciences* No. 4 (2013), pp. 182-189;
8. I.T. Ştefănescu, *Infirmity - Cause of Disciplinary Liability*, in *Dreptul* No. 12/2002, pp. 76 and following;
9. A. Țiclea, *Opinions on the Principle of Legality of Disciplinary Offenses*, in *Dreptul* No. 10/2018, p. 127;
10. A. Țiclea, *Jurisdiction for Resolving Labor Disputes in the Case of Public Officials*, in *RRDM* No. 1/2006, pp. 13-21.

**B. Foreign Authors**

1. M. L. Acosta, *La responsabilidad del empleado público en España,* în Revista General de Derecho Administrativo número 64/2023, pp. 609-627;

2. B. Armijo, A. María, *La responsabilidad disciplinaria de los empleados públicos en Europa.Una propuesta de concepto y de garantías mínimas comunes*, în Revista General de Derecho Administrativo, N$^0$ 64/2023;

3. E. Ayoub, *Le conseil de discipline dans le fonction publique,* în Revue du droit public, tome 87, 77$^e$ année, 1971, p. 1129;

4. D. Agus, B. Argiolas, G. Ciccarelli, B. Cimino, E. D'Alterio, A. Giurickovic Dato, B. G. Mattarella, G. Rivellini, S. Screpanti y A. Tonetti, *La gestione del personale tra incentivi e disincentivi,* 4/2021, *Rivista Trimestrale di Diritto Pubblico,* pp. 1255-1294;

5. V. S. Baca Oneto, *La culpabilidad en el Derecho Administrativo Sancionador, con especial mirada al caso peruano*, în *Revista Digital de Derecho Administrativo* número 21/2019, pp. 319-323;

6. V.G. Blanc, *Motifs et motivation des décisiones administratives,* în Revue administrative, N$^o$ 304 (Juillet-Aout )1998, p. 495;

7. C. Garbar, *De la responsabilité à la responsabilisation des fonctionnaires. Les expériences allemande, britannique, italienne et polonaise*, Vol. 68, No. 1/2016, *Revue internationale de droit comparé*, pp. 7-9;

8. B. Marina-Jalvo, *Suspensión de funciones e incapacidad temporal de los funcionarios públicos. Criterios para la determinación de la prevalencia entre situaciones administrativas y regímenes jurídicos diferentes*, *Revista General de Derecho Administrativo,* n.$^o$ 58/2021, pp. 1-22;

9. F. M., Nocelli, *La contestazione disciplinare tra regole, valori e nuove responsabilità*, No. 6-2019, *Foro Amministrativo*, pp.1151-1198;

10. A Taillefait, *Le droits disciplinares des functions publiques, unification, harmonosation, ou distantion?* în JPC A 2016, n$^{0}$24, p. 2177 .

11. J.M. Trayter Jiménez, *La responsabilidad administrativa y penal de los empleados públicos: una visión actual,* în Revista de Administración Pública número 213/2020, pp. 345-372.

**V. JUDICIAL PRACTICE**

1. Î.C.C.J., Administrative and Fiscal Litigation Section, Decision No. 396/2020; Decision No. 2905/2020;

2. Î.C.C.J., Administrative and Fiscal Litigation Section, Decision No. 4610/2022;

3. Î.C.C.J., Administrative and Fiscal Litigation Section, Decision No. 3450/2010;

4. Î.C.C.J., Administrative and Fiscal Litigation Section, Decision No. 1643/2014;

5. Î.C.C.J., Administrative and Fiscal Litigation Section, Decision No. 3090/2007;

6. Î.C.C.J., Administrative and Fiscal Litigation Section, Decision No. 2558/2010;

7. Î.C.C.J., Administrative and Fiscal Litigation Section, Decision No. 443/2012;

8. Î.C.C.J., Administrative and Fiscal Litigation Section, Decision No. 2383/2006;

9. Bucharest Court of Appeal, 9th Administrative and Fiscal Litigation Section, Decision No. RJ 238276dd3/2023 of February 21, 2023;

10. Bucharest Court of Appeal, 8th Administrative and Fiscal Litigation Section, Civil Decision No. 1035/2021;

11. Bucharest Court of Appeal, 8th Administrative and Fiscal Litigation Section, Civil Decision No. 88/2021;

12. Galați Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. 689/2021;

13. Craiova Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. RJ 86453e766/2023 of March 7, 2023;

14. Galați Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. RJ ee9584268/2023 of March 20, 2023;

15. Constanța Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. RJ 989394275/2023 of April 6, 2023;

16. Craiova Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. RJ g8g4542ee/2023 of March 6, 2023;

17. Alba Iulia Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. RJ 9824g5355/2022 of February 2, 2022;

18. Craiova Court of Appeal, Decision No. 2751/2019;

19. Bacău Court of Appeal, Decision No. 418/2020;

20. Bacău Court of Appeal, Decision No. 661/2006;

21. Bacău Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. RJ 5922g5696/2022 of February 10, 2022;

22. Bucharest Court of Appeal, 8th Administrative and Fiscal Litigation Section, Civil Decision No. 188/2021;

23. Iași Court of Appeal, Civil Section, Decision No. 1361/2003;

24. Craiova Court of Appeal, Civil Decision No. 2751/2019;

25. Craiova Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. RJ ee92g8227/2023 of February 20, 2023;

26. Ploiești Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. 1536/2021;

27. Oradea Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. 234/2021;

28. Constanța Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. 440/2022;

29. Constanța Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. RJ 62g683879/2022 of February 9, 2022;

30. Alba Iulia Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. 136/2021;

31. Constanța Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. 128/2021;

32. Galați Court of Appeal, Administrative and Fiscal Litigation Section, Decision No. 700/2021;

33. Galați Court of Appeal, Civil Decision No. 120/2014;

34. Cluj Court of Appeal, Decision No. 995/2007;

35. Judgment of May 22, 1990, Weber v. Switzerland, No. 11034/84;

36. Judgment of February 21, 1984, Öztürk v. Germany, No. 85444/79;

37. Judgment of June 8, 1976, Engel and Others v. The Netherlands, Nos. 5100/71, 5101/71, 5102/71, 5354/72, and 5370/72;

38. Judgment of December 22, 2020, Gestur Jónsson and Ragnar Halldór Hall v. Iceland, Nos. 68273/14 and 68271/14;

39. Judgment of November 34, 1998, Brown v. The United Kingdom, No. 38644/97;

40. Judgment of May 22, 1990, Weber v. Switzerland, No. 11034/84;

41. Judgment of November 17, 2016, Karapetyan and Others v. Armenia, No. 59001/08;

42. Judgment of June 15, 2021, Melike v. Turkey, No. 35786/19;

43. Judgment of February 9, 2000, Fuentes Bobo v. Spain, No. 39293/98;

44. Judgment of January 31, 2023, Thierry v. France, No. 37058/19;

45. Judgment of March 9, 2010, Medvedyev and Others v. France, No. 3394/03;

46. Judgment of February 21, 2023, Catană v. Moldova, No. 43237/13;

47. Judgment of June 15, 2010, Ikić v. Croatia, No. 9143/08;

48. Judgment of September 6, 1995, Vogt v. Germany, No. 17851/91;

49. Judgment of August 28, 1986, Miryana Petrova v. Bulgaria, No. 57148/08;

50. Judgment of August 28, 1986, Glasenapp v. Germany, No. 9228/80;

51. Judgment of August 23, 2011, Vagenas v. Greece, No. 53372/07;

52. Judgment of June 27, 2000, Frydlender v. France, No. 30979/96;

53. Judgment of March 1, 2018, Chatzistavrou v. Greece, No. 49582/14;

54. Judgment of September 3, 2007, Moullet v. France, No. 27521/04;

55. Judgment of December 22, 2020, Gestur Jónsson and Ragnar Halldór Hall v. Iceland, Nos. 68273/14 and 68271/14;

56. Judgment of February 24, 1994, Bendenoun v. France, No. 12547/86;

57. Judgment of November 23, 2006, Jussila v. Finland, No. 73053/01;

58. Judgment of June 3, 2022, Grosam v. Czech Republic, No. 19750/13;

59. Judgment of November 22, 2022, Manfredi v. Italy, No. 51531/14;

60. Judgment of August 23, 2011, Vagenas v. Greece, No. 53372/07;

61. Judgment of July 1, 2003, Sidabras and Džiautas v. Lithuania, Nos. 55480/00 and 59330/00;

62. Judgment of December 15, 2020, Pişkin v. Turkey, No. 33399/18;

63. Judgment of November 7, 2000, Çelikateş and Others v. Turkey, No. 45824/99;

64. Judgment of July 10, 1981, Saraiva de Carvalho v. Portugal, No. 9208/80;

65. Judgment of February 9, 2021, Xhoxhaj v. Albania, No. 15227/19;

66. Judgment of November 6, 2018, Ramos Nunes de Carvalho e Sá v. Portugal, Nos. 55391/13, 57728/13, and 74041/13;

67. Judgment of November 3, 2022, Dahan v. France, No. 32314/14;

68. Judgment of March 24, 2015, Ismail Sezer v. Turkey, No. 36807/07;

69. Judgment of July 12, 2001, Ferrazzini v. Italy, No. 44759/98;

70. Judgment of December 14, 2021, Melgarejo Martínez de Abellanosa v. Spain, No. 11200/19;

71. Judgment of February 19, 1998, Huber v. France, No. 26637/95;

72. Judgment of December 8, 1999, Pellegrin v. France, No. 28541/95;

73. Judgment of April 19, 2007, Vilho Eskelinen and Others v. Finland, No. 63235/00;

74. Judgment of January 20, 2015, Arribas Antón v. Spain, No. 16563/11;

75. Judgment of January 12, 2021, Albuquerque Fernandes v. Portugal, No. 50160/13;

76. Judgment of June 11, 2002, Göç v. Turkey, No. 36590/97;

77. Judgment of November 27, 2018, Urat v. Turkey, Nos. 53561/09 and 13952/;

78. Judgment of September 27, 2011, Erciyas v. Turkey, No. 10971/05;

79. Judgment of July 3, 2012, Ibrahim Gürkan v. Turkey, No. 10987/10;

80. Judgment of May 16, 2017, Padlewski v. Austria, No. 11553/11;

81. Judgment of June 27, 2000, Frydlender v. France, No. 30979/96.

## VI. OTHER SOURCES


https://sintact.ro/

www.scj.ro

www.sintact.ro

www.mcp-avocați.ro

https://www.universuljuridic.ro/

https://legeaz.net/spete

www.mpc-avocaţi.ro

https://www.jurisprudenta.com/

https://portal.just.ro/

www.juridicaljournal.univagora.ro

https://www.boe.es/

https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2001-03-30;165!vig

https://laadministracionaldia.inap.es/noticia.asp?id=1514463

https://dialnet.unirioja.es/servlet/articulo?codigo=7396815

https://www.researchgate.net/publication/374998459_La_responsabilidad_disciplinaria_de_los_empleados_publicos_en_Europa_Una_propuesta_de_concepto_y_de_garantias_minimas_comunes

https://www.cdg27.fr/carrieres-et-statut/deroulement-de-la-carriere/sanctions-disciplinaires/

https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000044416551/2022-03-01