Valentin – Stelian BĂDESCU
Institute of Legal Research of the Romanian Academy

SOME CONSIDERATIONS ON HOW HUMAN SECURITY HAS BEEN AFFECTED BY THE COVID-19 PANDEMIC, WHICH HAS BROKEN HUMAN LIFE, FREEDOM, AND DIGNITY
(*part 2*)

Abstract:	*As a preliminary title and as a perspective for the entire present approach, analysis, and theoretical conclusions that follow, it is necessary to state that the theme in the title and its treatment are circumscribed to the great changes in approach and perception promoted in the complex field of legal and social evolution in the field of scientific knowledge.* *Thus, the right to dignity received a legal configuration in the Civil Code, which brings many new elements about the Civil Code from 1865, "adapting the civil norms to today's realities and the reforming legislative trends manifested in other legal systems". The Civil Code is the first normative act that expressly enshrines personality rights. Art. 58 Civil Code enumerates personality rights: the right to life, to health, to physical and mental integrity, to dignity, to one's image, and to respect for private life.* *The list of personality rights remains open, with the legislator specifying that this category also includes "other rights recognized by law". Art. 72 Civil Code with the generic name "Right to dignity" provides that "(1) Every person has the right to respect his dignity. (2) It is forbidden to harm the honor and reputation of a person, without his consent or without observing the limits provided for in art. 75".*
Keywords:	**Dignity; human security; administrative act; military command act; pandemic; power; excess of power**
Contact details of the author:	E-mail: valentinbadescu@yahoo.com
Institutional affiliation of the author:	**Institute of Legal Research of the Romanian Academy**
Institution address:	Calea 13 Septembrie No.13, B, et. 4, sector 5, Bucharest, 050711, Phone: 021/318 81 30, Fax: 021/318 24 53

The military command act and the administrative act were issued for the application of the state of emergency between the hammer of legality and the anvil of opportunity

As a preliminary title and as a perspective for the entire present approach, analysis, and theoretical conclusions that follow, it is necessary to state that the theme in the title and its treatment are circumscribed to the great changes in approach and perception promoted in the complex field of legal and social evolution in the field of scientific knowledge. That being the case, we must mention the fact that Art. 5 of the Administrative Litigation Law no. 554/2004 with the marginal title "acts not subject to control and the limits of control", expressly states in para. (1) that the administrative acts of the public authorities that concern their relations with the Parliament and the command acts of a military nature cannot be challenged in the administrative litigation. In par. (2), art. 5 indicates the acts that are not subject to control by way of administrative litigation, respectively the administrative acts for the modification or abolition of which another judicial procedure is provided, by organic law. We note, at the same time, that according to par. (3) of the same article, important in our analysis, stipulates that in

disputes concerning administrative acts issued for the application of the state of war, state of siege or emergency, those concerning defense and national security, or those issued for the restoration of public order, as well as for the removal of the consequences of natural disasters, epidemics, and epizootics are not applying the provisions of art. 14 of Law no. 554/2004 of the administrative contentious.

Looking for the reason for the regulation, a first finding after reading this article of the law indicates that para. (3) no longer indicates the limits of control, respectively specifies the administrative acts that can be attacked only for the excess of power, in contradiction with the marginal title which refers to the limits of control by way of administrative litigation. In addition, another pertinent observation would be that the legislator established that the administrative acts issued for the application of the state of emergency and for the removal of the consequences of epidemics do not apply to the regulations of Art. 14, provisions which provide that in well-justified cases and for the prevention of imminent damage, the injured person may request the competent court to order the suspension of the execution of the unilateral administrative act until the ruling of the court of first instance. In the note of the above, we proposed to draw up the appropriate distinctions between the act of command of a military nature, which cannot be subject to control through administrative litigation, and the administrative act issued for the application of the state of emergency or for removing the consequences of epidemics, which can be challenged in an administrative litigation action, but cannot be suspended, to correctly observe the legal nature of the military ordinances recently issued by the Ministry of Internal Affairs (MAI) in the context of the COVID-19 pandemic.

Thus, the concept of a military command act is enshrined for the first time in the 1923 Constitution which provided for the lack of competence of the judiciary to rule on military command acts, a provision that appears because of situations that manifested in the First World War. Until that date, the term was unknown in Romanian law, being a novelty not only for doctrine and jurisprudence but also for the legislation of the time. Thus, in the interwar period, it was appreciated that "the notion of the military command act, just like the governing act, does not emerge from the legal analysis and as such cannot be a legal notion; it can only be an extra-legal notion, born of the need to satisfy certain interests directly related to the activity of public services of a special nature, which is that of national defense"[409]. In this context, a distinction was made between military acts of command which intervened in relations between the military authorities and citizens, which could be the subject of an action in administrative litigation, as well as command acts which intervened within the military hierarchy, which represented military acts. which cannot be challenged through administrative litigation[410].

The 1925 law on administrative litigation stipulated in art. 3 that "acts of military authority may be challenged only in respect of decrees of withdrawal and only for the amount of the pension", which made it difficult to determine whether the act of military command was synonymous with the act of military authority. Moreover, it was considered that the reason for stealing military command acts from the scope of acts subject to the control of legality consists in ensuring not only the spirit of discipline and military order but also the observance of the conditions of energy, capacity, unity, and speed. military. At that time, the acts emanating from the military authorities were classified into two categories: acts of command of a military character, that deviated from the control of legality, and acts of military authority, which could be challenged only in respect of decrees of withdrawal and only for the amount of the pension, it was appreciated that the two notions are not identified, establishing a relationship from the whole to the part between the acts of military authority and the acts of military command. In the doctrine,[411] it was appreciated that the military command act presents a series of relevant elements such as:

- is based on the discretionary power of the public administration or the theory of exceptional circumstances;

---

[409] Constantin G. Rarincescu, *Contenciosul administrativ român,* Editura Universul Juridic, București, 2019, București, 2019, p. 29

[410] Raluca Laura Dornean Păunescu, *Firul Ariadnei: the possibility of partial or total cancellation of the provisions contained in the military ordinances issued during the state of emergency caused by COVID-19, https://drept.uvt.ro/administrare/files/1634397556-articol-raluca-paunescu.pdf*, (19.09.2022)

[411] Corneliu Liviu Popescu, *Exemption of command documents of a military nature from administrative litigation in the light of the right of access to a court*, in "Curierul Judiciar" No. 11/2003, p. 6

- belongs to the category of administrative acts which is distinguished from the act of military administration;

- may emanate from military or civilian authorities with military command duties (head of state, government, minister of national defense);

- it can be issued both in time of armed conflict or in another exceptional situation (state of siege, state of emergency, state of mobilization), but also in time of peace.

Law no. 554/2004 regarding the administrative contentious[412] defines the command act with military character in art. 2 lit. l) as "the administrative act referring to the strictly military problems of the activity within the armed forces, specific to the military organization, which presuppose the right of the commanders to give orders to subordinates in matters related to the leadership of the troop in time of peace or war military service". Regarding the legal definition of the notion of military command, the doctrine expressed the opinion that the scope of this notion includes all orders and service instructions on troop training measures, troop mobilizations and concentrations, assignment and execution of commands, maneuvers, military exercises, and operations. About the established doctrine, it does not understand the definition of the notion, stating that "the classification of a concrete administrative act in the sphere of military command acts is a matter of appreciation of the court, but an assessment theories, including the distinction between acts of military authorities of a purely administrative nature (identical to the acts of any other administrative body) and their acts aimed at commanding the troop, either in peacetime or in time of war"[413]. Moreover, it is considered that the military is subject to the rigors of the rule of law and therefore cannot tolerate disobedience to the Constitution and the law, violation of fundamental rights and freedoms, or the principle of equality before the law, which leads to the conclusion that administrative courts must exercise caution in classifying an administrative act in the category of military command acts. Given the characteristics of the military command act, respectively the distinctive features, if the act of military authority does not meet these requirements, it may be subject to judicial review of legality. For example, the orders to transfer the military to the reserve are not acts of command according to Art. 2 para. (1) lit. l) of Law no. 554/2004, as it does not refer to the strictly military issues of the activity of the armed forces and can therefore be subject to court censorship. In other words, the difference between military command acts and other acts of military authority is that the former refers to strictly military aspects of military activity and not to human resources management. In the corollary, in the sphere of acts of military authorities that may be subject to legality control, we can include acts related to human resources management, respectively unilateral acts concerning appointments, promotions, retirement, retirement, or sanctions[414].

According to an opinion[415], art. 126 para. (1) sentence I of the Constitution must be interpreted in the sense that it does not allow the judicial control of military command acts exclusively through administrative litigation, respectively by the courts specialized in administrative litigation. In such a situation, to comply with the provisions of Art. 21 para. (1) of the Constitution and art. 6 par. 1 and 13 of the European Convention on Human Rights, military command documents may be censored by courts not specialized in administrative litigation, to establish the nullity of the act, to oblige to issue or amend the act, or to award compensation. This opinion is based on the argument that art. 53 of the Constitution provides for the restriction of the exercise of certain rights or freedoms in certain situations but does not make express reference to the right of access to justice, respectively the right to a fair trial, absolutely recognized by art. 21 of the Constitution (article found in the original constituent). Thus, since the derived constituent power is not a full one, unlike the original constituent power, the author of the exception considers unconstitutional the very provision set out in art. 126 para. (6) sentence I of the Constitution, a provision introduced following the constitutional revision without respecting the limits of the revision. Moreover, the military command documents that can be issued by the President of Romania, the Government, the Prime Minister, or the relevant minister, can be adopted in peacetime, as there is no judicial procedure to control the constitutionality and legality of these acts. to invalidate them in case of illegality. Or the supremacy of the Constitution and the laws over the military command acts is removed

[412] *Law No. 554/2004 regarding the administrative contentious*, Official Gazette of Romania, No. 1154/2004

[413] Antonie Iorgovan, *Treaty of Administrative Law*, All Beck, București, 2005, p. 489

[414] Raluca Laura Dornean Păunescu, *Exception of Illegality*, Universul Juridic, București, 2017, p. 120

[415] Corneliu Liviu Popescu, *Op. cit.*, p. 3

by this very interpretation given by the Constitutional Court regarding the constitutionality of the limitation of the control over the military command acts, in contradiction with the principles of the rule of law[416].

In the light of these considerations, at first sight, we might consider that the constitutional provision constitutes a restriction on access to justice, since in the event of harm to the rights, freedoms, or legitimate interests of a person caused by acts of military command, it cannot be introduced. a lawsuit. About the analysis of the scope of acts that may be subject to legality control, this different approach may lead to a change in the essence and the possibility of censoring the court against a military command act, which is an act of military authority, respectively an act of the military administration which is subject to legal control. Specifically, the question arises as to whether an action for the annulment of a military command act is admissible if it harms the rights, freedoms, and legitimate interests of certain persons. To laboriously investigate the answer to this situation, we must keep in mind, ab initio, that the military, through military command acts, could disregard the will of the nation or the prescriptions of the legislature or executive, in violation of the principles of the democratic regime and this manifestation should be censored in court. Subsequently, we consider that the separation of powers in the state must not be disregarded, and the role of the judiciary in controlling the executive is unlimited, or by limiting the control of the legality of military command acts, the judiciary could be forced to accept non-compliance. Constitution and laws by the military authorities. In the same sense, if a military command act disregards a court decision, the independence of the judiciary would be violated because of the interpretation that requires the absolute evasion of the legal control of the command acts of a military nature. military[417].

Given the specific international human rights norms as well as those contained in international humanitarian law, and international criminal law, which provide that certain serious violations of human rights constitute international crimes (genocide, crimes against humanity, war crimes), we appreciate that the state of legality must also be imposed on the military administration when issuing military command documents. Therefore, without disregarding the principle of *salus rei publica suprema lex*, we consider that the national judge should be allowed to observe the legality of all acts brought before the court for the good administration of justice by the right to a fair trial and free access to justice. it cannot be restricted by any law. Thus, without impeding the execution of military command acts, as the state must bear the patrimonial consequences in case of damage to certain rights or legitimate interests, we propose to exclude these acts from the category of acts exempt from control in administrative disputes. In such a situation, the injured person would have the right to request the court to declare the illegality of the act, by way of exception and oblige the issuer to pay material and moral damages, the latter due to the violation of fundamental rights, dignity, and human security as we will discuss in the section next.

How did the military command act and the administrative act issued for the application of the state of emergency affect human dignity and security?

There is no doubt that human dignity, a concept with a history of 2,500 years[418], has been harmed throughout the pandemic. An essential element of the human being, dignity has been the object of concern of many theologians and philosophers who have influenced its evolution. Among them, the ”father of the modern concept of human dignity” is considered to be the philosopher Immanuel Kant, who in his work ”Foundations of the Metaphysics of Morals” made the following important considerations from the perspective of this study: ”Respect for another it can show (*observant aliis praetenda*) is, in fact, the recognition of a dignity (*Dignitas)* in other people, such as a value that has no price, no equivalent, in exchange for which the object of appreciation can be changed). Judging a thing as worthless is contempt. As such, every human being has the right to be respected by his peers, and reciprocally, he is also obliged to respect each of them”. In the opinion of the German philosopher, pride, slander, and mockery are vices that damage the duty of respect for other people. According to the philosopher of Königsberg, man must be seen as an end, not just to be used by another will at will[419]. The concept of human dignity was missing

[416] Raluca Laura Dornean Păunescu, *Op. cit.*, p. 4
[417] *Ibidem*, p. 5
[418] Aharon Barak, *Human Dignity. The Constitutional Value and the Constitutional Right*, Cambridge University Press, 2015, p. 132
[419] Immanuel Kant, The *Metaphysics of Morals*, Antaios Publishing House, Oradea, 1999, p. 231

from the normative landscape until the middle of the century. XX when the abominable deeds committed by the Nazis during the conflagration and the spectacular evolution of the biomedical sciences had a strong resonance worldwide and ”aroused the fear - that we can deny a man in his very essence - and a defense - protection, through dignity”. The change began with the adoption in 1948 of the Universal Declaration of Human Rights, which states in the Preamble that ”the recognition of the inherent dignity of all members of the human family and their equal and inalienable rights is the foundation of freedom, justice, and peace in the world”. Article 1 that “All human beings are born free and equal in dignity and rights”. Human dignity has become a central concept not only in the international instruments adopted in the field of human rights but also in many modern constitutions. on dignity: as the supreme value of the Romanian state [Article 1 paragraph (3)] and as the limit of freedom of expression - Article 30 paragraph (6).

The right to dignity has also received a legal configuration in the Civil Code, which brings many elements of novelty to the Civil Code of 1865, ”adapting civil norms to today's realities and reformist legislative tendencies manifested in other legal systems”. The Civil Code is the first normative act that expressly enshrines the rights of the personality. Article 58 of the Civil Code lists as rights of the personality: the right to life, to health, to physical and mental integrity, to dignity, to one's image, and to respect for private life. The list of personality rights remains open, with the legislator specifying that ”other rights recognized by law” also belong to this category. Article 72 of the Civil Code with the generic name ”Right to dignity” stipulates that ”(1) Everyone has the right to respect his dignity. the limits laid down in Article 75”. The Romanian legislator does not define dignity, limiting himself to proclaiming the existence of the right to dignity and specifying the content formed by the person's honor and reputation. Honor is that complex feeling, determined by the perception that each person has about his dignity, but also about the way others perceive him in this respect, and reputation is the social expression of the same whole, acquired by the way the person is perceived in private or social life because of his behavior. Any violation of the right to dignity causes the victim moral (mental) suffering and exposes her to the risk of exclusion from the social, professional, and family sphere. The person whose right to dignity has been violated has at his disposal the following actions: the action in cessation of the violation and the prohibition of the violation for the future if it still lasts - art. 253 para. (1) lit. b) Civil Code, and the action in ascertaining the illicit character of the deed, if the disturbance it produced subsists -art. 253 para. (1) lit. c) Civil Code. Also, the person who has suffered a violation of the right to dignity may ask the court to compel the perpetrator to perform any measures deemed necessary by the court.

Such an approach would include those acts in the sphere of control of legality carried out directly by the courts specializing in administrative litigation (given the specificity and importance of those acts in the public interest) and would require recognition of the possibility. the person injured by requesting the annulment of these acts, as well as compensation. Returning to the research on the legal nature and effects of military ordinances issued by the Ministry of Internal Affairs during the state of emergency, there are still several uncertainties regarding the possibility of restricting the exercise of fundamental rights and freedoms provided in the Romanian Constitution. citizens of a state governed by the rule of law against possible abuses of public authorities committed through such acts. To determine the legal nature of the military ordinances issued by the Ministry of Internal Affairs, we specify as a matter of priority that these administrative acts are signed by the Minister of Internal Affairs, respectively by a central public administration authority, with the consent of the Prime Minister. by which the state of emergency was established, as well as other legal provisions provided in the Emergency Ordinance no. 1/1999 on the state of siege and the state of emergency[420].

About the content of these administrative acts, we state that they include various administrative measures provided for by state authorities or institutions, as well as measures restricting the exercise of fundamental rights and freedoms, under the provisions of the Emergency Ordinance on the state of siege and the state of emergency, which have been enshrined in law[421]. In the corollary, the military ordinances

[420] Official Gazette of Romania, Part I, No. 22 of January 21, 1999. Adopted by Parliament through Law no. 453/2004 and amended by Law No. 164/2019 for the amendment and completion of the Government Emergency Ordinance No. 1/1999 regarding the regime of the state of siege and the regime of the state of emergency.
[421] Bogdan Dima, *How Military Is the Military Ordinance*?, https://www.juridice.ro/677828. (19.09.2022)

represent administrative acts with a normative character through which the execution is organized, and the provisions of legal rank are included in the Government Emergency Ordinance no. 1/1999 on the state of siege and the state of emergency. However, are these military ordinances administrative acts of a military nature since they contain the term ”military” in their title? Or are they administrative acts issued for the application of the state of emergency? Can we qualify them both for the application of the state of emergency and for the documents issued to remove the consequences of the epidemics? Finally, are military ordinances acts that have established measures to combat the pandemic and not acts that have been issued to remove the consequences of an epidemic? In the recent doctrine, it was appreciated that to qualify either military command acts or administrative acts issued for the application of the state of emergency, the actual content of these normative acts must be taken into account, and in case the military ordinance would include both military commands, as well as administrative measures for the effective implementation of the provisions of the Emergency Ordinance, those military command provisions could not be challenged through administrative litigation, but the other provisions could be subject to such control, without their effects being able to be suspended until the final settlement of the dispute[422].

Therefore, the military ordinances are real normative administrative acts issued for the application of the state of emergency, but we appreciate that it should be noted that these are real administrative acts that do not include military command provisions, being instead issued both for the application of the state of emergency, as well as to remove the consequences of epidemics. We make this statement because, on the one hand, the pandemic is an epidemic that extends over vast territories, including several countries or continents, so we will interpret extensively the provisions of the Romanian legislator, and on the other hand, we consider the evolution of the situation. epidemiological problems caused by COVID-19, a disease that has had several consequences in all areas, the consequences that have occurred in the social spectrum, the importance of public health, which is above the individual interest, measures taken at national and international level to combat the spread of SARS-CoV-2 coronavirus. Indeed, military orders can be carried out by the Police, Gendarmerie and Border Police, as well as by military personnel, but these personnel has received military service orders on measures of preparation and execution of orders to observe compliance with military ordinances, which have the legal nature of real military command acts, as they refer to the military organization. Or, in the doctrine it was noted that in the category of acts removed from the control of the courts are included all orders and service instructions regarding measures of training and instruction of officers, the distribution and deployment of units, given the need to ensure a spiritual discipline to subordinates, in the light of the authority of superiors as well as the conditions of unity and speed in any military operations. However, the correct classification of an act in the sphere of military command acts remains at the discretion of the court[423].

Another argument in favor of the opinion is that the increase in the number of people infected or killed by COVID-19 is a real consequence of the pandemic, and the public authorities are trying, by issuing military ordinances, to remove these consequences to flatten the curve. active case statistics, respectively the decrease in the number of contaminated persons, as well as the decrease in the number of deaths. In essence, these administrative acts ordered the restriction of the exercise of certain rights, but their substance was not affected, but a legitimate aim was pursued, this restriction is necessary for a democratic society and proportionate to the aim pursued, namely the public interest - the right to the health of the people, because, in the battle between health and intimacy, health will triumph. Finally, we emphasize the importance of diminishing the effects generated by the reduction of some economic and social activities, as a result of preventive or restrictive measures intended to protect the Romanian population, being necessary to adapt the measures to other public services, infrastructures that provide essential services for the population, the state and economic operators. Including the attempt to limit the abuse of power through the administrative courts, as we will configure in the end. Including, the attempt to limit the abusive power through the administrative contentious courts, as we will configure further. Including the attempt to limit the abusive power, and the excess of power, through the administrative litigation courts, as we will configure in the concluding statements that follow.

---

[422] *Ibidem* p. 4

[423] Dana Apostol Tofan, *Administrative Law*, C.H. Beck, Bucharest, 2017, p. 195

Conclusions, excuse about power and excess of power, causes of damage to human dignity and security

In the present ones, we did not propose to make an incursion into the etymology of the term power, but the importance that power has in the organization of society has made the vocabulary of power an extremely complex one. Among the terms that can be subsumed under the generic idea of power, we can list capacity, violence, dominance, force, potency, possibility, faculty, and authority, to which is added, of course, power itself. These concepts should not be confused with each other. Concepts acquire a meaning of their own that gives them a special force, especially in law. Any human society requires a certain order; even anarchy presupposes a set of rules. These rules establish a hierarchy between people. At the base of any hierarchy is the idea of power. From a certain point of view, the evolution of human society can be traced precisely to the coordinates of the transformation of force (power in fact) into power (limited, defined, and managed on a legal, abstract level). Incidentally, the first documentary attestations of dynamic (in Homer and Hesiod) refer to physical force (especially military power). Similarly, the term was used in the Septuagint to translate the various references to military force in the Old Testament.

These developments are today largely obscured by the scientific revolution of the 18th and 19th centuries, which gave the term force a technical connotation, as that principle of mechanical movement (later extended to other branches of physics)[424]. It seems that this cleavage between force and power was keenly noticed at the beginning of the modern era, when Étienne de la Boétie, in his *Discours de la servitude volontaire ou le Contr'un*, observed that those who hold power in the modern era do not (more) are (necessarily) persons who also possess force. Power had lost all connection (quantitative or qualitative) with force. Instead, she ”fed” on the passivity and compliance of others. Unlike force, which treats its object as an object, power treats others as partners, without which it cannot exist[425].

We are witnessing an exacerbation of the boundaries of power, an attempt to distort its social purpose. Can power be censured in the rule of law? Of course, yes, legal instruments exist, and, through them, the excess of power can be challenged in administrative litigation. And here we have in mind the military ordinances. Is such a ”non-receipt fine” action susceptible? Will the litigation thus born be judged urgently by the administrative court or will it be suspended based on the decree by which the state of emergency was instituted? We mention that under the provisions of art. 42 of Decree no. 195/2020 issued by the President of Romania, during the state of emergency, judicial activity continues in cases of special urgency, their list is established by the governing boards of the High Court of Cassation and Justice, respectively of the appeal courts for the cases within the competence of these courts, with the guidance of the Superior Council of Magistracy, which will ensure a uniform practice in this regard. Next, it is shown that during a state of emergency, the courts, considering the circumstances, can set short deadlines, including from one day to the next or even on the same day. Moreover, only regarding these processes, when possible, the courts have the necessary measures for conducting the court session by videoconference and proceed to the communication of procedural documents by fax, electronic mail, or by other means that ensure the transmission of the text of the document and confirmation of receipt this one. Because according to art. 17 para. (1) from Law no. 554/2004 regarding the administrative litigation, the requests addressed to the administrative litigation court are judged in public session, in the panel established by the law, the law not establishing that these disputes are judged urgently in the first instance, these were not considered by the CSM as having a special urgency.

The coherence and clarity of legal norms and operational instruments specific to the pandemic have a direct impact on the quality of life, the preservation of the value of real estate properties, and the health of the population. Economic dynamics and financial investments in the short, medium, or long term, at the local or central level, are equally affected. The absence, in the first post-communist decades of an adequate institutional and legal framework generated inadequate developments with significant dysfunctions, speculative investments, and sometimes inefficient institutional attitudes. Although, at the European and international level, the problems raised by the pandemic have an interdisciplinary approach

[424] Radu Rizoiu*, Parallel Mirrors: Is the Power of Representation A Real Power?* in *The Romanian Journal of Private Law no. 2/2019,* https://www.universuljuridic.ro/oglinzi-paralele, (19.09.2022).
[425] Étienne de la Boétie, *About servitude*, All, Bucharest, 2014, p. 96

and are a priority in the public agenda of the governors, in Romania, the resolution of some of the dysfunctions identified in this extremely vast and diversified matter is in full swing. Moreover, at the level of the relevant ministry, the initiation of the transparency procedure for a draft Health Code is expected, which will allow the reunification and systematization of the legislation in the matter, which is often at the intersection between public and private interest. At the same time, within a debate forum, the interdisciplinary perspective of approaching the presented topics will be dominant, with specialists from different fields, such as lawyers, doctors, sociologists, etc., highlighting the need for such a complex analysis, which can sometimes lead to disputes between representatives of the public sector, with attributions in the field, and representatives of the private sector. Such debates can lead to the identification of some of the problems generated by the regulations applicable in the matter and allow the evocation of some solutions of the administrative litigation court that reflect a wide range of conflicts resulting either from the erroneous interpretation of some legal provisions or from the existence of a legislative vacuum. We recall, in this context, the decisions of the High Court of Cassation and Justice which aim to develop a unified interpretation and application of the legislation regarding the acts challenged in the administrative litigation. In such conditions, we observe whether an action for the partial or total annulment of a military ordinance will be judged by the administrative litigation court during this period, or whether the competent court will order the suspension of such a case. We consider that the acts issued for military ordinances that represent acts for the application of the state of war and for removing the consequences of epidemics are not exempted from the control of legality through administrative litigation, not being acts of military command, but they represent genuine exceptions from the suspension of the execution of the acts administrative.

However, in recent doctrine[426], the question of the possible illegality of these administrative acts has been raised, because of the notification to the Secretary General of the UN and the Secretary General of the Council of Europe on the measures adopted by the decree establishing the state of emergency, which have the effect of limiting the exercise fundamental rights and freedoms, by Romania's international obligations. It was thus assessed that under the provisions of art. 15 of the European Convention on Rights, Romania legally derogated from the provisions of the Convention, considering the situation caused by the spread of the SARS-CoV-2 infection[427]. In the same sense, it was considered that the activation of this article gives Romania the possibility to take a series of derogatory measures from the obligations established by the Convention, but such an approach does not implicitly lead to a total removal of the guarantees provided by the Convention and does not would remove the control regarding the respect of fundamental rights. In another opinion,[428] it was considered that by invoking art. 15 of the European Convention on Rights, Romania suspended the application of the provisions of the convention and evaded the forms of protection of fundamental rights and freedoms or from subsequent liability for their violation during the state of emergency. Moreover, it was indicated that one of the direct consequences of this activation is represented by the fact that people who consider themselves injured in their rights during the derogation period do not have the right to address the European Court of Human Rights with complaints in this regard. Regardless of the opinion embraced regarding the derogation from the European Convention on Human Rights, we consider it appropriate to specify the fact that the fundamental rights and freedoms of citizens are protected by the levers offered by the Romanian Constitution, as well as by the Charter of Fundamental Rights of the European Union[429]. Regarding the judicial procedure of litigation whose object is the total or partial annulment of the provisions of a military ordinance, we report that the actions in the administrative litigation do not represent cases that are judged urgently according to Law no. 554/2004 of administrative litigation, meaning that correctly C.S.M. established that in the matter of administrative litigation, the courts only judge disputes regarding public procurements that strictly concern medical products and other procurements in the field of the state

[426] Miruna Preda, *Pandemic COVID-19 – between force majeure, fortuitous event and unpredictability*, https://www.juridice.ro, (12.03.2023)
[427] Dima Bogdan, *State of emergency, Romania and ECHR*, https://www.juridice.ro/ 677375, (12.03.2023)
[428] Cristi Dănileț, *Romania has derogated from the ECHR. Did he really have to*?, https://www.juridice.ro/677004, (19.09.2022).
[429] Simona Brăileanu, *Activation by Romania of the derogation from the application of the ECHR during the state of emergency. Who protects whom*?, https://www.juridice.ro/680204/activarea, (19.09.2022)

of emergency, as well as those arising from the execution of these contracts or aimed at the application of measures in the field of the state of emergency.

In this sense, we appreciate that an action could be formulated to cancel, in whole or in part, a military ordinance, in the field of litigation aimed at the application of measures in the field of the state of emergency, meaning that such litigation would judge even during this period in which the state of emergency exists. Such an approach, like Ariadne's Thread, represents a correct and legal epistemological interpretation of normative administrative acts by which it was decided to restrict some fundamental rights and freedoms. Therefore, the Military Ordinance regarding some first emergency measures regarding the agglomerations of people and the cross-border movement of some goods, as well as the military ordinances regarding measures to prevent the spread of COVID-19, issued by the Ministry of Internal Affairs during the pandemic caused by COVID-19, represent genuine normative administrative acts, which do not have the legal nature of military command acts. Moreover, they were issued for the application of the state of emergency, as well as for removing the consequences of epidemics, in this case, the pandemic generated by the new SARS-CoV-2 coronavirus. Finally, a possible action in administrative litigation promoted against some provisions contained in these military ordinances is not subject to the suspension of plano based on the decree establishing the state of emergency but represents a true case of a special emergency that requires be judged by the new special provisions in the matter.

Those who love the law understood as a normative system, highlight the values and principles that underpin it, its force to create order in the community, to shape the behaviors of people and the relationships between them by these values and principles[430]. Affective adherence to the law is strengthened by the sophistication and subtlety of reasoning that discerns the meanings of legal texts and discovers their internal coherence. Legal logic first orders law as a normative system, so that it can then shape the actions of community members in all areas of life. Without a deep internal logic, the law cannot fulfill its practical function. The order of the community reflects, to a good extent, the logic of the legal system, and the values and principles of this system must be consubstantial with the values and principles of the community so that the order created by the law is one of freedom and security. The passion for law springs not only from the ethical foundations of the normative system but from the ordering force of its logic. The axiological and logical dimensions of law make up the matrix of its beauty. Those who love law and devote their entire lives to its study and practical application know that this feeling also has an aesthetic root. The fascination with the law is complete when the values and principles that underpin it and the subtle logic that gives it coherence are revealed in an aesthetic garment. The beauty of the form, built into the language and the technique of drafting legal texts, adds to the beauty of the background. The Romanian legal landscape must know a settlement, and the settlement must be around returning to some foundations, i.e., to be found. There is too much information circulating without being analyzed, too many interpretations in an exacerbated positive manner, and too little historical continuity in legal thought. In my view, the legal world must always look back and see the legal continuity that has existed up to this point. I don't know how the current crises will be overcome; in fact, they are not exclusively internal crises. It is a crisis that has internal sources, a crisis that has a general character. In any case, it seems to me that, first, we must depart from social culture.

The legal crisis in our country will not end until we implement at the level of general knowledge, from primary school, a healthy style of thinking, a style of thinking that makes minimal differences between values, has a minimal basis of legal culture, social, correct. Only then will we have some results? Unfortunately, even if we start tomorrow with a legal culture program at the school level, we will probably see the first results in 30 years. We live in strange times, when all true and healthy Christian concepts are replaced by wrong and misleading concepts, often carried out with bad intentions, of course with the undeniable desire to pull people back from the good path of a truly Christian life. In all this one can discern a kind of black hand that acts rationally, working to bind people as closely as possible to this temporal, earthly life, forcing them to forget the future life, the eternal life, which awaits us everyone. We must be as clear as possible about the times in which we live. indeed, only a spiritually blind man or one who has already sold his soul to the enemies of our Holy Faith and Church, cannot feel in everything that is happening now in the world the spirit of the approaching Antichrist. As if more than ever, today, the

[430] Valeriu Stoica, *About the beauty of law*, https://www.universuljuridic.ro, (19.09.2022)

fashionable slogan, which we all repeat with peace, is: ”human rights”. Although everyone understands it differently. Politically correct intellectuals understand it: freedom of speech, press, assembly, and emigration, but many of them would be outraged and would demand that ”rights” as understood by the common man, from the people, be banned: the right to have a to live and work where you are fed, which is why millions of people would rush into God's arms today when the psychopaths in power are under the wing of institutions of force. They don't do anything on their own because these specialists are responsible for the sale, or even the alienation for free, of the riches of Romania. This explains why tourists from Cotroceni can have his party, government, his parliament, army, police, and security. ”From the information appearing in the mass media and on the Internet, it appears that Mr. Klaus Werner Iohannis, PNL candidate for the position of President of Romania, also has German citizenship and is, apparently, an undercover officer in the German Secret Services”[431]. Recently, and more seriously than we can imagine, the former Minister of Defense, Vasile Dîncu, makes serious revelations in an interview with the Cluj press, which could easily refer to the most disturbing hypothesis imaginable, that President Klaus Iohannis, the supreme commander of the force’s armament, in fact, discretely and systematically sabotages the defense of Romania. We have used a mild phrase, but we state at the outset that we cannot now speak of all that we know, think, or feel on this matter. It is neither the moment nor the historical time that has yet come. Dîncu's statement about Iohannis and the defense of Romania in the conditions created by the war in Ukraine is, in our opinion, infinitely worse than Traian Băsescu's in 1997, in his famous interview that led to the fall of the Ciorbea government. Then, we remind you, Băsescu only said that the prime minister was behind on economic reforms, and the political scene caught fire. Considering Dîncu's statements, are we dealing with a president who discreetly and controlled sabotages his own country's army and its defense industry strictly to pave the way for the importation of weapons from other countries and the importation of soldiers from foreign troops?[432]

Such personal assets, which mean the confiscation of the Romanian state for private or foreign interest, borders on insanity and have cost and are costing Romania and its peace a lot. Everything depends on the immoral skill of the institutions of force! But what is the moral in a political dictatorship? Let's not imagine that we will do better, no matter who comes to power. Let's not imagine that the politicians will suddenly become civilized or that their conscience will gnaw at them, and they will bandage the wounds of the people. They can no longer do this because they sold Romania with all its assets, against unimaginable commissions. The people will be just as oppressed, just as ineffective in eradicating poverty and counterfeit will be the social measures, adopted according to European measures. Higher and more taxes and fees, astronomical gas and energy bills, high inflation, low wages, and pensions. Well, someone said that ”Romania is the richest country in the world. For over two thousand years, everyone has been stealing from it, but there is still more to steal!”, so the power grabs will never end. Maybe when corruption and political thievery have completed their metamorphosis, fattening up in such a way that they will slap under their bacon. Hamsters are an organic food for power grabbers, their red has beneficial effects, and these hamsters will always have well-sharpened fangs. Romanians will get used to these watchdogs of immorality, as well as to the false barking. The Romanian political ”elite” has sold out to the selfish barbarians who rule the world, pushing Romania towards a bleak future. Sleepy and submissive, the people go through implacable changes, buttoned by the heavy hand of ostracizing ”colonialism” in all its forms and manifestations. The locomotive of history is speeding towards unprecedented disasters. The economic independence and freedom of many peoples, including Romania, were fettered in the chains of terrible world slavery by the bastions of the new imperialism, which tumultuously tramples over the borders of the states of the world, being the source of horrifying bloodshed, of terrible social suffering, pandemics and dead on the strip, resulting in the desired and declared goal - depopulation. The time when Romania was a sovereign and independent country respected in the world when Romanian soldiers were not allowed to get involved in the wars of other countries, to die in foreign theaters of war, was left in the history books, as it was otherwise not allowed,

---

[431] https://www.justitiarul.ro/partidul-romania-noastra-p-r-n-contesta-la-ccr-candidaturile-lui-iohannis-barna-si-hunor-pe-motiv-ca-au-si-alte-cetatenii-germana-franceza-si-ungara, (19.09.2022)

[432] https://www.qmagazine.ro/dincu-sugestie-tulburatoare-iohannis-saboteaza-armata-romaniei, (19.09.2022).

not even a trace of a foreign soldier on Romanian land. Today, foreigners have in our country much more troops, weapons, and military equipment than the country has. The evil done to Romania has deep roots.

Cauterizing this evil seems impossible today. Especially now when human dignity and security are in great danger, the pandemic and the war brought to Romania's door by the unworthy politicians from Bucharest, headed by the big boss at the state, have revealed themselves to be metalheads who rely on the noise effect special. And they succeed because of their greed for power and money. Money, their most powerful drug, has erased any trace of humanity. Politicians' love of money has replaced their sense of reality. For over thirty years we have respected our tradition, we accept to be led by traitors, impostors, and thieves, who never had an emergency plan for Romania! Only fumigants, depending on the context, just like in the commercial: ”Sleep peacefully Romanians, FNI works for you” in Iohannis's (re)educated Romania. Re-educated as in Pitesti, in the years when Ana Pauker (”Stalin in a skirt”, as she was called), was ”capo di tutti capi”. In general, the ghost from the Cotroceni Opera can be considered the father of deeply treacherous meanings. A fanatical anti-Romanian, because the individual has nothing in common with the Romanian Nation, which he destroys ”step by step”, on order. The self-elected people eat as they please from the pieces of the palm trees, without paying attention to the ”*Pravilniceasca conduct*”, modified and annotated according to the photos, to cover their acts of corruption and destructive Machiavellianism! We, too, will go out with the Russians' crumpled turbans, with the stained Schutzstafel uniform of the Nazi ”Deutsche Volksgruppe in Rumänien”, with the centuries-old Romanian forests bald by the current Österreich, with the gold from Roșia Montana ”directed” towards the maple leaf, with the hat of American cowboy... crumpled and riddled with bullets. How well said the Marshal of Romanian History, Gheorghe Buzatu ”We are too close to Russia and too far from God!” Where were we when these impostors started the destruction of Romania? Were we somehow ”fixing” Iliescu, Roman, and the others to get rid of the ”heap of old beasts”? But now? When is the country’s sovereignty offered as a gift to planetary terrorists? Where are we all? We look at the salt pan like scared rabbits, but we do nothing to prevent the disaster as in the case of the pandemic, genocide planned and meticulously executed by the executioners of the Romanian people.

Bibliography

Books

1. Alkire, Sabina, *A Conceptual Framework for Human Security*, Center for Research on Inequality, Human Security and Ethnicity, University of Oxford, 2003
2. Apostol Tofan, Dana, *Drept administrativ*, C.H. Beck, Bucureşti, 2017
3. de la Boétie, Étienne, *Despre servitute*, Editura All, București, 2014
4. Idem, *Legea contenciosului administrativ,* C.H. Beck, Bucureşti, 2018
5. Iorgovan, Antonie, *Tratat de drept administrativ,* All Beck, Bucureşti, 2005
6. Kaldor, Mary; *Human Security*, CA Publishing, Cluj-Napoca, 2010
7. Kant, Immanuel; *Metafizica moravurilor*, Antaios, Oradea, 1999
8. Rarincescu, Constantin G.; *Contenciosul administrativ român,* Editura Universală Alcalay, Bucureşti, 2019
9. Trăilescu, Anton; *Drept administrativ. Parte specială*, C.H. Beck, Bucureşti, 2019

Articles and Studies

1. Crișan, Horațiu, Traian, *Human Security. An analysis from the perspective of individual rights*, in Cătălina-Daniela Răducu Bogdan Ștefanachi, ”Human Security. Contemporary Challenges”, ProUniversitaria Publishing House, Bucharest, 2015
2. Pigui, Traian; *Economic Security and Global Human Security*, in ”Strategic Colloquium”, No. 10, 2004
3. Popescu, Corneliu-Liviu; *Exceptarea actelor de comandament cu caracter militar de la contenciosul administrativ,* in*”*Curierul Judiciar”, No. 11, 2003

Websites

1. https://drept.uvt.ro/

2. https://sgg.gov.ro/
3. https://www.juridice.ro/
4. https://www.justitiarul.ro/
5. https://www.qmagazine.ro/
6. https://www.universuljuridic.ro
7. https://www.who.int/
8. https:/www.deza.admin.ch/