Dan Constantin MÂȚĂ

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Unlike the situation in other branches of law, treatises and university courses in administrative law are characterized by an abundant diversity of drafting and systematization techniques. The explanation of this phenomenon is related both to the authors' own perspective on their own field of study, but above all to the transformations that the science of administrative law is undergoing under the impact of the repositioning of ideological foundations and patterns and an accelerated process of conceptual fragmentation. The place of the subject of Administrative Law in the academic syllabus and the question of whether the subject is taught at a law faculty or in the area of political and administrative sciences is not without significance.

In this publicistic landscape, Professor Dan Constantin Mâță's course at the Faculty of Law of the "Alexandru Ioan Cuza" University of Iași is part of the traditional trend that divides the subject into two volumes, each corresponding to one semester of study. Conceived in this way, the first volume of the course deals with the introductory and fundamental notions of administrative law (the sources of administrative law, administrative law rules, the legal relationship of administrative law, public power, public interest, public service), the architecture of the Romanian administrative system and the personnel of public administration. The second volume continues the analysis with the general theory of the administrative act, the legal regime of public property and the public domain, the main forms and methods of control over the activity of public administration, concluding with the presentation of the three categories of administrative liability.

The most recent edition of the latter volume was published at the beginning of 2024, by Universul Juridic Publishing House, and is structured in four parts, each systematized into several chapters and sections. The structure of the work does not differ essentially from that present in the previous editions, but in contrast to them, the current edition includes a much broader analysis of the main doctrinal theories, expressed by Romanian and foreign authors, and of the relevant case law.

The first part, dedicated to the activity of public administration, presents the four forms of administrative activity established in Romanian doctrine since the inter-war period (legal acts, political acts, administrative operations and material facts), with the distinctions between administrative acts and administrative operations being emphasized. The qualification of the document before the court has always been a difficult matter for the court and the parties, given the lack of a general normative act regulating administrative procedure and the inconsistent terminology used by the legislator. With regard to this problem, the author points out that it is not the name given by the legislator that is decisive, but the question of whether the activity in question is a manifestation of will which in itself produces legal effects. The general theory of the administrative act, as the main form of public administration activity, is analyzed in several chapters in which the conceptual aspects, features and classification of the administrative act, conditions of validity and legal effects of this legal act are analyzed. The definitions given to the administrative act are sufficiently numerous in the Romanian legal literature, but the author does not hesitate to formulate his own definition, considering the administrative act as "a unilateral manifestation of will of a public authority or a private legal person, authorized by a public

authority, made with the purpose of giving rise to, modifying or extinguishing legal relations, under public power, based on and for the purpose of executing the law, which is subject mainly to the control of the administrative contentious court". Particular attention is paid to the administrative contract, an atypical administrative act which is constantly on the rise due to the need of contemporary society to use efficient legal instruments for the use of public property, the execution of works of public interest, the provision of public services and public procurement. The legal regime of the administrative contract is analysed both from the perspective of the doctrinal controversies that have animated the specialized legal literature for several decades, but also from the perspective of a regulatory framework that is in the process of reconfiguration and consolidation under the influence of European law.

Part II, entitled Public domain, covers the two perspectives that justify the sharing of scientific interest between specialists in private law and those in administrative law: the general regime of public property rights and, respectively, the ways of capitalizing on public property rights. The legal notion of public domain is the linking element between the two doctrinal visions, noting that it is not explicitly provided for in the Constitution, but only at the infra- constitutional level in the normative acts on land and the Administrative Code. In the absence of legal definitions, the administrative law doctrine has been entrusted with the task of defining this notion, as well as its delimitation from other neighbouring notions, such as that of administrative domain or public property. At the same time, the author draws attention to the need for the clearest possible regulation of the legal rules on the private domain, given that the easy possibility of transferring assets from the public to the private domain may affect the inalienability of public property. The ways of developing public property are presented in the current regulatory context, with the Administrative Code representing a new and even unprecedented regulation, such as the case of renting public property. Naturally, an increased interest is shown for the concession, which is the most frequent way of valorisation encountered in administrative practice. The award of the concession contract must, however, be made in strict compliance with certain principles, set out in art. 311 of the Administrative Code, and which are analysed by the author in a critical manner. In order to clarify some controversial aspects of the administrative and judicial practice, the differences between the current (Administrative Code) and the previous (O.U.G. no. 54/2006 on the regime of concession contracts of public property) regulations are analysed in detail in the award procedure, the duration of the concession contract and the resolution of disputes concerning this contract

After some general considerations on the concept of control in public administration, Part III (Control over the activity of public administration) presents the forms and modalities of control. The aim of the analysis is to identify the types of control that are possible depending on the objectives pursued, emphasizing the differences between control of legality and control of expediency. In view of the numerous criteria according to which the forms of control over public administration activity can be categorized, the author focuses on the categories that are relevant in the current constitutional system: parliamentary control, administrative control (internal and external), administrative-judicial control and control exercised by civil society. It also highlights a number of shortcomings in terminology (in the case of administrative oversight) or in the effective application of the institution (in the case of transparency of decision-making in public administration).

Being a university course dedicated primarily to law students, the author's choice to develop the institution of administrative litigation seems natural. The classification and features of administrative litigation are approached both historically and from the perspective of recent

doctrinal theories and current regulations. Particular attention is paid to the conditions of admissibility of the direct action in administrative litigation, which are essential elements that particularize this action in relation to other civil actions. The numerous decisions of the supreme court aimed at unifying the non-unitary case law are taken into account and harmoniously integrated among the arguments presented. Some controversial aspects of the current regulation are also critically highlighted, such as the regime of the preliminary administrative complaint, the categories of administrative acts exempted from the review of legality in administrative litigation or the system of appeals in administrative litigation. The same critical accents can also be observed in the case of the regulation of the exception of illegality, the Romanian legal system being one of the few on the European continent in which this indirect means of verifying the legality of administrative acts is not compatible with administrative acts of a normative nature.

The last part of the volume analyses administrative liability. The topic is also of interest in view of the fact that the entry into force of the Administrative Code brought into Romanian law the first unitary regulation of this form of legal liability. The author emphasizes the advantages of the regulation, in particular those resulting from the express identification of the forms of administrative liability (disciplinary, contraventional or patrimonial), but draws attention to some shortcomings in the formulation of legal definitions or the establishment of general principles of administrative liability. Each form of liability is presented on the basis of its constituent elements (objective basis, subjective basis, subjects and sanctions), emphasizing the specific and complementary elements. The decisions of the Constitutional Court or of the High Court of Cassation and Justice are also taken into account, in particular those relating to the grounds for dismissal of liability, the establishment of the contravention, the application of the contravention penalties and the communication of the administrative notice or the grounds for invalidity of this administrative act. Nor are the doctrinal controversies concerning the legal nature of the administrative act of sanctioning a contravention or the constitutive elements of the contravention neglected. In a nuanced register is also addressed the administrative-patrimonial liability, especially as it presents the particularity of the express regulation for the first time in Romanian law of the liability of public authorities for organizational or functional deficiencies of the public service.

From the argumentative background, we should also mention the fact that the work is built on a vast bibliography including treatises, university courses, dictionaries, encyclopaedias, monographs, studies and articles. In this way, the author has sought to assimilate the theories and ideas of the representatives of the main schools of law, both in Romania and abroad, including authors from the inter-war period who are less well exploited today in specialized research.

Like any university course, this one also has a number of limitations, which start from the need to harmonize with the generally shared doctrinal views and the need to systematize the subject matter and adapt the language so that the work is of real use to the academic audience. The recent normative changes brought about by the entry into force of the Administrative Code, or which are foreseeable in the event of the adoption of the Administrative Procedure Code, oblige any author of administrative law to revise his own writings, so we are convinced that the upward pace of this university course will be ensured for the next editions.