Critical Analysis of Article 20 of Law no. 554/2004 on Administrative Litigation as Seen Through the Lens of Case Law and Draft Bill no. 2/2022

Anca Jeanina NIȚĂ

ABSTRACT
The present study is motivated by the recent legislative proposal (Pl-x no. 2/2022) to amend Administrative Litigation Law no. 554/2004, set with "the general aim of replacing recourse with appeal". One offers a brief account of the appellate procedures regulated in Administrative Litigation Law no. 554/2004. In examining the statement of reasons and the draft form of the bill submitted by the initiators, one reminds that the double degree of jurisdiction principle is not constitutionally enshrined. From the standpoint of the negative opinion (no. 169) issued by the Legislative Council on 22 February 2022, one analyses the case law of the Constitutional Court of Romania in the matter of administrative litigation recourse, as well as the High Court of Cassation and Justice, specifically Decision no. 17/2017, ruled in a recourse in the interest of the law. One acquiesces in the opinion expressed by Prof. Ioan Leș, who rightfully cautioned that trials conducted in three or more degrees of jurisdiction cannot represent an absolute guarantee of a good trial, but a cause that certainly induces a serious delay of judgements. One concludes that repeated amendments of positive law lacking a systemic approach cannot generate legislative consistency and is not capable of conducing to an actual removal of practical difficulties. And one urges the legislative body to carefully reflect on this matter.
KEYWORDS: *legislative proposal, administrative litigation, appellate procedure, recourse in the interest of the law, constitutional exigencies.*

1. Introduction

The right to an effective appeal and to a fair trial is one of the fundamental safeguards of the rule of law and democracy.

The European Parliament resolution of 4 July 2017 with recommendations to the Commission on common minimum standards of civil procedure in the European Union (2015/2084(INL)[1] proves that, even though Article 47 of the EU Charter of Fundamental Rights (CFR)[2] is legally binding and Article 6 of the European Convention of Human Rights (ECHR) is a general principle of EU law, the level of protection afforded to the right to a fair trial in civil procedure, and especially the balance between the access to justice (from the view of the claimant) and the right of defence (from the point of the defendant), is not harmonised at EU level.

[1]Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017IP0282 (last accessed on 4 November 2022).
[2]Article 47 of the CFR enshrines the legal principle according to which member states must provide an effective legal protection of individual rights that stem from EU law.

In Romania, according to the principle enshrined in Article 129 of the Constitution and Article 6 ECHR, the Code of Civil Procedure enshrines the legality of appeal.[3]

A form of civil action, appeals are provided in Art. 456 of the Code of Civil Procedure: the *appeal* proper (the ordinary form of appeal), the *recourse*, the *contestation in annulment* and the *review* (as extraordinary means of appeal). Art. 2 para. (1) of Law no. 134/2010 on the Code of Civil Procedure states that the provisions of the Code "represent the procedure of common law in civil matters", whereas para. (2) enshrines that "the provisions of the present Code apply to other matters as well, as long as the laws which govern them do not contain provisions to the contrary."

2. A brief account of the means of appeal provided by Law no. 554/2004 on administrative litigation[4]

Administrative litigation is an institution fundamental to the rule of law, an instrument by which those administrated seek defence from the abuse of the administration.[5] As defined by Art. 2 para. (1) letter f) of Law no. 554/2004, administrative litigation is "the activity of resolving, by a court of administrative litigation competent pursuant to the organic law, the litigation in which at least one of the parties is a public authority, and the conflict rose either from the issuance or the signing of an administrative act, in the sense of the present law, or from a request pertaining to a right or legitimate interest being left unsolved within the legal term or having been unjustly denied solving".

The provisions of Law no. 554/2004, as Art. 28 para. (1) explicitly states, "complete themselves with the provisions of the Code of Civil Procedure, insofar as they are not incompatible with the specificity of authority relations between public authorities, on the one hand, and the persons injured in their rights or legitimate interests, on the other hand, as well as with the procedure regulated by the present law."

Drafted under the provisions of the former Code of Civil Procedure, Law no. 554/2004 has undergone many alterations.[6]

According to Art. 10 para. (1) of said law, as amended by Law no. 212/2018[7], "litigation concerning administrative acts issued or signed by local or county public authorities, as well as those that concern taxes, contributions, custom debts, as well as accessories to them of up to 3,000,000 RON are to be solved in first instance by administrative-tax tribunals, and those concerning administrative acts issued or signed by central public authorities, as well as those concerning taxes, contributions, custom debts and accessories to them of up to 3,000,000 RON are to be solved in first instance by the sections of administrative and tax litigation of the courts of appeal, if special organic legislation does not provide to the contrary".

[3]Article 457 para. (1) of the Code of Civil Procedure: "The court decision is subject only to the means of appeal provided by the law, under the conditions and terms established by it, irrespective of the mentions in its provision.".
[4]Published in the Official Gazette of Romania no. 1154 of 7 December 2004.
[5]Vedinaș, V, 2018, *Tratat teoretic și practic de drept administrativ*, vol. II, Ed. Universul Juridic, București, p. 152.
[6]Many of these alterations have been brought upon by Law no. 262/2007 and Law no. 212/2018.
[7]Published in the Official Gazette of Romania no. 658 of 30 July 2018.

The decision given in first instance may be appealed through *recourse*, within 15 days from its notification, as explicitly stated in Art. 20 para. (1) of said law.

It should be noted that the special norm provided in Art. 20 para. (1) remains applicable even after the new Code of Civil Procedure came into force, this case being explicitly provided for in Art. 7 para. (3) of Law no. 76/2012, according to which, in administrative and tax litigation matters, as well as asylum requests, the *appeal*-proper is not provided.

The High Court of Justice and Cassation, judging the *recourse in the interest of the law*[8], through its Decision no. 17/2017, decreed that "in the unitary interpretation and application of legal provisions concerning the means of appeal in administrative litigation matters, against decisions given in this matter only the *recourse* may be exercised, except for the case provided by Art. 25 para. (3) of the Law of administrative litigation no. 554/2004 with its ulterior amendments."

After the Decision no. 17/2017 was given, pursuant to Art. 25 para. (3) of said law, the recourse as a means of appeal was also enshrined in the matter of enforcement requests.[9]

Dissimilar to the Code of Civil Procedure, which provides that, as a rule, recourse does not suspend enforcement, Law no. 554/2004 – through its Art. 20 para. (2) – enshrines the suspensive character of recourse.[10]

By derogation from the provisions of art. 497 of the Code of Civil Procedure, whenever recourse is admitted, the court of recourse shall annul the decision and retrial the case on its merits.

The court of recourse may annul the decision and send the case for retrial at the court of first instance solely once, in the limited cases provided by art. 20 para. (3): when the decision of the court of first instance was given without judging the case on its merits; or if the trial was made in the absence of the party unlawfully summoned, both at the administration of evidence and debate, respectively.

Decisions given in recourse by the court of administrative litigation may be appealed, under the conditions provided by articles 503-508 of the Code of Civil Procedure, by means of the *contestation in annulment*.

Insofar as *review* is concerned[11], art. 21 of Law no. 554/2004 provides that: "(1) It constitutes a reason for review, which is added to those provided by the Code of Civil Procedure, the pronouncement of decisions that remain final in violation of the principle of priority of EU law, regulated in art. 148 para. (2) in conjunction with art. 20 para. (2) from the Constitution of Romania, republished. (2) They are subject to review, for the reason provided in paragraph. (1), and the final decisions that do not evoke the substance. (3) The review request is submitted within one month from the date of notification of the final decision and is resolved urgently and specially."

[8]Published in the Official Gazette of Romania no. 930 of 27 November 2017.
[9]According to said provisions, "decisions given under the conditions of Art. 24 para. (3) and (4) are subject only to recourse, within 5 days from their notification".
[10]According to its provisions, "recourse suspends enforcement and is to be decided upon urgently. The procedure provided at art. 493 of the Code of Civil Procedure does not apply in administrative litigation matters.".
[11]This extraordinary means of appeal is regulated by the provisions of articles 509-513 of the Code of Civil Procedure.

3. The Draft Bill for the Amendment of Law no. 554/2004 on Administrative Litigation (Pl-x no. 2/2022)

On 1 February 2022, the legislative proposal to amend Law no. 554/2004 was published on the website of the Chamber of Deputies.

As expressed in the statement of reasons[12], *the legislative proposal "has the general scope of replacing the recourse with appeal* (...), in the context of guaranteeing the equality of opportunity in matters of evidence administration and contestation at courts of administrative litigation."

According to the initiators, art. 20 shall be amended and retitled "Appeal", with the following provisions: "(1) The decision pronounced in first instance may be challenged by appeal, within 30 days from its notification. Decisions given in appeal are not subject to recourse. (2) The appeal suspends the execution and is judged urgently. (3) If the appeal is admitted, the appellate court, changing the sentence, will retrial the case on its merits. When the decision of the first court was pronounced without judging the merits or if the judgment was made in the absence of the party who was unlawfully summoned both at the administration of the evidence and at the debate of the merits, the case will be sent, only once, to this court. If the judgment in the first instance was made in the absence of the party who was illegally subpoenaed during the administration of the evidence, but was legally subpoenaed during the debate on the merits, the appeal court, annulling the sentence, will re-judge the litigation on the merits. (4) The appellate court can admit both the evidence proposed before the court of first instance through the request for summons or response, as well as the documentary evidence that was not proposed in first instance or was proposed late, and in relation to them the court of first instance found them to have lapsed."

The initiators[13] of the legislative proposal emphasize that "the opportunity of this amendment consists of eliminating the limits of contesting court decision in administrative litigation matters only for procedural aspects, specific to the recourse, offering the possibility of authorizing a relevant number of evidences necessary to efficiently trial the cases."

In this sense, Decision no. 9/2020 of the High Court of Cassation and Justice has been invoked, which concerned the unitary interpretation and application of Articles 470, 478 para. (2) and 479 para. (2) of the Code of Civil Procedure, as correlated with its Art. 254 paras. (1) and (2), under which the notion of evidence is redefined to admit "both evidences proposed at the court of first instance by complaint and those not proposed therein or proposed late, and in their regard the court of first instance found them to have lapsed".

Moreover, the proposal also purports to amend para. (3) of Art. 25, which would then have the following provisions: "The decisions pronounced under the conditions of Art. 24 para. (3) are subject to appeal, within 5 days of notification. Decisions pronounced under the conditions of art. 24 para. (4) are subject to appeal, within 5 days of notification. Appeal decisions are not subject to recourse."

[12]Available at http://www.cdep.ro/proiecte/2022/000/00/2/em774.pdf (last accessed on 4 November 2022).
[13]The legislative proposal was initiated by 8 deputies of the National Liberal Party.

In relation to the proposal to modify art. 25 para. (3), the initiators claim that the goal is to uniformize dispute resolution in appellate courts, avoiding the restrictive application of the recourse in enforcement matters, when the court shall establish, under the conditions of art. 892 of the Code of Civil Procedure, the damages which the debtor ought to pay to the creditor for the non-performance of the obligation.

It is also stated that the Romanian legislator, by establishing the appeal as an ordinary means of appealing court decision, would guarantee the possibility of readministering evidence of administering new evidence in establishing the value of damages, safeguarding both legality and soundness. Exceptionally, insofar as the application of Art. 24 para. (4) is concerned, recourse would remain the means of appeal, given the provisions of Art. 906 of the Code of Civil Procedure, which provides procedural safeguards for the debtor.

In consideration of the anticipated changes, it would also be necessary to modify Art. 10 para. (2) of the Law, in the sense of replacing the term "recourse" with "appeal".

4. The Opinion no 169 of 22 February 2022 of the Legislative Council

The Legislative Council gave a negative opinion on the draft bill. Opinion[14] no. 169 of 22 February 2022 signals that, by replacing the recourse with the appeal, the proposal fails to consider the case law of the Constitutional Court of Romania[15] or the High Court of Cassation and Justice on the recourse in administrative litigation matters.[16]

Observing the pronouncements of the CCR and HCCJ and given that the current law aims the speedy resolution of the case, the Legislative Council – without giving consideration to the opportunity of the anticipated legislative solutions – underlines that it ought to be seen if the proposed amendments do not violate Art. 21 para. (3) of the Constitution, according to which "the parties have the right to a fair trial and the speedy resolution of cases within a reasonable time."

5. The case law of the Constitutional Court of Romania concerning the recourse in of administrative litigation matters

The exercise of a right cannot occur but in a certain legal framework, established by the lawmaker, while respecting certain requirements that are meant to prevent eventual abuse and delay in reaching a verdict.[17]

In one decision[18], the Constitutional Court held that, as a rule, the access to justice and procedural means, including the means of appeal, is made in respect for the competence and procedure rules set by the law. This conclusion can be inferred from the provisions of Art. 129 of

[14]Available at http://www.clr.ro/wp-content/uploads/2022/02/Aviz_0169_2022.pdf (last accessed on 18 April 2022).
[15]Decisions no. 491/2008 and no. 747/2014 are explicitly invoked.
[16]Decision no. 17 of 18 September 2017 (recourse in the interest of the law).
[17]Decision no. 423/2014, published in the Official Gazette of Romania no. 663 of 9 September 2014.
[18]Decision no. 1 of 8 February 1994, published in the Official Gazette of Romania no. 69 of 16 March 1994.

the Constitution of Romania, which enshrines that the interested parties and the Public Ministry may exert means of appeal under the conditions set by the law.

Accordingly, *the double degree of jurisdiction principle lacks constitutional protection*, for the Constitution does not impose the exigency of two trials of first instance at two courts of differing degrees, but does implicitly allow the legislator to provide for a certain number of means of appeal that may be exerted, depending on the nature of the case.

In respect of administrative litigation matters, another decision[19] held that "the legislator is constitutionally in right to consider the matter of administrative litigation distinctively, with specific rules, including insofar as the establishment of means of appeal is concerned, yet this cannot ignore the application of Art. 21 of the Constitution with reference to the free access to justice, for otherwise this would become an illusory and theoretical right" (para. 48).

The access, design and exercise of the means of appeal is an aspect of the free access to justice, a fundamental right protected by Art. 21 of the Constitution.

Through its Decision no. 266/2014, the CCR, invoking the case law of the European Court of Human Rights (*Lungoci v Romania*, 26 January 2006), ruled that "free access to justice implies by its nature a regulation from the state and cannot be subject to limitations, as long as the substance of the right is not achieved" (para. 34).

In another decision[20], the Constitutional Court ruled that "the text of the [European Convention on Human Rights] does not guarantee a right of appeal or a right to a second degree of jurisdiction", and went on the invoke the case law of the ECtHR (*Csepyova v. Slovakia*, 14 May 2002, para. 5, or *Gurepka v. Ukraine*, 6 December 2005, para. 51).

Regarding the constitutionality of articles 10 and 20 of the Law no. 554/2004, the Court has ruled in several decisions[21] that said rules are in full compliance with the Constitution.

One decision[22] is of particular importance to the subject of this paper. The CCR rejected claims of unconstitutionality as unfounded insofar as the provisions of art. 488 of the Code of Civil Procedure are concerned, corroborated with art. 10 para. (2) and art. 20 para. (1) of Law no. 554/2004, as well as art. 7 para. (3) of Law no. 76/2012 for the application of Law no. 134/2010 on the Code of Civil Procedure, and ruled that they are constitutional in respect of said criticism.

It had been claimed that said legal rules were in breach of Art. 21 (free access to justice) and Art. 24 (right to defence) of the Constitution, as well as Art. 6 of the ECHR (the right to a fair trial).

The Court held that the author of the exception deduced the unconstitutionality from the fact that, in the matter of administrative litigation, the decisions of the court of first instance may only be appealed through recourse, and only for reasons of unlawfulness, not for reasons of

[19]Decision no. 462/2014, published in the Official Gazette of Romania no. 775 of 24 October 2014.
[20]Decision no. 544 of 28 April 2011 on the exception of unconstitutionality concerning art. 10 para. (2) and art. 20 para. (1) of the Law of administrative litigation no. 554/2004, as well as art. 106 para. (1) of Law no. 188/1999 on the Statute of Civil Servants, published in the Official Gazette of Romania, no. 514 of 21 July 2011.
[21]Decisions no. 549/2008 (published in the Official Gazette of Romania no. 430 of 9 June 2008), no. 679/2009 (published in the Official Gazette of Romania no. 411 of 16 June 2009), no. 462/2014 (published in the Official Gazette of Romania no. 775 of 24 October 2014).
[22]Decision no. 747 of 16 December 2014, published in the Official Gazette of Romania no. 98 of 6 February 2015.

unsoundness, and thus, the recourse would no longer serve as a devolved means of appeal. This legislative solution hinders free access to justice and the right to defence, which implies, in the opinion of the claimant, "amending these legal provisions, for the trial in administrative litigation becomes a judgement without means of appeal" (para. 16).

The Court reveals that "the legal nature of the appeal in the system of appeals against court decisions has undergone changes over time, the appeal being sometimes considered an ordinary appeal, at other times, although considered an extraordinary appeal, it could also be exercised for reasons for the groundlessness of the decision, so that currently, in the new regulation of this legal institution, the appeal is qualified as an extraordinary way of appeal, exclusively for reasons of illegality of the decision. By the provisions of art. 488 of the Code of Civil Procedure, which enshrines the reasons for annulment of some court decisions, the legislator granted increased efficiency to the principle according to which the appeal is a non-devolving appeal. Therefore, unlike the old regulation, which established the possibility of examining the case under all aspects, according to art. 304^1 of the Civil Procedure Code of 1865, the new rules no longer provide for any exception to the rule mentioned above" (para. 18).

In respect of Art. 20 of Law no. 554/2004, the Court calls back to Decisions no. 679 of 5 May 2009 and 549 of 15 May 2008: "The provisions of art. 129 of the Constitution 'contain the essential specification that the decisions of the courts can be challenged, by the Public Ministry or by the interested parties, under the conditions of the law. In addition, art. 126 paragraph (2) of the Basic Law gives the legislator the right to legislate on this aspect. From here comes the conclusion that nothing prevents the enactment of a legislative solution like the one contained in the criticized law text. Moreover, this option of the legislator was imposed by the exigency of the expeditious resolution of the process brought to the judgment, this being one of the characteristics actions in administrative litigation.' It was also noted that, according to art. 20 para. (3) from Law no. 554/2004, if the appeal is admitted, the merits of the case will be examined again, either by the appeals court itself, or by the first court, after the annulment with referral or as a result of the finding that the first court did not judge the merits. The interested party will therefore have the opportunity to make an effective defence" (para. 24).

With reference to the criticism according to which the possibility of exercising recourse does not have the significance of ensuring the double degree of jurisdiction, given that the recourse does not have a devolutionary character, thus not leading to a new judgment on the merits, but is a means of appeal that only ensures a control of lawfulness on the challenged court decision, the Court also refers to its case law in which it held that "it is the exclusive competence of the legislator to establish the rules for conducting the process before the courts and the method of exercising appeals, and the principle of free access to justice presupposes the possibility of those interested to exercise them, under the conditions established by law, so that free access to justice does not imply access to all judicial structures and to all procedural means by which justice is administered. No text in the Constitution guarantees the right to two degrees of jurisdiction. Even the international regulations in the field of human rights, namely Art. 2 of Protocol No. 7 to the [European Convention on Human Rights], guarantees the right to the double degree of jurisdiction only in criminal matters, not in cases of an administrative nature" (para. 25).

6. A landmark case. Decision no. 17/2017 of the High Court of Cassation and Justice, judging a recourse in the interest of the law

According to Decision no. 17/2017, binding pursuant to art. 517 para. (4) of the Code of Civil Procedure: "in the unified interpretation and application of the legal rules regarding the means of appeal in the matter of administrative litigation, only the recourse may be exercised against the decisions pronounced in this matter, except in the case provided for by the provisions of art. 25 para. (3)[23] of the Law of administrative litigation no. 554/2004, with subsequent amendments and additions".

The opinions presented in this court decision are of relevance. The case law of the administrative and tax litigation section of the High Court in this matter is unitary, being in accordance with the principled solution established by the plenary of this section, met under the conditions of art. 33 para. (1) from the Court Regulation and recorded in the minutes of October 28, 2013 (para. 32). On this occasion, it was unanimously established, in relation to the provisions of art. 7-12 of Law no. 76/2012, that "since the means of appeal is incompatible with the specifics of the subject matter of the administrative dispute, the cases on appeals filed under the provisions of the new Code of Civil Procedure against the decisions handed down in the first instance by the courts of appeal, as courts of administrative litigation, qualify and will be registered as recourse" (para. 34).

Furthermore, "in the matter of administrative litigation, the will of the legislator was to ensure the speedy trial of cases, this being a unanimously recognized principle that governs the conduct of trials within the jurisdiction of the administrative litigation courts" (para. 44).

Art. 20 para. (2) of Law no. 554/2004 "expressly refers to the urgency in judging the appeal, enshrining the principle of speed in the resolution of these cases, so that the recourse appears to be the most suitable appeal for the purpose indicated by legislator, solution that reaffirms the rule contained in art. 20 of Law no. 554/2004 and confirms a traditional solution in national legislation, in the matter of administrative litigation, the recourse being the only compatible means of appeal" (para. 46). In addition, "the acceptance of the appeal *per se* in the matter of the administrative and tax litigation would cause the appearance of a difference in the legal regime, in terms of the means of appeal, depending on the first court that resolves the case" (para. 64).

It should be noted that Decision no. 17/2017 also refers to the decoding given to the recourse in the interest of the law by Decision no. 20 of October 5, 2015[24], which established that, "in the interpretation and application of the provisions of art. 287[16] of the Government Emergency Ordinance no. 34/2006 regarding the awarding of public procurement contracts, public works concession contracts and service concession contracts, approved with amendments and additions by Law no. 337/2006, with subsequent amendments and additions, *the decision issued by the administrative litigation section of the court in the processes and requests regarding the granting*

[23]As previously noted, the provisions of art. 25 para. (3) were amended by Law no. 212/2018 and currently enshrine the recourse as a means of appeal in such cases.
[24]Decision no. 20 of 5 October 2015 was published in the Official Gazette of Romania, no. 898 of 3 December 2015.

of compensation for the reparation of damages caused during the award procedure, as well as those regarding execution, nullity, cancellation, resolution, termination or the unilateral denunciation of public procurement contracts can only be challenged by recourse".

One finds it edifying to refer to the considerations of the latter decision: "(...) one cannot accept the notion according to which, with the entry into force of the new Code of Civil Procedure, the lawmaker would have understood to depart from the established rule, imposing in some situations, as well as the matter of administrative litigation, a totally devolutionary control, through an appeal *per se*. In fact, only in matters of contravention was appeal proper provided for as a devolutionary means of appeal, but this is justified by the specificity of the contravention law, as a "little criminal law" (para. 35).

7. Conclusions

As we have stated elsewhere[25], the repeated amendment of existing laws while lacking a systematic approach, cannot generate legislative coherence and cannot lead to the elimination of whatever difficulties may have been met in practice.

While not denying the good intentions of the initiators of the bill (which invoke the possibility of accepting a relevant number of evidences necessary for the efficient adjudication of cases in administrative litigation), we remain sceptical about the opportunity and necessity of changing said legal provisions.

However, we fully agree with the doctrinal opinion according to which "trial in three or more levels of jurisdiction cannot represent an absolute guarantee of a good trial, but a cause that certainly induces a serious delay in the trials. However, delayed justice can constitute (...) by itself a great injustice."[26]

In a barely "novel" manner – which, unfortunately, the legislator has accustomed us to, the law was adopted by the Chamber of Deputies as a result of exceeding the 45-day deadline, according to art. 75 para. (2) of the Constitution, on 9 May 2022, and then being submitted to the Senate.

One hopes that at least in the decision-making Chamber the negative opinion (and well-reasoned) of the Legislative Council shall not be ignored, and considers that further reflection is needed in relation to Art. 6(1) of the ECHR, as well as Art. 14(1) of the International Covenant on Civil and Political Rights, which guarantees the right to have a case examined "within a reasonable time."

[25]Niță, A-J, 2018, *Scurte reflecţii asupra propunerii legislative pentru modificarea şi completarea Legii nr. 554/2004 a contenciosului administrativ*, in *Universul Juridic*, no. 5/2018, Bucharest.
[26]Leș, I, 2020, *Considerații generale asupra reglementării căilor de atac în legislațiile procesual-civile din Franța, Italia şi Spania,* in *Universul Juridic*, no. 7/2020, Bucharest.

REFERENCES:

1. 1.Decision no. 423/2014, published in the Official Gazette of Romania no. 663 of 9 September 2014.
2. 2.Decision no. 462/2014, published in the Official Gazette of Romania no. 775 of 24 October 2014.
3. 3.Decisions no. 491/2008 and no. 747/2014 are explicitly invoked.
4. 4.Decisions no. 549/2008 (published in the Official Gazette of Romania no. 430 of 9 June 2008), no. 679/2009 (published in the Official Gazette of Romania no. 411 of 16 June 2009), no. 462/2014 (published in the Official Gazette of Romania no. 775 of 24 October 2014).
5. 5.Decision no. 747 of 16 December 2014, published in the Official Gazette of Romania no. 98 of 6 February 2015.
6. 6.Decision no. 20 of 5 October 2015 was published in the Official Gazette of Romania, no. 898 of 3 December 2015.
7. 7.Decision no. 17 of 18 September 2017 (recourse in the interest of the law).
8. 8.Decision no. 544 of 28 April 2011 on the exception of unconstitutionality concerning art. 10 para. (2) and art. 20 para. (1) of the Law of administrative litigation no. 554/2004, as well as art. 106 para. (1) of Law no. 188/1999 on the Statute of Civil Servants, published in the Official Gazette of Romania, no. 514 of 21 July 2011
9. 9.Decision no. 1 of 8 February 1994, published in the Official Gazette of Romania no. 69 of 16 March 1994.
10. 10.Leș, I, 2020, *Considerații generale asupra reglementării căilor de atac în legislaţiile procesual-civile din Franța, Italia şi Spania,* in *Universul Juridic,* no. 7/2020, Bucharest.
11. 11.Niță, A-J, 2018, *Scurte reflecţii asupra propunerii legislative pentru modificarea şi completarea Legii nr. 554/2004 a contenciosului administrativ,* in *Universul Juridic*, no. 5/2018, Bucharest.
12. 12.Vedinaș, V, 2018, *Tratat teoretic şi practic de drept administrativ*, vol. II, Bucharest, Romania: Ed. Universul Juridic, p. 152.
13. 13.Official Gazette of Romania no. 658 of 30 July 2018.
14. 14.Official Gazette of Romania no. 1154 of 7 December 2004.
15. 15.Official Gazette of Romania no. 930 of 27 November 2017.
16. 16.http://www.clr.ro/wp-content/uploads/2022/02/Aviz_0169_2022.pdf (last accessed on 18 April 2022).
17. 17.http://www.cdep.ro/proiecte/2022/000/00/2/em774.pdf (last accessed on 4 November 2022).
18. 18.https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017IP0282 (last accessed on 4 November 2022).

ABOUT THE AUTHOR

Anca Jeanina Niță, PhD, Lecturer at the Faculty of Law and Administrative Sciences, Ovidius University of Constanța.
Email: ancajeanina.nita@gmail.com