

BRIEF CONSIDERATIONS ON THE TERMINATION OF THE TERM OF OFFICE OF A LOCAL COUNCIL MEMBER

Marta-Claudia CLIZA*

Abstract

The new constitutional realities that emerged after 1990 reshaped the status of local elected officials, as well as that of elected officials in general, including members of Parliament. The Constitution has shed new light on the concept of administrative-territorial unit and, by extension, has created a new context for those who represent the local interests of the community. This context is of interest not only from the perspective of the representativeness of local elected officials but also from the perspective of how, in certain specific and isolated situations, a local council member's term of office may be terminated. In this study, these specific aspects of the legislation governing local elected officials will be examined from the perspective of constitutionality, and our own assessments of the current legal provisions in force will be highlighted.

Keywords: Constitution, Administrative Code, local council member, member of Parliament, right to be elected.

1. Introduction

Electoral rights are one of the fundamental components of the constitutional structure of the rule of law, as they are a direct expression of the national sovereignty exercised by the people. In this background, the right to be elected, as enshrined in the Romanian Constitution, is not limited to the mere opportunity to hold a representative public office, but inherently includes the right to effectively exercise the mandate obtained through the citizens' vote.

This dual dimension of the right to be elected (art. 37 of the Romanian Constitution) - the access to public office and the actual performance of the public office - has been consistently emphasized in the doctrine. Therefore, Ioan Muraru and Elena Simina Tănăsescu note that "the right to be elected is also a fundamental electoral right, that is, a purely political right".¹

In this background, any interference in the exercise of an elected official's mandate must be analyzed in light of the requirements set forth in the Romanian Constitution, which establishes a genuine proportionality test. According to this constitutional provision, restrictions on the exercise of certain rights or freedoms are permitted only if they are provided for by law, are necessary in a democratic society, are proportionate to the aim pursued, and do not undermine the existence of the right.

This paper examines the constitutionality of the mechanism for the automatic termination of a local elected official's term of office, as regulated by Government Emergency Ordinance no. 57/2019, the Administrative Code,² in accordance with the constitutional principles of proportionality, equality of rights, and legal certainty, as well as in light of the European standards established by the European Court of Human Rights.

2. The right to be elected and restrictions on such right

The right to be elected, as well as the right to exercise the mandate acquired through popular election, represents an essential component of fundamental political rights, as expressly enshrined in art. 37 of the Constitution. The termination of the term of office of an elected official represents, by its very legal nature, a genuine restriction on the exercise of this right, as it results in the removal of the officeholder from the public office acquired through the will of the electorate and prevents the exercise of the mandate conferred by the vote. The constitutional text, as currently worded, has positive implications in that it lists only the conditions under which a person may be elected by popular vote, not the circumstances under which that person's term of

* Associate Professor, PhD, „Nicolae Titulescu” University of Bucharest (e-mail: claudia@cliza.ro).

¹ I. Muraru, E.S. Tănăsescu, *Constituția României* (The Constitution of Romania), 3rd Issue, C.H. Beck Publishing House, Bucharest, 2022, p. 301.

² GEO no. 57/2019 was published in Official Journal no. 555 of 05.07.2019.

office would end. Furthermore, the wording applies equally to all elected officials, including local elected officials; in this regard, situations in which their term of office ends must be viewed in light of the relevant legal provisions, specifically those of the Administrative Code, which, according to art. 204 letter g stipulates that the term of office of a local or county council member ends by “conviction, by a final court judgment, to a custodial sentence, regardless of how the sentence is to be served.”

It is clear that in this case we are in the presence of a restriction on a right; however, according to art. 53 of the Romanian Constitution, any restriction on the exercise of fundamental rights and freedoms must meet the requirements of a genuine proportionality test, in the sense that it is legitimate only if it is provided for by law, is necessary in a democratic society, is proportionate to the situation that gave rise to it, and does not undermine the existence of the fundamental right or freedom.

Only by referring to art. 53 can we easily note that the disputed legal provision does not, however, satisfy the requirement of proportionality set forth in art. 53 of the Constitution, as it establishes an automatic mechanism for terminating a mandate that does not allow for an individualized assessment based on the specific circumstances of each case.

By using the phrase “regardless of the method of enforcing the sentence”, the regulation takes on the nature of a rigid and undifferentiated mechanism that produces the same legal consequences in substantially different situations, without allowing for an assessment based on the severity of the offence, the form of culpability, or the manner of individualization determined by the court.

Furthermore, the doctrine pointed out the following³:

“The principle of proportionality can be analyzed from several perspectives [...] As a principle inherent in the very legal function of the state, the principle of proportionality expresses the necessary alignment of legal measures with the factual situations they address, establishing a fair and legitimate relationship between the legal measure adopted and social reality. [...] This establishes a complex relationship among at least three elements: the cause that leads to the adoption of a restrictive measure (social reality); the restrictive measure itself (the legal regulation adopted); and the extent to which the restriction imposed deviates from the objective pursued by the legislator.”

Furthermore, according to art. 4 para. 11 of Law no. 115/2015⁴, the persons who, at the time of filing their candidacy, have been definitively sentenced to imprisonment for intentional crimes, unless they have been rehabilitated, granted a post-conviction amnesty, or the offense has been decriminalized, shall not be eligible to run for office and cannot be elected. Furthermore, according to art. 204 para. 2 letter g of GEO no. 57/2019, the term of office of a local or county council member shall automatically terminate in the event of a conviction, by a final court judgment, to a custodial sentence, regardless of the specific terms of its enforcement.

The correlation of these legal provisions leads us to the conclusion that a person sentenced to imprisonment for committing a negligent offense may hold the office of local council or county council member, since the prohibition established by art. 4 para. 11 of Law no. 115/2015 applies exclusively to convictions for intentional crimes. Notwithstanding, if during the term of office, the same person is definitively sentenced to a custodial sentence for a negligent offense, the term of office of the respective person shall automatically terminate pursuant to art. 204 para. 2 letter g of Government Emergency Ordinance no. 57/2019.

Under these circumstances, the restriction on the performance of the office of local council member does not meet the requirement of necessity in a democratic society, thereby undermining the substance of the relevant fundamental right.

The existence of alternative, less intrusive mechanisms highlights the absence of a genuine and proportionate need for such interference, given that the termination of the term of office could be contingent upon the criminal court imposing the complementary penalty of disenfranchisement, pursuant to art. 66 para. 1, letter a of the Criminal Code, could be differentiated based on the form of culpability—namely, intent or negligence - depending on the connection between the offense and the performance of public office, as well as in relation to the manner of enforcing the sentence.

The automatic nature of the regulatory mechanism renders the right to be elected meaningless, contrary to art. 53 para. 2 final thesis of the Constitution. Therefore, in the event of a conviction resulting in a suspended

³ I. Muraru, E.S. Tănăsescu, *Constituția României* (The Constitution of Romania), 3rd Issue, C.H. Beck Publishing House, Bucharest, 2022, p. 468-469.

⁴ Law no. 115/2015 was published in Official Journal of Romania no. 349 of 20.05.2015.

prison sentence with probation for a negligent offense, and in the absence of the complementary penalty of disenfranchisement, the convicted person finds themselves in a paradoxical legal situation, in that they are eligible to run for office, according to art. 4 para. 1⁵ of Law no. 115/2015, but loses the term of office currently being served. This legislative inconsistency highlights the fact that the challenged legal provision undermines the very essence of the right to be elected, specifically in terms of the effective fulfillment of the mandate.

However, the principle of proportionality requires that any restriction on the exercise of a fundamental right be appropriate and necessary in relation to the severity of the situation that gave rise to it. A regulation that treats fundamentally different situations as equivalent in terms of their legal consequences cannot be considered to comply with the constitutional requirements set forth in art. 53 of the Constitution.

The doctrine pointed out that⁵ "There is a significant difference between a restriction that is legitimate - and therefore constitutionally justified - and one that is proportionate to the reason justifying it, which, although justified by grounds expressly mentioned in the Constitution, are disproportionate to those grounds and, consequently, become unconstitutional". Therefore, even though the purpose of the regulation - to protect the integrity of the public office - is legitimate, the automatic and indiscriminate mechanism is disproportionate.

3. The analysis of the specific case of the termination of a local council member's term of office in relation to the legal status of other elected officials

According to art. 70 para. 2 of the Constitution of Romania, the capacity as a Deputy or Senator shall cease, among others, in case of disenfranchisement. However, the disenfranchisement represents a complementary penalty regulated by art. 66 para. 1 letter of the Criminal Code the application of which, as a rule, does not take effect automatically but it is left to the discretion of the court as part of the process of determining the specific sentence.

Accordingly, in case a member of the Parliament is sentenced to imprisonment with a suspended sentence under probation, and the court does not order the complementary penalty of disenfranchisement, the respective member of Parliament shall continue to hold the office, as the constitutional grounds for termination of the mandate provided for in art. 70 para. 2 of the Constitution do not apply.

Paradoxically, a local elected official in an identical legal situation - namely, convicted of the same offense - to the same sentence, determined in the same manner, without the application of the complementary penalty of disenfranchisement provided for in art. 66 para. 1 letter C of the Criminal Code shall be subject to a radically different legal consequence, consisting of the automatic termination of the term of office.

Such a difference in legal treatment is all the more difficult to justify given that both categories of public officials obtain their mandate through the same constitutional mechanism of universal, equal, direct, and free voting. The electoral will that they represent and exercise within the scope of their mandate has the same legal nature and democratic legitimacy, regardless of whether the mandate is exercised at the local or national level.

Therefore, the only element that gives rise to this difference in treatment is the level at which the office is performed - that is, local or national. Such a criteria appears as arbitrary in relation to the consequences of a criminal conviction, since it is unrelated to the seriousness of the offense, the nature of the penalty imposed, or the criminal court's assessment of whether it is appropriate to restrict the convicted person's electoral rights. Under these circumstances, differential legal treatment raises serious concerns regarding its compatibility with the principle of equality before the law enshrined in art. 16 para. 1 of the Constitution, as well as with the requirements of proportionality that must govern any restriction on the exercise of rights.

"The principle of equality before the law requires that situations which, depending on the objective pursued, are not different, be treated equally. For this reason, it does not rule out but rather allows for different solutions for different situations. Consequently, different treatment cannot be merely the result of the legislator's discretion; it must be rationally justified, in accordance with the principle of equality of citizens before the law and public authorities", as set forth in Decision no. 1/1994 of the Constitutional Court Plenary⁶.

Furthermore, the relevant literature in the field noted the following⁷:

⁵ I. Muraru, E.S. Tănăsescu, *Constituția României* (The Constitution of Romania), 3rd Issue, C.H. Beck Publishing House, Bucharest, 2022, p. 469.

⁶ Decision no. 1/1994 of the Constitutional Court Plenary (https://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=14239), published in Official Journal no. 69 of 16 March 1994.

⁷ I. Muraru, E.S. Tănăsescu, *Constituția României* (The Constitution of Romania), 3rd Issue, C.H. Beck Publishing House, Bucharest, 2022, p. 139.

"The case law of the Constitutional Court of Romania was inspired by ECHR, which pointed out that "Any difference in treatment made by the state between individuals in similar situations must be objectively and reasonably justified." The standard of reasonableness requires "a proportional relationship between the objective pursued by the legislator when establishing different legal regimes for similar situations and the means employed."

4. The termination of a local council member's term of office in the specific case of a criminal conviction cannot be considered outside the scope of the constitutional provisions and the case law of the ECHR and the CJEU

The Constitution of Romania establishes the fundamental framework for the exercise of the right to be elected. In this respect, art. 36 para. (2) of the Constitution provides that The mentally deficient or alienated persons, laid under interdiction, as well as the persons disenfranchised by a final decision of the court cannot vote, while art. 37 para. (1) of the Fundamental Law provides that the right to be elected is conditioned by the existence of the voting right.

The substantive requirements for the right to be elected are those set forth in art. 16, art. 37 and art. 40 of the Constitution and include, inter alia, the requirement that the person not to have been disenfranchised as a result of a final court conviction.

In this regard, the Constitution makes the loss of the right to be elected contingent upon the existence of a legal sanction consisting of disenfranchisement, a sanction that takes the form of a complementary penalty applied by a criminal court, rather than as the result of an automatic administrative mechanism.

In this case, the criminal court assessed the defendant, the specific circumstances of the offense, and the realistic possibility of social reintegration, concluding that the purpose of the sentence could be achieved without actually serving it in prison. Furthermore, the criminal court ruled that there was no need to enforce the complementary penalty of disenfranchisement, as provided for in art. 66 para. (1) letters a) and b) of the Criminal Code which means, in accordance with the principles of criminal law and the mechanism of judicial enforcement of punishment, that the court found that the convicted person does not pose a threat to the performance of elective public office or represent a case of indignity.

Notwithstanding, the administrative regulation provided for by art. 204 para. (2) letter g) of GEO no. 57/2019 on the Administrative Code operates automatically, irrespective of any proportionality analysis or the specific circumstances of the case, resulting in the automatic termination of the term of office in the event of a final conviction involving a custodial sentence, regardless of how the sentence is to be served. By its very nature, this regulation precludes from the outset the consequences of the judicial individualization carried out by the criminal court.

Within this regulatory framework, a genuine legal contradiction is emerging between two branches of law.

On the one hand, the criminal law, by means of suspended sentence with probation and by the non-application of the complementary penalty of disenfranchisement, reflects the state's confidence in the convicted person's ability to reintegrate into society.

On the other hand, the administrative law automatically and indiscriminately sanction the same legal situation, without taking into account the specific circumstances.

Therefore, the automatic application of the termination of office through administrative channels is, in essence, equivalent to establishing a prohibition on exercising an elective public office that the criminal court deemed unnecessary. Such an overlap of jurisdiction creates a systemic contradiction between the criminal and administrative legal systems, since the administrative provision disregards both the nature of the offense and whether or not the criminal court has ordered the disenfranchisement as a complementary penalty.

The Constitutional Court of Romania deduced by way of interpretation the principle of legal certainty, stating that it "is a fundamental feature of the rule of law" (CCD no. 210/2014)⁸ and "essentially expresses the idea that citizens must be protected against a danger that stems directly from the law itself, against a sense of insecurity that the law has created or which it risks creating" (CCD no. 51/2012⁹).

⁸ CCR Decision no. 210 of 2014 was published in Official Journal no. 391 of 27.05.2014 (https://www.ccr.ro/wp-content/uploads/2020/09/Decizie_210_2014.pdf).

⁹ CCR Decision no. 51 of 2012 was published in Official Journal no. 90 of 03.02.2012 (<https://media.hotnews.ro/assets/document/2012/02/3/11408966-0.pdf>).

At the same time, the regulation does not allow for consideration of whether or not the convicted person is actually unable to perform the duties of the office to which he/she was elected, which results in the automatic application of a penalty without any mechanism for assessing its proportionality.

Under these circumstances, the automatic application of administrative termination of office effectively amounts to the application of an additional penalty that undermines the individualization of penalty. Such a consequence violates the principle of proportionality enshrined in art. 53 of the Constitution, as well as the requirements of consistency and predictability of the legal system, since it leads to the restriction of the convicted person's political rights in the absence of an express ruling by the criminal court.

According to the case law of the European Court of Human Rights, the certainty of legal relations requires that "the final decision rendered by the court in any dispute shall be conclusive and may no longer be challenged."¹⁰ Therefore, the disputed administrative ruling essentially challenges the criminal court's decision that there is no need to apply disenfranchisement.

Furthermore, the automatic mechanism for terminating the office operates *ope legis*, without allowing for an effective judicial review of its proportionality in the specific case. Such a regulation precludes any possibility of an individualized assessment of the legal situation of the data subject in light of the specific circumstances of the case.

In this background, the contentious administrative court is limited to a formal review of whether the conditions set forth by law for determining the termination of the office have been met, and does not have the authority to assess whether, in the specific circumstances of the case, the measure ordered is proportionate to the intended purpose.

The right to be elected, enshrined in art. 37 of the Constitution of Romania, comprises two essential dimensions, the right to stand for election and be elected to a representative public office, as well as the right to effectively fulfill the office assigned through the expression of the will of the electorate. The performance of the public office is thus an intrinsic component of the right to be elected, since the purpose of the electoral process is to give effect to the will of the electorate through the exercise of the duties of the office to which the person was elected.

The doctrine noted the following¹¹:

The right to be elected refers to a person's eligibility to be elected to the state's representative bodies and, consequently, to hold an elective office or position within the state. Being a fundamental right, the right to be elected must be, according to art. 20 of the Constitution, interpreted and applied in accordance with the Universal Declaration of Human Rights, the covenants, and the other treaties to which Romania is a party."

According to art. 20 para. (1) of the Constitution, the constitutional provisions regarding the rights and freedoms of citizens shall be interpreted and applied in accordance with the international human rights treaties to which Romania is a party. Furthermore, according to art. 20 para. (2) of the Constitution, in the event of any inconsistency between international covenants and treaties concerning fundamental human rights and domestic laws, international regulations shall take precedence, unless the Constitution or domestic legislation contains more favorable provisions.

In this regard, Article 3 of Protocol No. 1 to the European Convention on Human Rights guarantees fundamental individual rights, from which both the right to vote and the right to stand for election derive, as held by the European Court of Human Rights in the case of Mathieu-Mohin and Clerfayt v. Belgium, judgment of 1987¹².

The case law of the European Court of Human Rights has established a number of fundamental principles regarding restrictions on electoral rights. Therefore, in the case of Hirst v. the United Kingdom No. 2, Grand Chamber judgment of 2005¹³, the Court held that the establishment of a general, automatic, and indiscriminate prohibition of the right to vote for convicted persons violates Article 3 of Protocol no. 1, emphasizing that

¹⁰ Case *Brumărescu v. Romania*, published in Official Journal no. 758 of 28 November 2001 (<https://hudoc.echr.coe.int/eng?i=001-122775>).

¹¹ I. Muraru, E.S. Tănăsescu, *Constituția României* (The Constitution of Romania), 3rd Issue, C.H. Beck Publishing House, Bucharest, 2022, p. 301.

¹² Case of *Mathieu-Mohin and Clerfayt v. Belgium* of 2 March 1987 - <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-57536%22%7D>).

¹³ Case of *Hirst v. The United Kingdom* of 6 October 2005 - <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-70442%22%7D>).

compliance with the principle of proportionality requires the existence of a perceptible and sufficiently strong connection between the sanction applied and the conduct of the person concerned.

Similarly, in the case of *Scoppola v. Italy* no. 3, the Grand Chamber judgment of 2012¹⁴, the Court held that a legal system limiting the disenfranchisement to certain categories of offenses and to sentences exceeding a certain minimum duration is compatible with the Convention, emphasizing that differentiation based on the severity of the conviction is an essential element for compliance with the requirements of the Convention.

Mutatis mutandis, in our view, the same arguments apply to the right to be elected.

In applying these principles to the situation under consideration, it should be noted that the office of local council member was obtained through the direct vote of the electorate, as a result of the exercise of popular sovereignty. Consequently, the termination of a term of office due to a criminal conviction that is unrelated to the performance of the public duties or the integrity of the electoral process represents a significant interference with the right to exercise the office obtained through the vote of the electorate.

Under these circumstances, the automatic termination of a term of office pursuant to a provision that applies automatically - without examining the nature of the offense, the severity of the act, or its connection to the performance of public office - results in a disproportionate restriction of the right to be elected, specifically with regard to the actual performance of the mandate. Such a legal consequence affects not only the individual right of the elected person, but also the will of the electorate that conferred the mandate by means of the vote.

By returning to the constitutional provisions, according to art. 115 para. 6 of the Constitution, emergency ordinances cannot affect the rights, freedoms, and duties provided for in the Constitution, or electoral rights [...].

The provisions of art. 204 para. 2 letter g of GEO no. 57/2019 automatically result in the termination of the local elected official's term of office, which amounts to a genuine interference with the right to be elected, as guaranteed by art. 37 of the Constitution.

Under these circumstances, the disputed provision directly infringes upon a fundamental right, within the meaning of art. 115 para. 6 of the Constitution, as it results in the termination of a term of office obtained through popular vote without allowing for an individualized assessment of the specific circumstances. Such a legal consequence exceeds the constitutional limits of legislative delegation, as the Government cannot, by means of an emergency ordinance, adopt regulations that affect the substance of fundamental rights.

Under art. 53, the Romanian constituent assembly went a step further and permitted the legislator, on an exceptional basis and only in situations exhaustively listed in the text of the Constitution itself, to interfere with the exercise of fundamental rights. According to the general principle applicable in the field of the law - *delegata potestas non delegatur*, the legislative power cannot further delegate this authority to the executive power. This is why the doctrine¹⁵ have argued that neither ordinary ordinances nor emergency ordinances may be used to restrict the exercise of certain rights.

Furthermore, the relevant literature in the field noted¹⁶: "The 2003 constitutional revision process sought to establish as precise a legal framework as possible for legislative delegation in general and for emergency ordinances in particular. Therefore, art. 115 of the Constitution was supplemented by para. (6), which stipulates that emergency ordinances cannot affect, among other things, the freedoms and duties provided for in the Constitution and electoral rights - that is, fundamental rights and freedoms. The doctrine have noted that such an approach has established a new basis for bringing a case before the Constitutional Court in case the Government would commit the abuse of regulating these matters."

Similarly, the Constitutional Court has held that "the exercise of certain rights may be restricted only by means of a law, as a formal act of Parliament", as resulting from CCD no. 150/2020¹⁷, CCD no. 152/2020¹⁸ and CDD no. 157/2020¹⁹.

¹⁴ Case *Scoppola v. Italy* of 22 May 2012 - [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-123056%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-123056%22]}).

¹⁵ I. Muraru, M. Constantinescu, „Restrângerea exercitării unor drepturi sau libertăți” (Restriction of the exercise of certain rights or freedoms), in *Studii constituționale* (Constitutional Studies), Actami Publishing House, 1995, p. 199-202.

¹⁶ A. Iorgovan, in *Constituția revizuită comentată* (The annotated revised Constitution), C.H. Beck Publishing House 2004, p. 226.

¹⁷ CCR Decision no. 150 was published in Official Journal no. 215 of 17.03.2020 (https://www.ccr.ro/wp-content/uploads/2020/05/Decizie_150_2020-1.pdf).

¹⁸ CCR Decision no. 152 was published in Official Journal no. 387 of 13.05.2020 (https://www.ccr.ro/wp-content/uploads/2020/06/Decizie_152_2020.pdf).

¹⁹ CCR Decision no. 157 was published in Official Journal no. 397 of 15.05.2020 (https://www.ccr.ro/wp-content/uploads/2020/05/Decizie_157_2020.pdf).

Therefore, the adoption of such a legislative measure, which restricts the right to be elected and electoral rights through an emergency ordinance, violates the requirements of art. 115 para. 6 of the Constitution.

5. Conclusions and de lege ferenda proposals

This study sought to demonstrate that the mechanism for the automatic termination of the term of office of local or county council member, as provided for under current legislation, fails to comply with the principle of proportionality, creates discrimination, undermines legal certainty, conflicts with European standards, and exceeds the limits of legislative delegation. Under these circumstances, this naturally raises the question of whether the legal framework needs to be reformed through a solution that reconciles the provisions of the Administrative Code with the status of member of Parliament, or whether a case-by-case assessment is required for the circumstances that led to a criminal conviction. The discussions are extensive, and so is the criticism. A referral to the Constitutional Court that would rule on the alleged unconstitutionality cannot be ignored. Until a clear clarification is provided, we once again find ourselves faced with unharmonized legal provisions, an issue that deserves serious attention from the legislator. It is also worth noting a remarkable legal analysis performed by Prof. Dana Apostol Tofan, who draws an analogy similar to those outlined above, but in relation to another ground for the termination of a local council member's term of office, namely political defection. Prof. Dana Apostol Tofan also notes that, in this case, party switching is prohibited for local elected officials but goes unpunished for members of Parliament.²⁰

References

- Apostol Tofan, Dana. *Drept administrativ (Administrative Law)*, volume 1, 5th issue, C.H. Beck Publishing House, Bucharest, 2020;
- Iorgovan, Antonie. *Constituția revizuită comentată (The annotated revised Constitution)*, C.H. Beck Publishing House, 2004;
- Muraru, Ioan; Tănăsescu, Elena Simina. *Constituția României (The Constitution of Romania)*, C.H. Beck Publishing House, Bucharest, 2022;
- Muraru, Ioan; Constantinescu, Mihai. *Restrângerea exercitării unor drepturi sau libertăți (Restriction of the exercise of certain rights or freedoms)*, în *Studii constituționale (Constitutional Studies)* Actami Publishing House, 1995;
- Constitutional Court of Romania Decision no. 210 of 2014, published in Official Journal no. 391 of 27.05.2014 (https://www.ccr.ro/wp-content/uploads/2020/09/Decizie_210_2014.pdf);
- Constitutional Court of Romania Decision no. 51 of 2012, published in Official Journal no. 90 of 03.02.2012 (<https://media.hotnews.ro/assets/document/2012/02/3/11408966-0.pdf>);
- Constitutional Court of Romania Decision no. 150, published in Official Journal no. 215 of 17.03.2020 (https://www.ccr.ro/wp-content/uploads/2020/05/Decizie_150_2020-1.pdf);
- Constitutional Court of Romania Decision no. 152 published in Official Journal no. 387 of 13.05.2020 (https://www.ccr.ro/wp-content/uploads/2020/06/Decizie_152_2020.pdf);
- Constitutional Court of Romania Decision no. 157 published in Official Journal no. 397 of 15.05.2020 (https://www.ccr.ro/wp-content/uploads/2020/05/Decizie_157_2020.pdf);
- Decision no. 1/1994 of the Constitutional Court Plenary (https://www.cdep.ro/pls/legis/legis_pck.htm?act_text?idt=14239), published in Official Journal no. 69 of 16 March 1994
- Government Emergency Ordinance no. 57/2019, published in Official Journal no. 555 of 05.07.2019;
- Judgment of the European Court of Human Rights of 28 October 1999, case no. 28342/95 *Brumărescu v. Romania*, published in Official Journal no. 758 of 28 November 2001 (<https://hudoc.echr.coe.int/eng?i=001-122775>);
- Judgment of the European Court of Human Rights of 2 March 1987, case no. 9267/81 of *Mathieu-Mohin and Clerfayt v. Belgium* [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57536%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57536%22]});
- Judgment of the European Court of Human Rights of 6 October 2005, case no. 74025/01 of *Hrist v. The United Kingdom* [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-70442%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-70442%22]});
- Judgment of the European Court of Human Rights of 22 May 2012, case no. 126/05 of *Scoppola v. Italy* [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-123056%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-123056%22]});
- Law no. 115/2015, published in Official Journal of Romania no. 349 of 20.05.2015.

²⁰ Dana Apostol Tofan, *Drept administrativ (Administrative Law)*, vol. 1, 5th issue, C.H. Beck Publishing House, Bucharest, 2020, p. 262.