

CONTENTIOUS CONSTITUTIONAL AND CONTENTIOUS ADMINISTRATIVE

Ionița COCHINȚU*

ABSTRACT: *The requirements of the State based on the rule of law, enshrined by Article 1 paragraph (3) first sentence of the Constitution, concern the major goals of state activity, foreshadowed in what is commonly called as being the rule of law, expression that implies subordination of the State to the law, ensuring those means that would allow the law to censor political actions and, within this framework, to ponder possible abusive, discretionary tendencies, of State structures. The rule of law ensures the supremacy of the Constitution, correlation of laws and of all legislative acts with the Constitution, the assurance of the regime of separation of public powers, which must act within the law, meaning within the limits of a law expressing the general will.*

The State based on the rule of law becomes so, the State that aims to ensure the supremacy of the Constitution and the rule of law. Supremacy of the Constitution and compliance of the laws with the Basic Law is ensured through the jurisdictional review of the constitutionality of laws, by a separate authority, independent of all others, and which is regulated by the Basic Law. This authority is the contentious constitutional court, which contributes to the strengthening of the rule of law materialized in the decisions rendered within the review of constitutionality of laws before promulgation, as well as in those rendered within the a posteriori review, on certain provisions contained also in laws on contentious administrative. The Contentious Administrative, being one of the fundamental institutions of public law, over time, has had different regulations regarding both formal matters (authorities called to solve disputes of this type) and material matters (categories of disputes covered by this contentious), being several times subject to constitutional review. Thus, the Contentious Administrative has a scope clearly defined by law. This legal regulation is subject to the will of the legislator and to the review of constitutionality, in both its modalities of expression. In this way, the competent judicial authorities and the Constitutional Court have competences in ensuring the rule of law, the functioning of democracy and in guaranteeing the exercise of human rights.

KEYWORDS: *contentious constitutional, contentious administrative, rule of law, administrative act, public authority*

JEL CLASSIFICATION: *K 19, K 29*

* Assistant-Magistrate-in-chief, Constitutional Court of Romania.