

STATE UNIVERSITY OF MOLDOVA
DOCTORAL SCHOOL OF SOCIAL SCIENCES

CONSORTIUM: Moldova State University, Cahul State University „Bogdan Petriceicu Haşdeu”,
National Institute of Intelligence and Security „Bogdan Întemeietorul Moldovei”

With manuscript title

CZU352.078.3:354:342.924(498:478)(043.2)

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**THE ROLE OF THE GOVERNMENT REPRESENTATIVE IN THE
TERRITORY IN ASSURING THE QUALITY OF
ADMINISTRATIVE ACTS IN ROMANIA AND THE REPUBLIC
OF MOLDOVA**

**563.02. ORGANIZATION AND MANAGEMENT IN PUBLIC
ADMINISTRATION INSTITUTIONS; PUBLIC SERVICES**

Abstract of the doctoral thesis in administrative sciences

CHIŞINĂU, 2024

**The thesis was developed within the Doctoral School of Social Sciences of the
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The doctoral thesis and the abstract can be consulted at the Library SUM, the National Library of the Republic of Moldova, as well as on the website of ANACEC (<https://www.anacec.md>).

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CONCEPTUAL MARKINGS OF THE RESEARCH

Actuality and importance of the investigated topic. Romania and the Republic of Moldova are making concerted efforts to establish an optimal model of public administration. Concepts such as good governance, sustainable social and economic development and ensuring quality services for citizens are essential elements of modern central and local public administrations in a democratic state.

In order for the public administration to achieve its objectives, the relevant public institutions and their competences must be developed and strengthened accordingly. They must implement appropriate incentives and dynamic connections for society to have a quality professional public service.

From this perspective, the mission and purpose of the public administration consists in satisfying the general interest of the citizens, in the areas of public interest and by carrying out the governance exercise by offering quality public services.

The task of the administration also consists in the aspect according to which the needs of the citizens must be understood and find ways to respond to these needs, and it cannot be limited only to the transmission of information. Under these conditions, the representative of the government in the territory must make available to the local public authorities the certainty of the legality of the verified administrative acts both to satisfy the general interest, no longer a simple specialist in legislation but he will be able to understand the situations and problems of the citizens.

The representative of the Government in the territory contributes to the achievement of good governance - an essential element of modern public administrations, with a decisive contribution in shaping the administrative capacity of a state. Improving the activity of the government representative in the territory results both from the needs of the county/district communities and from the determination of the more efficient means of carrying out this activity which may also involve the modification of the national legislative framework.

Strengthening trust in the state may involve strengthening the role of the prefect in ensuring the quality of administrative acts of local public authorities and its strategic relevance for economic development and the consolidation of democracy itself.

The topicality of the theme resides in the importance of intensifying the role of the prefect in verifying and attesting legality, ensuring the quality of administrative acts by guiding, cooperating and coordinating the factors involved in county and local public administrations, as well as by ensuring the attestation of higher-level legislative connections with those regulated in lower-level administrative acts local.

The administrative acts of the local public administration authorities communicated to the Prefect in order to verify the legality are legal acts issued under the regime of public power, in order to organize the execution of the law or the concrete execution of the law, which give rise to, modify or extinguish legal relations in the most varied fields of activity.

The relevance of the research theme is largely determined by the opportunity to draw inspiration from the European models of the government representative in the territory. The organization of the institution, the appointment and quality of the government representative, the applicable procedures, the good European institutional practices as well as the various common problems represent a point of unity, a start in the European administrative space, of which Romania and the Republic of Moldova are a part. And we are referring in particular to the more advanced states in regulation without neglecting the specifics of their own administration, each with social dynamics that generate contradictions and various impediments to accomplishing the mission. All these aspects served as a challenge for carrying out an extensive analysis in establishing the role of the government representative in ensuring the quality of administrative acts in Romania and the Republic of Moldova, which has as its center of gravity the administrative supervision exercised over the administrative act, the quality assurance constituting the guarantee of the exercise of administrative supervision, with an overwhelming importance in achieving the general objective of the public administration both through the lens of the effects produced by the local administrative acts and the respect of the legal order established at the central level with applicability also at the local level.

Approaching **the degree of investigation of the theme** we can conclude in the sense that the problem of the analysis regarding the representative of the government in the territory can be found in publications dedicated to the public administration as a whole but also in works with the object of research being the organization and the functioning of central and local public administration institutions, being relevant work of the authors: Rivero J, Waline J.[37], Alexandru I. [25], Balan O., Șaptefrați T., Popovici A.[26], Trăilescu A. [34], Preda M.[31], Cornea S. [28], Sîmboteanu A.[32]. An important number of works are dedicated to control in public administration, especially local public administration, administrative guardianship, the legality of acts adopted by local public administration authorities, as: Diaconu M.[29], Voicu B., Șuta Ș.[36], Ursan I.[35], Stoian R. N. [33].

The purpose of the paper: the theoretical and empirical study of the role of the government representative in the territory regarding the quality assurance of local administrative acts in Romania and the Republic of Moldova, from the perspective of the correlation of the exercise of general management of the public administration and local autonomy.

Research objectives:

Based on the aim, the following research objectives are established:

- studying the historiographical, theoretical and methodological aspects regarding the representative of the government in the territory;
- research of the evolution of the government representative in the territory in European countries;
- studying the normative and functional evolution of the government representative in the territory;
- the investigation of the activity of the government representative in the territory regarding ensuring the legality and quality of local administrative acts;
- correlation of the principles of the Government representative in the territory with the principle of local autonomy;
- analysis of the organization and functioning of the activity of the Government representative in the territory in Romania and the Republic of Moldova;
- identifying gaps in the quality assurance activity of local administrative acts and formulating recommendations to facilitate the process of ensuring the quality of administrative acts.

Research hypothesis: the quality of local administrative acts is determined by the ability of the issuing subject to connect the form and content of the adopted administrative act to the administrative purpose pursued and by the control of legality, exercised by the representative of the government in the territory, as an essential institutional factor for ensuring the quality of administrative decisions.

Synthesis of research methodology and justification of chosen research methods. The scientific research methodology of this thesis implements a series of research actions that provide us with theoretical - methodological, informative, statistical and synthesis benchmarks. In order to achieve the proposed goal and achieve the formulated objectives, in this doctoral thesis several general scientific research methods have found their applicability, such as: historical, comparative, phenomenological, systemic analysis, case study analysis, statistical, functional, dialectical, method of intersection, induction and deduction, documentary analysis, the method of analysis and synthesis, the operationalization of concepts as well as research procedures such as the processing of information and results.

In order to present a complex approach to the concept analyzed in the theme, a series of principles of scientific research were applied, such as: the principle of historical analysis, the principle of determinism, the principle of objectivity, the principle of simplicity, the principle of complementarity and rationalization.

The scientific novelty and the originality of the research: the outline of the innovative approach of the intervention of the government representative in the territory and the proposal of the ferenda law in the procedure for the adoption of local administrative acts, proposals for streamlining

the activity of verifying the legality and quality of acts at the territorial level, highlighting the gaps regarding the exercise of guardianship administrative.

The theoretical significance of the thesis resides in clarifying the notions of legality and quality of local administrative acts, the correlation and relationship between them and the impact of the correct perception of the notion of quality of administrative acts on the effects of the functioning of local public authorities alongside the review, deepening and capitalization of previous research with the consequence clarifications on the dimension of theories, concepts, definitions, principles to which procedures and elements of legislative structure are added.

The applicative value of the work resides in the content of the research process, ascertainment and analysis of the peculiarities of the legality check of the RGT on the local administrative act with the highlighting of its role in the attestation of the APL quality. The utilization of research as well as the European normative framework is likely to determine the addition of knowledge regarding the role of the RGT in the exercise of legality control. The results of the research can serve as support in the activity of central and local public authorities from the perspective of ensuring the quality of administrative documents at all stages of their preparation and adoption.

The main scientific results submitted for support:

1. Identifying the mechanisms for streamlining the process of verifying the legality of local administrative acts in Romania and the Republic of Moldova by the Government representative in the territory by establishing a new institution of interest in the field as well as by adjusting the current regulatory framework, especially by eliminating the commission's opinion of the local deliberative public authority in the case of the adoption of individual local administrative acts.

2. Clarification of the level of influence determined by the political status of the Government representative in the territory, regarding the objective exercise of the attribution of verifying the legality of local administrative acts.

3. The usefulness for Romania and the Republic of Moldova of the practice of European countries regarding the legality control of the Government representative in the territory over the acts of local public administrations.

4. Arguing the concept of the quality of the local administrative act through the lens of legality certified by the Government representative in the territory alongside the social effects by virtue of which that act was issued or adopted.

Approval of research results. The scientific investigation is integrated into the research issue of the Institute of Public Administration of the State University of Moldova. The results of scientific investigations were presented in scientific communications presented and published in national and international scientific forums, with the publication of articles in conference materials - 16, articles in scientific journals -3 alongside two books in the field of public administration.

Structure of the thesis: introduction, three chapters, general conclusions and recommendations, bibliography of 197 titles, 6 appendices, 142 pages of basic text, 9 figures.

Key words: representative of the government in the territory, prefect, head of the territorial office, legality, legality check, administrative control, central public authority, local public authority, local autonomy, local administrative act, the quality of administrative documents.

THESIS CONTENT

The Introduction argues the topicality and importance of the research topic, formulates the aim and objectives of the paper, the research hypothesis, outlines the applied methodology, the scientific novelty of the study, the scientific problem solved, the theoretical significance and applicative value of the paper, the results submitted, the approval of the results and the summary of the thesis compartments.

Chapter 1, entitled Historiographical and Theoretical-Methodological Foundations of the Territorial Government Representative, consists of four sub-chapters and includes the historiographical research, conceptual framework and theoretical-methodological landmarks of the Territorial Government Representative through the investigation of international bibliographical sources and analysis of specialized domestic scientific materials, as well as the study on the correlation of the principles of the Territorial Government Representative with the principle of local self-government.

The first subchapter **1.1.The historiography of the problem of the government representative in the territory** includes the investigation of the genesis of the concept of the representative of the executive power in the territory, including the notion of prefect in a complex temporal and geographical framework. The works of the great thinkers reflected upon, highlighting elements of correlative linkage of the concept of the representative of the government in the territory. The various views on concepts such as the state, the principle of the separation of powers in the state with the emphasis on the executive, administration and the rule of law have helped to shape and localize the concept of the representative of the government in the territory.

Because the state is not a result of the natural tendency of people to live in society, according to the theories developed by Plato and Aristotle, but "the state is the product of a social contract, of an agreement reached between people' [35] and the executive power with an impact on the national community can be found in the vision of the thinkers of the time who considered the government as a force that watches over everyone's well-being"[30].

The Roman period is rich in data and information on the office of prefect, a formal title given to a number of middle-ranking military or civilian officials whose authority was delegated by a higher authority.

The evolution of political thought made it necessary to highlight and define a concept known today as the principle of the separation of powers in the state. For Montesquieu, the functioning of the powers in the State under conditions of their separation presupposes the establishment of rules governing the relations between them, in particular between the legislative and executive powers,

which define a balance between them, a collaboration in achieving the purpose for which they exist [40].

The state-power relationship has generated the approach of concepts in antithesis, such as that of ruling alone and not needing anyone, in the sense of the mastery of an indivisible power or, on the contrary, of ruling also through proxies and from these concepts were identified primary concepts from which the need to divide power in the territory was deduced. The dependence on the whole-part type, from the general to the particular, starting from fundamental supporting concepts in the analysis such as the state, the principle of separation of powers in the state, power and administration facilitates the framing of the government representative in the territory in the administrative sphere.

The approach of the principle of separation of powers in the state can highlight the genesis of the executive power, which in its path towards contemporaneity has generated a representative in the territory in the argument of the democratic exercise of state power. It is evident the deductive formula of the origin of the concept of the government representative in the territory, which in history starts from the promotion and application of the principle of powers in the state with reference to the need to emphasize the necessity of executive power in a constitutional state which, over time, has evolved by determining the exercise of the same at territorial/local level.

For the French authors J. Waline and J. Rivero, the term prefect belongs to the Napoleonic era, being created in the eighth year of the Great French Revolution[37]. The concept was taken over by Romania and the Republic of Moldova, being exercised within the specific parameters of each state.

The Romanian researcher Trăilescu A. analyzing the concept of stability in the function of the professional prefect opines in the sense in which "the advantages of this option of the legislator are much more important for the citizens, since their interests can be better defended by professional leaders, trained and specialized in the field of administration public" [34]. Of recent date is the work developed by Stoian R.N. in which the author deals, in particular, with the legal status of the prefect with reference to various historical periods as well as the way in which this function is exercised in other legal systems.

Concerned with studying aspects of the evolution of the institution and the activity of the Government representative in the territory, the researcher Cornea S. from the Republic of Moldova emphasizes the aspect according to which "administrative decentralization cannot be conceived without the institution of the state representative in the territory" [28].

The study by the author Diaconu M. [29] had a special contribution in the analysis of the mechanism of ensuring the legality of administrative acts in the Republic of Moldova, both administratively and judicially, it analyzed in detail the legality of administrative acts, an essential phenomenon in public administration and a means which contributes to the achievement of the rule

of law, punctually addressing the conditions of legality of local administrative acts, with impact on the topic to be researched.

Subchapter 1.2. **Conceptual framework and theoretical-methodological landmarks of the government representative in the territory** contains the analysis of liberal, social-democratic and etatist doctrines in the context of the topic of research which favors the mechanism of deduction from which it was concluded on the doctrine from which the concept of the government representative in the territory is correlatively derived. The only compatibility deduced from the expositions of the stated doctrines regarding the representative of the Government in the territory is to be found in the etatist doctrine. It has contributed to the conceptualization of the idea of the representative of the state in the territory from the perspective of changing the relations between the central and local public administration, with an impact on the inspiration of future mechanisms of administrative decentralization.

According to the author Sîmboteanu A., the French prefect has its origins in the etatist doctrine, emphasizing that "...these were relations of authority, based on the etatist doctrine and aimed at the strict subordination of local bodies to central ones" [32], an opinion that we embrace. The optimal formula of the decentralization strategy can be the balancing of the relationship between the central and local level through the government representative in the territory, because as researcher Cornea S. points out, "administrative decentralization cannot be conceived without the institution of the state representative in the territory" [28].

The development of the science of administration coupled with the need to divide the central power by promoting the state at the level of local public authorities, contributes to shaping the concept of the representative of the executive power in the territory.

The subchapter also contains the analysis of international and national bibliographical sources, from Romania and the Republic of Moldova, on the concept of the representative of the Government in the territory. The studied bibliographical reference system shows a heterogeneous evolution from both a conceptual and an applicative point of view, a concept implemented in different ways within the administrative systems of Romania and the Republic of Moldova, but with the same attribution of verifying the legality of local administrative acts. All this contributes to the integration of the RGT in the scope of the good governance mechanism because "the development and implementation of an efficient and performing local public administration system is a necessary priority of good governance" [26].

Recent opinions on the French prefect describe him as "a political agent of the government, a civil servant with revocable authority" [41] although one of the constitutional obligations of the prefect is precisely "absolute political neutrality" [38].

The theoretical support of the function of representative of the Government in the territory can be found in fundamental works signed by established authors such as the academician Titu Maiorescu [39] who provided a real and detailed description of the Romanian administrative system with concrete references to the appointment of prefects. The argumentation of the doctrarian Trăilescu A. [34], corresponds to the area of objective competence in the exercise of the function of representative of the Government in the territory assimilated to public functions. The author Stoian N.R., referring to the constitutional status of the prefect, does not accept the opinions expressed in the doctrine that considers the prefect as an authority of the local public administration[33], an opinion we agree with. With reference to the activity of control, Professor Alexandru I. emphasized the idea of relevant control[25] and for the researcher Diaconu M. „control is the most important means of ensuring legality in public administration, including the legality of administrative acts,, [29].

Aking into account the academic controversy analyzed and the bibliographical referential studied, we define the concept of Government representative in the territory as that territorial mechanism for exercising executive prerogatives regarding the legality of local administrative acts and monitoring of deconcentrated public services, along with other tasks delegated by the central executive or provided in the national normative framework.

The methodological research framework of the topic is established and developed, specific to the field of administrative sciences and the research directions are formulated with a role in analyzing the role of the Government representative in the territory in ensuring the quality of administrative acts from a multidimensional perspective that involved the use of theoretical, practical and methodological methods to analyze the object of research from different perspectives, with the consequence of forging solutions concretized in the recommendations formulated.

In subchapter 1.3 **Study on the correlation between the principles of the Government representative in the territory and the principle of local autonomy**, a brief analysis of the relationship between the executive power and the administration is carried out in order to create the premises for the development of the principles of organization and functioning of the Government representative in the territory, which are gradually approached, with emphasis on the social value and the impact of the deviation from the rule it establishes, in Romania and in the Republic of Moldova.

The principle of legality is developed, since this principle is at the basis of the functioning of social institutions as a whole and of public institutions in particular. The legal regime of local administrative acts is governed by the principle of legality. There are situations in which the local public administration, through its acts, violates this principle, the prefect finding a presumption of illegality hanging over them, the effect being to sanction illegal activities through the exercise of administrative tutelage. The confirmation of the legality of the administrative acts of local public authorities is the exclusive prerogative of the representative of the Government in the territory.

The principles of equality, transparency, proportionality as well as that of collaboration and consultation, responsibility and impartiality are developed together with that of efficiency, concluding that the public administration in Romania operates according to basic rules enshrined in both the Romanian Constitution [2] and the Romanian Administrative Code[4] under the generic name of principles, general or specific, applicable also to the Government representative in the territory.

The Constitution of the Republic of Moldova[3] devotes an entire title to general principles, of which, in the context of the subject under analysis, the constitutional principles with an impact on the activity of the Government representative in the territory are emphasized. The Administrative Code is generous with regard to the rules established in the regulated administrative procedure [5] of the Republic of Moldova by emphasizing the principles aiming at legality, efficiency, security of legal relations, proportionality, reasoning, motivation, communication, cooperation, comprehensibility, transparency of actions of public authorities and accountability.

The concept of autonomy is widely applied at the community level [1] in both states, ensuring the necessary prerequisites for the application of the principle of legality in its entirety. Local autonomy is directly linked and interconnected with respect for the principle of legality at local level. As a general rule nowadays, the principle of legality implies not only compliance not only with the legal provisions in force at national level, but also with international treaties and conventions to which the state is a party. All public administrative activity must be based on the law and must act to defend and protect legality.

The polemic developed on the concept of local self-government concerns the analysis based on its administrative character with the highlighting of its political dimension and the clarification ends with a conclusion that reflects a current reality in the administrative systems of reference, in the sense that local self-government has mainly an administrative dimension and a subsidiary, attenuated political dimension [36].

The correlation of the principles applicable to the Government representative in the territory with the principle of local self-government is a key factor in the positioning of this function in the national administrative system, a local/territorial level structure that fulfills the role of representing the government before local public authorities. The correlation of the principles has implications for the role of the Government representative in the territory in the sense that it is bound to respect local autonomy and to cooperate with local public administration authorities in an efficient and constructive manner, to cooperate with local public administration in order to fulfill the missions of each entity on the competences established by the legislator. This constitutional principle of cooperation is intended to strengthen the principle of local autonomy. However, the administrative guardianship exercised by the Government representative in the territory can be seen as a censorship imposed on local public

administration authorities in order to safeguard legality and protect the public interest, a genuine legal exception to the principle of local autonomy.

The conclusions of Chapter 1 highlight the conceptualization of the Government representative in the territory from the perspective of historiographical, theoretical-methodological approaches and the correlation of its own principles with the principle of local autonomy. The study of the problem of the establishment of the function of government representative in the territory is of interest from the perspective of public administration science, but also for researchers concerned of constitutional and administrative law .

Chapter 2. The evolutionary, normative and functional dimension of the government representative in the territory is composed of four sub-chapters with the aim of presenting the specific experiences of some European states, from the perspective of good practices and lessons learned in the processes of administrative reform. The origin and essence of the representative of the territorial government in the two reference countries is highlighted, together with the organization and functioning of the activity, with the identification of specific elements.

In **sub-chapter 2.1 Evolution of the territorial government representative in European countries**, the function of territorial government representative and the specific task of verifying legality are analyzed from an evolutionary point of view in European countries where specific features of administrative experience at local/territorial level have been identified, such as France, Austria, Germany, Poland, Italy, Bulgaria, Greece, Luxembourg, Greece, Portugal, Italy, Bulgaria, Austria, Poland, Portugal, Greece, Luxembourg and Portugal.

The evolution of the government representative in the territory is also linked to antiquity[31] when the term prefect was used in a multitude of different forms and competences attributed to them, from the militarization of the function to legal, administrative and social duties.

The historical specificities, central and local traditions of development have influenced each European country individually and their own administrative systems, including the government representative in the territory, have evolved in their turn according to these elements. In France, for example, after 1800, as a result of the essential reform of the administrative system, which aimed to centralize and standardize the administration throughout the country, the prefect's duties multiplied, and he was responsible for everything related to the public property and national prosperity[27]. Romania, Austria, Greece and Italy took over the prefect's title, while the Republic of Moldova, is present, gave the representative of the Government in the territory the title of Head of the Territorial Office of the State Chancellery. Bulgaria has preferred the name of regional governor appointed by the Council of Ministers in accordance with the 1991 Bulgarian Constitution, Luxembourg the district commissioner, a civil servant subordinated to the Minister of the Interior, and in Portugal the civil district governor. There is, however, a common element regarding the representative of the

Government in the territory, irrespective of the designation attached to it, namely the control of local public administrations in particular over administrative acts issued or adopted by these entities.

A special feature of the European pattern of the administrative territorial division of a state is Poland, whose territory has been divided into voivodeships, districts and municipalities since 1999. This territorial division also determined the designation of the government representative in the territory, namely the Voivode, who is appointed by the Prime Minister on the proposal of the Minister of Internal Affairs and who exercises control over the legality of the acts of local administrative territorial authorities. The aim of this type of control is to ensure that administrative acts are issued in compliance with the substantive and territorial competences, under the conditions and within the time limits expressly laid down by the legislative acts governing the field of activity covered by the measure adopted by the local public administrative authority. If the voivode considers that the acts issued or adopted by the local authorities infringe the provisions of the law, he may apply to the court for their annulment.

It can thus be seen that in the various administrative systems in European countries, the regulation of the government representative in the territory differs from the point of view of identifying their name and status and also from the point of view of the specific powers assigned by each state in the exercise of this function. However, there are states in which the exercise of functions is similar to Romania and the Republic of Moldova in terms of verifying the legality of local administrative acts.

The subchapter **2.2. The origin and essence of the territorial Government representative in Romania and the Republic of Moldova** analyzes the origin of the function of the territorial Government representative in a large territorial area with multiple nuances of content, in the political and legislative field. There is, however, a constant in the analysis, in the sense that the Government representative, in its evolution, has been assigned tasks with a strong decision-making character, unique at the territorial level, which has contributed to the strengthening of the role of representative of the central executive power, regardless of the name attached to the function in exercise. The essence of the concept of the representative of the Government in the territory has focused on the attributions and the role given to the function of representative of the Government in the territory in its historical evolution.

The identification of the legislative path of the function, in transition, in both reference countries, as well as the highlighting of essentialism as a concept in this matter, allowed to deepen the specific activities that the representative of the Government in the territory carries out according to the legal regulations. In the Romanian space, especially in Moldova and in the counties of Muntenia, from the medieval "pârcălabul" who was the representative of the institution of the lordship in the county to the current political prefect and in the Republic of Moldova from the adoption of the

Constitution on July 29, 1994, which laid the foundation for the construction of a new administrative system at the local level to the Head of the Territorial Office of the State Chancellery, the evolution of the government representative in the territory in both states has had an inconsistent character, being amended by doctrine.

Essentialism is the concept that an entity possesses a set of attributes necessary for its identity and functioning. Narrowing the scope of essentialism to the territorial government representative, we analyzed what expresses the main and stable in the activity of the territorial government representative, what can be known by going beyond the external barrier of the function, going into the depth of the specific activities that he carries out according to the legal regulations. That is why the development of the concept of the essence of the Government representative in the territory involved the analysis of relevant aspects of the legislation closely related to his activity, such as those related to the representation of the central Government at local/territorial level, the duties of the Government representative in the territory which include coordination, control and supervision of the activities of local public administration authorities, with highlighting similarities and differences in the comparative analysis of legislation as well as clarifying the role of being a Government representative at local or territorial level.

The analyses reveal that the representative of the state in the territory has a determining role in the national public administration, it is a specialized function with a role in exercising the control of legality of acts issued or adopted by local public authorities.

Subchapter 2.3. Organization and functioning of the activity of the representative of the Government in the territory in Romania and in the Republic of Moldova highlights the uniqueness of the control of legality in each reference state, identifying comparative aspects and underlining their own specificities, without any changes of essence in the actual procedure of administrative tutelage. Carrying out the administrative control of legality through its legally regulated forms, ex officio or upon request, is not only a right but also an obligation of the representative of the Government in the territory.

The attainment of the objectives set by the Government for the representative of the Government in the territory can be achieved under the conditions of rigorous organization of the activity, which implies the identification of all the structures, functions and processes that make it up. The current organizational structure of the public institutions in which the representative of the territorial Government provides the general management in both reference states was comparatively analyzed.

The functional component was approached through the prism of the constitutional role [2] of the prefect in Romania as a holder in the exercise of administrative guardianship, with the clarification of the issue of the qualification of the prefect as a local public authority. We have not embraced this

opinion since the intention of the drafters of the constitutional text to position the prefect in the section dedicated to local public administration was only to strengthen his role at the local level without any reference to labeling the government representative in the territory as an authority, much less a local one. The prefect is the representative of the central executive authority, part of this power without representing a local authority in its own right.

In the Republic of Moldova, the law expressly establishes the forms of control of the legality of acts of local public administration exercised by the Territorial Offices of the State Chancellery, with the outlining of the mandatory acts and procedures to be performed by public authorities in ensuring the legality of administrative acts issued or adopted.

From the perspective of the quality of local administrative acts resulting from the exercise of the administrative guardianship of the representative of the Government in the territory, they must fulfill at least two conditions, namely: legality and social effects by virtue of which the local administrative act was issued or adopted.

The effect of the exercise of the administrative guardianship confirms the quality of the local administrative act in order to be executed in conditions of legality and compliance with the entire applicable normative framework, providing both the soundness of the decisions and actions of the public administration in the sense that they must be based on the applicable higher legal provisions and comply with the normative framework in all aspects, and the assessment of the correct knowledge and application of the relevant legislation in all segments of activity of the local public administration.

Legality is at the core of the rule of law, and its assurance is possible at the local level through mechanisms precisely regulated by the domestic legislation on local administrative acts, mechanisms concretized in well-defined institutions/entities, starting hierarchically with the general secretary of the territorial administrative unit, then the Government representative in the territory and, finally, the administrative courts [6], all with a role in strengthening the notion of legality of the local administrative act. In the context of the functioning of the activity of the Government representative in the territory, the concept of conflict in this matter has been addressed and developed, emphasizing the role of the function in avoiding or eliminating it, "because legality is the golden rule of every democracy" [33].

In Romania, unlike in the Republic of Moldova [8], the entire mechanism of exercising the activity of verifying the legality of local administrative acts is not subject to a normative act, but its regulation is subject to an internal procedure at the level of each prefecture, with its own specificities in exercising, approved by the prefect.

The analysis started with regard to the clarification of the appreciation of the representative of the Government in the territory concretized in the phrase may refer the matter to the administrative contentious court when it finds the illegality of a local administrative act, reveals that the phrase may

refer the matter does not refer to the right of option of the representative of the Government in the territory between promoting or not an action before the administrative contentious court, but the vocation of the representative of the Government in the territory, holder of the legality verification, to request the competent court to abolish the illegal act. It is a question of interpretation of a permissive norm, when a certain action is provided for, leaving it up to the right holder to decide whether or not to do what the norm allows him to do, but does not oblige him. At the same time, this legal construction concretized in two stories may have generated a multitude of polemics, most of them in the sense of not respecting the principle of legality, but the identical legal provision in both states can only represent a vocation of the Government representative in the territory.

The conclusions of Chapter 2 highlight the point that the analysis of the evolution from the perspective of the French prefect and the administrative control exercised by him has made it possible to identify the model adopted by both reference countries, with the highlighting of specific national adaptations. The actual changes and interruptions in the activity of the Government representative in the territory, both in Romania and in the Republic of Moldova, were highlighted by retracing the legislative path in each country.

The approach of the competences of the Government representative in the territory on the dimension of the functioning of the specific activity in the national legislation determined the degree of delegation assigned according to the specific local specificity, with the emphasis on the traditional character of the function. The organizational structure of the public institutions in which the representative of the territorial Government provides the general management differs in the two states.

Chapter 3, entitled Activity on ensuring the legality of local public administration acts, contains three sub-chapters and includes the study of the practical situation of carrying out legality checks by highlighting the content elements of the legality control of the representative of the territorial government in Romania and the analysis of the exercise of the mission of control of the legality of local administrative acts by the Territorial Offices of the State Chancellery in the Republic of Moldova.

In subchapter **3.1. Content elements of the control of legality of the government representative in the territory in Romania,** an analysis is made of the quantitative, public data provided by the activity reports of the prefectures [10-24] which are practically the source for the documentary research, in order to identify the content elements in the procedure of checking local administrative acts in the procedure of administrative tutelage, verification carried out at the prefectures' headquarters, taking as reference years 2018, 2019, 2020 and a number of 14 prefectures, from various cardinal points of the country, with a varied number of territorial administrative units in the county composition and with specificities determined by the geographical area.

The content elements of the control of legality, starts with an important factor within it being represented by the number of administrative acts issued or adopted at the local level by all the territorial administrative units organized at the level of a county, the material support of the control.

In the activity of legality control exercised by the prefect, the fulfillment of the substantive and formal conditions of the local administrative acts correspond to the set of essential requirements provided by the legislator in outlining the concept of content elements of legality control, the act being confirmed as legal.

The documentary research carried out reveals a decrease in the number of acts verified by the prefect in the administrative guardianship, compared to the previous year, the number of preliminary proceedings is much lower than the number of verified acts and directly proportional to the number of acts considered illegal, as well as an increase in the annual number of actions before the administrative contentious court in relation to the total number of verified acts and preliminary proceedings filed as a result of the exercise of administrative guardianship.

The analysis facilitates the definition of the notion of quality of local administrative acts to the extent that it has the same meaning as legality in the sense of the fulfillment of the substantive and formal conditions by virtue of which a local administrative act is attested as legal, as distinct from illegal local acts. The definition of the concept of the quality of local administrative acts is complete insofar as it is supplemented by the need to produce the social effects by virtue of which the local administrative acts were issued or adopted, as the final content element in the procedure of legality control. In this way, the local administrative act whose legality has been confirmed by the representative of the Government in the territory functions, by identifying the mechanisms for achieving the purpose by virtue of which it was issued or adopted.

The qualitative local administrative acts can be integrated, thanks to this feature, into the hierarchy of legal norms regulated at the local level, seen from the point of view of the effects produced following the attestation of legality. It is a natural absorption, passed through the filter of the legality control of the representative of the State in the territory to whom the legislator has entrusted the possibility to challenge in court the acts considered illegal. However, all other administrative acts that are considered legal, a qualitative nature, will be referred to the local authorities, through their issuers, after their legality has been certified, which is the essential role of the government representative in the territory in terms of the quality of social life of a local community.

Subchapter 3.2. Exercise of the mission of control of the legality of local administrative acts by the Territorial Offices of the State Chancellery in the Republic of Moldova analyzes the procedure from the point of view of compliance with the principle of legality of local administrative acts for which the Moldovan legislator has regulated by normative act the manner of exercising the

administrative control of legality with the indication of the subjects involved in this activity, the categories of acts subject to administrative control so that, finally, the research contributes to the optimal functioning of local public administration which is the main concern of the government representative in the territory.

The State Chancellery annually draws up and publishes the Report on the control of the acts of local public administration authorities in the previous year. The report is an official document for information purposes, but it is also used for taking administrative decisions on the activities of the institutions responsible for the control of the legality of local public administration acts.

The State Chancellery reports [9] also have an important scientific value. The statistical information and case studies allowed to establish the existing trends in the decision-making process of local public administration, to identify the causal relationships in situations of deviation from the principle of legality.

The administrative control of the activity of local public administration authorities is aimed at compliance with the provisions of the Constitution, international treaties to which the Republic of Moldova is a party, the law on local public administration[7] and other higher level normative acts by local public administration authorities of both levels.

For the sake of symmetry and the use of identical tools in the research, the activity of the representative of the territorial government in the Republic of Moldova was analyzed dynamically, with the years 2018, 2019 and 2020 as a reference, i.e. the total number of acts checked, including through the State Register of Local Acts, notifications and requests for summons by the territorial offices of the State Chancellery.

As a result of the documentary analysis carried out, with the reference years 2018, 2019 and 2020 and the total number of acts verified by the territorial offices of the State Chancellery, including through the State Register of Local Acts, it was concluded that there was a significant increase in the number of local administrative acts verified during the reference period, especially in the framework of optional control. The number of notifications formulated and forwarded to local public authorities when the Territorial Office found the illegality of a local administrative act was maintained in the dynamics of the three reference years, without any essential changes, as well as the relative maintenance of the percentage of requests for legal action, with the corresponding ratio to the total number of administrative acts checked, in the numerical variation indicated above.

The documentary research leads to a natural and necessary conclusion in the area of competence of the government representative in the territory, namely the filter exercised in attesting the legality of administrative acts by obtaining the final result, namely the quality of local acts translated into their compliance with higher legislation. The permanent monitoring of the entire process of adoption and issuance of local administrative acts by the representative of the territorial

government on the legality level by ensuring the human factor in this process and the continuous improvement of the specialists in these structures, allow the final result - the quality of local administrative acts so necessary in the performance of specific tasks of local public authorities with impact on the beneficiary communities, practically the final result of the mission of the representative of the territorial government.

The Conclusions of chapter 3 highlight research carried out in the two countries, Romania and the Republic of Moldova, which generated common elements and different elements in the two reference states in terms of the researched concept. The common aspects identified relate to the communication of administrative acts of executive and deliberative authorities, the establishment of a legal deadline for communication, the vocation of challenging before the administrative contentious court the acts considered illegal as well as the operations exercised to remedy the illegalities found, namely, the preliminary complaint and the notification. The different elements refer to the heterogeneous structure of the local public administrations with the consequence of issuing or adopting administrative acts corresponding to their competences, the ways of carrying out the legality check, the different ways of communicating local administrative acts to the Government representative in the territory (letter versus electronic) as well as the different holder of the administrative contentious proceedings.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

Following the research carried out on the role of the Government representative in the territories in ensuring the quality of local administrative acts, we are certain to affirm that the fundamental problem regarding the identification of causal relationships between the activity of the Government representative in the territory and the quality of administrative acts, seen by ensuring the balance between the role of the Government in the exercise of general management with the local public administration and the principle of local autonomy, allows us to formulate the following **conclusions:**

1. We note the presence of academic and practical interest for the research object, in publications signed by authors from Romania, the Republic of Moldova and other countries abroad. The studied sources present a solid theoretical, methodological and factual basis for carrying out the proposed research.

2. The phenomenon of the institution of the representative of the government in the territory has followed a complex political-administrative path with developments aimed at achieving central power in the territories with specific manifestations for different states and historical periods, accompanied by changes in the normative framework and functional attributions.

3. The activity of the government representative in the territory evolves towards ensuring the legality and quality of administrative acts, correlating the realization by the Government of the general management of the public administration with the principle of local autonomy.

4. The activity of the government representative in the territory regarding ensuring the legality and quality of local administrative acts in Romania and the Republic of Moldova is carried out on the basis of a solid normative framework, based on the principles of the rule of law and carried out by competent institutions through legal procedures.

5. Analysis of activity reports, statistical documents and personal experience in the studied field attest to the presence of several gaps and deficiencies in ensuring the quality of administrative documents determined by:

- the political position of the government representative in the territory, as a person with public dignity;

- lack of a notice of draft local administrative acts, with a normative character, from the representative of the government in the territory;

- the presence of the subjectivity of the specialized commissions when presenting the opinion in the process of adopting individual administrative acts of the deliberative authorities;

- the significant lack of professional skills necessary for a qualitative decision-making process among local decision-making subjects.

Giving importance to the investigations carried out as well as the conclusions formulated above, we enunciate the following recommendations:

1. Depoliticization and conferring the status of high public official on the representative of the government in the territory.

2. The assignment of additional powers to the representative of the government in the territory in the matter of prior approval of draft local administrative acts of a normative nature.

3. Establishing an electronic platform for receiving, verifying and storing local administrative documents and creating the State Register of local documents.

4. Operation of changes in the legislation in the procedure for adopting individual decisions of local deliberative authorities by eliminating the opinion of specialized commissions.

5. Establishment of mandatory courses for the factors involved in the local decision-making process, with a specific theme of the elaboration of administrative documents.

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18. AROȘOAIE, MIHAELA-OTILIA, *Succintă analiză comparativă a codurilor administrative din România și Republica Moldova. În: materialele Conferinței științifico-practice internaționale Teoria și practica administrației publice (Ediția XXVIII) „Integrarea Republicii Moldova în Uniunea Europeană: oportunități și provocări pentru administrația publică”*, Chișinău, 17 mai 2024. (under publication)

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19. AROȘOAIE, MIHAELA-OTILIA. *Dimensiuni practice ale activității reprezentantului Guvernului în România din perspectiva asigurării legalității actelor administrative.* În: materialele Conferinței Integrare prin cercetare și inovare, USM, 10-11 noiembrie 2021, Chișinău, p.191-193. ISBN 978-9975-152-48-8.

ANNOTATION

Aroșoae Mihaela-Otilia, The role of the Government representative in the territory in ensuring the quality of administrative acts in Romania and the Republic of Moldova, doctoral thesis in administrative sciences, Chisinau, 2024

Structure of the thesis: introduction, three chapters, general conclusions and recommendations, bibliography of 197 titles, 6 appendices, 142 pages of basic text, 9 figures. The results obtained are published in 17 scientific papers, wings of two books published in Romania.

Key words: representative of the Government in the territory, prefect, head of the territorial office, legality, legality verification, administrative control, central public authority, local public authority, local autonomy, local administrative act, quality of local administrative acts.

Research field: Social and economic sciences. **Profile:** Administrative Sciences.

The purpose of the paper: the theoretical and empirical study of the role of the government representative in the territory regarding the quality assurance of local administrative acts in Romania and the Republic of Moldova, from the perspective of the correlation of the exercise of general management of the public administration and local autonomy.

Research objectives: studying the historiographical, theoretical and methodological aspects regarding the institution of the representative of the government in the territory; studying the normative and functional evolution of the government representative in the territory; analysis of the activity of the government representative in the territory regarding ensuring the legality and quality of local administrative acts; identifying gaps in the quality assurance activity of local administrative acts and formulating recommendations to facilitate the process of ensuring the quality of administrative acts.

Scientific novelty and originality: outlining the innovative approach of the intervention of the government representative in the territory and the proposal of the ferenda law in the procedure for adopting local administrative acts, proposals for streamlining the activity of verifying the legality and quality of acts at the territorial level, highlighting the gaps regarding the exercise of administrative guardianship .

The scientific problem solved: the scientific substantiation of the role of the government representative in the territory in ensuring the quality of local administrative acts, the formulation of conclusions and recommendations regarding the consolidation and increase of the reputation of this institution.

The theoretical significance of the research: resides in the clarification of the notions of legality and quality of local administrative acts, the correlation and relationship between them and the impact of the correct perception of the notion of quality of administrative acts on the effects of the functioning of local public authorities.

Applicative value: the research results can serve as support in the activity of central and local public authorities from the perspective of ensuring the quality of administrative acts at all stages of their preparation and adoption.

The implementation of scientific results: is reflected by the publication of articles in specialized magazines and presentations at national and international conferences, as well as by the publication of two books in the field of public administration.

ADNOTARE

Aroșoae Mihaela-Otilia, Rolul reprezentantului Guvernului în teritoriu în asigurarea calității actelor administrative în România și Republica Moldova, teză de doctor în științe administrative, Chișinău, 2024

Structura tezei: introducere, trei capitole, concluzii generale și recomandări, bibliografie din 197 titluri, 6 anexe, 142 pagini text de bază, 9 figuri. Rezultatele obținute sunt publicate în 17 lucrări științifice alături de două cărți publicate în România.

Cuvinte-cheie: reprezentant al Guvernului în teritoriu, prefect, șef al oficiului teritorial, legalitate, verificarea legalității, control administrativ, autoritate publică centrală, autoritate publică locală, autonomie locală, act administrativ local, calitatea actelor administrative locale.

Domeniul de cercetare: Științe sociale și economice. **Profilul:** Științe administrative.

Scopul lucrării: studierea teoretică și empirică a rolului reprezentantului Guvernului în teritoriu privind asigurarea calității actelor administrative locale în România și Republica Moldova, din perspectiva corelării exercitării conducerii generale a administrației publice și autonomiei locale.

Obiectivele de cercetare: studierea aspectelor istoriografice, teoretice și metodologice privind instituția reprezentantului guvernului în teritoriu; cercetarea evoluției normative și funcționale a reprezentantului guvernului în teritoriu; investigarea activității reprezentantului Guvernului în teritoriu privind asigurarea legalității și calității actelor administrative locale; identificarea lacunelor în activitatea de asigurare a calității actelor administrative locale și formularea recomandărilor de facilitare a procesului de asigurare a calității actelor administrative.

Noutatea și originalitatea științifică: conturarea abordării inovatoare a intervenției reprezentantului Guvernului în teritoriu și propunerea de lege ferenda în procedura de adoptare a actelor administrative locale, propuneri de eficientizare a activității de verificare a legalității și calității actelor la nivel teritorial, evidențierea lacunelor privind exercitarea tutelei administrative.

Problema științifică soluționată: fundamentarea științifică a rolului reprezentantului Guvernului în teritoriu în asigurarea calității actelor administrative locale, formularea concluziilor și recomandărilor privind consolidarea și creșterea reputației acestei instituții.

Semnificația teoretică a cercetării: rezidă în clarificarea noțiunilor de legalitate și calitate a actelor administrative locale, corelarea și relația între acestea și impactul percepției corecte a noțiunii de calitate a actelor administrative asupra efectelor funcționării autorităților publice locale.

Valoarea aplicativă: rezultatele cercetării pot servi drept suport în activitatea autorităților publice centrale și locale din perspectiva asigurării calității actelor administrative la toate etapele de pregătire și adoptare a acestora.

Implementarea rezultatelor științifice: este reflectată prin publicarea articolelor în reviste de specialitate și prezentări la conferințe naționale și internaționale, precum și prin publicarea unui număr de două cărți în domeniul administrației publice.

АННОТАЦИЯ

Арошоайе Михаэла-Отила, Роль представителя Правительства на территории в обеспечении качества административных актов в Румынии и Республике Молдова, докторская диссертация по административным наукам, Кишинев, 2024 г.

Структура диссертации: аннотация, введение, три главы, общие выводы и рекомендации, библиография из 197 названий, приложений, 142 страниц основного текста, 9 таблиц. Полученные результаты опубликованы в 17 научных статьях, крылья две книги изданы в Румынии.

Ключевые слова: представитель правительства на территории, префект, руководитель территориального управления, законность, проверка законности, административный контроль, центральный орган публичной власти, орган местного публичного управления, местная автономия, местный административный акт, качество местных административных актов.

Область исследования: Социальные и экономические науки. **Профиль:** Административные науки.

Цель работы: теоретическое и эмпирическое исследование роли представителя правительства на территории в обеспечении качества местных административных актов в Румынии и Республике Молдова, с точки зрения соотношения осуществления общего управления государственное управление и местная автономия.

Задачи исследования: изучение теоретических и методологических аспектов по обеспечению законности и качества; выявление пробелов в деятельности по обеспечению качества и формулирование соответствующих рекомендаций.

Научная новизна и оригинальность: изложены инновационный подход вмешательства института и предложения изменений в законе по процедуре принятия местных административных актов, предложения по упорядочению деятельности по проверке законности и качества актов принятых на местном уровне, выявлении пробелов административной опеки.

Решаемая научная задача: научное обоснование роли в обеспечении качества местных административных актов, формулировка выводов и рекомендаций по укреплению и повышению репутации этого института.

Теоретическая значимость исследования: заключается в уяснении понятий законности и качества местных административных актов, соотношения и взаимосвязи между ними, а также влияния правильного восприятия понятия качества административных актов на последствия функционирования местных органов публичной власти.

Прикладная ценность: результаты исследования могут служить опорой в деятельности органов публичного управления с целью обеспечения качества административных актов на всех этапах их подготовки и принятия.

Внедрение научных результатов: отражено в статьях опубликованных в научных журналах и выступлениях на национальных и международных конференциях.

AROȘOAIE MIHAELA-OTILIA

**THE ROLE OF THE GOVERNMENT REPRESENTATIVE IN THE
TERRITORY IN ASSURING THE QUALITY OF
ADMINISTRATIVE ACTS IN ROMANIA AND THE REPUBLIC
OF MOLDOVA**

**563.02.ORGANIZATION AND MANAGEMENT IN PUBLIC
ADMINISTRATION INSTITUTIONS; PUBLIC SERVICES**

Abstract of the doctoral thesis in administrative sciences

Approved for printing: 22 . 10 . 2024	Paper format: 64x841/16
Offset paper. Offset printing.	Circulation: 15 ex.
Pattern sheets: 2.2	Order no. 125/24
