

THE LEGAL STATUS OF RESEARCH INSTITUTES

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Abstract. *The present study aims to address and hopefully clarify some aspects regarding organization, function and most of all the legal status of research institutes. In practice, the problem of determining this legal status has been put in question: the serious consequences regarding their functioning, their control over public authorities, which are those public authorities, which are their control limits, the status of the staff, etc. This unclarity is also determined by the fact that the legislation is not sufficiently overlying and clear in regards to the legal solutions enshrined therein. The Administrative Code comes with a few provisions that can be seen as a starting point in our opinion and not as a solution in its entirety of the problem. It creates a constant confusion between the public institution status, which some research institutes have and other statuses, such as entities governed by public law, body governed by public law or legal entities of public utility.*

Keywords: research institutes, public institutions, bodies governed by public law, bodies of public utility, legal entity (moral personality) governed by public law, legal entity governed by private law, public establishments, establishments of public utility.

1. General considerations on research activity and the legal subjects that perform it

The term *scientific research*, which is also associated with the quality of being *national technological*, resulting in *national scientific and technological research* is **at its origins constitutional**, being enshrined by Article 135, paragraph (2), c) of the Constitution of Romania [1] revised [2] and republished [3]. By paragraph (1) of the Article 135 is proclaimed *the market character of the economy, based on free initiative and competitiveness* and by paragraph (2) a few **obligations of the State** are enshrined, which are in correlation with the specificity of the market economy, determined by the previous text, by which *the stimulation of national scientific and technological research, of art and the protection of copyrights* must be insured, according to c)².

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² The text in its entirety is the following: *"The State must provide: freedom of trade and commerce, the protection of loyal competition, creating a favourable environment for capitalizing*
