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**BOOK
REVIEW:
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THEORY, AUTHOR : MĂDĂLINA VOICAN
UNIVERSITARIA PUBLISHING HOUSE,
CRAIOVA, 2018**

Mădălina Elena MIHĂILESCU

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BOOK REVIEW:

ACTUL ADMINISTRATIV. THE ULTIMATE THEORY, AUTHOR: MĂDĂLINA VOICAN UNIVERSITARIA PUBLISHING HOUSE, CRAIOVA, 2018

Mădălina-Elena MIHĂILESCU¹

Abstract:

The book so ingeniously named “Actul administrativ. The ultimate theory” (The Administrative Act. The Ultimate Theory), validates once more how important and full of substance the theoretical (and more importantly practical) issues related to the administrative act are. Such importance is demonstrated both by the manner chosen by the author to present the notions described in the book as well as by the approach adopted to illustrate them.

The theme in itself is extremely vast and it has so far been approached by a countless number of specialists from a doctrinarian and practical point of view, through valuable and ingenious comments issued with regard to various interpretable matters related to the administrative acts, the opportunity and the legality of such acts, matters related to prescription or the capacity of some structures to issue administrative acts.

In fact, the theme is contemporary as it has been the main topic of research for numerous studies, articles, doctoral or ability theses. What is more, following pertinent and profound analyses, there emerged the conclusion that this is a field where „everything should be reconsidered” - namely the exorbitant legal regime of the administrative act, its validity conditions or even the theory of nullities².

¹ PhD Associate Professor, “Dunărea de Jos”, University of Galați, Romania, Lawyer, e-mail: madalina.mihaiulescu@ugal.ro.

² We are referring to the ideas promoted by the scholar from Cluj Ovidiu Podaru in the volume entitled Drept administrativ, vol. I, Actul administrativ I, Repere pentru o teorie altfel (Administrative Law, vol. I, The Administrative Act I, Reference for a different theory), Publishing House Hamangiu, Bucharest, 2010.

The material that constitutes the scope of my review mainly conforms to the classical approach to presenting the administrative act, focuses on theoretical topics and favourably combines theory and doctrine with contemporary practical aspects, a fact that makes it a quality textbook and an useful instrument that may be used by any student or legal practitioner interested in this field of law.

Keywords:

Administrative act, contentious, public power, conflict of interests and incompatibilities.

The current framework of public administration, as well as its relationship with the executive, presupposes a fair knowledge of the administrative system, of everything related to the administration and application of the entire set of norms in effect in Romania. Moreover, public administration works with a variety of notions such as public authority, public institution, public service, and last but not least, administrative act. These notions foreshadow an objective and concrete image of the meaning of administration, coordination, execution and immediate enforcement of existing regulations and norms. This is why it is essential that the conceptual delineations indicate a tangible reality, if we are to properly and completely understand the concept under discussion.

The administrative act represents the main form of activity of the public administration and constitutes alongside with the administrative contracts and administrative procedures, a constant preoccupation of the experts studying public law in Romania.

Furthermore, the recent issuing of Law no. 212/2018 for the amendment and supplementation of the Administrative Litigation Law no. 554/2004 and of other normative acts, assisted us as it clarified some aspects that had for some time been considered to be confuse or a matter of controversy, such as the mere definition of the administrative act or even the notion of assimilated act, the issues related to the terms corresponding to the statute of limitations (also scientifically named as internal appeal) or of clarifying the term of 6 moths as a prescription term, or the fact that the *Court of Administrative Litigation is competent to solve the litigations that emerge in the stages prior to concluding the administrative act, as well as any other litigations related to the conclusion of the administrative contract, the litigations whose scope is the annulment of an administrative contract included* (art. 7 of Law no. 212/2018) *or that the judicial petitions provided by this law may also be formulated personally against the person who contributed to the drafting, issuing, adopting or conclusion of the act or, as case may be, is*

guilty of having refusing to solltion a petition referring to a subjective right or legitimate interest (art. 16 para. 1 of Law no. 212/2018).

On this background of such significant changes in the area administrative litigation, of substantive issues related to administrative acts, the emergence of a volume dedicated to this topic can only be regarded as an auspicious one, especially for the students studying law or public administration.

The book that we are now reviewing clearly falls in the category of analytical studies combining the theoretical character of a work with the practical one. The author has thus added value to some doctrinal or legislative issues and, though her specialist's' comments, has brought in the foreground, novelty issues of concern for anyone working in the legal field - extending the effects of the administrative act, the conditions of validity, ingenious problems, technical issues related to administrative litigation or administrative operations closely related to the issuance or adoption, namely the production of legal effects of administrative acts.

The book is structured on three major titles: Defining the notion of an administrative act, The conditions related to the validity of the administrative act, The scope of the effects of the administrative act, the entire book comprising a number of 17 chapters, plus three annexes that assist the reader with supplementary explanations and especially by references to the jurisprudential area.

What makes so as pleasant is exactly what the author herself states at a certain point in the "Introduction" to her own book: "Readers will probably feel delighted and relieved to notice that they will not discover an endless text made up of bored letters, but they will enjoy breaking monotony through intuitive graphics, creative drawings and funny cartoons "that the author has created" to support the process of learning and consolidating knowledge "(see pp. 12-13).

With reference to the actual structure of the book, *Title I* defines and explains the notions of administrative act, administrative contract, the legal entity of public law-author of the administrative act, the regime of public power, the effects produced by the administrative acts, describing and classifying the administrative acts depending on several criteria. The author has earnestly strived to make different distinctions between the notion of act, contract or administrative procedure(s) or administrative fact and to evidence, by laying an emphasis on useful examples, which ones produce legal effects and which do not. It also distinguishes between administrative acts themselves and assimilated acts, normative and individual administrative

acts, with details as to when they may produce legal effects or references to the classification of the act according to the number of persons participating to its adoption or to the application of the rule of law in the territory

In *Title II*, the author elaborates on the conditions of validity of the administrative act, the ability to issue administrative documents (referring to the distinction between the capacity of use and the capacity to use exercised by the legal entity governed by public law), the authority to issue administrative documents, the lawfulness and the purpose of the administrative act, the scope of the administrative act, the cause of the administrative act, the form of the administrative act, the procedure for issuing or adopting the administrative act, procedural aspects related to conflicts of interests or incompatibilities.

Title III refers to interesting yet problematic aspects related to time frame associated to the effects of the administrative acts, namely the entry into force of the administrative acts, the moment of issuing or adopting such acts, informing the interested parties with regard to the content of the acts and the significance of this moment, the validity of the administrative act, revocation, annulment of these acts by a court, suspension of administrative acts, reaching the deadline, sunset, obsolescence of administrative acts.

What seemed to us to be of great interest and usefulness, particularly for the student using this volume, was the final, the strictly pragmatic part where the author chose to deal with a succinct subchapter on the similarities and differences between the means of terminating the effects of the administrative acts, namely three case studies (entitled *Annexes*) regarding the following aspects: the legality of the administrative act and the issue of a valid opinion in the context of questioning its legality, the motivation of the draft of an administrative act through the cost-benefit analysis, or the problem on an intriguing conflict case of a mayor who sued himself!

In this context, not only own subjective analyses appeared to us to be useful, but above all, the frequent references to the Civil Code in force, Law no. 554/2004 (with the necessary modifications), Law on local public administration, Law no. 215/2001, with amendments, the Criminal Code, Law no. 544/2001 regarding free access to information of public interest, Law no. 24/2000 regarding the procedures for drafting normative acts or Law no. 52/2003 regarding decisional transparency in the public administration, all of which come to assist students as they benefit from a recent anchoring in the juridical reality.

At the same time, the volume is based on a solid doctrinal foundation, the author making frequent references to specialist materials,

using at least 30 bibliographic sources in the area of administrative law that she has judiciously and enjoyably interwoven in her presentation with many references to the jurisprudence of the High Court or the various litigation sections of the national courts.

All of the above, transposed through a technical but coherent, clear and engaged technical language contribute to making this book truly valuable to those directly interested, and can easily be considered a specialized work that has brought a new breath in the contemporary yet full of turmoil world of Romanian public law.

Bibliography

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