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Suspension of the execution of the administrative act with normative character

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Abstract
Suspension of an administrative act is the legal institution available to injured parties who consider that they have a harmed right or legitimate interest, by which, in certain cases specifically provided by law can obtain the suspension of the legal effects of an administrative act for a certain period of time. The suspension is conditioned by the existence of a well-reasoned case and by preventing an imminent harm, in order to allow a judge to decide it. It is a derogation from the principle that administrative acts are mandatory and enforceable ex officio and it has been legally regulated to give interested parties the protection of certain rights which may be irreparably or with huge efforts fixed through illegal acts of the administration, which were cancelled by the court of justice. The matter is based on the provisions of art. 14 and 15 of Law no. 554/2004 on administrative contentious. The legal provisions regulate two different situations. Article 14 establishes the situation when the suspension of the administrative act is requested before the court has been noticed with the action for cancelling the administrative act and the suspension can be decided until the court will decide on the substance, respectively the rule of art. 15 regulates the situation when the request for suspension can be submitted in the same time with the main legal action for cancelling the act or by separate request and the suspension may be ordered until the final and irrevocable resolution of the case. In the particular case of the administrative act with normative character, the suspension has the consequence of suspending all legal effects and consequently the suspension of any individual administrative acts issued on its ground.

Keywords: *Suspension, Normative, Administrative, Legal Effects, Courts*

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General considerations

Suspension of the execution of the administrative act is a judicial form of control over its legality, which requires the cessation of the legal effects for a limited period of time. Through this legal instrument, the party does not obtain the protection or recognition of the claimed right but only a partial and provisional protection during the trial in which it requested the cancellation of the harmful administrative act.

The institution is represented by the provisions of art. 14 and 15 of Law no. 554/2004 (Law. No 554/2004 regarding the administrative litigations published in the Official Gazette no. 1154 of 07 December 2004) which gives the possibility to suspend, for a period of time, the legal effects of an administrative act.

The regulation is a more elaborate approach of the institution of suspension of the execution of an administrative act, regulated for the first time by the provisions of art. 9 of the Law no. 9/1990. Suspension of the effects of the administrative act raises an exception to the rule that administrative acts are enforceable ex officio. As pointed out in the literature (Iorgovan, 2005:66), but also in relation to the legal definition given to the administrative act, it is issued in the accomplishment of the public power and as a consequence it is enforceable ex officio. It represents an enforceable title by itself, and therefore there is no need for any investment procedure by the courts or other state bodies, enjoying a presumption of legality. This presumption of legality derives from the fact that the activity of the administration is fully subject to the law; consequently, all administrative acts are presumed to be legal, and enjoy authenticity, meaning that it comes from the authority who issued it, and veracity, meaning that it actually reflects what the issuing administrative authority has decided. For these reasons, the beneficiary of the act may rely on the coercive force of the state to carry out the prescriptions of the act against the person who is bound by the administrative law report.

Under these circumstances, the suspension of the effects of an administrative act is an exception from its enforceability and implies the suspension of effects, even if the act is in force, not being cancelled by any court decision or revoked by the eminent authority. And, as any exception, it applies to strictly limited and namely set by the law cases, as we will be analysing in the following. We argue the fact that the possibility of suspending the effects of an administrative act is closely related to its nature and to the presumption of legality that characterizes it. This presumption is not absolute, as in the case of final court judgments that are final and has the force of res judicata, but relative, which means that it can be reversed by the opposite prove, both with full effects in the case of the action for annulment of the act but also with limited effects, in exceptional cases requiring the suspension of the execution of the act in order not to produce the effects for which it was issued.

The suspension procedure is not aimed at judging the substance of the litigation but merely verifies the appearance of the legality of the administrative act. The final goal is to provide temporary protection against the possible effects of an unlawful administrative act. From this perspective, we can say that by suspension a temporary balance is established between the public interest characterizing the administrative act and its enforceable force, on one hand, and the individual interest until the final decision of the court regarding the legality of the ac, on the other hand.

For the administrative acts entered into the civil circuit it represents a legal instrument at the expense of the issuing public authority, which can no longer revoke such

acts, as it finds that the issued act is contrary to the law and may require the provisional suspension until judicial control is completed by the courts.

Suspension of execution is a direct way of control, an express action by the person who considers himself/herself to be injured in a right or legitimate interest, being excluded the possibility of suspending the administrative act by way of exception.

The forms of suspension

Suspension of the enforcement of the administrative act may be **judiciary** when it is ruled by the court of law, **by right** when it operates by virtue of an express legal provision. Unlike the possibility of revoking the administrative act, the issuing public authority does not have at its disposal any legal instrument which could allow the suspension of the administrative act. However, in spite of this, we can say that upon receipt of the preliminary complaint or even ex officio until the time of enforcement, the authority has the possibility not to enforce the administrative act when it observes faults of legality until a final reverification of the legality of the act by the internal authorities. We can say that this situation is similar to a suspension. Unlike revocation, which is based on the principle of revocability of administrative acts, stated by the doctrine and legally acknowledged by the provisions of art. 6, which regulate the preliminary complaint, the suspension of the execution by the administrative authority is not legally regulated.

Some authors (Brezoianu, 2004:90) argue that nothing prevents the issuing body from suspending the act it has issued, or it may be ordered by the hierarchically superior body that may decide to suspend the execution of an act issued by the subordinate administrative body. It can be appreciated that if the public authority can do more, namely to revoke the act, to abolish it, nothing can prevent it from doing less, namely to suspend the act, according to the principle which states qui potest plus potest minus.

However, the suspension of the enforcement of the administrative act is an exceptional measure derogating from the principle of legality and ex officio enforcement of the administrative act. The lack of legal provisions laying down the conditions and the exact situations in which the public authority could suspend the execution of the administrative act would lead to arbitrariness in the activity of the administration which could suspend acts as it pleases. This situation would eventually lead to the non-application and non-enforcement of the law, contrary to the essence of being of any administration.

Suspension of the enforcement of the administrative act cannot be seen as a temporary revocation, which can also intervene for reasons of opportunity. The measure brings into question the legality of the act and it aims at the temporary cessation of negative consequences over the subjects. The administration is either required to enforce the administrative act or to revoke it if it finds it unlawful or inappropriate. It has right to choose an option.

From this perspective, a suspension of the enforcement of the administrative act for reasons of opportunity would mean an obvious violation of the principle of legality of administrative acts. It is not acceptable for a public authority to adopt an administrative act, implicitly to consider it opportune, then to suspend it temporarily for the fact that it would not be opportune any more, and then to decide the termination of the suspension. Such an administrative activity would be characterized by dilettantism and lack of professionalism, but would jeopardize the legal life and the security of legal relations as well as the rights and freedoms of individuals, especially with regard to administrative acts with a normative character applicable to a large number of subjects. (Contrary opinion

Petrescu, 2009: 355). If revocation is a rule of the judicial regime of the administrative acts, suspension should always be an exception. Last but not least, it should be emphasized that the right of judicial review of the courts to grant suspension in exceptional cases, subject to the fulfilment of express conditions, is not granted by law also to the administration.

Therefore, we believe in the statement expressed by the doctrine (Ionescu, 1970:269) that only in the case of an express legal provision the administrative body may suspend the execution of the administrative act and it must be accepted only by exception and only at the request of the injured person. *(*For example, in the field of public procurement, the Council may order the measure of suspension of the award procedure or the application of any decision taken by the contracting authority under Art. 22 of Law no. 101/2016). Suspension **by right** operates by virtue of law, in specific areas provided by certain legal provisions (For example, the situation described by the provisions of art. 32 par. 3 from O.G. no. 2/2001 on the legal regime of contraventions, the contravention complaint suspends the execution of the process-verbal of contravention. Or the situation of challenging the building permit, as the procedure was regulated in the original form of Law no. 50/1991 regarding the authorization of the execution of the construction works, art. 12 paragraph 3 stipulating that by the introduction of the action the authorization for construction or dissolution shall be suspended by law, and, as a consequence, the court shall order the suspension of the works until the substantive settlement of the case.) or for certain active subjects, holders of the action in administrative contentious.

As regarding the right of tutelage, it has a constitutional consecration through the provisions of art. 123 par. 5 and represents an objective administrative control distinct from the judicial one of the courts that has a subjective nature, which refers to the person, the subject claiming an injury and invokes the provisions of art. 14 or 15 of Law no. 554/2004 to obtain the suspension. Concerning the right of tutelage in Law no. 215/2011(Law no. 215/2011 of the local public administration published in the Official Gazette no. 204 of 23 April 2001), we find special provisions regarding administrative acts with normative character. The provisions of art. 49 par. 2 set a period of 5 days from the date of official communication to the prefect, in which the decisions of the local council of normative character must be made public.

This period does not constitute a period of suspension for the execution of the act, in our opinion, but is a period by which the enactment of the administrative act with a normative character is prolonged. During this period, the act is not in force, so its legal effects cannot be suspended. Some authors considered that this period sets a suspension before the entry into force of the administrative act with a normative character adopted by the local public authorities (Tofan, 2015: 65). The decision of a local council with a normative character becomes mandatory and produces legal effects only after it has been made public. Only from this moment it can be suspended. The 5-day period is given to the prefect to have time to analyse the legality of the act, which involves erga omnes legal effects, and to act accordingly if he considers that the act is unlawful. Therefore, that period does not have the nature of a suspension of the enforcement of the act.

We can also bring up the question of the authority's refusal to revoke the act as a result of the right of the prefect to exercise his right of tutelage. In this situation, the question of the legality of the act and of the administrative divergence will be settled in court, the act being suspended by right only from the moment of filing to court the request made by the prefect. Until the moment the court is notified, a possible publication of the normative administrative act leads to the enforcement of its legal effects.

Special suspension by right

The provisions of art. 14 and 15 of Law no. 554/2004 state special suspensions by right which operate either in relation to the attitude of the public authority, or in relation to the solution of the court which handles the substance of the case in the first instance. Thus, the new act, issued by the public authority, is suspended, having the same content as the one suspended by the court. The law sanctions the bad faith of the authority that sees itself compelled not to enforce an administrative act temporarily suspended by the court and adopts another one with the same potentially harmful content. We can say that in this case the excess power of authority is presumed by law and the legal norm reflects the authority of judged case of the decision of the first instance that ordered the suspension. Even if the new act is a new legal act and is presumed to be legal and enforceable ex officio, the final solution of the first instance rightly paralyzes the legal effects of the new act and suspends it. This case of suspension, although it operates lawfully, it requires nevertheless the intervention of the court. The court is the one who observes that the acts are similar in content and also observes the suspension by right, without analysing the fulfilment of the cumulative conditions of the well-justified case and the existence of an imminent damage. For this reason, the law expressly stipulated that for the new issued act there is no longer necessary to file a preliminary complaint.

We believe that it is not absolutely necessary for the new act to be issued by the same administrative body, and it may also be issued by its superior body, or by one from the same administrative structure to handle this special case of suspension. The provisions of art. 15 par. 4 set another special suspension by right, which is the consequence of the power of judged case, this time the relative one (Tăbârcă, 2004:564) of the judgment of the court which cancels the administrative act in the first instance and the decision is not final. In this case, if the party has obtained the cancelation of the administrative act at the court of first instance, the measure of suspension, which was previously ordered under Art. 14, is extended by right until the final and irrevocable decision of the case, even if the complainant did not request the suspension of the enforcement of the administrative act according to Art. 15. The legal provision in this situation is not intended to suspend the effects of another administrative act, but only prolongs the term of suspension of the one ordered under the conditions of art. 14 until the decision of the court of first instance, namely until the time when the decision remains final. Being a suspension by right, it operates without the party acting in any way in the law case to request further suspension under Art. 15.

The **judicial** suspension of the enforcement of the administrative act is governed by the legal provisions of Law no. 554/2004 through two hypotheses:

Hypothesis art. 14

The legal provisions establish two forms of the suspension of the administrative act in relation to the state of the administrative or judicial proceedings of the person who considers himself / herself injured. Article 14 governs the situation in which the party filed the compulsory preliminary complaint to the issuing administrative authority of the allegedly harmful act for its revocation.

The hypothesis assumes that the party did not initiate the judicial proceedings for cancelling the administrative act and is waiting for the reply from the authority to the preliminary complaint. In this situation, the enforcement of the act may be suspended by judicial action, until the court of first instance makes its decision on the substance over

the request of the complainant to cancel the administrative act. The legal provisions presume that the party, after receiving the answer to the preliminary complaint, which is not in his favour, shall address the court for the cancelation of the act and the recognition of the claimed right.

The text of the article was completed by Law no. 262/2007, meaning that if the party receiving the reply to the preliminary complaint fails to bring an action for annulment of the act within 60 days, the suspension shall cease by right and without any formality. The provision sanctions the passivity of the party who obtains the suspension of the execution of the act under the provisions of art. 14 and does not initiate the procedure to cancel the act in court.

Hypothesis art. 15

The second hypothesis regulated by the provisions of Art. 15 of the Law no. 554/2004, concerns the situation in which the party has already started the judicial procedure for cancelling the harmful administrative act. From analysing of this article, and also the provisions of art. 20 which regulate the appeal in administrative matters, we can say that the request for suspension cannot be filed directly in the appeal. However, it can be filed throughout the trial, including when the litigation in substance is actually in the judicial process of appeal, but it must be filed to the court of first instance. The party may request the suspension of the act by the main claim in front of the court, by which he also requested the cancellation of the administrative act, or he can get the suspension also through a distinct claim to the court of justice. The court having jurisdiction over the main claim is competent in resolving also the request for suspension. In this second hypothesis, the court orders the suspension of the enforcement of the administrative act until the decision is final and irrevocable. (in the current stage of the civil proceedings, the decision remains only final and the notion of irrevocability of a court decision is removed).

The conditions for suspension

Being a judicial procedure which has as consequences the derogation from the principle that administrative acts are enforceable ex officio, the legislator limited the cases of suspension only to exceptional circumstances. Thus, the legal provisions make the suspension of the execution of the administrative act conditional on the existence of a well justified case and on the prevention of imminent damage. Besides these two conditions, it is necessary to file a preliminary complaint to the issuing administrative body to request its revocation, under the hypothesis of art. 14, or to have an action on the substance against the administrative act which is the object of the dispute, under the hypothesis of art. 15 of the Law no. 554/2004. If the party did not address the administrative body which issued the act with a preliminary complaint, the solution is the inadmissibility of the action in suspension, lacking an essential element of admissibility of the action. In some specific areas, such as tax law or public procurement, the legislator requires a special condition of paying a bail.

The legislator expressly defined the notions of well-justified case and imminent damage by Article 1 paragraph 1 let. s and t of Law no. 554/2004. These conditions must be fulfilled cumulatively, failing to fulfil one of them leading to the rejection of the action.

Both the well-founded case and the imminent damage must be met concretely in the case brought to justice. Therefore, there is no foundation in the appreciation of the court which merely makes a theoretical analysis of these legal conditions and does not hold the actual fulfilment of them. (I.C.C.J. Jurisprudența, 2008:71). The analysis of these

conditions does not imply the judgement of the case in substance. But, as in the case of the presidential decree, the judge sees the substance, performs a brief analysis of the appearance of the law. In the case of suspension, he has two specific criteria to report to, the two conditions mentioned above. The settlement of the request for suspension does not imply an analysis of the factual and legal grounds on which is based the claim regarding the substance of the cause, the judge considering only the reasons related to the request for suspension itself (http://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=67548). By the decision 370 of 18 October 2013 of Craiova Court of Appeal, unpublished, having to resolve the request for suspension of the execution of the normative act, namely Order no. 733/2013, held that the court was required to restrict its verification only to those circumstances which are obvious by fact and / or law and which are capable of casting doubt on the presumption of legality given by default to an administrative act.

We consider that such obvious circumstances, capable of producing a serious doubt regarding the legality of an administrative act, may be the issue of an administrative act by a body which has no jurisdiction or which exceeds its jurisdiction, the administrative act was issued under provisions declared unconstitutional, the administrative act is not reasoned, there is an important modification of the administrative act in the way of administrative appeal. In particular, the criticism on the non-jurisdiction of the issuing body proved to be unfounded, the Court holding that it was issued by the competent authority designated, according to Art. 6 par. (1) and (3) from the Ordinance no. 27/2011, to authorize driver schools as well as driving instructors.

The Court held that the contested Order was issued in compliance with the provisions of Art. 3 par. 2 of Law no. 24/2000 regarding the norms of legislative technique for the elaboration of the normative acts according to which the norms for legislative technique are applied accordingly to the elaboration and adoption of the draft orders. In this respect, the Court holds that the Order was issued on the basis and in the execution of some normative acts with superior legal force, related to the field of road transportation, strictly limiting to the framework established by the acts on the basis and in the execution of which it was issued, without having any provisions contrary to their stipulations. The well-founded case is likely to defeat the principle of the legality of the administrative acts and may intervene if the administrative authority exceeds its regulatory competence. Imminent damage is the **second condition** that must be met for suspension of the administrative act. If the first hypothesis from the legal definition concerns the existence of damage which must be material and foreseeable, the second hypothesis refers to the disruption of the operation of a public service or a public authority. The reference to the public service concerns mainly the administrative acts with normative character. The legislator, besides the predictability feature, specifically added that the disturbance must be serious. Thus, not any disruption of the functioning of a public institution or public service determines the suspension of the act but only the one of a certain degree of severity. Its assessment belongs to the judge.

The magnitude of the severity and the adverse consequences related to the activity of the administration imposed the completion of the Law no. 554/2004 in the sense of widening the range of the subjects that can request the suspension of the normative administrative act by the Public Ministry. Thus, Law no. 262/2007 added paragraph 3 to the provision of art. 14 stipulating that the request for suspension of the normative administrative act may also be introduced by the Public Ministry, ex officio or at its

request, when the case involves a major public interest, which could seriously disrupt the functioning of an administrative public service.

That provision limits the role of the Public Ministry in the administrative process, which has the right to to bring legal proceedings in the case of an action on the substance for both individual administrative and also normative acts, whereas in the case of suspension it can only act in the case of administrative acts with normative character only when the public interest calls for it, namely in the event of serious disruption of the functioning of an administrative public service. We appreciate (contrary opinion Râciu, 2009: 311), that the legal provision is a strict interpretation and it excludes a request for suspension from the prosecutor to suspend the effects of an individual administrative act. The individual administrative act has effects only on a particular subject; the possible damage to the subjective right or the legitimate interest only by it can be complained. The provision of art. 14 establishes that only the **injured person** may file a request for suspension, the Public Ministry not being able to claim personal injury in the case of an individual administrative act. It should be noted that in order to appeal the individual administrative act on the substance in court, the Public Ministry must have the prior consent of the party to whom a right or legitimate interest has been violated.

On the other hand, the above-mentioned text from the law does not make the request for suspension of the Public Ministry conditional on the existence of an action in substance. We believe that this should be mandatory, since the failure to promote such an action in substance would make the suspension decided in court not to have any effects.

The condition of imminence of the damage presumes that the execution of the administrative act has begun. The imminence of the damage is not presumed, but must be proven by the injured person. The fulfilment of the condition relating to the imminent damage presumes the administration of evidence which would prove the invoked issues, in this regard the simple presentations made by the applicant will be considered to be irrelevant.

We consider that the performance of an obligation, established by an administrative act enjoying the presumption of legality, cannot be considered as damage on itself, within the meaning of Art. 2 par. 1 lett. ş) from Law no. 554/2004. From a pecuniary point of view, any reduction of the patrimony is equivalent to damage, but from the legal point of view the damage means only the illicit reduction part of the patrimony.

Particular aspects regarding the suspension of the enforcement of an administrative act with normative character

The provisions of art. 14 of the Law no. 554/2004 regarding the subject of the act under this procedure does not make a distinction between individual administrative acts and normative acts, but establishes that only individual acts can be temporarily suspended. Therefore, both individual administrative acts and normative acts may be a suspended from enforcement by the contentious administrative court. On the other hand, bilateral assimilated administrative acts such as administrative contracts cannot be subject to suspension, may possibly be subject to special procedures for suspension (eg in public procurement area the provisions of Article 33 of Law 101/2016). In this context, we can point out that the object of the suspension of execution is, in principle, similar to the object of the action in the contentious administrative, with the mention that the suspension can only be ordered in respect to the acts liable to be enforced. No assimilated administrative acts may be suspended such as the refusal of the administration or the refusal to settle a request or acts who's control is excluded by the contentious

administrative, for example the Emergency Ordinance, the normative acts adopted by the Government being issued in virtue of the legislative powers delegated by Parliament.

The institution of the suspension of the administrative act aims to cease for a limited period the effects of the administrative act with normative character. Consequently, the act must contain norms that can be enforced, namely to produce legal consequences, respectively to be in force (Bogasiu, 2013:248) An abrogated administrative act with normative character may no longer be subject to suspension, because it cannot produce legal effects.

We can talk about two categories of norms that can be suspended. There are norms that are enforceable and that can be enforced even by the administrative act that encompasses them, having in this situation immediate norms. But we consider that also the general and abstract norms which organise administrative procedures and which have the purpose of adopting individual administrative acts can be subject to suspension, and in this case we can talk about mediated norms. A first issue to be considered concerns the range of the effects of the admissibility of the request to suspend the execution of an administrative act with normative character, from the perspective of the persons who participated or not in the case in which the suspension of the execution was ordered.

Regarding this controversy, the public prosecutor notified the HCCJ (High Court of Cassation and Justice) with an appeal in the interest of the law regarding the interpretation and application of the provisions of art. 14 and 15 of Law no. 554/2004 on contentious administrative with subsequent amendments and completions and of art. 435 C.pr.civ. The case concerns the assumption of the admissibility of the request for suspension of the enforcement of an administrative act with a normative character and of the effects of this solution towards the parties of the litigation as well as on third parties. By third parties, we mean subjects who were not party to the trial but who are targeted and who are potentially injured in a legitimate right or interest by the administrative act of a normative character. The referral of the Public Prosecutor identified two guidelines, as a result of verifying the case-law on the effects of admitting the request for suspension of the enforcement of an administrative act with normative character.

In a first opinion, some courts considered that the decision to admit the request for suspension of the enforcement of the administrative act with normative character had inter partes effects, so that persons who were not parties to the judgment in question cannot benefit from the effects of the suspension.

Other courts have held that administrative acts with a normative character are addressed to an indeterminate number of subjects of law and which, once cancelled by a final court judgment, cease to produce erga omnes effects, in relation to all these subjects of law, then the admission of the request to suspend the enforcement of those normative acts also produces effects on third parties, not involved in the trial. The opinion of the public prosecutor is in the sense of the second case-law, an opinion which we also consider as being in accordance with the legal provisions and their essence. At the time of writing this paper, the High Court did not decide the appeal in the interest of the law. Administrative acts with normative character by their nature concern generic situations and impersonal subjects, the legal effects not referring strictly to individual isolated situations but are generally valid and applicable.

Therefore, suspension should also apply to all subjects to whom it is intended, whether they were or they weren't part to the litigation in which the act was suspended. The opposite opinion is not pragmatically from procedural point of view and would load the courts unnecessarily, because in the event of final acceptance of a suspension request,

any successive claims would be highly likely to be admitted as a result of the authority of judged case. In a comment to decision no. 770/2012, the High Court of Cassation and Justice having to decide the appeal against sentence no. 417 of September 23, 2011 of Craiova Court of Appeal, considered that "the regulation, in the present case, takes effect only against a body of public administration, establishing its structure, which is why it is an individual administrative act. As a result, the suspension of the order in another case produces effects on the respective parties, only the suspension of the normative administrative produces effects erga omnes" (http://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=68067). Although, in the present case, the act inferred to the judgment was not a normative one, we note the Supreme Court's opinion on the effects of the suspension of the normative act on all the subjects of law to which it is addressed.

In support of this view are also the provisions of Art. 14 par. 4 of the Law no. 554/2004 stipulating that the suspension of the enforcement of the administrative act shall have the effect of terminating any form of enforcement until the expiry of the suspension period. As the text does not distinguish which forms of execution cease, with respect to which individuals or situations, we consider that all forms of execution, implicitly all legal effects of the suspended administrative act are temporarily interrupted for all persons and situations. It can be argued that, unlike the cancellation of the administrative act with normative character, its suspension does not have the consequence of publishing in accordance with the provisions of art. 23 of Law no. 554/2004. In this way, it could be said that the solution of suspension would not be public erga omnes.

However, what we are interested in are the effects of suspension and not the suspension solution itself. From the perspective of the effects, we note that the authority was part of the process in which the suspension of the normative act was ordered. For the authority, the solution is mandatory from the date of the final stay, which means, at the latest, the date of the final decision on the appeal.

From the moment of the final stay, the court decision has the power of judged matter, with regard to the solution of suspending the administrative act with normative character, which means that from that date it is mandatory for the issuing public authority, which will no longer enforce the act in any way. More precisely, as the legal text says, it ceases any form of enforcement by the authority. Implicitly, the passivity of the authority will affect all subjects of the normative administrative act. The effects of suspension become thus erga omnes. Another issue may be the range of the effects of the admissibility of the request for suspension of the enforcement of an administrative act with normative character, on the basis of which several individual administrative acts were adopted.

The above arguments are fully valid and in this situation the erga omnes character of the suspension should not be understood only with regard to the subjects of the administrative act with a normative character, but also all the juridical situations that have been carried out under the authority of the normative administrative act. Furthermore, we recall that by suspending the administrative act with normative character its effects are stopped for a temporary period of time. Consequently, if these legal effects materialized in certain issued individual administrative acts, we also consider that these are suspended as well.

The issued individual administrative acts are legal acts of their own and are themselves enforceable ex officio and are presumed to be legal. However, we consider that, if the administrative act with a normative character has been suspended, all its effects are suspended, not only those which may be produced in the future, but also those already

produced, from this category being part also the individual administrative acts issued under the normative act.

The purpose of suspension is to protect citizens from the harmful effects of an administrative act, and since the judge considered that there is a well-founded case and to prevent an imminent loss, it means that any unlawful effects have been already produced, namely the individual administrative acts harm the targeted persons.

A partial suspension only in regard to the future effects would limit the application of the provisions of Art. 14 and 15 of Law no. 554/2004 in time without any legal ration and, on the other hand, would create discrimination between the subjects to whom the administrative act of a normative character is addressed in respect of which individual administrative acts and those against which have not yet been issued and will not be issued during the suspension period.

Finally, we add the fact that, given that the cancelation of the administrative act with normative character produces effects against all the targeted persons, even more the suspension would have erga omnes effects.

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