Petroleum-Gas University of Ploiesti

The Centre for Studies and Legal and Socio-Administrative Research

JOURNAL OF LAW AND ADMINISTRATIVE SCIENCES

No.15/2021
ISSN 2392-8298
ISSN-L 2392-8298

The Journal is indexed in the international data bases

Petroleum and Gas University Publishing House of Ploieşti

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THE LAW APPLICABLE TO THE CIVIL STATUS OF THE NATURAL PERSON

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Abstract:
The participation of the individual in the legal relations of private law cannot be imagined without an identification of him.
The identification of the natural person in the legal relations in which he enters refers to his specific individualization with the help of certain attributes or identification elements stated by the law. Together with the name, domicile and residence, the civil status may be among these characteristics.
In the international private law, the civil status is considered as part of the personal status.
Starting from the provisions of Art 2572-2579 of the Civil Code, the current article aims an analysis of the conflictual norms in the area of the civil status of the natural person.
Keywords: *identification of the natural person, conflictual norms, civil status, personal status.*

Introduction

The identity of each person, viewed in relation to others, requires special protection embodied in the concept of “identification”, which thus determines the relationship between the individual and society.

The issue of control and verification of the identity of individuals has led to various legislative interventions, designed to reconcile the imperatives of individual freedom with the interests of public order, especially the security of persons and property [1].

The identification of the natural person is not the exclusive prerogative of civil law, because it is also necessary in other branches of law. Therefore, it is a complex legal institution, governed by legal norms belonging to several branches of law.

From the perspective of the civil law and of the private international law, three key elements allow the identification of a natural person: name, domicile and civil status. To these are sometimes added the pseudonym and the residence.

1. Civil status – element of the personal statute

In relations with an element of foreignness, the natural person benefits from what in private international law is called “personal status” and includes marital status and civil capacity.

In the literature in the field of civil law, the notion of civil status or civil status is defined as *the legal means of individualizing the individual by bringing together the personal qualities to which the law gives such significance* [2]. The concept is used with the same meaning in private international law.

The legal definition of the marital statute is stated by Art 98 of the Civil Code in force as “*the right of the person to individualize, in the family and society, through the strictly personal qualities that derive from the acts and deeds of marital status*”.

The content of the marital status may be analyzed from two perspectives: the subjective right to individualization of every natural person and a sum of certain relevant qualities belonging to a specific natural person.

The subjective right of individualization through marital status confers the following prerogatives to the holder: the possibility of man to individualize through his marital status; the possibility of claiming to be individualized, by others, through his marital status; the possibility to resort, in case of need, to the coercive force of the state.

Marital status, as a sum of personal qualities, is related to major events that occur in human life: legal facts (especially birth and death) and legal acts (recognition of filiation, adoption, marriage, court decisions by which it is resolved civil status actions). The acts and facts of marital status form the sources of civil status. The law is what determines the personal qualities that are part of the marital status: born in wedlock, out of wedlock or unknown parents, age, sex, unmarried, married, divorced, widowed, remarried, relative or related to someone, etc. [3].

These are qualities specific only to the natural person, reason for which it has been stated by the legal literature that the marital status is what really separates the natural person from the legal person [4].

Regarding the legal features, as it results from the legal definition, the marital status is a non-patrimonial personal right, so it has the legal characteristics common to the category of rights to which it belongs: it is opposable *erga omnes*, inalienable,

imprescriptible, personal and universal, but also has a specific character. Thus, the marital status is indivisible, in the meaning that the natural person has one and the same civil status, at a certain moment, in relation to any other subjects of law.

The civil status shall not be mistaken with the use of the civil status (state possession) because the first notion considers the statics, while the second one considers the dynamic of the debated attribute of identification.

The use of the civil status (state possession) represents that legal status resulting from the cumulative meet of three elements: nomen, tractatus and fama.

Nomen refers to the individualization of the natural person by carrying the name correspondent to the claimed civil status. *Tractatus* is the consideration of a person, by those close to him, as the person to whom the marital status of which he relies belongs. *Fama* has the significance of recognizing in the family and in society that the marital status of a certain individual belongs to him/her.

The main effect of using a certain civil status consists in the presumption that it is real, namely in accordance with the marital status to which the individual in entitled to. It is a relative presumption, which may be amended by any means of evidence, as it can be combated with any means of evidence[5].

2. The law applicable to civil status

2.1. The rule

According to the international Romanian private law, the conflictual norm in the area of civil status is identified in Art 2572 Para 1 of the Civil Code which states that “The marital status and capacity of the natural person are governed by its national law, unless otherwise provided by special provisions”.

The legal provisions result in the rule of application of national law in the matter of personal status. National law is the law of the state of which the natural person, *lex patriae*, has citizenship. According to Art 2568 of the Civil Code “(1) *The national law is the law of the state of which the natural person has citizenship, or, where appropriate, the law of the state of which the legal person has citizenship*. (2) *If the person has more than one nationality, the law of the state of which he or she is a national and to which he or*

she is most closely connected shall apply, in particular through his or her habitual residence. (3) *In the case of a person who has no nationality, the reference to national law is understood to be made to the law of the state where he has his habitual residence.* (4) *Para 3 shall apply also for refugees, according to special provisions and international convention to which Romania is part*".

"National law" is thus the criterion for determining the *lex causae*, both in the case of conflicts of laws, but also, in some situations, in international civil proceedings. The doctrine also has stated that "*National law is a broad notion, usually related to three points of connection: citizenship, domicile and residence. International private life adds another point of connection, used in the field of private international law – the habitual residence*" [6].

Therefore, the following elements are subject to the national law, as the sum of some personal qualities, which fall within the content of the civil status of a natural person: those related to filiation, related to marriage, adoption, kinship, affinity [7]. Also, are subject to the national law the use of the civil status, as well as the actions of civil status.

2.2. The registration of the acts and facts of civil status

The elements comprising the civil status of a natural person may have as source either a legal or jurisdictional act or a legal fact *stricto sensu*. The main acts and facts forming the civil status of a person are mentioned in writings known as acts of civil status. These are drawn up in the interest of the state and of the person and have as objective the knowledge of the number and structure of the population, of the demographic situation, as well as the defense of the fundamental rights and freedoms of the citizens. These documents are recorded in the civil status registers [8].

As such, the civil status registrations have been defined as being "those legal operations for recording, in the civil status registers, the facts and legal acts regarding the civil status, as well as other elements provided by law, operations performed, under the law, by the bodies with civil status attributions" [9].

Civil status registrations can be made in two ways: registrations in the form of preparation of civil status documents and registrations in the form of marginal mentions on civil status documents.

The preparation of civil status documents takes place in the case of birth, marriage and death. In these situations, the birth certificate, the marriage certificate or the death certificate are drawn up, as the case may be.

By exception from the rule stated in Art 2572 Para 1 of the Civil Code, the registration of civil status acts and deeds that present elements of extraneousness is not governed by national law, but by the law at the place of conclusion of the act or by the law of the authority performing the registration, as provided by Law No 119/1996 on civil status documents [10].

For foreigners and stateless persons on the Romanian territory, a series of special rules are established regarding the registration of civil status documents and facts.

Thus, from the provisions of Art 4 of the Law No 119/1996 it results that foreign citizens who have their domicile or are temporary on the Romanian territory may request the registration of civil status documents under the same conditions as the Romanian citizens. Also, foreign citizens may request the registration of mentions on the civil status documents drawn up in the Romanian civil status registers. In the event that a foreign citizen married or died in Romania, the civil status officer who drafted the document will send, within 5 days from registration, an extract from the document to the competent body of the Ministry of Internal Affairs, which shall transmit it to the diplomatic mission or consular post of the respective country accredited in Romania, according to the obligations arising from treaties, agreements or conventions to which Romania is a party or on the basis of reciprocity.

With regard to stateless persons, they are obliged to request the registration of civil status documents and facts at the local community public service for the registration of persons or, as the case may be, at the competent mayor's office.

Not least, we specify that regarding the elaboration of the civil status documents of the Romanian citizens abroad, Law 119/1996 by Art 40 stipulates that this is done at the diplomatic missions, at the career consular offices of Romania or at the competent local authorities. Romanian citizens abroad have the possibility to request the registration in the Romanian civil status registers, from the diplomatic missions or career consular offices of Romania, of the civil status certificates issued by the foreign authorities, which concerns them, in case the registration of the act or the fact of civil status has been made

in advance to the authority of the state in which they are located. The registration shall be done with the consent of the heads of the diplomatic missions or consular offices, and their refusal is justified.

Conclusions

Marital status is considered a part of the legal status of the person, which is made up of all the qualities of the person to whom the law links certain legal effects, not to be confused with these effects and consisting of rights and obligations that fall within the content of legal relations in the area of civil status. By establishing the legal identity of the person, the marital status is what gives expression to his quality of subject of law.

Of *lege lata*, Art 2572 Para 1 of the Civil Code enshrines the rule according to which the marital status and capacity of the natural person are governed by its national law, unless otherwise provided by special provisions, thus preserving the tradition in the field, outlined since the eighteenth century, respectively that of to subject to a single law the marital status and capacity of the natural person.

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ASPECTS REGARDING NATIONAL RECOVERY PLANS AT EU LEVEL FOLLOWING THE ECONOMIC AND SOCIAL IMPACT OF THE 2019 PANDEMIC

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Abstract:
In order to combat the effects of the COVID-19 pandemic at the level of the EU member states, EU leaders agreed to create an extraordinary recovery fund to support the member states' economic and social efforts in their development, enabling their economies to become more sustainable and more resilient. The Recovery and Resilience Mechanism is a tool specifically designed to address the negative effects and consequences of the crisis caused by COVID-19 in the Union. Its aim is to provide significant financial support to accelerate the implementation of sustainable reforms and related public investment in the member states.
Keywords: *recovery and resilience mechanism, national recovery and resilience plan, multiannual financial framework, reforms, investments*

1. The importance of a recovery plan for Europe. The Next Generation EU Tool

The challenges posed by the COVID-19 pandemic have determined the EU and its member states to work together to combat its effects and help Europe recover from the economic recession. Thus, EU leaders agreed on an €750 billion extraordinary recovery fund, entitled the “Next Generation EU”, for the EU to recover from the economic and social impact of the pandemic.

The recovery package is intended to prioritize investment in both the digital transition and the green transition. In addition, the European Council agreed upon a long-term EU budget for the period 2021-2027, which will stimulate economic growth and support citizens, businesses and economies in the following years. In total, the multiannual budget and the recovery fund amount to 1074.3 billion euros.

Together with the € 540 billion in existing funding for the three safety nets (for workers, businesses and member states), the overall EU recovery package amounts to € 2364.3 billion. The European Central Bank is providing an additional € 1.350 billion as part of its bond-buying program to help governments in times of crisis.

An important role is also played by the European Commission, which is authorized to lend capital market funds, on behalf of the Union, of up to € 750 billion (at 2018 prices),

to provide the EU with the means to address these challenges. All member states have ratified the decision regarding their own resources by 31 May 2021, thus allowing the Commission to borrow the money.

The EU will use the funds for the sole purpose of addressing the aftermath of the COVID-19 pandemic crisis through the Next Generation EU (NGEU) recovery effort. Reimbursement will be scheduled until December 31, 2058.

NGEU will be channeled through *seven programs* in the form of *loans* (€ 360 billion) and *grants* (€ 390 billion):

- Recovery and resilience mechanism: 672.5 billion euros;
- REACT-EU: 47.5 billion euros;
- Horizon Europe: 5 billion euros;
- InvestEU program: 5.6 billion euros;
- Rural development: 7.5 billion euros;
- Fund for a fair transition: 10 billion euros;
- rescEU: 1.9 billion euros.

The Recovery and Resilience Mechanism and REACT-EU are fully funded by the Next Generation EU. The other amounts are in addition to the programs financed under the multiannual financial framework

The legal commitments will be concluded by 31 December 2023, and the corresponding payments will be made by 31 December 2026.

The Conclusions of the Extraordinary Meeting of the European Council of 17-21 July 2020 report that: “The recovery effort (...) is significant, focused and limited in time. It is significant because the effects of the crisis are far-reaching. It is focused because it needs to target the regions and sectors most affected by the crisis. It is limited in time, as the Multiannual Financial Framework (MFF) [1] and the rules governing it remain the basic framework for the budgetary planning and execution of the Union” [2].

2. The Recovery and Resilience Mechanism

The central element of the Next Generation EU recovery tool is the Recovery and Resilience Mechanism (RRM), which was the subject of a Regulation [3] adopted by the European Parliament and the Council on 12 February 2021.

The mechanism must be “a tool specifically designed to address the negative effects and consequences of the crisis caused by COVID-19 in the Union”, providing an effective and meaningful financial support meant to accelerate the implementation of sustainable reforms and related public investment in the member states. It is necessary to strengthen the current framework for providing support to member states and to provide direct financial support to member states through this innovative tool [4].

The Recovery and Resilience Mechanism also aims to provide support for the green and digital transition, enabling EU economies to become more sustainable and resilient.

In order to receive support from the Recovery and Resilience Mechanism, EU countries need to set out in their national plans a coherent package of projects, reforms and investments that can be included in six policy areas:

- green transition;
- digital transformation;
- smart, sustainable and inclusive growth favorable to inclusion and employment;
- social and territorial cohesion;
- health and resilience;
- policies for the next generation, including education and competences.

The rule set by the European Regulation is that 70% of grants will be committed by the end of 2022, the deadline for accessing the 30% grant difference being 31 December 2023.

EU member states had as deadline 30 April 2021 to submit their National Recovery and Resilience Plans, which comprised the reform and investment agenda until 2026 [5]. In addition, payments for projects included in national recovery and resilience programs must be made by December 2026.

3. The need to develop recovery and resilience plans

To use the RRM financing instrument, each EU member state has developed its own ***National Recovery and Resilience Plan*** (NRRP), which sets out the priority areas

for investment in order to exit the crisis, revive the economy and increase the resilience capacity.

In general, NRRP is based on *six main pillars*:

1. The transition to a green economy;
2. Digital transformation;
3. Smart, sustainable and inclusive economic growth;
4. Social and territorial cohesion;
5. Institutional health and resilience;
6. Children, young people, education and competences.

The NRRP refers to a coherent package of public investments and reforms proposed based on the Country Specific Recommendations 2019-2020. These reforms and public investment projects must be implemented by 2026.

A significant component of the NRRP development process is the series of transparent public consultations facilitated by the Ministry of Investment and European projects in each member state together with the private sector, civil society, trade unions and other actors concerned by the impact of investments and reforms carried out under this financial mechanism.

In addition, there was the possibility for the general public to follow these constructive dialogues on the institutional page, the media having at its disposal a direct information mechanism and a series of meetings with the institution's representatives for a correct and transparent information of the public on this important topic for member states in the coming years.

Based on the rules established by the European Commission, related to the types of projects to be financed, the NRRP must intervene with reforms and investments in the following areas:

- Transport;
- Environment, climate change, energy, energy efficiency and green transition;
- Development of urban localities, capitalization of cultural and natural heritage and tourism;
- Agriculture and rural development;
- Health;

- Education;
- Business environment;
- Research, innovation, digitalization;
- Improving the fund built;
- Resilience in crisis situations.

The Recovery and resilience plans were *assessed* by the Commission within two months of submission, based on a set of *criteria*, including:

- coherence with the country-specific recommendations of the European Semester;
- strengthening the growth potential, job creation and economic and social resilience of the member state;
- the effective contribution to the green and digital transition (national plans should allocate at least 37% of the budget to climate and biodiversity and at least another 20% to digital measures).

The assessment of recovery and resilience plans must be approved by the Council within one month by a qualified majority, based on a proposal from the Commission. The positive evaluation of the payment claims was conditioned by the satisfactory fulfillment of the milestones and the relevant targets. The plans may be revised and adapted, as appropriate, in 2022 to take into account the final allocation of funds for 2023.

Most national governments submitted their investment and reform plans in April and May, with milestones and clear targets for accessing recovery funding. The European Commission began approving the first set of plans in mid-June to meet the two-month deadline from their submission. The Council then had 4 weeks to adopt each plan by means of an implementing decision. Once the plans have been approved, member states will receive a pre-financing of 13% of the total amount allocated to start the recovery.

The National Recovery and Resilience Plan (NRRP) developed by Romania [6] is a strategic document structured on two priorities: reforms and investments, bringing the perspective of modernization and profound changes for Romania, as expected by the civil society, business and the public sector.

The national coordinator of the process of elaboration and negotiation of NRRP with the European Commission is the Ministry of European Investments and Projects (MEIP). In order to have a unified approach to these processes, but also to promote a

document that truly responds to the economic and social consequences of the health crisis, MEIP has collaborated with line ministries in which investments and reforms are foreseen within the NRRP. Also, the Presidential Administration, the Government and the coordinating Deputy Prime Minister, the General Secretariat of the Government and the Department for Sustainable Development within the Government were involved in the elaboration of the NRRP.

The National Recovery and Resilience Plan (NRRP) was launched for public debate on 19 March 2021. The proposals received during the consultations were discussed with the European Commission.

The National Recovery and Resilience Plan, proposed by the Ministry of European Investments and Projects, was adopted on 7 April 2021 by the Romanian Government, in second reading, together with the Memorandum that mandated this ministry to conduct document negotiations with the European Commission [7].

The NRRP is based on the 6 main pillars agreed by the European Parliament and the EU Council, on which the sectorial budgets are allocated. The NRRP includes 30 components subsumed to the 6 pillars: The transition to a green economy; Digital transformation; Smart, sustainable and inclusive economic growth; Social and territorial cohesion; Institutional health and resilience; Children, young people, education and skills [8].

The European Commission evaluated negatively some projects from the first version of the NRRP proposed by Romania; however, the European executive did not reject the NRRP, but gave a first answer in the technical negotiations. Romania did not send the final version of the NRRP to the European Commission, given that the deadline for sending the document was 30 April. In fact, until 22 April, the only country that sent its own program was Portugal. It was agreed that, by 30 April, States would submit interim drafts to the European Commission, on the basis of which technical discussions had taken place.

The official transmission of the National Recovery and Resilience Plan in the computer system of the European Commission, in Brussels, was made on 31 May 2021. Based on this plan, Romania would access grants and loans worth of 29.2 billion euros. Of the 29.2 billion euros, approximately 14 billion euros will be available in the form of

grants, and 15 billion euros in the form of loans contracted by the European Commission at advantageous interest rates. The plan contains 240 files and is divided into almost 30 chapters.

After 1 May, the European Commission began the actual evaluation of the plans submitted by the member states. By the end of June, the European Commission will formally discuss each plan with the member states. The Commission will then propose to the EU Council a recommendation to approve or reject the individual plans of EU member states. The EU Council, made up of representatives of the member states, will then vote by qualified majority on each plan, with the process to be completed as soon as possible in September 2021, according to the timetable proposed by the European Commission.

The European Commission assessed the NRRP on the basis of transparent criteria. Thus, the investments and reforms foreseen in the NRRP must contribute to the effective approach of the country-specific recommendations and to the strengthening of the potential for economic growth, job creation and economic and social resilience. At the same time, the investments and reforms must contribute to meeting the 37% climate change target and the 20% digitalization target.

The largest allocations will be for transport (8.5 billion euros), education (3.7 billion euros) and health (2.5 billion euros), accounting for about 50% of the NRRP. The examples of mature investments include allocations of around € 600 million for digitalization and € 300 million for a fund assigned to digitalization and climate action.

In the coming years, Romania will receive almost 80 billion from the recovery fund and the Multiannual Financial Framework 2021-2027, according to the negotiations at the European Council of 17-21 July 2020. These will be distributed as follows: 29.2 billion from the NGEU Recovery and Resilience Mechanism (representing 4.52% of this tool), 28.22 billion from the cohesion funds (representing 7.52%), 19.34 billion from the common agricultural policy (representing 5.58%) and 1.94 billion from the Fair Transition Fund (representing 11.09%) [9].

The European Commission welcomed, in an official press release, the fact that Romania has submitted the National Recovery and Resilience Plan and that, through the proposed initiatives, all the emblematic sectors of EU policies (flagship areas) have been reached. In the next period, the European Commission will evaluate the projects and will

send comments and observations, in particular evaluation letters will be received on each component.

At the European Council meeting in Brussels on 24-25 June 2021 [10], EU leaders welcomed the timely entry into force of the Own Resources Decision, which allowed the European Commission to start lending in order to support an inclusive recovery, as well as the green and digital transition.

On this occasion, the importance of *the full and timely implementation of national recovery and resilience plans* was emphasized, while protecting the financial interests of the Union. The Commission and the Council were also encouraged to move forward with the approval of the plans so that member states can make full use of the potential for recovery funding [11]. Thus, the full and timely implementation of the plans ensures the protection of the financial interests of the Union.

Also within this summit, Charles Michel, President of the European Council, presented the Indicative Leaders' Agenda 2021-2022 [12]. This represents a work program for the European Council, which seeks to address the challenges faced by EU citizens, businesses and countries.

4. Conclusions

It is a well-known fact that the Recovery and Resilience Mechanism seeks to financially support investments and reforms with a real and lasting impact on the economy and society. The proposed measures are linked to the challenges identified in the context of the European Semester, with a focus on the green transition and digital transformation, as well as economic growth, social and economic resilience and job creation.

Under this mechanism, states have the task of developing national recovery and resilience plans, which are strategic documents that set investment priorities and reforms needed for recovery and sustainable growth, correlated to the green and digital transition envisaged by the European Commission.

These reforms and public investment projects included in the NRRP must be contracted by 31 December 2023 and implemented by 31 December 2026 in order to access the funds from which the member states can benefit from the € 672.5 billion Recovery and Resilience Mechanism.

It remains to be seen how the Commission will agree with the proposals put forward by the states in their national recovery and resilience plans, given that only 12 European countries (Austria, Belgium, Denmark, France, Germany, Greece, Italy, Latvia, Luxembourg, Portugal, Slovakia and Spain) received the green light in the use of EU recovery and resilience funds to stimulate the economies affected by the COVID-19 pandemic.

In June, the Council received a positive assessment of the plans [13] for the 12 states from the European Commission, accompanied by proposals for Council decisions on their approval. All 12 states have requested pre-financing from the funds allocated to them. The decisions taken by the Council represent the final stage before the member states can conclude grant and loan agreements with the Commission and start receiving funding for the implementation of their national plans.

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[1] *The Multi-annual Financial Framework* (MFF 2021-2027) lays down provisions which the Union's annual budget must comply with, thus ensuring financial discipline. The Lisbon Treaty transformed the MFF from an interinstitutional agreement into a regulation. Adopted for a period of at least five years, a MFF must ensure that Union expenditure is conducted in an orderly manner and within its own resources.
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THE ORGANIZATION AND FUNCTIONING OF URBAN COMMUNES AS STIPULATED IN THE ADMINISTRATIVE LAW OF 1929

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Abstract:
This paper aims to analyze the organization and functioning of urban communes as envisioned in the law of 1929. This law was adopted by the National Peasant Party government as a replica to the law adopted by the Liberals in 1925. The intentions were commendable, as the authors attempted to make the principle of administrative decentralization much more visible. However, this principle continued to remain only a desideratum. The Ministry of Interior, for example, played an important role, that could become decisive in the election / appointment of mayors of urban communes.
Keywords*: administrative law, urban commune, town, city.*

1. Introduction

Although in 1925 there was adopted a complex administrative law, with the valences of a real reform, the takeover of power by the National Peasant Party made that, only four years later, a new law in the field of public administration to be voted. The adoption of this new law was roughly part of the policy of criticizing and replacing the legislation of liberal political opponents. The intentions were definitely good [1], as the centralizing nature of the 1925 law was widely criticized and decentralization was pursued [2]. Nevertheless, the law of 1929 did not manage to resist the temptation to subordinate local administration, trend that even intensified after the adoption of the law.

A pertinent contemporary analysis highlighted that, although by some provisions inscribed in the text, such as those on the guardianship of administrative acts, the law "achieved administrative decentralization to the highest degree in Romanian history", by its application and practice, the law was far from being "a model of administrative decentralization". It generated "an extremely complex and cumbersome legal apparatus" that caused "several blockages and complications in practice". Until the adoption of a new

administrative law, which occurred only seven years after, this law was amended eleven times, which made “perfect theoretical structures […] to collapse like sandcastles.” [3]

Our aim is to capture the innovations brought by this law with respect to urban public administration and to present the provisions reserved for the organization and functioning of urban communes, and, therefore, we shall not insist on other already known and applied practices or stipulations.

2. Main provisions on the organization of urban communes

The law for the organization of local administration of August 3 1929 [4] divided the localities of the country into rural communes and urban communes. It was an organization that had perpetuated in the Romanian territory ever since 1864 [5]. Urban communes were divided into cities and municipalities and the limit according to which this classification was made was 50,000 inhabitants (art. 4). Municipalities were the largest and most important localities in the country. Analyst Manuel Guțan appreciated that in the organization and functioning of municipalities, the legislator would have borrowed the model existing in the older administration of Transylvania, and, as a result, municipalities were not considered subordinate parts of a county, but administrative units equal in rank with the county. Therefore, the law stipulated that “the higher hierarchical tutelary and control authorities of the county were those of the municipality as well” [6]. Climatic spas could also be integrated in the category of urban communes on condition that they met the fulfillment of certain formalities (art. 4).

The deliberative bodies of urban communes were: urban communal councils - in towns and municipal councils - in city councils. The executive bodies were: the mayor, the deputy mayor and the delegation of the communal or municipal council (art. 71).

Councilors were either elected or rightful members. Their number varied between 16 and 36, depending on the population of the locality. Among the councilors there were: the rector, one representative of the state primary and secondary schools, one representative of the largest national minority’s private secondary school, one representative of the national church and one of the largest minority’s, the presidents of the Chambers of Industry and that of Agriculture, a representative of industrialists and one of traders [7]. The term of office was 5 years and it was free (art. 73 - 82).

The communal council was very important, as they elected the mayor, the deputy mayor and the permanent delegation. Several commissions were set up among the councilors, necessarily including those on finance, on constructions and on social assistance. Councilors were required to take an oath of allegiance and were not allowed to be up to the third-degree relatives. Failure to take the oath or unmotivated absence from 5 consecutive meetings led to the loss of the quality of a councilor (art. 83 - 88).

Communal councils usually met on a monthly basis, but there could also be extraordinary sessions. The absences that would have caused the postponement of a meeting twice in a row led to the amendment of the respective councilors. The decisions that would have been made without the convening of all councilors were considered null and void. The communal doctor had to be invited to all meetings. Voting was open, unless otherwise decided or if personal issues were discussed. The president voted last. The meetings were public, unless otherwise decided and any citizen could request copies of the minutes of the meetings (art. 89 -102).

With respect to the attributions of communal councils, the law stipulated that they were to deal with all issues “concerning the interests of the commune and controlling the acts of the communal administration” (art. 103). A special article (i.e. art. 104) detailed 24 such directions, including ones non-existent in previous legislation, such as “those on environmental protection, protection of monuments and works of art, the establishment of museums”, the concern for strengthening the education of citizens and caring for the physical education of citizens. It was also introduced the right to be awarded the title of honorary citizen for special merits in support of the local community (with the approval of two thirds of councilors).

In the activity of special commissions (i.e. those of education, cult, public health, social protection etc.), specialists from outside the council were also accepted in order to give “their support to the communal administration” (art. 105)

The law included regulations meant to ensure good coexistence in the community. Compared to previous legislation [8], there was paid more attention to providing means of transport and to fixing tariffs, to sweeping and spraying sidewalks, to snow lifting, to maintaining roads that could be damaged by heavy traffic, to preventing incidents caused by “excavations and removal of soil, sand and gravel” (art. 114), to sanitation and

cultivation of vacant lots and or to setting places for the garbage to be stored. In case of sanctions, the maximum fine was fixed. Suburban communes could be associated with urban ones.

A special section of the law was reserved for urban planning and construction supervision. All the urban communes, as well as the suburban ones and the climatic spas, were obliged to make systematization plans within 10 years. The idea was not new, as *The Law for the Organization of Urban Communes* of 1894 had already drawn attention to the need for "city alignment plans" [9] and *The Law for Administrative Unification* of 1925 had introduced the duty to implement a "general systematization plan" [10] of cities, both legislative texts establishing a term of 4 years for their realization.

The law of 1929 emphasized particularly the need to harmonize these plans with "the requirements of the future, by means of reserving and delimiting places for squares, gardens, parks, for services, buildings and public monuments, for the opening of new arteries and so forth" (art. 115). Urban localities that had suffered destruction as a result of the war were obliged to carry out the respective plans within one year, with the technical and financial support of the state.

The law intended that the systematization and modernization of the localities should not remain a simple desideratum. Therefore, in the localities where the operation of drawing up the respective plans would not have started within 3 years from the promulgation of the law, the superior authorities (ministerial in case of municipalities, and county in case of other communes) were to get involved. If after another six months the operation of carrying out the plans would still not be initiated, the local technical commission that had control attributions would undertake the respective plans, "at the expense of the municipality or commune, and the expenses will be included in the budget as mandatory" (art. 121).

The terms and spirit of the law were firm and intransigent when it came to not complying with the conditions of opening streets and passages, to the authorization or alignment of buildings. The law stipulated gradual sanctions ranging from fines to the cancellation of those facilities or even to the demolition of buildings. The spirit of these ideas can be identified in the laws of 1864 and 1887 [11] and it was further materialized in the law of 1894, in the section *On urbanity and communal police* [12].

Part of the law was reserved for the Delegation of the Communal Council. It was composed of 3-5 members (depending on the population of the urban locality) and it was elected by secret vote from among the councilors. The representation of national minorities was envisaged. The mayor and the deputy mayor were full members of the Delegation. The members of the delegation received an allowance decided by the communal council. “Members of the delegation shall receive an attendance allowance […] and shall be reimbursed for any expenses they may incur in carrying out their duties” (art. 132).

The delegation met at least once a week whenever convened by the mayor or his deputy. It “replaces the communal council in the interval between sessions and decides in its place” (art. 136). The attributions of the Delegation were somewhat secondary, being “an advisory body of the mayor” (art. 138), deciding on issues such as: appointing officials without academic qualifications, setting the price of hotel rooms and pensions, transport prices, remuneration of porters, etc. The attributions of the Delegation also included some more important aspects such as: the granting of construction permits, the elaboration of electoral lists and so forth. Nevertheless, the most important decisions remained in the diligence of the Municipal Council (i.e voting the budget, setting taxes, territorial changes).

Mayors were elected by indirect vote and there could be noted the tendency to subordinate to central authorities. The law of 1929 stipulated that only mayors of villages and of rural communes made up of a single village could be elected by universal suffrage, whereas the election of mayors of the urban communes was made by the communal council, from its members, by the majority of two thirds of the councilors (art. 146). In case of not reaching this majority, the Ministry of Interior intervened and appointed as mayor one of the 3 councilors who had gathered the most numerous votes. The tendency to centralize was further accentuated by stipulating the right of the ministry to appoint any member of the communal council as mayor, if he considered that the candidates “do not correspond to the interests of the state security or social order” (art. 146). No matter how the mayor was elected, the confirmation of the ministry was mandatory. The involvement of the Ministry of Interior in the appointment of mayors contradicted the principle of administrative decentralization, practice that was obviously deplored in the surveys of that time [13].

In urban localities, there could be elected one or more deputy mayors, “as needed” (art. 148). Their election was made according to the same procedure as that of the mayors. State officials could not be elected as mayors and deputy mayors, except for the teachers, who during the exercise of the office were obliged to suspend their activity at the department. Mayors and deputy mayors were remunerated from the local budget by the decision of the communal council. They could not pursue liberal professions. Mayors were entitled to a pension after 10 years of service, and on condition they had contributed to the pension fund (art. 151).

The attributions of the mayor were the usual ones, as specified in the previous laws [14]. Alongside the Permanent Delegation, the mayor represented the executive power and he administered “all the interests of the commune” (art. 153) together with the Communal Council. He was the only one who could issue ordinances, documents that were to be “displayed at the town hall door” (art. 155) and to whom citizens could object. Mayors were also urged to take “measures to eradicate begging” (art. 154).

The mayor and the deputy mayor could resign or could be dismissed “by the motivated decision of the communal council with a two-thirds majority […], when serious and harmful deeds of the commune were proved in their charge” (art. 164). The dismissal could not be made before their hearing. Manuel Guțan claims that the dismissal of mayors by local councils, without any prior approval or notification of the guardian authorities, was a provision introduced “for the first time” in the Romanian public administration [15]. It was obviously an argument in favour of decentralization, even if it was somehow diluted by the obligation for this dismissal to be approved by the guardian forums (art. 166).

The most authorized representatives of urban communes could also be suspended in case of them being arrested, investigated, trialed or convicted. Suspension decisions were reviewed every three months in order to establish if the suspension was to be further maintained. The quality of mayor could be lost for the same reasons as those stipulated for councilors.

Depending on their material possibilities, each urban commune could draw up the scheme of the necessary services and administrative officials. It was mandatory for each commune to have “a secretary or a notary and a cashier” (art.172). Among the officials

that could be employed, there were doctors and veterinary doctors, nurses and medical midwives, firefighters, pickpockets and cantoners, postmen and telephone operators etc.

The officials employed in administration were divided into two categories: with administrative responsabilities and the specialists. They had the obligations, rights and training specified both in their professional statuses and in special laws. The law aimed at a professionalization of the administrative officials and at reaching their highest possible education. Secretaries, cashiers and accountants were appointed by the communal council. The secretaries had to have a doctor's degree or to have graduated from a law faculty, the cashiers were to be higher business schools graduates and notaries had to have graduated from a notary school with a baccalaureate degree or to have a bachelor degree in law. Notaries could be assisted by a subnotary. The auxiliary staff (registrar, copyist) had to have at least four secondary classes or a vocational secondary school. The executive staff (head of the office or his deputy) were to have graduated from high school or from specialized superior school, whereas the heads and deputy heads of services had to be higher education graduates. There were stipulated exceptions from the education requirements imposed to the officials working in administration.

All officials were to take the oath of allegiance to the king, to the constitution and to the state, and career officials had the obligation to know the Romanian language.

3. Conclusions

Our analysis highlighted the concerns of the legislator to introduce provisions related to modern urban life, provisions that sometimes even foresaw the future, approach that represented a positive fact. For example, in the law of 1929, there appeared much more tangible references in the direction of environmental protection.

Another noteworthy aspect was the strengthening of the older trends to professionalize municipal officials and to increase their level of training, so that, according to this law most of the officials of urban communes had to have higher education.

Regarding the debate on the centralization / decentralization ratio present both in the public space and among the specialists of that time, the law of 1929, although there were some fulfillments, did not succeed to visibly tilt the balance in favour of

decentralization. The way of electing mayors, for example, reflected an obvious tendency to submit the local administration to the central governmental power, submission which could lead even to the mayor being appointed by the Ministry of Interior.

The text of the law has some weaknesses in that there were introduced some cumbersome provisions which led to the bureaucratization of the administrative process.

The law of 1929 was an important law, which cannot be overlooked when analyzing the phenomenon of the Romanian public administration from the interwar period. This law remained in force until 1936.

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THE REGIME OF PROTECTED NATURAL AREAS IN THE FRAMEWORK OF ENVIRONMENTAL LAW

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Abstract :
The protected natural areas cover an area of over 24% of Romania's territory. With the discovery of nature and its benefits and beauty the care of its protection also began, with the purpose of protecting areas and species that are important not only from an aesthetic point of view, but also scientifically.
At the national level, the activity of environmental protection and ensuring a healthy life have long been regulated by a multitude of laws that, even if they were not perfect, they could be perfected over time.
In this paper we want to bring the environmental science in the field of nature conservation to legal sciences. Both theoretical and legal aspects will be presented, as well as legal aspects related to the regime of protected natural areas, but also practical aspects present in cases solved by the Romanian courts.
Keywords: *environmental law, protected natural areas, sustainable development, protected area.*

The good development of the economic and social activity is related to the need to protect nature.

Romania is the country with the highest biodiversity in Europe, having an extremely rich and varied nature, owning a third of the Danube and half of the Carpathian Mountains.

Currently there are 14 natural parks, the most recently established being Vacaresti Park, the smallest, but also the only urban natural park in the country. The largest natural park is located in the Maramures Mountains.

Protected natural areas are a significant legacy that today's world can leave to future generations.

A world devoid of protected natural areas, dispossessed of wild natural sites, would become an extremely impoverished environment. [1]

Protected natural areas have a great potential to become models for the harmonious development of human society, because in these areas the sustainable management of natural and cultural resources is promoted. [2]

From a legal point of view, the Romanian Constitution guarantees *the right of every person to a healthy, well preserved and balanced environment*.(art. 35). The same article also provides for the correlative obligations of the State to *provide the legislative*

framework for the exercise of such right, as well as that of all persons *to protect and improve the environment* along with the obligation of the state to ensure *restoring and protecting the environment, as well as maintaining the ecological balance* art. 35 lit. e).

At the international level, nature conservation is done in the form of protection of wildlife.

The Convention on Biological Diversity (1992) defines sustainable use *as the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.*

In the context of defining biological diversity, the protected area is also defined as *a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.*

Government Emergency Ordinance no. 195/2005 on environmental protection, approved by Law 265/2006 defines the protected natural area *as the terrestrial, aquatic and/or underground area, with the legally established perimeter and which has a special regime of protection and conservation, in which there are species of wild plants and animals, biogeographical, landscape, geological, paleontological, speleological or other elements and formations, with special ecological, scientific or cultural value.* [3]

The definition given by GEO 195/2005 coincides somewhat with the definition given of the protected natural areas by GEO 57/2007 regarding the regime of the protected natural areas, the conservation of the natural habitats, of the wild flora and fauna, approved by Law no. 49/2011 (Framework Law on the regime of protected natural areas).

The terms *protection* and *conservation* of nature or biodiversity are frequently used, but a clear distinction must be made between them. Nature protection involves actions to keep species and ecosystems in a state as natural as possible.

Nature conservation can mean maintaining rare species and habitats in the most natural state without intervening in natural processes, but it also allows active interventions to maintain these natural values.

In order to highlight the role of protected natural areas, it is recommended to use the term nature or biodiversity conservation [2], environmental law ensuring the right to development, being a collective right, but also a right of solidarity.[4]

The notion of natural patrimony is defined in the national legislation [5], but also the good of the natural heritage. The whole world is currently trying to protect the national natural heritage by designating protected natural areas of national interest: national parks, natural parks, nature reserves, natural monuments, etc. there are also protected natural areas of European interest (Natura 2000 sites) and of international interest (biosphere reserves, Ramsar sites, universal heritage sites). All these, at the level of each country, make up the national network of protected natural areas.

The representative forum that tried to solve the problem of protected natural areas was the International Union for Conservation of Nature (IUCN).

Currently, IUCN categories are found all over the world and are taken as a reference in any debate on protected areas.

Naturally protected areas must be defined by their management objectives, not by the title of the area and not by the efficiency of the management and the fulfillment of those objectives.

The six IUCN administrative categories for protected areas are [6]: strict nature reserve, national monument, natural park, habitat/species management area, protected landscape/seascape, protected area with sustainable use of natural resources.

In relation to other objectives, the priority establishment of the protected area regime [7] is done by: law (for natural sites of universal national heritage and for biosphere reserves), Government decision (for national parks, natural parks, geoparks); order of the head of the central public authority for environmental protection, decisions of the county or local councils (for the areas naturally located on terrestrial or aquatic surfaces that belong to the public domain of county or local interest). [8]

In the pursuit of economic development and material well-being, man can lose sight of the fact that there is no development without natural resources.

The doctrine states that if there is a field that seeks to repair the damage that has already occurred, it is meaningless, as the biggest goal should be the protection of wildlife. [9]

In practice, no effective solutions have yet been found regarding the assessment of environmental damage, especially with reference to habitats and species.

In order to ensure special measures for the protection of natural heritage assets, a differentiated legal regime [10] is established for the categories of protected areas, established both at national and international level.

The terrestrial and aquatic surfaces that belong to the public domain and that require the establishment of the protected area regime, will remain in public property and will acquire the protection regime.

The protected natural areas will be delineated in the national and zonal plans of territorial arrangement and town planning. [11]

The central public authorities for environmental protection and the Romanian Academy are responsible for establishing the ways of managing protected areas and other natural heritage assets, placed under protection and conservation.

Article 16 of GEO 195/2005 specifies that the administration of protected areas can be done through specially established administration structures.

Regarding the goods with natural heritage value, owned in private property regime, they will be protected and preserved by their owners, in accordance with the law, otherwise, the measure of temporary or definitive preservation will be ordered, in order to establish a special administration of them.

Therefore, the regime of protected natural areas is subject to the legal provisions in the field, both general and special laws in force.

Failure to comply with or violation of the general provisions on environmental law entails civil, contraventional or criminal liability.

The contraventional liability is the form of legal liability that intervenes most frequently in the situation of non-compliance with the rules regarding the protection of these natural environmental factors, whenever the deeds committed meet the conditions of a contravention. [12]

The framework law provides in Article 12 (paragraphs 1-34), a considerable number of contraventions to the Danube Delta Biosphere regime, in addition to the contraventions established by the provisions of Article 96 of the GEO on environmental

protection, as well as by the provisions of GEO no. 236/2000 amended by Law 462/2001, updated.

Criminal liability occurs when unlawful acts are committed voluntarily or involuntarily. These deeds constitute crimes. Given the degree of social danger of the facts, the sanctions that apply in such cases are a criminal fine or imprisonment.

Civil liability is the legal liability that occurs when the wrongful act is caused by a property damage, which must be protected. The ecological damage is solved according to the "polluter pays" principle, and the civil liability is usually objective, independent of fault. Environmental responsibility can be solidary, in the case of the plurality of authors.

Conclusions

Protected areas fulfill a number of beneficial functions for the human socio-economic system. In order to create protected areas that achieve their purpose and ensure effective conservation and protection, a number of aspects must be taken into account.

Ecosystems are dynamic systems that develop over time, and this process must not be stopped.

Protected natural areas have a special importance in the conservation of natural and cultural capital, because within these areas we meet representative areas in terms of biodiversity, natural and culturally associated values.

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LEGISLATIVE TECHNIQUE (FORMAL LEGISTICS) - AUXILIARY BRANCH OF LAW. FUNDAMENTAL ELEMENTS OF CONSTITUTIONAL LAW

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Abstract:
The legislative technique or formal legistics is the art of making laws; it represents a part of the legislative science which has as object the enforcement of the options of the legislative policy and consists not only in the drafting of the text of the law or more generally in its organization, but also in the choice and coordination of the phrasing of the rule of law and the technical procedures to achieve it. The issue of drafting legislative acts has been particularly important in the last two centuries, as a result of social development, increasing complexity and volume of inter- and intra-social contacts, legal thinking begins to address the theoretical side of the legislative process but we must not forget that one of the indisputable legacies of Roman law is the creation of the legal alphabet and progress in the field of legal technology.
Keywords: *legislative technique; the rule of law; legislative policy; the legislative process; the legal order.*

Legislative technique - conceptual and introductory elements

The legislative technique also known as "Formal Legistics" is a leading field of legal science. Through the legal regulation of the procedure for drafting legislative acts which becomes common, among the countries that impose it, including Romania, the discipline is transformed from a collection of recommendations and advice for legislators, into a real branch of law: the law of drafting legislation.[1]

The issue of drafting legislative acts[2] has been particularly important in the last two centuries, as a result of social development, increasing complexity and volume of inter- and intra-social contacts, legal thinking begins to address the theoretical side of the legislative process but we must not forget that one of the indisputable legacies of Roman law is the creation of the legal alphabet[3] and progress in the field of legal technology.

If they did not leave a cohesive scientific theory of drafting law, the elaborate techniques of Roman law, the precision and clarity of definitions, the logic and consistency of legal thought, all these prove and bear witness to the great art of Rome's

jurisprudents. This made such constructions able to go withstand time, to be appropriated, over thousands of years, by any legislator.

Doctrine and legal thinking begin to deal with the theoretical side of the legislative process, starting with the 19th century. The main issue that arose was whether law is a "given" outside of any human drafting or is "constructed" by man.

Legislative technique - a branch of legal science

Thus the thinking of the historical school of law[4] recognizes the existence, under the name of legal technique, of a scientific drafting of law that is distinct from the "political element" of creation, by which he understood the spontaneous creation of law in the deep layers of popular spirit.

The classical expression of the distinction between “given" and “constructed" - “le donné" and “le construit", a new orientation of the science of law is found at the beginning of the 20th century. In the work *Méthode d'interprétation et sources en droit privé positif*, the author[5] overturns the old method of interpretation that dominated both the doctrine and jurisprudence of the 19th century, a method known as the "exegetic school" or "exegetic method", consisting in overburdening the virtues of the law, in the religious aspect of the texts. He replaces this method with the scientific method.

Furthermore among the elements of the "given" of the law the following must be taken into account: the real conditions, the historical conditions, the rational conditions and the conditions elements which coincide with the fundamental elements of the configuration of law.

Also in this theory[6], rational data constitute a kind of "transposing law" - natural law - which is also included, along with "positive law", in the composition of law.

The "given" remains the essential basis of positive law[7], it brings us the "rule", the "principle". However, it is sometimes vague, of a moral nature, being too abstract in relation to tangible realities, it must be implemented with the help of technique. What characterises the legal technique is the artifice that operates on things, shaping them by a series of means, adapted to all the purposes of law, means which are practically inexhaustible, coming from all the sources of the ingenuity of the human mind and being necessary for law to achieve its final goal, and perfect, insofar as they will allow the goal

to be achieved as fast, as completely and as economically as possible.

This doctrine has exerted an enormous influence on the theory of law, being embraced and critically supplemented by many theorists of law. There have also been authors interested in the creative role of the legal technique in Romanian law, who have developed a theory of eventual rights, a new legal category, which enriched the traditional classification of legal acts into pure and simple and conditional, which was considered insufficient and restrictive.[8]

However, there are objections to this doctrine which conceives the elaboration of the "constructed" law on the basis of the real, historical, rational and ideal "given" in the sense that some authors do not agree that this would be a simple technical work but consider that, in reality, there can be no legislation without selection. From the complex set of rules that can be adopted, the one which best corresponds to one of the following values: legal security, justice and fairness, social progress, must be selected, based on a value criterion.[9]

As far as the unity of scientific and technical action in the process of drafting legislative acts is concerned, within it, the scientific operations ensure the essential framework of rationality which prevents the voluntarism of creation, the lawmaker's subjective intervention, not founded on knowledge. Legislative activity[10] should be seen only as a whole, without a rift between the two concerns: scientific and technical, although science investigates the social environment that requires the intervention of the lawmaker, and technology determines the ways in which intervention becomes possible through direct action of the lawmaker.

Legistics or legislative science constitutes the set of methods, techniques, procedures for the material or formal expression of ideas that need legislative reflection in appropriate forms.[11]

The drafting of laws is carried out respecting certain procedures and methods, as well as certain principles which must respond as precisely as possible to the requirements of a concise, clear, coherent scientific regulation.

The principles, methods and procedures used in the process of drafting legislative acts constitute the legislative technique, which ensures the systematization, unification and coordination of the legislation, as well as the adequate content and legal form for

each normative act.[12] In the Western specialised literature[13], the term formal legistics is preferred. *The legislative technique[*14] or otherwise known as *formal legistics* is part of the legislative science or legistics, a term more commonly used in the West.

Another definition of formal legistics is that it represents “the research of the procedures, rules and formulas aimed at a correct drafting and a better understanding of legislative texts and which seeks to achieve this goal through harmony, clarity and rejection of unfounded differences.[15]

At important scientific events, formal legistics or legislative technique was defined as that science that analyses the communication system and provides the principles meant to improve the knowledge of legislative texts.

An important work of Romanian law[16] examines some of the prominent personalities who, over time, in one form or another, have brought into discussion the issue of law development, its principles and the issue it raises - the "legislative technique" or "formal legistics".

The study states that “the norms of social life must be scientifically translated into precise formulas, which would subject the complex reality of social life to that discipline of logic and clarity which is the science of law.

In the same opinion, the precise knowledge of the superior principles of law and their enforcement in the lawmaking activity belongs to the legislative technique.

Another seminal work[17] also specified that the activity of legal regulation necessarily implies a precise definition of all the elements of this regulation. Aiming to guide people's conduct, prescribing certain behaviours, prohibiting others, establishing rights and obligations, determining legal statutes, capacities, spheres of competence, establishing sanctions, legal regulations must operate precisely, to restrict as much as possible the sphere of indeterminacy. Defining the concepts with which it operates is, as such, a condition for the effectiveness of these regulations.

Regarding the drafting of legislative texts, many authors consider this not only a science, but an art.[18] Even though states can learn from each other's experience, each ultimately evaluates its own legislative system, given only the way in which it would work best. Studies of comparative legislation, detailed and updated, give a broad picture of the status of the legislative technique at a global level, without neglecting the contribution of

technical achievements in this field, computer science in general and the Internet in particular. And, last but not least, the studies referring to the legislative language, to the publicity of the legislative acts, to the republication and rectification which represent an absolute novelty in the matter, in the Romanian law.

Elements of constitutional law in legislative technique

Drafting law[19] is a difficult process, in which the drafts of legislative acts must bear the imprint of a scientific activity, so that the envisioned regulation is suitable to the political, social, economic, cultural changes that have appeared in the field subject to regulation. From this perspective, the purpose of the new legislative act is to eliminate all the dysfunctions of the old regulation and to introduce adequate provisions for the social relations under consideration.

The determining criterion in choosing the form of the legislative act is the acts for establishing the competencies provided in the Constitution, laws, ordinances and even decisions of the Government, for the bodies subordinated to it.

Determining the category of the legislative act in which the new regulation is to be made is important from a practical point of view. Correlating the new legislative act with the existing ones depends on it, especially regarding the fact that through that new act it is possible to modify, complete or abrogate, or not, a certain regulation in force.

As far as the discussions related to the possibility of amending an organic law by an ordinary law are concerned, where the former does not include regulations in the field of organic laws, the majority opinion of specialists is that an ordinary law provision contained in an organic law cannot be amended by an ordinary law.

The issue of repealing a legislative act by another having a legal form equal or superior to that of the legislative act to be repealed is equally simple, the cases in which a decision of the Government is abrogated by law being frequent.

The constitution establishes the competence of the Parliament to draft laws, as well as the fact that the Government issues acts in the execution of the law, in an adequate manner.

The difference from other legislative systems, such as the French one, which achieves the limiting enumeration, through the Constitution, of the fields that are reserved

for legislation, is evident.

Most authors[20] agree that, while the decision represents the original legislative competence of the Government, which involves the elaboration of legislative acts for the execution of laws, the ordinance is not limited only to the aspects related to the enforcement of laws. Compared to decisions that can be elaborated only secundum legem, in the case of ordinances, the government goes beyond the scope of the decision in the executive field, entering the field of primary regulation.

The Constitution expressly regulates the regime of legislative delegation, the issues related to the content of issued documents and the procedure for issuing them. The provisions of the article make a distinction between two categories of ordinances: ordinary, simple ordinances and emergency ordinances, with different issuance procedures and natures.

Legislative policy or material legistics[21] has the creation of the aims and means of a legislative action, by discerning what is desirable from what is possible as object.

Material legistics refers to the system of action which legislation represents. It divides the legislative process into several phases and provides methodological recommendations to improve the effectiveness of the law.

The legislative technique or formal legistics is the art of making laws; it represents a part of the legislative science which has as object the enforcement of the options of the legislative policy and consists not only in the drafting of the text of the law or more generally in its organization, but also in the choice and coordination of the phrasing of the rule of law and the technical procedures to achieve it.

The norms of legislative technique define the constituent parts of the legislative act, the structure, form and manner of systematizing its content, the technical procedures for amending, supplementing, repealing, publishing and republishing legislative acts, as well as the language and style of the legislative act.

Conclusions

In principle, the best way to prepare a legislative text is an activity that takes place in two phases: the drafting of legislative policies and the phrasing of the text - the drafting of legislative acts.

This task falls to specialist in drafting laws, who are generally officials with legal studies. Drafting laws requires the systematic and often very thorough use of specific qualities of analysis and wording. The main task of editors is to transpose a specific policy into a coherent set of rules.

In countries of Roman-Germanic tradition, the drafting of laws is generally the responsibility of officials with senior administrative tasks in the competent ministries.

In most Central and Eastern European countries, which are also part of the family of Roman-German law, the drafting of laws is generally entrusted to a working group in the competent ministry.

In the Anglo-Saxon tradition, the drafting of laws is dissociated from the drawing up of legislative policies.

Thus, a body of lawyers at a Government level is tasked with drafting the text of the law, in order to follow the detailed instructions of those responsible for drawing up legislative policies in the competent ministry. The text of the law is established by these specialized editors, but within a process of concentration, those responsible for policy making continue to contribute to substantive issues, through precise opinions on the policy to be followed.

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Journal of Law and Administrative Sciences
No.15/2021

PSYCHODYNAMIC INTERPRETATION OF CRIMINAL BEHAVIOUR

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Abstract:
The study of criminal behaviour supposes an ingression during the whole formation process shaped. The dynamics of the family relationships, inherently related to the dynamics of the society, on a social, cultural, economic and institutional level, denotes the psycho-behavioural development of the individual, vertiginously influencing his/her violent behaviour in society. The deviant behaviour should be understood from a pathological point of view, as being the product of deformation, disruption or inhibition of normal development, according to the conflicts occurred in certain life stages, and to their inadequate settlements.
Keywords: *criminal behaviour, dynamics, society, deviance, offender, personality.*

1. Introduction

Right from the moment of his/her birth, the individual is inherently subjected to some dynamic development processes based on growing up and education. While the growing up process has an absolute purpose, meaning that inevitably it leads to the final growing up, the education component aims at obtaining a cultural model adjusted to the dynamics of the social environment, according to the degree of availability that the human being has for the training process. In this regard, during the formation process starting at birth and lasting during the growing up process, the individual remains open to the training process offered by the social environment. The family environment, the educational structures, the cultural transformations and the social changes contribute to the formation process.

Therefore, the causes of deviance are many and varied: neuro-psychic, family-related, social, economic, and educational, and the list is open. This short presentation of images can significantly reflect the differences between normality and deviance at a psycho-behavioural level [1]. Finally, the individual becomes a normal, deviant or marginalized on, within a society which is in a continuous evolution and in a rampant change.

We witness now a dynamics of the family-state relationships, in terms of influence of the family-related, social-cultural, economic and institutional environment.

1. The family-related environment and education – the psycho-behavioural foundation of the individual

Undoubtedly, family represents the best environment for the development of the personality of the individual. It is the foundation of the community, thus contributing to laying the basis of a well-structured society where each individual can enjoy a safe and sound environment. Between family and society, an inseparable and interdependent relationship is created that should be assure, in a positive way, by generally promoting the human value. The society and family transformations give birth to challenges that the individual has to face. Within the psycho-behavioural construction of the individual, education embodies the dialectic function, as the family offers the first guiding marks on life, with all its patterns. The life environment is the one that influences the individual even since childhood when we learn how to live and how to adapt to society, and to immunize against it, as it is in a permanent change, imposing stereotype patterns of thinking and action. The society develops and along with it, the individual, too, and this perpetuum influences the individual's behaviour, including the deviant one.

The social formation of the individual is based on two main components which supplement each other, education and training, and the individual behaviour manifests itself in relation to the other members of the society, thus determining the social style of a group. Within a group, the fate of the group itself becomes the individual's fate. In other words, the individual is not born with a certain behavioural fate, he/she acquires a fate which is achieved in the group in which such individual is interposed, being exposed to the pressure of conflicts of the dominant place. On these criteria, the interpretation of deviance and delinquency is reported to family, school and society all the same. In this corollary, all these acquire a particular importance.

2. The pathological nature of deviant behaviour

The behaviour deviations should be regarded as mutations in the process of normal growing up, being a process of deformation, disruption or inhibition of such

behaviour. Such mutations occur as a result of the conflicts inevitably appearing during the process of the normal growing up of the individual, in certain life stages and which are not settled adequately by him/her. In this context, we have to notice the sources of impulse and of control reported rather to life experience and to the momentary situation, than to the biological construction [2].

Those manifesting a deviant or criminal behaviour show a series of features, even contradictory ones, in this regard, on one hand being the impulsive individuals and without a specific purpose in their daily behaviour, without perspectives and ideals, and on the other hand, organised individual, with perspectives, with a planned and controlled behaviour, having the same daily routine, constant and monotonous, but who sometimes act impulsively, inexplicably. This impulse to act, manifested in a certain social context, based on the existing circumstances, answers to the psychoanalytical conception according to which the tendency to deviate is inborn.

To understand the sources of impulse and control, we have to start with the psychoanalytical meanings of the human behaviour. Starting from the genetic inheritance, respectively those influences inherited by each individual and reflected in the composition of self, at the ego level, all the life experience of the individual is perceived, even from birth, as a result of the events that he/she has lived through his/her life, while at the super ego level, the information came from the other individuals is recorded. Therefore, the control will manifest by the intermediary of the ego and super ego, as functional structures interconnected at the personality level.

3. Psychoanalytical guiding marks in interpretation of criminal behaviour. The capacity of control over aggressive impulses

In the interpretation of personality, the self plays an important part. It is not learned, it simply exists in the human nature, being conceived as aggressive energies which render the impulsive behaviour. It is not a matter of thinking or reasoning, but of impulses which reveal beyond self-control. In the growing up process, the elements related to the development of personality and to socialisation play an important part, and with their help, impulses can be controlled from the level of self.

In the psycho-dynamic interpretation of criminality and of deviance, they start from premises related to the capacity or incapacity to overcome conflicts, as energies existing in the structure of personality. Such an analysis in focused on the neutralization of the feeling of guilt, and on the construction of those instances responsible with thinking and moral consciousness, i.e. Ego and Super Ego. Basically, the controls are made by means of the Ego and of the Super Ego, as structures which begin to differentiate during growing up, at a certain period of time after birth.

While the Self is inherited, the Ego is acquired, made up of experiences, sensations, personal experience. The Ego is practically what results from the relationships of the individual with the environment in which he/she lives, being the expression itself of all the social relationships developed personally by the individual during the growing up process. Thus, he/she learns and gets used to the way in which he/she has to manifest in relation to the social environment. That is why, the Ego is created in time, as part of the individual's personality. Compared to the functions of the Ego, there occur the moral functions transmitted to the level of Super Ego, reflecting the ideals and expectations in relation to the other individuals and with the community in its whole. For example, the Ego manifests itself from early childhood, when any child gets into contact with the surrounding environment and, to a certain extent, to exercise a certain control over it, but such perceptions occur before shaping any moral principle. At grown-ups, the Ego is more complex, meaning that it will express itself in terms of multilateral development of the individual, as personality and as degree of socialization: expectations, desires, interests, convictions, curiosities, constraints etc. According to all these elements by which it is identified with. The Ego has to manage those conflicts occurred as a result of impulses from the level of Self in relation to the moral functions from the level of Super Ego. In the absence of such mediation, the Ego cannot manifest itself within the usual activities, and its role is only to think and reason some behaviour, especially self-defence against the impulses from the level of self.

If the Ego is shaped and starts to manifest itself relatively shortly after birth, at early ages, the delimitation of Super Ego will occur in a natural way, at a certain moment after the shaping of the Ego, according to the degree of psycho-intellectual and affective development of each child. The Super Ego manifests itself as a differentiated structure,

containing all the moral functions of the personality: approval or disapproval of actions, according the honesty criterion, the critical self-preservation, self-punishment, the need to repair a bad deed or the need to regret it, according to the guilty feeling criterion and self-respect or self-love [3]. Most of the functions of the super ego are instinctive.

According to these three instances, the individual wavers between rational and irrational, consciousness and unconsciousness. A weak Ego or an absent Super Ego leaves the place to an out-of-control Self, thus leading to the repression of aggressive energies.

The whole behaviour of the individual subsumes to his/her actions which manifest at interpersonal level. We see a dynamics regarding the individual's needs and objectives. According to these guiding marks, the self evolves, which requires energy to be controlled.

4. The free will and the psycho-behavioural motivations

To understand the actions of the individual, we have to start from his/her interpersonal behaviour, trying to put ourselves in his/her place and to discover the motivations of his/her actions and choices: why choose and action and reject another or why keep on doing the same action, beyond stigma, reprobation, rejection or even sanction?

Thus, the component of personality should be regarded in relation to the behaviour adopted by the individual both as an answer to certain momentary external stimuli, and according to those stable features or predispositions which generate specific typologies, such as the extrovert or the introvert, as Jung classified them.

From his notes, they reached the conclusion that the individuals act, during their lives, as determined by certain interests of theirs, and others react as a result of their inner being [4]. With regard to the criminal typology, the extrovert manifests a criminal-related predisposition more acute than the introvert [5]. The psychoanalytical studies shows that the character is what sets out the psychic structure of man, according to which the "man's fate" itself is set out" [6]. And the character is not inherited, but occurs as a result of the interaction between the genetic background and the environment. However,

the factors of personality, mostly inherited, are mainly responsible for the antisocial behaviour.

Obviously, the crime-related action should be interpreted as being a product of some determined causes. Is the individual aware of what is good and what is bad and,, at the same time, is he/she capable of choosing between the two actions? Certainly, each human action, being determined by several factors, can be based on some unconscious processes that would overcome the conscious motivations and decisions, no matter if we talk about a normal or a criminal individual. And the consciousness is the one that transmits the individual to behave correctly and morally, according to social regulations. It appears as a result of a long process of conditioning; and the absence of conditioning is perhaps one of the main causes leading to confrontation with the law and with the social practices in general [7]. Following this reasoning, the extroverts have a higher criminal-related coefficient, because they condition themselves less, thus having a weaker consciousness than the introverts.

Conclusions

The nature and evolution of the self is the main source of concern in the psycho-behavioural dynamism. The self develops gradually, and an excessive preoccupation of the individual regarding self-defence can influence his/her behaviour, finally leading to the loss of his/her own identity, to the loss of self. It is considered as the source of approximately the whole behaviour that we call bad, and during growing up, if the development of personality and socialization are successfully achieved, they learn to control the impulses of the Self.

As criminality and predisposition to offences can be explained only in relation to society, criminality should be analysed and observed in the context of social interaction. Although heredity has a significant percentage, we do not have to deny the importance of the influences of environment, learning and social experience contributing to understanding criminality in its whole.

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GENERAL CONSIDERATIONS REGARDING THE CONCEPT OF CONSTITUENT POWER

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Abstract:
Constituent power means the body that benefits from a special political authority, has the right to adopt the Constitution. At the basis of the written Constitution are a series of theories and practices that preceded it and were imposed along with ideas such as written contracts, the rule of law, the social contract, the educational rebate, the constitution, which raises the individual to the status of the citizen by knowing his rights. The study of the various constitutions shows us that, in order to ensure the supremacy of the constitution in the legal system, there has always been the problem of finding special forms called procedures for adoption..
Keywords: *constituent power, supremacy, social contract, natural rights, people*

Constituent power is a modern concept that has its origins in medieval thought and establishes the people as a source of political authority. Power is an essentially social phenomenon:

a) it cannot be conceived outside society and can only be manifested through social relations

b) in the absence of power society is an inert body, it is unable to satisfy its raison d'être. It is a condition of social order and the rapprochement of the common ideal, and freedom and good are possible only in such an order. [1]

The purpose of power is, as the case may be, to ensure the stability of the relationship between the rulers and the governed or, on the contrary, to determine and maintain its tension and precariousness. [2]

The concept of constituent power derives from the Enlightenment revolutionary movements of the eighteenth century and consists in recognizing that the source of political authority comes from the will of the people and the acceptance of the idea that the fundamental law is a creation of the people. Thus, the constitution becomes a legal instrument, it is an expression of the constituent power of the people, to establish in various institutional ways the way in which it should be governed. [3]

According to the meaning of the constituent power, the powers created by the Constitution are multiple powers and fulfill a certain function, but within the limits conferred by the text of the constitution, which is elaborated by the constituent power. Thus, a constitution presupposes above all a constituent power. The constitutionalists saw the adoption of the constitution as a complex process, with profound socio-political and legal significance, in which they distinguished: [4]

We must specify that the fundamental law is not the work of a constituted power but of the constituent power. Therefore, the constituent power is the power to make the constitution, and the constituted powers are the powers created by the constitution.

Hegel stated that "the people must have a sense of their right and their state of affairs to their constitution, otherwise it may exist, it is true, externally but has no meaning or value" and each people has its constitution what suits him and what suits him. [5]

We consider it necessary to correlate the definition of the constituent power with the general definition of the constitution. One of the most successful definitions given to the constitution, in our opinion, is the one formulated by the doctrinaires Ioan Muraru and Simina Tănăsescu, according to which the constitution can be defined as the fundamental law of a state, consisting of legal norms invested with supreme legal force and regulating relations fundamental social issues that are essential for the establishment, maintenance and exercise of power. [6]

Of course, starting from this notion we try to formulate another definition of the constituent power according to which the constituent power represents the authority established by the holders of national sovereignty invested with the prerogatives of elaboration and power in force of the norms with supreme legal power that regulate indispensable fundamental social relations. [7] the process of establishing, maintaining and exercising state power. In the specialized doctrine there are two types of constituent power, namely original constituent power and established constituent power (derived). The original constituent power intervenes when there is no (situation of the newly emerged states) or there is still (as a result of revolutions) a constitution in force. The derived power is provided by the constitution in force (or by the previous one) both in terms of its organization and functioning. [8]

Regarding the difference between the original constituent power and the established constituent power, two major currents can be identified. The first current proposes a formal criterion of distinction, and the second current operates the distinction based on a material criterion. Although Sieyès is considered the father of the notion of constituent power, he did not make the distinction between the two types of power. This division is recent. Thus, it is estimated that for the first time this division of terms was systematized by Raymond Carré de Malberg. [9]

The constituent power, as the power of law, must not be imposed by force but by authority. The whole issue of the concept of constituent power and constituted powers due to Sieyès is based on the doctrine of natural law and contractual theories. The derived constituent power, as stated by Prof. I. Deleanu, is a power dependent on the pre-established constitutional regulations, their overcoming being the fraud of the constitution. [10]

Regarding the issue of the limits of the constituent power, both of the original constituent power and of the derived constituent power, some clarifications are required. In the case of the original constituent power, we consider that it is an unlimited power as long as it has the competence to establish a new constitution, so it does not bear any limit because otherwise it would not be absolute and unconditional sovereign.

By its definition, it is emphasized that it is not subject to any pre-established rules or limits. Over time there have been opinions and theories that have taken into account the fact that there are intrinsic limits of constituent power. These were explained by:

- the limitation of the constituent power as a result of some principles of natural law, as a result of a system of values;
- limitation of the constituent power by norms of constitutional law.

Derived constituent power is a power limited, first of all, by the procedural conditions that must be met for its exercise. Considering the fact that these conditions are included in the fundamental law, it is considered mandatory. Therefore, through the text of the fundamental law, the limitation of powers is achieved.

Regarding the possession of power, we must specify that history knows innumerable situations by which the absolute power was held by a single holder, whether we are talking about a king, a prince or an emperor. According to theocratic theories, he

legitimizes his authority as being of divine origin: all power belongs to God and he invests a king with absolute power, thus legitimizing his power as "God's anointed on earth." Theocratic theories have evolved and even if they do not change radically they have a new approach: power belongs to the divinity but it does not directly choose the holder of power but people are those who do, and this choice is led by divinity. [11]

John Locke, a follower of the school of natural law, in his Essay on the Social Contract, tries to find an answer to the legitimacy of power: naturally. It is a state of complete freedom, a state in which without asking someone's permission and without depending on the will of another person they can do whatever they want and can dispose of their own goods and persons as they wish provided they respect the law of nature. [12]

The subordination of government to the ruled is one of the most important ideas we find in John Locke's essay. According to Locke's theory, man renounces his state of natural freedom in favor of the freedom which the community confers on him. The entire legislative power is delegated by individuals to Parliament and then they submit to its supreme will. [13] Although parliament is the supreme power in the state, in John Locke's opinion people have the right to remove or change the legislature when it no longer corresponds to their will. "The majority, having all the natural power of the community over the people united for the first time in society, can use this power to make laws, from time to time, for the community and to enforce them through the officials it appoints, and then the form governance is a perfect democracy." [14]

The analysis of this text shows that when power is given by the majority to the legislature for a limited period, when it ends its sovereign power belongs to society.
Thomas Hobbes, analyzing the social and political evolution of English society up to that point, stated that everything is the result of the social contract as a result of the voluntary convention between people. By associating, the people created the state as a necessary tool for the better satisfaction of the individual interests of each of the members of the civil community. This is the only reason why people have agreed to end the social contract. Thomas Hobbes states that the emergence of the state started from the "natural state", but the natural state of the people is one of war and not of peaceful coexistence (bellum omnium contra omnes), and in order to live people must submit to systems of government. "The only way to establish a common power to protect people from the invasion of aliens

and the blows against each other," Hobbes writes, "is to give all their power and strength to one man or a gathering of people who can reduce all wills to one by plurality of votes." [15]

The novelty that Hobbes brings in political theory consists in the democratic establishment of an absolute sovereignty, and the principle underlying the social contract is that everyone willingly agrees to abandon their own natural freedom in favor of the state. [16] In Hobbes' view, the state becomes the one that enacts the norms of good and justice. This absolute power has legitimacy only in that it guarantees individual security as a natural right. In Thomas Hobbes' conception, there are two contracts: the one by which individuals associate with each other and the one by which they transmit all the rights of the sovereign, and the sovereign is what in doctrine is called Hobbes's double contract theory. [17]

Jean Jacques Rousseau, in his analysis of his work The Social Contract, states that in civil society people were in their natural state free and equal, forming society by a voluntary act and denying divine intervention in establishing this natural subordination between people. as Catholic thinkers argue. "Since force does not give rise to any right, and since no man has natural authority over his fellow man, it follows that the basis of any legitimate authority among men can only be the convention." [18] Rousseau proposes a model of society in which each individual and his property are protected and guaranteed full freedom. "To find a form of society that defends and protects with all the common force the person and the goods of each associate in which each of them, uniting with all, still listens only to himself and remains more and more free as before. This is the fundamental problem whose solution is the social contract." [19]

The real purpose of the social contract is to ensure freedom. Natural freedom is alienated in order to obtain a conventional freedom in return. Every individual gains from this because natural freedom is not guaranteed, while conventional freedom is protected by contract. The first effect of the social contract is the creation of a collective body - the people, and the shaping of a unique collective will that gives it strength. As Rousseau pointed out, the social pact gives existence and life to the political body and through legislation movement and will. In Rousseau's theory there is no legitimate power and legitimacy without the people's exercise of their sovereign right. It should be noted that

one cannot speak of the conceptualization of the term constituent power in JJ Rousseau, Th. Hobbes and J. Locke, because their theories on the social contract do not know the distinction between the ordinary legislative power and the constituent legislative function that a Constituent Assembly would have. We also mention the indissoluble link that exists between the concept of constituent power and the principle of supremacy of the constitution. The principle of the supremacy of the constitution over ordinary laws lies in the fact that it comes from a supreme sovereign will. So, the constituted powers and their acts are created by the constitution and they must be in accordance with the constitution. In Rousseau's theory there is no higher power that is above legislative power. People are the ones who by common agreement establish their rules of social coexistence. [20]

Although Sieyès was the first to conceptualize the term constituent power in the European area, in 1787, a year earlier, in the United States this concept had already materialized in the constitution adopted following the Philadelphia Convention. [21]

The idea of a written constitution that came from a sovereign will of the people was theoretically based on the ideas of American federalists, who based their documentation on contractualist theories and Montesquieu's conception of the separation of the three powers in the state. By Sieyès, there was already a modern, democratic constitution in the United States for those times, in which it was the will of the people that imposed a new form of government. Invoking the majority of the constituent power, James Madison stated that the states legally represented in Congress had the authority to represent the interests of the people and then, by ratifying the Constitution, which is subsequent to its adoption, its legitimacy was obtained in terms of constituent power. As Madison said, if this had not happened and the states had not ratified the Constitution, it would have remained a "simple written paper" signed and approved by those whose interests promote and protect them. Although the people become the holder of sovereign power, it cannot manifest itself in absolute freedom, they must submit to limits and these limits are primarily those imposed by delegating power to certain representative bodies and the limits imposed on them by the constitutional text itself. The purpose of these limits is to prevent irresponsible changes in the will of the people. [22]

In 1789 the National (Constituent) Assembly of France adopted the Declaration of the Rights of Man and of the Citizen, which became the preamble to the constitutional

text of 1791, and in 1793 a new Declaration was adopted which became the preamble to the constitution and is not limited to recognition of the right to resist oppression but enshrines the right of the people to revolt when the government violates their rights. With this right, the idea emerged that the constituent power is unlimited and cannot be defeated by certain rules of social organization because it has the power to overthrow one form of government and establish another that corresponds to the will of the people. By granting a constitution, the people manifest both their freedom and its guarantee through constitutional provisions. [23]

Carl Schmitt argues that even when constitutions have a limited term of existence when they lose their legitimacy or when significant social events take place, they disappear and are replaced by others. Constituent power cannot disappear and cannot be eliminated, it is perpetual and does not lose its substance once it has created a constitution. [24]

Conclusions

The constituent power is the body that benefits from a special authority that has the right to adopt the constitution. The supremacy of the constitution lies in the fact that the fundamental law is the foundation of the state organization, the legal basis of the entire legislation.

The control of the constitutionality of the laws is one of the legal guarantees of the supremacy of the constitution. The constitutional order is dynamic and the analysis of the concept of constituent power must exceed the limits of its understanding as an existential unit prior to the formation of the constitution, being necessary to focus on an understanding of it related to the relationship between emanates this authority.

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SOME CONSIDERATIONS ON NORMATIVE INFLATION AND ITS EFFECTS ON FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

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Abstract:
The inflationary phenomenon of normative acts is more and more worrying. We live in a democratic society that promotes the protection of human rights.
The normative inflationary phenomenon must be appreciated according to the number of normative acts adopted or according to the aspects of legislative technique that defeat the principle of accessibility.
Anti-inflationary measures are substantial measures in the economy and we must use analogous methods to establish the normative inflationary phenomenon.
Keywords: *inflationary phenomenon, normative act, state, democracy, society*

In the contemporary legal space, the phenomenon of normative inflation is one of the most current topics. The inflationary phenomenon of normative acts in Romania has become more and more worrying, considering that the performance of adopting, on average, a normative act every day has been reached. Inaccessibility and unpredictability are not the only serious consequences of the development of this phenomenon of normative inflation.

Starting from the meaning and significance of inflation in the economy, we set out to analyze the concept of legal inflation. Thus, in its classical sense, economic inflation is a phenomenon that consists in increasing the amount of money put into circulation, which no longer has coverage in gold and goods and thus leads to a decrease in purchasing power. If we make an analogy with the legal meaning of this phenomenon, we can see that normative inflation is a phenomenon that consists in increasing the amount of legal norms adopted, which no longer covers human rights protection, predictability and coherence, thus reducing the value of the legal norm.

Analyzing the normative inflationary phenomenon, we must refer to two characteristic criteria: *quantity* and *quality*.

We made an analysis of the inflationary phenomenon according to the number of normative acts adopted or according to the aspects of legislative technique that defeat the principle of accessibility. Therefore, in our opinion, the totality of the proposed objectives and the measures to be adopted to counteract this phenomenon must be based on reducing the number of normative acts adopted and improving their legislative quality. We believe that the inflationary phenomenon should not be a heavy burden for the individual to bear and whose content is inaccessible to him. The law, and normative acts in general, acquiring a predominant character in the modern and contemporary epoch, must be accessible to all its addressees. [1]

As Rudolph von Ihering pointed out, a law must be thought of philosophically and drafted in such a simple way that it can be understood by all people so that it is useful to them. [2]

All normative acts issued by the legislature must be useful to the state and its citizens. It is not their large number that must be taken into account, but their quality. The democratic society in which we live today promotes as its primary objective the protection of human rights and freedoms; one of the most important means of ensuring and observing them is the control of the constitutionality of laws. [3]

If we refer to this protection, using terms such as quantity or quality, we face a pseudo-democracy that subjects individual rights and freedoms to the calculation of public opportunity and utility by establishing calculation policies and legislative technique to counter any phenomenon that relates mainly to individual freedom.

In the modern, contemporary and democratic state, where power belongs to the people, the state is used in the interest of man, of the satisfaction of the common good, of civil rights and freedoms. So, the state is useful to its citizens and ensures the protection of their rights and freedoms.

The problem of the usefulness of the state is also addressed by Robert Nozic and Pierre Lemieux, when they analyze how the state and democracy contribute to the protection of individual rights and freedoms. [4]

Taking as a point of reference the example given by Lemieux, we mention that, if the protection of rights and freedoms cannot be subject to public utility or opportunity, it cannot be conditioned by the numerical criterion or by a certain legislative qualitative standard. [5]

The difference between the phenomenon of economic and legal inflation consists in the type of economic or legal concept in which we frame the inflationary phenomenon, the content we attribute to it and the effects it produces, establishing the effects of this content on the protection of human rights. As Prof. D.C. Unfortunately, legal concepts are never substantial concepts, which means that they cannot have a fixed, predetermined content. [6]

The concept of economic inflation is a substantial concept, because in its content we identify all the objective data according to which we can see the existence of the inflationary phenomenon, the form it takes and, implicitly, the substantial methods of counteracting that must be adopted by reference to the nature and severity of the phenomenon. Anti-inflationary measures are substantial measures in the economy, which relate to the value criteria used to measure and determine the type of inflation. The use of an analogical method in the legal field cannot operate in the case of the normative inflationary phenomenon.

We must keep in mind that the large volume of normative acts adopted is the essence of normative inflation and is harmful to a democratic society because it brings with it inaccessibility and excessive burden. Accessibility of legal norms is one of the fundamental characteristics of a rule of law and enshrines a fundamental human right. If in a state there is an insignificant number of normative acts and they all infringe on individual rights and freedoms, we can appreciate that we are in the presence of the normative inflationary phenomenon.

Normative acts must be accessible to all citizens and according to the principle "Nemo censetur ignorare legem" all citizens must know their content and respect them, but if they infringe individual freedom, accessibility does not bring any benefit to the protection of rights. Correlating the issue of accessibility of normative acts with the issue of promotion - effective respect for human rights, this is related to a normal and genuine democratic development. [7]

If we analyze the ratio of existing normative acts - normative acts that infringe on freedom, we will notice that not the number of existing normative acts or their legislative quality is the threshold according to which we can measure the existence of inflation, but the degree of protection of human rights. We consider it impossible to set a numerical threshold or a legislative standard, because the type of society in which we live gives us this.

In the Romanian rule of law, fundamental rights and freedoms represent supreme values, enshrined at the constitutional level. The only violation that can be brought to them is the restriction of the exercise of certain rights and freedoms under the conditions provided by art. 53 of the Constitution. Apart from these conditions, another violation would lead to the violation of the Constitution in our country and of the democratic and social rule of law.

Law today expresses the supreme values of our society and its fundamental value is perspective. If the law makes sense, it is to provide a project of the future society that guarantees the protection of fundamental human rights and freedoms. He must contribute by his own methods to the realization and protection of freedoms because the right is meant to insert the future in the present guaranteeing that the social system will work. Law is a social project that aims at equality (freedom for all) and justice. [8]

The purpose of law is, therefore, to order society and to protect the rights and freedoms of its citizens. [9]

Normative acts that infringe on freedom are of two types:

- unnecessary normative acts, which refer to the unjustified intervention of the state in the sphere of social life through imperative acts that place the constraint in the sphere of social relations in which it should not exist;

- normative acts that violate the constitutional provisions regarding the protection of fundamental rights and freedoms.

Every time we find the existence of an act from the two categories we are in the presence of an inflationary phenomenon. Thus, the existence of a violation of people's freedom through a useless or unconstitutional normative act is in fact the threshold according to which the existence of the inflationary phenomenon can be determined.

Finally, if we establish that a normative act that violated freedom is the threshold that gives rise to the inflationary phenomenon, we will have to outline the essence of such an act. Of course, legal concepts are always oppositional concepts, so we cannot draw the value conditions that such an act must meet, but on the contrary, we must determine its essence by opposing another concept. [10]

We will put unnecessary imperative normative acts in opposition to the optional and alternative normative acts, and we will analyze the unconstitutional normative acts in opposition to the constitutional provisions. If we analyze the unconstitutional act in relation to the provisions provided in the Constitution, we can see the unconstitutionality of the provisions of the adopted normative act, which will lead to the automatic appearance of the normative inflationary phenomenon. [11]

Within a state, the freedom of the individual differs from freedom in the state of nature, when it was absolute, because the freedom of the individual is limited by the freedom of the other and can be opposed only to the instrument that has the power to control and limit state power. Coercion is the method that state power uses to act on individual freedom. [12]

At the level of normative acts, coercion translates into imperative. Imperativity is characteristic of criminal legal norms, which incriminate facts that could infringe fundamental rights and freedoms. The object of criminalizing an act that constitutes a crime is the protection of the individual in relation to the act that may infringe a right or a freedom belonging to him. The imperativity of the law is intended exclusively for the sphere of normativity.

In order to combat the phenomenon of normative inflation, its methods of coercion must be proceduralized, ie they must become procedures for the protection of human rights in the face of state intervention through unnecessary or unconstitutional normative acts. [13]

In France, a policy has been adopted to simplify and improve the quality of the law for a period of five years. [14]

Methods of counteracting must be protection procedures that protect the individual in a concrete way when his rights and freedoms are affected by unnecessary imperative normative acts or unconstitutional normative acts.

With regard to unnecessary imperative normative acts, the most efficient protection procedure is, in our opinion, the consecration of the right of normative option; as a reflection of a system of optional and alternative rules to which the individual freely decides to adhere. The optional norm has two elements: the conduct recommended by the state to the individual and the right of normative option of the individual, who may choose to adopt another conduct to achieve the goal pursued by the state when adopting the normative act (example: the case of normative acts for copyright protection). Alternative norms give the individual independence in his relationship with the state (example: the norms that govern the matrimonial regime).

Regarding the unconstitutional normative acts, the methods of counteracting consist in the consecration of some effective rules of control of the constitutionality of the laws, especially regarding these constitutional provisions that protect the fundamental rights and freedoms.

Conclusions

The normative inflationary phenomenon is a formal legal concept that does not describe a material reality, but a form that acts. The appearance of the normative inflationary phenomenon cannot be conditioned by objective criteria, but intervenes every time when the individual's freedom is affected by an unnecessary, unjustified imperative normative act or by ascertaining the existence of an unconstitutional normative act.

Normative inflation represents the adoption by the state of a useless normative act or the finding of the existence of an unconstitutional normative act that has as main effect the depreciation of the legal protection granted to freedom. This can be countered by granting the state an increased state of independence, leaving the individual free to contribute to the creation of the system of legal norms applicable to him and by creating effective procedures for protection against unconstitutional normative acts that infringe individual rights and freedoms.

By legalizing this concept, the leap is made from a binding right to a right based on communication and arbitration, so the leap is made from imperative to the civilization of law.

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