Considerations Regarding the Principle of Revocability of Administrative Acts[1]

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Abstract: *The activity of the administrative public authorities is carried out in various modalities, the most relevant from a legal point of view being the issuance or adoption of administrative acts. Traditionally, in the national doctrine, it was stated the principle of revocability of administrative acts. This principle translates into the recognized possibility of the issuing authority or the hierarchically superior one to order the abolition of an administrative act based on reasons of illegality or inopportunity. This principle is strongly related to the principle of legality which is bound to govern the entire activity of the administrative public authorities. This article contains an analysis of the principle of revocability of administrative acts, based on the legal provisions that apply to this domain, the national and European jurisprudence and the interpretations issued in the specialized literature. Also, the paper aims to emphasize the need to collaborate this principle with the principle of legal certainty and legitimate trust.*

Keywords: *individual and normative acts; revocability; administrative acts; derogatory rules, administrative appeal*

1. Introduction

The activity of public authorities presents features that have led to the application of specific rules regarding the legal regime of administrative acts, including their entry into force, effects, and the ways in which they may cease operate. In general, specialized literature presents the following ways in which administrative acts may cease to be in force: annulment, revocation, and inexistence. There are correlations

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and similarities among these institutions, but they do not overlap. (Apostol-Tofan, 2017, pp. 128–144).

Among the ways in which administrative acts may cease to be in force, revocation occupies a special place. It is defined in the specialized literature as the legal operation by which an administrative act is definitively abolished by the issuing authority or by the hierarchically superior authority. (Vedinaș, Godeanu, Constantinescu, 2010, p. 118).

From the definition presented above, it follows that, depending on the authority that orders it, revocation can be of two types: proper revocation, when the abolishing operation is carried out by the hierarchically superior authority, and retraction, when it is ordered by the issuing authority itself (Vedinaș, 2025, p. 311).

In doctrine, it has been shown that revocation, as a means of abolishing administrative acts, derives from the general principle of autonomy of will, based on which the power of public authorities to withdraw their own acts is configured. (Podaru, 2022, pp. 30–31).

2. Doctrinal Landmarks Regarding the Principle of Revocability of Administrative Acts

In specialized literature, the principle of revocability of administrative acts is considered by most authors to be a fundamental rule that applies to the legal regime of administrative acts (Apostol Tofan, 2024, p. 73).

According to this principle, the issuing authority or the hierarchically superior authority has the possibility to abolish an administrative act for reasons that may relate either to illegality or to lack of expediency (Mâță, 2024, p.81).

In terms of the importance of the principle of revocability in the activity of public authorities, the specialized literature has shown that it has been recognized not only in national law but also in the European law (Iorgovan, Vișan, Ciobanu, Pasăre, 2008, p. 39).

In specialized literature, an opinion has also emerged according to which the principle of revocability may exist in relation to normative acts. As for individual acts, such a principle does not exist, given the "extremely varied and complex problems" they generate (Podaru, 2022, pp. 35–36).

Most authors consider that revocability is a principle applicable to administrative acts, with certain particularities generated by the nature of the administrative act, depending on whether it is normative or individual.

As regards normative acts, it is appreciated that the principle of revocability is fully applicable, meaning that the authority has the possibility to revoke such acts at any time, without limitation in any hypothesis. In relation to these acts, the principle produces its full effects, normative administrative acts being revocable at any time, whether for reasons of illegality or for reasons of lack of expediency.

This rule is justified by the fact that, having general applicability, "their existence cannot be guaranteed indefinitely" (Ciobanu, 2024, p. 54).

For this category of acts, the specialized literature shows that revocation may be identified with the institution of abrogation, which determines the definitive cessation of the legal effects of a normative act, this cessation being either total or partial. (Catană, 2021, pp. 304–305).

Nevertheless, doctrine points out that the two institutions present differences, concerning both the causes that may lead to the realization of the two legal operations and the legal effects they produce (Săraru, pp. 60–61).

As regards the application of the principle in the matter of individual administrative acts, doctrine has consistently emphasized their revocable feature. However, the establishment of this principle does not exclude the recognition of certain exceptional situations that determine the irrevocability of such acts, mainly on grounds related to the need to ensure the stability of legal relations.

The exceptions highlighted in doctrine are based either on the nature of the administrative act, on the effects it produces, or on the express provision of irrevocability in the content of legal texts (Vedinaș, p. 312).

In legislation, the most frequently provided case is the irrevocable feature of administrative acts "which have entered into civil circulation and produced legal effects."

From this perspective, the principle of revocability must be applied in such a way as to ensure the premises of the limits imposed by the principles of security of civil circulation and of legitimate expectations (Săraru, 2024, pp. 58–59).

In the judicial practice of the Court of Justice of the European Union, it has been established that the application of the principle of revocability of acts issued or adopted by public authorities must be carried out in such a way as not to prejudice the two principles mentioned above.

For the observance of the principle of legal certainty in the activity of public authorities, limits must be established regarding the ordering of the revocation of administrative acts. The principle of legitimate expectations must be applied with priority over the authority's possibility to terminate the effects of previous decisions. (Trăilescu, 2011, p. 113).

In consideration of these fundamental rules, it is necessary to prohibit the retroactive revocation of a lawful act that has given rise to subjective rights or other such advantages, since the need to ensure the stability of the legal situation created must prevail. From this perspective, the revocation of the administrative act would infringe fundamental rules of law (Iorgovan, Vişan, Ciobanu, Pasăre, 2008, pp. 40–41).

If we refer to an unlawful act, the revocation operation must intervene within a "reasonable time." This must be assessed in relation to the extent to which the beneficiary has or has not developed confidence in the legality of the act. Thus, benchmarks have been established for determining the reasonable time, in the sense that a period of 2 months or more from the notification of the act is considered reasonable, while, as an upper limit, a period of two years is considered excessively long (Săraru, 2024, pp. 58–59; Vedinaș, 2025, p. 315).

The principle of legitimate expectations must be applied with priority over the authority's possibility to terminate the effects of previous decisions. (Trăilescu, 2011, p. 115).

3. Legislative Landmarks in the Matter of Revocation of Administrative Acts

Doctrine shows that, although the principle of revocability of administrative acts does not benefit from an express and unitary consecration in the Romanian legislative system, this possibility of abolishing acts is nevertheless found in various normative acts, which is why it is considered that revocation, as a means of terminating the effects of an act, cannot be denied.

The legal foundations of the possibility for the issuing authority or the hierarchically superior authority to revoke acts issued or adopted are found in several texts of legislation applicable to institutions of administrative law.

Thus, we find references in the content of Article 7 paragraph 1 of Law no. 554/2004, which requires that, before bringing an action in administrative litigation, the person who considers themselves harmed in a right or legitimate interest by an individual administrative act must address the issuing authority with a request to revoke, in whole or in part, the challenged act. From the content of this provision, the very possibility of the authority to carry out the revocation operation emerges, if it considers that the claims of the person concerned are well-founded.

Such a procedure prior to referral to the court has also been considered necessary at the level of European Union regulation, given the possibility of reaching an amicable settlement of the administrative dispute. To give effect to this aim, the possibility of

instituting the obligation of administrative appeal before referral to the court has been provided, since, following the analysis carried out by the administrative authority, the revocation of the harmful act may be ordered (Vedinaş, 2025, pp. 314–315).

In the Romanian legal system, the rule is that the prior procedure must be followed before bringing an action before the administrative court. From this perspective, it has been consistently emphasized that the mandatory nature of this procedure creates the premises for the amicable settlement of the conflict between the parties, making possible the revocation of the act by the issuing authority or by the hierarchically superior authority.

However, there are situations in which the prior procedure is not mandatory, these being determined by considerations regarding the subject who refers the case to the administrative court, the object of the claim, and the effects produced by the challenged act (Bogasiu, 2023, p. 190).

Naturally, in the case of actions directed against administrative acts that can no longer be revoked, since they have entered civil circulation and produced legal effects, Article 7 paragraph 5 of Law no. 554/2004 provides that the prior complaint is not mandatory, as it could not achieve the purpose established by the legislator (Turcu, 2023, p. 146).

The doctrine has highlighted that the legal provisions on revocation do not distinguish between individual and normative acts; what is essential is that they have not entered civil circulation and have not produced legal effects. Taking these elements into account, it is considered that normative acts may also be revoked, if it can be established that they have not produced legal effects (Săraru, 2024, pp. 55–56).

The reasons for which revocation may be ordered may be based on causes relating to illegality, lack of justification, or lack of expediency.

Depending on the moment at which the causes of revocation arise, they may be prior, concomitant, or after the issuance of the administrative act (Apostol Tofan, 2017, p. 139).

Depending on the grounds underlying the revocation, the effects produced will differ. Thus, in the hypothesis in which revocation is ordered for reasons of illegality, the effects of abolishing the act are retroactive, whereas revocation for reasons of lack of expediency will produce consequences for the future (Trăilescu, 2011, p. 114).

To avoid the risk that unlawful individual administrative acts might remain in force and produce legal effects, the domestic legislative system has established the possibility for the issuing authority itself to bring an action seeking the annulment

of an act it has issued or adopted, in cases where it can no longer revoke it because it has entered into civil circulation and produced legal effects.

In the specialized literature, it has been shown that the provisions contained in Article 1 paragraph (6) of Law no. 554/2004 represent "the first legislative consecration of the principle of revocability of administrative acts and of the exception to this principle," the annulment action promoted by the issuing authority being closely linked to the revocation of the administrative act (Bogasiu, 2022, p. 46).

The annulment action introduced by the issuing authority represents a remedy for those situations in which the unlawful act is not challenged by the person to whom it applies because they lack interest, a hypothesis in which the act would remain in force and continue to produce legal effects.

The rationale for instituting the possibility of promoting the annulment action by the issuing authority is based on the necessity of respecting the principle of legality, which requires that unlawful administrative acts be capable of annulment, in contexts where they can no longer be revoked.

In the specialized literature, it has been shown that the object of the annulment action can only be an individual administrative act, given that irrevocability can intervene only in relation to this type of act (Trăilescu; Trăilescu, 2021, p.7).

As for the scope of acts that may be subject to annulment actions promoted by the issuing authority itself, controversies have arisen concerning the normative content of Article 1 paragraph (6), which refers to unlawful unilateral acts—a phrase that, according to the legal definition, includes both individual acts and normative acts.

In a detailed analysis of administrative doctrine and the relevant legal texts, the specialized literature has concluded that by using the notion of unilateral act, the intention was not to include normative acts in this category, but rather to emphasize that administrative contracts cannot be the object of actions initiated under the conditions of Article 1 paragraph (6). (Ciobanu, 2024, p.53).

In terms of the normative acts, the provisions of Article 1 paragraph 6 are not applicable, since these acts may be revoked at any time, no exceptions to the principle of revocability being provided. In this respect, the High Court of Cassation and Justice ruled by Decision no. 74 of 20 November 2023, stating that, in the interpretation of the aforementioned legal provisions, "the public authority issuing a unilateral administrative act of a normative nature cannot request the court to annul it" (Mâţă, 2024, p. 228).

In its initial form, Law no. 554/2004 did not provide a time limit within which the annulment action could be exercised by the issuing authority, an aspect remedied by the amendments brought to the normative act in 2007. At present, a one-year time

limit from the date of issuance of the act has been instituted for promoting the action under the conditions of Article 1 paragraph (6). Doctrine has shown that through these provisions, the aim is to ensure respect for the principle of legal certainty and to establish the premises for its observance (Mâţă, 2024, pp.228–229).

Legislative landmarks in the matter of revocation are also found in other normative acts, which expressly stipulate the possibility for the public authority to revoke the act it has issued or adopted.

For example, in the Administrative Code, Article 529 expressly provides for the possibility of revoking the administrative act of appointment to public office in the case of refusal to take the oath of allegiance in accordance with legal provisions. Similar provisions are found in Article 251 paragraph (5), which states that refusal to take the oath entails the revocation of the administrative act of appointment to the office of prefect and subprefect.

Likewise, the administrative act by which the right of administration or the right of free use is constituted may be revoked by the public authority in situations justified by circumstances relating to the public interest, according to Article 869 and Article 874 paragraph (3) of the Civil Code. In consideration of the provisions of the Civil Code, Articles 301 and 352 of the Administrative Code establish that the deletion from the land register of the right of administration or, as the case may be, of the right of free use, shall be carried out on the basis of the act of revocation or of the act by which the extinction of the public property right is established.

Another example regarding the legislative consecration of the institution of revocation is represented by Article 26 of the Administrative Code. According to this provision, in exercising its supervisory powers, "the Government may request the revocation of unlawful, unfounded, or inexpedient administrative acts issued by the authorities under its subordination, which have not entered into civil circulation and have not produced legal effects, and which may harm the public interest."

The proposal for revocation of certain acts is provided in Article 275 paragraph (8) of the Administrative Code, which regulates the possibility for the minister coordinating the institution of the prefect to propose "to the Government the revocation of orders issued by the prefect that have a normative character or those referred to in paragraphs (2) and (6), if he considers them unlawful or unfounded, in cases where they have not entered into civil circulation and have not produced legal effects and may harm the public interest."

In conclusion, although we find legal provisions applicable to this institution, it is considered that unitary regulation of the principle of revocability is necessary, an aspect that could be achieved through the Administrative Procedure Code (Apostol-Tofan, 2024, p. 73).

4. Conclusion

Considering the legislative and doctrinal landmarks, the principle of revocability of administrative acts represents that fundamental rule which allows public authorities to definitively abolish an act issued or adopted for reasons that may be based on illegality or lack of expediency. Although this principle is not expressly provided at the legislative level, we nevertheless find provisions establishing the possibility of revoking administrative acts. For this reason, we consider revocation to be a specific means of terminating the effects of administrative acts, one which allows public authorities to reconsider adopted decisions—either to restore the violated legal order or to adapt decisions to the concrete conditions that call for regulation.

5. References

Bogasiu, G. (2022). *Legea contenciosului administrativ: comentată şi adnotată. Cuprinde legislaţie, jurisprudenţă şi doctrină, ediţia a V-a, revizuită şi adăugită/The Law of Administrative Litigation: Commented and Annotated. Includes Legislation, Jurisprudence and Doctrine, 5th Edition, Revised and Added*. Bucharest: Universul Juridic.

Cătană, E.L. (2021). *Drept administrative/Administrative Law*, 2nd edition, Bucharest. C.H. Beck.

Ciobanu, A. S. (2024). Inaplicabilitatea art. 1 alin.(6) din Legea contenciosului administrativ în cazul actelor administrative cu caracter normative/ The inapplicability of art. 1 par. (6) of the Administrative Litigation Law in the case of administrative acts of a normative nature. *AUBD–Forum juridic (No. 1, pp. 47-56). Facultatea de Drept, Universitatea din Bucureşti/AUBD–Forum juridic (No. 1, pp. 47-56). Faculty of Law, University of Bucharest*. https://www.ceeol.com/search/article-detail?id=1338597.

Iorgovan, A., Vişan, L., Ciobanu, A.S, Pasăre, D.I. (2008). *Legea contenciosului administrativ (cu modificările şi completările la zi) – Comentariu şi jurisprudenţă/ Administrative Litigation Law (with up-to-date amendments and additions) – Commentary and jurisprudence.* Bucharest: Universul Juridic.

Mâţă, D.C. (2024). *Drept administrativ/Administrative Law*, vol. II, 4th revised and expanded edition. Bucharest: Universul Juridic.

Podaru, O (2022). *Drept administrativ. Volumul I, Actul administrative. Repere noi pentru o teorie altfel. Tomul 2. Regimul Juridic/Administrative Law. Volume I, Administrative Act. New landmarks for a different theory*. Volume 2. Legal Regime, 2nd edition revised and added. Bucharest: Hamangiu.

Săraru, C.-S. (2024). *Drept administrativ/Administrative Law*, Volume II. Bucharest: Universul Juridic.

Apostol Tofan, D. (2024). *Drept administrativ. Volumul II. Actul administrativ. Contenciosul administrative/Administrative law. Volume II. Administrative act. Administrative litigation*. Bucharest: C.H. Beck.

Apostol Tofan, D. (2017). Nulitatea actelor administrative. Corelaţia nulitate–revocare–inexistenţă. Aspecte controversate în doctrină, legislaţie şi jurisprudenţă/ Nullity of administrative acts. Correlation of nullity–revocation–non-existence. Controversial aspects in doctrine, legislation and jurisprudence. *Revista „Dreptul"/The Law Journal*, (01), 128-144.

Trăilescu, Alin (2011). Predictability of the Norms and the Stability of Legal Relations-Components pf the Legality of Administrative Acts. *Juridical Current*, 2011, vol. 14, Issue 1, pp. 106-117, recjurid111_7F.pdf

Trăilescu, Anton; Trăilescu Alin (2021). *Legea contenciosului administrativ. Comentarii şi explicaţii, ediţia a V-a/Administrative Litigation Law. Comments and Explanations*. 5th Edition. Bucharest: Universul Juridic.

Turcu, C. M. (2023). Revocarea actului administrativ individual de către autoritatea publică emitentă, după ce a intrat în circuitul civil şi a produs efecte juridice. Nelegalitate: jurisprudenţă comentată şi adnotată/Revocation of the individual administrative act by the issuing public authority, after it has entered the civil circuit and produced legal effects. Illegality: commented and annotated case law. *Revista Română de Jurisprudenţă/Romanian Journal of Jurisprudence*, (3).

Vedinaș, V., Godeanu, T.N.; Constantinescu, E. (2010). *Dicţionar de drept public. Drept constitutional şi drept administrative/ Public law dictionary. Constitutional law and administrative law*. Bucharest: C.H. Beck.

Vedinaș, V. (2025). *Drept administrativ. Doctrină, practică şi jurisprudenţă, Ediţia a XV-a revăzută şi adăugită/Administrative Law. Doctrine, Practice and Jurisprudence,* 15th Edition, Revised and Added. Bucharest: Universul Juridic.

Legea nr.554/2004 privind contenciosul administrativ cu modificările şi completările ulterioare, publicată în Monitorul Oficial nr. 1154 din 7 decembrie 2004/Law no. 554/2004 on administrative litigation with subsequent amendments and completions, published in the Official Monitor no. 1154 of December 7, 2004.

Legea nr.287/2009 pivind Codul civil, republicată în Monitorul Oficial nr.505 din 15 iulie 2011/Law no. 287/2009 on the Civil Code, republished in the Official Monitor no. 505 of July 15, 2011

OUG nr.57/2019 privind Codul administrativ, cu modificările şi completările ulterioare publicată în Monitorul Oficial nr. 555 din 5 iulie 2019/GEO no. 57/2019 regarding the Administrative Code, with subsequent amendments and supplements published in the Official Monitor no. 555 of July 5, 2019.

Decizia Î.C.C.J. nr. 74 din 20 noiembrie 2023 publicată în Monitorul Oficial nr. 12 din 8 ianuarie 2024/ Decision of the Romanian Court of Cassation no. 74 of November 20, 2023, published in the Official Monitor no. 12 of January 8, 2024.