

LA CODIFICATION DU DROIT ADMINISTRATIF EN ROUMANIE

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ABSTRACT: *By the Emergency Ordinance no. 57 of July 5, 2019, the Administrative Code of Romania was adopted.*

There is no doubt that this "adoption" by emergency ordinance was made only on the basis of a political purpose and in no case as a consequence of a legislative debate in the Parliament of Romania, following the expression of some pros or cons of some specialists, legal practitioners in the field, civil servants, public administrative institutions, courts. It is a well known truth that the implementation of such a legislative instrument, working and not only, was necessary and all the more so as it is required that with the adoption of the Administrative Code, the adoption of an Administrative Procedure Code is made.

Prior to the Emergency Ordinance, the Parliament was invested with the Government's legislative initiative transposed into a draft law, which was the object of the unconstitutionality objection before the Constitutional Court of Romania, on the way of a priori control. The objection was admitted in the absence of the advisory opinion of the Economic and Social Council by Decision no. 681/2018 (published in the Official Gazette no. 190 of March 11, 2019). The natural question is asked, how three months after establishing the unconstitutionality, the same normative act, with some modifications following the ones shown in the objection of unconstitutionality, is adopted, but this time, by way of the emergency ordinance?

If in 28 years of functioning of the public administration, after the appearance of the 1991 Constitution, the central and local public administration worked with its pluses and minuses, through special sectoral laws on different fields, how is it possible that in 3 months an extraordinary situation appeared who imposed the emergence of the Administrative Code on the way of the emergency ordinance?

At a first look, the Romanian Administrative Code itself is nothing more than an amalgamated takeover of the various special laws in areas of interest to the public administration (public administration, civil service, civil servant, public domain, etc.), which denotes, rather, a contest of texts, lacking in itself the normative act in terms of cohesion and accuracy. Therefore, in the beginning of the study, we will analyze the constitutionality of the Emergency Ordinance, after which we will deal with some provisions in terms of their merits vis-à-vis the European and constitutional legal topicality.

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Our study tries to objectively see the emergence of this new normative act in a digitalized world (the mentions with reference to the electronic administrative document, its dematerialization etc. in its complexity are missing), trying to answer the question whether in this format based on a license legal, it offers a real, modern and modern organization and functioning, to the administrative space.

KEY WORDS: *administrative law; codification; emergency ordinance; normative act; Constitution;*

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