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S u m m a r y
T H E S I S

THE ADMINISTRATIVE-JURISDICTIONAL COMPLAINT

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In the context of the new realities in the field of ensuring the rights of citizens in the execution of criminal sanctions, we chose this doctoral thesis entitled Administrative-Jurisdictional Complaint, knowing that such an internal analysis of the Institution of Administrative-Jurisdictional Complaint has never been done, so it is time to draw the reader's attention, as it was not known, from the manner of submission to its final settlement, with all its aspects, some known, others with certain possibilities for improvement, without which the institution the judge of surveillance of deprivation of liberty could not function.

The study was structured in four major chapters in which we addressed not only issues related to actual complaints, but also issues related to the execution of sentences, the role of prisons, the need to change mindsets, in the sense of focusing the persons deprived of liberty on work, on the development of work skills, but also on education, knowing very well that many persons deprived of liberty have not even completed compulsory general education.

In the first chapter we chose to present the elements of the criminal enforcement report, its characteristics, but also the profile of the person deprived of liberty in the context of current detention.

We found it appropriate to dedicate a special section to restorative justice in this chapter, in the context in which the victim's rights are left in the background when we balance them with the rights of persons deprived of their liberty.

We believe that the rights of victims of crime are kept to a minimum, that is why we consider it necessary to increase accountability the persons deprived of their liberty in order to be able to pay the compensations from their own work performed during detention.

The second chapter was dedicated exclusively to the administrative-jurisdictional complaint, drawing parallels between the ways of formulating and submitting them both in the national and in the international system.

In this chapter, too, we have investigated and analyzed the abuse of law committed by persons deprived of their liberty by formulating numerous complaints, with the same object, or devoid of purpose, not in order to obtain the restoration of rights that have been violated, but to harass, for harmful purposes or using vexatious, outrageous, provocative expressions, ie language that exceeds the limits of normal, civic and legitimate criticism.

At the level of the Bureau of the judge of surveillance of deprivation of liberty, the abuse of law was not regulated at all in the previous legislation, respectively Law no. 275/2006, nor in the current form of Law no. 254/2013, so that at the level of each Bureau such complaints are assessed on a case-by-case basis.

In the third chapter, the situations with an impact on the course of the execution of sentences and custodial measures were analyzed, ie those related to the establishment and change of enforcement regimes, the application of disciplinary sanctions and those related to the violation of the rights of persons deprived of liberty.

During the research we identified and argued with the legal practice (closings of the judge of surveillance, criminal sentences resolving appeals against these closings) which are the cases of establishing enforcement regimes and those of modifying the enforcement regime in cases of change in the legal situation of the person deprived of liberty as a result of the intervention of a new custodial sentence or as a result of the deductions made as a result of the enforcement appeals.

The legislator did not clearly regulate this situation, reason for which there is a non-unitary practice at the level of the commissions for individualization of the enforcement regime, of the Bureau of judge of surveillance and the courts.

A large space was also allocated to explanations related to the territorial jurisdiction of the disciplinary commission and its successive effects, in relation to the jurisdiction of the judge of surveillance and the court in charge of resolving the appeal, situations not regulated by law, such as those related to transfer persons deprived of their liberty before the initiation of disciplinary proceedings.

In this chapter, we also studied and proposed new solutions to the problem of the risk posed by persons deprived of their liberty for the security of the penitentiary, in the sense that we wanted to emphasize that there is no legal instrument that can establish the „degree of risk", term used by the legislator, but without a scale of risk to refer to.

Therefore, we consider that there is a need not for a general assessment that the person deprived of liberty has a „risk degree", but an actuarial assessment to determine not only whether the detainee is at risk but also the degree of that risk, by introducing a risk scale: low risk, medium risk, high risk and very high risk.

In the issue of the risk factors, in-depth research was carried out and some conclusions were presented regarding the risk presented by persons deprived of liberty with short and medium sentences compared to those sentenced to long sentences (10-15-25- life imprisonment), the results being surprising, for which proposals were made by *de lege ferenda* in this area as well.

The last chapter, the fourth, presents the research done on the jurisdictional acts of the supervising judge regarding standards regarding *the closings* of the judge of surveillance, the decision-making process and, last but not least, their quality.

We consider that it is necessary to pay more attention to the appeals made against the closings of the judge of surveillance, in terms of communication, the need to inform persons deprived of liberty on the solutions established by the judge in connection with complaints.

We also considered it necessary to propose changes or design changes regarding the administration of evidence by way of appeal because the legislator did not include any rules regarding this possibility, apart from the fact that written reports or conclusions can be submitted.

We consider that the lack of regulations regarding the possibility of administration of the new evidence in the appeal is justified precisely by the purpose of exercising this appeal: to verify the validity and legality of the closing of the judge, at the time of its preparation, the manner of solving of the all issues reported in the complaint.

We consider that the topicality of the approached topic, by the means used in its preparation, by the use of national and international jurisprudence, by reference to national and international legal instruments has led to the attainment of the objective pursued, to prove that the administrative-jurisdictional complaint can be a very useful legal instrument available to persons deprived of their liberty, only if it is used judiciously, for the purpose for which the court of administrative-judicial complaint was created, but in the opposite sense, it can even be prejudicial to persons deprived of liberty who abuse it, diverting from its purpose the right to file complaints.