

STUDII

O PROBLEMĂ SIMPLĂ, COMPLICATĂ DE JURISPRUDENȚĂ: NATURA JURIDICĂ A DOCUMENTAȚIILOR DE URBANISM (PUG, PUZ, PUD)

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Rezumat: O problemă importantă a dreptului urbanismului cu care s-a confruntat în ultimii ani jurisprudența noastră, a fost aceea de a stabili natura juridică a documentațiilor de urbanism (planul urbanistic general – PUG, planul urbanistic zonal – PUZ și planul urbanistic de detaliu – PUD). Sunt ele acte normative sau dimpotrivă, au un caracter individual? Importanța practică a chestiunii este vizibilă din două puncte de vedere: pe de o parte, potrivit regulilor contenciosului administrativ, actele normative pot fi atacate oricând în justiție, fără o limită în timp, în vreme ce pentru actele individuale este instituit un termen de prescripție de șase luni. Pe de altă parte, doar în cazul actelor individuale este obligatorie chemarea în judecată, alături de organul emitent, și a beneficiarului actului, sub sancțiunea respingerii cererii ca inadmisibilă.

În prezentul studiu am ajuns la concluzia că cele trei tipuri distincte de documentații de urbanism au, în mod necesar, una și aceeași natură juridică: sunt acte administrative normative. Am pornit analiza acestei situații de la criteriul de distincție dintre cele două categorii fundamentale de acte administrative: este vorba despre un criteriu calitativ – determinabilitatea destinatarilor actului, iar nu despre

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