2498-5473 / USD 20.00
© 2016 Akadémiai Kiadó, Budapest
Hungarian Journal of Legal Studies 57, No 3, pp. 396–399 (2016)
DOI: 10.1556/2052.2016.57.3.10

Jaime Rodríguez-Arana Muñoz (ed) Recognition of Foreign Administrative Acts. Springer International Publishing Switzerland 2016. Ius Comparatum – Global Studies in Comparative Law 10. 388 pages

by János Fazekas*

The recognition of administrative acts is a very controversial topic of administrative law as it is in the classical sphere of administrative proceedings law and therefore a traditional subject regarding national sovereignty. These acts refer to a national territory and to national citizens, who live mainly at their home countries but sometimes live or stay abroad. In these acts, the national administrative authorities adopt individual acts, in which they license, oblige or sanction persons which are under the jurisdiction of national public administration. Administrative law tends to exclude the influence of foreign administrative law regimes and tries to defend its own force.

On the other hand, the globalization of administrative law is a phenomenon which can not longer be held back. Within the European Union and all over the world, the free movement of persons, goods, capital and services as well has weakened borders. Consequently, national administrative law had to become more flexible and open to new developments, eg. recognition end execution of foreign administrative acts. In addition, national administrative legal systems faced transnational challenges. The regulatory authorities of the European Union and international organizations have adopted normative and individual administrative acts regarding the citizens and organizations of the member states as well, which must be recognized or executed by member states.

Modern administrative law regimes must comply at once with these new challenges. Under these circumstances, it has some additional scholar value to examine the general theoretical characteristics of the topic and to have a more detailed outlook to the national level of the regulation. A successful research of the topic may allow a very strong basis for further developments of the national legislations and for new ways of thinking in jurisprudence.

The book begins with a general report on foreign administrative acts (authors: Jaime Rodríguez-Arana Muñoz, Marta García Pérez, Juan José Pernas García and Carlos Aymerich Cano), which lays down the general theoretical foundations of the analysis of the recognition of foreign administrative acts. The paper initially examines the notion of an administrative act and its classification as 'foreign' in the analyzed countries. After general considerations on the usual administrative procedure for adopting an administrative act, it scans the service of administrative acts, especially in other countries (not in the ones where the act has been adopted). The study then analyzes the topics of recognition and execution and the relevant

* Assistant professor, Eötvös Loránd University, School of Law, Budapest. E-mail: fazekas.janos@ajk.elte.hu

international conventions. In the end, the paper covers the doctrinal treatment of the subject of foreign administrative acts by scholars in the analyzed countries. In summary, the general report states that the subject has been poorly treated in the analyzed countries and it would be necessary to deepen the study in order to measure the possible effects of the conception on different legal cultures, procedural rights and judicial guarantees of the recipients of such acts.

Juan José Pernas García's paper (The European Union's Role in the Progress Towards the Recognition and Execution of Foreign Administrative Acts: The Principle of Mutual Recognition and the Transnational Nature of Certain Administrative Acts) examines a subject which affects several sectors. The aforementioned study declares that the EU has supported the mutual recognition of national administrative acts and promoted providing extraterritorial effectiveness to the administrative decisions of the Member States. The EU carried out this aim through secondary legal norms, in sectors where the EU has intense competence or powers eg. the marketing of food ingredients or use and marketing of biocides. These secondary norms express the principle of mutual recognition, which has been the axis around which the EU internal market has been built.

Another study, Giacinto della Cananea's 'From the Recognition of Foreign Acts to Trans-national Administrative Procedures' deals with a theoretical notion of recognition and its two distinct models. The paper suggests that a third – the transnational – model has emerged.

The further studies, written by national rapporteurs, investigated the subject from a national-territorial viewpoint. The national reports unfold the state and conditions of selected countries' regulation on recognition and execution of administrative acts.

The paper of Libardo Rodríguez-Rodríguez and Jorge Enrique Santos-Rodríguez ('The Incorporation of the Acts of the Andean Community of Nations into Internal Legal Systems') examines the impact of Andean communitarian law over the national administrative regulation of the Member States of the Andean Community of Nations (The Andean Community is a customs union including Bolivia, Colombia, Ecuador and Peru). The study states that the primary and secondary norms of Andean communitarian law can be adopted to the Member States within the framework of legal dualism. Nevertheless, the primacy of communitarian law does not preclude the application of the principle of hierarchy in the incorporation of Andean law to domestic law because sometimes it is necessary to determine the degree to which incorporation of communitarian rules takes place in domestic legal systems.

The paper on Australia by Justice John Griffiths ('Recognition of Foreign Administrative Acts') describes the main theme (enforcement of other states' administrative acts) from the viewpoints within the federation of Australia and Australia's recognition and enforcement arrangements with different countries.

Romeu Felipe Bacellar Bacellar Filho and Tatyana Scheila Friedrich's study ('Foreign Administrative Acts in Brazil') examines the problem that Brazil has no regulation on foreign administrative acts which makes recognition and enforcement of these decisions rather complicated. Brazil has not also ratified the Apostille Convention. The rules on recognition and enforcement of foreign acts are drawn from various sources, e. g. through analogy with the general rules of private international law and international cooperation. There is also no doctrinal approach to this subject in the country. The paper states that this situation must be urgently changed if Brazil intends to intensively participate in international scenarios.