

Responsibility of the Administration for annulment of the administrative act favorable to the request for pension recognition

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Abstract

The objective of this investigation is to distinguish the cases in which the Colombian State must respond for the damages and losses caused to an individual as a consequence of the annulment of an administrative act granting a pension. In order to analyze this, a qualitative, correctional and dogmatic methodology will be used, framed within the nature of action research.

As a result, it can be understood that the injured citizens try to take action in some way, appealing the conviction sentences, although without any positive result. Once the appeal route has been exhausted, they cannot find a viable reparation action to initiate against the State, which is why they have no choice but to bear the damages of the decision. In other words, the revocation of the pension only generates damages for the person who benefited in the first instance, which he must endure even though they are not attributable to him, without any compensation being recognized. This, with all the negative economic implications that it generates in a person's life.

Keywords: State Responsibility - Action for damages - Pension benefits - State Administration - Damages and losses

Introduction

The problem identified lies in determining the responsibility of the State in the face of the annulment of administrative acts that recognize pension benefits. This, understanding that it is the administration itself that verifies compliance with the requirements to access this benefit, this act being then plausible to be sued damages, by the same administration. The consequence of this lies in the damage caused to the citizen who is the object of the pension, who must modify his quality of life and expectations in the event that the administrative act recognizing the benefit is annulled or modified.

Thus, the objective is to determine those cases in which the Colombian State must respond for the damages caused to the citizen who has accessed a pension benefit, and then it is annulled, for reasons beyond his or her control. To achieve the fulfillment of this general objective, a qualitative, correctional and dogmatic methodology is used. Through it, the relationship between two variables will be established: i) the responsibility of the Colombian State and ii) the annulment of the favorable administrative act of pension benefit for reasons not attributable to the person. Thus, research has been framed within the nature of action research.

The Political Constitution of Colombia of 1991 regulates the responsibility of the State, allowing citizens to sue it for damages caused due to its action or inaction (articles 6, 90, 91 and 124). In particular, Article 90 of the Constitution refers to unlawful acts attributable to the State, for which it must be held accountable. The constitutional jurisprudence of 2022 endorses this legal mandate, considering it as a compensation guarantee for citizens, which can fall on any State authority, being mandatory in nature. If we refer specifically to the public administration, we point to judgment SU-157/22, which allows the State to repeat the action for damages against its agents when there is serious negligence or intent on their part.

Continuing with the analysis of normative plexuses, we come across the law. 1437 of 2011, which specifically regulates administrative and judicial processes related to the responsibility of the State. Then Law 270 of 1996, which refers to the regime of responsibility of public servants for the inadequate management of State resources. Also, Law 678 of 2001, which refers to the necessary procedures to initiate lawsuits against

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the Colombian State for unlawful deprivation of liberty, with its consequent compensation. Similarly, Law 489 of 1998, which determines the rules on the liability of State agents for damages caused to third parties in the exercise of their functions; Law 1430 of 2010, which regulates the possibility of filing lawsuits against State entities; and Law 418 of 1997, which refers to the responsibility of the State in relation to measures to maintain public order. Finally, the Civil and Commercial Code, a regulatory body which has some rules in relation to civil liability, plausible to be applied to the State. In this way, we make a brief review of the main normative references regarding the possible state responsibility in various situations.

However, we are particularly interested in the regulation of objective liability of State responsibility, which began to emerge at the end of the twentieth century, with the sanction of the Political Constitution of 1991. Prior to this date, it was customary to refer to the responsibility of the State for failures in the service, for which it was necessary to prove the intent or negligence of the official in question. In the new scenario, it is not necessary to establish subjective elements of negligence, but rather to assume responsibility as a way of satisfying the purposes of the State. (Morales & Velásquez, 2013)

We refer specifically to the action for damages, which aims to correct errors produced by the public administration itself, which is in charge of reviewing the legal requirements to determine the decision taken. This action is based on a number of principles, such as the principle of legality, the public interest and public security. Puentes Araujo (2019) defines the action of harm as "a legal tool that allows the administration to disaffirm its own will in cases where it is contrary to the superior legal system or harmful to its own interests" (p. 46). This action is developed through a special administrative process, where the burden of proof falls on the administration itself against its own decision, seeking as a purpose to annul an administrative act granted in favor of an individual, considering that it harms the interests of society. (Vignolo Cueva, 2011)(Ortega Ruiz, 2018)

In recent years, the Colombian courts have resulted in an immensity of actions for damages, most of them referring to administrative acts that grant construction licenses, permits or various benefits. Some of these actions refer to administrative acts taken 10 or 20 years ago, with the State demanding its own acts. These annulments of favourable administrative acts are plausible to cause harm to the citizens who had benefited from them, and in the words of the Council of State (2013) itself "citizens do not have the legal duty to bear the judicial annulment of the administrative acts that were favourable to them".

Development

Having explained the situation in general, we are interested in dwelling on a particular situation: citizens who have processed their pension benefit with the State administration, obtaining a favorable response at the time, which has generated patrimonial benefits, molding their quality of life to these parameters. However, after a considerable number of years have elapsed, through the exercise of the action for damages, the State administration demands its own decision, considering annulling the administrative act mentioned above. This inevitably generates damage to citizens, who are directly affected in their patrimony, having to modify immediately and without any responsibility, their quality of life. In this way, individuals not only stop receiving the pension benefit, but this can also lead to other consequences, such as the insolvency of payment in the face of debts incurred, for example.

We understand that the action of injuriousness is the legal tool with which the State itself is provided to be able to review and reverse administrative decisions, often adopted by personnel who are not fully qualified for decision-making, within a dispersed legal system. (Puentes Araujo, 2019)

Faced with this situation, the Colombian legal system does not provide for specific judicial or administrative action that would allow these individuals to initiate a lawsuit for the damages caused. Under this assumption, the figure of direct reparation should constitute a tool with sufficient entity to raise the corresponding claim for compensation before the competent judge.

The action for direct reparation is the means of control indicated to obtain the declaration of the State's patrimonial responsibility, provided that the damage reported is generated by an action, omission or any other State act, other than contractual liability or administrative acts.

Going into the in-depth analysis, we begin by defining damage as "any affront to the lawful interests of a person, which is presented as a definitive injury to a right or as an alteration of its specific enjoyment and which, thanks to the possibility of legal action, is the object of reparation". On the other hand, reparation is the way in which the person responsible fulfills his obligation to repair, assuring the injured person of the return of his (Henao, 2007, pág. 133) *status quo* before the generation of the damage. (Henao, 2015)

However, over the years the concept of civil liability has expanded, influenced above all by the concept of human dignity and the evolution in the recognition of human rights. In this way, not only have the ways of repairing the damage or the aspects that are included within the damages been expanded, but also the plausible subjects of causing it and, therefore, those who must respond in its reparation. (Henaó, 2015)

With respect to the possibility of the State revoking its own administrative acts, it can be considered that, once stability has been acquired, that is, rights have been generated in favor of an individual, it is not feasible to be revoked directly through another administrative act. This, in order to protect the legal certainty of acquired rights, added to the characteristics of obligatoriness, enforceability and presumption of legality enjoyed by all administrative acts. The judicial route of the action for damages is then enabled. (Saiach, s.f.)

We bring up at this point the judgment of the Contentious Administrative Chamber, Second Section, Subsection A, dated June 29, 2023. It resolves the appeal for annulment filed by the defendant Ms. Carmen Rosa Sarmiento Chávez against the judgment of the Administrative Court of Valle del Cauca, dated November 11, 2011. The events began when the Colombian Pension Administrator filed an action for damages to declare null and void the decision granting the old-age pension to Mrs. Sarmiento Chávez, as of October 2002.

That is, highlighting the dates, 9 years after the citizen receives her old-age pension, the State itself demands the nullity of its administrative act. This lapse of time may lead us to conclude, without the need for further information, that Mrs. Sarmiento Chávez maintains a lifestyle in accordance with the pension received. Without going into the arguments of the plaintiff to support his claim, since it is not the object of this article, only highlighting that it mentions an error in the verification of the legal requirements to access the pension benefit. For its part, the appellant's arguments are that the State administration cannot allege its own fault, being responsible for verifying compliance with these points. Thus determining that there would be a situation of abuse of rights, and presuming that the benefits granted to the citizen have been received by her in good faith.

In the case under analysis, the Contentious-Administrative Chamber resolves by confirming the appealed judgment, arguing its decision in the verification of the collapse of the presumption of good faith that falls on Mrs. Sarmiento Chávez by the State administration. In other words, the responsibility is placed on the citizen herself, with respect to acts that should have been verified by the state administration. With this, the possibilities of action of the victim in order to pursue the reparation of the damage caused, become null.

In the same sense, the judgment of the Contentious Administrative Chamber, Second Section, Subsection B, dated February 27, 2020. In December 2001, Mrs. Janit Antonia Bula Oviedo was granted a retirement pension benefit. Then, the Social Security Fund of the Congress of the Republic goes to court to claim by way of the action of damages the cessation of said benefit, which is conferred by judgment of the Administrative Court of Cundinamarca in August 2017. Once again, we are faced with an action that begins more than 15 years after the pension benefit was granted, during which time the citizen has organized her life and finances based on said benefit received. Beyond the appraisals put forward by each party in the case in question, the Chamber determines to grant validity to the judgment of degree, closing the paths of Mrs. Bula Oviedo to claim.

Both rulings, presented only by way of example, are a brief example of the harmful effects that can be generated on a citizen, when the State requests the annulment of administrative acts of the State itself. This, endorsed by the judicial system, on arguments not attributable to the plaintiff himself, but with detrimental results for the individual, who can do nothing about it.

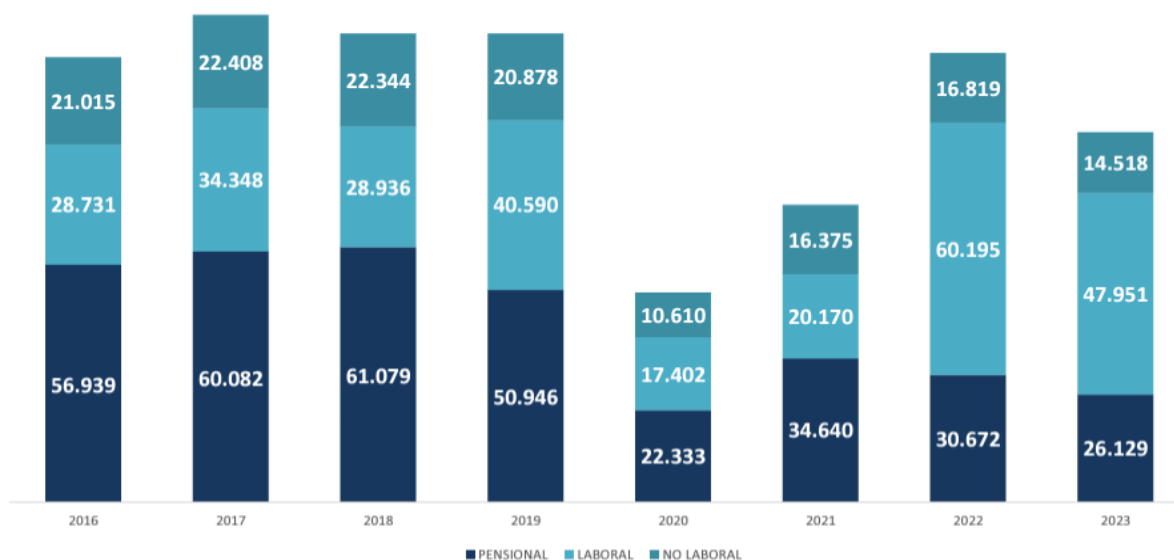
If we stop to look at the general figures in relation to general lawsuits against the State, they have increased until reaching the period of the Covid-19 pandemic, where they decrease abruptly. In this period, the general concern of the population focused on protecting their health, postponing the rest of the issues. Returning to the normal rhythm of life, the figures rose, although they remain below those recorded in the pre-pandemic period. In 2023, a total of 84,557 lawsuits were registered against the State, of which 12% correspond to lawsuits for direct reparation. If we look at the results of the judgments in this regard, between 2019 and 2023, 36.6% of the direct reparation processes against the State were favorable to individuals, which implied a total of \$64.7 billion in compensation for the State. (Rojas, 2024)

Table No. 1: Judicial litigation with State participation 2018-2023

| | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 |
|---|---|---|---|---|---|---|
| Pretensiones en contra | \$ 393 billones | \$ 422 billones | \$ 423 billones | \$ 448 billones | \$ 559 billones | \$ 659 billones |
| Procesos judiciales | 398.064 Procesos \$375 billones | 405.659 procesos \$402 billones | 333.021 procesos \$401 billones | 309.234 procesos \$433 billones | 332.206 procesos \$498 billones | 353.587 procesos \$603 billones |
| Estado como demandante | 26.547 procesos \$12,9 billones | 29.520 procesos \$15,7 billones | 30.454 procesos \$16,2billones | 44.398 procesos \$22,7billones | 41.892 procesos \$20,1 billones | 44.398 procesos \$22,7 billones |
| Arbitraje Nacional | 95 procesos \$0,0 billones | 60 procesos \$0 billones | 71 procesos \$0 billones | 69 procesos \$4,3billones | 24 procesos \$1,2 billones | 23 procesos \$2,2 billones |
| Controversias internacionales de inversión | 11 procesos \$17,7 billones | 14 procesos \$20,1 billones | 16 procesos \$21,8 billones | 14 procesos \$10,8billones | 13 procesos \$59,6 billones | 15 procesos \$54,04 billones |
| Sistema Interamericano de Derechos Humanos | Casos y peticiones notificados al Estado | | | | | |
| | 661 | 667 | 764 | 806 | 897 | 1.107 |
| Procesos interadministrativos | 1.490 procesos \$2,6 billones | 1.946 procesos \$4,3 billones | 2.200 procesos \$4,4 billones | 1.940 procesos \$5,6 billones | 1.825 procesos \$5,2 billones | 1.813 procesos \$5,7 billones |

Source: State Legal Defense (2024).In original language Spanish

Graph No. 1: Pension legal litigation against the State 2016-2023



Source: State Legal Defense (2024).In original language Spanish

These data allow us to observe that litigation activity in Colombia against the State itself is intense, covering high numbers both in quantity and in terms of assets. Thus, it is necessary to imagine that the budget of state entities is not sufficient to deal with these sentences in their entirety. Therefore, after the convictions, they initiate a series of administrative processes such as the assignment of a payment shift, which further delay effective reparations. With this we wish to make it clear that, despite finding a mechanism that allows individuals to claim compensation for the damages caused due to the annulment of administrative acts of pension benefit, whether through direct reparation or another similar route, it will also be necessary to consider the effectiveness of the same. This is because the economic damage caused to the citizen may be aggravated as time goes by. Again, let's imagine the situation of the pensioner who has acquired a credit which he could fulfill thanks to this benefit, but the cancellation of the same generates its impossibility and

cessation of payment. Over time, this could lead to precautionary measures, which would affect the citizen's assets even more. (Rojas, 2024)

For the purposes of this research, three theories have been studied under which the criteria that frame the responsibility of the State for the annulment of favorable administrative acts within the framework of the recognition of periodic benefits, specifically pensions, are evidenced.

First, we address the theory of legitimate expectation, under this theory, it could be argued that when the State recognizes a pension right through a favorable administrative act, it creates a legitimate legal situation in the beneficiary. The subsequent annulment of that act may be considered a breach of the beneficiary's legitimate expectations, especially if the beneficiary has already taken actions or decisions based on that expectation. If the State annuls this act, it could be held liable to compensate the beneficiary for any damage or loss that this annulment may cause.

As stated by Pereira (2013), the concept of the principle of legitimate expectations has been important in the jurisprudence of the Constitutional Court, which states that "it aims to protect the administered and the citizen against sudden and untimely changes made by the authorities" (p. 5)

The theory of legitimate expectation in the responsibility of the state for the annulment of favorable administrative acts is a legal concept that refers to the obligation of the state to compensate individuals or entities that have reasonably relied on valid and favorable administrative acts issued by government authorities, but are subsequently revoked or annulled.

This theory is based on the idea that citizens should be able to trust the actions of government authorities and the validity and legality of the administrative acts they issue. When an individual makes decisions or takes actions based on an administrative act that has been issued by the administrative authorities of the Colombian State, enjoying the presumption of legality that surrounds it, the State has a responsibility to maintain that legitimate expectation and protect the rights and expectations acquired by the person in question.

The theory of legitimate expectation seeks to balance the need to maintain trust in the public administration with the state's ability to correct errors and comply with its legal obligations. In many legal systems, the responsibility of the State to compensate affected parties is recognized when the annulment of favourable administrative acts results in economic or other damage.

At the same time, we highlight the relationship between the legitimate expectations of the administered with the State and the principle of good faith as a basis for questioning the responsibility of the State when annulling favorable administrative acts in the recognition of pensions. The "principle of good faith" in the context of pension recognition refers to the idea that authorities responsible for administering pension systems must act honestly, reliably and transparently when dealing with pension applicants and beneficiaries. This principle implies that both individuals applying for pensions and government entities must rely on the information provided and comply with the requirements established for obtaining pensions.

In the context of pension systems, the principle of good faith can manifest itself in several forms:

i. Accurate and clear information: The authorities in charge must provide precise and clear information on the requirements, procedures and criteria for the granting of pensions. This allows applicants to have a full understanding of what is expected of them and how they should proceed.

ii. Efficient processing: Pension applications must be processed in a timely and efficient manner. This implies that the authorities must make decisions within a reasonable time and inform applicants of any delays or problems that may arise.

iii. Response to inquiries and concerns: Authorities should be available to respond to questions and concerns from pension applicants and recipients. Open and transparent communication is essential to maintaining trust in the pension system.

iv. Fair and non-discriminatory treatment: Decisions on the award of pensions should be based on objective and fair criteria. There should be no discrimination on the basis of gender, age, ethnicity or other personal characteristics.

v. Protection of acquired rights: If an individual meets all the requirements and is granted a pension, the principle of good faith states that that pension should not be unjustly or retroactively revoked without valid cause.

The Full Chamber of the Constitutional Court has reiterated that "the notion of acquired right implicitly entails in all cases the requirement of a just title" (CC, Judgment C-672/21, Col) and that "only those rights that have been acquired with just title are worthy of protection" (CC, Judgment SU-240/15, Col).

Rights acquired irregularly cannot therefore aspire to the same protection and immutability enjoyed by those legitimately obtained.

For the purposes of this research, it is essential to emphasize that the exercise of a legal action that is considered legal and legitimate, such as the nullity and restoration of the right, in the form of damages, by the administrative authority. A situation that, as has been explained, pursues a purpose typical of a social State of law, such as the maintenance of the legal system and order with the participation of the contentious administrative judge; However, the exercise of such great power by the State apparatus could occasionally violate and disregard the individual rights of the administered, who place their trust in legitimate expectations of administrative acts, recipients of the presumption of legality that shelters administrative decisions, which is distorted in the framework of a judicial process that concludes with the declaration of nullity of said decision.

These inopportune and sudden changes in the rights granted to the administered fracture the trust placed in the state apparatus. In turn, the withdrawal of administrative acts from legal life modifies factual and legal conditions, which can cause damage to the lives of citizens and, if necessary, should give rise to the responsibility of the State.

Secondly, the theory of Irregular Administrative Action, in the light of this perspective, addresses the situation from the point of view of the administrative procedure. If the State initially grants a favorable administrative act, but subsequently annuls it, it could be understood that there was a fault in the initial procedure or an improper review of the act. If the act was granted following due process and complying with all legal requirements, its annulment could be considered an irregular administrative action, which could generate state liability.

The theory of irregular administrative action in the responsibility of the State for the annulment of favorable administrative acts refers to a legal notion in which the State can be held responsible for the damages caused to individuals or entities as a result of the annulment of administrative acts previously issued in a favorable manner due to irregularities or defects in the actions of the public administration.

In this theory, it is held that, if the annulment of a favorable administrative act is the result of irregular action on the part of the administration, such as errors, negligence, lack of adequate procedures, arbitrariness, or other similar defects, the State can be held liable for the damages suffered by the affected parties.

The main basis of this theory is that, in the terms set forth by Sánchez (2005), the State must act diligently and in compliance with the law in its administrative functions. If a favorable administrative act is issued in an incorrect or deficient manner, and its subsequent annulment causes damage to the citizen to whom the right was initially recognized, it is considered that the State should assume responsibility for its negligent or irregular actions.

It is important to note that this theory is not based solely on the legitimate expectation of citizens in administrative acts, as does the theory of legitimate expectations mentioned above. Instead, it focuses on the quality and legality of the administrative action itself (Ortega, 2018). If the State does not comply with the procedures, legal requirements and quality standards in its actions, and this leads to the annulment of favorable administrative acts, then it can be argued that there is a State responsibility for the damages derived from such irregular action. In short, irregular administrative action is a source of State liability when the actions or decisions of public authorities deviate from established legal norms and principles. Responsibility arises from the need to maintain legality, equity and the protection of citizens' rights in their relationship with the public administration.

Finally, the theory of equity and social justice, a theory that focuses on the substantive nature of pension law. Recognizing, under the theory put forward by Duque and Duque (2016), a pension is an act of social justice that seeks to protect citizens in their old age or in special circumstances. Annuling an administrative act recognising a pension could be considered contrary to the principles of equity and social justice, especially if there are insufficient grounds for such annulment. Therefore, the responsibility of the State would not only derive from an incorrect administrative act, but also from failing to comply with its duty to protect and guarantee the rights of a particular group of citizens who are subject to special protection, under the terms of the Constitutional Court, such as pensioners.

The theory of Equity and Social Justice in the responsibility of the State for the annulment of favorable administrative acts in the recognition of periodic benefits, specifically pensions, focuses on the principle of guaranteeing that citizens are treated fairly and equitably by the public administration. This theory recognizes that the State has the responsibility to maintain a balance between its regulatory functions,

the protection of the rights and expectations of people who have benefited from valid and favorable administrative acts, and the legal system in the abstract.

To substantiate it, we turn to John Rawls who wrote the work "A Theory of Justice", published in 1971, and has become one of the most influential theories in contemporary political philosophy.

At the heart of Rawls' theory of justice is the concept of "justice as equity" (Dieterlen, 2015, p. 12). In accordance with what Mejía Quintana pointed out, in his article The Political Philosophy of John Rawls: The Theory of Justice From the analytic tradition to the radical philosophical-political tradition, Rawls proposes an approach to designing a just society through what he calls "the principle of basic equality" and the "principle of difference". To arrive at these principles, Rawls introduces the concept of the "veil of ignorance" (Echeverry, 2006, p. 15), which is a hypothetical situation in which people would design the rules of a society without knowing their particular position or circumstances in that society. This would ensure that decisions are made in an impartial and non-judgmental manner.

- **Basic Equality Principle:** Under the veil of ignorance, people would agree on principles that ensure the greatest possible equality, especially for those who are in less favored positions. This involves ensuring that everyone has access to a basic set of rights and opportunities, such as freedom of expression, education, and access to health care.

- **Difference Principle:** Rawls also considers social inequality, but only if it benefits the less fortunate. In other words, economic and social inequalities can be justified if they result in improving the living conditions of the most disadvantaged individuals in society. However, these inequalities must be linked to positions and offices open to all in terms of equal opportunities.

Rawls' theory of justice also defends the concept of the "principle of maximin", which refers to maximizing the well-being of the worst placed in society. This means that, when making decisions, priority should be given to improving the situation of those who have fewer resources or are in the most disadvantaged positions.

In summary, the theory of Equity and Social Justice suggests that, if the State annuls favorable administrative acts due to policy changes or new situations, it should carefully consider the possible adverse effects that this could have on the people affected. This does not simply imply a question of legality, but also of ethics and justice.

In this context, the theory of Equity and Social Justice may require the State to take compensatory or mitigating measures to help people affected by the annulment of favorable administrative acts, otherwise the State's patrimonial liability could be configured.

It is worth mentioning that the theory of Equity and Social Justice is closely related to democratic values and principles, as well as to fundamental human rights, to the extent that, as stated by Echeverry (2006), it seeks to find a balance between the power of the State to make administrative decisions and the need to treat citizens in a fair and respectful manner.

In addition to all of the above, and without going too deep into the matter, since the length of this document does not allow us to do so, and it is not the central object of study, we mention the National Public Policy on Aging and Old Age 2022-2031 adopted by decree no. 681 of 2022. Likewise, the creation of the National Council for the Elderly in order to coordinate the application of these public policies, and with advisory functions with the Ministry of Health and Social Protection. All of this has as its primary objective to ensure the conditions conducive to healthy aging, going through a dignified, independent and autonomous adulthood. This is related, in the vast majority of cases, directly to the cases analyzed, since most pension benefits are granted for old age or retirement. Ergo, the nullity of the acts of the State in relation to these benefits for reasons beyond the control of the beneficiaries, directly affect the principles pursued by the aforementioned public policies.

In short, the taking of decisions by the State in relation to the nullity of acts adopted by its agents on pension benefits, without causes attributable to the person who benefited from such acts, after a considerable period of time has elapsed, and without action that allows the person to claim compensation, it implies damages that threaten the particular subject in a forceful way. The response to these situations, which are verified on repeated occasions, is necessary and urgent, and deserves an analysis by Colombian doctrine and jurisprudence.

Conclusions

In short, and by way of conclusion, we consider it appropriate to have a judicial remedy, generated the impossibility of administrative proceedings, so that the State itself can request the nullity of its acts. We are

referring to the action of damages, which is optimal for certain issues that, although taking away rights granted to individuals, protect the collective rights of society. This is because it is possible to consider the error in the agents of the State when verifying certain requirements of legal compliance, or the modification of the factual circumstances surrounding them.

However, this action for damages should exist hand in hand with some judicial action that allows the claim for compensation for damages by the injured citizen against the State. This, provided that the reasons that allow the nullity of the administrative act are beyond the control of the person himself. In other words, since the subject who acquired rights does not have interference in the control of legal requirements, there is no reason to support that he should bear the damages of the removal of these rights.

The situation becomes more relevant when we refer specifically to pension benefits, since they often refer to the only economic income of people who are no longer of working age, and therefore have no other means of subsistence. Once the pension has been granted by the State, all the legal requirements for it have been previously verified, the beneficiary begins to organize his or her finances based on the amount of this benefit. In this way, the place where she lives, her food, the trips she undertakes, the clothes she wears, the investments she makes, the debts she incurs and her entire lifestyle are crossed, conditioned and directly linked to this pension.

Then, from one moment to the next, without prior notice and without having taken any action or omission, the State itself voluntarily decides to take away or seriously modify the pension benefit. Faced with this, the citizen is immersed in a situation with no way out: on the one hand, he loses the possibility of meeting the monetary obligations contracted, often having to completely modify his lifestyle, whatever it may be, receiving help from the family in the best of cases. On the other hand, he does not find an answer in the courts, since there is no action that allows him to claim compensation from the State for the damages caused. In other words, in the face of a decision of which he was not a party and had no interference or responsibility, he must bear the direct consequences without the possibility of complaint.

The serious damage that this can generate, not only in the patrimonial aspect, but in all senses, on the injured individual can be immeasurable. Sufficient reason to articulate an action that allows the claim for damages, considering the most appropriate route of direct reparation. That is, enabling it for these situations in which the State, through the action of damages, declares the nullity of its own administrative acts. At least in the event that they refer to pension benefits.

It is possible and urgent that we can grant legal certainty to pensioners, since this is a right of all citizens enshrined in the Political Constitution. Even more so when the violation of this fundamental principle comes directly from the State, without sufficient reasons and without the possibility of any subsequent claim.

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