

An Insight Over Non-Contractual Liability of Public Administration in Albania



Law

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Abstract

Despite the purpose of protecting the public interest and citizens' rights, it is impossible for the public administration and its entities to avoid the damages they cause to them. Nowadays, comparing to two previous centuries, it is consolidated the fact that the State is held responsible for the damage caused as in the civil relations between the private parties. In each impairment caused in the civil law, administrative or criminal ones, there should exist some cumulative elements (in common) whose consumption by the subject brings consequences to the injured party. The law which regulates this responsibility thoroughly is the law no. 8510/1999 "On liability of bodies of state administration".⁶⁵ The Article 1 of this law provides that: "The state administration entities are held responsible for the non-contractual property and non-pecuniary damages, which they cause to the physical persons, legal entities, private, local or foreign ones. Non-contractual liability of public administration entities is regulated according to the provisions of this law and the Civil Code of the Republic of Albania." In this paper there will be analyzed the criteria of responsibility determined not only in the respective law but even in those criteria which the Civil Code defines about the non-contractual liability, from the Article 608-652. Through this appraisal it is aimed at bringing into attention to the readers when the non-contractual state liability arises (concretely the public administration) and in addition, when citizens are legitimated to file a sue against these actions in order that the locals and the foreigners are more aware about this constitutional right not that much applicable.

1. Elements of the non-contractual liability in Albania

1.1. *Illegal acts and omissions due to public administration entities' liability*

In order to have damages, we must necessarily have illegitimacy of acts or omissions that an entity of public administration performs. Some forms of illegitimacy are defined in some laws and in some others they are not. Though, in regard to the last case, the discretion of the entity prevails to scrutinize the issue of harm caused to the third parties or even so does the court to assess the illegitimacy. Under Article 608§2 of CC it is illegal when it results from the violation or infringement of the interests and rights of others, which are protected by legal order or good morals.

Thus, in the constitution's Article 44 it is contemplated that state entities (including public bodies) are responsible for the action or failure to act on their own. By actions, we may consider the cases when the damagers can actively bring consequences violating or infringing the interests and rights that are recognized and protected by the legal order or good morals. By omissions, the damagers can cause harm had they a legal obligation to avoid or avert an event but instead, they did not act to prevent it but allowed it to happen, and as a result, they have brought the aggrieved party violation in rights and interests protected by the legal order or good morals. When talking about legal order, Academician Luan Omari says: it is "the comprehensiveness of relationships of people in society that are expressed and enshrined in law, the legal norms, therefore, legal order is an integral part of the social order, the order of relations of people who rely on legitimacy". Today it can be understood in the Constitution, law, other legal acts, international agreements, *et cetera*.⁶⁶

Minimally, they will be defended from any unfair action of fundamental rights and freedom that are provided by the Constitution as well as by the international acts which protect these rights and fundamental

⁶⁵ Although this law refers to the state administration bodies, it is also applied to other bodies of public administration since the latter have a wider arrangement which include state administration bodies and public institutions.

⁶⁶ Article 36: "Freedom and secrecy of correspondence or any other means of communication are guaranteed".

freedom, for instance, the European Convention on Human Rights and hues they have given, respectively as the Court Constitutional, in the interpretation of these norms, as well as the Court Evropina of Human rights (Strasbourg Court), it is about the rights which are inviolable, not inherited as the right of life, the physical integrity and health, personal liberty, the freedom of privacy and inviolability of residence and correspondence, *et cetera*.

Whilst with good habits we understand: *"a humane policy that is set as a result of its implementation in effect during a time more or less constant."*⁶⁷ Thus, good habits are social norms applied continuously for a long period by the community of a country, the population of a state, *et cetera*, to the extent that it is accepted as an unwritten norm by all.⁶⁸

There's a term about acts or omissions and unlawful acts and omissions, though.⁶⁹ According to Judge Dvorani, though in the Article 608 of the Civil Code it is provided illegality, it should be actually implied the unfairness, which is a broader concept than the law in order not to fall in a restriction or expansion of the wrong interpretation and application of the norm. While, unlike the Civil Code where the law, no, 8510/1999 refers to having an extra responsibility to Organs of Public Administration (OAP in Albanian) it should have made illegal actions or omissions. I think that the concept of unlawful is far more concrete than the concept of illegality of Article 608 of the Civil Code and even more when compared with the concept of injustice which does not rely only on law but also on good manners.⁷⁰ Therefore, in order to have illegitimacy, we must have specific cases provided for in law when concrete actions would be considered illegal.

In the verdict no. 25/2014 of the Constitutional Court the lawlessness concept is interpreted as follows: *"... the Court considers that the concept of lawlessness must be clearly linked to specific well-defined cases such as conflicting legislation. Determination of illegal situations should be such as to leave no room for its extended interpretation in order to avoid abusive situations in which entities can be found affected by the action of a concrete act. Besides clarity that the norm should have in predicting the incidences of lawlessness, the Court accentuates that given the concept attached to the Albanian legislation and the foreign one, illegality should be linked to cases of illegal constructions approved by the competent authorities or with the disrespect of (overcome, change etc.) the building permit granted by the competent authorities and not to the validity of the permit as an administrative act"*⁷¹

In conclusion, we can say that protection can be found from any harm that comes from an unfair act: unlawful, illegal, and which comes in opposition to even with good habits, and which meets other conditions required by the law of torts.

1.2 The guilt

According to the Dictionary of Law of Henry Black, by fault we understand 1) negligence, an error or flaw in perception (trial) or behavior, any deviation from prudence, duty, loyalty, 2) any bugs or careless behavior which comes from slumber, incompetence or recklessness or a trend of action, a wrong motive or bad

⁶⁷ Article 35: "1. Noone can be imposed, except where is required by law, to disclose data relating to the individual .2. The collection, use and disclosure of data about a person is done with his consent, except in cases provided by law.

Article 37: "The inviolability of the residence is guaranteed."

⁶⁸ On page 311.

⁶⁹ Article 3§1: "The state administration bodies are responsible for damages caused to private or legal persons in the following cases: a) when carrying out illegal actions or omissions".

⁷⁰ Dvorani A., "Torts and responsibilities arising from its" Training Session, the School of Magistrates, Tirana's February / March 2015, page 2.

⁷¹ The demand of 36 MPs for abrogating the decision nr.932, dated 30.09.2013 of the Council of Ministers "On the unification of powers of the National Urban Construction Inspectorate (INUK) in areas of national importance and the territory" and the suspension of the decision to the announcement of the decision by the Constitutional Court.

faith or lack of organization.⁷² Referring to this same vocabulary we should distinguish between *culpa* from *dolus* where the first fault is in the form of negligence and is divided into: *lata culpa* or gross negligence, malpractice, negligence, *levis culpa* or normal negligence and *levissima culpa* or an easy negligence. Whilst the guilt *dolus* (came) is a full voluntarily action or intentional. It is considered that when acting with negligence (*culpa*) is equal to the purpose as there are even cases of slight negligence acts to be excluded from liability for damages.⁷³

In fact, intent and negligence, which criminal law defines, refer to our doctrine when explaining fault in civil law, specifically cite that in Section 14§2 of the Penal Code it stipulates that the person is guilty of the offense committed intentionally or with carelessness. In addition, further criminal doctrine has shared the intent to direct intentionally⁷⁴ and indirect malpractice.⁷⁵ Secondly, the negligence in the simple negligence⁷⁶ and in excessive confidence⁷⁷. In most cases, the damage comes from extra-fault in the form of carelessness namely that of negligence.

We should stress that the non-contractual responsibility is an objective one unlike that of criminal. Therefore, it is adequate to prove the damage, the unjust fact that has brought it and the causal connection he is responsible for his arrival. This shows that the injured party has a duty to prove in a civil administrative trial, that he has suffered the damage from improper actions of pests and that there is a causal link between them. Being that fault is the mental attitude,⁷⁸ the internal will manifested in the outside world with concrete actions or failures, it is conditional on pests who knows best what has pushed him to perform the act or not and what his behavior was after the damage occurred to avoid the consequences' coming.

1.2.1 The aggravation of fault

Escalation of guilt is an element taken into account by the court to add or reduce defector's responsibility toward others or toward the jointly injured party. It also serves as a reason to discharge completely or partially the defector from liability. So, in the non-contractual responsibility the guilt's scale, apart from the fact that it is divided between two different types or forms: the intention and negligence, it can be divided even within the normal type in on a common negligence and serious negligence.⁷⁹ Even in the obligations arising under the contract, the debtor who does not fulfill his obligations, it seeks to have acted with fault: intentionally or negligently.

If negligence of the defector is habitually considered normal, it is regarded as a case of a serious negligence when the person causing operates repeatedly with the same carelessness, exceeding the normal carelessness in person with average intellect to the extent that serious negligence can be equated with a individual's intent. As a term, it does not belong only to the responsibility...

⁷² Henry Campbell Black, M. A. "Black'law Dictionary, 6th Edition" St. Paul, Minnesota, EEST Co.1990 Publishing, Page 621.

⁷³ Ibid page 673.

⁷⁴ When a person foresees the consequences of the offense and wants them to."

⁷⁵ Although he foresees and does not want them, he allows them consciously

⁷⁶ "When a person, although he does not want the consequences, provides for the possibility of their occurrence and hopes to avoid them."

⁷⁷ "He does not foresees them, although according to the circumstances he should and could have foreseen them."

⁷⁸ Prof. SEMINI (Tutulani) M."Law of Obligations and Contracts" general part, 3rd Edition, Tiranë 2002, page 161.

⁷⁹ Article 647 / ç "c" of CC in the calculation of compensation for defamation, libel, etc. there are taken into account the form and the degree of culpability.

1.3 The causal link

The causal link is that without which no harm comes to the damaged. So there may be damage but related to the unjust action or inaction of the situation with the damage caused must have a direct and determinant link in the coming of the consequence, or as Judge Mataj says "figuratively in the chain that connects the illegal fact and the damage must not be any whacked link."⁸⁰

There are two theories about the causal link by prof. Légier⁸¹ one of the equivalence theory conditions and the adequate theory of causation. The first has to do with any event that is a must for the damage is also the reason for its coming and the author of the damage is obliged to compensate it fully. While the second theory considers as an adequate cause (proper) an event which in the natural flow of events must cause the damage and not as an extraordinary situation.⁸² An illustration is the case when the owner of a vehicle forgets the key inside the car a person steals it and causes a crash resulting in the death of a pedestrian. According to the first theory towards the pedestrian responsible is also the vehicle owner. While according to the second theory, the owner of the vehicle was not the determinant cause of the effect. Under Article 609 of the Civil Code provides that: "The damage must be a result of direct and immediate action or inaction of the person. Obstructing of an event from the person who has the legal obligation to avoid it, charges him with responsibility for the damage caused. "When we say *direct* should not be implied that belongs only to the person to whom is directed the illegal cause as for example the person to whom is committed defamation, the damaged person, etc. but between action or inaction and non-pecuniary damage must be no other intrusive factors interrupting the continuous cause-effect process."⁸³

Also when we say *immediate* we must not imply that the damage must be visible and at the moment because might happen that from a primary damage as for example from the translation in a permanent quadriplegic by an accident, the other consequences come later as for example the biological psychological harm, etc. In this case even though the damage has come much later and not instantly, the causer of the damage will be held responsible for this kind of suffered damaged for example paranoia, schizophrenia etc. if the accident didn't happen, the person would not turn into a quadriplegic in and therefore will not suffer mental breakdown as a result of the unbearable condition of the damaged. This goes in line with the principle that guides *ius aquiliana* (the Wrongful right) that the damaged should be fully compensated as if the damage did not occur (*restitutio in integrum*). According to Prof. Galgano "... to determine whether the damage was due to a cause of action or inaction of the damager is used the so-called statistical adjustment, whether on the basis of a probability this inevitable and unpredictable consequence. The determinant causes must be distinguished from other simple occasional causes."⁸⁴ So if the consequences are due to some actions or inactions at the same time it will be determined by the experts' opinion but also with a logical evaluation from the court which was the action or inaction determining the coming of the consequence.

⁸⁰ Mataj R., "Diploma Thesis- Theoretical and practical aspects of non-pecuniary damage and its reward in the Republic of Albania" Tirana, School of Magistrates (2007), page 49.

⁸¹ Légier G., "Les Obligations (Obligations)" Papyrus Publishing, Tirana (2009), page 158.

⁸² On page 158.

⁸³ Mataj R., "Diploma Thesis- Theoretical and practical aspects of non-pecuniary damage and its reward in the Republic of Albania" Tirana, School of Magistrates (2007), page 50.

⁸⁴ Galgano F., "Private Law", Tirana, Publishing House "LUARASI" 1st publishing in 1999.

As seen from the interpretation, Albania has supported the adequate theory of the causality link or as mentioned by our Code requires a direct and instant link between the action or inaction of the damager so even if there are some factors that have contributed to the advent of consequence is required to determine the cause of its arrival. Other causes like for example the guilty behavior of damaged people etc. They can influence the reduction of the amount of compensation for the damage from the damagers themselves. Another division of the causality link is the one according to decision no. 12/2007 of the United Chambers of the Supreme Court of Albania that divides into: material and legal. According to this court: "Material Causality Link proves that who is the person responsible (active subject) and the cause- consequence link between the three objective and subjective elements of the illegal fact (causing the damage): the unlawful behavior (objective) and with fault (subjective) and the effect that came from them, therefore the damage of a person or his property (objective). In this case applies the legal principle *condicio sine qua non*, according to which, the arrival of the harmful consequence would not be proved if the cause would not have happened, the illegal and guilty behavior of the responsible person for causing the damage.

Whereas, the causality judicial link confirms the link of cause-consequence between the unlawful fact in its entirety and concrete violations incurred in rights and legitimate interests, as the passive subject on which this unlawful fact acted directly, as well as the other persons resulting damaged as a result of the consequences that normally and usually come from the same illegal fact, according to the principles of regularity and efficiency of causality link (*id quod plerumque accidit*)." We can say that this kind of interpretation increases the chance to compensate people who have been damaged by unfair, illegal behavior of the causer of the damage as in estates as well as in non- material fortune. Pursuant to Article 609 of the Civil Code for acceptance of Extra-contractual liability, the material causal link must be certified, further, for the determination of concrete damages (violations) arising from this unlawful fact and setting the appropriate compensation, must be certified the legal causality link between them.

1.4 The consequence, the caused damage

There will not be non-contractual responsibility when there has been no damage to the third party from illegal actions or omissions of the organs of public administration. Damage is a loss or reduction of property, physical or mental health, psychological, reputation and name, *et cetera*. Given the interpretation of Article 608 but also of Articles 640 and 625 of the Civil Code the caused consequence violates the wealth and the individual.

According to Law no. 5810/1999 there are recognized two types of damages that the injured party suffered from actions or omissions by the fault of the public administration bodies or officials: their pecuniary and non-pecuniary damage.

If we have damage to or loss of property, that constitutes property damage. This includes the precipitated loss and the absent profits and any other expenditure made by the injured party immediately after the occurrence of the unjust action or inaction but on an ongoing basis. About absent profits, it is based when real damage is proved that the injured party has undergone and not as a rhetoric whenever compensation is required. In Decision no. 72/2015 Administrative Tirana Court of Appeal has rejected the claim of Company "A ... Albania" LLC Branch Shkodra Dogonave to blocking commercial activity for a year because of an unpaid customs debt arguing that: "The claimant party had a legal obligation under Article 640 of the Civil Code to prove earlier the existence of material damage and then seek absent profit on this damage. Shkodra District Court, forcing the respondent Shkodra Branch of Customs to recompense the ...- Albania LLC Company with the

value of 258 318 389 Leke, which in fact it only consists of loss of profit claimed by society, not which it was argued that real property damage caused to society. " ⁸⁵

Regarding to non-pecuniary damage, KB of Supreme Court define this concept as "*Non-pecuniary damage, provided for in Article 625 of the Civil Code, as a category of broad and comprehensive non-contractual damages involves any damage instigated by the violation of the non-pecuniary rights and interests that are part of human values and that are not directly subject to economic evaluation in the market.*" ⁸⁶

In France, any damage instigated by an unlawful and unfair cause, are divided into: 1) material damage which includes fully effective and future property; 2) physical immunity damage or bodily harm which is divided into the economic harm that comes from physical damage, e.g., inability to bring the same income as an employee or any other benefit or medical expenses that performs for damage income, funeral expenses in case of death, *et cetera*. And non-material damage because of bodily harm which is divided into: the damage associated with physical pain (*pretium Doloris*), aesthetic damage and damage of exercise that means inability to cherish your life, ⁸⁷ to practise an art, a sport, *et cetera*. 3) The moral damage which is divided into damage arising from the honor, privacy or right of personality and affective damage due to death or degradation of a relative. ⁸⁸

While in Albania, identification of other types, that can incur to all the injured and relatives of his (indirect victims), and measures and ways of rewarding them were consolidated significantly in practice after **Unified Session's** unifying decision of the High Court no. 12/2007. Non-pecuniary damages types in Albania are recognized as: moral damage, existential damage and biological damage but also any other damage which affects the rights, values or freedom recognized by the legal order or good habits.

2. Types of Extracontractual Responsibilities of the Administration in Albania

The above four elements, each citizen in Albania is obliged to substantiate in case he/she claims a damage caused by wrong actions or inactions of public administration. However, to focus the object of study, we treat in particular the images of damages we encounter in public administration in case of this extracontractual responsibility.

Starting from the hierarchy of norms under Article 116 of the Constitution, we are initially treating that kind of damages predicted by the Administrative Procedure Code (1999). Article 14 of this Code provides that: "The public administration bodies and their employees are responsible for damages caused to private persons by:

- Taking illegal decisions;
- Unlawful refusal to take decisions;
- Issuing inaccurate written information to private persons, due to any other case provided by the law.

"It is noted that in law no. 8510/1999 as cases where the entities of State Administration (later OAP) bear responsibility for extra-contractual damages caused to physical individuals and legal entities are provided in Article 3, where is quoted:

- "*When performing unlawful actions or inactions;*

⁸⁵ Decision no. 72 dated on January 27, 2014, the Administrative Court of Appeal of Tirana.

⁸⁶ Decision no. 12 dated September 14, 2007, the case of Yska, Alidmadhi, Baliqi against Albanian Insurance Bureau.

⁸⁷ What is known as existential damage in Albania.

⁸⁸ See Légier G., "Les Obligations (Obligations)" Papyrus Publishing, Tirana (2009), page 131-132.

- *When performing unlawful actions or inactions, but bringing damage to legitimate interests of physical person or private entities;*
- *When, although performing unlawful actions or inactions, it causes a disproportionate damage to subjects to whom this action or inaction is directed;*
- *When, due to technical failure of the means by which state administration bodies operate their activity, physical persons or private entities are affected in their legitimate interests;*
- *When causing a constant risk to physical persons or private entities "*
- *When performing a corruptive act in the exercise of their functions. "*

This does not mean that it is an exhaustive list as long as the right to be compensated and rehabilitated is constitutional for the private person and is defended in any case under Article 44 of our fundamental law.

It creates the impression that the law and APC have repeated each other. In fact they have not. In the first case is held responsibility for damages coming from OAP illegal decisions and the law provides as in the first case for damages caused by unlawful actions or inactions. Not every action or inaction of the administration can be concluded with a decision but also by other administrative actions appearing in silence, with return-response, with a verbal instruction to individual body to the technical staff of the administration etc.

A special case to be treated is the responsibility of the state and administration bodies to compensate fairly those who expropriate for public interests. Under Article 41 of the Constitution,⁸⁹ an expropriated person for disagreements over the amount of compensation has the right to appeal to court.

However, the most classic case of liability, as Prof.Asoc.Dr Eralda Cani⁹⁰ says, is that of administration to damages caused by illegal actions or inactions as for example when the administrative body acts arbitrarily and demolishes building facilities without an act for verification of administrative infringement for illegal construction of the plaintiff, keeping the record of the conclusion of administrative infringement communicated to the plaintiff or any decision of the authority to demolish the building.⁹¹ Or the case when an OAP has caused damage as a result of an unlawful decision illustrated by the decision of the Administrative Court of First Instance of Shkodra, where forced the Shengjin municipality to monetary refund the plaintiff PM because they have demolished the wooden two-floored building activity " Bar-Restaurant "built with permits in Lezha in Kune village. This construction was demolished under an administrative act of INUV Shngjin municipality with decision no. 249 dated 17.05.2013 of the Court of Appeal in Shkoder was declared definitely null and void.⁹²

3. The Relationship Between the Responsibilities of the State Administration and their Officers

OAP being legal persons (not spiritual) realize all their functioning through their employees or officers as they as named in the legjilsalcion. The question arises how to share the responsibility when the officer acted in excess of his powers bringing consequences to the citizen. There are adjustments in the world in this kind of situation: firstly; the case when the state is responsible itself before the citizens for any damage and regardless of who is the real culprit- the case in Germany and in other cases the responsibility is solidarily between the state

⁸⁹ Article 41 "... 3. The law may foresee expropriations or limitations in the exercise of a right's property only for public interests. The expropriations or limitations of a right's property that amount to expropriation are permitted only against fair compensation.5. For disputes over the amount of compensation may be appealed in court. "

⁹⁰ E.Çani " Non-contractual administrative responsibility as a means to better redress juridical and physical persons interests and better address public interests. reforms needed to the albanian legislation and european standards", www. academia.edu, akses janar 2016.

⁹¹ See Decision no. 193 dated on February 9, 2010 the Court of Appeal.

⁹² Decision no. 837 dated on December 30, 2014 the Court of First Instance about administrative Shkoder.

and employees and may even end up in the discharge of this responsibility to the employee when it is proved who is guilty- in the case of France, England etc.

In Albania the current APC of 1999⁹³ and the APC expected to enter into force in June 2016⁹⁴ stipulates that it is responsibility of the public administration bodies but also their employees.

If we refer to Article 44 of the Constitution as well as the first article of Law 8510/1999 is provided that the primary and direct responsibility goes to the state/public administration and its bodies for any damage caused to the person. This type of liability with presumed guilt is recognized also in the Civil Code, in Article 618 which provides that the employer is responsible for damages caused to third parties because of the employees who are in his/her service, while performing the tasks entrusted by him (Article 618).

While as an exception Law no. 8510/1999 specifies the situation when the employee is responsible before citizens for the damages caused. Therefore in Article 4 of this law is provided the employees' personal responsibility of state administration bodies: "In the exercise of public functions, employees of state administration bodies are not responsible for damages caused to physical or legal persons in the cases provided for in Article 3.

Employees of state administration bodies, exclusively are responsible for the damages caused to private or legal persons, when it is proved that they acted in misfaith.

In cases provided in paragraph 2 of this Article, the state employer, after compensating the damaged party has the right to require from the guilty employee the returning of the compensation paid." So it turns out that the employee holds responsibility when the damage is done during the exercise of his duty and he has acted in misfaith. In this case again as a plaintiff results the body of public/state administration against the physical or legal persons damaged while it is entitled the right to OAP to require through a lawsuit to its employee what has been paid as a reward to the damaged person.

4. Conclusions and Suggestions

Although the right to rehabilitation and compensation of citizens from unlawful actions of State bodies is protected by the Constitution (Article 44), in the Code of actual Administrative Procedure (1999) and the one expected to enter into force in June 2016 again is a right less implemented among citizens. This is due to several reasons: the believe of citizens that public administration which operates in Albania has less knowledge of their rights to sue the state in such illegal acts.

In Albania kinds of extracontractual responsibilities of the administration are numerous whether when they act in guilt or not, if the damage came to the third parties, its their duty to respond. The state should stand as a guardian of the public interest and not their offender and damager. It also justifies the legal provision that in Albania as a defendant always appears OAP and if the damage resulted from the act or omission of an employee of his misfaith, the state has the right to ask its employees, the suit back what he paid to the damaged because of his fault.

⁹³ Article 14. The principle of accountability "of public administration bodies and their employees are responsible for any damage caused to between individuals"

⁹⁴ Article 15- The principle of responsibility "Public bodies and their officials, when performing an administrative procedure, liability for damages caused to 1e parties, in accordance with the relevant legislation."

Although decision-making of administrative courts on cases of extracontractual damages is an executive title and is executed by judicial enforcement under Article 19 of Law nr. 8510/1999 again is noted that few damaged people address to courts. This happens because of not knowing the law, lack of public awareness campaigns and the fact that the law itself of the above-mentioned Article 20, tolerates administrative bodies in postponing of the execution in subsequent years for lack of funds, opening a special item in the institutional budget.

In Albania unlike other western countries remains much to be done about improving the relationship between the state and the citizen as far as the latter believes that the state will compensate the damages caused fairly and rapidly.

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- No. 12/2007 of the United Panels of the Supreme Court of Albania
- Decree no. 72/2015 Administrative Appeal Court of Tirana.
- See Decision no. 193 dated February 9, 2010 of the Court of Appeal.
- Decision no. 837 on December 30, 2014 of the Administrative Court of Shkodra First Instance.