

The right to appeal under the constitution of Albania and court jurisdiction

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Abstract

The right to appeal is both a fundamental human right and a procedural tool, whereby parties exercise examination of the lawfulness of court rulings, etc. The constitution of the Republic of Albania,¹ approved in 1998, expressly provides for and guarantees the right to file an appeal. Unlike other rights, this fundamental right was not restricted, being in accordance with Article 17 of the Constitution, except for cases otherwise provided in the Constitution. In accordance with this constitutional right and guarantee, all codes of administrative procedures, civil and criminal procedure, provided for and widely guaranteed the exercise of the right to file an appeal.

This absence of restriction of the right to file an appeal brought about an overload of court cases and trial delays, thus making the completion of the adjudication within a reasonable deadline uncertain. As a result, there rose the necessity to limit this right in the Constitution of the Republic of Albania. The amendments to the Constitution by Law no. 76/2016 also limited the right to file an appeal under Article 17 of the Constitution. However, these amendments were not complete, as they did not entail the exercise of the right to file an appeal against decisions of administrative authorities. The jurisdiction of the Constitutional Court of Albania is a guarantee of the right to appeal/effective access in the civil and administrative process, although slightly controversial in the criminal process. However, positive developments regarding the guarantee of effective access to the court have recently occurred. Even in the broad jurisdiction of the European Court of Human Rights, when cases from Albania have been adjudicated, violations of the right to effective appeal have been observed in the criminal process.

Keywords: exercise of the right to appeal, limitation of the right, judicial appeal, administrative appeal.

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