

The right to appeal for customs sanctions in Albania in the view of article 13 of the ECHR

Assoc. Prof. Dr. Naim Mëçalla
Wisdom University, Albania

PhD(C.) Flavia Kolleshi

Abstract

The right to appeal is a fundamental human right and means the right of the individual to appeal, the existence of a body designated to review the appeal, the unconditional acceptance of the appeal for review, reasonable deadlines for its review, an objective review, judicial control, as a final control over the appeal, as well as the possibility of possible rehabilitation because of the eventual acceptance of the appeal. In this paper we will treat, analyse, and justify why Article 282, point 2 of the Customs Code restricts the right of appeal. This provision, as it will turn out, does not meet the minimum standard for an effective appeal in the domestic courts, set by Article 13 of the ECHR.

Fiscal liability that deviates from the principle of equality and proportionality in the exercise of customs and tax authority risks depriving taxpayers of the means necessary to guarantee services that protect fundamental rights. The restriction of the fundamental right to an effective appeal was made by the customs law, Article 282/2, which from the point of view of the law exceeds the limits of this restriction set by the Constitution and the ECHR, where according to Article 17 of the Constitution the restriction must be, in proportion to the situation that has dictated it, so in this sense it must be in accordance with the principle of proportionality.

Keywords: The right to appeal, effective appeal, due process of law, principle of proportionality, etc ..

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