

Cases ALB assessment by N. Mita

Case Title:

Judicial case for changing the result of a State Matura exam of a high school graduate in the subject "Albanian Language and Literature" for 2014

The scope and level of education from which the case is taken

Assessment of the student / secondary education

Description of the Case Problem

The high school graduate A.GJ, under the Albanian legislation in force, was subject to the compulsory examination of the State Matura 2014, in the subject "Albanian Language and Literature". He has taken the written compulsory exam on May 30, 2014. A.Gj has been acquainted with the result of the exam 15 days after the examination, according to the legislation in force. The evaluation committee has rated it with 31 points out of 50 points in total. The test in total had 25 questions: 13 questions were objective and 12 questions were subjective. The high school graduate has filed a complaint only for 6 subjective questions. According to the respondent all the answers given by him to questions 10 / a, 11, 21, 22, 23 / a, 23 / b were the same as the correct answers published by the National Examination Agency, but the points given to him were less than he deserved.

The high school graduate A.Gj. sued the Ministry of Education and Sport (MES), the National Examination Agency (NEA), the Faculty of Law of the University of Tirana for the assessment of the State Matura exam in the subject "Albanian Language and Literature" for 2014 and the consequence of this evaluation.

The high school graduate A.GJ. requires:

- The obligation of the respondents to carry out the partial re-evaluation of the State Matura Examination Exam 2014, subject "Albanian Language and Literature", for questions 10 / a, 11, 21, 22, 23 / a, 23 / b.
- The obligation of respondent (Faculty of Justice) to register the plaintiff as a student for the academic year 2014-2015

The legal procedure followed

A.Gj. sent the lawsuit to the Tirana First Instance Administrative Court

NEA's attitude

- Based on the lawsuit's request and the legislation in force, NEA sent to A.GJ. a photocopy of his test.
- The NEA informed the graduate of the assessment conducted. It found the evaluation of the Evaluation Committee accurate and objective. The assessment was made by certified and appointed evaluators.
- The NEA informed that the Regulation "On the State Matura Process 2014 in the Republic of Albania" does not provide for the reevaluation of the tests and the reevaluation required would constitute a precedent.
- The NEA has acted in accordance with applicable laws and bylaws without violating the high school graduate's rights.
- The NEA has required the rejection of the lawsuit.

The position of the University of Tirana

The University of Tirana has given this answer to the issue in question.

The University of Tirana has no legal capacity to act as this institution accepts in the first cycle of studies the list of State Matura students issued by MES and NEA, whereas the University of Tirana only announces the winners that were sent by the NEA.

The University of Tirana has demanded the rejection of the lawsuit.

Decision of the First Instance Administrative Court of Tirana

The court accepted the lawsuit as a legitimate right against an act or lack of act from a public body.

Although the Court of First Instance acknowledged that the case concerns judicial jurisdiction, it considers that the assessment made by the Evaluation Commission does not contain any of the elements provided for the absolutely invalid administrative acts.

The high school graduate could challenge the decision of the Evaluation Commission only:

- If this decision was not taken by the appointed commission;
- If that decision was not taken with the presence of all members of the Evaluation Commission.
- If the assessment of candidate preparation would not be the competence of the committee set up for this purpose.
- If the test result was not given in accordance to the appropriate evaluation and test procedure.

- If the decision of this commission was unreasonable and there was no reason for this commission to support the decision.

Decision of the Administrative Court for the case

The Court considers that the high school graduate claim is not based on any legal basis and that the high school graduate has not allegedly found the absolute invalidity of an administrative act but has intended to change the consequences of the assessment through the court. So the evaluation does not contain any element to classify it as an absolutely invalid administrative act. In the practice of jurisprudence there is no judicial decision whereby the court requests re-evaluation or re-correction of the tests carried out. The Court estimates that such claims can not be enforced through the court as the Regulation "On the State Matura Process 2014 in the Republic of Albania" does not provide for a reevaluation of the test. The substitution of the Evaluation Committee for correcting the test of the defendant would be a violation of the interests of other candidates who competed in the same year with A.Gj. The test can not be corrected by other people because it loses the anonymity. The court dismissed the claim as unfounded in law and evidence.