

CASE ON LEGISLATING THE QUALITY IN EDUCATION

**PREPARED BY
ROVENA SULSTAROVA**



Belgium Internship - September 2017

CASE TITLE

Judicial case for abuse of power and forging documents by the Minister of Education and Science (MOES) in issuing the order nr. 381, dated 05.08.2011: "For opening the programs of first cycle Bachelor and second cycle Master of Science in the Private Higher Education Institution Vitrina" (2016)

Belgium Internship - September 2017

THE FIELD AND LEVEL OF EDUCATION FROM WHICH THE CASE IS TAKEN

Legislating the quality in education/ higher education

Belgium Internship - September 2017

BACKGROUND INFORMATION

On 17.04.2015, the General Prosecutor's Office has registered the lawsuit nr. 04 of 2015 for the penal offences "abuse of power" and "Forging of the documents", foreseen in the article 248 and 186 of the Penal Code, against the Minister of Education and Science. The defendant was a deputy in the Parliament of Albania, who during the period 2006-2013 served as Minister of Education and Science, the same period in which the defendant had allegedly committed the penal offences mentioned above.

Belgium Internship - September 2017

CASE DESCRIPTION

- On 03.05.2010, the private Higher Education Institution (HEI) "Vitrina" deposited in the MOES a request (project application) for the getting permission for opening new study programs for the year 2011.
- The project was sent for assessment to Accreditation Council of Higher Education (AC). The latter issued the decision no. 192 dated 24.06.2011, which was against the opening of the bachelor study programs in Electrical Engineering, Mechatronics, Public Administration and the MSc program in dentistry. The same decision left the approval pending for the Master in Science Programs in Construction Engineering, Medicine and Pharmacy, because it requested from the applicant to met some conditions concerning the standards and regulations.
- Despite this decision, the Minister of Education and Science issued the Order no. 381, dated 05.08.2011 "For opening the first cycle programs Bachelor and second cycle Master in Science, in the private HEI, Vitrina".

Belgium Internship - September 2017

5

LEGAL FRAMEWORK

- Articles nr 42, 44/4, and 62 of the law no. 9741 dated 21.05.2007 "For the higher education system in Albania" amended;
- Chapter I and III of the Instruction of the MOES no. 11 dated 28.02.2012 "For the procedures and documentation for to open a private higher education institution in higher education..."

Belgium Internship - September 2017

6

DECISION OF SUPREME COURT

- The court decided that the Order of the Minister of Education and Science no. 381 dated 05.08.2011 "For the opening of the first cycle ... in private HEI "Vitrina" does not violate the law and does not overcome the competence of the Minister of Education and Science, as is foreseen in the article 248 of the Penal Code. The Supreme Court acknowledged in its decision, as follows:
- Article 44/4 of the law no. 9741 dated 21.07.2007, results that the opening of new study program is under the discretion of the Minister;
- AC has no decision-making competences in this procedure but evaluation competence (positive assessment, negative or positive with conditions). The decision of AC are recommendatory.

Belgium Internship - September 2017

7

DECISION OF THE SUPREME COURT

- Based on the article 42 of the Law nr. 7941/2007 the competence to open new programs in public HEI is under of the Minister.
- Article 62 foresees the procedure of accreditation of programs. So this disposition is not applicable to this case. Accreditation and opening a new study programs are different processes in the mean of quality assurance.

Belgium Internship - September 2017

8

DECISION OF THE SUPREME COURT

- The Penal College of the Supreme Court, based on Articles 384 and 388, point 1, letter b, of the Penal Procedure Code,
decided
- To declare innocent the defendant M.T., charged with committing the penal offense of "Abuse of power" provided for in Article 248 of the Penal Code.

Kaunas Internship - June 2017 9

REFERENCE

Source:

Supreme Court decision N0. 6/36, date 14/06/2016

Belgium Internship - September 2017 10

THANK YOU!

Belgium Internship - September 2017 11