

JURIDICTION AND ITS COMPETENCES IN THE CIVIL LAW (THEORIC ASPECTS AND THE PROBLEMATIC IN THE JURIDICAL PRACTICE)

Entela Hasmuajaj

Administrative court of Shkodra, e-mail: ehasmuajaj@yahoo.com

Abstract

Like all other judgments, the civil process is based and guided by some constitutional principles. One of these principles is the legal process provided in article 42/2 of the Constitution of the Republic of Albania, who has known every person, the right for a judge by a court that is independent, impartial and created by law, and must be competent. But a court to be competent, should it have jurisdiction to hear the case and that the competence to be given by law. Thus, one of the initial tasks of the proceeding investigating or judging the civil case is to solve first of all these issues, jurisdiction and competence.

Jurisdiction and competence are important procedural preconditions which affect the fate of the judicial process, in terms of identifying the authorities (administrative or judicial) that has jurisdiction, as well as in terms of specific court, which has jurisdiction to adjudicate the case. These two legal institutes, affect the rights and interests of the parties in the process, are related to the observance of legal process, what grow responsibility of administrative and judicial authorities to respect strictly the provisions.

The jurisdiction and competence are two first elements that must verify any court before continuing with proceedings. Any error can be done in this first phase of the process, reflects irreversible consequences in its other phases.

The discussion, despite some elements of its theoretical character, generally is focused on addressing the issues identified in practice.

In each chapter is realized an interpretation and analysis of the legal provisions of the various review of literature dealing with jurisdiction and competence in national legislation but also international legal acts, the European Union and bringing different examples that reflect concerns judicial practice to a greater understanding of this topic.

Keywords: *jurisdiction, competence, civil law, juridical practice, European Union.*