JURISDICTION OF TRANSNATIONAL ADMINISTRATIVE-LEGAL ACTS IN THE PROCESS OF EUROPEAN INTEGRATION

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Abstract

Transnational administrative-legal acts exhibit the feature of exerting influence not only within the jurisdiction of the originating state but also across the borders, encompassing the territories of other states. Such acts are one form of harmonization and "integration" of activities within the European Union.

The European integration process entails progressively aligning and synchronizing laws, policies, and regulations across European Union member states to establish a unified market and foster deeper political and economic collaboration. This progression involved the delegation of specific governmental authorities from national administrations to EU institutions. Consequently, transnational administrative-legal acts play a crucial role in promoting and regulating this integration.

European Union law exerts a varied impact on the collaboration and organization of administrative entities, along with its influence on the judiciary. In part, this includes the obligation to recognize administrative bodies or judicial decisions of other states.However, there are few areas in which the enforcement of EU law is fully regulated by national law. There are frequent cases where the enforcement standards of the member states are applied to the law of the European Union, which, in some cases, damages the idea of a unified application of the law of the European Union.

Transnational administrative-legal acts often require cooperation and coordination among member states in order to effectively address existing challenges. The European integration process promotes this cooperation through various mechanisms.

In this way, it is important that when applying the national legal norms, the practical realization of the objective of the European Union norm is not hindered and, at the same time, the national interests of the candidate country are not harmed. This concerns the application of both substantive and procedural law norms.

The present article discusses the issue of transnational administrative-legal acts in the process of European integration; The typology of transnational administrative-legal acts is presented, the precedents of the European Court of Justice and their influence on the principle of territoriality and the right to effective justice are analyzed.

Keywords: Transnational administrative-legal act, Jurisdiction

Introduction

Jurisdiction is a separation of powers tool within the court system that resolves the question of which court has jurisdiction to hear a case and make a decision.[28]

It can be said that Jurisdiction fulfills two main functions: first, cases are distributed as evenly as possible, across the country, among courts of the same level, according to the area of operation; Second - the international jurisdiction of the courts of this or that country is determined - the question of which state's judicial system should resolve the dispute between the parties is resolved.[29]

[28] Kobakhidze, A., Civil Procedure Law, Tbilisi, "Sakartvelos Matsne" 2003, 253.
[29] Liluashvili, B., "International Cout of Justice, The legal nature of the agreement between parties", 6, 7-8, Scientific Journal Law and the World. 2017.

Due to the dynamism of the development of public law-relations, the complexity of national enforcement systems, the lack of clarity of the applicable criteria and the diversity of adjacent situations, disputes about enforcement cannot be avoided.[30]This issue has serious legal consequences, since if the court made a mistake in the proceedings and considered a case that was not within its jurisdiction, its decision may be overturned. In the context of international arbitration, additionally, the decision made by the court may not be enforced and, at the same time, seriously "damage" the sovereignty of this or that country, especially when the cases concern transnational administrative-legal acts.

The problem acquires special relevance on the path of Georgia's European integration, since the introduction of the enforcement mechanisms of the European Union legislation will call into question the borders of Georgia's national and European jurisdiction. In the areas within which the member states enforce the law of the Union, there is an obligation to observe the relevant norms of the law of the Union. This requirement includes substantive, organizational and procedural law.

It is important to note that when considering the question of enforcement of transnational administrative-legal acts, courts often need to decide how to apply and interpret these acts in their own legal framework.

Overall, the territorial scope of transnational administrative-legal acts in the context of European integration reflects the difficulty of balancing national sovereignty with the need for harmonized rules and regulations to facilitate cross-border cooperation and trade.

The legislation of the European Union provides for such cases when the court of a member state can recognize as invalid an individual administrative-legal act issued by an administrative body of another member state. Introducing such a form of territorial jurisdiction will be a completely new institution for the Georgian reality, therefore it is important to study its positive and negative aspects.

The decisions of the administrative bodies of the member states in the Union, in some cases, are made through indirect administration, in particular, "co-administration", or "mixed administration", which makes it even more difficult to resolve the issues of dispensation, in case of a dispute - especially, in the background when, in the European Even within the Union, this issue has not yet been settled to the end and is being resolved by court practice.

Nevertheless, before considering the internationalization of courts, it is appropriate to define the concept and signs of transnational administrative-legal acts in order to better understand the issues of internationalization of the settlement of disputes arising on their basis.

1. Transnational administrative-legal act

In any country, administrative bodies use various legal forms of activity to exercise their powers, among which the individual administrative-legal act occupies a special place, which is a way of individualizing and concretizing the legal order.[31]

It is one of the important tools for the implementation of the own authority by the administrative body. Based on the principle of the rule of law, it is important for the regulatory legal basis for the issuance of an individual administrative-legal act to be as clear, understandable and unambiguous as possible, which will give the interested parties the opportunity to protect their rights and interests, if they are harmed based on this act[32].

An individual administrative-legal act is an act authorized by the state or municipality (official) in accordance with the law, adopted (issued), mandatory for execution, which is one-time and/or affects a limited circle of persons. The effect of such acts is also limited in space, i.e. with territorial jurisdiction.

[30] Kopaleishvili, M., Skhirtladze, N., Kardava, E., Turava, P., Textbook for Administrative procedural law, Tbilisi, 2008, 141.
[31] Turava, P., Phirtskhalashvili, A., Kardava, E., “Administrative production in public service”, Tbilisi, 2020, 115.
[32] Makaridze, D., The legal nature of the individual administrative legal act, Scientific Journal Law, 1, 2016. 364.

It has legal force in the territory over which the state sovereignty extends, or the competence of its issuing authority. As a rule, such a space is the territory of the state, with officially recognized borders.

One of the "unique forms" of an individual administrative-legal act is known in administrative law - a transnational administrative-legal act.

Transnational is an administrative-legal act issued by the administrative body of one country, the effect of which, for example, on the basis of an international treaty or agreement, goes beyond the jurisdiction of the country that issued it, and extends to the territory of another country; In addition, it has binding force for execution[33]. It acquires such power automatically or based on the recognition of the relevant body of another country.

In this case, in addition to territorial jurisdiction, the concept of extra-territorial jurisdiction is used with such legal acts, which means that the jurisdiction of the state can also be extended to the situation that is created outside its territory.[34]

Transnational administrative-legal acts are widely used within the framework of the European Union and through them the harmonization of the activities of the administrative bodies of the member states is carried out. at the horizontal level[35]. The same can be said about the candidate countries. The closer the third country is to the European Union, the more demands the latter places on it in terms of legal harmonization[36].This process is based on the principles of mutual trust and recognition, through which a space without national borders is created and maintained.[37]

Union law forms the legal basis for issuing transnational administrative-legal acts in the European Union. Although transnational administrative-legal acts have cross-border effects, they still remain legal acts of the issuing state and are fully subject to the legal regime of the issuing state, However, when the issue concerns the extension of the validity of such acts to the territory of another member state, it is mainly based on the principle of mutual trust. For the current legal configuration of European integration, the realization of the principle of mutual trust remains a difficult task, Because the member states still do not have enough confidence in the standards of each other's legal system.[38]

In order to better understand the concept of a transnational administrative-legal act, it is appropriate to review its types. In legal literature, transnational administrative-legal acts are divided into two groups: acts without transnational effect[39] and acts with transnational effect.

The act is without transnational effect, when it is necessary to examine such circumstances, facts, and evidence that arose in the territory of another country and their acquisition was carried out within the framework of the principle of mutual recognition. A classic example of such acts are the acts issued

[33] Gerontas, A., Deterritorialization in Administrative Law: Exploring Transnational Administrative Decisions, Columbia Journal of European Law, 2013, 427. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2367124 [L. s. 09.02.2024].
[34] Antelava, T., "Extraterritorial Jurisdiction Test in the Case Law of the European Court of Human Rights: Lack of Consistency from Bankovich to Alaskan, Constitutional and International Mechanisms of Human Rights Protection", Article Collection, Tbilisi, 2010, 11, https://lawlibrary.info/ge/books/giz2010-ge-Mechanismen-des-Menschenrechtschutzes.pdf [L.s. 09.02.2024].
[35] Harmonization of the activities of administrative bodies at the horizontal level, within the framework of the European Union, implies the cooperation of the administrative bodies of the member states with each other, with the obligation to exchange information. In addition, in many areas, member states are obliged to recognize and take into account the decisions of administrative bodies of other states (Articles 197, 337 of the Treaty on the Functioning of the European Union). available here: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF [L. s. 09.02.2024].
[36] Surmava, L., The issue of compliance of Georgian legislation with EU legislation in the field of state aid, dissertation, TSU, 2012.
[37] Judgment of the Court (Fourth Chamber) 10.11. 2016. Openbaar Ministerie v. Ruslanas Kovalkovas, Case C-477/16 PPU. Para. 27, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62016CJ0477&qid=1691400673399 [L.s.09.02.2024].
[38] Mirianashvili, G., "Conflicting human rights protection standards within the framework of the Council of Europe and the European Union in the field of extradition", dissertation, TSU, 2020, 148.
[39] Acts without transnational effect are acts whose effect does not directly extend to the territory of another country, but directly affect the issuance of administrative legal acts in another country, that is, without them, administrative proceedings in another country will not end with the issuance of an act.

on the basis of the worldwide taxation principle[40], on the basis of which the income received by legal and natural persons from activities performed in another country will be taxed in the country where the act was adopted, or in the country of residence. Often, in the case of taxation in the country of source of income, in order to avoid double taxation, the country of residence undertakes to credit the taxpayer with the tax paid in the country of source of income. Accordingly, all acts issued in the tax field will be based on facts and evidence obtained in the territory of this country as well as in other countries[41].

The issuance of such transnational administrative-legal acts is provided for in the Directive 2011/92/EU on the environmental impact of public and private projects.[42] According to which, if a public or private project is implemented in the territory of one member state and affects the environment of another member state, then the latter can initiate a separate administrative proceeding related to the environmental impact. During such proceedings, when examining the evidence, circumstances and facts, it is possible to use the documentation obtained in the administrative proceedings started in another member state.[43]

Acts of recognition are also without transnational effect. A classic example of this is driving licenses. 2006/126/EC Directive on driving licenses[44], which is based on the principle of mutual recognition of driving licenses, It is determined that, if the authorities of one Member State have issued a driver's license in accordance with the Directive, other Member States are not entitled to require the holder to provide documentation in order to verify compliance with the requirements for issuing a driver's license.

The presence of a driving license issued by a Member State shall be considered as evidence that its holder has complied with the requirements of the Directive at the date of issue of the license in the Member State where the document was issued[45]. However, there is an exception to this rule, namely, according to Article 11, Paragraph 4 of the Directive, "... [subparagraph 2] a Member State may refuse to recognize any driving license issued by another Member State to an applicant, if his driving license restricted, suspended, or revoked [cancelled] in the territory of the first State".

In this context, the Court of Justice of the European Union stated that the case provided for in Article 11(4)(2) of the Directive is a "derogation" from the general principle of mutual recognition of driving licenses and must therefore be interpreted strictly as an exception.[46]

Thus, the above-mentioned example shows us that a member state has the possibility to refuse to recognize the legal force of a transnational administrative-legal act issued by another member state, if there is a proper reason for this, and this is determined by the legislation of the European Union.

Nevertheless, the decision of the administrative body of the member state on non-applicability of the transnational administrative-legal act in its own territory has no influence on the effect of this act in other member states. The same can be said about the validity of the administrative-legal act.

As mentioned, the second category of transnational administrative-legal acts includes acts that have a transnational effect. When issuing such an act, any member state can give it extraterritorial force, ie. to extend its action to the territory of another country. This can have both factual and legal consequences. Granting such force to acts is usually regulated by an international treaty; Based on the legislation of the European Union, acts with transnational effect can be divided into two groups: acts

[40] The Notion of "Transnationality" in Administrative Law: Taxonomy and Judicial Review, German Law Journal (2021), 22, 329, https://www.cambridge.org/core/journals/german-law-journal/article/notion-of-transnationality-in-administrative-law-taxonomy-and-judicial-review/795DBE31244E0F882346B79E0F40C41A [L.s. 09.02.2024].
[41] UN Model Convention on Double Taxation Between Developed and Developing Countries, Article 23.
[42] Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC - Commission Declaration. available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001L0018 [L.s. 09.02.2024].
[43] see Footnote 15. Article 7.
[44] Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (Recast) (Text with EEA relevance). https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32006L0126 [L.s. 09.02.2024].
[45] see Footnote 17. Article 11.
[46] Opinion of Advocate General Bot delivered on 10 November 2011, Wolfgang Hofmann v. Freistaat Bayern, Case C-419/10, para. 64, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62010CC0419 [L.s.09.02.2024].

that are granted extraterritoriality automatically, immediately upon issuance, and acts that require the recognition of that country in order to extend their validity to the territory of another country.

The administrative-legal act, immediately after its issuance, has the effect of extraterritoriality, if this is provided for by the legislation of the Union. For example, Article 19, paragraph 1 of Directive 2001/18/EC on the Intentional Release of Genetically Modified Organisms provides that if written consent has been given to the use of genetically modified organisms in a member state, then the use of these products is allowed throughout the Union.[47]

Accordingly, such a decision, according to the existing rules, automatically has a transnational effect, although there may be such a case when the administrative-legal act issued by a foreign state enters the regime of necessary recognition - it will also affect a specific territory, although the foreign state will be able to request the person authorized by the act (the addressee of the act)) to comply with additional conditions arising from the national legislation of the addressee state.

Failure to comply with these conditions will lead to a violation of the national legislation of the Member State, with the possibility of imposing administrative responsibility, although this will not affect the transnational effect of this act. For example, in Directive 2016/1629/EC on the establishment of technical requirements for inland [land] navigation vessels,[48] it is provided that Union inland navigation certificates are issued by the competent authorities of the Member States and have a transnational effect on the territory of the Union, However, other Member States may require the holder of such a certificate to comply with additional requirements for navigation certification imposed by the Member State concerned.

In the second case, the extraterritoriality of the administrative-legal act depends on the recognition by the addressee country; Another example of this is Directive 98/5/EC,[49] according to which the admission of a lawyer of one country to perform professional duties in the territory of another country requires a decision of the relevant body of the host country.

In addition to the described cases, there are situations when the act, by its nature, can simultaneously be a carrier of transnational effect and without it. For example, with the 2011/92/EU directive, the case of two independent administrative proceedings on the same project in different countries is envisaged, when this project affects both countries[50].

The fact that the implementation of the project in one of the countries depends on the administrative-legal act issued in the other, the decision, and the request for specific information, on the basis of which the act is adopted, remains without transnational effect.

2. Determination of the trial court

The role of each government body in the system is determined, first of all, by the importance and scope of the issues assigned to it. To resolve these issues, each body is equipped with appropriate procedural, material-legal and organizational-legal powers.[51]

The court making the decision to accept the lawsuit must, among other issues, decide one of the most important ones, namely, the issue of witchcraft. The court is obliged, on its own initiative, to check

[47] Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the Deliberate Release into the Environment of Genetically Modified Organisms. Article 19, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001L0018 [L.s. 09.02.2024].
[48] Directive (EU) 2016/1629 of the European Parliament and of the Council of 14 September 2016 laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L1629 [L. s. 09.02.2024].
[49] Ibid.
[50] Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained. available here https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31998L0005 [L. s. 09.02.2024].
[51] Demetrashvili, A., Kobakhidze, I., "Constitutional Law" Tbilisi, 2011, 352.

this component, at the stage of admissibility of the claim,[52] i.e. He must determine his authority to consider and resolve the dispute.

Among the courts, according to the rules of arbitration, the distribution of disputes serves the purpose of access to justice on the spot, the economy and efficiency of the process[53], while taking into account the form of public administration, the principles, the goals of the territorial division of the administrative body, and the particularities of the specific dispute.

Assessment of legality of transnational administrative-legal acts is closely related to state sovereignty and territoriality; Consequently, the rules of appeasement established in private international law cannot be applied to such acts.[54] Thus, when assessing the legality of these acts, along with the substantive issue, the issue of territorial encroachment should be resolved independently[55] This implies the division of courts according to the territory over which the activity of a given court extends.[56] According to the general principle, the court of one country is not authorized to assess the legality of an administrative-legal act issued in another country and thus, potentially, affect the legality of an administrative-legal act issued in another country. The dispute must be resolved on the basis of national legislation, based on the interests of the claimant, taking into account the principles of effectiveness and equivalence.[57]

by the court of the country from which the act originates. The sign of belonging to the legal relationship refers to the place of validity of the norms regulating the disputed legal relationship.[58]

Despite the recognized general principle, the legislation of the European Union, in relation to transnational administrative-legal acts, provides for such cases when a court of a member state can recognize as invalid an individual administrative-legal act issued by an administrative body of another member state and its legal effect extends not only to the country issuing the decision in the territory, but also on the entire union.

Such a thing is allowed, only if it is explicitly stipulated by the legislation of the European Union. For example, paragraph 1 of Article 34 of the Visa Code of the Union provides[59], visa will be invalidated if it becomes clear that the conditions for its issuance were not fulfilled at the time of issuance, especially if there are substantial reasons to suspect fraudulent acquisition. Typically, the competent authorities of the issuing Member State will invalidate the visa. However, another Member State's competent authorities may also invalidate the visa, in which case the authorities of the issuing Member State will be notified of the annulment.

In this regard, the judicial practice of European justice is also interesting, which, taking into account the principle of "sincere cooperation" operating within the Union, It makes all national courts responsible for the correct enforcement of EU law and enables them to declare invalid an act issued in another country if European law can be applied in the case of annulment. The European Court of Justice, which interprets EU law and resolves disputes regarding the application of European law, plays an important role in resolving the issue of enforcement of transnational administrative-legal

[52] Kurdadze, S., Khunashvili, N., "Civil Procedural Law of Georgia, Tbilisi", 2012, 174.
[53] Decision No. BS-96 (G-19) of the Administrative Affairs Chamber of the Supreme Court of Georgia December 9, 2019.
[54] Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (recast). (https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32012R1215). [L. s. 09.02.2024]. Article 1. The act does not apply to administrative cases, including the responsibility of the administrative body and the implementation of the state's powers for any action or inaction.
[55] Decision No. BS-507 (G-23) of the Administrative Affairs Chamber of the Supreme Court of Georgia. May 17, 2023.
[56] Decision No. BS-1398 (G-22) of the Administrative Affairs Chamber of the Supreme Court of Georgia. December 7, 2022.
[57] Muir, E., Eliantonio, M., „Conclusions on the "Proceduralisation" of EU Law Through the Backdoor, Final Version in a Special Issue of Review of Administrative Law, 2015/1 Forthcoming, Maastricht Faculty of Law Working Paper No. 2015/2. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2620729 [L.s. 09.02.2024].
[58] Ruling of the Administrative Affairs Chamber of the Supreme Court of Georgia dated September 26, 2020 NBS-748 (G-19).
[59] Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code). available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009R0810 [L.s. 09.02.2024].

acts. Persons affected by transnational administrative-legal acts may apply to the court of justice and request protection of the right and clarifications regarding the legislation of the Union.

When solving the issue of enforcement of transnational administrative-legal acts, the European Court of Justice uses the Charter of Fundamental Rights of the European Union[60] as a source of law.

and Union legislation. Under the Charter, private individuals are non-privileged litigants (unlike member states and bodies) within the Union's judicial system. Their participation in the direct process is possible only in lawsuits filed regarding the invalidity of administrative-legal acts. At the same time, a private person is obliged to prove his locus standi - that the contested administrative-legal act directly and individually concerns them[61].

The individual connection of the confirmation with the legislation of the European Union, which is more general in nature than the national legislation, creates a big problem in practice. It is not only the types of European regulations that do not require harmonization that cause disputes.

During legal disputes, the member states are considered as the subject of the Charter, based on Article 51, only if they apply European legislation[62], which narrows the category of cases under consideration and makes the use of this mechanism ineffective, although the content of this article of the Charter has been expanded and clarified by the practice of the European Court of Justice. , that "the court is authorized to assess the actions of member states in terms of human rights protection in cases where these actions fall within the scope of European Union law".[63]

Despite the scarce practice of the European Court of Justice on witchcraft cases, there are still interesting decisions in this direction; The Grand Chamber of the Court made a decision on the "Berlioz case[64]in which the French tax authority sent the Luxembourg tax authority a request for information on "Berlioz" in accordance with Directive 2011/16/EU on administrative cooperation in the field of taxation[65] Accordingly. After receiving the request and studying the circumstances of the case, it was determined that the French tax authority was requesting information about "Berlioz's" subsidiary company Cofima in order to determine the issue of accounting for taxes paid by "Berlioz" abroad (in Luxembourg).

According to the decision of the head of the Luxembourg tax authority, based on the national tax legislation, Berlioz was required to provide additional information regarding the taxes paid[66].

The company provided information to the Luxembourg tax authority only to the extent required by the directive.[67]

It did not take into account the additional requirements stipulated by the Luxembourg legislation. Berlioz was fined 250,000 euros for not providing complete information[68]. The imposed fine was appealed to the Luxembourg court.

[60] The Charter of Fundamental Rights of the European Union. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016P/TXT&rid=3 [L.s 09.02.2024].
[61] Papava, I., "The Charter of Fundamental Rights of the European Union as an Instrument for the Protection of Human Rights", (2019) #13, Scientific Journal Law and the World, 83. http://www.library.court.ge/upload/20702020-12-23.pdf [L.s. 09.02.2024]
[62] See footnote 34, Article 52.
[63] Judgment of the Court (First Chamber) of 18.12.1997 Daniele Annibaldi v. Sindaco del Comune di Guidonia and Presidente Regione Lazio, Case C-309/96, Para. 12. https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A61996CJ0309 [L. s. 09.02.2024].
[64] Judgment of the Court (Grand Chamber) of 16,05,2017, Berlioz Investment Fund SA v. Directeur de l'administration des contributions directes, Case C-682/15, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62015CJ0682&qid=1691400960941 [L.s. 09.02.2024].
[65] Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC. https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32011L0016 [L.s. 09.02.2024].
[66] see Footnote 38, p. 36 and 37.
[67] see Footnote 38, p. 24.
[68] see Footnote 38, p. 25.

The claimant sought annulment of the act on the grounds that it was issued based on a French administrative-legal act and therefore should have been considered within the framework of the information required by the administrative-legal act issued by the French tax authorities.[69]

The question before the European Court of Justice was to assess the scope of control of the Luxembourg tax authority in relation to the administrative-legal act issued by the French tax authority. The European Court of Justice held that the Luxembourg court was the competent court to review the legality of the act issued by the French administrative authorities within the framework of the directive.[70]Since he was assigned the obligation to fulfill the secondary legislation of the European Union. This decision can be evaluated as the enforcement of the law of the European Union.[71]

A similar decision was made in the Donelan case, which related to the regulations established by Directive 2010/24/EU[72]. The European Court of Justice has confirmed that the national court is authorized not only to review the legality of the administrative-legal act of another member state and to recognize it as invalid, but also to discuss the manner of preparation and issuance of the act. According to the factual circumstances, Donnellan, an Irish citizen, challenged the fine imposed by the Greek customs authority in an Irish court and requested the annulment of the fine act[73]. Pursuant to the directive, the Greek administrative authority requested the relevant Irish authority to enforce the decision, which the relevant authority did. [74] Donnellan appealed against the decision of the Irish authorities on the grounds that he was not afforded an effective remedy in Greece because he was unaware of the penalty and only learned of it during the enforcement phase[75].

In this case, the European Court of Justice discussed two issues: on the one hand, the principle of mutual recognition, which obliged the Irish authorities to implement the decision of the relevant Greek authority, and on the other hand, the effect on legal protection. Donnellan was not given the possibility of such a defense, since he was not aware of the decision of the relevant Greek authority and could not appeal the act. This, in turn, required the relevant Irish authority to refuse to enforce the Act[76].

The Court emphasized the importance of the principle of mutual trust, especially in the case of enforcement of mutual assistance mechanisms. The subject must have the opportunity to appeal the actions of the member state[77],Both in the courts of this member state and in the courts of the country that enforces the act. A system of mutual assistance, based on the principle of mutual trust, increases legal certainty between member states, when a person can challenge a decision in the country of enforcement as well. Accordingly, the Irish court was deemed to be the arbitral tribunal to review the legality of the Greek decision to impose the fine[78].

Thus, if a member state does not provide a person with effective judicial protection, in connection with an administrative-legal act, this justifies the court case of another member state[79].

A similar decision was made by the court on the refusal to issue a Schengen visa, which was based on the refusal issued by another member state. It should be noted that such a resolution of the issue, which allows the national court to review the administrative-legal acts of another member state, based

[69] see Footnote 38, p. 26.
[70] see Footnote 38, p. 59.
[71] see Footnote 38, p. 82.
[72] Council Directive 2010/24/EU of 16 March 2010 Concerning Mutual Assistance for the Recovery of Claims Relating to Taxes, Duties and other Measures, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:084:0001:0012:EN:PDF [L.s. 09.02.2024].
[73] Judgment of the Court (Second Chamber) of 26 April 2018, Eamonn Donnellan v. The Revenue Commissioners, Case C-34/17, para. 30, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62017CJ0034 [L. s. 09.02.2024].
[74] see Footnote 46, p. 32.
[75] see Footnote 46, p. 32.
[76] see Footnote 46, p. 38.
[77] see Footnote 46, p. 45.
[78] see Footnote 46, p. 46.
[79] see Footnote 46, p. 40.

on the legislation of the European Union, has been recognized by the highest instance of the French Administrative Court In the Forabosco case[80]

Thus, the Court of Justice of the European Union has contributed by making decisions on the cases of annulment of transnational administrative-legal acts, thus opening the possibility for the national courts of the member states to indirectly assess the legality of the administrative-legal act issued in other member states, based on the content and scope of the secondary law sources of the European Union.

Conclusion

The review of transnational administrative-legal acts showed that such acts in the European Union are adopted by the administrative body of the member state. They operate on the territory of other member states, without recognition by the latter through special procedures.

These acts constitute a significant intervention in the jurisdiction of another Member State and therefore strict conditions for the admissibility of their actions must be met. The complexity and interconnectedness of transnational administrative-legal acts is a significant challenge for the judicial system of any country, which often lacks the necessary traditional authority to resolve these disputes.

Transnational administrative-legal acts are both a challenge and an opportunity in the process of European integration. By establishing a common legal framework, promoting cooperation between member states and providing effective mechanisms for transnational acts, the European Union strives to harmonize regulations, protect fundamental rights and promote cross-border cooperation.

As the European Union continues to expand, the consideration of transnational administrative-legal acts and the study of their applicability require constant efforts on the way to adapt to the new reality by the candidate states.

Transnational administrative-legal acts can have a significant impact on fundamental rights and values. Protection of rights is unthinkable without administrative justice. The competence of administrative courts in the European Union is based on laws and judicial practice, general and exceptional rules established by historical metamorphoses;[81] The latter, sometimes, expand or limit the scope of administrative justice, therefore, the judicial practice established by the member states and the European Court of Justice is important. Although the concept of a transnational administrative-legal act is not new in European law, it is less clear about the issues of enforcement, unlike in the private legal field. In relation to these acts, on the one hand, when determining the adjudicating court, the principle of territoriality is used, when the national court is deprived of the opportunity to consider the issue of legality of the administrative-legal act of another country, since it is protected by jurisdictional immunity and adjudication is based on national law. On the other hand, the national court is considered a competent court, To verify the legality of the act issued by the administrative bodies of another member state, within the framework of the legislation of the European Union, since it is assigned the obligation to fulfill the secondary law of the Union. On the other hand, in the case of consideration of a transnational administrative-legal act by a court of another member state, the application of this principle should not harm the right to effective court protection.

Along with the development of the European integration process, the consolidation of transnational administrative-legal acts will remain one of the central issues. Strengthening of the common legal base

Efforts to deepen cooperation between member and candidate countries and mechanisms to grant legal force to transnational administrative-legal acts at both the European and national levels, which will play a key role in the path of Georgia's European integration.

[80] see Footnote 13, 341.
[81] Ruling of the Administrative Affairs Chamber of the Supreme Court of Georgia of May 11, 2022 No.: BS-204-204 (C-18).

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