

# THE PRELIMINARY COMPLAINT IN THE FISCAL PROCEDURE

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## Abstract

*Under the provisions of the Fiscal procedure code (Government Ordinance no. 92/2003), the courts, especially the High Court of Cassation and Justice, developed a rigid jurisprudence in the fiscal field. The petitioners were not recognised the right to address the court for the recognition of their rights, if the preliminary complaints were not answered by the administrative body in the legal time limit. The courts claimed that only the decision that solved the preliminary complaint may be contested, or, in case the solution was delayed, the petitioner can only obtain in court a decision summoning the fiscal administrative authority to answer the preliminary complaint. A series of cases is analysed and arguments are given against the final solutions of the courts, in the spirit of a good administration and harmonisation of the fiscal procedure with the general administrative procedure described by Law no. 554/2004. The arguments sustain the recent changes in the field of contestation of fiscal administrative acts, introduced by the new Fiscal procedure code (Law no. 207/2015) that will enter into force on January 1<sup>st</sup> 2016.*

Key Words: *administrative law, preliminary complaint, fiscal procedure.*

## 1. Introduction

In applying the rules of the Fiscal procedure code (Government Ordinance no. 92/2003) the courts, led by the High Court of Cassation and Justice, embraced a rigid approach, not recognising the petitioner the possibility of obtaining their rights in court, in case the decision given by the fiscal administrative body in solving the preliminary complaint was not issued during the time-limit established by the law. Cases are presented and discussed, arguments are brought against their final outcomes. The arguments sustain the provisions of the new Fiscal procedure code (Law no. 207/2015) that will be enforced from January 1<sup>st</sup> 2016, in regard to the contestation of fiscal administrative acts. The study is useful for understanding the connection between the fiscal procedure and the general provisions of Law no. 554/2004, as well as for underlining the principles that have to be considered in shaping the contesting procedures in the fiscal field.

## 2. General legal frame

According to art. 7 para. (1) of the Law no. 554/2004 of the administrative judicial procedure, if someone considers himself harmed by an individual administrative act, he has to ask the issuer of the act, or the hierarchic superior authority of the issuer, to withdraw (to revoke) it, in whole, or only the harmful part, in an interval of 30 days, starting with the day he received it. This procedure, called

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the preliminary complaint (*plângere prealabilă*), is a mandatory procedure<sup>1</sup> prior to addressing the court for the annulment of the harmful administrative act, as art. 7 emphasises. According to the Recommendation of the Committee of Ministers to the States Member of the Council of Europe on alternatives to litigation between administrative authorities and private parties – Rec (2001)9, such a procedure is seen as one in favour of the contestant, due to its simplicity, speed, low cost, amiable settlement and discretion.<sup>2</sup> The preliminary complaint is not necessary in case of an unjustified refusal of the administrative body to solve a petition, or in case the administrative body does not answer the petition in any way, according to para. (5) of art. 7<sup>3</sup>. The usual time-limit for the authority to answer the preliminary complaint is 30 days, according to Government Ordinance no. 27/2002, art. 1. A term of 6 months is stipulated, in art. 11 para. (1) letters a) – c) of the Law no. 554/2004, for the petitioner to address the court, starting the day he received the answer to his preliminary complaint, or the day he received the express refusal of solving the preliminary complaint, or the last day of the interval allowed to the authority for answering.

Although this procedure looks fairly simple, jurisprudence proved that there is plenty of room for controversies. In a prior work<sup>4</sup>, we have analysed the controversies regarding the dispositions of art. 7 of Law no. 554/2004 when no special laws were incident. The present work carries out an analysis of some controversies that rose around the preliminary complaint in the area of fiscal procedure.

### 3. Provisions of the fiscal procedure code (government ordinance no. 92/2003)

According to art. 205 para. (1) of the Fiscal procedure code (Government Ordinance no. 92/2003) against all fiscal administrative acts a complaint can be lodged according to the law. The law refers to an “administrative appeal” that will not prevent the one that considers himself harmed by the fiscal act, or the absence of it, to address the court. Art. 70 para. (1) of the same code establishes a time-limit of 45 days for the administrative body to answer the complaint, starting from the day the complaint was filed, and art. 218 para. (2) states that the decisions issued in solving the complaints can be contested to the competent administrative courts, according to the law.

The first issue, regarding the provisions of the Fiscal procedure code mentioned above, concerned the nature of the administrative complaint. Was it a

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<sup>1</sup> The so called „prior procedure” (*procedură prealabilă*).

<sup>2</sup> L. Vișan, D.I. Pasăre, *Repeal of Administrative Acts – Dimension of the Principle of Good Administration*, in *Caietul Științific. Secțiunea pentru științe juridice și administrative* nr. 8/2007, p. 292.

<sup>3</sup> This legal text modifies the dispositions of the previous law of the administrative judicial procedure, no. 29/1990 regarding the preliminary complaint, in accordance with the majority of the doctrine opinions. See A. Iorgovan, *Tratat de drept administrativ*, vol. II, All Beck Publishing House, Bucharest, 2002, pp. 528-529.

<sup>4</sup> E.M. Fodor, *Considerații privind practica judiciară în legătură cu procedura prealabilă prevăzută de Legea nr. 554/2004 a contenciosului administrativ*, <http://www.universuljuridic.ro/consideratii-privind-practica-judiciara-in-legatura-cuprocedura-prealabila-prevazuta-de-legea-nr-554-2004-a-contenciosului-administrativ/>, accessed on august 5<sup>th</sup> 2015.

preliminary complaint, as provided by art. 7 of the Law no. 554/2004, or an administrative appeal in the sense of a jurisdictional administrative procedure, as the terminology suggested<sup>5</sup>?

From the reasoning of the Decision no. 409/2004 of the Constitutional Court of Romania<sup>6</sup>, as well as from the reasoning of the Decision no. 106/2006 of the High Court of Cassation and Justice of Romania, it can be deduced that it is a preliminary complaint, and thus it is mandatory<sup>7</sup>. Due to an inconsistent national jurisprudence, the Plenary session of the judges of the Administrative and tax section of the High Court of Cassation and Justice, held at 12.02.2007, decided that the procedure described by articles 205-218 of the Fiscal procedure code has the nature of a preliminary complaint. Reasoning of the Solution of the Plenary Session was based on the fact that “only the decision issued in solving the preliminary complaint against the fiscal administrative act can be contested to court” while the administrative jurisdictional procedures are optional. This statement was sustained by further decisions of the High Court of Cassation and Justice, such as Decision no. 1363/06.03.2007<sup>8</sup> and Decision no. 1653/20.03.2007.

Unfortunately, the interpretation derived from the reasoning of the solution given by the Plenary session of the judges of the Administrative and tax section of the High Court of Cassation and Justice was that only the Decision issued by the fiscal authority in solving the preliminary complaint can be contested to court, in no circumstances the presumed illegal act could be directly submitted to the control of the competent administrative court. This raises the question of the conduct in case the administrative fiscal authority does not solve the preliminary complaint in the 45 days established by art. 70 of the Fiscal procedure code, nor even in the 6 months given to the injured party by art. 11 of the Law no. 554/2004 to address the court. Several situations are presented, in order to conclude upon the right answer to this question.

#### 4. Presentation of cases

In the first case, one of the many court decisions that embraced the above mentioned interpretation<sup>9</sup> concluded that the solution was to address the competent administrative court with a request for summoning the fiscal administrative body to solve the preliminary complaint, based on the provisions of art. 8, combined with the provisions of art. 18 of the Law no. 554/2004. These legal texts provide the possibility, among other, to address the court in order to obtain an administrative individual act that was denied by the administrative body. This interpretation is

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<sup>5</sup> O.M. Cilibiu, *Aspecte privind contestațiile formulate împotriva actelor administrative fiscale*, in „Caietul Științific. Secțiunea pentru științe juridice și administrative” nr. 8/2007, pp. 705-706.

<sup>6</sup> The decision ruled that any preliminary complaint imposed by law is not breaching the right of free access to justice.

<sup>7</sup> According to art. 21 of the Romanian Constitution, regulating the free access to justice, para. (4) administrative special jurisdiction is optional and free of charge.

<sup>8</sup> <http://legeaz.net/spete-contencios-inalta-curte-iccj-2007/decizia-1363-2007>, accessed on August 4<sup>th</sup> 2015.

<sup>9</sup> Court of Appeal Cluj, Commercial, administrative and tax section, Decision no. 639/30.01.2012, <http://legeaz.net/spete-contencios-ca-cluj-2012/sentinta-639-2012-curtea-apel-cluj-qeh>, accessed on August 4<sup>th</sup> 2015.

consistent with the opinion that, generally, the court cannot impose to the administrative authority how to solve a petition, it can either control if the answer is in accordance with the law and does not step over a legal right or a legitimate interest of the petitioner<sup>10</sup>, or summon the administrative body to give an answer.

A second situation concerned the incidence of the provisions of Law no. 554/2004 in addition to the Fiscal procedure code. The petitioner lodged a preliminary complaint against a fiscal administrative act that imposed the payment of an important sum of money as VAT. The preliminary complaint was not solved during the time-limit of 45 days. Due to the importance of the sum, the petitioner addressed the administrative court with a request for suspending the effects of the fiscal administrative act, based on the dispositions of art. 14 of the Law no. 554/2004. This legal text allows the one who has lodged a preliminary complaint to ask the administrative court for the suspension of the effects of the harmful administrative act, until a decision is issued by the first instance competent administrative court. The petitioner has to prove a justified cause<sup>11</sup> and an imminent loss. In case the request is granted by the court, in order to prevent the abusive use of law, the petitioner is obliged by the same art. 14 to address the court for the annulment of the administrative act in 60 days. The term of 60 days starts the same day the court granted the suspension of the contested administrative act<sup>12</sup>.

In order to respect the term of 60 days provided by art. 14 para. (1) of the Law no. 554/2004, the petitioner from the second situation described addressed the court with the request of annulling the administrative act, claiming that the sum stipulated was not due. Following the petitioner's action in court, the fiscal administrative authority suspended the settlement of the preliminary complaint and, at the same time, asked the court to reject the petitioner's request, on the ground that only the decision of the fiscal administrative authority, issued in settlement of the preliminary complaint, can be subjected to court control, the legality of the fiscal administrative act being controlled as a subsidiary matter in this circumstances. However, due to the particular situation at hand, the court decided that, even if the petitioner had the possibility to ask the court for a decision demanding the fiscal administrative authority to issue the decision in response to the preliminary complaint, in accordance with art. 205, para. (1), second thesis of the Fiscal procedure code, due to the consequences related to the imposition to pay a large sum of money, and the unjustified passivity of the fiscal administrative body in solving the preliminary complaint, a solution that will sanction the conduct of the fiscal administrative authority, that surpassed by a long time the recommended term of 45 days, will be the rejection of the exception of inadmissibility raised by the same

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<sup>10</sup> M. Niculeasa, *O problemă controversată – obiectul acțiunii în contencios administrativ*, „Curierul fiscal”, no. 3/2011, <http://www.beck.ro/tag/obiectul-actiunii-in-contencios-administrativ/>, accessed on August 5<sup>th</sup> 2015.

<sup>11</sup> A justified cause implies a strong appearance of illegality of the contested administrative act. The imminent loss is a future damage that may be foreseen for the petitioner due to the provisions of the contested act. The definitions are given by art. 2, para. (1), letters ș) and t) of the Law no. 554/2004.

<sup>12</sup> E.M. Fodor, *Drept administrativ*, Albastra Publishing House, Cluj-Napoca, 2008, pp. 401-402.

body.<sup>13</sup> The decision was quashed by the High Court of Cassation and Justice that rejected the petitioner's request as inadmissible, because the preliminary procedure was not completed.<sup>14</sup> A third case dealt with two related administrative acts. A first decision was issued by the fiscal administrative authority imposing additional profit tax for a private company. The company lodged a preliminary complaint with the fiscal administrative authority, and then contested in court the administrative decision that rejected it. While the court action was pendant, the fiscal administrative authority issued another fiscal act, imposing to the same private company penalties for the delay of payment of the additional profit tax. This last fiscal administrative act was not contested in time to the issuing fiscal administrative authority and the penalties were payed. At the end of the trial, the fiscal administrative act imposing the additional profit tax was annulled as illegal. At that moment, the private company lodged a petition to the fiscal administrative authority for reimbursement of penalties, which was rejected. The petitioner addressed the administrative court for reimbursement, also contesting the legality of the act imposing the penalties, as the decision imposing additional profit tax was annulled. The petitioner mentioned on its behalf the Decision no. 24/2011 of the High Court of Cassation and Justice, which admitted an appeal on points of law (*recurs în interesul legii*). The latter decision referred to the necessity of the preliminary complaint in the case of reimbursement of the pollution tax imposed by Government Emergency Ordinance no. 50/2008. As the dispositions of the letter act were found to be contrary to art. 110 of the EU Treaty, all those who have paid the tax have requested reimbursement, and when their request was rejected by the fiscal administrative authorities, took the matter to the administrative courts. The High Court of Cassation and Justice ruled that, given the dispositions of art. 117 from the Fiscal procedure code, for the case of payment of undue taxes, the petitioners may address the court on the ground of an unjustified refusal of reimbursement of the administrative authority, without the necessity of contesting the decision that imposed the undue tax.

The first instance administrative court ruled in favour of the private company, stating that a distinction has to be made between the case when the petitioner is claiming the annulment of a fiscal administrative act and the case of the claim for reimbursement of sums that were not due to be paid. In the latest case, the petitioner deals with an unjustified refusal from the fiscal administrative authority and no preliminary complaint is necessary according to art. 7 para. (5) of Law no. 554/2004. It also stated that, according to the Decision on points of Law no. 24/2011, a distinction should be made between this latter procedure and the one regulated by articles 205-218 from the Fiscal procedure code. The decision of the first instance administrative court was not upheld in appeal. The appeal court ruled that the court

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<sup>13</sup> Court of Appeal Cluj, Commercial, administrative and tax section, Decision no. 135/24.02.2011, / <http://legeaz.net/spete-contencios-ca-cluj-2011/sentinta-civila-135-2011-ca-cluj-ttt>, accessed on August 4<sup>th</sup> 2015.

<sup>14</sup> High Court of Cassation and Justice, Administrative and tax section, Decision no. 1658/27.03.2012, <http://www.legalis.ro/2012/04/27/art-218-c-pr-fisc-cenzura-curtii-supreme-referitoare-la-solutionarea-unei-exceptii-de-inadmisibilitate-de-catre-curtea-de-apel-cluj-intr-un-contencios-fiscal/> accessed on August 4<sup>th</sup> 2015.

cannot be directly invested with an administrative contestation, as the fiscal administrative authority should deal with it. It also considered that Decision on points of Law no. 24/2011 referred to a situation regarding the pre-eminence of European law towards national legislation, and its conclusions cannot be extended to the situation at hand. However, the petitioner should use the possibility of demanding a court decision to oblige the fiscal administrative authority to give an answer to the reimbursement request, or to contest the decision that answered the preliminary complaint.<sup>15</sup>

## 5. Case analysis

In analysing the jurisprudence presented above, we considered the Recommendation CM/Rec(2007)7 of the Committee of Ministers to member states on good administration. Art. 7 of the Code of good administration requires that public authorities shall act and perform their duties within a reasonable time. This is the reason why, Law no. 554/2004 provides, according to art. 11 para. (1) letter c), the possibility to address the court if the administrative authority fails to answer the preliminary complaint. As to the possibilities of the administrative court, due to the fact that penalties flow and the fiscal administrative authority can rapidly enforce its decisions in ways that can prove devastating for legal or natural persons, time is critical in settling the matter. So, if the court has the power to invalidate the solution given to the preliminary complaint by the fiscal administrative authority, exercising in this way a control over the legality of the contested fiscal administrative act, why should it not be competent to make such a control directly, if the fiscal administrative authority fails to give an answer to the preliminary complaint within the time limit, without any justification. Why prolong the agony of the tax payer, asking him to go to court for obtaining an answer to the preliminary complaint and then go to court again to contest it, each time with a possibility of appeal?

The theory considering that the court cannot force the administrative body to issue an act with a specific content, originates in the principle of the separation of powers within the state. Administration, the executive power, has the competence to decide when enforcing the law. The court has the competence to control the legality of administrative decisions and terminate them if they breach the legal rights or legitimate interests of private persons. If, following the refusal to issue an administrative act required by a private person, the court would force the administrative body to issue the act, establishing at the same time its content, it would be an intrusion of the judicial power in the competence of the executive one. According to art. 2 para. (2) of the Law no. 554/2004, the unjustified refusal to solve a petition regarding a legal right or a legitimate interest, or the lack of answer to such a petition inside the legal time limit, are similar to administrative acts. Among the demands that can be addressed to the administrative courts is the recognition of an alleged right. So, if the administrative act required is not issued, due to a refusal or a

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<sup>15</sup> Court of Appeal Cluj, Commercial, administrative and tax section, Decision no. 8810/19.09.2013, <http://www.curteadeapelcluj.ro/Jurisprudenta/sectia%20comerciala/Comercial%20%20trim%203%202013.pdf>, accessed on august 4<sup>th</sup> 2015.

lack of answer, the petitioner has the possibility to ask the court both for the recognition of the alleged right and the decision ordering the administrative body to issue the administrative act comprising it. The court decision cannot replace the administrative act, otherwise an intrusion of the judicial power into the competence of the executive power will occur.

We completely agree with the solution given by the first administrative court in the second example, considering that the unjustified lack of response of the fiscal administrative authority should be sanctioned by the possibility of asking the court to directly annul the fiscal administrative act. What good did the final solution in this case? After all the evidence in favour of the petitioner were presented in the first instance administrative court, the procedure had to be reloaded by ending the suspension of the process of solving the preliminary complaint, without any obligation of the administrative authority to speed up the process.

As art. 218 para. (2) of the Fiscal procedure code states that decisions issued in solving the complaints can be contested to the competent administrative courts, according to the law, why should the provisions of art. 11 para. (1) letter c) of the Law no. 554/2004 not apply in the fiscal procedure? According to this legal text, actions requesting the annulment of an administrative act, or the recognition of a certain right, may be submitted to court within a time limit of 6 months starting from the last day when the administrative authority was due to answer the preliminary complaint. The final court decision given in the first example denied this possibility. In the second case, it was even worse, as art. 14 of Law no. 554/2004 demanded an action for the annulment of the harmful act within 60 days from the issuing of the final decision granting the suspension of the harmful administrative act. This should have been considered “the law” that art. 218 para. (2) of the Fiscal procedure code was referring to.

There is no reason to consider a total separation between the fiscal procedure and the general provisions of the Law no. 554/2004 regarding the administrative court procedure, when the Fiscal procedure code refers to possibilities of addressing to court “according to the law”.

Regarding the extension of the reasoning of Decision on points of Law no. 24/2011, it should be observed that it was based on cases judged by the European Court of Justice in a fiscal matter. In the joined cases C-397/98 and C-410/98, Metallgesellschaft Ltd. and others, and Hoechst UK Ltd. concerning the reimbursement of certain sums, the European Court of Justice developed the principle of national adequate and effective remedies. It found that fiscal authorities cannot allege a fault of the taxpayers that have not used an inefficient national remedy (a preliminary complaint), when the authorities themselves were guilty for enforcing national regulations that were incompatible with European law. Considering this decision, the Decision on points of Law no. 24/2011 underlined that an exorbitant duty would burden the taxpayers if they were required to proceed with a preliminary complaint with a foreseeable negative response. The solution was also considered to be in accordance with art. 13 of the European Convention of Human Rights, concerning the right to an effective remedy. Such an interpretation can definitively be extended to all cases where the attitude of the administrative authority is foreseeable in the sense that it will reject the preliminary complaint. Such foreseeability may be

deduced from the contrariety between national and European law, a legal text or even a constant conduct of the administrative authority in applying the law.

In the third example that was presented, the refusal of reimbursing a sum that was accessory to an undue debt made the response to a preliminary complaint, for annulling the fiscal act imposing the penalties, fully predictable. At the same time, it is obvious that an accessory debt can only have the fate of the main debt. As the main debt was found by the court illegally imposed, what should be the purpose of a preliminary complaint? Being an undue debt, the logical way to repair the loss was a request for reimbursement. The refusal of the administrative authority was obviously unfounded, and should have been treated accordingly to the conclusions of Decision on points of Law no. 24/2011.

It is true that generally, the conclusions of a decision on points of law of the High Court of Cassation and Justice are compulsory for the courts only for identical repetitive disputes, according to art. 517 para. (4) of the Civil procedure code. In our opinion, courts must have the liberty to extend principles deriving from decisions that settle a controversial situation to other conflicts, when appropriate, but not in a compulsory way. In law, the principles have a constructive role, as they include objective needs of the society. Accumulating the ideas that proved valuable for society, through continuous innovation new models appear, that adapt the law to the necessities of the moment<sup>16</sup>. Principles are built both in the legislative and the judicial process.<sup>17</sup> Limiting the applicability of the conclusions of a decision on points of law to a specific kind of cases, narrows the creativity in the legal field and despises progress in this area.

## 6. Improvements in the fiscal procedure

A new Fiscal procedure code (Law no. 207/2015) will enter into force from January 1<sup>st</sup> 2016. Comparing the provisions regarding the complaint against fiscal administrative acts, to the ones of the previous Fiscal procedure code (Government Ordinance no. 92/2003), some progress may be observed in respect with the issues discussed above.

Art. 268 para. (1) is using the same confusing terms, defining the complaint against the fiscal administrative act as an “administrative appeal”, the same way the old Fiscal procedure code did, in art. 205 para. (1). An appeal would usually mean a procedure before an independent body, not a complaint addressed to the administrative body that issued the contested act. We can assume however, that the conclusions of the Plenary session of the judges of the Administrative and tax section of the High Court of Cassation and Justice, held at 12.02.2007, regarding the fact that the procedure in front of the administrative bodies has the nature of a preliminary complaint, are still valid. The conclusion is sustained by the fact that art. 272 of the Law no. 207/2015 explicitly mentions several cases when the competence of solving the complaint belongs to the issuing authority.

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<sup>16</sup> N. Popa, *Teoria generală a dreptului*, C.H. Beck Publishing House, București, 2014, p. 95.

<sup>17</sup> E.M. Fodor, *Norma juridică – parte integrantă a normelor sociale*, Argonaut Publishing House, 2003, pp. 156-163.



Art. 77 para. (1) of the Law no. 207/2015 establishes the same time-limit for solving the preliminary complaint as did the Government Ordinance no. 92/2003, namely 45 days. But, according to art. 281 para. (5) of the Law no. 207/2015, in case the preliminary complaint is not solved in a period of 6 months starting from the day it was filed, the petitioner may address the competent administrative court for the annulment of the administrative act. The administrative procedure ceases the day the administrative body is informed about the judicial action (art. 281 para. 6). It is clear that in the new Fiscal procedure code the time limit to solve the preliminary complaint is not regarded as a recommended one, as the Decision no. 135/24.02.2011 of the Court of Appeal Cluj considered. The law allows a delay, up to 6 months, at the end of which the petitioner can address the court and ask, not for the solving of his complaint, but directly for the annulment of the fiscal administrative act. Also, para. (7) of art. 281 from the Law no. 207/2015 states that in case the administrative body has rejected the preliminary complaint without analysing its merits, the court is competent to do the analyse in case it finds the decision of the administrative body is illegal. The solution is fair, considering all the arguments from the above analysis.

According to art. 281 para. (2), the decisions issued in solving the preliminary complaint can be contested to court according to the law. Once again, “the law” would be Law no. 554/2004, meaning that the time-limit for addressing the court, in case an answer to the preliminary complaint is not given within 6 months, is in accordance with art. 11 para. (1) letter c), namely 6 months beginning from the last day of the first 6 months interval (one year from the day the preliminary complaint was filed).

Another agreement with the provisions of the law containing general provisions for the judicial administrative procedure is done by art. 278 para. (5) of the Law no. 207/2015. If the petitioner is granted by the administrative court the suspension of the effects of the contested fiscal administrative act, he is obliged to address the court with the demand for the annulment of the act within 60 days, or the suspension will end. These provisions are consistent with the ones from art. 14 para. (1) of Law no. 554/2004. The legislator probably felt the need to underline that in case the judiciary suspension of the effects of the contested fiscal administrative act is granted, the provisions of art. 14 para. (1) of Law no. 554/2004 add to the fiscal procedure rules, as in case of any other administrative act in the same situation, a logic addition that unfortunately was not allowed before by the High Court of Cassation and Justice.

## 7. Conclusions

The excessive formalism of the courts, especially of the High Court of Cassation and Justice, in respect with the administrative procedure in fiscal matters is transparent from the cases discussed in the paper. Although legal and reasonable arguments - as the ones presented in the case analysis - were at hand, in order to impose a faster and more direct approach in solving contestations against fiscal administrative acts before administrative courts, the legislator had to intervene. The provisions of Title VIII of the new Fiscal procedure code (Law no. 207/2015) that

will enter into force on January 1<sup>st</sup> 2016 proved right the contestants of the rigid approach, and are a progress in respect with the principles of a good administration.