



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO  
GJYKATA KUSHTETUESE  
УСТАВНИ СУД  
CONSTITUTIONAL COURT

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Prishtina, 11 April 2017  
Ref. No.:VVMP 1054/17

## DECISION ON EXTENSION OF INTERIM MEASURES

in

**Case No. KO12/17**

Applicant

**The Ombudsperson**

**Constitutional review of the  
Articles 55 (paragraphs 4 and 5), 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66,  
67, and 68 of Law No. 05/L-087 on Minor Offences**

### THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of:

Arta Rama-Hajrizi, President  
Ivan Čukalović, Deputy President  
Altay Suroy, Judge  
Almiro Rodrigues, Judge  
Snezhana Botusharova, Judge  
Bekim Sejdiu, Judge  
Selvete Gërxhaliu-Krasniqi, Judge and  
Gresa Caka-Nimani, Judge.

#### **Applicant**

1. The Referral was submitted by the Ombudsperson Institution of the Republic of Kosovo (hereinafter: the Applicant).

## **Challenged law**

2. The Applicant challenges the constitutionality of certain provisions of Law No. 05/L-087 on Minor Offences (the challenged Law), which entered into force in January 2017, namely Articles 55 (paragraphs 4 and 5), 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, and 68.

## **Subject matter**

3. The subject matter of the Referral is the assessment of the constitutionality of the provisions of the challenged Law referred to above, which the Applicant alleges are not compatible with Article 31 [Right to a Fair and Impartial Trial] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution) in conjunction with Article 6 (Right to a Fair Trial) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: the ECHR).
4. The Applicant further requests the Court to impose interim measures suspending the implementation of Articles 55 (paragraphs 4 and 5), 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, and 68 of the challenged Law until the final decision of the Court.

## **Legal basis**

5. The Referral is based on paragraph 2, subparagraph 1 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, and Articles 22, 27, 29 and 30 of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law) and Rules 54, 55, 56, 62, and 64 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

## **Proceedings before the Court subsequent to the granting of interim measures**

6. On 15 February 2017, the Review Panel considered the report of the Judge Rapporteur and recommended to the Court to grant the interim measures on Case No. KO 12/17. On the same date, the Court decided unanimously to grant the interim measures until 30 April 2017.
7. On 16 February 2017, the Secretariat of the Assembly submitted to the Court documents relevant to the case, including the Explanatory Memorandum of the challenged Law; the Certificate of Compliance with the “*EU-Acquis*” issued by the Ministry of European Integration; the Certificate on Budgetary Impact Assessment issued by the Ministry of Finance; and the Certificate of Compliance with the Rules of Procedure of the Government.
8. On 28 February 2017, the Assembly Committee on Legislation, Mandates, Immunities, Rules of Procedure of the Assembly and Oversight of the Anti-Corruption Agency (hereinafter: the Committee on Legislation) submitted their comments regarding the Referral.

9. On 3 March 2017, the Court informed the President of the Republic, the Prime Minister, the Ombudsperson, the Kosovo Judicial Council, and the Ministry of Justice about the comments received from the Legislative Committee and the documents received from the Secretariat of the Assembly, and provided copies of all submissions. The Court also informed them that that they could submit their additional comments, if any, by 13 March 2017.
10. On 13 March 2017, the Ombudsperson submitted its response to the comments submitted by the Committee on Legislation and the documents received from the Secretariat of the Assembly.
11. On 14 March 2017, the Court informed the President of the Republic, the Prime Minister, the President of the Assembly, the Kosovo Judicial Council, the Ministry of Justice, and the Secretariat of the Assembly about the response received from the Ombudsperson, and provided a copy, offering them the opportunity to provide additional comments, if any, by 21 March 2017. The Court did not receive any comments.
12. On 05 April 2017, the Review Panel considered the report of the Judge Rapporteur recommending to the Court to extend the interim measures granted by the Court on 15 February 2017. On the same date, the Court unanimously decided to extend the interim measures until 15 June 2017.

#### **On the extension of the interim measures**

13. The Court refers to its Decision on Interim Measures of 15 February 2017 in this case.
14. The Court notes that the parties interested in the admissibility and merits of this Referral have submitted a substantial volume of documents and comments. The Court considers that attention must be given to all of the arguments presented.
15. Therefore, the Court, without prejudice to any further decision which will be rendered by the Court on the admissibility or merits of this Referral in the future, decides to extend the interim measures until 15 June 2017.

## FOR THESE REASONS

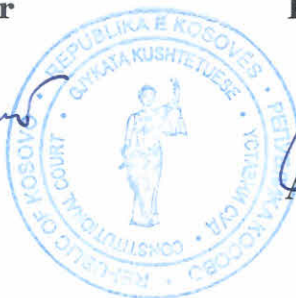
The Court, pursuant to Article 116(2) of the Constitution, Article 27 of the Law, and Rules 54 and 55 of the Rules of Procedure, on 05 April 2017, unanimously

## DECIDES

- I. TO EXTEND the interim measures until 15 June 2017;
- II. TO MAINTAIN THE SUSPENSION of the implementation of the Articles 55 (paragraphs 4 and 5), 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, and 68 of the Law on Minor Offences, throughout the same duration;
- III. TO NOTIFY this Decision to the Parties;
- IV. TO PUBLISH this Decision in accordance with Article 20(4) of the Law; and
- V. TO DECLARE this Decision effective immediately.

**Judge Rapporteur**

  
Gresa Caka-Nimani



**President of the Constitutional Court**

  
Arta Rama-Hajrizi