



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

Prishtina, on 11 June 2018
Ref. no.: VTK 1257/18

DECISION ON WITHDRAWAL OF REFERRAL

in

Case No. KI 110/17

Applicant

Sekule Stanković

Assessment of the Applicant's request for withdrawal of the Referral for constitutional review of Judgment Rev. No. 233/2014 of the Supreme Court of Kosovo of 3 September 2014

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 Sekule Stanković from Medvegje, Republic of Serbia (hereinafter: the Applicant), who is represented by Žarko Gajić, a lawyer from Gracanica.

Subject matter

2. The subject matter is the assessment of the Applicant's request for withdrawal of the Referral for constitutional review as well as the withdrawal request for the imposition of interim measure and withdrawal of the request to hold a public hearing.

Legal basis

3. The Referral is based on Article 113 paragraph 7 of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), Articles 22 and 23 of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law), and Rule 32 and 56 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

Proceedings before the Constitutional Court

4. On 13 September 2017, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
5. On 18 September 2017, the President of the Court appointed Judge Bekim Sejdiu as Judge Rapporteur and the Review Panel composed of Judges: Altay Suroy (Presiding), Ivan Čukalović and Arta Rama-Hajrizi.
6. On 17 October 2017, the Court notified the Applicant and the Supreme Court of Kosovo about the registration of the Referral. By this notification, the Court requested the Applicant to submit a copy of the acknowledgment of receipt with the date on which he received the challenged decision.
7. On 7 November 2017, the Applicant submitted a copy of the acknowledgment of receipt with the date of receipt of the challenged decision of 17 May 2017. By this letter, the Applicant also submitted a request to the Court for the imposition of an interim measure.
8. On 4 December 2017, the Applicant submitted additional documents. By this letter, the Applicant also requested the Court to hold a public hearing when deciding on this case.
9. On 23 April 2018, the Applicant, namely his authorized legal representative (Žarko Gajić) addressed the Court with a request to withdraw the Referral.
10. On 24 May 2018, the Review Panel considered the report of the Judge Rapporteur and made a recommendation to the Court to approve the Applicant's Referral for withdrawal of the request for constitutional review and withdrawal of the request for interim measure and withdrawal of the request to hold the public hearing.

Summary of facts

11. On 13 September 2017, the Applicant submitted the Referral to the Court requesting constitutional review of Judgment (Rev. No. 233/2014) of the Supreme Court of 3 September 2014.
12. On 24 April 2018, the Applicant filed a request for withdrawal of his Referral request for constitutional review as well as withdrawal of requests for the introduction of an interim measure and withdrawal of requests for holding a public session. In his letter, among other, the Applicant stated:

“[...] After submitting the Referral, by examining the website of the Constitutional Court in Prishtina, it was established that this legal matter has already been decided by a decision of the Constitutional Court in case KI176/14.

In this way, the representative, the lawyer Žarko Gajić notifies the Court about the withdrawal of the request submitted for the constitutional review of the court decision on the revision and proposes to the Court to inform him about the suspension of the proceedings on the address of the office in Gracanica”.

Assessment of request for withdrawal of the Referral

13. In order to decide on the Applicant's request to withdraw the Referral, the Court needs first to examine whether the Applicant has fulfilled the requirements provided by the Law and the Rules of Procedure.
14. The Court recalls that the Applicant after the receipt of Judgment Rev. No. 233/2014 of the Supreme Court, filed a request for constitutional review of the abovementioned judgment.
15. On 24 April 2018, the Applicant filed a request for withdrawal of his Referral for constitutional review of Judgment Rev. No. 233/2014 of the Supreme Court of 3 September 2014.
16. The Court refers to Article 23 [Withdrawal of a party] of the Law, which foresees that:

“The Constitutional Court shall decide on matters referred to it in a legal manner by authorized parties notwithstanding the withdrawal of a party from the proceedings”.

17. The Court also refers to Rule 32 [Withdrawal, Dismissal and Rejection of Referrals] of the Rules of Procedure, which stipulates that:

“(1) A party may withdraw a filed referral or a reply at any time before the beginning of a hearing on the referral or at any time before the Court decision is made without a hearing.

(2) Notwithstanding a withdrawal of a referral, the Court may determine to decide the referral [...]”.

18. Taking into account the Applicant's Referral and the circumstances of the case, the Court considers that there is no reason to continue with consideration of the request for constitutional review of the aforementioned Judgment of the Supreme Court and of the request for the imposition of an interim measure as well as a request for holding the public hearing.
19. Therefore, the Court pursuant to Rule 32 (1) decides to approve the Applicant's request for the withdrawal of the Referral.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 20 of the Law, and Rule 32 (1) of the Rules of Procedure, on 24 May 2018,

DECIDES

- I. TO APPROVE the Referral for constitutional review, including the withdrawal of the request for the imposition of interim measure and withdrawal of the request for public hearing;
- II. TO NOTIFY this Decision to the Parties;
- III. TO PUBLISH this Decision in the Official Gazette in accordance with Article 20.4 of the Law;
- IV. This Decision is effective immediately.


Judge Rapporteur
Bekim Sejdiu




President of the Constitutional Court
Arta Rama-Hajrizi