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

**Prishtina, on 25 January 2018**
**Ref. No.: RK 1186/18**

# RESOLUTION ON INADMISSIBILITY

in

**Case No. KI42/17**

Applicant

**Kushtrim Ibraj**

**Constitutional review of**
**Judgment Rev. No. 324/2016 of the Supreme Court of Kosovo**
**of 8 December 2016**

**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 Kushtrim Ibraj, residing in Peja (hereinafter: the Applicant), represented by Idriz Ibraj, a lawyer from Peja.

## Challenged decision

2. The challenged decision is the Judgment of the Supreme Court [Rev. No. 324/2016] of 8 December 2016, which was served on the Applicant on 18 January 2017.

## Subject matter

3. The subject matter is the constitutional review of the challenged Judgment which allegedly violates the Applicant's rights guaranteed by Article 24 [Equality Before the Law], Article 31 [Right to 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 of Human Rights (hereinafter: the ECHR) and Article 49 [Right to Work and Exercise Profession] of the Constitution.

## Legal basis

4. The Referral is based on paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, Articles 22 [Processing Referrals] and 47 [Individual Requests] of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law) and Rule 29 [Filing of Referrals and Replies] of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

## Proceedings before the Constitutional Court

5. On 11 April 2017, the Applicant through mail submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).

6. On 18 April 2016, the President of the Court appointed Judge Gresa Caka-Nimani as Judge Rapporteur and the Review Panel composed of Judges: Altay Suroy (Presiding), Bekim Sejdiu and Selvete Gërxhaliu-Krasniqi.

7. On 26 April 2017, the Court notified the Applicant about the registration of the Referral and requested him to submit the completed referral form, the power of attorney and the acknowledgment of receipt. A copy of the Referral was also sent to the Supreme Court of Kosovo.

8. On 12 May 2017, the Applicant submitted the documents requested by the Court, including the acknowledgment of receipt that proves that the Applicant received the challenged decision on 18 January 2017.

9. On 5 December 2017, the Review Panel considered the report of the Judge Rapporteur and unanimously made a recommendation to the Court on the inadmissibility of the Referral.

## Summary of facts

10. On 10 December 2007, the Applicant signed an employment contract for a fixed period with the non-governmental organization "Finca" (hereinafter: the employer).

11. On 1 March 2014, the Applicant was given a written warning due to his unsatisfactory work performance throughout the second 6 (six) month period of 2013. Through this warning, the Applicant was informed by the employer that if he does not improve the work performance throughout March, April and May 2014, this would result into the non-extension of the employment contract.

12. On 3 July 2014, the Disciplinary Committee of the employer issued the Decision (HR. No. 2014/124) on the non-extension of the Applicant's employment contract (hereinafter: the employer's decision).

13. Against the decision of the employer, the Applicant filed an appeal with the employer's second instance authority. On 1 August 2014, the employer rejected the Applicant's appeal.

14. On 20 August 2014, the Applicant filed a statement of claim with the Basic Court in Peja, requesting the annulment of the decision of the employer (HR. No. 2014/124) of 3 July 2014.

15. On 5 December 2015, the Basic Court in Peja by Judgment [C. No. 708/2014], approved as partly grounded the Applicant's statement of claim, annulling the employer's decision as unlawful and obliging it to pay to the Applicant personal income for one more month, namely the time limit within which the Applicant should have been notified about the non-extension of the employment contract. The request for reinstatement to the working place was rejected on the grounds that the Applicant had concluded a fix-term contract with the employer and the term of this contract had expired.

16. On an unspecified date, the Applicant and the employer filed their respective appeals with the Court of Appeals against the Judgment of the Basic Court in Peja on the grounds of essential violations of the contested procedure provisions, erroneous determination of the factual situation and erroneous application of the substantive law. The Applicant in his appeal requested reinstatement to his working place.

17. On 11 July 2016, the Court of Appeals through Judgment [AC. No. 4223/2015], rejected as ungrounded the employer's appeal regarding the annulment of its decision as unlawful, and approved the Applicant's appeal as partly grounded. The Court of Appeals decided to reinstate the Applicant to his working place, basing its reasoning on procedural violations conducted by the employer. The part of the decision of the Basic Court regarding the compensation of personal income for one month was remanded for retrial.

18. On an unspecified date, against the Judgment of the Court of Appeals, the employer submitted a request for revision to the Supreme Court, alleging violation of the provisions of the contested procedure and erroneous

application of the substantive law. The Applicant also submitted a response to the employer's request for revision.

19. Before the Judgment of the Supreme Court was pronounced, referring to the Judgment of the Court of Appeals, the Applicant initiated the enforcement proceedings before the Basic Court in Peja, which on 21 November 2016 through Decision [E. No. 689/2016] allowed the enforcement. Against this Decision, on 1 December 2016, the employer filed an objection. The objection was rejected on 23 December 2016 by the Basic Court in Peja through Decision [E. No. 689/2016], and on an unspecified date, the employer filed an appeal against this Decision.

20. While the enforcement procedure was being reviewed before the regular courts, on 8 December 2016, the Supreme Court of Kosovo through Judgment [Rev. No. 324/2016] decided to approve the employer's request for revision as partly grounded and modified the Judgment of the Court of Appeals, by upholding the Judgment of the Basic Court in Peja, except for the part where the relevant Basic Court annulled the employer's decision as unlawful, consequently, rejecting the Applicant's statement of claim on its entirety. The Supreme Court reasoned that the termination of the employment relationship was made according to the law with the expiration of the duration of the fixed period employment contract.

21. On 29 March 2017, the Court of Appeals, following the enforcement procedure, by Decision [Ac. No. 1063/17] rejected as ungrounded the employer's appeal, reasoning that the allegations of the employer do not affect rendering a different decision than the decision taken by the first instance court.

## Applicant's allegations

22. The Applicant alleges that by the challenged Judgment of the Supreme Court [Rev. No. 324/2016] his rights guaranteed by Article 24 [Equality Before the Law], Article 31 [Right to Fair and Impartial Trial] of the Constitution in conjunction with Article 6 (Right to a fair trial) of the ECHR and Article 49 [Right to Work and Exercise Profession] of the Constitution have been violated.

23. The Applicant alleges that there has been a violation of his right to fair and impartial trial because the Supreme Court ruled contrary to its own case law. The Applicant refers to the Judgment [Rev. No. 335/2012] of the Supreme Court, arguing that the Supreme Court ruled differently in the same situations, and in support of this argument, the Applicant also refers to the Decision of the Constitutional Court No. KI124/13. (Applicant *NLB Prishtina, S.A.* with seat in Prishtina, Resolution on Inadmissibility of 7 October 2013).

24. The Applicant further claims that his right to work and the exercise profession has been violated, without sufficiently justifying this allegation.

25. The Applicant finally requests the Court: *"[...] to declare Judgment Rev. No. 324/2016 of the Supreme Court of Kosovo of 8.12.2016 invalid, to remand the*

*latter to the Supreme Court of Kosovo for reconsideration in accordance with the Judgment of this Court [...]"*

**Assessment of the admissibility of the Referral**

26. The Court first examines whether the admissibility requirements established by the Constitution, and as further provided by the Law and foreseen by the Rules of Procedure have been fulfilled.

27. In this respect, the Court refers to paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution which establish:

> *"1. The Constitutional Court decides only on matters referred to the court in a legal manner by authorized parties.*
>
> *[...]*
>
> *"7. Individuals are authorized to refer violations by public authorities of their individual rights and freedoms guaranteed by the Constitution, but only after exhaustion of all legal remedies provided by law."*

28. The Court also examines whether the Applicant has met the admissibility requirements as provided by Law. In this respect, the Court first refers to Article 48 [Accuracy of Referral] and 49 [Deadlines] of the Law, which provide:

> Article 48
> [Accuracy of the Referral]
>
> *"In his/her referral, the claimant should accurately clarify what rights and freedoms he/she claims to have been violated and what concrete act of public authority is subject to challenge."*
>
> Article 49
> [Deadlines]
>
> *"The referral should be submitted within a period of four (4) months. The deadline shall be counted from the day upon which the claimant has been served with a court decision...".*

29. As to the fulfillment of these requirements, the Court finds that the Applicant is an authorized party, challenging an act of a public authority, namely the Judgment of the Supreme Court [Rev. No. 324/2016] of 8 December 2016, after having exhausted all legal remedies provided by law. The Applicant has also clarified the rights and freedoms that he claims to have been violated in accordance with the requirements of Article 48 of the Law and has submitted the Referral in accordance with the deadlines established in Article 49 of the Law.

30. In addition, the Court examines whether the Applicant has met the admissibility criteria provided by Rule 36 [Admissibility Criteria] of the Rules of Procedure. Rule 36 establishes the criteria under which the Court may consider a Referral, including the requirement for the Referral not to be manifestly ill-founded. Rule 36 specifically stipulates:

*(1) The Court may consider a referral if:*

*[...]*

*(d) the referral is prima facie justified or not manifestly ill-founded.*

*(2) The Court shall declare a referral as being manifestly ill-founded when it is satisfied that:*

*(b) the presented facts do not in any way justify the allegation of a violation of the constitutional rights.*

*(d) the Applicant does not sufficiently substantiate his claim.*

31. The Court recalls that the Applicant alleges violation of his right to fair and impartial trial guaranteed by Article 31 of the Constitution, because according to him, the Judgment of the Supreme Court was rendered contrary to its own case law. The same argument is used by the Applicant also to support the allegation for a violation of his right to equality before the law guaranteed by Article 24 of the Constitution. The Applicant also alleges that his right to work and exercise profession guaranteed by Article 49 of the Constitution has been violated, without sufficiently justifying this allegation.

32. In addressing the Applicant's allegations, the Court refers to the case-law of the European Court of Human Rights (hereinafter: the ECtHR), consistent with which, the Court, under Article 53 [Interpretation of Human Rights Provisions] of the Constitution is required to interpret the fundamental rights and freedoms guaranteed by the Constitution.

33. The question of divergences within the case law of the courts, has been subject to interpretation in several ECtHR cases, which have in principle, associated the importance of the consistency of case law with the principle of the legal certainty and public confidence in the judicial system. (see *mutatis mutandis* ECtHR Judgment of 28 October 1999, *Brumărescu v. Romania*, no. 28342/95, paragraph 61; see ECtHR Judgment of 1 December 2005, *Păduraru v. Romania*, no. 63252/00, paragraph 98; see ECtHR Judgment of 1 December 2009, *Vinčić and Others v. Serbia,* nos. 44698/06 and others, paragraph 56; and see ECtHR Judgment of 2 November 2010, *Ştefănică and Others v Romania,* no 38155/02, paragraph 38; see ECtHR Judgment of 25 April 2013, *Balažoski and others v. the Former Yugoslav Republic of Macedonia,* no. 45117/08, paragraph 29; see ECtHR Judgment of 20 October 2011, *Nejdet Şahin and Perihan Şahin v. Turkey*, no. 13279/05, paragraph 52; and see also ECtHR Judgment of 10 May 2012 *Albu and Others v. Romania*, no. 34796/09 and 63 other applications, paragraph 34).

34. However, the ECtHR, through its case law, has also maintained that the requirements of legal certainty and the protection of the legitimate confidence of the public, do not confer nor guarantee an acquired right to consistency of case-law. (see ECtHR Judgment of 18 December 2008, *Unédic v. France*, no. 20153/04, paragraph 74; see ECtHR Judgment of 20 October 2011, *Nejdet Şahin and Perihan Şahin v. Turkey*, cited above, paragraph 58; see also *Albu and Others v. Romania*, cited above, paragraph 34 and see also Constitutional Court Case, KI142/15, *Habib Makiqi,* Resolution on Inadmissibility of 27 October 2016, paragraph 38).

35. According to the ECtHR, the possibility of conflicting court decisions is an inherent trait of any judicial system which is based on a network of trial and appeal courts with authority over the area of their territorial jurisdiction. Such divergences may also arise within the same court. That, in itself, cannot be considered contrary to the ECHR. (see ECtHR Judgment of 20 May 2008, *Santos Pinto v. Portugal*, no. 39005/04, paragraph 41; see ECtHR Judgment of 24 March 2009, *Tudor Tudor v Romania*, no 21911/03, paragraph 29; also ECtHR Judgment of 18 February 2014, *Dajbukat and Szilagyi- Palko v. R*omania, no. 43901/07, paragraph 27).

36. Consequently, the case-law development is not, in itself, contrary to the proper administration of justice since a failure to maintain a dynamic and evolutive approach would risk hindering reform or improvement. (see ECtHR Judgment of 14 January 2010, *Atanasovski v. "the Former Yugoslav Republic of Macedonia"*, no. 36815/03, paragraph 38, and see also Constitutional Court Case, KI142/15, *Habib Makiqi,* cited above, paragraph 38 ).

37. Furthermore, the ECtHR has consistently reiterated that it is not its function to *"to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention*". (see ECtHR Judgment of 21 January 1999, *Garcia Ruiz v. Spain*, ECtHR, no. 30544/96, paragraph 28; see also case of *Dajbukat and Szilagyi- Palko v. R*omania, cited above, paragraph 23; see also ECtHR Judgment of 10 May 2012 *Albu and Others v. Romania*, cited above, paragraph 34). It has also reiterated consistently that "*it is primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation, its role being to verify whether the effects of such interpretation are compatible with the Convention, save in the event of evident arbitrariness, when the Court may question the interpretation of the domestic law by the national courts*". (see ECtHR Judgment of 20 October 2011, *Nejdet Şahin and Perihan Şahin v. Turkey*, cited above, paragraphs 49-50; see also case of *Dajbukat and Szilagyi- Palko v. R*omania, cited above, paragraph 23).

38. Therefore, the ECtHR, through its case law, specifically maintained that except when there is "evident arbitrariness", it is not the role of the Court to question the interpretation of the domestic law by the national courts. (See ECtHR Judgment of 24 June 2008 *Ādamsons v. Latvia*, no. 3669/03, paragraph 118). Similarly, on the subject of divergent case law, in principle, it is not its function

to compare different decisions of the courts, even if issued in apparently similar proceedings; it must respect the independence of those courts [...]". (see case *Ādamsons v. Latvia*, cited above, paragraph 118 and *Nejdet Şahin and Perihan Şahin v. Turkey*, cited above, paragraph 50 and see also Constitutional Court Case, KI29/17, *Adem Zhegrova*, Resolution on Inadmissibility of 2 October 2017, paragraph 47).

39. Furthermore, the ECtHR has established the criteria for determining whether such an "evident arbitrariness" exists, and which could result in violation of the right to a fair and impartial trial. It has explained the criteria that guide its assessment in this respect and which consist of establishing whether: a) "profound and long-standing differences" exist in the case-law of a supreme court; b) the domestic law provides for a mechanism to overcome these divergences, and c) whether that mechanism has been applied and, if so, to what extent. (see *mutatis mutandis* ECtHR Judgment of 2 July 2009, *Iordan Iordanov and Others vs. Bulgaria*, Nr. 23530/02, paragraphs 48-50, and case *Nejdet Şahin and Perihan Şahin v. Turkey*, cited above, paragraph 53; see also ECtHR Judgment of 6 6 December 2007, *Beian v. Romania* no.30658/05 paragraphs 34-40; see ECtHR Judgment of 27 January 2009 *Ştefan and Ştef v. Romania*, nos. 24428/03 and 26977/03, paragraphs 33-36; ECtHR Decision of 2 December 2008, *Schwarzkopf and Taussik v the Czech Republic*, paragraphs 34-40; see ECtHR Judgment of 24 March 2009, *Tudor Tudor v Romania*, cited above, paragraph 31; and see, *Ştefănică and Others v Romania*, cited above, paragraph 36; and also see *Balažoski and others v. the Former Yugoslav Republic of Macedonia* cited above, paragraph 30; *Albu and Others v. Romania,* cited above, paragraph 34; see also Constitutional Court Case, KI29/17, *Adem Zhegrova*, Resolution on Inadmissibility of 2 October 2017, paragraph 51).

40. In determining whether "evident arbitrariness" exists and in order to assess the conditions in which conflicting decisions of domestic courts' ruling at the last instance are in breach of the fair trial requirement enshrined in Article 6 of the ECHR, the Court first of all examines whether "profound and long-standing differences" exist in the case-law of the domestic courts. (see, *Albu and Others v. Romania*, cited above , paragraph 34; and case of *Dajbukat and Szilagyi- Palko v. R*omania, cited above, paragraph 24). Once and if, the existence of "profound and long-standing differences" is established, the other two criteria are also applied.

41. Therefore, in analyzing the Applicant's allegations that his rights to fair and impartial trial have been violated as a consequence of a Supreme Court Judgment allegedly issued in contradiction with its own case law, the Court will initially examine whether in the Applicant's case, the existence of "profound and long-standing differences" on the case law on the Supreme Court can be established.

42. In this respect, the Court initially notes that, in building the allegations for violation of his right to fair and impartial trial, as a result of the alleged divergences in the case law of the Supreme Court, the Applicant specifically refers to a Judgment of the Supreme Court [Rev. No. 335/2012 of 2 May 2013],

which he did not submit to the Court. According to the Applicant, the Supreme Court through that Judgment approved as grounded the request for revision of a former employee of another employer. This Judgment was also subject to the review of the Constitutional Court (See Case KI124/13).

43. The Court initially notes that the Applicant does not explain and does not substantiate how his case is similar to the other case of the Supreme Court which he refers to. Furthermore, the Applicant does not argue whether the proceedings which resulted in these two respective decisions, were apparently similar and how these two decisions of the Supreme Court are contradictory. The Applicant merely concludes that *"[...] the same [Supreme] Court decides differently on identical cases, so in this case we are dealing with a credit analyst [...]"*.

44. In light of the ECtHR case law, the Court repeats that the main criterion for assessing whether the conflicting decisions are "evidently arbitrary" is the existence of "profound and long-standing differences" in the case law. In this regard, the Court finds that on the basis of only one Judgment of the Supreme Court, which is alleged to have been issued on "identical" cases, rendered almost 4 (years) earlier, it is not possible to understand and to establish that there are "profound and long-standing differences" in the case law of the Supreme Court, which could have endangered the principle of legal security and consequently, could have resulted in violation of the right to a fair and impartial trial. (see also Constitutional Court Case, KI29/17, *Adem Zhegrova*, cited above, paragraph 53.)

45. Further, the Applicant also refers to the Resolution on Inadmissibility in Case KI124/13, which the Court declared inadmissible as manifestly ill-founded on a constitutional basis, and consequently, it did not interpret its merits.

46. Therefore, the Applicant merely refers to an earlier case of the Supreme Court, alleging that the case is "identical", but does not substantiate his allegation on evidence and convincing arguments. In this respect, and as per the reasoning, the Court considers that, in such circumstances, it cannot be said that there had been "profound and long-standing differences" in the respective case-law. (see *Albu and Others v. Romania*, cited above, paragraph 34 and case of *Dajbukat and Szilagyi- Palko v. R*omania, cited above, paragraph 26).

47. The Court notes that neither the number of judgments allegedly contradictory nor the period within which these judgments were rendered, nor the manner in which the Supreme Court has reviewed and reasoned the Applicant's case create sufficient grounds to justify the allegation for violation of the Applicant's right to fair and impartial trial. (see also Constitutional Court Case, KI29/17, *Adem Zhegrova*, cited above, paragraph 58).

48. Further, the Court considers that the Applicant has not submitted evidence nor has he substantiated his allegation for violation of his rights to fair and impartial trial or the equality before the law, guaranteed by Articles 24 and 31, respectively. When such constitutional violations are alleged, the Applicant must provide a well-reasoned allegation and a convincing argument. (See the

Constitutional Court Case, KI45/15, *Elizabeta Arifi*, Resolution on Inadmissibility of 7 April 2016, paragraph 49).

49. In this regard, the Court also emphasizes that it is not its task to deal with errors of law allegedly committed by the regular courts (legality), unless and in so far as they may have infringed rights and fundamental freedoms protected by the Constitution (constitutionality). It cannot itself assess the law that has led a regular court to issue one decision instead of another. If it was different the Court would act as "fourth instance court", which would result in a exceeding the limitations provided for its jurisdiction. In fact, it is the role of regular courts to interpret and apply the relevant rules of procedural and substantive law. (See case, *Garcia Ruiz v. Spain*, cited above, para. 28; see also, case KI70/11, Applicants *Faik Hima, Magbule Hima dhe Bestar Hima*, Resolution on Inadmissibility of 16 December 2011.)

50. In addition, the Court considers that the Applicant has not proved that the proceedings before the Supreme Court were unfair or arbitrary, or that his rights and fundamental freedoms protected by the Constitution have been infringed by the alleged erroneous interpretation of the respective law. The Court reiterates that, the interpretation of law is a matter for the regular courts and is a matter of legality. No constitutional matter was substantiated by the Applicant. (See case Constitutional Court case KI63/16, Applicant *Astrit Pira*, Resolution on Admissibility, of 8 August 2016, paragraph 44 and also Case KI150/15; KI161/15; KI162/15; KI14/16; KI19/16; KI60/16 and KI64/16, Applicants *Arben Gjukaj, Hysni Hoxha, Driton Pruthi, Milazim Lushtaku, Esat Tahiri, Azem Duraku and Sami Lushtaku*, Resolution on Admissibility, of 15 November 2016, paragraph 62).

51. The Court considers that the Supreme Court has reasoned in detail and specifically addressed all the Applicant's allegations. In addressing the Applicant's allegations, the Supreme Court reasoned that the termination of the employment relationship in his case was a result of the expiry of duration of the fixed term employment contract, as provided by Law no. 03/L-212 on Labor. The Supreme Court, among others, specifically reasoned:

> *"Pursuant to Article 67. 1. 3 of the Law on Labour, it is stipulated that the legal effect of the employment contract shall be terminated with the elapse of the validity of the employment contract. Therefore, since the last employment contract for the claimant elapsed on 30 June 2014, the respondent in conformity with this legal provision has terminated the employment relation against the claimant that as deemed by this court, was terminated as per its legal effect, as foreseen by this legal provision."*

52. The Court notes that the Applicant does not agree with the conclusions of the decision of regular courts. However, the mere fact that the Applicant is not satisfied with the outcome of the proceedings of regular courts cannot raise on itself an arguable claim for violation of Article 31 guaranteed by the Constitution. (See, *mutatis mutandis*, the ECtHR Judgment of 26 July 2005, *Mezotur Tiszazugi Tarsulat v Hungary*, No. 5503/02).

53. Finally, regarding the Applicant's allegation for violation of Article 49 [Right to Work and Exercise Profession] of the Constitution, the Court considers that the challenged Judgment of the Supreme Court does not in any way prevent the Applicant from working or exercising a profession. As such, there is nothing in the Applicant's allegation that would justify a conclusion that his constitutional right to work and exercise profession has been violated. (See, *mutatis mutandis*, the case of the Constitutional Court, KI136/14, *Abdullah Bajqinca*, Resolution on Inadmissibility of 10 February 2015, paragraph 34).

54. For the foregoing reasons, the Court concludes that the facts presented by the Applicant do not in any way justify his allegation for violation of Articles 24, 31 and 49 of the Constitution, and that the Applicant has not sufficiently substantiated his allegations.

55. Therefore, pursuant to Article 48 of the Law and Rule 36 (1) (d) and (2) (b) and (d), the Referral is manifestly ill-founded on constitutional basis and, therefore, inadmissible.

## FOR THESE REASONS

The Constitutional Court of Kosovo, in accordance with Article 113.7 of the Constitution, Article 48 of the Law and Rule 36 (1) (d) and (2) (b) (d) of the Rules of Procedure, in the session held on 5 December 2017, unanimously

## DECIDES

I. TO DECLARE the Referral inadmissible;

II. TO NOTIFY the Parties of this Decision;

III. TO PUBLISH this Decision in the Official Gazette in accordance with Article 20.4 of the Law; and

IV. TO DECLARE this Decision effective immediately;

**Judge Rapporteur** **President of the Constitutional Court**

Gresa Caka- Nimani Arta Rama-Hajrizi