



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

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Prishtina, on 14 December 2018  
Ref. No.: RK1299/18

## **DECISION TO REJECT THE REFERRAL**

in

**Case No. KI121/18**

Applicant

**Gëzim Murati**

**Constitutional review of unspecified decisions or acts of public authorities**

**THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO**

composed of:

Arta Rama-Hajrizi, President  
Bajram Ljatifi, Deputy President  
Bekim Sejdiu, Judge  
Selvete Gërxhaliu-Krasniqi, Judge  
Gresa Caka-Nimani, Judge  
Safet Hoxha, Judge  
Radomir Laban, Judge  
Remzije Istrefi-Peci, Judge, and  
Nexhmi Rexhepi, Judge

### **Applicant**

1. The Referral was submitted by Gëzim Murati, residing in Mitrovica (hereinafter: the Applicant).

## **Challenged decision**

2. The Applicant does not challenge any specific decision or act of a public authority.

## **Subject matter**

3. The subject matter is the constitutional review of unspecified decisions or acts of public authorities, which allegedly violated the Applicant's rights guaranteed by Articles 23 [Human Dignity], 25 [Right to Life], 31 [Right to Fair and Impartial Trial], 32 [Right to Legal Remedies], 44 [Freedom of Association], 49 [Right to Work and Exercise Profession], 51 [Health and Social Protection] and 120 [Public Finances] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution).

## **Legal basis**

4. The Referral is based on paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, Article 47 [Individual Requests] of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law) and Rule 32 [Filing of Referrals and Replies] of the Rules of Procedure of the Court (hereinafter: the Rules of Procedure).

## **Proceedings before the Constitutional Court**

5. On 16 August 2018, the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) received the Applicant's Referral which he had submitted to the Post of Kosovo on 14 August 2018.
6. On 2 September 2018, the President of the Court appointed Judge Remzije Istrefi-Peci as Judge Rapporteur and the Review Panel composed of Judges: Arta Rama-Hajrizi (Presiding), Bekim Sejdiu and Selvete Gërxhaliu-Krasniqi.
7. On 2 October 2018, the Court notified the Applicant about the registration of the Referral and requested him: to specify the acts or decisions of the public authorities challenged by him, to clarify his complaints in accordance with the Constitution, and to submit copies of the documents and other information supporting his allegations.
8. On 10 October 2018, the Applicant submitted to the Court a document specifying the constitutional rights complained of, several documents concerning the Non-Governmental Organization "Vendi im" Association (hereinafter: the NGO "Vendi im"), as well as several medical reports.
9. On 22 November 2018, the Review Panel considered the report of the Judge Rapporteur and unanimously recommended to the Court to summarily reject the Referral.

## **Summary of facts of the case**

10. The Applicant alleges that he was not allowed by the Municipality of Mitrovica to conduct his activity through the NGO "Vendi im".

11. The Applicant did not submit and specify to the Court any act or decision of the public authority, challenged by him.
12. He attached to his Referral several documents, among other things, the Registration Certificate and the Statute of the NGO "Vendi im", his Degree of studies, Identity Cards of the founders of the NGO "Vendi im", as well as several medical reports.

### **Applicant's allegations**

13. The Applicant alleges that the actions of the Municipality of Mitrovica violated his right guaranteed by Articles 23 [Human Dignity], 25 [Right to Life], 31 [Right to Fair and Impartial Trial], 32 [Right to Legal Remedies], 44 [Freedom of Association], 49 [Right to Work and Exercise Profession], 51 [Health and Social Protection] and 120 [Public Finances] of the Constitution.
14. The Applicant states that *"he complains against the Municipality of Mitrovica for the injustice in making impossible the opening of a humanitarian non-profitable non-governmental organization "Vendi im", adding that "Mayor [A.B.], who I supported, did not want to open the office on purpose [...]". He also claims that "I did not find in his office the Director of finances, [whereas] my rights are violated for 10 years now by the corrupted state to which I pay taxes for 20 years now"*.
15. The Applicant alleges that, based on Article 120 [Public Finances] of the Constitution, he requested *"[...] from treasury officials to allocate the fund in accordance with the Constitution guaranteed by the financing of the start-up project Vendi im"*. He clarifies that his constitutional rights are denied due to *"party interests of entities such as AKR, and LVV and civil society and unserious media [...]"*.
16. He also states that *"I want a job, normal and human life, and not to be conditioned by the political parties [...], the whole state must function, I am to respect the law, but not for obedience [...]"*.
17. With respect to exhaustion of legal remedies, the Applicant alleges that *"there is no public or foreign institution to which I have not complained. The municipality does not give me legal rights"*. He also poses the question *"tell me is there any legal remedy that is functional in Kosovo in addition to the highest constitutional judiciary [...]"*
18. The Applicant also states in his letter of 10 October 2018 that due to violation of his rights and the trauma caused to him *"I conclude that I should be compensated in the amount of 100.000 euro"*.

### **Admissibility of the Referral**

19. The Court first examines whether the Referral has fulfilled the admissibility requirements established by the Constitution, as further specified by the Law and the Rules of Procedure.

20. 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”.*

21. The Court further refers to the admissibility criteria as further specified in the Law. In this regard, the Court first refers to Article 47 [Individual Requests] and Article 48 [Accuracy of the Referral] of the Law, which define:

Article 47  
[Individual Requests]

*“1. Every individual is entitled to request from the Constitutional Court legal protection when he considers that his/her individual rights and freedoms guaranteed by the Constitution are violated by a public authority.*

*(...)”.*

Article 48  
[Accuracy of 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”.*

22. In assessing whether the Applicant meets the constitutional and legal criteria for constitutional review of his Referral, the Court recalls that based on Article 113 of the Constitution, the individuals are authorized to refer violations by “*public authorities*” of their individual rights and freedoms guaranteed by the Constitution, after exhaustion of all legal remedies provided by law. The same criterion is also established in Article 47 of the Law.
23. In addition, Article 48 of the Law specifically obliges the Applicants to accurately clarify the concrete act of the public authority that is subject to challenge. The same Article also obliges the Applicants to accurately clarify what rights and freedoms they claim to have been violated.
24. In the circumstances of the present case, the Applicant has neither specified the act of the public authority which he challenges, nor has he clarified his complaints under the Constitution. Therefore, the Applicant's Referral does not meet the admissibility requirements established by the Constitution and the Law.
25. In this respect, the Court refers to paragraph 4 of Article 22 [Processing Referrals] of the Law which stipulates:

*“If the referral [...] is [...] incomplete, the Judge Rapporteur informs the relevant parties or participants and sets a deadline of not more than fifteen (15) days for [...] supplementing the respective referral [...]”.*

26. In addition, the Court refers to Rule 32 (2) (h) [Filing of Referrals and Replies] and Rule 35 (5) [Withdrawal, Dismissal and Rejection of Referrals] of the Rules of Procedure, which establish:

*“32 (2) The referral shall also include:*

*[...]*

*(h) the supporting documentation and information.*

*[...]*

*35 (5) The Court may decide to summarily reject a referral if the referral is incomplete or not clearly stated despite requests by the Court to the party to supplement or clarify the referral, [...].”*

27. The Court notes that the substance of the Applicant's allegations relates to his complaints that public authorities, particularly the Municipality of Mitrovica, did not enable him to exercise the activity through the NGO “Vendi im”.
28. However, he did not submit any act or decision of public authorities which he claims to have violated his rights guaranteed by the Constitution.
29. In this respect, the Court recalls that on 2 October 2018, pursuant to Article 22.4 of the Law, it requested the Applicant to specify the acts or decisions of the public authorities that he challenges, to clarify his complaints in accordance with the Constitution, and to submit the copies of documents and other information supporting his allegations.
30. In his letter of 10 October 2018, the Applicant specified the constitutional rights which he claims to have been violated by the public authorities and submitted several documents, however, he did not submit and did not specify any act or decision of the public authorities whose constitutionality would be subject to constitutional review by the Court, as requested by the Court in its letter of 2 October 2018.
31. Therefore, the Court cannot take into account the Applicant's allegations, because the Referral is incomplete, as the challenged decisions of the public authorities have not been specified and attached (see, *mutatis mutandis*, the case of the Constitutional Court, KI03/15, Applicant: *Hasan Beqiri*, of 13 May 2015, paragraph 19, as well as the case of Constitutional Court KI07/16, Applicant: *Rifat Abdullahi*, of 14 July 2016, paragraph 22).
32. In this regard, the Court emphasizes that the responsibility for meeting the formal-procedural criteria as required by the Constitution, the Law and the Rules of Procedure falls on the Applicants, if they fail to do so (see: *mutatis mutandis*, case of the Constitutional Court KI130/17, Applicant: *Ndue and Simon Palushaj*, paragraph 26).
33. Accordingly, the Court concludes that the Applicant's Referral does not meet the requirements as established by the Rules of Procedure, for the reasons mentioned above.

34. In sum, the Court considers that the Applicant's Referral does not meet the procedural requirements for further review due to non-completion with supporting documentation, as required by Articles 48 and 22.4 of the Law and Rules 32 (2) (h) and 35 (5) of the Rules of Procedure.
35. Therefore, the Court concludes that the Referral is to be summarily rejected.

**FOR THESE REASONS**

The Constitutional Court, in accordance with Article 113.7 of the Constitution, Articles 48 and 22.4 of the Law, and in accordance with Rules 32 (2) (h) and 35 (5) of the Rules of Procedure, on 22 November 2018, unanimously

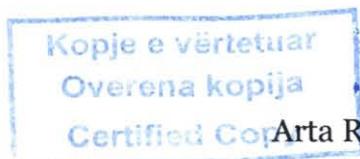
**DECIDES**

- I. TO REJECT the Referral;
- 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**

**President of the Constitutional Court**

Remzije Istrefi-Peci



Arta Rama-Hajrizi

*This translation is unofficial and serves for informational purposes only.*