



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

Prishtina, on 3 December 2018
Ref. no.: RK 1292/18

DECISION TO REJECT THE REFERRAL

in

Case No. KI74/18

Applicant

Gëzim Murati

**Constitutional review of unspecified decisions or actions 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 particular 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 violate 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] and 51 [Health and Social Protection] 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).
5. On 31 May 2018, in an administrative session the Constitutional Court ((hereinafter: the Court) adopted the amendments and supplementation to the Rules of Procedure, which was published in the Official Gazette of the Republic of Kosovo on 21 June 2018 and entered into force 15 (fifteen) days after its publication. Accordingly, in reviewing the Referral, the Court refers to the legal provisions of the new Rules of Procedure in force.

Proceedings before the Court

6. On 29 May 2018, the Court received the Applicant's Referral, which he had submitted to the Post of Kosovo on 24 May 2018.
7. On 16 June 2018, the mandate of judges Almiro Rodrigues and Snezhana Botusharova ended. On 26 June 2018, the mandate of judges Altay Suroy and Ivan Čukalović ended.
8. On 9 August 2018, the President of the Republic of Kosovo appointed new judges: Bajram Ljatifi, Safet Hoxha, Radomir Laban, Remzije Istrefi-Peci and Nexhmi Rexhepi.
9. On 16 August 2018, the President of the Court appointed Judge Nexhmi Rexhepi as Judge Rapporteur and the Review Panel composed of Judges: Arta Rama-Hajrizi (Presiding), Bekim Sejdiu and Selvete Gërxhaliu-Krasniqi.
10. On 3 September 2018, the Court notified the Applicant about the registration of the Referral and requested him to specify and clarify what act of what public authority he is challenging before the Court, and to attach it.

11. On 6 September 2018, the Applicant sent a document with a title "*Notification about articles, legal rules on material compensation*" to the e-mail address of the Court.
12. On 5 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

13. The Applicant has not submitted to the Court any decision of the public authority, except some training certificates, the secondary school diploma and the faculty diploma.
14. The Applicant also attached several medical reports.

Applicant's allegations

15. The Applicant alleges that the actions of the Ministry of Labor and Social Welfare, namely the Employment Agency of the Republic of Kosovo, the Municipality of Mitrovica and the Ministry of Health, 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] and 51 [Health and Social Protection] of the Constitution.
16. The Applicant claims that "*I have finished [...] the faculty of economy [...] branch management and 11 trainings [...] and 13 certificates [...]*"
17. The Applicant initially claims that he has reported to the Employment Agency of Kosovo since 2009. He further complains that the Municipality of Mitrovica has never dealt with his employment problem for 10 years and he calls this action "*institutional negligence*".
18. According to the Applicant, these actions of the aforementioned institutions caused him health problems. Consequently, the Applicant emphasizes "*[...] I request compensation in the amount of 100.000 Euro*".
19. The Applicant also states in his letter of 6 September 2018: "*[...] I request the Constitutional Court to protect my right guaranteed by law*".

Admissibility of the Referral

20. 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.
21. 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”.

22. The Court also 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 [...]”.

23. 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, if the referral is repetitive of a previous referral decided by the Court, or if the referral is frivolous.”

24. The Court recalls that on 3 September 2018, pursuant to Article 22.4 of the Law, requested that the Applicant clarify his Referral by attaching the challenged acts or decisions of the public authorities.
25. However, the Applicant did not submit any act or decision of public authorities which constitutionality would be subject to constitutional review by the Court, as requested by the Court in its letter of 3 September 2018.
26. 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, KIo3 Applicant: *Hasan Beqiri*, of 13 May 2015, paragraph 19, as well as the case of Constitutional Court KIo7/16, Applicant: *Rifat Abdullahi*, of 14 July 2016, paragraph 22).
27. In this regard, the Court emphasizes that it is not its duty and responsibility to research and build the Applicant's case. The Court reiterates that the responsibility for meeting the formal-procedural criteria as required by the Constitution, the Law and the Rules of Procedure falls on the Applicant (see, Constitutional Court Case KI130/17, Applicant: *Ndue and Simon Palushaj*, Decision to reject the Referral, of 14 March 2018, paragraph 26).

28. Accordingly, the Court concludes that the Applicant's Referral does not meet the requirements as established by the Rules of Procedure, because of the abovementioned reasons.
29. In sum, the Court considers that the Applicant's Referral does not meet the procedural requirements for further review, because it has not been completed with the respective documentation, as required by Article 22.4 of the Law and Rules 32 (2) (h) and 35 (5) of the Rules of Procedure.
30. 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, Article 22.4 of the Law and Rule 35 (5) of the Rules of Procedure, on 5 November 2018, unanimously

DECIDES

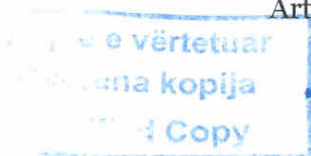
- I. TO REJECT the Referral;
- II. TO NOTIFY this Decision to the Parties;
- III. TO PUBLISH this Decision in the Official Gazette in accordance with Article 20.4 of the Law; and
- IV. This Decision is effective immediately.

Judge Rapporteur

President of the Constitutional Court

Nexhmi Rexhepi

Arta Rama-Hajrizi



This translation is unofficial and serves for informational purposes only.