



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

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Prishtina, 28 December 2018  
Ref. no.:RK 1312/18

## **RESOLUTION ON INADMISSIBILITY**

in

**Case No. KI137/18**

Applicant

**Selim Leka**

**Constitutional review of Judgment Rev. No. 32/2018 of the Supreme  
Court of 27 February 2018**

**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 Selim Leka from Gjilan (hereinafter: the Applicant).

## **Challenged decision**

2. The Applicant challenges the constitutionality of Judgment Rev. No. 32/2018 of the Supreme Court of 27 February 2018, which rejected his request for revision against Judgment Ac. No. 3137/2016 of the Court of Appeals of 26 October 2017.
3. The Applicant alleges that the challenged Judgment was served on him on 12 April 2018.

## **Subject matter**

4. In the Referral, the Applicant did not state what constitutional rights and freedoms were violated by the judgments of the regular courts, but only states that the courts have violated Articles 36 and 90 of the Law on Labor.

## **Legal basis**

5. The Referral is based on paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, Articles 22 [Processing Referrals], 47 [Individual Requests], 48 [Accuracy of the Referral] and 49 [Deadlines] of the Law No. 03/L-121 on the Constitutional Court (hereinafter: the Law) and Rule 32 [Filing of Referrals and Replies] of the Rules of Procedure of the Constitutional Court (hereinafter: the Rules of Procedure).

## **Proceedings before the Constitutional Court**

6. On 14 September 2018, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
7. On 19 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), Gresa Caka-Nimani and Safet Hoxha.
8. On 21 September 2018, the Court sent a letter to the Applicant requesting from him to complete the standard referral form and to submit the acknowledgment of receipt indicating the date when the challenged judgment was served on him.
9. On 9 October 2018, the Applicant submitted to the Court a completed referral form, indicating the date when the challenged judgment was served on him.
10. On 14 November 2018, the Applicant submitted a letter to the Court with additional information regarding the persons who had exercised the rights, which rights are denied to him.
11. On 12 December 2018, the Review Panel considered the Report of the Judge Rapporteur, and made a recommendation to the Court on the inadmissibility of the Referral.

## Summary of facts

12. The Applicant for the period from 1 January 1991 to 31 December 2014 worked as a teacher at the technical school in Gjilan.
13. On 10 February 2014, the Applicant was retired based on the 65-year retirement age.
14. On 14 February 2014, the Applicant was issued the certificate of right to pension No. 243567 by the Ministry of Labor and Social Welfare, Pension Center in Gjilan.
15. On 15 May 2014, the Applicant filed a statement of claim against the Municipality of Gjilan - the Directorate for Education in Gjilan, requesting that the respondent be obliged to pay him the amount of 120 Euros, for the jubilee reward, two salaries in the amount of € 730.66, two salaries for retirement in the amount of € 730.66, in the total amount of € 1581.32, with legal interest of 3.2%, all within 15 days from the date of the receipt of the judgment.
16. On 23 May 2016, the Basic Court rendered Judgment C. No. 298/14, which rejected as ungrounded Applicant's statement of claim.
17. The Applicant filed an appeal with the Court of Appeals against the Judgment of the Basic Court.
18. On 26 October 2017, the Court of Appeals rendered Judgment Ac. No. 3137/16, which rejected as ungrounded the Applicant's appeal.
19. The Applicant filed a request for revision with the Supreme Court against the Judgments of the Basic Court and of the Court of Appeals.
20. On 27 February 2018, the Supreme Court rendered Judgment Rev. No. 32/2018, which rejected the Applicant's request for revision as inadmissible, stating that *„By provision of Article 211.2 of the LCP it is provided that the revision is not allowed in the property-legal disputes, in which the statement of claim has to do with monetary claims, with delivery of items or with fulfillment of another obligation (performance), if the value of the subject of dispute in the challenged part of the judgment does not exceed the amount of € 3000.“*

## Applicant's allegations

21. The Applicant does not specify in his Referral what constitutional rights and freedoms have been violated by the challenged court judgments, he merely claims that Article 36 and Article 90 of the Labor Law have been violated, as he was not paid the jubilee rewards and salaries, which he thinks he is entitled to.
22. The Applicant requests the Court *"to repeal the court judgments as not based on the law, to annul the aforementioned court decisions, to approve salaries in entirety after retirement, or to remand the case for retrial to the Basic Court in Gjilan from zero point (from the beginning)."*



## Admissibility of Referral

23. The Court will first examine whether the Applicant has fulfilled the admissibility requirements established in the Constitution, further specified in the Law and foreseen in the Rules of Procedure.

24. 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.*

*[...]“.*

25. The Court further refers to paragraphs 1 and 2 of Article 47 [Individual Requests] of the Law, which stipulate:

Article 47 of Law  
[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.*

*2. The individual may submit the referral in question only after he/she has exhausted all the legal remedies provided by the law”.*

26. The Court considers that the Applicant is an authorized party and has exhausted the legal remedies available under the applicable laws.

27. However, the Court must also examine whether the Referral was submitted in accordance with the deadlines provided for in Article 49 [Deadlines] of the Law, which provides:

Article 49 of Law  
[Deadline]

*“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. In all other cases, the deadline shall be counted from the day when the decision or act is publicly announced. [...]”.*

28. The Court further takes into account Rule 39 [Admissibility Criteria], namely sub-rule (1) (c) of the Rules of Procedure which foresees:

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

*[...]*

*c) the referral is filed within four months from the date on which the decision on the last effective remedy was served on the Applicant”.*

*[...].“*

29. The Court recalls that the Applicant submitted the Referral to the Court on 14 September 2018, in which he requested the constitutional review of Judgment Rev. No. 32/2018 of the Supreme Court of 27 February 2018.
30. In this regard, the Court notes that after reviewing the Applicant's Referral, it concluded that the Applicant did not complete the standard referral form of the Court, and in the Referral he did not state when the challenged Judgment was served on him.
31. Consequently, on 21 September 2018, the Court sent a letter to the Applicant requesting him to fill out the standard referral form of the Court, and to show or send the acknowledgment of receipt, indicating the date when Judgment Rev. No. 32/2018 of the Supreme Court was served on him.
32. On 9 October 2018, the Applicant submitted the completed standard referral form of the Court, showing that Judgment Rev. No. 32/2018 of the Supreme Court of 27 February 2018 was served on him on 12 April 2018.
33. In this respect, the Court, taking into account the date of service of the challenged Judgment Rev. No. 32/2018 of the Supreme Court, which according to the Applicant's allegations, is 12 April 2018, and the date on which the Applicant submitted the Referral to the Court, which is 14 September 2018, concludes that the Applicant filed the Referral with the Court out of legal time limit of 4 (four) months.
34. The Court recalls that the purpose of the 4 (four) month deadline under Article 49 of the Law and Rule 39 (1) (c) of the Rules of Procedure, is to promote legal certainty, to ensure that cases raising constitutional issues are dealt with within a reasonable time and that previously rendered decisions are not endlessly open to challenge (see: case of *O' Loughlin and Others v. the United Kingdom* No. 23274/04, ECtHR Decision of 25 August 2005 and *mutatis mutandis*, see: case of the Constitutional Court No. KI140/13, Applicant: *Ramadan Cakici*, Resolution on Inadmissibility, of 17 March 2014, paragraph 24).
35. Therefore, the Applicant's Referral was filed out of legal deadline provided by Article 49 of the Law and Rule 39 (1) (c) of the Rules of Procedure, and, as such, is inadmissible for further review.

## **FOR THESE REASONS**

The Constitutional Court of Kosovo, in accordance with Article 113.1 and 7 of the Constitution, Article 49 of the Law and Rule 39 (1) (c) of the Rules of Procedure, in the session held on 12 December 2018, unanimously

## **DECIDES**

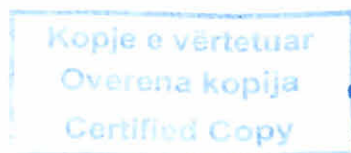
- I. TO DECLARE the Referral inadmissible;
- II. TO NOTIFY this Decision to the Parties;
- III. TO PUBLISH this Decision in the Official Gazette in accordance with Article 20.4 of the Law;
- IV. This Decision is effective immediately.

**Judge Rapporteur**

**President of the Constitutional Court**

Remzije Istrefi-Peci

Arta Rama-Hajrizi



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