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

Prishtina, on 08 July 2019
Ref. no.:RK 1389/19

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RESOLUTION ON INADMISSIBILITY

in

Case No. KI130/18

Applicant

Limak Kosovo International Airport J.S.C. "Adem Jashari"

Constitutional review of Judgment Rev. No. 53/2018 of the Supreme Court of Kosovo of 6 June 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 Joint Stock Company Limak Kosovo International Airport J.S.C, "Adem Jashari" (hereinafter: the Applicant), based in Vrellë village, Lipjan Municipality, which is represented with power of attorney by Fazli Gjonbalaj and Leonora Fejzullahu.

Challenged decision

2. The Applicant challenges Judgment Rev. No. 53/2018 of the Supreme Court of Kosovo of 6 June 2018.

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], Article 32 [Right to Legal Remedies] and Article 46 [Protection of Property] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), as well as Article 6 (Right to a fair trial) and Article 1 of Protocol No. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: the ECHR).

Legal basis

4. The Referral is based on paragraph 4 of Article 21 [General Principles] and paragraph 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 32 [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 3 September 2018, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court), and the case was register under number KI130/18.

6. On 21 September 2018, the President of the Constitutional Court of the Republic of Kosovo (hereinafter: the Court), appointed Judge Radomir Laban as Judge Rapporteur, and the Review Panel, composed of Judges: Bekim Sejdiu (Presiding), Remzie Istrefi – Peci and Nexhmi Rexhepi, in case KI128/18.

7. On 21 September 2018, the President of the Court by Order joined the cases KI128/18, KI129/18, KI130/18, KI132/18, with the same Judge Rapporteur and the Review Panel as in case KI128/18.

8. On 5 November 2018, the President of the Court by Order joined the cases KI128/18, KI129/18, KI130/18, KI132/18, with cases KI164/18, KI165/18, KI166/18 and KI167/18, with the same Judge Rapporteur and the Review Panel as in case KI128/18.

9. On 8 November 2018, the Court notified the Applicant about the registration of the Referral KI164/18, KI165/18, KI166/18 and KI167/18 and joinder with

cases KI128/18, KI129/18, KI130/18, KI132/18, and submitted copies of the joined referrals to the Supreme Court.

10. On 4 April 2019, the President of the Court by Order separated the joined cases KI128/18, KI129/18, KI130/18, KI132/18, KI164/18, KI165/18, KI166/18 and KI167/18 in individual cases, with the same Judge Rapporteur and the Review Panel as in case KI128/18.

11. On 12 April 2019, the Court notified the Applicant and the Supreme Court that cases KI128/18, KI129/18, KI130/18, KI132/18, KI164/18, KI165/18, KI166/18 and KI167/18 were separated by Order and that they will be individually reviewed in the Constitutional Court.

12. On 12 April 2019, the Applicant submitted to the Court a letter entitled *"[...] regarding the cases registered with the Constitutional Court and in particular the case registered with [...] number KI132/18"*.

13. On 16 May 2019, the Applicant submitted to the Court a letter entitled *"Submission, regarding the cases registered with the Constitutional Court"*, in which in essence he repeated the allegations filed before.

14. On 20 June 2019, the Review Panel considered the report of the Judge Rapporteur and unanimously recommended to the Court the inadmissibility of the Referral.

Summary of facts of the case

15. On 12 August 2010, the Government of the Republic of Kosovo and the Applicant signed a Public-Private Partnership Agreement (hereinafter: the PPP Agreement). Prior to the signing of the PPP Agreement, the name of Prishtina Airport was Prishtina International Airport (hereinafter: the PIA).

16. On 4 April 2011, F.M. (hereinafter: the employee) was employed in the "host" position by the Applicant by entering into an employment contract for a period of three (3) years, namely from (4 April 2011 until 3 April 2014), however, after the expiry of this period, the employer the contract was extended to the employee until 3 March 2015, namely for 1 (one) more year.

17. On 3 March 2015, the Applicant notified the employee that a new employment contract would not be extended after the expiry of the existing contract based on the company's decision on future human resources planning.

18. On 11 March 2015, the employee, considering that the notification of 3 March 2015 was unlawful, submits to the Applicant a proposal that the Applicant's notification for non-renewal of the contract be annulled as unlawful and requests to be reinstated to the previous working place, with all the rights from employment relationship.

19. On 18 March 2015, the Applicant rejected as ungrounded the employee's request of 11 March 2015, by which she requested that the notice of non-renewal of the contract be annulled as unlawful.

20. On unspecified date, the employee filed the claim with the Basic Court, requesting the annulment of the decision on termination of the employment relationship and the compensation of damage.

21. On 16 December 2015, the Basic Court, by Judgment C. No. 136/2015, approved the statement of claim of the employee as grounded and obliged the Applicant to reinstate to the working place and to compensate the costs for causing the damage.

22. The Basic Court reasoned that by "*the provision of Article 10, item 5 of the General Collective Agreement of Kosovo, signed on 18 March 2014 and in force from 1 January 2015, it is foreseen that the employment contract for a fix period of time that is clearly renewed or self-evident for a period of employment longer than three years shall be considered as an indefinite term contract*". According to the Basic Court's reasoning, the employee already had 4 (four) years of uninterrupted work with the Applicant and in this case the Applicant should have conducted an internal procedure for terminating the employment relationship rather than terminating to the employee her employment relationship with a notice of non-renewal of the employment contract.

23. On unspecified date, the Applicant filed an appeal with the Court of Appeals against the Judgment of the first instance court, with the proposal that the appeal is approved and the appealed judgment be annulled. The Applicant in his appeal alleged that his company did not apply the Collective Agreement because it was not signed by it.

24. On 20 November 2017, the Court of Appeals by Judgment Ac. No. 1024/2016, rejected the Applicant's appeal as ungrounded and upheld Judgment C. No. 136/2015 of the first instance court, reasoning, *inter alia*, that the Applicant as a private sector is obliged under Article 2.1 of the Collective Contract to respect the latter and reasoned that for the notice of non-extension of the employment contract, the Applicant did not give sufficient reasons.

25. On unspecified, the Applicant submitted a request for revision to the Supreme Court against the judgments of the lower instance courts. The Applicant alleged that the regular courts failed to take into account the fact that the parties had signed a fixed-term contract by their free will. The Applicant also alleged that the lower instance courts incorrectly applied the provisions of the Collective Agreement, because according to it, this contract applies to those who have signed it. As to the erroneous application of substantive law, the Applicant alleged that the application of item 1.1 of the contract concluded between the parties and Article 67, paragraph 1.3 and Article 71 paragraph 2 of the Law on Labor were implemented and have not been violated by the Applicant regarding the employee's case.

26. On 6 June 2018, the Supreme Court by Judgment Rev. No. 53/2018 rejected the Applicant's revision as ungrounded, reasoning that it approves as grounded the legal position of the first and second instance courts. The Supreme Court reasoned that in this case "*the subject of the statement of claim [...] is not the confirmation of existence of the employment relationship of the employee on indefinite term, but the assessment of legality of the notice of termination of the employment contract, which is contrary to Law on Labor, which is a basic law governing the employment relationship in Kosovo [...]*. According to the Supreme Court, the employment contract was not extended to the employee for the purpose of human resource planning, which decision, was not presented before the court as a basis for the validity of the decision.

26. The Supreme Court, referring to Article 5, paragraph 1 of the Law on Labor, stated that "*[to the employee], since the establishment of the employment relationship, and after the concession, was extended the employment relationship with a fixed-term contract , although the working place was of a permanent nature. Such contracts, as assessed by this Court, are contrary to the principle of conscientiousness and honesty, where for four years uninterruptedly [the employee] was kept in uncertain legal state of employment relationship [...]. The employer cannot renounce the workers' rights stemming from the provisions of Article 5, paragraph 1 of the Law on Labor, where it is foreseen that any kind of discrimination [....] is prohibited*".

28. Regarding the specific allegation of the Applicant that his company did not sign the collective agreement, the Supreme Court reasoned that: "*the latter will not influence the Court to decide otherwise, since in the present case the subject of the review was the legality of the non-extension of the employment contract of [the employee]*".

Applicant's allegations

29. The Court recalls that the Applicant alleges that "*The Supreme Court of Kosovo, by its Judgment Rev. No. 53/ 2018, [...] has violated his right to fair and impartial trial, as guaranteed by Article 31 [Right to Fair and Impartial Trial], on the grounds of unreasoned decision, further claiming that "as a result of the absence the reasoning, the challenged decision deprived the Applicant of the constitutional right to an effective legal remedy" and thereby violated his constitutionally right guaranteed by Article 32 and as a result of these violations, the Applicant's right of property under Article 46 [Protection of Property] of the Constitution has also been violated. The Applicant also alleges that there is a violation of Article 6 (Right to a fair trial) of the ECHR [...]*".

30. The Applicant in substance justifies his referral by stating that the regular courts have erroneously determined the factual situation and that the procedural and substantive law was erroneously applied, stating that the decisions of the regular courts did not sufficiently reasoned the following:

    (i) The Supreme Court, by its judgment, does not treat the Collective Agreement on the basis of which the lower courts have decided, and the

Applicant raised as allegations, and alleges that the regular courts did not give any reasoning as to what is the act with the greatest legal power, namely the Law on Labor or the Collective Agreement;

(ii) The Supreme Court goes beyond the requests in the revision and law for which it must take care *ex-officio* and addresses the issue that no party has filed, as is the case with Article 5.1 of the Law on Labor;

(iii) The regular courts have decided by different legal provisions regarding the notice of non-extension of the employment contract.

31. The Applicant also cites the Judgment of the Constitutional Court KI138/15 and states that "*the application of the substantive law, which may have been a fact, has been a decisive factor in obtaining the judgment of that court*".

32. The Applicant requests that "*the Constitutional Court should assess whether the trial in its entirety was fair and impartial, as required by Article 31 of the Constitution (see, inter alia, mutatis mutandis, Edwards v. United Kingdom, 16 December 1992, p. 34, Series A, No. 247 and B. Vidal v. Belgium, 22 April 1992, p. 33, Series A. No. 235).*

33. The Applicant claims that with the reinstatement to work of the employee, the financial aspect and its property rights protected by Article 46 of the Constitution and Protocol no. 1 of the ECHR have been damaged. Namely, the Applicant states that: "*The European Court of Human Rights has given an extended interpretation of the concept of property and possession [...] and "has held that the right of ownership extends to all cases involving monetary rights based on contracts or claims for compensation of damage*".

34. The Applicant requests the Court to annul the Judgment of the Supreme Court and to remand the case for retrial.

Relevant legal provisions

Law on Labor No. 03/L-212

Article 5
Prohibition of all Forms of Discrimination

5. Discrimination is prohibited in employment and occupation in respect of recruitment, training, promotion of employment, terms and conditions of employment, disciplinary measures, cancellation of the contract of employment or other matters arising out of the employment relationship and regulated by Law and other Laws into force.
[...]

Article 67
[Termination of Employment Contract on Legal Basis]

1. Employment contract, on legal basis, may be terminated, as follows:
[...]
1.3. With the expiry of duration of contract.

Article 70
[Termination of Employment Contract by the Employer]

1. An employer may terminate the employment contract of an employee with the prescribed period of notice of cancellation, when:
1.1. Such termination is justified for economic, technical or organizational reasons;
1.2. The employee is no longer able to perform the job;
1.3. The employer may terminate the employment contract in the circumstances specified in sub-paragraph 1.1 and 1.2 of this paragraph, if, it is impracticable for the employer to transfer the employee to other employment or to train or qualify the employee to perform the job or other jobs;
1.4. An employer may terminate the employment contract of an employee with providing the period of notice of termination required, in:
1.4.1. . serious cases of misconduct of the employee; and
1.4.2. because of dissatisfactory performance of of work duties;
1.5. An employer shall notify the employee about his/her dismissal immediately after the event which leads to this decision or as soon as the employer has become aware of it.
1.6. An employer may terminate the employment contract of an employee without providing the period of notice of termination required, in the case when:
1.6.1. the employee is guilty of repeating a less serious misconduct or breach of obligations;
1.6.2. the employee's performance remains dissatisfactory in spite of the written warning.
2. The employer may terminate the employment contract of an employee under subparagraphs 1.6 of paragraph 1 of this Article only when after the employee has been issued previus written description of unsatisfactory performance with a specified period of time within which they must improve on their performance as well as a statement that failure to improve the performance shall result with dismissal from work without any other written notice.

Article 71
[Notification period for termination of employment contract]

1. The employer may terminate an employment contract for an indefinite period according to Article 70 of this Law with the following periods of notification:
1.1. from six (6) months - 2 years of employment, thirty (30) calendar days;
1.2. from two (2)- ten (10) years of employment: fourty-five (45) calendar days;
1.3. above ten (10) years of employment: sixty (60) calendar days

2. The employer may terminate an employment contract for a fixed term with thirty (30) calendar days notice. The employer who does not intend to renew a fixed term contract must inform the employee at least thirty

(30) days before the expiry of the contract. Failure to do so entitles the employee to an extension of employment with full pay for thirty (30) calendar days.

Article 90
[Collective Contract]

5. Collective Contract shall be applicable to those employers and employees who commit themselves to the implementation of obligations deriving from such an agreement.

The General Collective Agreement in Kosovo

Article 2
[Scope]

1. Provisions of the GCAK are binding to the parties of the Agreement, at private, public and state sector (at general level, branch level and company level).
2.Provisions of the GCAK apply to pupils, students in vocational training.
3.Provisions of the GCAK apply also to foreign employers and workers, or those without citizenship who carry out economic activities in the Republic of Kosovo.
4.Provisions of the GCAK do not apply to employers, or their representatives and workers or their representatives, set in Article 2, paragraph 4, of the Labour Law in Kosovo.

Article 3
[Application and inclusion]

Provisions of the GCAK are applied throughout the territory of the Republic of Kosovo.

Article 4

1.Provisions of the GCAL bind employers who, in any way, carry out economic, non-economic activities and civil services. Collective Agreement can concluded at Branch or Enterprise levels.
2.Branches of non-economic activity trade unions (civil, public services and public companies), reach a separate contract with their employers (relevant Ministries, State Administration, Education, Health, etc.) in accordance with their specifics.

Article 5

GCAK applies to all employees who work for an employer, with their representation in the territory of Kosovo.

Article 10
Employment Contract

1. Employment Contract, is concluded in written form and signed by the employer and employee.
[...]
5. Employment Contract, for a limited duration, which is extended clearly or implicitely, for a period of employment period longer than three (3) years), will be considered as a contract for unlimited duration.
6. Employment Contract, for specific work and tasks, may not be longer than one hundred and twenty days (120) within one (1) year.
7. Employee, for specific work, is not entitled to annual leave, whereas he/she is entitled to other rights set by the law.

Public-Private Partnership Agreement for the Operation and Expansion of Prishtina International Airport

9.18 [Termination of Personnel]

„The Private Partner may terminate the employment or other engagement of any PIA Employee (i) at any time for cause in accordance with applicable laws, rules, administrative regulations and decrees, (ii) upon mutual agreement and (iii) without limitation, after the third (3rd) anniversary of the Effective Date".

Admissibility of the Referral

35. The Court first examines whether the Referral has fulfilled the admissibility requirements established in the Constitution, and further specified in the Law and foreseen in the Rules of Procedure.

36. 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".

37. The Court also refer to paragraph 4 of Article 21 [General Principles] of the Constitution, which establishes:

"4. Fundamental rights and freedoms set forth in the Constitution are also valid for legal persons to the extent applicable".

38. In this regard, the Court notes that the Applicant has the right to file a constitutional complaint, referring to alleged violations of its fundamental rights and freedoms applicable both to individuals and to legal persons (case of

the Constitutional Court No. KI41/09, Applicant: *AAB-RIINVEST University LLC*, Resolution on Inadmissibility of 3 February 2010, paragraph 14).

39. The Court further examines whether the Court has fulfilled the admissibility requirements as prescribed by the Law. In this regard, the Court refers to Articles 47 [Individual Requests], 48 [Accuracy of the Referral] and 49 [Deadlines] of the Law, which establish:

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

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 [...]".

40. Regarding the fulfillment of these requirements, the Court considers that the Applicant is an authorized party, challenging an act of a public authority, after exhaustion of all legal remedies. The Applicant also clarified the rights and freedoms he claims to have been violated in accordance with the requirements of Article 48 of the Law, and submitted the Referral in accordance with the deadlines established in Article 49 of the Law.

41. However, the Court should further assess whether the criteria set out in Rule 39 [Admissibility Criteria] of the Rules of Procedure have been met, including the requirement that the Referral is not manifestly ill-founded. Thus, Rule 39 (2) of the Rules of Procedure provides that:

"(2) The Court may consider a referral as inadmissible if the referral is manifestly ill founded because the Applicant has not sufficiently proved and substantiated the claim".

42. Initially, the Court notes that the Applicant alleges that his right to fair and impartial trial guaranteed by Article 31 of the Constitution and Article 6 of the ECHR, has been violated, because the decisions of the regular courts were not sufficiently reasoned, while the violations of other rights guaranteed by the

Constitution and the ECHR are presented by the Applicant as a result of the violation of the right to fair and impartial trial.

43. The Applicant in essence justifies his Referral by repeating the same allegations that it had filed before the regular courts, which pertain to erroneous determination of factual situation and erroneous application of the procedural and substantive law, pointing out that the decisions of the regular courts did not sufficiently reason the following issues:

(i) The Supreme Court, by its judgment, does not treat the Collective Agreement on the basis of which the lower courts have decided, and the Applicant raised as allegations, and alleges that the regular courts did not give any reasoning as to what is the act with the greatest legal power, namely the Law on Labor or the Collective Agreement;
(ii) The Supreme Court goes beyond the requests in the revision and law for which it must take care *ex-officio* and addresses the issue that no party has filed, as is the case with Article 5.1 of the Law on Labor;
(iii) The regular courts have decided by different legal provisions regarding the notice of non-extension of the employment contract.

44. The Constitutional Court will assess the constitutionality of the challenged decisions of the regular courts with respect to the Applicant's allegation that the decisions of the regular courts have not been sufficiently reasoned, referring to each individual allegation of the Applicant.

45. First, as to the Applicant's allegation that (i) the Supreme Court, by its judgment, does not treat the Collective Agreement on the basis of which the lower courts have decided, and the Applicant raised as allegations, and alleges that the regular courts did not give any reasoning as to what is the act with the greatest legal power, namely the Law on Labor or the Collective Agreement.

46. With regard to these allegations of the Applicant, the Court notes that the Basic Court reasoned that ""*the provision of Article 10, item 5 of the General Collective Agreement of Kosovo, signed on 18 March 2014 and in force from 1 January 2015, it is foreseen that the employment contract for a fix period of time that is clearly renewed or self-evident for a period of employment longer than three years shall be considered as an indefinite term contract*". For this allegation, the Court of Appeals stated that the Applicant was legally bound by Article 2.1 of the Collective Agreement to respect the latter and reasoned that for the notice of the non-extension of the employment contract, the Applicant did not give sufficient reasons.

47. In the revision proceedings, the Supreme Court reasoned that in this case "*the subject of the statement of claim [...] is not the confirmation of existence of the employment relationship of the employee on indefinite term, but the assessment of legality of the notice of termination of the employment contract, which is contrary to Law on Labor, which is a basic law governing the employment relationship in Kosovo [...]*, as for the specific allegation of the applicability of the Collective Agreement, the Supreme Court reasoned that "*the latter will not influence the Court to decide otherwise, since in the present*

case the subject of the review was the legality of the non-extension of the employment contract for [the employee]".

48. Secondly, as to the Applicant's allegations that (ii) the Supreme Court goes beyond the requests in the revision and law for which it must take care *ex-officio* and addresses the issue that no party has filed, as is the case with Article 5.1 of the Law on Labor.

49. With regard to these allegations of the Applicant, the Court notes that the Supreme Court, initially concluded that "*[to the employee], since the establishment of the employment relationship, and after the concession, the employment relationship with a fixed-term contract was extended, although the working place was of a permanent nature. Such contracts, as assessed by this Court, are contrary to the principle of conscientiousness and honesty, where for four years uninterruptedly [the employee] was kept in uncertain legal state of employment relationship [...]. The employer cannot renounce the workers' rights stemming from the provisions of Article 5, paragraph 1 of the Law on Labor, where it is foreseen that any kind of discrimination [...] is prohibited*".

50. With regard to the foregoing allegation and setting from the above, as regards the concrete allegation of the Applicant for exceeding competencies by the Supreme Court, the Court recalls that the specific competence of each regular court is determined by the relevant legislation. In connection with the present case, paragraph 2.2, of Article 2 of the Law on Contested Procedure stipulates that "*The court applies the rules set by the substantive law as it deems appropriate and is not obliged to claims of litigants concerning the substantive law*".

51. Thirdly, as to the Applicant's allegations that (iii) the regular courts have decided by different legal provisions regarding the notice of non-extension of the employment contract.

52. The Court notes that the Supreme Court as a final court instance clarified to the Applicant that the subject of the statement of claim is to assess the legality of the notice of non-extension of the employment contract, which is in contradiction with the Law on Labor, which is a basic law governing the employment relationship in Kosovo.

53. The Court further recalls that the Applicant also refers to the Judgment KI138/15 of the Constitutional Court and claims that "*the application of substantive law, which may have been a fact, has been a decisive factor for rendering the judgment of that court, but the Supreme Court did not resolve this issue at all, but only found that the lower instance courts have correctly applied the provisions of substantive law*".

54. As to this allegation of the Applicant, the Court recalls that the mentioned case differs from the case before us, because of the following reasons: (i) the issue of disciplinary proceedings against the Applicant's employee in that case has been reviewed differently by the regular courts; (ii) there was no clear legal basis

under which disciplinary proceedings were conducted; (iii) contradictory elements existed in decisions of the lower instance courts. In addition, the Court of Appeals applied and used for explanation the Administrative Instruction which resulted from the Civil Service Regulation, not the Law on Labor. This argument, although raised by the Applicant in this case, was not reviewed by the Supreme Court (see the case of the Constitutional Court KI138/15, *Sharr Beteiligung GmbH,* Judgment of 4 September 2017).

55. The Court first reiterates that it is not its function to deal with the errors related to the factual situation or erroneous application of the law, allegedly committed by the regular courts, unless the errors and erroneous application of the law are not such as to violate the rights and freedoms protected by the Constitution (see case of ECtHR, *Garcia Ruiz v. Spain* [GC], No. 30544/96, paragraph 28).

56. However, it is the primary role of the regular courts to resolve the issues of interpretation of the domestic legal rules. This applies in particular to the interpretation of substantive and procedural law by the courts (see ECtHR case, *Pekinel v. Turkey*, No. 9939/02, of 18 March 2008, paragraph 53). The role of the Court is only to determine whether the effects of such interpretation are in accordance with the Constitution in entirety and with the principle of legal certainty, in particular those guaranteed by Article 6 of the ECHR.

57. The Court reiterates that Article 6 of the ECHR and Article 31 of the Constitution oblige the courts to give reasons for their decisions, but this cannot be understood as an obligation of the court to give a detailed answer to any arguments of the Applicant. (see ECtHR case, *Van de Hurk v. the Netherlands*, Judgment of 19 April 1994, paragraph 61). The extent to which the duty to give reasons applies may vary according to the nature of the decision. It should also take into account, *inter alia*, the variety of submissions submitted by a party to proceedings that may make the courts give various legal opinions and conclusions when rendering decisions. Therefore, the question whether the court has fulfilled the obligation to explain the reasons for its decision, stemming from Article 6 of the ECHR, can only be determined in the light of the circumstances of each individual case.

58. Accordingly, the Court finds that the Applicant had the benefit of the conduct of the proceedings based on adversarial principle, he was able to adduce the arguments and evidence he considered relevant to his case at the various stages of those proceedings, he was given the opportunity to challenge effectively the arguments and evidence presented by the responding party; all the arguments, viewed objectively, relevant for the resolution of his case were heard and reviewed by the regular courts; the factual and legal reasons of the challenged decision were presented in detail; and therefore, the proceedings, viewed in entirety, were fair (see, *mutatis mutandis,* Judgment of ECtHR of 21 January 1999, *Garcia Ruiz v. Spain*, cited above, paragraphs 29 and 30).

59. Therefore, the Court finds that the right to fair and impartial trial, guaranteed by Article 31 of the Constitution and Article 6 of the ECHR, has not been violated by the decisions of public authorities.

60. Taking into account that the Applicant failed to present evidence, facts and arguments showing that the proceedings before the regular courts violated his right to fair and impartial trial, guaranteed by Article 31 of the Constitution and Article 6 of the ECHR, the Court will not deal with the examination of further allegations of the Applicant because the violations of other rights guaranteed by Articles 24, 32 and 46 of the Constitution and Article 1 of Protocol 1 of the ECHR, are presented by the Applicant as a result of the violation of the right to fair and impartial trial.

61. The Court recalls that the mere fact that the Applicant does not agree with the outcome of the decisions of the Supreme Court, as well as mentioning of articles of the Constitution, are not sufficient to build a reasoned allegation of constitutional violations. When alleging such violations of the Constitution, the Applicants must provide reasoned allegations and convincing arguments (see, *mutatis mutandis*, case of the Constitutional Court Resolution on Inadmissibility of 10 February 2015, *Abdullah Bajqinca*, KI136/14, paragraph 33).

62. Therefore, the Referral is manifestly ill-founded on constitutional basis and is to be declared inadmissible in accordance with Rule 39 (2) of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court, in accordance with Article 113.7 of the Constitution, and Rule 39 (2) of the Rules of Procedure, on 20 June 2019, 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**

Radomir Laban | Arta Rama-Hajrizi