



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

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Prishtina, 20 February 2020  
Ref. no.:RK 1520/20

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

## RESOLUTION ON INADMISSIBILITY

in

**Case No. KI175/18**

Applicant

**Fllanza Kadiu**

**Constitutional review of Judgment Rev. No. 181/2018 of the Supreme  
Court of 13 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, 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 Fllanza Kadiu from Prishtina, Str. „UCK“ A/I/34 (hereinafter: the Applicant).

## **Challenged decision**

2. The Applicant challenges the Judgment [Rev. No. 181/2018] of the Supreme Court of the Republic of Kosovo (hereinafter: the Supreme Court) of 13 June 2018.
3. The challenged Judgment was served on the Applicant on 23 July 2018.

## **Subject matter**

4. The subject matter is the request for constitutional review of the challenged judgment which allegedly violates the Applicant's rights guaranteed by Articles 3 [Equality Before the Law], 7 [Values], 22 [Direct Applicability of International Agreements and Instruments], 24 [Equality Before the Law], 31 [Right to Fair and Impartial Trial] and 53 [Interpretation of Human Rights Provisions] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution) and Article 6 [Right to a fair trial] of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: the ECHR).
5. The Applicant requests the Court not to disclose her identity because *„the protection of my identity regarding my privacy will not be considered as an exception to the normal rule of public access to information on the proceedings under the Law on Access to Public Documents”*.
6. In her additional request, the Applicant extends her allegations to the violation of the right to property without citing a specific article of the Constitution or the ECHR.

## **Legal basis**

7. The Referral is based on paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, Article 22 [Processing Referrals] of the 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**

8. On 13 November 2018, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
9. On 15 November 2018, the President of the Court appointed Judge Remzije Istrefi-Peci as Judge Rapporteur and the Review Panel composed of Judges: Selvete Gërxhaliu-Krasniqi (Presiding), Bajram Ljatifi and Radomir Laban.
10. On 20 November 2018, the Court notified the Applicant about the registration of the Referral and sent a copy of the Referral to the Supreme Court.

11. On 28 January 2019, the Applicant submitted the additional documents to the Court.
12. On 22 January 2020, after having reviewed the report of the Judge Rapporteur, the Review Panel made a recommendation to the Court on the inadmissibility of the Referral.

### **Summary of facts**

13. On 15 July 2017, the Applicant in accordance with the Decision [No. 01/527 of 9 July 2017] of the Kosovo Judicial Council terminated employment relationship due to reaching the age of 65, namely retirement.
14. On 20 July 2017, the Applicant submitted a request to the Kosovo Judicial Council to pay her three monthly salaries as accompanying salaries to pension, three monthly salaries as a jubilee reward, all in accordance with the provisions of the General Collective Agreement of Kosovo.
15. On 23 July 2017, the Kosovo Judicial Council (notice no. 03/344) rejected the Applicant's request for compensation of jubilee salaries, as well as those for retirement, as ungrounded.
16. On an unspecified date, the Applicant filed a claim with the Basic Court in Prishtina (hereinafter: the Basic Court), stating that, while issuing a decision on retirement, the Kosovo Judicial Council did not respect the provisions of Articles 52 and 53 of the General Collective Agreement, which, according to the Applicant, she was damaged for three monthly salaries, namely accompanying salaries for retirement and three monthly salaries as a jubilee reward.
17. On 24 January 2018, the Basic Court in Prishtina [Judgment C. No. 2333/2017] approved the Applicant's claim and ordered the Kosovo Judicial Council to pay the Applicant, in the amount of three accompanying retirement salaries and three jubilee rewards, the amount of € 7,248.18, as well as the costs of the proceedings in the amount of € 60, all this at a legal interest rate of 8% starting from 6 July 2017. The reasoning of the Basic Court states *inter alia*: "*The General Collective Agreement of Kosovo, adopted and signed by the Government of Kosovo, the Association of Independent Trade Unions of Kosovo and the Chamber of Commerce of Kosovo - the provisions of which apply in the whole territory of Kosovo, where Article 52 provides for the right of workers to jubilee rewards and Article 53 provides for the right to payment of accompanying salaries, found that the same was applicable in the present case and that the respondent was obliged to pay three salaries for the jubilee reward and three accompanying salaries for the retirement*".
18. On an unspecified date, the Kosovo Judicial Council filed appeal with the Court of Appeals against the judgment of the Basic Court in Prishtina on the grounds of, "*erroneous application of substantive law and erroneous and incomplete determination of factual situation, with a proposal to approve the appeal as grounded, and to annul the appealed judgment and remand the case to the*

*first instance court for retrial or to modify the judgment and to dismiss the claimant's statement of claim in its entirety as ungrounded."*

19. On 29 March 2018, the Court of Appeals by Judgment [AC. No. 1015/2018] rejected, as ungrounded, the appeal of the Kosovo Judicial Council and upheld in entirety the judgment of the Basic Court. In its reasoning, the Court of Appeals states: *"The appealing allegations that the first instance court has erroneously applied the substantive law are ungrounded, because the first instance court when approved the claimant's statement of claim in entirety, obliging the respondent to pay three jubilee rewards and three accompanying salaries for retirement, rightly applied Article 52 and 53 of the General Collective Agreement of Kosovo, concluded on 18.03.2014 by the Employers' Organization (Chamber of Commerce of Kosovo and the Kosovo Businesses Association), the Organization of Workers (Independent Trade Union of Kosovo) and the Government of the Republic of Kosovo (Ministry of Labor and Social Welfare), which entered into force on 1 January 2015, and the claimant retired on 15.07.2017, meaning that this contract was in force at the time of retirement and that the statement of claim was grounded and in full accordance with Article 90 of the Law on Labor"*.
20. Against the aforementioned judgment of the Court of Appeals, the Kosovo Judicial Council filed a request for revision with the Supreme Court, alleging violations of the contested procedure provisions and erroneous application of the substantive law.
21. On 13 June 2018, the Supreme Court, by Judgment Rev. No. 181/2018, approved the revision of the Kosovo Judicial Council, and modified the judgments of the Basic Court and the Court of Appeals, so that it rejected as ungrounded the Applicant's claim for obliging the Kosovo Judicial Council that the Applicant pay three accompanying salaries for retirement and three jubilee rewards. This judgment states, *inter alia*, the following: *"The issue of payment of accompanying salaries and jubilee rewards for the retirement of judges who worked in the Kosovo judiciary is not foreseen by the Law on Courts of the Republic of Kosovo or any other positive law. The first instance court, as well as the second instance, have erroneously applied the substantive law when they approved the claimant's statement of claim on the basis of the aforementioned provisions of the General Collective Agreement of Kosovo, LCP and LOR, because for the judges, the Judicial Council of Kosovo did not sign this contract, and therefore payments of these salaries to judges cannot refer to this General Collective Agreement. It follows from the same contract that for the employees of this agreement signed by the Association of Independent Trade Unions of Kosovo (UNSK), for the Government of Kosovo - the Prime Minister of the Republic of Kosovo, for employers the Chamber of Commerce of Kosovo, for the Economic and Social Council - its chairman and for the Kosovo Business Association - its President."*

## **Applicant's allegation**

22. The Applicant alleges that the Supreme Court in Judgment Rev. No. 181/2018, violated her rights guaranteed by Articles 3, 7, 22, 24, 31 and 53 of the Constitution, as well as the right guaranteed by Article 6 of the ECHR.
23. The Applicant alleges that „*The Supreme Court (Judgment Rev. No. 181/2018, of 13 June 2018) rejected the request for jubilee reward, as well as the right to accompanying salaries for retirement, which is a right provided for in the Collective Agreement. The Supreme Court found that there was no specific law governing the rights and obligations of judges, which therefore implies that there is a legal vacuum*”.
24. The Applicant added that „*The reasoning of the judgment of the Supreme Court should emphasize the relationship between the findings on the merits and reflect, when reviewing the proposed evidence on the one hand and the legal conclusions on the other, otherwise there will be a violation of Article 31 [Right to Fair and Impartial Trial] of the Constitution of the Republic of Kosovo ( hereinafter: the Constitution) and Article 6 [Right to a fair trial] of the European Convention for the Protection of Human Rights (hereinafter: the ECHR)*”.
25. The Applicant mentions the constitutional guarantees regarding the application of the ECHR pursuant to Article 22 of the Constitution and refers to and cites Case KO 01/09, emphasizing that „*this case confirms the position and role of the ECHR in the internal legal order, but also the applicability of the latter ...* “. The Applicant also mentions Article 53 of the Constitution, stating that it “*further strengthens the ECHR in our internal system*”. The Applicant links these articles to the importance of the decisions of the European Court in order „*...other authorities and public offices know how the rights and fundamental freedoms in Kosovo should be interpreted and enforced*“.
26. The Applicant also mentioned Case KI 120/10, Judgment of 8 March 2013, and KI 72/12, Judgment of 7 December 2012, noting that in these two cases, “*this right to have a reasoned decision was protected by the Constitutional Court ... but not in my case when the decision of the Supreme Court was rendered*”.
27. According to the Applicant's allegations „*The Judgment of the Supreme Court violated the constitutional principle of prohibition of arbitrariness when rendering decisions, because the reasoning provided does not contain the relevant facts, legal provisions and the logical relationship between them, as confirmed by the second and the third instance*”.
28. The Applicant specifically alleges that:

*“The flaws in the reasoning related to the issue that the Supreme Court did not clarify how the Law on Labor may not be enforced when the law in question provides: the special Law does not provide for a solution for certain issues deriving from employment relationship”. (Law on Labor).*

*Moreover, Article 29 of the Law on Courts states: "Judges are entitled to annual leave in accordance with the Law on Labor". This point is important to me because on it depends the question of whether or not to enforce the Collective Agreement, and also depends what are the rights and obligations of the judges".*

29. The Applicant further alleged that in her case the norms of the Law on Labor, the Collective Agreement and the Convention, which are guaranteed by the Constitution of Kosovo, have not been implemented.
30. The Applicant emphasizes that *„The Supreme Court did not take any steps to analyze the Applicant’s claim that the Law on Labor was applicable in the present case because the special law did not determine the rights and obligations of the judges as opposed to the reference emphasized before other judicial instances”*. According to the Applicant *„by ignoring the assessment of this point in entirety”*, the Supreme Court failed to fulfill its obligation under paragraph 1 of Article 6 of the European Convention. In this regard, the Applicant also refers to the ECtHR case *Pronina v. Ukraine*, of 18 July 2006.
31. The Applicant also emphasizes that, *“the failure to sign a collective agreement by the KJC does not affect the present case to not apply Article 2 of the Law on Labor mentioned above. Moreover, the failure to apply this provision in the reasoning of the Supreme Court is seen as violation of Article 24 (Equality Before the Law) of the Constitution, which guarantees the equality of all citizens before the law and the exercise of all rights on equal terms. Not allowing the payment of salaries required by the Law on Labor for the Applicant is considered to be different treatment compared to others and is discriminatory, it created unequal treatment for the purpose of Article 3 and Article 7 of the Constitution.”*
32. The Applicant also alleges a violation of the principle of impartiality, stating that *“The member of the criminal panel of the Supreme Court, which rendered the decision was Judge M.R., otherwise a member of the respondent party, the Kosovo Judicial Council. In the present case, the Applicant considers that the member of the panel, M.R., has a conflict of interest in considering this matter since he is a permanent member of the respondent KJC, which is contrary to the constitutional principles established on the basis of a regular judicial process, respect for the principle of impartiality. The impartiality of judges (nemo iudex in casa sua) requires not only justice to be done, but to see that it is done”*.
33. The Applicant requests the Court to, *“annul the decision of the Supreme Court and remand the case for reconsideration and adjudication by this court, as well as to remedy the constitutional violations of Article 31 of the Constitution, as well as of Article 6 of the ECHR”*.
34. Finally, the Applicant requests the Court, *“I do not want my identity to be publicly disclosed by the name Fllanza Kadiu, because I think only initials F.K. will protect my identity with respect to my privacy and will not be considered an exemption from the normal rule of public access to information*

*on proceedings in accordance with the Law on Access to Public Documents. This note of mine has nothing to do with internal procedures that have to do with the disclosure of the name of the opposing party when it is communicated with comments”.*

35. In her additional request, the applicant extends her allegations to a violation of the right to property, citing, *“My right to property has been violated, as a right guaranteed by the Constitution and the Convention. The Constitutional Court, by its decision on KEK workers, stated that the non-payment of the salary in accordance with the agreement constitutes a threat to property”.*

### **Admissibility of the Referral**

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

37. 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.”*

38. The Court further refers to Articles 48 [Accuracy of the Referral] and 49 [Deadlines] of the Law, which establish:

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...”*

39. As regards the fulfillment of these requirements, the Court finds that the Applicant is an authorized party, challenging the act of a public authority, namely Judgment [Rev. No. 181/2018] of the Supreme Court of 13 June 2018,

after having exhausted all legal remedies provided by law and submitted the referral within the legal time limit.

40. However, in addition to these requirements, the Court should also consider whether the Applicant fulfilled the admissibility requirements set out in Rule 39 [Admissibility Criteria] of the Rules of Procedure. Specifically, Rule 39 (2) 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.”*

41. In this respect, the Court first recalls that the Applicant alleges that the Supreme Court, in its judgment, [Rev. No. 181/2018] of 13 June 2018 violated her rights guaranteed by Articles 3, 7, 22, 24, 31 and 53 of the Constitution and Article 6 of the ECHR. The Applicant also alleges a violation of the right to property, without citing a specific article of the Constitution or the ECHR.
42. In this regard, the Court notes that the Applicant alleges a violation of a number of articles of the Constitution, but in essence all allegations can be reduced to a violation of the rights guaranteed by Article 31 of the Constitution in conjunction with Article 6 of the ECHR, stating that,
- a) In her case, there has been no fair and impartial trial, which, in her words, is reflected in not allowing the payment of jubilee salaries and the accompanying salaries for retirement required by the Law on Labor,
  - b) That there are flaws in the reasoning of the judgment of the Supreme Courts, because it was not explained how the provisions of the Law on Labor or the Collective Agreement may not apply.
  - c) The member of the criminal panel of the Supreme Court, which rendered the judgment was Judge M.R., otherwise a member of the responding party, the Kosovo Judicial Council, which is contrary to the constitutional principles established on the basis of a regular judicial process.

**a) As to the allegation that the Applicant did not enjoy equal treatment**

43. The Court considers that the Applicant built her case on the basis of legality, namely, on the determination of facts regarding the implementation of the Law on Labor and the Collective Agreement by the Supreme Court, which rejected her request for payment of jubilee salaries and accompanying salaries for retirement.
44. The Court recalls that these allegations relate to the domain of legality and as such they do not fall within the jurisdiction of the Court and therefore, in principle, cannot be considered by the Court (see case KI56/17, Applicant *Lumturije Murtezaj*, Resolution on Inadmissibility of 18 December 2017, paragraph 35).

45. In this regard, the Court has consistently reiterated that it is not its duty to deal with errors of fact or law allegedly committed by the regular courts (legality), unless and insofar as they may have violated the fundamental rights and freedoms protected by the Constitution (constitutionality). Otherwise, the Court would be acting as a court of “*fourth instance*”, which would result in exceeding the limits set by its jurisdiction. In accordance with the case law of the ECtHR, and in accordance with its consolidated case law, the Court reiterates that it is the role of the regular courts to interpret and apply the pertinent rules of procedural and substantive law, and abstract assessments cannot be made as to why a regular court has decided in a respective manner and not otherwise (See ECtHR case, *García Ruiz v. Spain*, Judgment of 21 January 1999, paragraph 28; and see, also case of the Court KI70/11, Applicant: *Faik Hima, Magbule Hima and Besart Hima*, Resolution on Inadmissibility of 16 December 2011).
46. The Court can only examine whether the evidence in a proceeding has been correctly presented and whether the proceedings in general, viewed in their entirety, have been held in such a way that the Applicant has had a fair trial (see, among other authorities, case *Edwards v. United Kingdom*, No. 13071/87, European Commission Report on Human Rights, adopted on 10 July 1991).

**b) As to the allegation that there are flaws in the reasoning of the Supreme Court Judgment**

47. Based on the case file, the Court notes that the reasoning given in the Supreme Court's judgment is clear, and after considering all the proceedings, the Court also found that the proceedings before the Supreme Court were not unfair or arbitrary. (see case *Shub v Lithuania*, no. 17064/06, ECtHR Decision of 30 June 2009).
48. In the present case, the Court notes that the Supreme Court provided clear and sufficient reasons for its findings and conclusions. Thus, the Supreme Court explained that the relevant provisions of the General Collective Agreement cannot be applied in the Applicant's case, because the Kosovo Judicial Council did not sign this agreement for judges, and therefore the judges cannot refer to this General Collective Agreement. Further, the Supreme Court states that: “...*a judge is an official who is appointed by the decree of the President of the Republic of Kosovo, and as such does not have a position of an employee, which is regulated by the Law on Labor in Kosovo, nor for civil servants, which is regulated by the Law on Civil Servants in the Republic of Kosovo. For these reasons, as well as the fact that Article 90.1.5 of the Law on Labor in Kosovo provides that a collective agreement applies to those employers who undertake the obligations specified in such a collective agreement, it follows that this collective agreement does not oblige employers who have not entered into obligations, which were determined by this agreement, because the latter in the present case was not signed by any one for the judges of the Republic of Kosovo. The issue of possible payment of disputed salaries should be foreseen by the Law on Courts of the Republic of Kosovo, which has not been done so far*”.

49. Accordingly, the Court notes, that the Supreme Court found that, in accordance with the applicable law, the Applicant's allegations (regarding the payment of accompanying salaries for pension and jubilee rewards) have no legal basis.

**c) As to the allegation that in her case the principle of impartiality was violated**

50. The Applicant alleges that in her case the principle of impartiality was violated because one of the members of the panel that decided in the challenged decision was also a member of the Kosovo Judicial Council, namely of the responding party.
51. The Court considers that this allegation of the Applicant raises doubts as to the impartiality of the court, namely a judge, in the adjudication of the case.
52. The Court points out that the impartiality of a judge implies a lack of prejudice or partiality and can be tested in different ways (see case *Wettstein v. Switzerland*, No. 33958/96, paragraph 44, ECtHR 2000-XII and also see case *Micallef v. Malta*, ECtHR No. 17056/06, paragraph 93/2009).
53. In this regard, the Court notes that the principle that a tribunal shall be presumed to be free of personal prejudice or partiality is long established in the case-law of the European Court of Human Rights (ECtHR) (see case *Driza v. Albania*, ECtHR, Appeal no. 33771/02, Judgment of 13 November 2007, paragraph 75).
54. In addition, referring to the substantive case law of the ECtHR, the Court notes that there are generally two situations when the question of the impartiality of the court is raised. The first situation is of a functional nature where the behavior of a judge does not cause suspicion when performing various functions within a judicial proceeding by the same judge (see case *Piersack v. Georgia*, ECtHR, appeal No. 8692/79, Judgment of 1 October 1982, paragraphs 28-32), or the hierarchical or similar relation of the judge to another party involved (see case *Grievés v. United Kingdom*, ECtHR, appeal No. 57067/00, Judgment of 16 December 2003, paragraphs 74- 91), raises doubts about the impartiality of the Court. The second situation is of personal (subjective) nature and relates to the behavior of the judge in the present case.
55. In the light of this explanation, the consecutive exercise of judicial and advisory functions within an authority may, under certain circumstances, raise issues within the scope of Article 31 [Right to Fair and Impartial Trial] of the Constitution in conjunction with Article 6 (Right to a fair trial) of the European Convention on Human Rights (hereinafter: the ECHR), as regards the impartiality of the authority from an objective point of view (see: case *Procola v Luxembourg*, ECtHR, appeal No 14570/89, Judgment of 28 September 1995, paragraph 45).
56. The question is whether there was an exercise of judicial and advisory functions with respect to the "same case", "same decision" or "similar matters" (see case *Kleyn and Others v. the Netherlands* [GC], appeal No. 39343/98

39651/9843147/98 46664/99, Judgment of 6 May 2003, paragraph 200, see also case *Sacilor Lormines v. France*, ECtHR, appeal No. 65411/01, Judgment of 9 November 2006, paragraph 74 - no violation.

57. In the present case, the Court notes that the judge of the Supreme Court mentioned by the Applicant, is a member of the Kosovo Judicial Council, however, was not in any way involved in the process of making the challenged decision regarding the jubilee rewards of the Kosovo Judicial Council. Therefore, it cannot be alleged that he exercised any function, whatever, in the same court process, namely in relation to the same case, the same decision or similar matter.
58. In addition, according to the ECtHR case law, the fact that Judge did not withdraw from dealing with the civil action following his earlier participation in another related set of civil proceedings, does not constitute the required proof to rebut the presumption of impartiality (see case *Golubović v. Croatia*, ECtHR, appeal No. 43947/10, Judgment of 27 November 2012, paragraph 52).
59. In this respect, the ECtHR case law proposes that in such situations it must be determined whether there are ascertainable facts which may raise doubts as to the impartiality of the judge. When this decision is applied to a trial panel, it means determining whether, quite apart from the personal conduct of any of the members of that body, there are ascertainable facts which may raise doubts as to its impartiality. This means that it is not decisive whether in a given case there is a legitimate reason to fear that a particular judge or body lacks impartiality. What is decisive is whether this fear can be held to be objectively justified (see cases: *Wettstein v. Switzerland*, ECtHR, appeal No. 33958/96, Judgment of 21 December 2000, paragraph 44, *Pabla Ky v. Finland*, ECtHR, appeal no. 47221/99, Judgment of 22 June 2004 paragraph 30, *Micallef v. Malta* [GC], appeal no. 17056/06, Judgment of 15 October 2009, paragraph 96).
60. Consequently, the Court considers that the Applicant's allegation of impartiality of the judge is only declarative, it is not clear and it is not supported by evidence and arguments, as required by Rule 39 (2) of the Rules of Procedure. Therefore, this allegation is manifestly ill-founded.
61. As regards the Applicant's other allegations regarding the alleged violations of Articles 3, 7, and 22, 24 and 53 of the Constitution, as well as her additional allegation of violation of the property right, the Court emphasizes that the Applicant alleges violation of the Constitution without arguments and reasoning of the violations thereof in the challenged Supreme Court judgment.
62. In this regard, the Court emphasizes that the mere fact that the Applicant does not agree with the outcome of the Judgment of the Supreme Court, as well as the mere mentioning of the provisions of the Constitution, are not sufficient to build a reasoned allegation of constitutional violations. When alleging such violations of the Constitution, the Applicant must provide reasoned allegations and convincing arguments (see, in this regard, case of the Constitutional Court,

KI136/14, *Abdullah Bajqinca*, Resolution on Inadmissibility of 10 February 2015, paragraph 33).

63. As a result, the Court considers that the Applicant did not substantiate the allegations that the relevant proceedings were in any way unfair or arbitrary, that the challenged decision violated the rights and freedoms guaranteed by the Constitution and the ECHR.
64. In conclusion, in accordance with Rule 39 (2) of the Rules of Procedure, the Referral is manifestly ill-founded on constitutional basis and, therefore, inadmissible.

### **Request for non-disclosure of identity**

65. The Court recalls that the Applicant also requested that her identity be not disclosed to the public, stating that, *„I think only initials F.K. will protect my identity with respect to my privacy and will not be considered an exemption from the normal rule of public access to information on proceedings in accordance with the Law on Access to Public Documents “*.
66. In this respect, the Court refers Rule 32 (6) of the Rules of Procedure, which provides *„Parties to a referral who do not wish their identity to be disclosed to the public shall so indicate and shall state the reasons justifying such a departure from the rule...“*
67. However, in the referral, the Court finds that the Applicant substantiates her request for non-disclosure of identity by a single paragraph, without providing or submitting any evidence.
68. Therefore, the Court dismisses the Applicant’s request for non-disclosure of identity as ungrounded.

## FOR THESE REASONS

The Constitutional Court of the Republic of Kosovo, in accordance with Article 113.1 and 113.7 of the Constitution, Article 20 of the Law, and Rules 32 (6) and 39 (2) of the Rules of Procedure, on 22 January 2020, unanimously,

### DECIDES

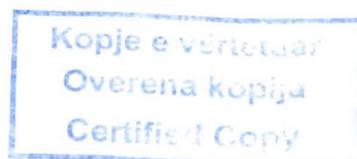
- I. TO DECLARE the Referral inadmissible;
- II. TO REJECT the request for non-disclosure of identity;
- III. TO NOTIFY this decision to the parties;
- IV. TO PUBLISH this Decision in the Official Gazette in accordance with Article 20.4 of the Law;
- V. This Decision is effective immediately.

**Judge Rapporteur**

**President of the Constitutional Court**

Remzije Istrefi-Peci

Arta Rama-Hajrizi



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