



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

Prishtina, on 19 March 2020
Ref. no.:RK 1531/20

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RESOLUTION ON INADMISSIBILITY

in

Case No. KI118/19

Applicant

Pashk Mirashi

**Constitutional review of the Judgment Rev.no.71/2019 of the Supreme
Court of the Republic of Kosovo, of 20 March 2019**

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 Pashk Mirashi, residing in Gjakova (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges the Judgment [Rev.no.71/2019] of the Supreme Court of the Republic of Kosovo (hereinafter: the Supreme Court), of 20 March 2019.

Subject matter

3. The subject matter of the Referral is the constitutional review of the challenged Judgment, which as alleged by the Applicant violated his rights guaranteed by Articles 3[Equality before the Law], 16 [Supremacy of the Constitution], 21 [General Principles], 31 [Right to Fair and Impartial Trial], 32 [Right to Legal Remedies] and 49 [Right to Work and Exercise Profession] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution) and Article 6 (Right to fair trial) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: ECHR) and Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights (Right to Work).

Legal basis

4. The Referral is based on paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, Article 22 [Processing Referrals], Article 47 [Individual Requests] of the Law on the Constitutional Court of the Republic of Kosovo, No.03/L-121 (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, No. 01/2018 (hereinafter: the Rules of Procedure).

Proceedings before the Constitutional Court

5. On 17 July 2010, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 18 July 2019, the President of the Court appointed Judge Radomir Laban as Judge Rapporteur and the Review Panel composed of Judges: Bekim Sejdiu (presiding), Remzije Istrefi Peci and Nexhmi Rexhepi.
7. On 23 September 2019, the Court notified the Applicant about the registration of the Referral.
8. On 23 September 2019, the Court also notified the Supreme Court about the registration of the Referral.
9. On 5 February 2020, the Review Panel considered the report of the Judge Rapporteur and unanimously made a recommendation to the Court on the inadmissibility of the Referral.

Summary of facts

10. The Applicant is addressing the Constitutional Court for the third time in various judicial proceedings. Therefore, the Court will present the summaries of facts separately for each procedure, more specifically in cases KIO7/17, KI105/17 and KI118/18.

Summary of facts in the case KIO7/17

11. The Applicant was a party in the Court in the case KIO7/17 - Constitutional review of the Judgment of the Supreme Court of Kosovo [Pml. no. 228/2016], of 20 October 2016 and the Judgment of the Court of Appeals [PAKR.no. 231/2015], of 6 August 2015. The Court recalls that the Applicant in his Referral alleged that the regular courts during the criminal proceedings and the review of criminal proceedings had violated his rights guaranteed by the Constitution and the ECHR. The Applicant specifically requested from the Court to declare invalid all criminal proceedings, including the indictment procedure, the criminal proceedings in which he was found guilty and sentenced to imprisonment, and the review of criminal proceedings that were in breach of his Constitutional right to a fair trial in accordance with Article 31 of the Constitution and Article 6 of the ECHR. In conclusion, the Court decided that: (i) as for the Applicant's allegation in relation to the criminal proceedings, it must be declared inadmissible because it is out of time; and (ii) as for the Applicant's allegation regarding the review of criminal proceedings, it must be declared inadmissible because it is incompatible *ratione materiae* with Article 31 of the Constitution, in conjunction with Article 6 of the ECHR.

Summary of facts in the case KI105/17

12. The Applicant was a party in the Court also in the case KI105/17 - Constitutional review of the Decision of the Court of Appeals [Ac. no. 3238/2016], of 24 April 2017, Judgment of the Supreme Court of Kosovo [Pml. no. 228/2016], of 20 October 2016 and the Judgment of the Court of Appeals, PAKR.no. 231/2015, of 6 August 2015. The Applicant filed a Referral with the Court seeking a constitutional review of the Decision of the Court of Appeals [Ac. no.3238/ 2016] issued in enforcement proceedings, and 2(two) other judgments rendered in criminal proceedings, namely the Judgment of the Supreme Court of Kosovo [Pml. no. 228/2016] and the Judgment of the Court of Appeals [PAKR.no.231/2015], which have been the subject matter of the Court's review in case KIO7/17. The Court, by referring to the Applicant's allegations, summarily rejected the allegations concerning the Judgment [Pml.nr.228/2016] of the Supreme Court, of 20 October 2016 and Judgment [PAKR no. 231/2015] of the Court of Appeals, of 6 August 2015, rendered in criminal proceedings, as repetition of the Applicant's request in Case KIO7/17. In the end, as for the enforcement procedure, in respect of the Decision [Ac. no. 3238/2016] of the Court of Appeals, of 24 April 2017, the Court found that it is inadmissible because the Applicant failed to substantiate the allegations that the respective proceedings conducted by the regular courts in the enforcement proceedings were in any way unfair or arbitrary, and that the challenged decision violated the rights and freedoms guaranteed by the Constitution and the ECHR

Summary of facts in the case KI118/19

13. On 3 September 2009, the Governing Board of the Central Bank of Kosovo (hereinafter: the CBK), by Decision [no. 209/504], appointed the Applicant as Liquidator of the Credit Bank of Prishtina (hereinafter: CBP) in liquidation.
14. On 29 April 2010, the Governing Board of the CBK by Decision [no.210/ 216] dismissed the Applicant from the position of CBP Liquidator, on the ground that the CBK was deceived by signing the contract on liquidation of liabilities - loans between the CBP and the debtor "Hysi Group". Moreover, CBK had assessed that the Applicant, by the contract entered into had exceeded the defined competencies of the liquidator.
15. On 3 May 2010, the Applicant filed a complaint addressed to the Governor and the Chairman of the Governing Board of the CBK against the decision of the Governing Board of the CBK [no.210/216] of 29 April 2010, due to: (i) erroneous and incomplete determination of factual situation; (ii) erroneous application of substantive law, and (iii) decision on dismissal.
16. On 1 July 2010, as the CBK officials did not respond to the complaint, the Applicant filed a claim against the Respondent (CBK) in the contested procedure before the Municipal Court in Prishtina: (i) due to the unlawful decision on dismissal; seeking (ii) the annulment of the decision, with a request to confirm that the respondent has issued the decision on his dismissal in unlawful manner; (iii) obliging of the respondent to annul such decision and reinstate him it to the same job position; (iv) obliging of the respondent to compensate the claimant for personal income from the day of his removal from work to his reinstatement to the job position; and (v) compensation of the contested procedure costs.
17. On 5 July 2010, the Applicant filed the claim [A-628/2010] whereby he initiated the administrative conflict at the Supreme Court of Kosovo- the Administrative Disputes Panel, due to the unlawful decision on dismissal.
18. On 13 August 2010, the CBK, in its capacity as a Respondent, filed a response to the claim with the Supreme Court of Kosovo, alleging that the Applicant's statement of claim was unfounded.
19. On 28 May 2013, [following the reorganization of the Courts pursuant to the Law on Courts], the Supreme Court forwarded this case for adjudication to the Basic Court in Prishtina, the General Department which, by Decision [C.nr.1473/10], decided to:
 - (i) the procedure relating to this legal matter (the contested procedure) is suspended pending the conclusion of the procedure, initiated by the claim initiating the administrative dispute, the court found that this is a preliminary matter;
 - (ii) The procedure will resume following a final decision on the administrative conflict [A-628/2010].

20. On 17 July 2013, the Basic Court in Prishtina - Department for Administrative Matters, by Judgment [A. no. 628/2010] rejected the statement of claim as unfounded in the administrative procedure whereby the Applicant sought the confirmation of the unlawfulness of the decision of the Governing Board of the CBK [no. 210/216] of 29 April 2010.
21. On an unspecified date, the Applicant files an appeal with the Court of Appeals on the ground of: (i) substantial violation of the provisions of procedure; (ii) erroneous and incomplete determination of the factual situation; and (iii) erroneous application of substantive law.
22. On 18 December 2013, the Court of Appeals by Decision [AA.no.285/2013] decided as follows: (i) annulled the Judgment [A.no.628/2010] of the Basic Court in Prishtina-Department for Administrative Matters, of 17 July 2013, due to the lack of subject matter jurisdiction; (ii) dismissed the Applicant's claim; (iii) instructed the Applicant for a contested procedure before the Basic Court - General Department, Division for Civil Matters.
23. On 28 January 2014, the CBK, acting in the capacity of the Respondent, filed a request for extraordinary review of the Decision [AA.no.285 / 2013] of the Court of Appeal, due to: (i) a violation of substantive law; and (ii) violations of the provisions of the procedure; and (iii) non-compliance with the instruction on legal remedies.
24. On 30 May 2014, the Supreme Court by Judgment [ARJ.No.2/2014] rejected as ungrounded the CBK's request for extraordinary review filed against the Decision of the Court of Appeals [AA.no.285/2013] , of 18 December 2013.
25. On 30 June 2014, the Basic Court in Prishtina, by Judgment [C. no. 1473/2010] upheld the Applicant's statement of claim in its entirety, by consequently: (i) annulling the decision of the Governing Board of the CBK [no. 210/216] of 29 April 2010, whereby the Applicant was dismissed from the position of the liquidator of CBP(Credit Bank of Prishtina) under liquidation; (ii) obliging the CBK to reinstate the Applicant to the former position of the liquidator of CBP in liquidation and compensate his personal income of € 3,000 per month, starting from 1 June 2010 until the definitive reinstatement to the previous job position, along with the respective interest as of time-deposited assets for over one year without destination purpose, all this, within 7 (seven) days of the receipt of this judgment; (iii) obliging the CBK to compensate the Applicant's costs of the proceedings amounting to the sum of € 270.40.
26. On 22 August 2014, the CBK filed an appeal with the Court of Appeals against the Judgment [C. no. 1473/2010] of the Basic Court, of 30 June 2014, due to: the (i) substantial violations of the provisions of the Contested Procedure, (ii) incomplete and erroneous determination of the factual situation and (iii) erroneous application of the substantive law, by proposing to this Court to approve the appeal of the respondent and amend the appealed judgment by rejecting the claimant's statement of claim, or quash the appealed judgment and remand the case to the first instance court for retrial.

27. On 5 September 2014, the Applicant submitted a response to the appeal, proposing that: (i) the respondent's appeal be rejected as unfounded and (ii) the judgment of the first instance be confirmed.
28. On 22 November 2018, the Court of Appeals by Judgment [Ac.no.3485 /2014] decided to: (i) approve the appeal of the respondent CBK; (ii) amend the Judgment of the Basic Court [C.no.1473/10] of 30 June 2014, and thus reject as unfounded the Applicant's statement of claim, seeking the annulment of Decision[no.210/216] of the CBK Board, of 29 April 2010; and oblige the Respondent CBK to reinstate the Applicant to the former position of the liquidator of BKT in liquidation and to compensate him for the personal income of € 3,000 per month, starting from 1 June 2010 until the definitive reinstatement to the previous job position, along with the respective interest as of time-deposited assets for over one year without destination purpose, all this, within 7 (seven) days of the receipt of this judgment and oblige the CBK to compensate the Applicant's costs of the proceedings amounting to the sum of € 270.40, and (iii) order that each party shall bear its own costs of proceedings.
29. On 3 January 2015, the Applicant filed an appeal against Judgment [Ac.no.3485/2014] of 22 November 2018, due to: (i) substantial violation of the provisions of the contested procedure; and (ii) erroneous application of substantive law.
30. On 20 March 2019, the Supreme Court of Kosovo, by Judgment [Rev.no.71/2019], decided to reject as unfounded the revision filed against the Judgment [Ac.no.3485 / 2014] of the Court of the Appeals, of 22 November 2018.

Applicant's allegations

31. The Applicant, in essence, alleges two types of violation of rights, which he considers to have been violated.
32. Firstly, the Applicant alleges that *"The decision of the CBK to dismiss Pashk Mirash, from the position of Liquidator of the Credit Bank of Prishtina in liquidation dated 29.04.2010, under protocol no. 210/216, approved by the Judgment of the Court of Appeals Ac. no. 3485/14 of 22 November 2018 and confirmed by the Judgment Rev. no. 71/2019 of the Supreme Court of the Republic of Kosovo, of 20.03.2019, has violated the provisions of the Constitution of the Republic of Kosovo, more concretely: without further specifying the manner in which his rights have been violated, he enumerates the rights protected by Articles 3[Equality before the Law], 16 [Supremacy of the Constitution], 21 [General Principles], 31 [Right to Fair and Impartial Trial], 32 [Right to Legal Remedies] and 49 [Right to Work and Exercise Profession] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution) and Article 6 (Right to fair trial) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: ECHR) and Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights (Right to Work).*
33. Secondly, in relation to his allegation for a violation of Article 32 of the Constitution, the Applicant states that the CBK has committed procedural

violations of Articles 78 and 85 of the Law No.03/L-212 on Labour, as it should have initially conducted (i) a Disciplinary procedure within the Disciplinary Committee within the CBK, and then (ii) a Complaint procedure in the Complaints Committee as the second instance. The Applicant further states that the decision of the CBK does not contain the elements of an administrative act and deprives the Applicant of the right to complain and thereby violates his right provided for in Article 32 of the Constitution.

34. Finally, the Applicant requests that his Referral be approved pursuant to (i) Judgment [C.no.1473/10] of the Basic Court, of 30 June 2014; whereas (ii) Decision [no. 210/216] of the Governing Board of the CBK of 29 April 2010; Judgment [Ac.no.3485/14] of the Court of Appeal in Prishtina, of 22 November 2018; as well as the Judgment [Rev. no. 71/2019] of the Supreme Court, of 20 March 2019 be annulled and the Applicant be reinstated to the former position of liquidator of CBP (Credit Bank of Prishtina) and be compensated his personal income of € 3,000 per month, starting from 1 June 2010 until his definitive reinstatement to the job position, (or a different job position that corresponds to the qualification and work experience), along with the respective interest as on time-deposited assets for one year as well as have the procedural costs compensated.

Admissibility of the Referral

35. The Court first examines whether the Referral has fulfilled the admissibility requirements established by the Constitution, and further specified by the Law and 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 examines whether the Applicant has fulfilled the admissibility requirements as further specified in the Law. In this respect, the Court first refers to Article 47[Individual Requests], 48 [Accuracy of the Referral], and 49 [Deadlines] of the Law which provide:

Article 47 of the 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”

Article 48 of the Law
[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 of the Law
[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...”

38. As to the fulfilment of these requirements, the Court finds that the Applicant is an authorized party challenging an act of a public authority, namely the Judgment of the Supreme Court [Rev. no. 71/2019] of 13 November 2017, after having exhausted all the legal remedies provided by the law.
39. First of all, the Court notes that in his Referral submitted to the Constitutional Court the Applicant does not challenge decisions which have already been subject to constitutional review by the Constitutional Court. Therefore, the Court will not consider them because, pursuant to Article 116 of the Constitution, *“... they are binding on the judiciary and all persons and institutions of the Republic of Kosovo.”*
40. The Court further notes that in his referral, the Applicant has in essence raised two allegations. The first allegation concerns (i) the violation of Articles 3 [Equality before the law], 16 [Supremacy of the Constitution], 21 [General principles], 31 [Right to Fair and Impartial trial], 49 [Right to Work and Exercise Profession] of the Constitution in conjunction with Article 6 of the ECHR and Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights. The second allegation concerns (ii) the violation of the constitutional right provided by Article 32 [Right to Legal Remedies].
41. Accordingly, the Court will next consider the other admissibility criteria which relate only to the first allegation, in relation to (i) the violation of Articles 3 [Equality before the law], 16 [Supremacy of the Constitution], 21 [General Principles], 31 [Right to Fair and Impartial Trial], 49 [Right to Work and Exercise Profession] of the Constitution in conjunction with Article 6 of the ECHR and Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights. The Court will also examine whether the Applicant has fulfilled the other admissibility criteria set out in Rule 39 (1) (d) of the Rules of Procedure which establishes:

(d) the referral accurately clarifies and adequately sets forth for the facts and allegations for violation of constitutional rights or provisions.”

42. As to the Applicant's allegation for a violation of his rights (i) the violation of a large number of the rights of the Constitution in conjunction with Article 6 of the ECHR and Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights, namely *the violation of Article 31 of the Constitution in conjunction with Article 6 of the ECHR and the violation of Article 49 of the Constitution in conjunction with Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights*, the Court notes that the Applicant has not presented arguments on how have these constitutional provisions in conjunction with those of ECHR and the International Covenant on Economic, Social and Cultural Rights been violated by the regular courts which have decided on his statement of claim. The Applicant merely referred to these Articles and requested from the Court to find violations thereof, without providing any relevant justification on the merits of his allegations.
43. In this respect, the Court recalls that the mere citing of Articles of the Constitution or the ECHR cannot be regarded as fulfilment of the obligation stemming from Article 48 of the Law in conjunction with point (d) of paragraph (1) of Rule 39 of the Rules of Procedure requiring the Applicants to clarify "*accurately and adequately [...] the allegations for violation of their constitutional rights or provisions*". Accordingly, and in line with the case law of this Court, the latter, will not further treat the Applicant's allegation for a violation of Article 31 of the Constitution in conjunction with Article 6 of the ECHR, as well as Article 49 of the Constitution in conjunction with Article 6 and 7 of the International Covenant on Economic, Social and Cultural Rights since the Applicant has failed to precisely clarify his allegation for violation of these provisions (see, in this respect, Constitutional Court's Resolutions on Inadmissibility - where similar allegations were rejected: KI95/19, Applicant *Ruzhdi Bejta*, Resolution on Inadmissibility, of 21 October 2019, paragraphs 31-33, KI02/18, Applicant *Government of the Republic of Kosovo [Ministry of Environment and Spatial Planning]*, paragraphs 40-41; and KI91 /18, Applicants *Njazi Gashi, Lirije Sadikaj, Nazife Hajdini-Ahmetaj and Adriana Rexhepi*, paragraphs 52-54).
44. Therefore, the Court finds that the Applicant's Referral does not clearly explain and properly represent allegations for a violation of his right in relation to (i) the violation of a large number of Articles of the Constitution in conjunction with Article 6 of the ECHR and Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights, and as such these allegations of the Applicant must be rejected due to the failure to meet the admissibility criteria stipulated in Article 48 of the Law in conjunction with Rule 39 (1) (d) of the Rules of Procedure.
45. The Court will further consider the other admissibility criteria only insofar as they relate to the second allegation, which concerns the violation of the right to legal remedies provided for in Article 32 of the Constitution. In relation to this allegation, the Court will also examine whether the Applicant has fulfilled the other admissibility requirements laid down in Rule 39(2) of the Rules of Procedure, which provides:

“(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”.

46. As regards the Applicant's allegation for a violation of the two-instance procedure at the CBK, namely (i) *the lack of disciplinary procedure in the Disciplinary Committee within the CBK; and (ii) the failure to conduct the complaint procedure in the Complaints Committee as a second instance within the CBK*, the Court notes that the Applicant in essence alleges that the Supreme Court failed to consider the allegations raised by the Applicant.
47. The Court notes that the essence of the Applicant's allegations concerns the erroneous determination of the factual situation by the Supreme Court and that he has also made the same allegations in his appeals before the regular courts.
48. In this regard, the Court notes that the Judgment [Rev.no.71/2019] of the Supreme Court, of 20 March 2019 addressed and decided on the aforementioned allegations, which had already been raised by the Applicant.
49. In this respect, the Court refers to Judgment [Rev. no.71/2019], of the Supreme Court which reasoned, *“Moreover, if we look into and carefully analyze the legal text and the content of Article 41.1 of the aforementioned Regulation [UNMIK Regulation no. 1999/21, dated 15 November 1999 - emphasis added], it results that the action of the claimant which concerns the conclusion of this agreement is contrary to his competence provided in this juridical-legal provision. From the content of this legal provision, it does not result that the claimant was entitled to enter into such an agreement, so this was the main reason for the CBK not to accept its validity. The claimant also according to point 4 of the respondent's decision on his appointment was obliged to report to the CBK on the implementation of the liquidation process of the Credit Bank in liquidation, however, the claimant has notified the CBP for having entered into the agreement and signing it 13 days after its conclusion, hence, according to the assessment of the Supreme Court, this action and the act of concluding this agreement itself, constitute actions that are in contradiction with the respondent's decision appointing him as a liquidator and with the extent of his legal competences defined by Article 41.1 in particular and in general by Articles 41-45 of the said Regulation, which as a consequence caused his dismissal from this position. In these circumstances, there was no space for any disciplinary proceedings against the claimant, when all the facts and finally the fact of the annulment of this agreement by a court's final judgment, which is contained in the case file, lead to the conclusion that the claimant's action was unlawful, thus the respondent's decision to dismiss the claimant from the position of bank liquidator was rendered in full accordance with Article 38 of UNMIK Regulation No. 1999/21 dated 15 November 1999, which provides for the competences of the CBK to suspend and dismiss the persons of a bank”.*
50. The Court considers that, on the basis of the facts of this case, which derive from the documents presented and the Applicant's appeal claims, the Supreme Court has sufficiently reasoned its decision, including the grounds on which it

rejected the Applicant's request for revision. Consequently, the Court notes that the Applicant does not agree with the outcome of the proceedings before the regular courts, by challenging the assessment of the evidence and the establishment of the facts by those courts.

51. The Court recalls that the mere fact that the Applicant is not satisfied with the outcome of the decisions of the Supreme Court or the mention of Articles of the Constitution is not sufficient to build an allegation for a constitutional violation. When alleging such violations of the Constitution, the Applicants must provide reasoned allegations and compelling arguments (see, *mutatis mutandis*, Constitutional Court cases: KI78/19, Applicant *Miodrag Pavić*, Resolution on Inadmissibility, of 1 November 2019, paragraph 56 ; KI136/14, Applicant *Abdullah Bajqinca*, Resolution on Inadmissibility, of 10 February 2015, paragraph 33).
52. In this regard, the Court notes that it is not the duty of the Constitutional Court to deal with errors of fact or of law allegedly committed by the regular courts when assessing the evidence or applying the law (legality), unless and in so far that they may have infringed the rights and freedoms protected by the Constitution (constitutionality). It is the duty of the regular courts to interpret and apply the relevant rules of procedural and substantive law (see, *mutatis mutandis*, ECtHR case, *Garcia Ruiz v. Spain*, Application No.30544/96, Judgment of 21 January 1999, paragraph 28; see also Court case: KI97/19, Applicants *Gëzim Sadrijaj, Gazmend Sadrijaj and Hidajete Sadrijaj*, Resolution on Inadmissibility of 21 October 2019, paragraph 52).
53. In this respect, the Court considers that the admissibility requirements have not been met and that the Applicant has failed to substantiate his allegations that the challenged Judgment violated his constitutional rights and freedoms.
54. Consequently, the Referral is manifestly ill-founded on constitutional grounds and is declared inadmissible pursuant to Rule 39 (2) of the Rules of Procedure.

Conclusion

55. As regards the first allegation of the Applicant, the Court finds that the Applicant's Referral does not clearly explain and does not adequately represent the allegations for violation of his rights in relation to (i) the violation of a series of Articles of the Constitution and in conjunction with Article 6 of the ECHR and Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights, and as such, this allegation of the Applicant must be rejected due to the failure to meet the admissibility criteria set out in Article 48 of the Act in conjunction with Rule 39 (1) (d) of the Rules of Procedure.
56. As regards the second allegation of the Applicant which concerns the violation of his constitutional right set out in Article 32 [Right to Legal Remedies], the Court finds that the Referral is manifestly ill-founded on constitutional grounds and is therefore declared inadmissible pursuant to Rule 39 (2) of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.1 and 113.7 of the Constitution, Article 20 of the Law and Rules 39 (1) (d), 39 (2) and 59 (2) of the Rules of Procedure, on 5 February 2020, unanimously

DECIDES

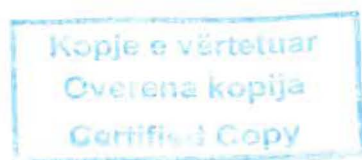
- I. TO DECLARE the Referral inadmissible;
- II. TO NOTIFY this Decision to the Parties;
- III. TO PUBLISH this Decision in the Official Gazette, in accordance with Article 20.4 of the Law;
- IV. This Decision is effective immediately.

Judge Rapporteur

President of the Constitutional Court

Radomir Laban

Arta Rama-Hajrizi



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