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

**Prishtina, on 13 March 2020**
**Ref. no.:RK 1528/20**

***This translation is unofficial and serves for information purposes only***

# RESOLUTION ON INADMISSIBILITY

in

**Case No. KI46/18**

Applicant

**Behxhet Fejza, Ahmet Haxholli, Fehmi Shahini, Beqir Latifi and Skender Llugiqi**

**Constitutional review of Decision Rev. No. 9/2018 of the Supreme Court of the Republic of Kosovo of 29 January 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 Behxhet Fejza, Ahmet Haxholli, Fehmi Shahini, Beqir Latifi and Skender Llugiqi, from Drenas represented by Ali Qosaj, a lawyer from Prishtina (hereinafter: the Applicants).

## Challenged decision

2. The Applicants challenge the constitutionality of Decision Rev. No. 9/2018 of the Supreme Court of the Republic of Kosovo, of 29 January 2018.

## Subject matter

3. The subject matter is the constitutional review of the challenged Decision of the Supreme Court, which allegedly violated the Applicants' fundamental rights and freedoms guaranteed by Article 32 [Right to Legal Remedies] and Article 54 [Judicial Protection of Rights] of the Constitution of the Republic of Kosovo ( hereinafter: the Constitution).

## Legal basis

4. The Referral is based on Article 113, paragraphs 1 and 7 [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).

5. On 31 May 2018, the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) adopted in the administrative session the amendments and supplementation to the Rules of Procedure, which was published in the Official Gazette of the Republic of Kosovo on 21 June 2018 and entered into force 15 (fifteen) days after its publication. Accordingly, in reviewing the Referral, the Court refers to the legal provisions of the new Rules of Procedure in force.

## Proceedings before the Constitutional Court

6. On 29 March 2018, the Applicants submitted the Referral to the Court. The Applicants submitted to the Court additional documents on 3 April and 2 May 2018, enclosing the power of attorney for their legal representative before the Court.

7. On 30 March 2018, the President of the Court appointed Judge Ivan Čukalović as Judge Rapporteur. On the same date, the President of the Court appointed the Review Panel composed of Judges: Snezhana Botusharova (Presiding), Bekim Sejdiu and Gresa Caka – Nimani (members).

8. On 24 April 2018, the Court notified the Applicant about the registration of the Referral and sent a copy of the Referral to the Supreme Court.

9. On 16 June 2018, the term of office of the Judges: Snezhana Botusharova and Almiro Rodrigues ended. On 26 June 2018, the term of office of the judges: Altay Suroy and Ivan Čukalović ended.

10. On 9 August 2018, the President of the Republic of Kosovo appointed new judges: Bajram Ljatifi, Safet Hoxha, Radomir Laban, Remzije Istrefi-Peci and Nexhmi Rexhepi.

11. On 17 August 2018, the President of the Court by Decision GJ.R. KI46/18 appointed Judge Remzije Istrefi-Peci, as Judge Rapporteur in this case.

12. On 24 April 2019, the President of the Court rendered the decision to replace the Review Panel and instead of Judge Snezhana Botusharova in the Review Panel, Judge Nexhmi Rexhepi was appointed.

13. On 16 January 2020, the Review Panel considered the report of the Judge Rapporteur and unanimously recommended to the Court the inadmissibility of the Referral.

**Summary of facts**

14. On 10 February 2005, the Applicants, through their authorized representative, in the Municipal Court in Prishtina, filed claim against the respondents: 1. Kosovo Energy Corporation (KEK); and 2. J.S.C. "Kosova Thëngjilli" – Obiliq for compensation of unpaid personal income during 2003-2004.

15. On 24 September 2009, the Municipal Court in Prishtina by Decision C. No. 1393/13 (the decision is missing in the case file) decided the case in such a way that it found that the Applicants' claim has been withdrawn because at the scheduled hearing of 24 September 2009, the Applicants' representative did not attend the hearing although he was duly summoned, while he did not justify his absence, however, the opposing party did not request that the hearing be held without the presence of their representative.

16. On 24 September 2009, the Applicants' representative filed with the Municipal Court in Prishtina – Request to return to previous situation on the ground that he had not received the summon for the court hearing of 24 September 2009, which was scheduled to be held in the first instance court for the review of the claim filed by the Applicants.

17. On 25 September 2009, by Decision C. No. 30/05, the Municipal Court in Prishtina dismissed the request for return to previous situation as inadmissible.

18. On 12 October 2009, against Decision C. No. 30/05 of the Municipal Court, the authorized representative of the Applicants filed an appeal on the grounds of violation of the provisions of the Law on Contested Procedure (the LCP).

19. On 03 June 2013, the Court of Appeals of Kosovo by Decision Ac. No. 5335/2012, approved as grounded the appeal and remanded the case for retrial to the first instance court with the remarks and suggestions as in the decision.

20. On 13 March 2014, the Basic Court in Prishtina by Decision C. No 1393/13 in the retrial procedure, rejected as ungrounded the request of the Applicant's

representative for the return to the previous situation in this legal contested matter.

21. On 22 April 2014, the Applicants' representative filed appeal against Decision C. No. 1393/13 of the Basic Court, although in the enacting clause of the Decision (item II) it was determined that against this decision is not allowed appeal.

22. On 25 September 2014, the Basic Court in Prishtina - General Department - Civil Branch decided the case itself out of court hearing by Decision C. No. 1393/13, rejected the appeal as inadmissible.

23. On 7 October 2014 and 9 October 2014, the Applicants, through their authorized representative, against the Decision C. No. 1393/13 filed an appeal with the Court of Appeals of Kosovo on the grounds of essential violation of the provisions of the Law on Contested Procedure, with a proposal that the appeals be approved as admissible and the case be remanded to the first instance court for reconsideration and retrial.

24. On 6 November 2017, the Court of Appeals by Decision AC. No. 4060/14, dismissed as inadmissible the appeals of the Applicants' representative.

25. On an unspecified date against Decision AC. No. 4060/14 of the Court of Appeals, the Applicants, through their authorized representative, filed a request for revision with the Supreme Court of the Republic of Kosovo.

26. On 29 January 2018, the Supreme Court of the Republic of Kosovo decided on the request for revision and by Decision Rev. No. 9/2018 dismissed the Applicants' request for revision as inadmissible.

**Applicants' allegations**

27. The Applicants allege that by Decision Rev. No. 9/2018, of the Supreme Court of Kosovo of 29.01.2018, which dismissed the revision for review of Decision AC. No. 4060/14, of the Court of Appeals of 06.11.2017 and Decision C. No. 1393/13 of the Basic Court, of 13.03.2014, their fundamental rights and freedoms guaranteed by Articles 32 [Right to Legal Remedies] and 54 [Judicial Protection of Rights] of the Constitution of the Republic of Kosovo have been violated.

28. The Applicants base their request mainly on the erroneous application of the provisions of the applicable law, which, according to them, have been selectively enforced by the regular courts, and which denied them the right to an effective appeal as well as the judicial protection of the rights guaranteed by the Constitution.

29. In this regard, the Applicants state: "*The regular courts of all instances held that the parties have no right of appeal or revision, against the decision and based (with different justifications for this matter), on the contested fact, by the party to the procedure, and on which fact depends the completion, namely non-completion of the procedure, according to the claim filed with the court,*

*finding that the provisions of the Law on Contested Procedure do not allow the appeal and other legal remedies to verify the accuracy of this fact, found by the first instance court".*

30. The Applicants allege that the court decisions were contradictory to each other, in particular in the part of the description of the legal instructions on the use of the legal remedy of appeal.

31. In this regard, the Applicants allege that the courts gave different reasoning stating that according to this reasoning, for the Supreme Court, the extraordinary legal remedy (revision) *"it is not allowed because the case is not completed and for the Court of Appeals, the regular legal remedy (appeal) is not allowed because the case was completed (we are dealing with the same civil-legal case)".*

32. The Applicants also state *"The enacting clause of the decision of the Supreme Court also does not contain the basic elements that an enacting clause should contain, by avoiding to indicate therein, the responding parties, the date of filing the extraordinary legal remedy and data of the judgments challenged by the extraordinary remedy (the number and date of the challenged decisions), which render the enacting clause incomprehensible, non-executable and non-reviewable".*

33. Finally, the Applicants request the Court: (i) to annul Decision Rev. No. 9/2018 of the Supreme Court of the Republic of Kosovo, of 29.01.2018, which dismissed the revision for review of the challenged decisions; (ii) to refer the Basic Court to return to previous situation, and (iii) to recognize the right of appeal against Decision C. No. 30/05 of the Municipal Court in Prishtina, which dismissed as inadmissible the request to return to previous situation.

**Relevant constitutional and legal provisions**

**The Constitution of the Republic of Kosovo**

**Article 32 [Right to Legal Remedies]**

*"Every person has the right to pursue legal remedies against judicial and administrative decisions which infringe on his/her rights or interests, in the manner provided by law."*

**Article 54 [Judicial Protection of Rights]**

*"Everyone enjoys the right of judicial protection if any right guaranteed by this Constitution or by law has been violated or denied and has the right to an effective legal remedy if found that such right has been violated."*

**European Convention on Human Rights**

**Article 13 [Right to an effective remedy] of the ECHR**

*"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity ".*

**LAW NO. 03/L-006 ON THE CONTESTED PROCEDURE**

RETURN TO PREVIOUS SITUATION

**Article 129**

*129.1 "When the party does not take part in the proceeding or misses the due date for completion of any procedural action and due to this it loses the right to complete the procedural action bound to the prescribed period of time, the court may permit this party to complete this action with delay if there are reasonable circumstances which cannot be determined or avoided."*

*129.2 If the return to previous situation is permitted, the contentious procedure returns to the situation in which was before failure to act and all the decisions rendered to the court due to failure to act are cancelled."*

**Article 130**

*130.1* "Proposal for return to previous situation is submitted to the court in which the failed action should have taken place."

**Article 133**

*133.2 "The court initiates the proceeding only when the party expressively proposes return to previous situation. The court shall not initiate a proceeding if the facts of the proposal are widely known. The court acts in the same way also when the proposal is based on clearly unfounded facts or when the court has sufficient evidence in the file of the subject to render the decision for return to previous situation."*

*133.4 The appeal against the decision for rejection of proposal for return to previous situation shall not be permitted unless the decision is rendered due to absence of the defendant in the proceeding."*

COMPLAINT AGAINST THE VERDICT

***Article 206***

*206.2 "If this law foresees that a specific complaint isn't allowed, the verdict of the first instance can be striked through a specific complaint*

*presented against the verdict which finalizes the processing of the case in the first instance court."*

REVISION AGAINST THE VERDICT

***Article 228***

*228.1 "Sides can present revision against verdict of absolute decree though which the procedure in court of second instance will finish."*

***Article 409***

*409.1 "If the plaintiff does not come to the preparatory session even though he/she is summoned regularly, it is considered that the charge is withdrawn, except if the accused asks for it".*

**Admissibility of the Referral**

34. The Court first examines whether the admissibility requirements established in the Constitution, and further specified in the Law and the Rules of Procedure have been met.

35. In this respect, the Court refers to Article 113 [Jurisdiction and Authorized Parties], paragraph 1 and 7 of the Constitution, which establishes:

*"1. The Constitutional Court decides only on matters referred to the court in a legal manner by authorized parties.*
*[...]*
*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".*

36. The Court also examines whether the Applicant has met the admissibility requirements as defined by the Law. In this regard, the Court first refers to Articles 47 [Individual Requests] and 48 [Accuracy of the Referral of the Law, which stipulate:

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".*

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".*

37. As to the fulfillment of these criteria, the Court finds that the Applicant is an authorized party challenging the acts of a public authority. The Applicant has also clarified the rights and freedoms he claims to have been violated, in accordance with the requirements of Article 48 of the Law and has submitted the Referral in accordance with the deadlines set out in Article 49 of the Law.

38. However, the Court should further examine whether the criteria set out in Rule 39 [Admissibility Criteria] of the Rules of Procedure have been met, which *inter alia* establishes:

Rule 39 [Admissibility Criteria]

*(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".*

39. The Court recalls that the crucial issue that is presented as disputable throughout the court proceedings is whether the Applicants were legally denied the request for return to previous situation, as the Applicants' representative was not present at the hearing of 29 September 2009, despite claiming that he was never legally summoned to that hearing. The hearing of 29 September 2009 was called to consider the Applicants' claim (for non-payment of the claimants' salaries) and which was finalized by the Decision of the Municipal Court considering the claim as withdrawn, as the claimants' representative did not appear at the hearing and did not justify his absence. According to the Applicants, the rejection of the request for return to previous situation resulted in a violation of Articles 32 and 54 of the Constitution.

40. The Court recalls Article 53 [Interpretation of Human Rights Provisions] of the Constitution: *"Human rights and fundamental freedoms guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights" (ECHR)* therefore, in individual cases when the court deals with alleged violations of human rights, it takes into account the case law of the ECtHR, which interprets the provisions of the European Convention for the Protection of Human Rights [ECHR] and in the present case Article 13 [Right to an effective remedy].

41. The Court reiterates that Article 13 of the Convention guarantees the availability at a national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order (see ECtHR Judgment, case *Gjyli v. Albania* of 29 September 2009 paragraph 53).

42. The scope of the Contracting States' obligations under Article 13 varies depending on the nature of the applicant's complaint; however, the legal remedy required by Article 13 must be "effective" in practice as well as in law (see, for example, *Îlhan v. Turkey* Judgment, of 27 June 2000, paragraph 97).

43. The ECtHR further stated that the legal remedy required by Article 13 implies that its exercise must not be unjustifiably hindered by the acts or omissions of

the authorities of the respondent State (see *Hasan and Chaush v. Bulgaria,* ECtHR Judgment of 26 October 2000 paragraph 96).

44. The ECtHR in its case-law regarding Article 13 found that *"however the effectiveness of a legal remedy does not depend on the certainty of a favourable outcome for the applicant" (see Kudla v. Poland* ECtHR Judgment of *26 October 2000).*

45. The Court notes that according to the ECtHR case law, Article 13 of the Convention clearly defines the subsidiary character of the Convention in relation to domestic law when it has clearly stated that any violation of any of the rights guaranteed by the ECHR to any person *"has the right to an effective remedy before a national body"* in this respect the rule of subsidiarity is *mutatis mutandis* applicable to the constitutional adjudication (see, *inter alia,* the cases of the Constitutional Court, KI 158/18, Applicant *Ajet Ajeti,* Resolution on Inadmissibility of 13 April 2019, paragraphs 40--42; KI07/15, Applicant *Shefki Zogiani,* Resolution on Inadmissibility, of 8 December 2016, paragraph 61).

46. The right to a legal remedy (Article 32 of the Constitution) or to an effective remedy (Article 13 of the ECHR) is not in itself an autonomous right and by the ECtHR is largely dealt with in conjunction with any other right such as the right to a fair trial, or the right to property or any other right (see, *inter alia, Gjyli v. Albania,* cited above, items 3 and 4 of the operative part of the judgment).

47. The Court, when assessing the case on a constitutional basis, finds that the Applicant should have substantiated what right guaranteed by the Constitution, namely by the ECHR has been violated and subsequently substantiate that he has been denied the right to exercise a legal remedy that would prevent or enable the reestablishment of that freedom or right. The mere mentioning of Article 54 of the Constitution [judicial protection of rights] by the Applicant in the present case and without giving the necessary explanations and relevant evidence does not justify the allegation of a violation of Article 32 in conjunction with Article 13 of the ECHR.

48. The Court further finds that the Applicants' claim filed through their authorized representative with the Municipal Court in Prishtina for compensation of personal income was not considered on its merits, because according to the reasoning of that court but also of the courts of other instances the Applicants' representative did not attend the hearing where the claim would be dealt with and then the subsequent court decisions have dealt with procedural issues in accordance with the applicable law.

49. The representative has consistently maintained that the summon for the hearing was never received and that this was the reason why he requested return to the previous situation of the court dispute.

50. The Municipal Court in Prishtina when rejecting the request for return to the previous situation reasoned *"In accordance with Article 133.2 of the LPC regarding the proposal for return to the previous situation the court*

*schedules a hearing only when the party expressively proposes return to previous situation. The court shall not initiate a proceeding if the facts of the proposal are widely known. The court acts in the same way also when the proposal is based on clearly unfounded facts or when the court has sufficient evidence in the file of the subject to render the decision for return to previous situation. However, in the present case in the proposal for return to the previous situation the claimants' authorized representative did not propose to schedule a hearing on the proposal, and also because in the present case the court has sufficient evidence in the case file such as the acknowledgment of personal receipt received by the claimants' representative of 12.06.2009, the court within the meaning of the cited legal provision in conjunction with Article 133. 1 of the LCP decided as in the enacting clause of this decision".*

51. Furthermore, the Court also notes that following the appeals of the Applicants' representative, the Court of Appeals on 03 June 2013, by Decision Ac. No. 5335/2012, decided that the case be remanded for retrial to the first instance court on the grounds of erroneous application of law and subsequently the Basic Court when examining the proposal for return to previous situation and according to the recommendations of the Court of Appeals on 13 March 2014, rejected as ungrounded the proposal of the Applicants' representative to return to previous situation, reasoning that *"As the Applicants' representative in the court hearing did not provide to the court any evidence or eventually did not propose the adducing of any evidence – be that by graphology expertise for certification of signature placed in the acknowledgment of personal receipt personal when receiving the summon for the hearing of 24.09.2009, or the hearing in a capacity of the witness of the submitter of this court when delivering a summon, although there has been such a procedural opportunity, therefore, it did not make reliable to the court, that the signature in the acknowledgment of receipt is not his.... for the court (from the acknowledgment or personal receipt ) was established the fact that the claimants' representative was duly summoned in the court".*

52. The appeal of the Applicants' representative (filed despite that item II of the enacting clause of the challenged Decision clearly provided that *"Against this decision is not allowed appeal)* was considered by the Basic Court and was dismissed on 25 September 2014, on the grounds that *"The provision of Article 133.4 of the LCP establishes that against this decision is not allowed special appeal....."*.

53. The Court of Appeals of Kosovo by Decision AC. No. 4060/14, of 06 November 2017, rejected as inadmissible the appeals of the Applicants' representative and reasoned *"In this case the representative of the claiming party, did not file appeal against the decision which ended the processing of the case in the first instance court, namely Decision C. No. 1393/13 of 24.09.2009, which considered as withdrawn the claimants' claim, whereas against Decision C. No. 1393/13 of 13.03.2014, which decision rejected the proposal of the representative of the claiming party to return to the previous situation is not allowed a special appeal".*

54. Finally, the Supreme Court of the Republic of Kosovo when deciding on the request for revision dismissing it as inadmissible by Decision Rev. No. 9/2018,

reasoned *"The provision of Article 228.1 of the LCP, stipulates that the parties may file a revision only against the final decision, by which the court proceeding in the second instance is completed".*

55. The Supreme Court further reasoned *"By the second instance decision which dismissed as inadmissible the appeal against the decision of the first instance court that rejected as ungrounded the proposal for return to previous situation of the claimants' representative, the revision is not allowed due to the fact that we do not have a final decision within the meaning of Article 228,1 of the LCP".*

56. Based on the foregoing, the Court finds that the Applicants had the legal remedies foreseen by law at their disposal (claim, appeals and request for return to previous situation), that each legal remedy used by the Applicants – their representative was dealt with by the competent court and that the Applicant did not prove that those remedies were ineffective. On the contrary, the case law of the regular courts proved that the appeal as a regular legal remedy is effective in the legal system of Kosovo and that the effectiveness of the legal remedy is assessed depending on the circumstances of the case which in the present case the legal remedies were consistently applied by the Applicants, both regular and extraordinary remedies, and the Applicants received replies from the courts of all instances.

57. Furthermore, the court finds that according to the court decisions that are part of the case, the Applicants (their representative) was the one that did not attend the court hearing and that the courts found that he was duly summoned, while the Applicant stated in the Referral that *"he is aware that it is not the task of the Constitutional Court to assess whether or not he was served with the summon for a hearing and whether the signature on the acknowledgment of receipt was his signature or not".*

58. The Court further notes that the constitutional control exercised by this Court over the court decisions is limited only to the protection of the constitutional rights of the individual. Whereas the issues of interpretation and enforcement of the law for the resolution of concrete cases do not constitute constitutional jurisdiction, if and insofar they are not accompanied by a violation of constitutional rights and principles (See, *inter alia*, Resolution of the Court in case KI47-48/15, of 12 March 2015, Applicant *Beqir Koskoviku and Mustafë Lutolli*).

59. Therefore, the Court notes that the Applicants merely do not agree with the outcome of the proceedings before the regular courts. However, the dissatisfaction of the Applicants with the outcome of the proceedings by the regular courts cannot of itself raise an arguable claim of violation of the constitutional rights (see, *mutatis mutandis,* case *Mezotur – Tiszazugi Tarsulat v. Hungary*, paragraph 21, ECtHR, Judgment of 26 July 2005; see Resolution on Inadmissibility of the Constitutional Court in case KI25/11, Applicant *Shaban Gojnovci*, of 28 May 2012, paragraph 28; see also case KI56/17, Applicant *Lumturije Murtezaj*, Resolution of Inadmissibility of 18 December 2017, paragraph 42).

60. The Court further states that an identical position on the issue of the right to legal remedies when the Applicants' appeals were rejected by the regular courts on procedural issues was also maintained in case KI 200/18, and finds no reason to avoid that view in the present case (see Resolution on Admissibility in case KI 200/18 of 4 September 2019, paragraph 36).

61. Therefore, based on above, the Court considers that the Applicants have had ample opportunities to present before the regular courts all allegations of a violation of their rights. Furthermore, the Court considers that the decisions of the regular courts are reasoned and that the proceedings, viewed in their entirety, were not in any way unfair or arbitrary (see case of ECtHR *Shub v. Lithuania*, No. 17064/06, Judgment of 30 June 2009).

62. Regarding the issue raised by the Applicants that the regular courts in their decisions failed to clarify the issue as to the accurate terminology of the appeal and the special appeal provided by law. The Court has consistently emphasized that the interpretation of the law, its application to specific cases, and the assessment of the facts and circumstances of the concrete cases, are not its competence and are issues that separate the jurisdiction of the regular courts from the jurisdiction of the Constitutional Court. The Court also reiterates that the issue of determining the legal institutes of appeal, including the assessment of their admissibility or inadmissibility, is within the jurisdiction of the regular courts and not of the Constitutional Court.

63. The Applicants also alleged that: *"The enacting clause of the decision of the Supreme Court also does not contain the basic elements that an enacting clause should contain, by avoiding to indicate therein, the responding parties, the date of filing the extraordinary legal remedy and the data of the judgments challenged by the extraordinary remedy (the number and date of the challenged decisions)"*. In this regard, the Court finds that the Decision of the Supreme Court was not unclear and that all the data which the Applicant alleges to be missing (such as the parties to the dispute, challenged decisions etc) are part of the Decision of the Supreme Court whether in the enacting clause of the Decision whether in its reasoning.

64. The Court further finds that the Applicants have not substantiated in what circumstances the provision of Article 54 [Judicial Protection of Rights] has been violated except that they claimed in general terms that their rights have been denied. In such circumstances, where it is not clearly specified what act or decision has infringed a constitutional right, the court cannot find a violation of the alleged right.

65. In conclusion, the Court considers that the Referral, on constitutional basis, is manifestly ill-founded, because the Applicant did not sufficiently prove and substantiate his allegation of violation of the rights guaranteed by the Constitution and the Convention.

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

## FOR THESE REASONS

The Constitutional Court, in accordance with Article 113.7 of the Constitution, Article 20 of the Law, and Rule 39 (2) of the Rules of Procedure, on 16 January 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**

Remzije Istrefi -Peci | Arta Rama-Hajrizi



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