



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

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Prishtina, 27 April 2020  
Ref. no.: VVMP 1555/20

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

## **DECISION ON EXTENSION OF INTERIM MEASURE**

in

**Case No. KO203/19**

Applicant

**The Ombudsperson**

**Constitutional review of certain Articles of Law No. 06/L-114  
on Public Officials**

**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 is submitted by the Ombudsperson Institution of the Republic of Kosovo (hereinafter: the Applicant).

## Challenged law

2. The Applicant challenges the constitutionality of specific provisions of Law No. 06/L-114 on Public Officials (hereinafter: the challenged law), published in the Official Gazette of the Republic of Kosovo (hereinafter: the Official Gazette), on 11 March 2019, and which entered into force six ( 6) months after its publication in the Official Gazette, namely Articles 2 (paragraph 3), 5 (paragraph 1, subparagraph 1. 2 and paragraph 2), 10 (paragraphs 1 and 2), 11, 14 (paragraph 5), 15 ( paragraphs 4 and 6), 17 (paragraph 7), 31 (paragraph 3), 32 (paragraph 5), 33 (paragraph 5), 34 (paragraph 16), 35 (paragraph 6), 37 (paragraph 5), 38 ( paragraph 7), 39 (paragraph 11), 40 (paragraph 12), 41 (paragraph 6), 42 (paragraphs 10 and 11), 43 (paragraph 13), 44 (paragraph 4), 48 (paragraph 9), 49 ( paragraph 6), 52 (paragraph 7), 54 (paragraph 6), 67 (paragraph 11), 68 (paragraph 8), 70 (paragraph 8), 71 (paragraph 8), 75, 80 (paragraph 4), 83 ( paragraph 18) and 85 of the challenged Law.

## Subject matter

3. The subject matter of the Referral is the constitutional review of the aforementioned provisions of the challenged Law, which according to the Applicant's allegations are not in compliance with paragraph 2 of Article 132 [Role and Competencies of the Ombudsperson] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution) and other constitutional provisions regulating the status of independent constitutional institutions.
4. The Applicant regarding the status of the officials of Kosovo Forensic Agency (hereinafter: KFA), personnel of Kosovo Prosecutorial Council (hereinafter: KPC) and Police of Kosovo, although not specifying the specific articles of the Constitution, raises the issue of compatibility of the provisions of the challenged Law with the constitutional principle of equality before the law and the principle of separation of the state powers.
5. In this respect, the Applicant requested the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) to impose interim measure for *"immediate suspension of the challenged provisions, namely Articles 2 (paragraph 3), 5 (paragraph 1, subparagraph 1.2, paragraph 2), 10 (paragraphs 1 and 2), 11, 14 (paragraph 5), 15 (paragraphs 4 and 4); 17 (paragraph 7), 31 (paragraph 3), 32 (paragraph 5), 33 (paragraph 5), 34 (paragraph 16), 35 (paragraph 6), 37 (paragraph 5), 38 (paragraph 7) , 39 (paragraph 11), 40 (paragraph 12), 41 (paragraph 6), 42 (paragraphs 10 and 11), 43 (paragraph 13), 44 (paragraph 4), 48 (paragraph 9), 49 (paragraph 6) , 52 (paragraph 7), 54 (paragraph 6), 67 (paragraph 11), 68, (paragraph 8); 70 (paragraph 8), 71 (paragraph 8), 75, 80 (paragraph 4), 83 (paragraph 18) and Article 85 of the [challenged law], or at least suspension of the application of these provisions in relation to the Ombudsperson"*.

## Legal basis

6. The Referral is based on paragraph 2, sub-paragraph 1 of Article 113 [Jurisdiction and Authorized Parties] and paragraph 2 of Article 116 [Legal Effect of Decisions] of the Constitution; Articles 22, 27, 29 and 30 of Law No.

03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law); and Rules 32, 56, and 57 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

### **Proceedings before the Court**

7. On 8 November 2019, the Applicant submitted the Referral to the Court.
8. On 12 November 2019, the President of the Court appointed Judge Safet Hoxha as Judge Rapporteur and the Review Panel composed of Judges: Bekim Sejdiu (Presiding), Remzije Istrefi-Peci and Nexhmi Rexhepi.
9. On 15 November 2019, the Applicant was notified about the registration of the Referral.
10. On the same date, the Referral was communicated to the President of the Republic of Kosovo, the President of the Assembly of the Republic of Kosovo, the Acting Prime Minister of the Republic of Kosovo, the Acting Minister of Public Administration (hereinafter: MPA), the President of the Kosovo Prosecutorial Council, the Chief Executive of the Kosovo Forensic Agency and Director the Police of Kosovo, with instructions to submit comments to the Court, if any, by 29 November 2019. The Referral was also communicated to the Secretary of the Assembly of the Republic of Kosovo, who was requested to submit to the Court all relevant documents regarding the challenged Law.
11. On 19 November 2019, the Judge Rapporteur recommended to the Court the approval of interim measure. On the same date, the Court unanimously decided to approve the interim measure until 28 February 2020.
12. On 25 November 2019, the Secretariat of the Assembly submitted to the Court the documentation regarding the procedure for review and approval of the challenged Law in the Assembly.
13. On 27 November 2019, the KPC and the KFA submitted to the Court the comments regarding the Referral.
14. On 29 November 2019, MPA submitted to the Court the comments regarding the Referral.
15. On 6 December 2019, the Court communicated documents submitted by the Secretariat of the Assembly as well as comments received by the KPC, KFA, the Kosovo Police and the MPA to the parties involved in the case with instructions to submit their comments to the Court, if any, within seven (7) days.
16. On 12 December 2019, the MPA notified the Court that *“after reviewing and analyzing the comments submitted by the [KFA, KPC] and the Kosovo Police, we consider that we have submitted all our comments regarding these institutions in the reply sent to you on 29.11.2019”*, submitting once again the comments of 29 November 2019.

17. On 26 February 2020, the Judge Rapporteur recommended to the Court the extension of the interim measure in the case KO203/19, approved by the Court on 19 November 2019. On the same date, the Court unanimously decided to approve the extension of the interim measure imposed by the Court on 19 November 2019, until 28 April 2020.
18. On 22 April 2020, the Judge Rapporteur recommended to the Court the extension of the interim measure in the case KO203/19, approved by the Court on 19 November 2019 and extended on 26 February 2020. On the same date, the Court unanimously decided to approve the extension of the interim measure imposed by the Court on 19 November 2019, until 30 June 2020.

#### **As to the extension of interim measure**

19. The Court refers to its Decision on the Interim Measure of 19 November 2019 in this case and the Decision extending the Interim Measure of 26 February 2020. All the stated constitutional and legal reasons for the imposition of the interim measure and the extension of the interim measure continue to be applicable and therefore, the Court refers to the reasoning presented in its original Decision imposing the interim measure and in the Decision extending the interim measure (See, Decision on the Interim Measure in case KO203/19 and the Decision on extension of the Interim Measure in case KO203/19, quoted above).
20. The Court notes that the interested parties regarding the admissibility and merits of this Referral have submitted a considerable volume of documents and comments and that the Court considers that all the arguments presented by the parties should be taken into consideration.
21. Therefore, without prejudice to any further decision to be rendered by the Court in the future regarding the admissibility or the merits of this Referral, the Court decides to extend the interim measure in case KO203/19 until 30 June 2020.

## **FOR THESE REASONS**

The Court, in accordance with Article 116.2 of the Constitution, Article 27 of the Law and Rule 57 of the Rules of Procedure, on 22 April 2020, unanimously

## **DECIDES**

- I. TO EXTEND the interim measure imposed by the Decision on Interim Measure in case KO203/19 of 19 November 2019, extended by Decision of 26 February 2020, until 30 June 2020;
- II. TO EXTEND SUSPENSION of the implementation of Law No. 06/L-114 on Public Officials, in its entirety, for the duration specified in item I;
- III. TO NOTIFY this Decision to the Parties;
- IV. TO PUBLISH this Decision in accordance with Article 20.4 of the Law; and
- V. This decision is effective immediately.

**Judge Rapporteur**

**President of the Constitutional Court**

Safet Hoxha

Arta Rama-Hajrizi



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