



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

Prishtina, on 4 May 2020  
Ref. no.:RK 1557/20

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

## **DECISION TO REJECT THE REFERRAL**

in

**Case No. KI201/19**

Applicant

**Tush Kolgjeraj**

**Request for reconsideration of Resolution on Inadmissibility  
KI127/18, of 21 October 2019, of the Constitutional Court**

**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 Tush Kolgjeraj from village Zym, municipality of Prizren (hereinafter: the Applicant).

## **Challenged decision**

2. The Applicant challenges Resolution on Inadmissibility No. KI127/18, of the Constitutional Court of the Republic of Kosovo (hereinafter: the Court), of 21 October 2019.

## **Subject matter**

3. The subject matter of the Referrals in fact concerns the Applicant's request for reconsideration of his allegations raised in the previous Referral KI127/18.

## **Legal basis**

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

## **Proceedings before the Court**

5. On 11 November 2019, the Applicant submitted the Referral to the Court.
6. On 12 November 2019, the President of the Court appointed Judge Bekim Sejdiu as Judge Rapporteur and the Review Panel composed of Judges: Selvete-Gërxhaliu Krasniqi (Presiding), Bajram Ljatifi and Radomir Laban.
7. On 19 November 2019, the Court notified the Applicant about the registration of the Referral.
8. On 22 April 2020, the Review Panel considered the report of the Judge Rapporteur and unanimously recommended to the Court to summarily reject the Referral.

## **Summary of facts**

9. On 31 August 2018, the Applicant submitted Referral No. KI127/18. In that Referral, the Applicant requested the constitutional review of Decision PN. No. 825/17 of the Court of Appeals of 6 October 2017.
10. On 21 October 2019, the Court declared Referral No. KI127/18 inadmissible.
11. On 11 November 2019, the Applicant submitted Referral No. KI201/19, requesting the "reconsideration" of the Resolution on Inadmissibility No. KI127/18.

## **Applicant's allegations**

12. The Applicant alleges that the Court, by declaring his previous Referral KI127/18 inadmissible, as out of time, "upheld violations" caused to him by the decisions of the regular courts, claiming that "*the Resolution of the*

*Constitutional Court, namely its content, is unacceptable because it is inconsistent with the truth”.*

13. Finally, the Applicant reiterated his allegations as he raised them in Referral KI127/18, requesting the Court to annul the decisions of the regular courts, because, as he states, they are *“injustice of judicial and administrative manipulators in our courts”*.

### **Admissibility of the Referral**

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

15. In this respect, the Court refers to Rule 35 (5) of the Rules of Procedure, which establishes:

*“The Court may decide to summarily reject a referral, ... if the referral is repetitive of a previous referral decided by the Court, or...”*

16. The Court notes that the Applicant, in fact, by this Referral requests that the Court reconsider his allegations raised in the previous Referral KI127/18.
17. The Court in the previous Referral KI127/18 of the Applicant, after assessing the Referral, came to the conclusion that the Referral was to be declared inadmissible because it was submitted out of the legal deadline.
18. In this respect, the Court considers that the present Referral does not present any new circumstance to be reconsidered by the Court. For all the issues raised in this Referral, the Court has already decided in case KI127/18. Therefore, the Court considers that the present Referral does not present any new evidence or circumstance to reconsider the allegations of the Applicant raised in the previous Referral KI127/18, for which the Court decided by Resolution on Inadmissibility, on 21 October 2019 (see, similar to this situation, Decision to reject the Referral of the Constitutional Court in case KI26/14, Applicant *Bajrush Gashi*, of 26 March 2015, paragraph 24).
19. In order for the Court to consider a Referral that relates to the same facts as the previous Referral, the Applicant must in fact provide new information that has not previously been reviewed by the Court. (See, *mutatis mutandis*, ECtHR, *Kafkaris v. Cyprus*, appeal no. 9644/09, Decision on inadmissibility, of 21 June 2011, paragraph 68).
20. The Court recalls that an individual complaint under Article 113.7 of the Constitution should not be viewed by the Applicants as an opportunity to repeatedly request the Court to reconsider the allegations or reopen the decisions on matters on which the Court has once decided.
21. In addition, the Constitutional Court recalls that its decisions are final and binding on the judiciary, all persons and all institutions of the Republic of Kosovo (see, *inter alia*, Decisions of the Constitutional Court, case KI26/14,

Applicant *Bajrush Gashi*, Decision to reject the Referral of 26 March 2015, paragraph 26 and 27; case KIo8/18, Applicant *Naser Berisha*, Decision to reject the Referral of 29 May 2018, paragraph 23).

22. In conclusion, the Court considers that the Applicant's Referral is, in fact, a repetition of a previous Referral which has already been decided by the Court. Therefore, in accordance with Rule 35 (5) of the Rules of Procedure, the Referral is to be summarily rejected.

### **FOR THESE REASONS**

The Constitutional Court, in accordance with Article 113.7 of the Constitution, Article 20 of the Law and Rule 35 (5) of the Rules of Procedure, in the session held on 22 April 2020, unanimously

### **DECIDES**

- I. TO SUMMMARILY REJECT the Referral;
- 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**

Bekim Sejdiu

Arta Rama-Hajrizi

Kopje e vërtetuar  
Overena kopija  
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