



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

Prishtina, on 30 November 2020
Ref.No.:RK 1651/20

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DECISION TO REJECT THE REFERRAL

in

Case No. KI 03/20

Applicant

Lorenc Kolgjeraj

**Constitutional review of Decision Ac. No. 5107/18 of the Court of Appeals
of 8 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 Lorenc Kolgjeraj, from village Bregdrini, Municipality of Prizren (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges Decision [Ac. No. 5107/2018] of the Court of Appeals of Kosovo of 8 March 2019 (hereinafter: the Court of Appeals) and all other decisions related to his case.

Subject matter

3. The subject matter of the Referral is the constitutional review of the challenged decision which, according to the Applicant, violates his rights and fundamental freedoms guaranteed by Article 3 [Equality Before the Law], Article 9 [Cultural and Religious Heritage], Article 24 [Equality Before the Law], Article 27 [Prohibition of Torture, Cruel, Inhuman or Degrading Treatment], Article 28 [Prohibition of Slavery and Forced Labor] and Article 31 [Right to Fair and Impartial Trial], of the Constitution of the Republic of Kosovo (hereinafter: the Constitution).

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] and Article 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).

Proceedings before the Constitutional Court

5. On 21 November 2019 and 02 December 2019, the Applicant submitted submissions to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) in which he refers to the same circumstances and court decisions as in cases KI74/17 and KI70/19.
6. On 5 December 2019, the Court notified the Applicant about the submitted Referral and noted to the Applicant that the Court had already decided on the issue raised by him in this Referral in cases KI74/17 and KI70/19 about which the Applicant was notified and was served with a copy of the decision. By this notification, the Court also requested the Applicant that if he wishes to submit a new Referral, he can fill in the standard referral form and specify the referral, accurately specifying what decision of the public authority he is challenging and what rights guaranteed by the Constitution have been violated.
7. On 12 December 2019, the Applicant submitted to the Court a submission referring again to cases KI74/17 and KI70/19 and the circumstances related to those two cases.
8. On 26 December 2019, the Court again sent a letter to the Applicant and reiterated that on the issue raised by him in this Referral the Court had already decided in cases KI74/17 and KI70/19 about which the Applicant was notified and was served with a copy of the decision. In this letter, the Court

also requested the Applicant that if he wishes to submit a new Referral, he can fill in the standard referral form and specify the referral, accurately specifying what decision of the public authority he is challenging and what constitutionally guaranteed rights have been violated.

9. On 13 January 2020, the Applicant submitted to the Court the completed standard referral form and supporting documents, and after this letter the Court registered the case (as a new case) under number KIO3/20 .
10. On 14 January 2020, the President of the Court appointed Judge Remzije Istrefi-Peci as Judge Rapporteur and the Review Panel composed of Judges: Arta Rama-Hajrizi (Presiding), Gresa Caka-Nimani and Safet Hoxha.
11. On 21 February 2020, the Applicant submitted additional documents.
12. On 11 November 2020, the Review Panel considered the report of the Judge Rapporteur and unanimously proposed to the Court to summarily reject the Referral.

Summary of facts

13. The Applicant addresses the Court for the third time, and that in cases KI74/17, KI70/19 and KIO3/20 with the same request for the constitutional review of Decision Ac. No. 5107/18 of the Court of Appeals of 8 March 2019, namely the execution procedure initiated in order to settle the debts of the Applicant.
14. On 20 June 2017, the Applicant submitted Referral KI74/17. In that Referral, the Applicant requested the constitutional review of Decision P. No. 331/2014 of the Basic Court in Prizren of 29 May 2017.
15. On 5 December 2017, the Court declared Referral No. KI 74/17 inadmissible on the grounds of non-exhaustion of legal remedies.
16. On 26 April 2019, the Applicant submitted Referral KI70/19, in which he requested the constitutional review of the Decision [PPP. No. 267/2017] of the Basic Court in Prizren of 15 April 2019, which rejected his revision against the Decision [Ac. No. 5107/2018] of the Court of Appeals of Kosovo of 8 March 2019 and all other decisions related to his case.
17. On 23 July 2020, the Court summarily rejected Referral KI70/19 because it was not supplemented with supporting documents as requested by the Court.
18. On 13 January 2020, the Applicant filed Referral KIO3/20, in which he repeated the allegations as in Referrals KI 74/17 and KI 70/19, requesting the constitutional review of Decision AC. No. 5017/18 of the Court of Appeals of 8 March 2019.

Applicant's allegations

19. The Applicant alleges that the challenged decision violated his rights guaranteed by Articles 3, 9, 24, 27, 28 and 31 of the Constitution, without explaining how the violations occurred.
20. The Applicant reiterated his allegations, which he had already mentioned in Referrals KI74/17 and KI 70/19, requesting the Court "*to shed light on the fact for the sake of justice*".

Admissibility of the Referral

21. Based on the documents submitted by the Applicant, the Court notes that the subject matter of the present Referral KI03/20 is the same as the one in Referrals KI74/17 and KI70/19 in which the Applicant requested the constitutional review of Decision. P. No. 331/2014 of the Basic Court in Prizren of 29 May 2017, namely Decision PPP. No. 267/2017 of the Basic Court in Prizren of 15 April 2019 and all this in connection with the execution procedure initiated to settle the debts of the Applicant.
22. The Court considers that the Applicant's Referral under the review KI03/20 does not present any new important fact for rendering a new decision, but is merely another attempt by the Applicant to request from the Court the same constitutional review which he had already requested in Referrals KI74/17 and KI70/19.
23. In this regard, the Court refers to Article 116 (1) [Legal Effect of Decisions] of the Constitution, which establishes:

"Decisions of the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo".
24. The Court also refers to Rule 35 (5) [Withdrawal, Dismissal and Rejection of Referrals] of the Rules of Procedure, which establishes that:

"[...] (5) The Court may decide to summarily reject a referral if the referral is incomplete or not 18 clearly stated despite requests by the Court to the party to supplement or clarify the referral, if the referral is repetitive of a previous referral decided by the Court, or if the referral is frivolous. [...]"
25. Based on the abovementioned rule, the Court considers that the present Referral KI03/20 is only a repetition of the same previous Referrals KI74/17 and KI70/19, which the Court declared inadmissible in case KI 74/17 because the Applicant has not exhausted all legal remedies, and in case KI 70/19 because the referral was not supplemented with supporting documentation in accordance with the request of the Court and the provisions of the Constitution.
26. The Court recalls that an individual complaint within the meaning of Article 113 (7) of the Constitution should not be viewed by the Applicants as an opportunity to repeatedly request the Court to reopen its decisions and retry

the same matter (see, the Constitutional Court, case No. KI105/16, *Applicant Feti Gashi*, Decision to Reject the Referral of 10 May 2017 and case No. KI103/19 *Applicant Ilmi Sopa*, Decision to Reject the Referral of 29 April 2020, paragraph 20).

27. In order for the Court to consider a Referral which relates to the same facts as a previous referral, the Applicant must indeed provide new information which have not previously been considered by the Court (see, *mutatis mutandis*, ECtHR, *Kafkaris v. Cyprus*, application no. 9644/09, Decision on Inadmissibility of 21 June 2011, paragraph 68).
28. In this respect, the Court recalls that its decisions are final and binding on the judiciary, all persons and institutions of the Republic of Kosovo (see, the Constitutional Court in case No. KI26/14, Applicant *Bajrush Gashi*, Decision to Reject the Referral of 26 March 2015, paragraphs 26 and 27, and also, case No. KI105/16, Applicant *Feti Gashi*, cited above, paragraph 22).

FOR THESE REASONS

The Constitutional Court, in accordance with Article 116.1 of the Constitution, Article 20 of the Law and Rule 35 (5) of the Rules of Procedure, on 11 November 2020, unanimously

DECIDES

- I. TO SUMMARILY 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

Remzije Istrefi Peci



Arta Rama-Hajrizi

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