



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

Prishtina, on 1 December 2020
Ref. No.:RK 1656/20

This translation is unofficial and serves for informational purposes only.

DECISION TO REJECT THE REFERRAL

in

Case No. KI100/20

Applicant

Skënder Hana

Request for constitutional review of an unspecified act of an unspecified public authority

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 Skënder Hana from Gjakova (hereinafter: the Applicant).

Challenged decision

2. The Applicant does not challenge the constitutionality of any act of any public authority in the Republic of Kosovo.

Subject matter

3. The Referral has no subject matter because the Applicant has not specified any act of any public authority in the Republic of Kosovo.

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] and 47 [Individual Requests] of the 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 5 June 2020, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) with an illegible letter that did not meet the basic requirements to be registered as a new case in the Court.
6. On 17 June 2020, the Court notified the Applicant that it had received the letter submitted by the Applicant and clarified to the Applicant that if he wishes to have the Court register his case in accordance with Article 113.7 of the Constitution and Article 48 of the Law on the Constitutional Court, the Applicant must complete the Referral Form, and specify which act of the public authority is being challenged and submit a copy of the challenged act, and that he is obliged to state what rights have been violated.
7. On 25 June 2020, the Applicant submitted the Referral Form to the Court, but did not specify which act of the public authority he wishes to challenge, nor did he specify what rights and freedoms guaranteed by the Constitution have been violated.
8. On 2 July 2020, the President of the Court appointed Judge Bajram Ljatifi as Judge Rapporteur and the Review Panel composed of Judges: Bekim Sejdiu (presiding), Selvete Gërxhaliu-Krasniqi and Gresa Caka-Nimani.
9. On 11 November 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 Court does not refer to the facts of this case, since the Applicant has not submitted any document of any public authority, from which the Court could be informed about the factual situation.

Applicant's allegations

11. The Applicant does not state what rights guaranteed by the Constitution have been violated and by which public authority.
12. The Applicant states: *"The construction of the tower started to come to life in the year [...] of the first phase of the roof. Even though it has been continuously said that the total renovation and restoration will begin, it has not been completed up to the present. I wish it to be completed successfully by you".*

Assessment of the admissibility of the Referral

13. The Court first examines whether the Referral has fulfilled the admissibility requirements established in the Constitution, and further specified in the Law and in the Rules of Procedure.
14. In this respect, the Court refers to Article 113 [Jurisdiction and Authorized Parties] paragraph 7 of the Constitution which provides:

*"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."*

15. In addition, the Court examines whether the Applicant has met the admissibility criteria, as defined in the Law. In this respect, the Court refers to Articles 47 [Individual Requests] and 48 [Accuracy of the Referral] of the Law, which provide:

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.

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 [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”.

16. In assessing whether the Applicant meets the constitutional and legal requirements for constitutional review of his Referral, the Court recalls that under Article 113 of the Constitution, individuals are authorized to refer to the Court alleged violations of their fundamental rights and freedoms by a “*public authority*”, after exhaustion of all legal remedies provided by law. The same requirement is defined also in Article 47 of the Law.
17. In addition, Article 48 of the Law specifically obliges the Applicants to clearly specify the concrete act of the public authority which they are challenging. The same article also obliges the Applicants to clearly indicate what rights and freedoms they claim to have been violated.
18. In this regard, the Court refers to paragraph 4 of Article 22 [Processing Referrals] of the Law, which stipulates:

“If the referral [...] is [...] incomplete, the Judge Rapporteur informs the relevant parties or participants and sets a deadline of not more than fifteen (15) days for [...] supplementing the respective referral [...].”

19. The Court further refers to Rule 32 (2) (h) [Filing of Referrals and Replies] of the Rules of Procedure, which stipulates:

(2) The referral shall also include:

[...]

(h) the supporting documentation and information.

[...]

20. In this respect, the Court also refers to Rule 35 (5) [Withdrawal, Dismissal and Rejection of Referrals] of the Rules of Procedure, which establishes:

“[...]”

(5) The Court may decide to summarily reject a referral if the referral is incomplete or not 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.”

21. First of all, the Court also recalls that it has addressed a letter to the Applicant requesting from him to submit to the Court the acts of the public authorities which he is challenging and to clarify the Referral, as well as to accurately indicate what rights guaranteed by the Constitution have been violated. Specifically, the Court sent a letter to the Applicant on 17 June 2020, however, the Applicant failed to submit the required documents and to clarify the

Referral, nor did he state what rights guaranteed by the Constitution have been violated.

22. The Court finds that the Applicant did not submit to the Court any act of any public authority that may be subject to constitutional review. The Court also finds that the Applicant did not state what rights guaranteed by the Constitution have been violated and failed to clarify the Referral.
23. Based on the foregoing, the Court finds that the Applicant did not provide the information, which the Court tried to obtain from the Applicant. Therefore, the Court concludes that the Referral is incomplete and that the Referral is not clear despite the Court's request to the party to supplement or clarify the Referral (see the cases of the Constitutional Court KIO4/20 *Applicant Lulzim Sadiku*, Decision to Reject the Referral of 26 February 2020 , paragraph 25; KI121/18 *Applicant Gëzim Murati*, Decision to Reject the Referral of 14 December 2018, paragraph 31; and KIO3/15, *Applicant Hasan Beqiri*, Decision to Reject the Referral of 13 May 2015, paragraphs 17-19).
24. In view of the above, the Court considers that the Applicant's Referral does not meet the procedural requirements for further review, because the Referral is not supplemented with the necessary documentation, as required by Article 22 paragraph 4 and Article 48 of the Law, and Rules 32 (2) (h) and 35 (5) of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court, in accordance with Article 113.7 of the Constitution, Articles 22.4 and 48 of the Law, and in accordance with Rules 32 (2) (h) and 35 (5) of the Rules of Procedure, on 11 November 2020, unanimously

DECIDES

- I. TO 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

Bajram Ljatifi

Arta Rama-Hajrizi



This translation is unofficial and serves for informational purposes only.