



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

Prishtina, on 5 January 2021  
Ref. no.:RK 1688/21

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

## RESOLUTION ON INADMISSIBILITY

in

**Case No. KI166/20**

Applicant

**Ministry of Labor and Social Welfare**

**Request for constitutional review of Judgment ARJ-UVZP. No. 34/2020  
of the Supreme Court of Kosovo of 6 May 2020**

### 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

#### Applicants

1. The Referral is submitted by the Ministry of Labor and Social Welfare (hereinafter: the Applicant), represented before the Constitutional Court by the State Attorney, namely Naim Abazi who works at the State Attorney's Office of Kosovo in the Ministry of Justice of the Republic of Kosovo.

## **Challenged decision**

2. The Applicant challenges Judgment ARJ-UVZP. No. 34/2020 of the Supreme Court of Kosovo (hereinafter the Supreme Court) of 6 May 2020, served on him on 27 July 2020.

## **Subject matter**

3. The subject matter is the constitutional review of the challenged Judgment of the Supreme Court which, according to the Applicant's allegations, violates the rights and freedoms guaranteed by Article 24 [Equality Before the Law], Article 31 [Right to Fair and Impartial Trial] and Article 102 [General Principles of the Judicial System] - of the Constitution of the Republic of Kosovo (hereinafter: the Constitution).

## **Legal basis**

4. The Referral is based on Article 21 paragraph 4 and Article 113.7 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 23 October 2020, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 2 November 2020, the President of the Court appointed Judge Radomir Laban as Judge Rapporteur and the Review Panel composed of Judges: Bekim Sejdiu (Presiding), Remzije Istrefi-Peci and Nexhmi Rexhepi (members).
7. On 17 November 2020, the Court notified the Applicant's legal representative and the Applicant that it is necessary to submit the power of attorney to the Court.
8. On 20 November 2020, the Ministry of Justice, by letter No. MLSW/2020 submitted to the Court the power of attorney for representation signed by the State Attorney Sami Istrefi.
9. On 24 November 2020, the Court notified the Supreme Court about the registration of the case and sent a copy of the Referral to the Supreme Court.
10. On 24 November 2020, the Court requested the Basic Court in Prishtina to submit the acknowledgment of receipt in order for the Court to determine the date of receipt of the challenged judgment.

11. On 26 November 2020, the Basic Court in Prishtina submitted to the Court the acknowledgment of receipt of the Judgment [ARJ-UZVP. No. 34/2020] of the Supreme Court, with the date of service of 29 July 2020.
12. On 17 December 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**

13. On 29 July 2016, the Applicant (respondent, Ministry of Labor and Social Welfare - Department of Pensions) by Decision MLSW/DP rejected the request of the claimant I.M. with file number 193194 on recognition of the right to a basic pension in the monthly amount of 75 euro, contribution payers pension in the monthly amount of 65 euro starting from 6 June 2016. The total amount of the pension is 140 euro.
14. On an unspecified date, the claimant I.M., dissatisfied with the abovementioned decision, filed an appeal with the Applicant.
15. On 11 October 2016, the Applicant rejected the claimant's appeal in response to appeal No. 373.
16. On 20 April 2017, the claimant I.M. filed a lawsuit with the Basic Court in Prishtina, Department for Administrative Matters (hereinafter: the Basic Court), requesting the annulment of the decision of MLSW/DP of 29.07.2016 and of the response to appeal No. 373 issued by the Division for Pension Schemes, with a proposal to recognize the right to a contribution payers pension from the day of reaching the retirement age and to compensate him for the difference between the old-age pension and the contribution payers pension from 12.04.2010 until 06.06.2016.
17. On 29 May 2018, the Basic Court, by Decision A. No. 728/2017, ordered the following;

*I. The respondent, the Ministry of Labor and Social Welfare, is OBLIGED that, within 30 days from the submission of the lawsuit with all the documents attached to this decision, present to the court a written response to the lawsuit in two copies, under the threat of procedural consequences and to send to the court all documents relating to this challenged matter.*

*II. The respondent should, in response to the lawsuit, make procedural objections and state whether he accepts or challenge the claimant's lawsuit. If the respondent challenges the claimant's lawsuit, the response to the lawsuit should also contain the facts on which the respondent bases his allegations and evidence proving such facts. The response to the lawsuit must contain all the elements provided by the provision of Article 37 of the LAC in conjunction with Article 99 of the LCP.*

*III. If the response to the lawsuit is incomprehensible or incomplete, in order to correct these flaws, the court will act in accordance with the provision of Article 37.3 of the LAC, in conjunction with Article 102 of the LCP.*

*IV. The person who presents himself as a legal representative is obliged to prove the capacity of a legal representative when taking the first procedural action, and the authorized person, by taking the first procedural action, is obliged to present the correct power of attorney to the court.*

18. On 26 November 2018, the Basic Court, by Decision A. No. 728/2017, suspended the proceedings according to the lawsuit of the claimant I.M., under the sign A. No. 728/2018 of 20.04.2017, due to the death of the claimant, reasoning that: *"... this case is suspended until the claimant's heirs appear in this court, namely until they take actions that would require them to take some actions in this matter"*.
19. On 30 November 2018, the State Attorney's Office of Kosovo filed a response to the lawsuit in which *"...the respondent, the Ministry of Labor and Social Welfare in Prishtina, PROPOSES the Court that, after presenting evidence, render a JUDGMENT which REJECTS the claimant's statement of claim as ungrounded in entirety, upholding the decisions of the respondent"*.
20. On 3 April 2019, the Basic Court continued the interrupted proceedings, at the request of the claimant's representative, notifying the Court that claimant I.M. was still alive, enclosing to the Basic Court a certificate notarized by the notary LRP. 2556/2019, issued from the notary Gazmend Heta, to prove that the claimant I.M. was alive. The respondent (the Applicant) was duly summoned to the main hearing session, it received the summon on 6 May 2019 to appear at the session on 17 June 2019 at 9:30 hrs, but it did not appear in the court and the absence was not justified, the session was held in a regular and lawful manner in accordance with Article 41 of the LAC, in the presence of the authorized claimant and in the absence of the respondent (the Applicant).
21. On 17 June 2019, the Basic Court by Judgment A. No. 728/2017 approved *"... as grounded the statement of claim of the claimant I.M. from the village of Greme, municipality of Ferizaj and the decision of the respondent, the Ministry of Labor and Social Welfare - Department of Pensions in Prishtina of 29.07.2017, is modified, and response to appeal no. 373 of 11.10.2016, so that the respondent is obliged to recognize the claimant's right to a contribution payer pension from the time of reaching the retirement age and reimburse him the difference between the old-age pension and the pension of the contribution payer, starting from 12.04.2010 until 06.06.2016, with legal interest of 8%, all this within 15 days from the date of receipt of this judgment"*.
22. On 10 July 2019, the Applicant filed an appeal with the Court of Appeals of Kosovo (hereinafter: the Court of Appeals) against the Judgment A. No. 728/17 of 17 September 2019 of the Basic Court, on the grounds of essential violation

of the provisions of the administrative procedure, erroneous and incomplete determination of factual situation, erroneous application of substantive law, with a proposal to approve the Applicant's appeal and ANNUL Judgment A. No. 728/17 of 17 June 2019 of the Basic Court.

23. On 27 January 2020, the Court of Appeals by Decision AA. No. 585/2019, rejected as ungrounded the Applicant's appeal and upheld Judgment A. No. 728/2017 of 17 June 2019 of the Basic Court.

24. In the decision, the Court of Appeals stated: *"... The Panel of the Court of Appeals, setting from such a situation, approved as fair and lawful the legal conclusions of the first instance court regarding the factual situation, and also, the challenged judgment does not contain essential violations of the Law on Administrative Conflict, the violations which the second instance court examines ex-officio, as with regard to Article 49 of the LAC and 194 of the LCP. The Panel finds that the first instance court rendered a fair decision regarding the assessment of the legality of the challenged decision as with regard to Articles 9 and 44 of the LAC, regarding the allegations in the lawsuit, response to the lawsuit, judgment of the Special Chamber of the Supreme Court of Kosovo of 31.03.2016, as well as other presented evidence in the session of the main hearing and fairly assessed that the claimant's statement of claim was grounded, modifying the decision of the respondent of 29.07.2017 and response to appeal no. 373 of 11.10.2016, so that the respondent undertook to recognize the claimant's right to a pension of the contribution payer from reaching the retirement age and to compensate him for the difference between the old-age pension and the contribution payers pension starting from 12.04.2010 until 06.06.2016 with a legal interest rate of 8%, all this within 15 days from the date of receipt of this judgment"*.

*"In relation to the allegations of the respondent in the appeal that the court committed essential violation of the provisions of the procedure when it approved the claimant's statement of claim in the administrative matter after his death, who was represented by a representative under the power of attorney given by the claimant while he was alive. This claim does not stand because the first instance court continued with the interrupted procedure, at the request of the claimant's representative of 3 April 2019, with a request, which informed the court that the claimant was still alive. The respondent was duly summoned to the session of the main hearing, it received the summon on 06.05.2019 to appear at the session on 17.06.2019 at 09:30 hrs, but did not appear in court and did not justify the absence, the session was held in a legal and lawful manner in accordance with Article 41 of the LAC, in the presence of the claimant's representative and in the absence of the respondent. The authorized representative of the claimant on 21.06.2019, by submission, attached to the court a certificate notarized by the notary LRP. 2556/2019 of 18.06.2019, issued by the notary Gazmend Heta to prove that the claimant was alive.*

25. On 6 March 2020, the Applicant (the respondent) filed a request for extraordinary review of the court decision with the Supreme Court against Decision AA. No. 585/2019 of the Court of Appeals, on the grounds of



violations of the provisions of the procedure and erroneous application of substantive law, with the proposal to approve the request and modify the judgments of the courts of lower instances and upheld the decision of the respondent of 29.07.2017.

26. On 6 May 2020, by Judgment ARJ-UZVP-34/2020, the Supreme Court rejected as ungrounded the request of the Applicant (the respondent, Ministry of Labor and Social Welfare - Department of Pensions), for extraordinary review of the court decision filed against Decision AA.UZH.br. 585/2019 of the Court of Appeals, reasoning that:

*“...The Supreme Court of Kosovo, setting from this state of affairs, fully recognizes the legal position of the second instance court as fair and lawful, in rejecting the claimant’s appeal, because the challenged judgment does not contain violations of the provisions in the request.*

*The Court notes that the decision and notification of the respondent, challenged by the lawsuit, are based on Administrative Instruction no. 15/2009, which was not in force at the time of the adoption of these two acts by the respondent, because the same instruction was repealed by Law no. 04/L-131 pension schemes financed by state, namely Article 27.1.1.7 and in this regard, the court considers these two acts to be contrary to law. Also from the presented evidence and on the basis of the decision of the respondent of 29.07.2016, the court notes that the claimant was granted the right to a basic pension and the right to an old-age pension of the contribution payer from 06.06.2016, reasoning that the general conditions and criteria in terms of Article 3 of Law no. 04/L-101 on Pension Funds of Kosovo and AI no. 15/2019 on the increase of the basic pension, for pensions with 15 years of pension insurance experience. Further, this court finds that the judgment of the Special Chamber of the Supreme Court of Kosovo of 31.03.2016, confirms the fact that the claimant worked in the company “Plantacioni NSH” from 07.08.1979 and has 25 years of work experience. The court finds that the respondent did not correctly assess the factual situation and has erroneously determined the material situation“.*

### **Applicant’s allegations**

27. The Applicant considers that the regular courts, by the challenged decisions, violated Article 24 [Equality Before the Law] Article 31 [Right to Fair and Impartial Trial] and Article 102 [General Principles of the Judicial System] of the Constitution.
28. The Applicant reasons the violation of Article 24 of the Constitution “... *that all citizens of the Republic of Kosovo must be equal before the law, which in this case we consider that the Basic Court in Prishtina - Department of Administrative Matters, the Court of Appeals of Kosovo and the Supreme Court of Kosovo, violated Article 24. Equality before the law, when approving the statement of claim to Mr. I.M., in the capacity of the claimant (even after death), in this way discriminating against all other citizens of the Republic of Kosovo, who, on the basis of Administrative Instruction no. 15/2009, the*

same request that was approved to the claimant by the court was rejected, more precisely, they were denied the request for recognition of the right to contribution payer pension from the day of recognition of the right to old-age pension - and not from the date of fulfillment of requirements, namely from the date when the Applicant proves that he has 15 years as a contribution payer”.

29. The Applicant further considers “... that the judgments of the courts put on an unequal footing all the applicants whose request was rejected in relation to I.M., to whom the statement of claim was approved and the right to contribution payer pension was recognized from the date of fulfillment of the requirements from 12.04.2010 until 06.06.2016, when the claimant I.M. submitted a request for recognition of the right to a contribution payer pension and confirmed by evidence that he has 15 years of service as a contribution payer, contrary to Article 2, paragraph 2, of Administrative Instruction no. 15/2009 which recognizes the length of service of the contribution payer from the date, month of submission of the completed request. And in the present case, the date, the month of submitting the completed request was 06.06.2016 and not 12.04.2010 “.
30. The Applicant merely mentions violations of Articles 31 and 102 of the Constitution but does not reason or explain how the violation of these Articles occurred, but claims that the Applicant’s right “... was violated by: the Court of Appeals and the Supreme Court of Kosovo, because their decisions are contrary to some provisions of Article 31 of the Constitution of the Republic of Kosovo“.
31. The Applicant addresses the Court with a request to hold that there has been a violation of Article 24 of the Constitution, and to decide the following:

*“The referral of the Ministry of Labor and Social Welfare in Prishtina is APPROVED as GROUNDED.*

*Judgment ARJ-UZVP. No. 34/2020 of the Supreme Court in Kosovo - of 06.05.2020, Judgment A.A. No. 585/2019 of the Court of Appeals - of 27.01.2020, as well as Judgment A. No. 728/17 of the Basic Court in Prishtina - Department of Administrative Matters of 17 June 2019 are ANNULLED.*

*The statement of claim of the claimant Ilaz Mani from the village of Greme - municipality of Ferizaj is REJECTED as UNGROUNDED in entirety “.*

### **Admissibility of the Referral**

32. The Court first examines whether the Referral has fulfilled the admissibility requirements established by the Constitution, foreseen by the Law and further specified by the Rules of Procedure.
33. In this respect, the Court refers to paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution which establish:

*„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.”*

34. The Court also refers to paragraph 4 of Article 21 [General Principles] of the Constitution, which states:

*“4. Fundamental rights and freedoms set forth for in the Constitution are also valid for legal persons, to the extent applicable”.*

35. In addition, the Court also examines whether the Applicant has met the admissibility criteria as set out in Law. In this regard, the Court refers to Articles 47 [Individual Requests], 48 [Accuracy of the Referral] and 49 [Deadlines] 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.*

*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.”*

Article 49  
[Deadlines]

*“The referral should be submitted within a period of four (4) months. The deadline shall be counted from the day upon which the claimant has been served with a court decision... .”*

36. In this regard, the Court notes that in accordance with paragraph 4 of Article 21 of the Constitution, the Applicant has the right to file a constitutional complaint, referring to alleged violations of its fundamental rights and freedoms, applicable both to individuals and to legal persons (see the Constitutional Court, case No. KI41/09, Applicant: AAB-RIINVEST University L.L.C., Resolution on Inadmissibility of 3 February 2010).



37. As to the fulfillment of other requirements, the Court finds that the Applicant submitted the Referral in the capacity of an authorized party, challenging an act of a public authority, namely Judgment ARJ-UZVP. No. 34/2020 of 06 May 2020 after exhausting all legal remedies. The Applicant has also specified the rights and freedoms claimed to have been violated, in accordance with the requirements referred to in Article 48 of the Law and submitted the Referral in accordance with the deadline prescribed in Article 49 of the Law
38. In addition, the Court also recalls Rule 39 [Admissibility Criteria], paragraph (2) of the Rules of Procedure, which stipulates that:
- “(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 initially notes that the abovementioned rule, based on the case law of the European Court of Human Rights (hereinafter: the ECtHR) and of the Court, enables the latter to declare inadmissible referrals for reasons related to the merits of a case. More precisely, based on this rule, the Court may declare a referral inadmissible based on and after assessing its merits, namely if it deems that the content of the referral is manifestly ill-founded on constitutional basis, as defined in paragraph 2 of Rule 39 of the Rules of Procedure.
40. Based on the case law of the ECtHR but also of the Court, a referral may be declared inadmissible as “manifestly ill-founded” in its entirety or only with respect to any specific claim that a referral may constitute. In this regard, it is more accurate to refer to the same as “manifestly ill-founded claims”. The latter, based on the case law of the ECtHR, can be categorized into four separate groups: (i) claims that qualify as claims of “*fourth instance*”; (ii) claims that are categorized as “*clear or apparent absence of a violation*”; (iii) “*unsubstantiated or unsupported*” claims; and finally, (iv) “*confused or far-fetched*” claims. (See, more precisely, the concept of inadmissibility on the basis of a referral assessed as “*manifestly ill-founded*”, and the specifics of the four above-mentioned categories of claims qualified as “*manifestly ill-founded*”, The Practical Guide to the ECtHR on Admissibility Criteria of 31 August 2019; part III. Inadmissibility Based on Merit; A. Manifestly ill-founded applications, paragraphs 255 to 284).
41. In the context of the assessment of the admissibility of the referral, namely, the assessment of whether the Referral is manifestly ill-founded on constitutional basis, the Court will first recall the merits of the case that this referral entails and the relevant claims of the Applicant, in the assessment of which the Court will apply the standards of the case law of the ECtHR, in accordance with which, pursuant to Article 53 [Interpretation of Human Rights Provisions] of the Constitution, it is obliged to interpret the fundamental rights and freedoms guaranteed by the Constitution.
42. As to the present case, the Court notes that the substance of the allegation of a violation of (i) the rights guaranteed by Article 24 [Equality Before the Law] of the Constitution, and (ii) the rights guaranteed by Article 31 [Right to Fair and

Impartial Trial] and Article 102 [General Principles of the Judicial System] of the Constitution.

43. As regards the abovementioned violations of the rights guaranteed by Articles 24, 31 and 102 of the Constitution, the Court recalls that according to the well-established case law of the ECtHR, the Court declares the submission inadmissible as manifestly ill-founded under criterion (iii) “*unsubstantiated or unsupported*” allegations, when one of the two characteristic requirements is met, namely;
- a) when the applicant merely cites one or more provisions of the Convention or the Constitution, without explaining in what way they have been breached, unless this is obvious from the facts of the case (See: to that effect, case of the ECtHR *Trofimchuk v. Ukraine* (decision) no. 4241/03 of 31 May 2005, see also *Baillard v. France* (decision) no. 6032/04 of 25 September 2008);
  - b) when the applicant omits or refuses to produce documentary evidence in support of his allegations (in particular, decisions of the courts or other domestic authorities), unless there are exceptional circumstances beyond his control which prevent him from doing so (for instance, if the prison authorities refuse to forward documents from a prisoner’s case file to the Court) or unless the Court itself determines otherwise.

***(i) Regarding alleged violations of the rights guaranteed by Article 24 [Equality Before the Law] of the Constitution***

44. With regard to these Applicant’s allegations, the Court first refers to the case law of the ECtHR which states that “*discrimination constitutes a different treatment, without objective and rational reasoning, of persons in relatively similar situations*” (see *Willis v. the United Kingdom*, paragraph 48, Judgment of the ECtHR of 11 September 2002; *Bekos and Koutropoulos v. Greece*, paragraph 63, Judgment of the ECtHR of 13 March 2006).
45. Further, the Court recalls that in order for the Applicants’ allegations of a violation of the right to discrimination to be successful, the Applicants must prove, *inter alia*, that their position can be considered to be similar to that of another person who has had a better treatment (see *Fredin v. Sweden* (no. 1), paragraph 60, ECtHR Judgment of 18 February 1991).
46. In the present case, the Court notes that the Applicant substantiates the violation “*...we consider that the Basic Court in Prishtina - Department of Administrative Matters, the Court of Appeals of Kosovo and the Supreme Court of Kosovo, violated Article 24. Equality before the law, when approving the statement of claim to Mr. I.M., in the capacity of the claimant (even after death), in this way discriminating against all other citizens of the Republic of Kosovo, who, on the basis of Administrative Instruction no. 15/2009, the same request that was approved to the claimant by the court was rejected, more precisely, they were denied the request for recognition of the right to*

*contribution payer pension from the day of recognition of the right to old-age pension - and not from the date of fulfillment of requirements, namely from the date when the Applicant proves that he has 15 years of experience as a contribution payer.*"

47. However, the Applicant does not submit documentation for *"...all other citizens of the Republic of Kosovo, who, on the basis of Administrative Instruction no. 15/2009, the same request that was approved to the claimant by the court was rejected, more precisely, they were denied the request for recognition of the right to contribution payer pension from the day of recognition of the right to old-age pension - and not from the date of fulfillment of requirements, namely from the date when the Applicant proves that he has 15 years of service as a contribution payer"*.
48. The Court notes that the Applicant does not state what rights have been violated to the Applicant but tries in the abstract to protect the rights of *"all other citizens of the Republic of Kosovo,"* without explaining how the Applicant itself was discriminated against and how *"... different treatment, without objective and rational reasoning,.."* conducted towards the applicant *"... in relation to other persons in relatively similar situations"*.
49. The Applicant did not reason or provide evidence that the Applicant's position could be considered similar to that of another person who had better treatment (see: *Fredin v. Sweden* (no. 1), § 60 ECtHR, judgment of 18 February 1991.).
50. The Court therefore notes that as regards the Applicant's allegations of violation of Article 24 [Equality Before the Law] of the Constitution, the Court concludes that this part of the Referral should be declared inadmissible as manifestly ill-founded as these allegations qualify as allegations (iii) *"unsubstantiated or unsupported"* allegations because the Applicant merely cited one or more provisions of the Convention or the Constitution, without explaining how they were violated to the Applicant itself, or presenting material evidence to substantiate his allegations of discrimination. Accordingly, the latter are manifestly ill-founded on constitutional basis, as provided for in paragraph 2 of Rule 39 of the Rules of Procedure.

***(ii) regarding the alleged violation of the rights guaranteed by Article 31 [Right to Fair and Impartial Trial] and Article 102 [General Principles of the Judicial System] of the Constitution.***

51. In the present case, the Applicant only alleges a violation of Articles 31 and 102 of the Constitution, but does not reason or explain how the violation of these Articles occurred, but only claims that the Applicant's right *"...was violated by: the Court of Appeals and the Supreme Court of Kosovo, because their decisions are contrary to some provisions of Article 31 of the Constitution of the Republic of Kosovo"*.
52. Therefore, the Court finds that as regards these allegations the Applicant of violation of the rights guaranteed by Article 31 and Article 102 of the Constitution, the Court concludes that this part of the Referral should be

declared inadmissible as manifestly ill-founded as these allegations qualify as allegations falling into category (iii) “*unsubstantiated or unsupported*” allegations because the Applicant merely cited one or more provisions of the Convention or the Constitution, without explaining how they were violated. Therefore, the latter are manifestly ill-founded on constitutional basis, in accordance with Rule 39 of the Rules of Procedure.

## **Conclusion**

53. The Court therefore finds that as regards these Applicant’s allegations of violation of the rights guaranteed by Articles 24, 31 and 102 of the Constitution, the Court concludes that the Referral should be declared inadmissible in its entirety as manifestly ill-founded, because these Applicant’s allegations qualify as allegations falling into the category (iii) “*unsubstantiated or unsupported*” allegations. Therefore, the latter are manifestly ill-founded on constitutional basis, as established in paragraph 2 of Rule 39 of the Rules of Procedure.

## **FOR THESE REASONS**

The Constitutional Court, in accordance with Article 113.1 and 7 of the Constitution, Article 20 of the Law and Rule 39 (2) of the Rules of Procedure, in the session held on 17 December 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**

Radomir Laban

Arta Rama-Hajrizi



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