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

Prishtina, on 12 February 2021
Ref.No:RK 1706/21

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RESOLUTION ON INADMISSIBILITY

in

Case No. KI164/20

Appicant

Rafet Haxhaj

Request for constitutional review of Decisions KGJK.no.229/2020 and KGJK.no.230/2020 of the Kosovo Judicial Council, of 20 September 2020 concerning the process of apointment of Judges of the Supreme Court of Kosovo

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 Rafet Haxhaj from Prishtina (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges two decisions of the Kosovo Judicial Council (hereinafter: the KJC), concerning the process of appointment of Judges of the Supreme Court of Kosovo (hereinafter: the Supreme Court), namely: a) Decision KGJ.no.229/2020, of 29 September 2020; and b) Decision KGJ.no.230/2020, of 29 September 2020.

Subject matter

3. The subject matter of the Referral is the constitutional review of the challenged decisions of the KJC, which as alleged by the Applicant have violated his rights and freedoms guaranteed by Articles 23 [Human Dignity], 24 [Equality before the Law], 31 [Right to Fair and Impartial Trial], 32 [Right to Legal Remedies], 54 [Judicial Protection of Rights] and 108 (4) [Kosovo Judicial Council] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution) as well as Article 6 of the European Convention on Human Rights (hereinafter: the ECHR).

4. At the same time, the Applicant requests from the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) to impose interim measures whereby it would decide to suspend the above-mentioned decisions of the KJC.

Legal basis

5. The Referral is based on Article 113.7 of the Constitution, Articles 22 [Processing Referrals] and 47 [Individual Requests] of Law on the Constitutional Court of the Republic of Kosovo No.03/L-121 (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

6. On 21 October 2020, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Cour).

7. On 2 November 2020, the President of the Court appointed Judge Bajram Ljatifi as Judge Rapporteur and the Review Panel composed of Judges: Arta Rama Hajrizi (presiding), Gresa Caka Nimani and Safet Hoxha (members).).

8. On 9 November 2020, the Court notified the Applicant about the registration of the Referral and sent a copy thereof to the KJC.

9. On 20 January 2021, 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. On 12 December 2019, the KJC took the decision KGJK.no.238/2019 announcing the vacancy for the position of a Supreme Court judge.

11. On 17 December 2019, the Judicial Performance Evaluation Committee, had partially approved the Applicant's objection submitted against the report of the performance evaluation reporting member, by changing the report of the performance evaluation reporting member in the part concerning the criterion 5.2- evaluation of the willingness of the judge to resolve complex cases, by adding 4 points to the initial assessment, whereby the total number of evaluation points for this criterion became 83 points.

12. The Applicant filed a complaint against the decision of the Judicial Performance Evaluation Committee, because of incorrect evaluation of his performance.

13. On 24 December 2019, the KJC announced the internal vacancy for the position of a Supreme Court judge.

14. On 21 February 2020, the KJC by decision KGJK.no.46/2020, appointed the panel for assessing and interviewing candidates.

15. The Applicant submitted the required documentation in order to apply for the position of a Supreme Court judge.

16. On 9 July 2020, the Panel for reviewing applications and interviewing candidates (hereinafter: the PRAIC) conducted the interviews of candidates.

17. On 14 July 2020, the Applicant received a notification from PRAIC that he was not recommended for the position of a Supreme Court judge.

18. On 20 July 2020, the Applicant submitted a request for reconsideration with the KJC Review Committee, alleging that: (i) the calculation of points was based on substantive errors and failed to include factual information; (ii) due to procedural violations during the implementation of the provisions of the Regulation on the Procedure of Promotion of Judges; and (iii) violations relating to a regular legal process.

19. On 27 July 2020, the Applicant received the Decision No. 176/2020 of the KJC, of 3 July 2020, which partially approved his dissentwith the Decision of the Judicial Performance Evaluation Committee so that the number of evaluation points was changed from 83 to 89.

20. On 7 September 2020, the Review Committee by decision Ref.ZVVGJ / 206/20 rejected the Applicant's complaint.

21. On 29 September 2020, the KJC issued Decisions KGJK.no.229/2020 and KGJK.no.230/2020, whereby it decided that the Judges of the Court of Appeals A.Z and F.R be promoted to the position of Supreme Court judges.

Applicant's allegations

22. The Applicant alleges a violation of the rights guaranteed by Articles 23 [Human Dignity], 24 [Equality before the Law], 31 [Right to Fair and Impartial Trial], 32 [Right to Legal Remedies], 54 [Judicial Protection of Rights] and 108 (4) [Kosovo Judicial Council] of the Constitution, as well as Article 6 [Right to a fair trial] and 13 [Right to an effective remedy] of the ECHR.

23. As to the criterion for exhaustion of legal remedies, the Applicant adds that the European Court of Human Rights has elaborated on the issue of exhaustion of legal remedies stating that in order for the party to be obliged to exhaust legal remedies before submitting a referral to the Constitutional Court, those legal remedies must exist, and for this purpose he refers to the ECtHR case *Selmouni v. France*. In this respect he also refers to the Judgments of the Court in case no. KI56/09, Applicant *Fadil Hoxha and 59 others v. the Municipal Assembly of Prizren* and case no. KI06/10 Applicant *Valon Bislimi v. the Ministry of Internal Affairs, Kosovo Judicial Council and Ministry of Justice*.

24. With respect to the criterion for exhaustion of legal remedies and that there is no need to exhaust legal remedies that are inadequate and ineffective; the Applicant also claims that the Court in some cases "fully comparable" to his case, such as Judgments in cases KI99/14 and KI100/14 *Applicant Shyqyri Syla and Laura Pula*. In this respect, among other things, the Applicant cites the Judgment KI99/14 and KI100/14 on which occassion the Court had reasoned: "However, the Court notes that even if there are legal remedies, in the Applicants' case they are not proved to be efficient. Moreover, taking into consideration the specificity of the election procedure for the position of Chief State Prosecutor and the necessity this to be done in a timely fashion, the Court is of the opinion that there is no legal remedy to be exhausted".

25. The Applicant alleges that the provisions of Law No. 03/L-223 on the KJC do not provide for legal remedies against the challenged decision. He considers that "when a procedure which was conducted and characterized by violations and which was administered by a number of judges of the Supreme Court and of the Court of Appeals, then the initiation of the procedure of administrative conflict would not be efficient at all and would not guarantee at all success in the realization and respect for the rights protected by the Constitution". Moreover, the Applicant refers to ICJ cases such as Lehtinen v. France where it is stated that "the exhaustion rule is neither absolute nor automatic, and must be adjudicated in the light of each individual case", as well as the case of Van Ostervijck v. Belgium. According to the Applicant, based on this, there are no legal remedies to be exhausted in his case, hence he requests from the Court to accept his case for substantive review.

26. The Applicant alleges that the KJC by failing to adequately implement the constitutional provisions has violated his rights to a fair trial, the right to non-discrimination and the right to be equal with all other participants in the

recruitment and promotion process, the right to legal remedies and the right to be present at the hearing in relation to the review of the complaint.

27. The Applicant further alleges that the KJC did not take into account the work efficiency, the number of cases resolved by the Applicant compared to the two recommended candidates. The Applicant states that efficiency at work represents an essential element for gaining promotion to public functions, and this requirement must be taken into account when a judge is promoted. In this respect he alleges that he was discriminated against during the evaluation by the Performance Evaluation Committee, the Panel for Assessing and Interviewing Candidates and the Review Committee.

28. The Applicant further states that on the occasion of evaluation by the KJC Committees, was not taken into account the high number of decisions confirmed by the Supreme Court, so, according to him 98% of the cases decided by him were confirmed by the Supreme Court.

29. As regards the allegation for a violation of Article 24 of the Constitution, the Applicant states that the unequal treatmend and placing him in a less favourable position than the others started in the Performance Evaluation Committee, where despite his merits he received a poor performance review. He alleges that all other judges who have been involved in the same evaluation, despite having not shown even close efficiency to him, have received better scores and were ranked higher than him. The Applicant alleges that this ranking in a lower position was done on purpose in order to eliminate him from the competiton for the position of a Supreme Court judge. The Applicant claims that *"despite the fact that upon the use of complaint the points were increased from 79 to 89, it is noticed that the other complainants' points were easily increased in a significant manner, and given that he was a potential candidate who spolied the plans for favours then even in this procedure there was taken care for the evaluation to remain in the quota of 89 points, because if the evaluation points were to go over 91 points, these points along with the points earned during the interview process would automatically rank me in the first place and thereby I would gain promotion to the position of a Supreme Court judge"*. In this regard, the Applicant alleges that he was discriminated against by the KJC.

30. The Applicant alleges that the notification Ref.ZVVHJ/180/20 of 14 July 2020 did not provide sufficient reasons indicating why he was not recommended, namely according to him it did not indicate the manner of evaluation and of awarding scores to him or to other candidates. He states that the decision of the Review Committee was very superficial whilst the reasonings were contradictory.

31. As to the allegation for a violation of Article 31 of the Constitution, the Applicant alleges that the principle of a fair trial implies the respect for a number of individual rights, thus ensuring the good administration of justice. In this regard, he states that *"the favors that have been expressed since the beginning of the competition by spreading rumours about the candidates who will be promoted, have legally contaminated and violated the equality of participants in the competition process"*. He further states that the favors

made throughout the performance evaluation process using double standards clearly indicate a mismanagement of justice and a violation of every principle of a regular legal process.

32. The Applicant states that the decision of the Review Committee does not provide reasons regarding his allegations that the efficiency at work and the number of resolved cases, the quality of the drafted decisions and their confirmation by the Supreme Court have not been taken into account. In this respect, the Applicant alleges that his right of access to court has been violated, because he states that he had requested from the said Committee to be invited before the Committee but they did not do so.

33. As regards the Applicant's allegation for a violation of Article 23 of the Constitution, he states that by failing to consider the merits which he possesses the KJC has offended his dignity.

34. The Applicant requests from the Court to impose interim measures for the reasons stated by him that the implementation of the KJC decisions: *"Decision KGJ.no.229/2020 and KGJK.no.230/2020 whereby two judges were promoted to the Supreme Court would in itself be a further violation of the guaranteed rights, and the very implementation of these unconstitutional decisions would deprive the functioning of the Supreme Court of Kosovo of legality and constitutionality. All rendered decisions where promoted judges would be a part of the decision-making could be declared unlawful, a fact which infringes the principle of legal certainty of the citizens of the Republic of Kosovo."*

35. Finally, the Applicant requests from the Court: (i) to declare his Referral admissible; (ii) to ascertain the violation of his individual rights, guaranteed by Articles 31,108,23,24,32,54 of the Constitution and Article 13 of the ECHR; (iii) to declare invalid: the report of the KJC Performance Evaluation Committee reporting member, of 14.11.2019; the Decision of the KJC Performance Evaluation Committee, of 17.12.2019; the Decision of the Kosovo Judicial Council KJC.no.176/2020, of 3 July 2020; the notification of the panel for reviewing applications and interviewing candidates Ref.ZVVGJ/180/20, of 14.07.2020; the decision of the KJC Ref.ZVVGJ/ 206/20, of 07.09.2020; the decision of the KJC no.229/20120, of 29.09.2020; and the decision of the KJC no.230/2020, of 29.09.2020; (iv) to order the KJC to repeat the vacancy announcement for the position of a judge of the Supreme Court of Kosovo.

Assessment of the admissibility of Referral

36. 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.

37. In this respect, the Court refers to Article 113.7 of the Constitution, which provides:

"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."

38. The Court also refers to Article 47.2 of the Law, which provides:

"[...] The individual may submit the referral in question only after he/she has exhausted all the legal remedies provided by the law."

39. In addition, the Court also takes into account Rule 39 (1) (b) of the Rules of Procedure, which specifies:

"(1)
The Court may consider a referral as admissible if:
[...]
b) all effective remedies that are available under the law against the judgment or decision challenged have been exhausted."

40. The Court recalls that the rule on exhaustion of legal remedies under Article 113.7 of the Constitution, Article 47 of the Law and Rule 39 (1) (b) of the Rules of Procedure obliges those who wish to submit their case to the Constitutional Court that they must first use the effective legal remedies that are available under the law against the challenged judgment or decision.

41. In this way, the regular courts are given the opportunity to correct their errors during the regular court proceedings prior to the case being brought before the Constitutional Court. This rule is based on the assumption stated in Article 32 of the Constitution and Article 13 of the ECHR that there is an effective remedy available in respect of the alleged violation in the domestic law, regardless of whether or not the provisions of the ECHR have been transposed in the national law (see, inter alia, *Aksoy v. Turkey*, ECtHR Judgment, para. 51, 18 December 1996).

42. The principle is that the mechanism of protection of fundamental rights and freedoms in the Constitutional Court is subsidiary in relation to the regular judicial system that protects human rights (see, inter alia, the ECtHR case, *Handyside v. The United Kingdom*, Judgment of 7 December 1976).

43. Pursuant to Article 113.7 of the Constitution, the Applicant must regularly pursue the legal remedies that are available and sufficient to ensure the possibility of redressing the alleged violation. The existence of legal remedies in question must be sufficiently certain not only in theory but also in practice, and if this is not the case, those remedies will lack the requisite accessibility and effectiveness (see, inter alia, *Vernillo v. France*, paragraph 27 of the ECtHR Judgment, of 20 February 1991, and *Dalia v. France*, paragraph 38 of the ECtHR Judgment, of 19 February 1998).

44. It pertains to the Court to examine whether the legal remedies, effective and available in theory and practice at the relevant time, have been exhausted, namely if the available legal remedy, could have rectified the violations in relation to the Applicant's objections, and whether it has offered a reasonable

prospect of success (see, inter alia, *Civet v. France*, paragraphs 42-44, of the ECtHR Judgment, of 28 September 1999).

45. The Court considers that in order for the Applicant to be exempted from the requirement to exhaust all legal remedies it is incumbent on him to show that: i) the remedy was in facts used, ii) the legal remedy was inadequate and ineffective in relation to his case, and iii) that there have existed special circumstances exempting the Applicant from the requirement to exhaust all legal remedies (See the Case of the Constitutional Court of Kosovo, No. KI116/14, *Applicant Fadil Selmanaj*, Resolution on Inadmissibility, of 19 January 2015).

46. The Court notes that the Applicant challenges two decisions issued by the KJC as a result of the competition for the position of a Supreme Court judge in which he participated. More specifically, the Applicant according to the results achieved during the comprehensive selection process received an insufficient number of points and was consequently eliminated from the further procedure of selection of the Supreme Court Judge.

47. The Court also notes that the Applicant considers that the Law No. 03/L-223 on the KJC does not provide for legal remedies against the challenged decision, he also refers to some decisions of the Court mentioned in the part referring to Applicant's allegations, therefore, according to him he should be exempted from the requirement to exhaust all legal remedies provided by law.

48. In this respect, the Court notes that the Applicant, upon receiving the decisions of the KJC, has directly addressed the Constitutional Court, requesting from the latter a constitutional review of the challenged decisions in relation to the alleged violations of the rights and freedoms guaranteed by the Constitution, by basing his referral precisely upon the case law of the Constitutional Court, more exactly in cases KI99/14, KI100/14, in which the Court had exempted the applicants from the requirement of further exhaustion of legal remedies due to the specifics of their positions, respectively the position in which the applicants had applied.

49. The Court considers that the Applicant's case differs and is not relevantly comparable to cases KI99/14 and KI100/14, on which occassion the Court has provided a detailed reasoning as to why the Applicants in those cases were exempted from the requirement to exhaust legal remedies. (see the relevant paragraphs regarding the exemption from the requirement to exhaust legal remedies in cases no. KI99/14 and KI100/14, *Applicants Shyqyri Syla and Laura Pula*, Judgment of 3 July 2014).

50. The Court notes that in the circumstances of the present case, in addition to the possibility of challenging the process of selection of judges in the Supreme Court within the KJC, the applicable laws also refer to other legal remedies stipulated in the Law No.03/L-202 on Administrative Conflicts (hereinafter: the LAC). The Court notes that Articles 13 and 14 of the LAC relating to the possibility of initiating an administrative conflict provide: (i) an administrative conflict can start only against the administrative act issued in the administrative procedure of the court of appeals; (ii) an administrative

conflict can start also against the administrative act of the first instance, against which in the administrative procedure, complain is not allowed; and, (iii) an administrative conflict can also start when a competent body has not issued the relevant administrative act according to the request or complain of the party, under the conditions foreseen by this law (see, the case of the Constitutional Court no. KI147/18, *Applicant Arbër Hadri*, Resolution on Inadmissibility, of 4 September 2019, paragraphs 52 and 53).

51. The Court considers that the burden of proof falls on the Applicant, namely he must prove why the available legal remedies are not sufficiently certain not only in theory but also in practice and why they are not accessible and effective. In the circumstances of the present case, the Court considers that the Applicant has not provided any argument regarding the aforementioned legal remedies and has failed to argue why those legal remedies are not capable to provide a solution or offer any reasonable prospect of success regarding his allegations for constitutional violation (see KI147/18, *Applicant Arbër Hadri*, cited above, paragraphs 56 and 57).

52. The Court considers that the exemption from the obligation to exhaust legal remedies is granted only on exceptional basis. The Applicant must prove that he has done everything which is reasonably expected of him to exhaust the legal remedies (see the ECtHR case, *DH and others v. the Czech Republic*, Judgment of 13 November 2017, paragraph 116 and references mentioned therein). In fact, the case law of the ECHR refers to "*mere doubts*" as insufficient grounds to exempt an Applicant from the requirement of exhaustion of legal remedies. The Applicant's "mere doubts" about the effectiveness of a legal remedy do not exempt him from the requirement to strive to exhaust the legal remedies (see, the ECtHR cases *Epozdemir v. Turkey* Decision on Admissibility of 31 January 2002; *Milosevic v. Netherlands*, Decision on Admissibility of 19 March 2002; *Pellegriti v. Italy*, Decision on Admissibility of 26 May 2005; and *MPP Golub v. Ukraine*, Decision on Admissibility of 18 October 2005). On the contrary, it is in the Applicant's interest to address the appropriate court to give it the opportunity to develop existing rights through its power of interpretation (see, the ECtHR case *Ciupercescu v. Romania*, Judgment of 15 June 2010, paragraph 169).

53. In view of the foregoing, the Court considers that apart from the fact that the Applicant has cited cases KI99/14 and KI100/ 14, he has failed to prove the factual and legal connection of his case with the cases in question. The Court notes that the reasonings of other court decisions must be interpreted in the context and in the light of the factual circumstances in which they were issued (see the case KI147/18, *Applicant Arbër Hadri*, cited above, paragraph 59 and the references mentioned therein).

54. The Court further notes that the Applicant in this case is an individual who has regular legal remedies available before the regular courts and who is authorized under Article 113.7 of the Constitution to submit a Referral to the Court (see, the case of Court KI130/16, *Applicant Hamdi Ibrahimi*, Resolution on Inadmissibility, of 7 July 2017, paragraphs 29-33).

55. The Court would like to emphasize that in cases KI145/15 and KI42/20 it has dealt with similar referrals and that it has issued a Resolution on Inadmissibility because the applicants had not exhausted all legal remedies which were available to them under the law (see, the cases of the Court: KI145/15, *Applicant Florent Muqaj*, Resolution on Inadmissibility, of 5 November 2015, paragraphs 31-41 and KI42/20, *Applicant Armend Hamiti*, Resolution on Inadmissibility of 29 July 2020).

56. In view of the above, the Court considers that in this case there is no final decision of a competent authority which, at this stage, could be subject to review by the Constitutional Court because the Applicant has not exhausted all effective legal remedies under the law in force in the Republic of Kosovo.

57. The Court refers to the interpretation of the ECtHR, which underlines the importance of administering justice without delays which might jeopardize its effectiveness and credibility (see, inter alia , *H. v. France*, ECtHR, Judgment of 24 October 1989).

58. However, the Court notes that the length of the proceedings, *per se*, does not render the legal remedy ineffective. The "reasonableness" of the length of the proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the Applicant and of the relevant authorities and what has been at stake for the Applicant in that dispute (See, the ECtHR case, *Frydlender v. France*, Judgment of 27 June 2000).

59. The Court notes that the Applicant merely assumes that the legal remedy is ineffective. Yet, he does not sufficiently substantiate such an assumption with concrete evidence. A simple claim of the Applicant about a possible lenght of the proceedings beforehand, can not serve as an argument to assess the effectiveness of the legal remedies available to him. (see KI145/15 *Applicant Florent Muçaj*, cited above, paragraph 35).

60. The Court reiterates that the principle of subsidiarity requires that the Applicant exhaust all legal remedies provided by the law. The rationale for the exhaustion rule is to afford competent authorities, including the courts, the opportunity to prevent or remedy the alleged violation of the Constitution. The rule is based on the assumption that Kosovo legal order provides an effective remedy for the violation of constitutional rights. This is an important aspect of the subsidiary character of the Constitution. (See, the case of Constitutional Court KI42/20, *Applicant Armend Hamiti*, Resolution on Inadmissibility, of 20 gushtit 2020, paragrafi 63).

61. The Court recalls its reasoning in a number of other referrals that it has received from the judges and prosecutors who did not get appointed or reappointed. In those cases the Court has decided that the Applicants have not exhausted all effective legal remedies under Kosovo law (see, the cases of the Constitutional Court Kl114/10, *Applicant Vahide Badivuku*, Resolution on Inadmissibility of 8 May 2011 and KI42/20, *Applicant Armend Hamiti*, cited above).

62. The Court finds that the Applicant has failed to provide reasons on why were the regular legal remedies before the regular courts for some reason not available to him or why were they ineffective in the particular circumstances of the case or that there have existed special circumstances due to of which he would have to be exempted from the obligation to exhaust all legal remedies.

63. On the basis of the foregoing, the Court concludes that the Applicant's Referral must be declared inadmissible because not all legal remedies were exhausted in accordance with Article 113.7 of the Constitution, Articles 20 and 47 of the Law and Rule 39 (1) (b) of the Rules of Procedure.

Assessment of the Request for Interim Measures

64. The Court notes that the Applicant requests from the Court the imposition of interim measures, suspending the decisions of the KJC, respectively the Decision KGJ.no.229/2020 and KGj.no.230/2020, whereby two judges have been promoted to the position of a judge at the Supreme Court, for which he states that: *"the very implementation of these unconstitutional decisions would deprive the functioning of the Supreme Court of Kosovo of legality and constitutionality and would in itself, constitute a further violation of the guaranteed rights. All rendered decisions where promoted judges would be a part of the decision-making could be declared unlawful, a fact which violates the principle of legal certainty of the citizens of the Republic of Kosovo".*

65. In order to approve interim measures pursuant to Rule 57 (5) of the Rules of Procedure, the Court must find that:

> *"(5) If the party requesting interim measures has not made this necessary showing, the Court shall deny the request for interim measures."*

66. As it was concluded above, the Applicant has not exhausted the legal remedies provided for by Article 113.7 of the Constitution, Articles 20 and 47 of the Law and Rule 39 (1) (b) of the Rules of Procedure; therefore also the Applicant's request for interim measures must be rejected.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Articles 20 and 47 of the Law and Rules 39 (1) (b), 57 (5) and 59 (2) of the Rules of Procedure, on 20 January 2021, unanimously

DECIDES

I. TO DECLARE the Referral inadmissible;

II. TO REJECT, the request for imposition of interim measures;

III. TO NOTIFY this Decision to the Parties;

IV. TO PUBLISH this Decision in the Official Gazette, in accordance with Article 20.4 of the Law;

V. This Decision is effective immediately.

Judge Rapporteur | **President of the Constitutional Court**

Bajram Ljatifi | Arta Rama-Hajrizi

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