



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

Prishtina, on 12 April 2021
Ref.no.:RK1746/21

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RESOLUTION ON INADMISSIBILITY

in

Case no. KI05/20

Applicant

Labinot Namani

**Constitutional Review of the Judgment Rev. no. 324/2019 of the
Supreme Court of Kosovo of 17 October 2019**

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 Labinot Namani, residing in the Municipality of Prishtina, represented by Ekrem Agushi, lawyer from Prishtina (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges the Judgment [Rev.no.324/2019] of 17 October 2019, of the Supreme Court of the Republic of Kosovo (hereinafter: the Supreme Court).

Subject matter

3. The subject matter is the Referral for the constitutional review of the challenged Judgment, which allegedly violates the Applicant's fundamental rights and freedoms guaranteed by Articles 24 [Equality Before the Law] and 31 [Right to Fair and Impartial Trial] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), in conjunction with Article 6 (Right to a fair trial) of the European Convention on Human Rights (hereinafter: ECHR).

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] of Law no. 03/L-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 Court

5. On 14 January 2020, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 17 January 2020, the President of the Court appointed Judge Nexhmi Rexhepi as Judge Rapporteur and the Review Panel composed of Judges: Arta Rama Hajrizi (Presiding), Bekim Sejdiu and Selvete Gërxhaliu Krasniqi (members).
7. On 27 January 2020, the Court notified the Applicant of the registration of the Referral and requested his authorization for representation in Court.
8. On 4 February 2020, the Applicant submitted to the Court the authorization for representation of a general nature of 2014.
9. On 11 February 2020, the Court repeated its request for additional documents and requested the Applicant to clarify which rights and freedoms he allegedly had been violated.
10. On 21 February 2020, the Applicant submitted to the Court the completion of the Referral, submitting the authorization for representation in the Court, as well as completing the Referral with the alleged violations.
11. On 4 June 2020, the Court notified the Supreme Court of the challenged Judgment [Rev. no. 324/2019] of 17 October 2020, and provided it with a copy of the Referral.

12. On 29 March 2021, the Review Panel considered the report of the Judge Rapporteur and unanimously recommended to the Court the inadmissibility of the Referral.

Summary of facts

13. Based on the case file, it appears that the Applicant on 12 January 2006 was involved in a dispute event between primary school pupils in Prishtina, in which case the interested party F.O. was inflicted bodily harm with a blunt mechanical instrument. The interested party, due to the injury received, underwent surgery at the University Clinical Centre of Kosovo (hereinafter: UCCK).
14. On 20 January 2009, the Public Prosecutor in Prishtina submitted a proposal for imposing an educational measure on the Applicant, due to the commission of the criminal offense of Grievous Bodily Harm from sub-paragraph 1.3 of Article 154 (Grievous Bodily Harm) of the Provisional Criminal Code of Kosovo (hereinafter: CCK).
15. On 1 June 2009, the Municipal Court in Prishtina by Decision [PM.20/2009] decided that the Applicant (as a juvenile) be imposed: the measure of intensive supervision by the Guardianship Authority according to Article 16 (Purpose of educational measures) and 17 (Types and length of educational measures) in conjunction with Article 22 (Intensive supervision by the Guardianship Authority) of the Juvenile Justice Code of Kosovo (hereinafter: JJCK), for a period of 1 (one) year; [...]; while the interested party F.O., in the capacity of the injured party, regarding the realization of the property-legal claim was instructed to a regular civil legal dispute.
16. On an unspecified date, the interested party F.O. files a claim in the Basic Court in Prishtina (hereinafter: the Basic Court), through which he had requested that the Applicant or his two parents S.N. and I.N. be obliged to compensate him for the harm of injuries sustained in the fight of 12 January 2006. Specifically, the interested party F.O. had requested from the Basic Court to approve his claim: (i) for physical pain to be recognized compensation in the amount of €10,000.00; (ii) for fear the amount of €4,000.00 ; (iii) for reduction of general life activity the amount of €8,000.00; (iv) for bodily deformation the amount of €6,000.00; (v) for fortified food the amount of €450.00; (vi) for climate rehabilitation the amount of €750.00; (vi) for the assistance and care by a third party the amount of €210.00; (vii) for recovery costs the amount of 15.00 €, all these with interest in the amount of 8%, starting from the day of causing the harm until the fulfilment of the final payment.
17. The Applicant through the response to the claim objected to the claim and its claims, stating that the respondents S.N. and I.N. lack real passive legitimacy to be respondent parties on the grounds that their son, here the Applicant Labinot Namani, now is an adult and has the capacity to act as a party to a contentious procedure. Consequently, the Applicant's lawyer proposed that the claim of the interested party F.O. be rejected as ungrounded, as there are flaws regarding the grounds of the claim, and that the criminal resolution contains

legal flaws also for the fact that it has never been submitted to the Applicant. In his closing arguments, the Applicant stated that the bodily injuries for which he was found guilty and the educational measure was imposed on him, were the result of a fall from a bicycle, because the bodily injuries caused, as assessed by the expert, were not the result of inappropriate use of an instrument to cause bodily injuries.

18. On 1 June 2015, the Basic Court by Judgment [C.no.1642/09] decided: (i) to approve as grounded the claim of the interested party F.O. and to oblige the Applicant, in the name of compensation for material and non-material damage suffered in the incident of 12 January 2006, pay to the interested party F.O. compensation as follows: a) non-material damage: -For physical pain the amount of €2,500.00; b) For the experienced fear the amount of €1,500.00; c) For the reduction of the general life activity the amount of €2,000.00; d) For bodily deformation the amount of €2,000.00, in the total amount of €8,000.00, with interest as paid by local banks for savings deposits for a period of over one year without a definite destination, from the day of receiving this judgment until the final payment, together with the costs of the proceedings in the amount of €1,448.00, within 15 days from the day of receiving this judgment and under the threat of legal execution; (ii) reject the claim against respondents S.N. and I.N.; and (iii) reject the part of the claim of the interested party F.O., regarding the amounts of costs claimed.
19. On an unspecified date, the Applicant files an appeal against the aforementioned Judgment: (i) due to violation of the provisions of the contested procedure; (ii) erroneous and incomplete determination of the factual situation; and (iii) erroneous application of substantive law. Also, the interested party F.O. filed a response to the appeal where he proposed that the Applicant's appeal be rejected in its entirety as ungrounded.
20. On 2 May 2019, the Court of Appeals in Prishtina (hereinafter: the Court of Appeals) by Judgment [Ac.no.891/16] rejected as ungrounded the Applicant's appeal, while upholding Judgment [C.no.1642/2009] of 1 June 2015, of the Basic Court.
21. On an unspecified date, the Applicant submits a request for revision to the Supreme Court of Kosovo (hereinafter: the Supreme Court) for violation of the provisions of the contested procedure from Article 182.2(n) of the Law on Contested Procedure.
22. On 17 October 2019, the Supreme Court by Judgment [Rev. no. 324/2019] rejected as ungrounded the Applicant's revision and rejected as inadmissible the appeal of the Applicant's parents S.N. and I.N.

Applicant's allegations

23. The Applicant alleges that the challenged Judgment [Rev. no. 324/2019] of 17 October 2019, of the Supreme Court which rejected as ungrounded his revision, had been rendered in violation of his fundamental rights and freedoms guaranteed by Article 24 [Equality Before the Law] and 31 [Right to

Fair and Impartial Trial] of the Constitution in conjunction with Article 6 (Right to a fair trial) of the ECHR.

24. The Applicant alleges that the reasons presented in the challenged Judgment are contradictory to the content of the UCK Prishtina report [No. 1994] of 12 January 2006, as the bodily injuries of the interested party were not caused by the actions of the blunt instrument with which he was hit by the Applicant, but the bodily injuries are as a result of falling from the bicycle. Consequently, the Applicant alleges that while these bodily injuries were caused to the interested party by the fall from the bicycle, the Basic Court by Decision [PM.no.20/2009] of 1 June 2009, erroneously imposed the measure of intensive supervision by the Guardianship Authority.
25. From the Applicant's point of view, according to the interpretation of the regular courts, he has been seriously violated his rights under Article 31 of the Constitution which guarantees that everyone enjoys the right to a fair and impartial public hearing regarding decisions on the rights and obligations within a reasonable time by an independent and impartial court established by law. Therefore, the Applicant requests the Court to verify the evidence issued by the UCK, i.e. the evidence from which the entire procedure derives to the last trial, as in the UCK report of 12 January 2006, the day when it is considered that the damage was caused and the report of 13 January 2006 on the day when the interested party F.O. had fallen down from a bicycle and the injuries were caused by the same, so if this evidence was carefully administered by the court of first instance, another decision would have been rendered.
26. The Applicant also alleges that the regular courts by their decisions have violated his rights according to Article 24 of the Constitution as a result of substantial violations of the provisions of the contested procedure and erroneous application of substantive law when they assessed that the Applicant has caused material damage to the interested party and he has been obliged to compensate this damage in the adjudicated amount.
27. Finally, the Applicant proposes that his Referral be approved as grounded and the Judgment of the Court of Appeals [Ac.no.891/16] of 02 May 2019 which upheld the Judgment of the Basic Court [C.no.1642/09] of 1 June 2015, be amended and the claim of the interested party be rejected as ungrounded and the claimant be obliged to compensate the respondents the costs of the contentious procedure in the amount of €5,568.00; or the appellate Judgments be quashed and the case remanded to the court of first instance for retrial.

Relevant legal provisions

Law on Obligations, 1978

Foundations of liability

Article 154

Whoever causes injury or loss to another shall be liable to redress it, unless he proves that the damage was caused without his fault.

Liability shall ensue regardless of fault for injury or loss caused by objects of property or activities generating increased danger for the environment.

Liability for injury or loss regardless of fault shall ensue also in other cases specified by law.

Liability of minors

Article 160

- (1) *Minors under the age of seven (7) shall not be liable for any damage they inflict.*

Minors aged seven and over but under fourteen (14) shall not be liable for damage, unless it is shown that they were capable of accounting for their actions when the damage was inflicted.

Minors aged fourteen (14) and over shall be liable according to the general rules on liability for damage.

Monetary compensation

Article 200

Just monetary compensation independent of the reimbursement of material damage shall pertain to the injured party for physical distress suffered, for mental distress suffered owing to a reduction in life activities, disfigurement, the defamation of good name or reputation, the truncation of freedom or a personal right, or the death of a close associate, and for fear, if the circumstances of the case, particularly the level and duration of distress and fear, so justify, even if there was no material damage.

Upon the decision on the request for the compensation of immaterial damage, as well as for the amount of the compensation, the court shall evaluate the importance of the violation of goods and the purpose to which this compensation shall serve, also in order not to support the tendencies that are not compatible with the nature and the social purpose thereof.

Assessment of the admissibility of the Referral

28. The Court initially examines whether the Applicant has met the admissibility criteria set out in the Constitution and further specified in the Law and the Rules of Procedure.

29. In this regard, the Court refers to paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, which stipulate:

“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.”

30. In addition, the Court also examines whether the Applicant has met the admissibility criteria as set out in the Law. In this regard, the Court initially 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 ... ”.

31. Regarding the fulfilment of these criteria, the Court notes that the Applicant is an authorized party, challenging an act of a public authority, respectively Judgment [Rev. no. 324/2019] of 17 October 2019, of the Supreme Court and has exhausted all legal remedies provided by law. The Applicant has also clarified the fundamental rights and freedoms that he alleges to have been violated, in accordance with the requirements of Article 48 of the Law and has submitted the Referral in accordance with the deadlines set out in Article 49 of the Law.
32. In addition, the Court examines whether the Applicant has met the admissibility criteria set out in paragraph (2) of Rule 39 (Admissibility Criteria) of the Rules of Procedure. Rule 39 (2) of the Rules of Procedure sets out the criteria on the basis of which the Court may examine the Referral, including the criterion that the Referral is not manifestly ill-founded. Rule 39 (2) provides in particular that:

Rule 39
(Admissibility Criteria)

“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;”

33. In the context of assessing the admissibility of the Referral, respectively, in assessing whether it is manifestly ill-founded on constitutional grounds, the Court shall initially recall the substance of the case contained in this Referral and the Applicant’s respective allegations, in the assessment of which, the

Court shall apply the standards of the ECtHR case law, in accordance with which, according 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.

34. In this respect, the Court initially recalls that the Applicant alleges that the Supreme Court, by Judgment [Rev.no.324/2019] of 17 October 2019, has violated his rights guaranteed by Articles 24 and 31 of the Constitution.
35. In this regard, the Court notes that, in essence, the Applicant complains that in his case the regular courts have violated his rights guaranteed by Article 31 of the Constitution, as they have not correctly established the factual situation, because he had not caused injury to the interested party F.O. and that the interested party had been injured due to the fall from the bicycle and not by his actions. Also, the Applicant states that as a result of substantial violations of the provisions of the contested procedure and erroneous application of the substantive law, the regular courts have obliged him to compensate the damage in the adjudicated amount.
36. With regard to the above allegations, the Court considers that the Applicant has constructed his case on the basis of legality, namely on the erroneous establishment of facts with respect to the decision (i) on his guilt in relation to the injury of the interested party by a blunt instrument; and (ii) on approval as grounded of the claim of the interested party F.O. for compensation of non-material damage suffered in the accident/ incident of 12 January 2006.
37. In the context of this category of allegations, the Court notes that based on the ECtHR case law, but also taking into account its specifics, as defined by the ECHR (see in this context, the clarification in the ECtHR Practical Guide of 30 April 2019 on Eligibility Criteria; Part I. Inadmissibility based on merit; A. Manifestly Ill-founded Referrals; 2. “*fourth instance*”, paragraphs 262 and 263), the principle of subsidiarity and the doctrine of the fourth instance, it has consistently emphasized the difference between “*constitutionality*” and “*legality*” and has asserted that it is not its duty to deal with errors of fact or erroneous interpretation and application of the law allegedly made by a regular court, except and to the extent that such errors may have violated the rights and freedoms protected by the Constitution and/or the ECHR (see, in this context, inter alia, the Court cases, KI139/19, with Applicant *Riad Bejtullahu*, Resolution on Inadmissibility of 3 December 2020, paragraph 56; KI179/18, Applicant *Belgjyzar Latifi*, Resolution on Inadmissibility of 23 July 2020, paragraph 68; KI56/17, with Applicant *Lumturije Murtezaj*, Resolution on Inadmissibility, of 18 December 2017, paragraph 35; and KI154/17 and KI05/18, with Applicants, *Basri Deva, Aferdita Deva and the Limited Liability Company “Barbas”*, Resolution on Inadmissibility, of 12 August 2019, paragraph 60).
38. The court has also consistently asserted that it is not its role to review conclusions of regular courts in relation to the factual situation and the application of substantive law and that it may not itself assess the facts which have led a regular court adopt one decision rather than another. Otherwise, the Court would be acting as a court of “*fourth instance*”, which would result in

disregard for the limits imposed on its jurisdiction (see, in this context, the ECtHR case *García Ruiz v. Spain*, Judgment of 21 January 1999, paragraph 28 and references used therein; and see also the Court cases, KI139/19, cited above, paragraph 58; and KI154/17 and KI05/18, cited above, paragraph 61).

39. The Court, however, notes that the ECtHR case law, as well as its case law, provides for the circumstances under which exceptions from this position can be made. As reiterated above, while the regular courts have a primary duty to resolve issues concerning the interpretation of applicable law, the role of the Court is to ensure or verify whether the effects of such interpretation are compatible with the Constitution and the ECHR (see the ECtHR case, *Miragall Escolano and others v. Spain*, Judgment of 25 May 2000, paragraphs 33-39; and see also the Court cases, KI154/17 and KI05/18, cited above, paragraph 63). In principle, such an exception relates to cases which turn out to be manifestly arbitrary, including those in which a court has “*applied the law manifestly erroneously*” in a particular case and which may have resulted in “*arbitrary conclusions*” or “*manifestly unreasonable conclusions*” for the relevant Applicant (for a more detailed clarification regarding the concept of *manifestly erroneous application of the law*”, see, inter alia, the Court cases, KI154/17 and KI05/18, cited above, paragraphs 60 to 65 and the references used therein).
40. The Court recalls that the Applicant's allegations relate to the field of legality and as such do not fall under the jurisdiction of the Court, and therefore, in principle, cannot be reviewed by the Court (see Court cases, KI101/19, with Applicant *Ljubiša Trajković*, Resolution on Inadmissibility of 4 December 2020, paragraph 43; KI56/17, with Applicant *Lumturije Murtezaj*, Resolution on Inadmissibility, of 18 December 2017, paragraph 35).
41. In the circumstances of the present case in relation to the main claim of the Applicant, namely the claim to establish the facts regarding the fact that the bodily injuries of the interested party are a consequence of the fall from the bicycle, the Basic Court stated the following:

The court, on the proposal of the respondents' lawyer to clarify the fact that the injuries suffered by F.O. are injuries due to a fall from a bicycle or are injuries suffered as a result of a beating and to provide clarifications regarding the abovementioned medical expertise invited to the session the orthopaedic-traumatology expert G.J. who stated that he stands by the previous expertise regarding the course of treatment of the F.O., claimant who was hit with a blunt instrument on the head in the region of the left eye causing him grievous bodily harm, while he accepted the remarks of the authorized of the respondent as reasonable remarks on the fact that the claimant had two emergency room reports one of 12.01.2006 where in the anamnesis is mentioned that the injured person fell from the bicycle, whereas the report of 13.01.2006 where the maxillo-facial surgeon was consulted too, the same injuries are described as injuries caused by blunt trauma. The court admitted the abovementioned medical expertise as credible, with sufficient data to ascertain the degree and nature of the injuries as well as the amount of the claim, therefore the same was taken as credible. [...] The court, pursuant to Articles 154 and 200 of the LOR,

obliged the respondent to compensate the claimant for the non-material damage suffered as in the enacting clause of this judgment.

42. Furthermore, the Court of Appeals and the Supreme Court, by Judgment [AC.no. 891/16] and Judgment [Rev.no.324/2019], respectively, had reviewed all the allegations of the Applicant raised through the appeal and the request for revision, with emphasis (i) on establishing the facts whether the injury of the interested party was caused by the fall from the bicycle; (ii) on his obligation to compensate the damage to the interested party F.O. in the adjudicated amount.

43. In this regard, the Court of Appeals, inter alia, reasoned as follows:

The appellate claims of the respondent party are not approved by the panel for the fact that in the expertise drafted regarding this case it has been established that on 12.01.2006 around 17:00 in Prishtina in the yard of the primary school "Asim Vokshi" during a fight F.O. was hit with a blunt instrument on the head in the region of the left eye causing him grievous bodily harm, loss of consciousness, contused-lacerated wounds above the eyebrow, hematoma of the upper eyelid and the root of the nose. The Panel finds that in the session of 01.06.2015 the invited expert Dr. G.J. orthopaedist-traumatologist confirmed that the injuries of 12.01.2006 are injuries from the fall of the bicycle and have been treated as injuries which were caused by that fall, while the injuries of 13.01.2006 are injuries caused by the trauma with a blunt instrument in the head and in the region of the left eye, therefore the panel does not approve the claims of the respondent that the court of first instance has made an erroneous assessment of the UCK report of 12.01.2006 and the report of 13.01.2006 as well as the opinion of the medical expert. The Panel of the Court of Appeals has assessed this expertise as professional and has accepted it as credible. Based on all of the above, it results that the appellate claims filed by the claimant with the appeal that the amounts adjudicated as in the judgment of the court of first instance are high do not stand as they are determined in accordance with the degree of injury to the injured good in the case of causing the damage.

44. Whereas the Supreme Court, in this context had stated the following:

The injuries were caused to the claimant by the respondent Labinot and such a finding also emerges from the discharge report from the Dental Clinical Centre in Prishtina with no. 25/6 according to which the injuries suffered by the claimant are as a result of beating and that it does not stand as it is claimed in the revision that the injuries were caused during the fall from the claimant's bicycle. The report of the forensic experts is based on the medical documentation of the claimant which are in the case file and that the statements of the revision that the findings of the forensic experts are contrary to the medical documentation do not stand. From all this it turns out that the respondent's liability is based on Article 154 of the LOR, on which the courts of lower instance rightly invoke and that the amount of non-material damage is determined pursuant to Article 200 of the LOR.

45. Therefore, taking into account the allegations raised by the Applicant and the facts presented by him, as well as the reasoning of the regular courts discussed above, the Court considers that the Applicant does not prove and sufficiently substantiate his allegation that the regular courts may have "applied the law manifestly erroneously" resulting in "arbitrary conclusions" or "manifestly unreasonable conclusions" for the Applicant, and consequently his allegations of erroneous establishment of facts and erroneous interpretation and application of the applicable law regarding the obligation to compensate non-material damage by the trial panel, qualify as claims that fall into the category of "fourth instance" and as such, reflect claims at the level of "legality" and are not argued in the level of "constitutionality" (see the Court case KI139/19, cited above, paragraph 70).
46. The Court recalls that the Applicant also alleges that in the circumstances of the present case, the challenged Judgment was rendered in violation of his fundamental rights and freedoms, guaranteed by Article 24 of the Constitution.
47. With regard to the Applicant's allegation of a violation of Article 24 of the Constitution, the Court recalls that, as a general rule, equality before the law means the equality of individuals on equal terms and their right to equal protection by law without any discrimination. However, equality before the law does not mean that an individual or a category of persons who are in objectively different conditions have the same treatment and solutions (see the Court case, KI173/18, Applicant *Nijazi Pasoma*, Resolution on Inadmissibility of 22 July 2019, paragraph 30).
48. In this context, the Court considers that the Applicant has not submitted any evidence *prima facie* and has not substantiated his allegations that he had been discriminated against in proceedings before public authorities, including the regular courts (see, in this context, the Court case, KI44/18, Applicant *Mega Shop*, Resolution on Inadmissibility of 8 May 2019, paragraph 66).
49. With respect to these allegations, the Court notes that the mere fact that the Applicant is not satisfied with the outcome of the Judgment of the Supreme Court or by merely mentioning the articles of the Constitution is not sufficient to establish an allegation of a constitutional violation. When alleging such violations of the Constitution, the applicants must provide reasoned allegations and convincing arguments (see, in this context, Court cases, KI81/19, with Applicant *Skender Podrimqaku*, Resolution on Inadmissibility of 5 December 2019, paragraph 76; KI78/19, with Applicant *Miodrag Pavic*, Resolution on Inadmissibility of 1 November 2019, paragraph 56).
50. Therefore, in these circumstances, based on the above and taking into account the allegations raised by the Applicant and the facts presented by him, the Court, relying also on the standards set in its case law practice in similar cases and the case law of the ECtHR, finds that the Applicant has not proved and has not sufficiently substantiated his allegations of violation of his fundamental rights and freedoms guaranteed by the Constitution.

51. In conclusion, the Referral is manifestly ill-founded on constitutional grounds and must be declared inadmissible, in accordance with Rule 39 (2) of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court of the Republic of Kosovo, in accordance with Article 113.1 and 113.7 of the Constitution, Article 20 of the Law and Rules 39 (2) and 59 (2) of the Rules of Procedure, on 29 March 2021, unanimously:

DECIDES

- I. TO DECLARE the Referral inadmissible;
- II. TO NOTIFY this Resolution to the parties;
- III. TO PUBLISH this Resolution in the Official Gazette, in accordance with Article 20.4 of the Law;
- IV. This Resolution is effective immediately.

Judge Rapporteur

President of the Constitutional Court

Nexhmi Rexhepi

Arta Rama-Hajrizi



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