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

Prishtina, on 29 April 2021
Ref. No: RK 1762/21

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RESOLUTION ON INADMISSIBILITY

in

Case No. KI101/20

Applicant

Shqipërim Ademaj

Constitutional review of Decision No. 15/2020, of the Ministry of Justice, of 21 February 2020

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

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 Shqipërim Ademaj, residing in Prishtina (hereinafter: the Applicant), represented by lawyer, Kemajl Ademaj.

Challenged decision

2. The Applicant challenges the constitutionality of the Decision no. 15/2020 of the Ministry of Justice of the Republic of Kosovo (hereinafter: the MoJ) of 21 February 2020, concerning the annulment of the Notary examination.

Subject matter

3. Subject matter is the constitutional review of the challenged Decision of the Government, referred above, by which the Applicant alleges violation of his rights guaranteed by Articles: 7 [Values], 10 [Economy], 24 [Equality before the Law], 31 [Right to Trial Fair and Impartial], 49 [Right to Work and Exercise the Profession], 53 [Interpretation of Human Rights Provisions], 99 [Procedures], 119 [General Principles] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), as well as Article 14 [Prohibition of discrimination] and Article 1 of Protocol no. 1 of the European Convention on Human Rights (hereinafter: the ECHR).

Legal basis

4. The Referral is based on paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, Articles 22 [Processing of Referrals] and 47 [Individual Request] of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law), as well as 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 20 June 2020, the Applicant submitted the Referral to the Post of Kosovo. On 25 June 2020 the Referral was received by the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).

6. On 2 July 2020, the President of the Court appointed Judge Safet Hoxha as Judge Rapporteur and the Review Panel composed of Judges: Selvete Gërxhaliu-Krasniqi (presiding), Bajram Ljatifi and Radomir Laban (members).

7. On 3 August 2020, the Court notified the Applicant about the registration of the Referral KI101/20. A copy of the Referral was sent to the MoJ, in accordance with the law.

8. On 11 August 2020, the Applicant submitted the supporting documentation.

9. On 12 April 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

10. On 19 April 2019, MoJ by the Decision no. 16/2019, published the competitive announcement for candidates who wanted to enter the Notary examination.

11. Written Notary examination took place on 15 and 16 June 2019, whereas the oral Notary examination was held on 6, 7 and 8 July.

12. On 12 July 2019, the MoJ announced the results of the successful candidates who passed the Notary Examination. Among them was also the Applicant, ranked as the 150th in the list, who on the same day was awarded with Certificate no. 150/2019, as evidence of passing the examination.

13. On 22 July 2019, the MoJ issued the Decision [no. 122/2019] for publishing a notice of competition for 79 vacancies for Notary in some municipalities of the Republic of Kosovo. The deadline for application was 7 August 2019.

14. On 24 July 2019, the MoJ announced public competition on the admission of notaries.

15. On 6 August 2019, the Applicant submitted a request to the MoJ, by which he requested: *"...With this request I address the Ministry of Justice of the Republic of Kosovo-Commission for the appointment of notaries, according to the competition published by the Ministry of Justice of the Republic of Kosovo, in accordance with decision no. 122/2019, of 22.07.2019. Upon passing the notary examination and fulfilling all the conditions provided by law for exercising the duty of notary, with this request I express my interest in the appointment, respectively for the opening of the notary office in the following municipalities: 1. Ferizaj, 2. Lipjan and 3. Shterpce.(...)"*

16. On 21 February 2020, the MoJ by the Decision no. 15/2020 canceled the process of the Notary examination announced on 19 April 2019, due to allegations of irregularities in the process, that there were favors to family, friends and parties of public figures. The enacting clause of this decision states: *1. The process of the Notary Examination, announced on 19 April 2019, by the Ministry of Justice, is canceled. 2. All payments made by the candidates who have entered the notary examination according to point 1 of this decision will be reimbursed. 3. Free Professions Department and the Department of Finance and General Services are obliged to implement this decision, 4. This decision enters into force on the day of its signing.* Legal advice instructs that the dissatisfied party may initiate an administrative dispute against this decision before the competent court.

Applicant's allegations

17. The Applicant alleges that the challenged Decision of the MoJ violated his constitutional rights guaranteed by Articles 7, 10, 24, 31, 53, 99 and 119 of the Constitution, as well as Articles 14 and 1 of Protocol no. 1 of the ECHR

    i. *Allegations concerning the violation of Article 7 [Values] of the Constitution*

18. The Applicant regarding this violation alleges that the Government, respectively the MoJ arbitrarily denied him his acquired rights, by treating him unequally before the law. With this action the Applicant alleges that the MoJ

violated his human rights, *"...deviating from the principle that the government of the Republic of Kosovo is based on respect for the rights of its citizens and the obligation to respect the acquired rights".*

ii. Allegations concerning the violation of Article 10 [Economy] of the Constitution

19. In this regard, the Applicant alleges that the MoJ has violated: *The freedom of entrepreneurship by denying persons who have passed the Notary examination to develop entrepreneurship for the benefit of themselves, their families and the general public; Consumer freedom by disabling Consumers' freedom, by disabling consumers from providing a wider market of notary services, in order to create opportunities for notary services to be provided at competitive prices and higher quality; Freedom to provide services to persons who have passed the Notary examination; Freedom of private property, when the persons mentioned will by providing the services for which they are qualified would generate income for themselves and their families and also generate funds for the state; The freedom to set the prices of services in favor of customers services according to the normal demand and supply, providing a wider offer to customers, with competitive prices and higher quality, and in addition, the Ministry with this action, has violated free access to market for consumers and free competition. This is when the fact is known that according to the Law on Notaries, in the Republic of Kosovo, the number of notaries should be one (1) notary per 10,000 inhabitants, while currently in Kosovo, there are about 70-75 notaries, of which 10- 15 of them should retire by the end of this year. It is to be analyzed the fact, in whose interest is this monopolization of this service so much necessary for the citizens and businesses in the Republic of Kosovo? One thing is for sure, that; this situation and this monopoly created for eight (8) years now, does in no way fit to the interest of the citizens and businesses in the Republic of Kosovo".*

iii. Allegations concerning the violation of Article 24 [Equality before the Law] of the Constitution

20. The Applicant alleges that the MoJ, invoking on a reestablishment of legality due to the violation of the constitutional provision of Article 24 of the Constitution, *"...were deprived of their acquired right, not even for the fact that it was proved that he had a certain political orientation or belonged to a certain group (even though neither this would be a legal basis for the violation of the acquired rights), but this right of the same was denied to him for the sole "reason" that; He had acquired the denied right at the time when the Ministry of Justice was led by another political group, and not by the political group to which belonged the person who was in charge of the Ministry of Justice, at the time of the issue of the mentioned decision! Consequently, the applicant raises the question that; what is or what can be considered his fault, omission or interaction, whatever it may be in this case, to cancel his acquired right? And if the mentioned decision is not declared unconstitutional; What would be the motive of the applicant and others to be part of any other eventual process to acquire the right which has been denied, or the certificate which due to the cancellation of the process, is also considered canceled? So, who can guarantee the applicant and others that if*

they will be subject to a "correct" process of qualification as claimed by the Ministry, that in the future, the other government will not continue the practice already started by this ministry, for the spontaneous and arbitrary annulment of all actions and rights acquired, during any previous government. We believe that the Constitutional Court of the Republic of Kosovo, such decisions contrary to the law, the Constitution and legal security, will not allow, and will terminate such practice of destruction of legal security".

iv. Allegations concerning the violation of Article 31 [Right to Fair and Impartial Trial] of the Constitution

21. The Applicant regarding the violation of the right to a fair trial adds: *"From a neutral assessment of the decision of the Ministry, it clearly results that the applicant has been denied the acquired right, contrary to all national and international laws, by flagrantly violating by the Ministry, the basic principles of the Law on General Administrative Procedure, such as: 1. The principle of lawfulness, Article 4, par.2 of the LGAP,... 2. The principle of equality and non-discrimination, Article 6 of the LGAP,... 3. The principle of objectivity and impartiality, Article 7 par.2,... 4. The principle of legitimate and reasonable expectation, Article 8 par 1, of the LGAP,... 5. The principle of open administration, Article 9, par. 1 and 2, of the LGAP.* Further, the Applicant states that*: "The mentioned decision contains omissions in terms of Article 48 of the LGAP. This is for the fact that the reasoning of the decision does not contain an explanation of the factual situation on which the decision was made. The "facts" for which the Ministry claims to have been decisive in this case, are exceedingly unbelievable. Consequently, the Ministry in the mentioned decision, in a very subjective way, maliciously-in bad faith and in a very superficial way, only as "face to face" has evaluated the evidence which in fact does not stand". ... In addition, the Ministry, referring to Article 55 of the LGAP which speaks about the right of the administrative body to annul an administrative act, in fact the Ministry according to the decision has annulled not an individual or general administrative act, but has canceled a process" The decision contains violation of Article 91 of the LGAP, due to the fact that the party now the Applicant was never given the right to get acquainted with the documents of the file for administrative proceeding which preceded the challenged decision, and was not even given the opportunity to obtain a copy of the documents of the case file. Also, contrary to Articles 94 and 95 of the LGAP, the party-now the Applicant was not been given the opportunity or the right to present opinions, explanations and evidence, nor the right to be heard in a proceeding. The party now the Applicant, was never notified by the Ministry with the administrative act, as provided by the legal provisions of Article 110, 112 and 116, of the LGAP".*

v. Allegations concerning the violation of Article 49 [Right to Work and Exercise the Profession] of the Constitution

22. The Applicant in relation to this allegation states that: *"By acting as above, Article 49 of the Constitution has been violated, according to which; The right to work is guaranteed and every person is free to choose his/her profession and occupation, same as these rights are proclaimed by the Universal*

Declaration, which also guarantees the right to honest and satisfactory working conditions, the right to protection from unemployment, such rights that are also recognized by the International Covenant on Economic, Social and Cultural Rights of 1996 and the European Social Charter. With such action, the Ministry, has unjustly prevented the Applicant as a young staff at the age of 27, with a completed law faculty and with working experience of five (5) years in one of the notary offices in Kosovo, to work in the profession for which he has invested and been prepared for ten (10) years now without interruption.

vi. Allegations concerning the violation of Article 53 [Interpretation of Human Rights Provisions] of the Constitution

23. In regards to this violation, the Applicant provides this reasoning: *"It does not need much explanation that the annulment and denial of the acquired rights of the individual, as in this case, the annulment of the decisions of state-governmental bodies on ideological grounds, causes legal uncertainty regarding the acquired rights for each citizen. Such actions even discourage citizens from making any effort to achieve certain rights, because such a logic carries with it the fear of annulment and denial of any acquired rights, which makes also the life of citizens and especially of the young, as insecure and extremely without a perspective".*

vii. Allegations concerning the violation of Article 99 [Procedures] of the Constitution

24. Regarding this allegation, the Applicant alleges that: *"...also violated Article 99 of the Constitution, according to which, the methods of work and decision making procedures of the Government shall be regulated by law and regulations. This due to the fact that, with the mentioned decision, neither the law nor the relevant regulations have been taken into consideration, but the decision was taken on the basis of ideological resentments, as one of many other actions of dismissal, denial and annulment by the relevant Ministry undertaken while it has been in power- now the dismissed government".*

viii. Allegations concerning the violation of Article 119 [General Principles] of the Constitution

25. In regards to the allegation of violation of Article 119 of the Constitution, the Applicant states: *"With the mentioned decision, also Article 119 of the Constitution has been violated, according to which market economy of free competition is the basis of economic regulation of the Republic of Kosovo. With this action, the Ministry has shown the diametrically opposite attitude towards a legal environment for free market and entrepreneurship. Thus, by promoting policies that openly restrict free competition, it enables the creation and abuse of a monopolistic or dominant position, established now for almost a decade in the field of notary in Kosovo. With such decision, the Ministry has made the consumption of notary services not to be controlled by the market, while the lack of competition between notaries service providers, also to negatively lead to the improvement of quality and reduction of prices".*

ix. Allegations concerning the violation of Article 14 of the ECHR

26. In regards to this allegation, the Applicant states: "*With the challenged decision, also Article 14 of the ECRH, has been seriously violated. This is due to the fact that the applicant was discriminated against, respectively his acquired right was denied, not because of the fact that he had an opponent of a certain political party (although the convention protects the rights of individuals, considering political diversity as value of democracy), but for the only fact, namely that he had acquired his right at the time when the relevant Ministry was led by members of another political affiliation from those who took the said decision. With such an action of the Ministry, Article 1 of the ECHR was undoubtedly violated, according to which the parties are obliged to provide to everyone, who is in their jurisdiction, the rights and freedoms defined in the first title of this Convention, which as a right from the first title of the Convention is also the right to a fair trial defined in Article 6, which based on the above, obviously the mentioned principle has been seriously violated by the Ministry*".

x. Allegations concerning the violation of Article 1 of Protocol no. 1 of the ECHR

27. Furthermore, the Applicant alleges that his right to property has also been violated, with the following reasoning: "*Since the acquired right of the applicant is a right which can also be treated as a property right, the Ministry has drastically violated Article 1 of the Additional Protocol to the Protection of Human Rights and Fundamental Freedoms, as well as Article 2 of this protocol which guarantees the right to education. This is because the mentioned decision has also violated Article 19 of the Law on Property and other Real Rights, which by defining the same rights as for property, among others has determined that; "The provisions of this chapter also apply to similar rights regarding other assets that make no reference to a thing, in particular rights of claims and intellectual property, insofar in these rights by their nature those provisions are applicable. "This for to the fact that, until the applicant was determined to realize the right acquired in a process organized by state entities, in a state of law and the rule of law, as applicant alleges, hopes and wants to be the Republic of Kosovo. All these actions the applicant had taken by being motivated to work within the scope of profession and to provide material goods for himself, his family and the society in general. Therefore, with the annulment and denial of the right acquired in this way by the Ministry, of course that among other things, his property rights have been violated*".

28. Furthermore, the Applicant alleges: "*According to the Law on Administrative Conflicts, the dissatisfied party with the final decision of the Administrative Body has the right to initiate an administrative conflict with an administrative complaint, to assess the legality of the administrative act. For this reason, the party in this case has filed a claim with the Basic Court in Prishtina-Department for Administrative Affairs. However, one should take into consideration the fact that the procedure in the first instance is not completed before at least three years have passed, as well as the fact that according to practice, the court (Department of Administrative Affairs) in*

most cases does not decide meritoriously according to the claim, but only does the annulment of the administrative act and returns the case for reconsideration, an action which again gives the administrative body the opportunity for reconsideration, which may again reject the claim of the party, which again gives the claimant the right to initiate administrative conflict. And after the meritorious conclusion in the first instance, each of the dissatisfied parties has the right to appeal to the Court of Appeals-Department for Administrative Affairs, a practice according to which, the party may be forced to wait for the final resolution of the case even for an entire decade. We consider that these are sufficient reasons to terminate the claim filed in this case, it is not an effective legal remedy, according to which the party would be able, within a reasonable time, to realize or restore its acquired right, which has been unjustly denied by the Ministry"

29. Finally, the Applicant requests from the Court:

I. To declare the Referral admissible.

II. To find that there has been a violation of Article 24 par.1 of the Constitution of Kosovo, by the Government of Kosovo - Ministry of Justice with; Decision no. 15/2020 of 21.02.2020, registered in the Ministry of Justice with no.01-173, of 24.02.2020, with it also the process of the Notary Examination announced on 19 April 2019 has been canceled, denying the participants in this process, the acquired rights.

III. To find that there has been a violation of Article 7, Article 10, Article 24 par.1, Article 31, Article 49, Article 53 and Article 119 of the Constitution of the Republic of Kosovo, in conjunction with Article 6 of the ECHR, with regard to the process of notarization and denial of acquired rights to the Applicant.

IV. To declare null and void and in violation of the mentioned constitutional provisions; Decision no.15/2020, of 21.02.2020, registered in the Ministry of Justice with no.01-173, of 24.02.2020, by which the process of the Notary Examination announced on 19 April 2019 was annulled and to recognize to the Applicant, respectively to return the acquired right in the process of the Notary Examination, announced on 19 April 2019".

Assessment of the admissibility of the Referral

30. The Court first examines whether the Applicant has fulfilled the admissibility requirements established by the Constitution, and further specified by the Law and Rules of Procedure.

31. 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".

32. The Court further refers to Article 47 [Individual Requests] of the Law, which stipulates:

Article 47
[Individual Requests]

(...)

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

33. The Court also refers to Rule 39 (1) (b) [Admissibility Criteria] of the Rules of Procedure, which stipulates:

Rule 39
[Admissibility Criteria]

"1. The Court may consider a referral if:

[...]

(b) all effective remedies that are available under the law against the judgment or decision challenged have been exhausted".

[...]

34. The Court recalls that the Applicant alleges that the challenged Decision of the MoJ, violated his rights guaranteed by Articles 7, 10, 24, 31, 49, 53, 99 and 119 of the Constitution, as well as Articles 14 and 1 of Protocol no. 1 of the ECHR, as a result of the annulment of the Notary Examination.

35. The Court, before reviewing the constitutionality of an act of a public authority, must first examine whether the Applicant's Referral meets the admissibility criteria as required by the above provisions.

36. In the circumstances of the present case, the Court refers to the consolidated standards regarding the obligation to exhaust effective remedies, as developed by the European Court of Human Rights (hereinafter: the ECtHR) and the case law of the Court. In this regard, the Court recalls paragraph 7 (second line) of Article 113 of the Constitution, paragraph 2 of Article 47 of the Law and sub-rule (1) in conjunction with letter (b) of Rule 39 of the Rules of Procedure, such provisions that, inter alia, clearly define the Applicants' obligation to "exhaust the legal remedies provided by law."

37. Furthermore, the additional criteria according to which the requirements set out above can be considered met are well defined in the case law of the ECtHR, in accordance with which, under Article 53 [Interpretation of Human Rights Provisions] of the Constitution, the Court is obliged to interpret human rights and fundamental freedoms guaranteed by the Constitution.

38. The reasoning of the request for exhaustion of legal remedies or the rule of exhaustion is to provide the relevant authorities, first and foremost the regular courts, with the opportunity to prevent or remedy the alleged violations of the Constitution. It is based on the assumption reflected in Article 32 of the Constitution and Article 13 of the ECHR, that the legal order of the Republic of Kosovo provides an effective remedy for the violation of constitutional rights. This is an important aspect of the subsidiary character of the constitutional justice machinery. (See Constitutional Court in case KI07/15, Applicant *Shefki Zogiani*, Resolution on Inadmissibility, of 8 December 2016, § 61; case no. KI30/17, Applicant *Muharrem Nuredini*, Resolution on Inadmissibility, of 7 August 2017, paragraph 35; and case no. KI94/14, Applicant *Sadat Ademi*, Resolution on Inadmissibility, of 17 December 2014, § 24).

39. The Court has consistently respected the principle of subsidiarity, considering that all Applicants must exhaust all procedural opportunities in the proceedings before the regular courts, in order to prevent a violation of the Constitution or, if any, to remedy such a violation of a fundamental right. The Court further asserted that the Applicants are responsible when their cases are declared inadmissible by the Court, if they fail to avail themselves of the opportunities in the proceedings before the regular courts, or have not reported violations of the Constitution in the proceedings before regular courts. (See, inter alia, the Constitutional Court, case no. KI89/15, Applicant *Fatmir Koçi*, Resolution on Inadmissibility, of 22 March 2016, § 35; KI24/16, Applicant *Avdi Haziri*, Resolution on Inadmissibility, of 16 November 2016, § 39; and case no. KI30/17, Applicant *Muharrem Nuredini*, Resolution on Inadmissibility, of 7 August 2017, §§ 35-37).

40. The Court reiterates that this approach requires that, before addressing the Court, the Applicants must exhaust all procedural opportunities, in administrative or judicial proceedings, in regular proceedings, to prevent violations of human rights and freedoms guaranteed by the Constitution or, if any, to remedy such a violation of the rights guaranteed by the Constitution (See, Constitutional Court of the Republic of Kosovo, case no. KI62/16, Applicant *Bekë Lajçi,* Resolution on Inadmissibility, of 10 February 2017, §§ 59-60, case no. KI109/15, Applicant: *Milazim Nrecaj*, Resolution on Inadmissibility, of 17 March 2016, §§ 27-28; KI148/15, Applicant: *Xhafer Selmani*, Resolution on Inadmissibility, of 15 April 2016, §§ 27-28).

41. However, notwithstanding the above-mentioned principles, the exhaustion rule, based on the case law of the ECtHR, is applied with a *"degree of flexibility and without excessive formality"*, given the context of the protection of human rights. In principle, the obligation to exhaust legal remedies is limited to the use of those remedies, the existence of which is quite certain not only in theory but also in practice; which are available, accessible and effective; and which are able to directly correct alleged violations of the ECHR. (See, inter alia,

Demopolous et al. v. Turkey, Sections: A. Submissions to the Court for exhaustion of domestic legal emedies and B. Exhaustion of domestic legal remedies, respectively, §§ 50-129; *Ocalan versus Turkey*, § § 63-72; and *Kleyn et al. v. The Netherlands*, §§ 155-162). In addition, an Applicant cannot be considered to have not exhausted legal remedies if he can show, by providing relevant case law or any other appropriate evidence that an available remedy which he has not used, would have failed. (Case of *Kleyn et al. v. The Netherlands*, § 156 and references cited therein)

42. In the respective case, the Court notes that the Applicant confirms that in accordance with the legal advice of the challenged Decision of the MoJ, which instructed him to initiate an administrative conflict, against this decision in the competent court, he exercised this legal remedy and is waiting for a decision from the Basic Court in Prishtina - Department for Administrative Affairs. However, the Applicant alleges that this legal remedy used is not effective, because initially the resolution of the case is being delayed for years and that such a remedy does not enable the meritorious consideration of the case.

43. The Court, in relation to the allegation raised by the Applicant, considers that the reasoning stated in the Referral do not convince the Court, to release the same from the obligation to exhaust all legal remedies before the regular courts. Furthermore, the Court recalls that itself cannot replace the role of regular courts set out in Article 101.3 of the Constitution "*The Courts shall adjudicate based on the Constitution and the law*", moreover, when it comes to the allegations of violation of rights guaranteed by Chapter II of the Constitution, the Court recalls Article 53 of the Constitution, which obliges the courts to interpret human rights in accordance with the court decisions and case-law of the ECtHR.

44. In this regards, the Court reiterates that before addressing a Referral to the Court, the Applicants must exhaust all procedural opportunities, in regular administrative or judicial proceedings, to prevent violations of human rights and freedoms guaranteed by the Constitution, or if any, to remedy such a violation of the rights guaranteed by the Constitution. Therefore, the prevention of violations of the Constitution and the ECHR and the correction of possible violations in accordance with Articles 101.3 and 53 of the Constitution, must be done beforehand by the regular courts and not directly by the Constitutional Court.

45. Therefore, the Court further assesses that, in the respective case, the Applicant has not provided any argument and evidence that the used legal remedy at his disposal is inadequate and ineffective, in terms of the above provisions of the Constitution, the Law and the Rules of Procedure (see, *inter alia*, Constitutional Court: Case no. KI116/14, Applicant *Fadil Selmanaj*, Resolution on Inadmissibility, of 26 January 2015, §§ 45-46 and the references cited therein).

46. Therefore, based on the forgoing reasons, the Court finds that the Applicant's Referral is premature and does not meet the admissibility criteria since the Applicant has not exhausted the legal remedies pursuant to Article 113.7 of the Constitution, Article 47 of the Law and Rule 36 (1) (b) of the Rules of

Procedure, and as such, the Referral must be declared inadmissible (see, inter alia, Constitutional Court, Case no. KI07/15, Applicant *Shefki Zogiani*, Resolution on Inadmissibility, of 8 December 2016, § 62, and Case no. KI30/17, Applicant *Muharrem Nuredini*, Resolution on Inadmissibility, of 7 August 2017, § 38).

FOR THESE REASONS

The Constitutional Court, in accordance with Article 113. 7 of the Constitution, Article 20 and Article 47.2 of the Law and Rules 39 (1) (b) and 59 (b) of the Rules of Procedure, on 12 April 2021, 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**

Safet Hoxha Arta Rama-Hajrizi

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