



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT

SEKRETARIA / SEKRETARIJAT / SECRETARIAT

Prishtina, on 28 May 2019
Ref. no.: KK 141/19

Mr. Aleksandër Lumezi
Chief State Prosecutor
Prishtina, Republic of Kosovo

Subject: Notification regarding the non-enforcement of the Judgment of the Constitutional Court in case KI08/09

Honorable Chief State Prosecutor, Mr. Lumezi,

The Constitutional Court of the Republic of Kosovo, based on the competencies established in the Constitution, is the final authority in the Republic of Kosovo for the interpretation of the Constitution and the compliance of laws with the Constitution.

In accordance with Article 113 [Jurisdiction and Authorized Parties] of the Constitution, the Constitutional Court decides only on cases brought before it in a lawful manner and by authorized parties. In the framework of this article, the Constitution, among others, has established that individuals (natural and legal persons) have the right to submit constitutional complaints to the Constitutional Court and to challenge the constitutionality of decisions of public authorities, including their actions or inactions, regarding the violation of human rights guaranteed by the Constitution, the European Convention on Human Rights or other international instruments applicable in the Republic of Kosovo.

Acting according to individual referral No. KI08/09, submitted to the Constitutional Court by the Independent Union of Workers of IMK Steel Factory in Ferizaj, the Constitutional Court, on 17 December 2010, rendered a Judgment on the basis of which it found a violation of Article 31 [Right to Fair and Impartial Trial] of the Constitution in conjunction with Articles 6 (Right to a fair trial) and 13 (Right to an effective remedy) of the European Convention on Human Rights. In that case, the Constitutional Court found that a decision of the Municipal Court in Ferizaj had become final and binding and, as such, had to be executed by the competent authorities, in particular by the Government of the Republic of Kosovo and the Privatization Agency of Kosovo, as the legal successor of the Kosovo Trust Agency (See operative part of Judgment KI08/09).

On 12 May 2011, at the request of the Privatization Agency of Kosovo, the Constitutional Court issued a Clarification on Judgment KI08/09 (See attached Clarification of the Constitutional Court). Even after this Clarification, the Judgment in question was not executed. Consequently, the Constitutional Court, on 18 October 2012, rendered the Decision on Non-enforcement of Judgment KI08/09, emphasizing that the reason for issuing this decision is the fact that the Government of the Republic of Kosovo and the Privatization Agency of Kosovo have not enforced Judgment KI08/09. Even after the abovementioned measures, the Judgment of the Constitutional Court has not been implemented and, according to the information received by the Court from the Applicants and other parties

involved in the case, this Judgment still remains non-executed (See attached the Decision on Non-Enforcement) .

As you are aware, based on Article 116 [Legal Effect of Decisions] of the Constitution, the decisions announced by the Constitutional Court *“are binding on the judiciary and all persons and institutions of the Republic of Kosovo”*. Failure to execute the decisions of the Constitutional Court constitutes a constitutional violation and is contrary to the basic principles of the rule of law in a legal and democratic state.

In line with this constitutional provision, Rule 66 (Enforcement of decisions) of the Rules of Procedure stipulates that all constitutional bodies, including courts and other authorities, are obliged to respect, comply with and implement the decisions of the Court - within their competencies established in the Constitution and the law. Item (7) of this Rule stipulates that *“The State Prosecutor shall be informed of all decision of the Court that have not been enforced”*.

Therefore, in order to implement the obligation of the Constitutional Court to monitor the implementation of its decisions and to take the necessary measures set out in Constitution, Law and Rules of Procedure, we inform you that Judgment K108/09 has not been implemented. As a result, this case cannot yet be considered fully closed and completed as the decision of the Court remains unimplemented by the responsible bodies identified in the operative part of the Judgment of the Court in case K108/09.

We invite you, based on your competencies, to take all actions that you consider necessary and appropriate to assist in the final implementation of the decisions of the Constitutional Court. The latter remains committed to the full realization of its function of guardian of the Constitution and guarantor of human rights. For the achievement of these purposes, the Court welcomes the cooperation with you, always in the interest of respecting constitutionality and rule of law in the Republic of Kosovo.

Attached: Decision on Non-enforcement of Judgment K108/09

Respectfully,

Arta Rama - Hajrizi
President

