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

Prishtina, 23 August 2021
Ref.no.:RK1841/21

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RESOLUTION ON INADMISSIBILITY

in

Case No. KI194/20

Applicant

Korab Shasivari

Constitutional review of Judgment Rev. No. 423/2019 of the Supreme Court of 10 June 2020

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of:

Gresa Caka-Nimani, President
Bajram Ljatifi, Deputy President
Selvete Gërxhaliu-Krasniqi, Judge
Safet Hoxha, Judge
Radomir Laban, Judge
Remzije Istrefi-Peci, Judge, and
Nexhmi Rexhepi, Judge

Applicant

1. The Referral was submitted by Korab Shasivari from Gjakova (hereinafter: the Applicant). The Applicant is represented by Vehbi Halili, a lawyer from Prishtina.

Challenged decision

2. The Applicant challenges constitutionality of Judgment Rev. No. 423/2019 of the Supreme Court of 10 June 2020, in conjunction with Judgment Ac. No. 3943/17 of the Court of Appeals of 26 April 2019.

3. The Applicant was served with the challenged Judgment on 1 September 2020.

Subject matter

4. The subject matter is the constitutional review of the abovementioned Judgment of the Supreme Court, which allegedly violate the Applicant's fundamental rights and freedoms guaranteed by Article 31 [Right to Fair and Impartial Trial], Article 49 [Right to Work and Exercise Profession] and Article 55 [Limitations on Fundamental Rights and Freedoms] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution) and Article 6 (Right to a fair trial) of the European Convention on Human Rights (hereinafter: the ECHR).

Legal basis

5. The Referral is based on paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, Articles 22 [Processing Referrals] and 47 [Individual Requests] of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law) and Rule 32 [Filing of Referrals and Replies] of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

Proceedings before the Court

6. On 29 December 2020, the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) received the Applicant's Referral.

7. On 30 December 2020, the President of the Court appointed Judge Bekim Sejdiu as Judge Rapporteur and the Review Panel composed of Judges: Arta Rama Hajrizi (Presiding), Gresa Caka Nimani and Safet Hoxha (members).

8. On 15 January 2021, the Court notified the Applicant's lawyer about the registration of the Referral.

9. On the same date, the Court notified the Supreme Court about the registration of the Referral. On the same date, it also requested evidence from the Basic Court as to when the challenged judgment of the Supreme Court was served on the Applicant.

10. On 21 January 2021, the Basic Court submitted evidence when the challenged judgment of the Supreme Court was served on the Applicant.

11. On 17 May 2021, pursuant to paragraph 5 of Article 114 [Composition and Mandate of the Constitutional Court] of the Constitution and Rule 12 (Election of President and Deputy President) of the Rules of Procedure, Judge Gresa Caka-Nimani was elected President of the Constitutional Court. Based on

paragraph 4 of Rule 12 of the Rules of Procedure and Decision of the Court, it was determined that Judge Gresa Caka-Nimani will take over the duty of the President of the Court after the end of the mandate of the current President of the Court Arta Rama-Hajrizi, on 25 June 2021.

12. On 25 May 2021, based on item 1.1 of paragraph 1 of Article 9 (Prior termination of the mandate) of the Law and Rule 7 (Resignation of Judges) of the Rules of Procedure, Judge Bekim Sejdiu resigned as a judge before the Constitutional Court.

13. On 27 May 2021, the President of the Court, Arta Rama-Hajrizi, by Decision KI194/20, appointed Judge Selvete Gërxhaliu-Krasniqi as Presiding of the Review Panel instead of Judge Bekim Sejdiu following his resignation.

14. On 31 May 2021, the President of the Court, Arta Rama-Hajrizi, by Decision No. KK 160/21 determined that Judge Gresa Caka-Nimani be appointed presiding judge of the Review Panels in cases where she was appointed a member of the Panel, including the current case.

15. On 26 June 2021, pursuant to paragraph 4, of Rule 12 of the Rules of Procedure and Decision KK-SP 71-2/21 of the Court, Judge Gresa Caka-Nimani took over the duty of the President of the Court, while based on item 1.1 of paragraph 1, of Article 8 (Termination of mandate) of the Law, President Arta Rama-Hajrizi ended the mandate of the President and Judge of the Constitutional Court.

16. On 28 June 2021, the President of the Court Gresa Caka-Nimani rendered Decision No. K.SH. KI194/20, replacing the former member of the Review Panel Arta Rama-Hajrizi, in her role as a member of the Review Panel, with Judge Bajram Ljatifi.

17. On 21 July 2021, the Review Panel considered the report of the Judge Rapporteur, and unanimously of votes made a recommendation to the Court on the inadmissibility of the Referral.

Summary of facts

18. Based on the case file, it follows that the Applicant was an officer of the Kosovo Customs and that on 11 July 2007, in cooperation with another customs officer, abusing his official position, enabled a natural person to enter the customs goods in the territory of Kosovo, without being subject to customs procedures.

19. The Customs Service Disciplinary Commission conducted disciplinary proceedings against the Applicant due to reasonable suspicion that he had committed a violation *„Code of Conduct Article 3.1 sub-item 1 and Article 15.3 sub-item 4.7; and sub-item 14.8, the actions punishable according to, Annex 1, category 1, point 5 and 13 category 2 point 9 of the Regulation on Disciplinary Procedures of the Customs Service as well as the violation of the work duties defined by the Code of Conduct for Customs Service officers...”*

20. On 23 August 2008, the Disciplinary Commission of the Customs Service issued Decision 234 imposing on the Applicant the disciplinary measure *"Dismissal from work"*. In the reasoning of the decision, the Disciplinary Commission stated:

> During the disciplinary procedure it was found that *„the accused customs officer has committed dishonest actions and has acted contrary to the Code of Conduct, more specifically has violated the Code of Conduct Article 3. 1, sub-item 1 and Article 15. 3, as he has not acted honestly and professionally and has abused his official position. Sub-item 4, as he has not implemented the customs code and the provisions of the code of conduct. Sub-item 7, after misusing the official information provided during the official duty, and sub-item 14. 8, after abusing the mobile phone during the official working hours, these actions are punishable according to Annex 1, category 1. points 5 and 13, category 2, point 9 of the Regulation on Disciplinary Procedures of the Customs Service, therefore the Disciplinary Commission has unanimously imposed the disciplinary measure of dismissal, considering that this measure is proportional to the probative power of the evidence presented and the personal responsibility of the suspected officer".*

21. On 11 September 2008, Decision 234 on suspension of the Applicant was signed by the General Director of Customs, in which case the decision on suspension became final.

22. The Disciplinary Commission of the Customs Service continued to conduct proceedings against the Applicant, which resulted in the fact that on 23 September 2008, it also issued a decision for dismissal of the Applicant.

23. In the reasoning of the decision, the Disciplinary Commission of the Customs Service states: *„The Disciplinary Commission (by not entering the criminal liability of the suspected customs officer) has sufficiently established that the suspected customs officer, by abusing his official position, on 11.07.2007 enabled a natural person (party) to enter airport customs to enter the goods without being controlled and subject to customs duties and procedures.*

    The accused official Korab Shasivari has committed dishonest actions and has acted in violation of the Code of Conduct, more specifically has violated the Code of Conduct Article 3. 1, sub-item 1 and Article 15. 3, as he has not acted honestly and professionally and has abused his official position. Sub-item 4, as he has not implemented the customs code and the provisions of the code of conduct. Sub-item 7, after misusing the official information provided during the official duty, and sub-item 14. 8, after abusing the mobile phone during the official working hours, these actions are punishable according to Annex 1, category 1. points 5 and 13, category 2, point 9 of the Regulation on Disciplinary Procedures of the Customs Service".

24. The Applicant filed an appeal with the General Director of Customs against decision 234 of the Disciplinary Commission of the Customs Service.

25. On 30 October 2008, the General Director of Customs rejected the Applicant's appeal and signed decision 367 on dissmissal the Applicant from work.

26. The Court also notes in the case file that the Public Prosecution initiated criminal proceedings against the Applicant and other persons, and that this procedure was terminated by the decision on the Municipal Court to dismiss the charge against the Applicant due to the absolute statute of limitations of the criminal prosecution.

27. In view of such an outcome of the criminal proceedings, the Applicant filed a lawsuit with the Basic Court against Kosovo Customs, requesting the annulment of the decision 234 of the Disciplinary Commission of the Customs Service on suspension from work and decision 367 on the termination of employment relationship of the General Director of Customs.

28. On 30 May 2014, the Basic Court rendered Judgment C. No. 949/13, which approved in its entirety the statement of claim of the Applicant as grounded, thus annulling the decisions of the Disciplinary Commission of the Customs Service no. 324 of 26 September 2009 and 367 of 30 October 2008. By the same judgment, it obliged the Kosovo Customs *„that within seven days from the service of this judgment, the claimant be reinstated to work and work duties - head of shift, according to grade D-7, with all rights from the employment relationship".*

29. The reasoning of the judgment of the Basic Court reads: *„ Although the Law on Labor authorizes the employer to terminate the employment of the employee under the conditions set out in Article 70, this cannot be understood as the employer's right to act arbitrarily towards employees. Moreover, by the first judgment of the court in criminal proceedings it was found that the claimant is not guilty of the offense for which he is charged, therefore, the court finds that termination of employment is also not grounded and reasoned decision namely, the decision to terminate the employment was based on assumptions, therefore, from these assessments, the court decided to annul the decisions of the respondent to terminate the employment of the claimant and at the same time obligues the respondent to reinstate the claimant to work with all rights and duties from the employment relationship".*

30. The authorized representative of the Kosovo Customs filed an appeal with the Court of Appeals within the legal deadline on the grounds of essential violations of the provisions of the contested procedure, erroneous and incomplete determination of factual situation and erroneous application of substantive law, upon proposal that the challenged judgment be modified or quashed and the case be remanded for retrial.

31. On 18 April 2016, the Court of Appeals rendered Decision Ac. No. 3414/2014, which quashed Judgment C. No. 949/13 of 30 May 2014 of the Basic Court and remanded the case to the first instance court for retrial.

32. The reasoning of the decision reads: *„The Court of Appeals of Kosovo at the moment can not accept as fair and lawful, the judgment of the first instance*

court, because it considers that the first instance court during the procedure conducted in this contested matter, has committed essential violation of provisions of article 182 par. 2 point n) of the LCP, due to which the judgment as such can not be examined and at the same time the substantive law has been erroneously applied because such a judgment is a result of incorrect application of the provisions of Article 70 of the Law on Labor.

The ambiguity of the enacting clause lies in the fact that, while in the enacting clause, the statement of claim of the claimant is approved and the challenged decisions of the respondent are annulled, in its reasoning part by the first instance court no concrete reasons are given for the decisive facts, which led the first instance court to render such a decision. Thus, in the reasoning part of the challenged judgment, the challenged decisions of the respondent are not mentioned at all, nor are they reasoned. In this respect, the enacting clause of the judgment turns out to be in contradiction with the given reasoning, for which it also concstitutes an essential violation of the above-mentioned legal provisions.".

33. On 31 March 2017, the Basic Court in the repeated procedure rendered Judgment C. No. 901/16, by which it approved the Applicant's statement of claim in its entirety, annulled Decision 324, of 26 September 2009 and 367 of 30 October 2008, by which it obliged the respondent within seven days from the day of receipt of this judgment to reinstate the claimant to work and work duties - the shift head, according to grade D-7, or to other tasks corresponding to his professional qualification and work experience.

34. In reasoning the judgment, the Basic Court stated: "*Considering that at the time of the issuance of the decision of the Disciplinary Commission for the imposition of a disciplinary measure - dismissal, as applicable law was the Basic Labor Law, promulgated by UNMIK Regulation 2001/27 and the Law on Essential Rights from employment relationship (1989), thus based on the circumstances of the case, the court finds that the respondent also acted in violation of the provision of Article 67, paragraphs 1 and 2 of the Law on Essential Rights in Employment, which provisions in the relevant part provide: the initiation of disciplinary proceedings is prescribed for six months from the day when it is learned about the violation of work duties, namely within one year from the date when the violation was committed;...*"

„[...] finding that the decision to terminate the claimant's employment relationship is contrary to Article 11 of the Basic Labor Law and Article 67 of the Law on Essential Rights from the employment relationship, therefore the court decided to approve the claimant's statement of claim as grounded and to annul the decision on disciplinary measure of the body of the first instance (ratified by the body of the second instance of the respondent) as unlawful. Since as a result of the unlawful decision the claimant was fired, for this reason the court decided to obligo the respondent to reinstate the claimant to employment at Kosovo Customs, in the job according to the rank and position in which the claimant worked until imposing a disciplinary measure, or in any other job that corresponds to the same grade and professional training of the claimant".

35. The authorized representative of Kosovo Customs filed an appeal with the Court of Appeals against Judgment C. No. 901/16 of the Basic Court, alleging violation of the provisions of the contested procedure; erroneous and incomplete determination of factual situation and erroneous application of the substantive law, with the proposal that the appealed judgment be changed or annulled and be remanded for retrial.

36. On 26 April 2019, the Court of Appeals rendered Judgment Ac. No. 3943/17, by which: in paragraph **I** approved as grounded the appeal of the respondent Kosovo Customs, in paragraph **II** modified the judgment of the Basic Court C. no. 901/16, of 31 March 2017, in paragraph **III** rejected as ungrounded in entirety the statment of claim of the Applicant for annulment of the decision of Kosovo Customs no. 324 of 26 September 2009 and no. 367, of 30 October 2008.

37. In the reasoning of the judgment of the Court of Appeals it is stated: *„The Court of Appeals considers that the actions of the respondent to terminate the employment of the claimant are completely legal actions in accordance with Article 58, paragraph 1, point 1 of the Law on Essential Rights of Labor Relations, which refers to cases of severe employee misconduct. In this case, the actions of the claimant ascertained by the disciplinary arbitrator are qualified as actions that constitute a serious breach of duty, for which the Court of Appeals considers that the measure imposed by the employer is proportional to the nature of the violation, and therefore is a lawful measure. Thus, in the case of dismissal of the claimant, the employer has fully implemented the provisions of the disciplinary procedure until the dismissal and has implemented the substantive-legal provisions adequately according to the factual situation found in the report of the Disciplinary Arbitrator".*

The first instance court erroneously and incompletely applied the substantive law when it decided according to the provision of Article 67 par. 1 and 2 of the Law on Essential Rights of Labor Relations" [...] The Court of Appeals finds that in Article 67 par. 3 of the Law on Essential Labour Rights from the employment relationship, stipulates that: "The conduct of disciplinary proceedings becomes statute-barred before the expiration of one year from the day of finding out about the violation of duty and the perpetrator of the offence, namely after the expiration of 18 months from the day of committing the violation"". [...] Thus, from the date of causing the violation (11.07.2007) until (30.09.2008) when the measure of dismissal was ratified, the entire disciplinary proceedings was conducted and completed within 18 months, as provided in paragraph 3 of this article, therefore we have no statute of limitations for the disciplinary request".

38. The Applicant filed a request for revision with the Supreme Court against the Judgment of the Court of Appeals Ac. No. 3943/17, alleging violation of the provisions of the contested procedure and erroneous application of the substantive law, proposing that the judgment of the second instance court be modified so that the judgment of the court of first instance is upheld.

39. On 10 June 2020, the Supreme Court rendered Judgment Rev. No. 423/2019, whereby the revision of the Applicant against Judgment, Ac. No. 3943/2017 of the Court of Appeals was rejected as ungrounded.

40. In reasoning of the judgment, the Supreme Court stated: *„The Supreme Court finds that the decision on the termination of claimant's employment relationship is legally correct as the claimant has violated the aforementioned provisions of the Code of Conduct. The decision of the Disciplinary Commission on the imposition of a disciplinary measure was taken pursuant to Article 12.4 sub-item 9 of Administrative Instruction no. 56/2008 of 30.01.2008 on Disciplinary Procedures, where it is provided that for violation of the Code of Conduct the employee may be imposed a disciplinary measure of dismissal.*

The Supreme Court also finds that the decision on termination of employment relationship of the claimant was taken based on the procedure set out in Administrative Instruction no. 56/2008 on Disciplinary Procedures, the liability of the claimant has been established by the Disciplinary Commission enabling the claimant to make clarifications regarding the breach of duty. This court also accepts as fair the legal position of the second instance court that the conduct of disciplinary proceedings against the claimant is not statute-barred within the meaning of Article 67 par. 3 of the Law on Essential Rights from Labor Relations because the disciplinary procedure against the claimant was initiated and conducted within 18 months, the claimant committed the breach of duty on 11.07.2007, while the decision to terminale his employment relationship was made on 30.09.2008.

It follows that the second instance court has rightly assessed that the claimant is responsible for breach of duty."

Applicant's allegations

41. In the Referral, the Applicant substantiated all his allegations of violation of the Constitution and the ECHR in only one paragraph with the following content:

> *„The Applicant challenges the constitutionality of Judgment Rev. no. 423/2019 of the Supreme Court, of 10.06.2020, because it violetes his rights guaranteed by Article 31 - Right to a fair and impartial trial, Article 49 - Right to work and exercise profession and Article 55 – Limitations on fundamental rights and freedoms of the Constitution of the Republic of Kosovo in conjunction with Article 6, Right to a fair trial of the European Convention for the Protection of Human Rights and Freedoms, as well as the principles „reformatio in peius" and „res judicata".*

42. With regard to the Referral before the Court, the Applicant stated:

> *„I as a former employee of the Customs of the Republic of Kosovo, was unfairly dismissed. I request the Constitutional Court:*
>
> *1. Returning my case to the zero point to the courts which violated the law and the Constitution of the Republic of Kosovo and the recomendsation by the Constitutional Court for my reinstatement to work, payment of all*

payments from the date of dissmissal until the date of execution, also to pay the lost profit and bank interest".

Asssment of the admissibility of Referral

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

44. 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".*

45. The Court further examines whether the Applicant has fulfilled the admissibility requirements as prescribed by the Law. In this regard, the Court refers to Articles 47 [Individual Requests], 48 [Accuracy of the Referral] and 49 [Deadlines] of the Law, which establish:

> 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...".*

46. As to the fulfillment of these requirements, the Court finds that the Applicant is an authorized party, challenging an act of a public authority, namely Judgment Rev. No. 423/2019 of the Supreme Court, of 10 June 2020. The Applicant has also specified the rights and freedoms claimed to have been violated, in accordance with the requirements referred to in Article 48 of the Law and submitted the Referral in accordance with the deadline prescribed in Article 49 of the Law.

47. In addition, the Court examines whether the Applicant has met the admissibility requirments established in paragraph (2) of Rule 39 [Admissibility Criteria] of the Rules of Procedure. Rule 39 (2) of the Rules of Procedure establishes the criteria based on which the Court may consider a Referral, including the criterion that the referral is not manifestly ill-founded. Specifically, Rule 39 (2) of the Rules of Procedure establishes:

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".

48. This rule, bazuar based on the case law of the European Court of Human Rights (hereinafter: the ECtHR) and the case law of the Court, enables the latter to declare inadmissible referrals as *„manifestly ill-founded"* in its entirety or only with respect to any specific claim that a referral may entail. Based on the case law of the ECtHR, *„manifestly ill-founded"* claims can be categorized into four separate groups: (i) claims that qualify as claims of *„fourth instance"*; (ii) claims that are categorized as *„clear or apparent absence of a violation"*; (iii) *„unsubstantiated or unsupported"* claims; and finally, (iv) *„confused or far-fetched"* claims (see, more precisely, the concept of inadmissibility on the basis of a referral assessed as *„manifestly ill-founded"*, and the specifics of the four above-mentioned categories of claims qualified as *„manifestly ill-founded"*, see ECtHR Judgment *Kemmache v. France*, Application no. 17621/91, of 24 November 1994, paragraph 44, see ECtHR Judgment *Nikola Ivanov GALEV and Others v. Bulgaria*, Application no. 18324/04, of 29 September 2009, see ECtHR Judgment *Trofimchuk v. Ukraine*, Application no. 4241/03, of 28 January 2011).

49. In the context of the assessment of the admissibility of the referral, namely, the assessment of whether the Referral is manifestly ill-founded on constitutional basis, the Court will first recall the substance of the case that this referral entails and the relevant claims of the Applicant, in the assessment of which the Court will apply the standards of the case law of the ECtHR, in accordance with which, pursuant to Article 53 [Interpretation of Human Rights Provisions] of the Constitution, it is obliged to interpret the fundamental rights and freedoms guaranteed by the Constitution.

50. The Court recalls that the circumstances of the present case relate to the statement of claim, which the Applicant submitted to the Basic Court for

annulment of the decisions of the Kosovo Customs Disciplinary Commission, on the basis of which he was imposed the disciplinary measure of termination of employment relationship, as well as reinstatment to working place. The decisions of the Kosovo Customs Disciplinary Commission were subject to court review, where first, the Basic Court approved the Applicant's statement of claim as grounded and annulled the decisions of the Kosovo Customs Disciplinary Commission to terminate the employment, ordering his reinstatment to work. In the appellate procedure, the Court of Appeals annulled the Judgment of the Basic Court, modified it so that the Applicant's statement of claim for annulment of the decisions of the Kosovo Customs Disciplinary Commission on termination of employment relationship was rejected as ungrounded. The Supreme Court also in the revision procedure, dismissed the request for revision of the Applicant, finding that the Judgment of the Court of Appeals was fair and lawful.

51. The Applicant, as explained above, challenges precisely the Judgment of the Supreme Court in in conjunction with the Judgment of the Court of Appeals, by which the Judgment of the Basic Court was annulled and modified, alleging a violation of Article 31 [Right to Fair and Impartial Trial], Article 49 [Right to Work and Exercise Profession] and Article 55 [Limitations on Fundamental Rights and Freedoms] of the Constitution, as well as Article 6 (Right to a fair trial) of the ECHR.

52. However, in the Referral, the Court does not find any concrete allegations by which the Applicant reasons the violations of the mentioned articles of the Constitution, as well as the allegations of violation of the principles "*reformatio in peius*" and "*res judicata*", by which he brings the Court to the position that there are no well-founded allegations against which the Court could consider the possibility of a violation of the articles of the Constitution, to which the Applicant refers in the Referral.

53. Having regard to this, the Court, based on its case law and the case law of the ECtHR, notes that the Applicant's allegations constitute "*unsubstantiated or unsupported*" allegations. This is because the Applicant merely mentioned a violation of Articles of the Constitution, without providing any reasoning and without substantiating his allegations as to the manner in which the challenged judgment of the Supreme Court, including the judgment of the Court of Appeals, could have resulted in violation of his fundamental rights and freedoms guaranteed by Articles 31 and 55 of the Constitution.

54. The Court recalls that it has consistently reiterated that only the mention of an article of the Constitution, without clear and adequate reasoning as to how that right has been violated, is not sufficient as an argument to activate the machinery of protection provided by the Constitution and the Court, as an institution that cares for the respect of human rights and freedoms (see, in this context, the cases of the Court KI02/18, Applicant *Government of the Republic of Kosovo [Ministry of Environment and Spatial Planning],* Resolution on Inadmissibility of 20 June 2019, paragraph 36; KI95/19, Applicant *Ruzhdi Bejta*, Resolution on Inadmissibility of 8 October 2019, paragraphs 30-31; see

Judgment of the ECtHR *Trofimchuk v. Ukraine*, application no. 4241/03 of 28 January 2011).

55. The Court also recalls that in accordance with Article 48 of the Law and paragraphs (1) (d) and (2) of Rule 39 of its Rules of Procedure and its case law, it has consistently emphasized (i) that the parties are obliged to accurately clarify and adequately present the facts and allegations, and also (ii) sufficiently prove and substantiate their allegations of violations of constitutional rights or provisions. The Court considers that this did not happen in the circumstances of the present case.

56. Therefore, the Court finds that the Applicant's allegations of violation of Articles 3, 24, 31 and 54 of the Constitution are "*unsubstantiated or unsupported allegations*", and, therefore, inadmissible as manifestly ill-founded on constitutional basis, as it is established in paragraph (2) of Rule 39 of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court, in accordance with Article 113.7 of the Constitution, Articles 20, 47 and 48 of the Law and Rule 39 (2) of the Rules of Procedure, on 21 July 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**

Kopje e vërtetuar
Overena kopija
Certified Copy

Selvete Gërxhaliu-Krasniqi Gresa Caka Nimani

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