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

Prishtina, on 12 August 2021
Ref. no.:RK1826/21

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RESOLUTION ON INADMISSIBILITY

in

Case No. KI80/21

Applicant

Shefqet Ahmetaj

Constitutional review
of Decision Rev. No. 265/2020, of the Supreme Court of Kosovo,
of 14 January 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 Shefqet Ahmetaj, residing in the village of Padalishte, Municipality of Istog (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges the Decision [Rev. no. 265/2020] of the Supreme Court of Kosovo (hereinafter: the Supreme Court), of 14 January 2021, in conjunction with the Decision [Ac. no. 1028/16] of the Court of Appeals, of 19 February 2020.

Subject matter

3. The subject matter of the Referral is the constitutional review of the challenged decision, which as alleged by the Applicant has violated his rights guaranteed by Article 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 paragraph 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, Articles 22 [Processing Referrals] and 47 [Individual Requests] 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 (hereinafter: the Rules of Procedure).

Proceedings before the Constitutional Court

5. On 30 April 2021, the Court received the Applicant's Referral which he submitted at the post office on 28 April 2021.

6. On 6 May 2021, the President of the Court appointed Judge Bekim Sejdiu as Judge Rapporteur and the Review Panel composed of Judges: Gresa Caka-Nimani (Presiding), Bajram Ljatifi and Safet Hoxha (members).

7. On 20 May 2021, the Court notified the Applicant about the registration of the Referral and requested him to complete the official Referral Form. On the same day, the Court notified the Supreme Court on the registration of the Referral.

8. On 17 May 2021, based on 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 the Court Decision KK-SP 71-2/21, it was determined that Judge Gresa Caka-Nimani, shall assume 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 26 June 2021.

9. On 25 May 2021, pursuant to 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 submitted his resignation from the position of judge at the Constitutional Court.

10. On 27 May 2021, the President of the Court Arta Rama–Hajrizi, by Decision No. KI80/21, appointed Judge Radomir Laban as Judge Rapporteur instead of Judge Bekim Sejdiu following his resignation.

11. On 10 June 2021, the Applicant submitted to the Court the Referral Form as well as the decisions of the regular courts which he had also submitted in his initial Referral.

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

13. On 29 July 2021, the Review Panel considered the report of the Judge Rapporteur, and unanimously made a recommendation to the Court on the inadmissibility of the Referral.

Summary of facts

14. It results from the case file that from 1 January 2006 to 31 December 2006, and then from 2 January 2007 to 30 June 2007, the Applicant was employed as Correctional Officer at the Dubrava Correctional Center - Ministry of Justice (hereinafter: the employer).

15. On 24 August 2007, the employer issued a Decision no. [Ref. 245/07] for the suspension of the employment relationship of the Applicant, due to reasonable suspicion that the latter was responsible for the escape of prisoners from the prison center. The decision in question provided, among others, that the suspension of the employment relationship remained in force until the completion of the disciplinary and investigative procedure.

16. On 28 February 2008, the Disciplinary Committee of the Ministry of Justice by Decision [no. 20] terminated the employment relationship of the Applicant, considering that the latter was responsible for serious violation of Article 30. 1 (a) (b) and (c) of the Code of Conduct.

17. On 31 March 2008, the Applicant filed a complaint with the Employer Appeals Commission against the abovementioned Decision on the termination of employment relationship.

18. On 29 April 2008, the Appeals Committee of the Employer by Decision [KA/031/2008] rejected the Applicant's complaint and upheld Decision [no. 20] of the Disciplinary Committee of the Ministry of Justice.

19. On an unspecified date, the Applicant addressed the Independent Oversight Board of Kosovo (hereinafter: IOBK), with a proposal to annul Decision [no. 20] of the Disciplinary Committee of the Ministry of Justice, requesting the

following: i) to be reinstated in his work position with all rights and obligations under the employment relationship.

20. On 3 September 2008, the IOBK by Decision [A 02/162/2008], rejected the Applicant's request and thus upheld all previous decisions.

21. On 2 December 2014, the Basic Court in Peja by Judgment [P. no. 6/014] had acquitted the Applicant of the charge of committing the criminal offense under Article 314 par. 2 in conjunction with Article 23 of the Criminal Code of Kosovo.

22. On an unspecified date, the Prosecutor of the Basic Prosecution in Peja filed an appeal with the Court of Appeals against the aforementioned Judgment of the Basic Court in Peja.

23. On 23 February 2015, the Court of Appeals by Judgment [PA. no. 135/015] rejected the appeal of the Prosecutor of the Basic Prosecution in Peja, and upheld the abovementioned Judgment of the Basic Court in Peja.

24. On 10 August 2015, the Applicant filed a statement of claim with the Basic Court in Peja, with a proposal to annul the Decision [no. 20] of the Disciplinary Committee of the Ministry of Justice, requesting the following: i) to be reinstated in his work position; and ii) to be reimbursed for all procedural expenses.

25. On 21 January 2016, the Basic Court in Peja, branch in Istog, by Judgment [C. no. 211/015], i) approved the Applicant's claim; ii) obliged the employer to reinstate the Applicant to his work position; iii) obliged the employer to bear the procedural expenses in the amount of 509 Euros. The Basic Court in Peja based the reasoning of its Judgment mainly on the fact that the Applicant was acquitted of the criminal offense for which he was charged and based on Article 63, point 3 of the Law No. 2010/03-149 on the Civil Service, it is foreseen that, should the Civil Servant accused for a criminal offence be acquitted, he/she shall be reinstated in his/her previous position.

26. On an unspecified date, the employer filed an appeal with the Court of Appeals against the abovementioned Judgment of the Basic Court in Peja, alleging violation of the provisions of the contested procedure, erroneous determination of the factual situation and erroneous application of substantive law.

27. On 19 February 2020, the Court of Appeals by Decision [Ac. no 1028/16] approved as grounded the employer's appeal and dismissed the Applicant's claim as out of time. In the reasoning of the Decision it is further stated that *"the Court of Appeals examining the judgment of the first instance court according to the appealed allegations of the respondent finds that such a conclusion of the first instance court is ungrounded because the judgment of the first instance court contains substantial violation of the provisions of the contested procedure under Article 182, paragraph 2 item (e) of the LCP, and due to the violation that qualifies in terms of provision of Article 182, paragraph 2 item (e) of the LCP, the first instance court has erroneously applied the substantive law with regard to the deadline for filing a claim at the court. In terms of the deadline determined by this provision, it follows that the claimant's claim for*

annulment of the decision and for reinstatement to his work position with other rights from the employment relationship is out of time, since based on the case file it is ascertained that the claimant has filed his claim for reinstatement to his work position, at the first instance court on 10.08.2015, while the claimant was removed from his work position according to the decision of the disciplinary committee no. 20 of 28.02.2008, which decision was confirmed by the decision of the Appeals Committee of the Employer Body/Ministry of Justice no. KA/031 12008 of 29.04.2008. Also with the decision, A 02/162/2008 of the Independent Oversight Board of Kosovo, of 03.09.2008, the claimant's complaint was rejected and the preliminary decisions were upheld, hence the claim was filed after the legal deadline for filing the claim. The Court of Appeals for the untimeliness of the claim referred to the provision of Article 83 of the Law on Basic Rights of Labor Relations, since the law applicable to the term at the time when the claimant was dismissed was this law".

28. On 10 April 2020, the Applicant filed a revision with the Supreme Court against the Decision [Ac. no. 1028/16] of the Court of Appeals, alleging violation of the provisions of the contested procedure and erroneous application of the substantive law.

29. On 14 January 2021, the Supreme Court by Decision [Rev. no. 265/2020] rejected the revision as ungrounded and found the Decision [Ac. no. 1028/16] of the Court of Appeals as fair and lawful.

Applicant's allegations

30. The Applicant alleges before the Court that the Decision [Rev. no. 265/2020] of the Supreme Court of 14 January 2021, in conjunction with the Decision [Ac. no. 1028/16] of the Court of Appeals of 19 February 2020, violate his rights guaranteed by Article 31 [Right to Fair and Impartial Trial] of the Constitution, in conjunction with Article 6 (Right to a fair trial) of the ECHR.

31. The Applicant initially alleges before the court that the challenged decisions are not sufficiently reasoned.

32. The Applicant further alleges in his Referral that the procedure followed by the Disciplinary Committee of the Employer, further by the Complaints Committee and at the IOBK, were unfair, stating that *"they were taken in violation of the legal principle of the presumption of innocence and the disciplinary measure of termination of employment has been imposed prior to the completion of criminal proceedings"*. The Applicant in his Referral states that in his case there was an ongoing criminal proceeding, and according to him the employer could not have taken action until the completion of the criminal proceeding. In relation to this, the Applicant adds that *"the Court cannot determine but must terminate the trial as provided by the provision of Article 278.2 in conjunction with Article 13 of the LCP"*.

33. The Applicant further adds that in this case there has been violation of Article 17, paragraph 1 of Law No. 02/L-028 on the Administrative Procedure.

34. The Applicant finally requests the Court to declare the Referral admissible and the Decision [Rev. no. 265/2020] of the Supreme Court of 14 January 2021, in conjunction with the Decision [Ac. no. 1028/16] of the Court of Appeals of 19 February 2020, as null and void, and the Judgment [C. no. 211/015] of the Basic Court, to remain effective.

Relevant legal provisions

LAW ON BASIC RIGHTS OF LABOR RELATIONS *(Official Gazette 60/89 of SFRY)*

Article 83

The employee who is not satisfied with the final decision of the competent authority within the organization or if this authority does not render a decision within 30 days from the day of the submission of the request of the appeal, has the right to request the protection of his rights before the competent court within the subsequent 15 days.
He/she cannot request the protection of rights before the competent court if he/she has not previously requested the protection of rights before the competent authority within the organization, other than the right to monetary claim.
The managing authority or the authorized person within the organization, respectively the employer, is obliged that within 15 days from the day of submission, to enforce the final decision of the court which has been issued in the procedure for the protection of employees' rights if no other deadline has been set in the court decision.
If the managing authority or the authorized person within the organization does not enforce the court decision under paragraph 3 of this Article, he makes a serious violation of the work duty due to which the measure of termination of employment is imposed on him/her.

LAW No. 03/L-006 ON CONTESTED PROCEDURE

Article 182

[...]

182.2 2 Basic violation of provisions of contested procedures exists always:

[...]

e) if it was decided for the request based on the charges raised after the time period previously set by the law;

LAW No. 02/L-28 ON THE ADMINISTRATIVE PROCEDURE

Article 17
Prior issues, decided by other bodies

17.1. In cases when final decision in an administrative proceeding is subject to reaching another prior decision, which is the competence of another public administration body or a court, the body responsible of issuing the final decision shall postpone the administrative decision until the said body or court shall reach the prior decision.

Assessment of the admissibility of Referral

35. The Court first examines whether the Referral has met the admissibility criteria set out in the Constitution, foreseen in the Law and further specified in the Rules of Procedure.

36. 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".

37. The Court also examines whether the Applicant has met the admissibility criteria required by Articles 47 [Individual Requests], 48 [Accuracy of the Referral] and 49 [Deadlines] of the Law, which establish:

Article 47
[Individual Request]

"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 [...]".

38. With regard to the fulfillment of the above criteria, the Court finds that the Applicant is an authorized party; has exhausted the available legal remedies; has clarified the act of the public authority whose constitutionality he challenges, namely the Decision [Rev. no. 265/2020] of the Supreme Court of 14 January 2021, in conjunction with the Decision [Ac. no. 1028/16] of the Court of Appeals of 19 February 2020; has specified the constitutional rights which he alleges to have been violated; as well as has submitted the Referral within the legal deadline.

39. In addition, the Court should examine whether the Applicant has met the admissibility criteria set out in Rule 39 [Admissibility Criteria] of the Rules of Procedure. Rule 39 (2) of the Rules of Procedure, stipulates that:

"(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".

40. The Court initially notes that the abovementioned rule, based on the case law of the European Court of Human Rights (hereinafter: the ECtHR) and of the Court, enables the latter to declare inadmissible referrals for reasons related to the merits of a case. More precisely, based on this rule, the Court may declare a referral inadmissible based on and after assessing its merits, namely if it deems that the content of the referral is manifestly ill-founded on constitutional basis, as defined in paragraph (2) of Rule 39 of the Rules of Procedure (see the case KI04/21, Applicant *Nexhmije Makolli*, Resolution on Inadmissibility of 12 May 2021, paragraph 26, also the case KI175/20, Applicant *Privatization Agency of Kosovo*, Resolution on Inadmissibility of 27 April 2021, paragraph 37).

41. Based on the case law of the ECtHR but also of the Court, a referral may be declared inadmissible as "manifestly ill-founded" in its entirety or only with respect to any specific claim that a referral may constitute. In this regard, it is more accurate to refer to the same as "manifestly ill-founded claims". The latter, based on the case law of the ECtHR, 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 farfetched"* 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 abovementioned categories of claims qualified as "manifestly ill-founded", The Practical Guide to the ECtHR on Admissibility Criteria of 31 August 2019; Part III. Inadmissibility Based on Merit; A. Manifestly ill-founded applications, paragraphs 255 to 284, see also the case KI04/21, cited above, paragraph 27 as well as the case KI175/20, cited above, paragraph 38).

42. 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 (see case KI04/21, cited above, paragraph 28 and the case KI175/21, cited above, paragraph 39).

43. The Court recalls that the substance of the case relates to the Decision of the Disciplinary Committee of the Ministry of Justice, which by Decision [no. 20] terminated the Applicant's employment relationship, considering that the latter, who was in the capacity of correctional officer, had committed serious violations of the Code of Conduct. Subsequently, the Applicant filed an appeal against the aforementioned Decision, with the IOBK, which had rejected the appeal. In 2014, the Basic Court acquitted the Applicant of the criminal offense with which he was charged. This Judgment was also upheld by the Court of Appeals. Following the Applicant's statement of claim addressed to the Basic Court for reinstatement at work position, the latter approved the claim, obliging the employer to reinstate the Applicant to his previous work position. Following the employer's appeal to the Court of Appeals, the latter accepted the employer's appeal as grounded and dismissed the Applicant's statement of claim as out of time. The Supreme Court upheld the Judgment of the Court of Appeals, considering the same as fair and lawful.

44. The Court recalls that these findings of the Court of Appeals and the Supreme Court are challenged by the Applicant before the Court, alleging in essence violation of Article 31 of the Constitution and Article 6 of the ECHR due to lack of reasoning of court decisions, specifically the Decision [Rev. no. 265/2020] of the Supreme Court of 14 January 2021, in conjunction with the Decision [Ac. no. 1028/16] of the Court of Appeals of 19 February 2020, as well as erroneous application of legal provisions.

45. The Court will further treat the Applicant's allegations together, as they are related and that the Applicant has elaborated the same as related.

46. Initially, the Court recalls that the allegations raised by the Applicant in the Court, were also raised before the regular courts.

47. The Court once again recalls the allegations of the Applicant, who before the Court alleges that the regular courts have violated Article 17, paragraph 1 of Law No. 02/L-028 on the Administrative Procedure, and as a result their decisions are not sufficiently reasoned.

48. The Court initially notes that the case law of the European Court of Human Rights (hereinafter: the ECtHR) emphasizes that the fairness of a proceeding is assessed on the basis of the proceeding as a whole (see the case of the Court KI185/19, Applicant: *Abdylhadi Petlla,* Resolution on Inadmissibility of 22 July 2020, paragraph 40). Therefore, in determining the merits of the Applicant's

allegations, the Court shall also adhere to this principle (see the cases of the Court KI185/19, cited above, paragraph 40; KI104/16, Applicant *Miodrag Pavić*, Judgment of 4 August 2017, paragraph 38; and KI143/16, Applicant *Muharrem Blaku and others*, Resolution on Inadmissibility of 13 June 2018, paragraph 31).

49. In the present case, the Court notes that the Supreme Court, substantiating the Applicant's allegations related to the time limit for filing the claim, stated that these allegations are ungrounded after finding that the Court of Appeals has rightly applied the provisions of Article 83, paragraph 1 of the Law on Basic Rights of Labor Relations, as the same was applicable in the Republic of Kosovo. In relation to the foregoing, the Court recalls the reasoning of the Supreme Court, which, among others, reasoned as follows: *"The allegation according to the revision that the second instance court has erroneously applied the substantive law, when it overturned the judgment of the first instance court, which based on the provisions of the Law No. 03-L – 149 on the Civil Service, Article 63 item 3, according to which it has approved the claimant's statement of claim, because this provision clarifies: "In case of criminal proceedings initiated against a Civil Servant for acts concluded in the exercise of his/her administrative mandate that can generate conditions for criminal charges pressed against the Civil Servant, all disciplinary proceedings related to the case cannot initiate until the final ruling of the competent Court", is a completely ungrounded claim, as the decision of the Disciplinary Committee, of the respondent – Employer Body, Correctional Center in Dubrava - Ministry of Justice with Prot. no. 20, of 28.02.2008, was issued before entrance into force of the Law No. 03-L – 149 on the Civil Service on 11.07.2010, to which the first instance court refers, and therefore it could not be applied, and the Claimant may not invoke the application of this provision.*

The second instance court has rightly applied in the respective case the provisions of Article 83, paragraph 1, of the Law on Basic Rights of Labor Relations (Official Gazette 60/89 of SFRY) stipulates that "The employee who is not satisfied with the final decision of the competent authority within the organization or if this authority does not render a decision within 30 days from the day of the submission of the request of the appeal, has the right to request the protection of his rights before the competent court within the subsequent 15 days", which law is applicable in the present case according to UNMIK Regulation/REG 1999/24 of 12 December 1999, for the Law in force in Kosovo, as the Claimant has failed to file the claim within the legal deadline".

50. In this regard, the Supreme Court has addressed the Applicant's allegations that: (i) The Court of Appeals regarding the non-application of Article 63 of the Law on Civil Service, clarifying to the Applicant that the Decision on termination of the Applicant's employment relationship was issued before the entry into force of the Law No. 03/L-149 on Civil Service, on 11 July 2010, to which the first instance court refers, therefore it could not be applied, and the claimant may not invoke the application of this provision (ii), the Supreme Court had stated that the Law on Basic Rights of Labor Relations was applicable in the present case pursuant to UNMIK Regulation No. 24/1999, and on the basis of which the dissatisfied party had 30 (thirty) days to file a claim, and in the case before us, the claim was filed out of the prescribed time limit.

51. In this regard, the Court notes that the Applicant had the benefit of the conduct of the proceedings based on adversarial principle; that he was able to adduce the arguments and evidence he considered relevant to his case at the various stages of those proceedings; he was given the opportunity to challenge effectively the arguments and evidence presented by the responding party; and that all the arguments, viewed objectively, relevant for the resolution of his case were heard and reviewed by the regular courts; that the factual and legal reasons against the challenged decisions were examined in detail; and that, according to the circumstances of the case, the proceedings, viewed in entirety, were fair (see, among others, the case of the Court no. KI118/17, Applicant *Sani Kervan and others*, Resolution on Inadmissibility of 16 February 2018, paragraph 35; see also, *mutatis mutandis*, case *Garcia Ruiz v. Spain*, Application no. 30544/96, Judgment of 21 January 1999, paragraph 29)

52. In this regard, the Court notes that Article 31 of the Constitution, in conjunction with Article 6 of the ECHR, does not guarantee anyone a favorable outcome in the course of a judicial proceeding, nor does it provide for the Court to challenge the application of substantive law by the regular courts in a civil dispute (see the case of the Court KI185/19, cited above, paragraph 46).

53. In this respect, it should be borne in mind, that the "fairness" required by Article 31 of the Constitution and Article 6 of the ECHR is not a "substantive" fairness but rather a "procedural" fairness. This translates in practical and principal terms into adversarial proceedings in which parties are heard and they are placed on an equal footing before the court (see, the case of the Court KI42/16, Applicant *Valdet Sutaj*, Resolution on Inadmissibility of 7 November 2016, paragraph 41 and other references cited therein).

54. In this regard, the Court notes that it is not its task to deal with errors of law (legality) allegedly committed by the regular courts, unless and in so far as such errors may have infringed fundamental rights and freedoms protected by the Constitution (constitutionality). It may not itself assess the law which has led a regular court to adopt one decision rather than another. If it were otherwise, the Court would be acting as a court of "fourth instance", which would result in exceeding the limits imposed in its jurisdiction. In fact, it is the primary role of the regular courts to interpret and apply the pertinent rules of the procedural and substantive law (see, the case of the Court KI70/11, Applicant *Faik Hima, Magbule Hima and Bestar Hima,* Resolution on Inadmissibility of 16 December 2011).

55. The Court further notes that the Applicant does not agree with the outcome of the proceedings before the regular courts. However, the Applicant's dissatisfaction with the outcome of the proceedings by the regular courts cannot by itself raise an argumentative constitutional allegation for a violation of the right to fair and impartial trial (see, cases of the Court KI185/19, cited above, paragraph 49; and KI56/17, Applicant *Lumturije Murtezaj*, Resolution on Inadmissibility of 18 December 2017, paragraph 42; see also, *mutatis mutandis*, the case of the ECtHR *Mezotur – Tiszazugi Tarsulat v. Hungary*, ECtHR, Judgment of 26 July 2005, paragraph 21).

56. In conclusion, the Court considers that the Applicant has not substantiated the allegations that the respective proceedings were in any way unfair or arbitrary and that the challenged decision violated the rights and freedoms guaranteed by the Constitution, namely the right to a fair trial guaranteed by Article 31 of the Constitution.

57. Therefore, the Referral is manifestly ill-founded on constitutional basis and must be declared inadmissible.

FOR THESE REASONS

The Constitutional Court, in accordance with Article 113.7 of the Constitution, Articles 20 and 48 of the Law and pursuant to Rule 39 (2) of the Rules of Procedure, on 29 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**

Radomir Laban

Gresa Caka-Nimani

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