



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

GJYKATA KUSHTETUESE

УСТАВНИ СУД

CONSTITUTIONAL COURT

KABINETI I KRYETARIT / URED PREDSEDNIKA / CABINET OF THE PRESIDENT

Prishtina, on 24 September 2021
Ref. no.:KK 231/21/rI

Mr. Aleksandër Lumezi
Chief State Prosecutor
"Luan Haradinaj" Str., No. 100
10000, Prishtina, Republic of Kosovo

Subject: Notification about non-enforcement of the Judgment in case KI56/09, of the Constitutional Court of the Republic of Kosovo, Applicant: *Fadil Hoxha and 59 others*, of 22 September 2010; and the Judgment in case KI132/15, of the Constitutional Court of the Republic of Kosovo, Applicant: *Deçani Monastery*, of 19 May 2015

Honorable Chief State Prosecutor, Mr. Lumezi,

The Constitutional Court of the Republic of Kosovo in accordance with Article 112 [General Principles] of the Constitution of the Republic of Kosovo is the final authority in the Republic of Kosovo for the interpretation of the Constitution and the compliance of laws with the Constitution.

Pursuant to paragraph 1 of Article 116 [Legal Effect of Decisions] of the Constitution, its decisions are binding on the judiciary and all persons and institutions of the Republic of Kosovo. In connection with this constitutional provision, Rule 66 (Enforcement of decisions) of the Rules of Procedure no. 01/2018 of the Constitutional Court of the Republic of Kosovo also stipulates that (i) all constitutional organs, including courts and other authorities, are obligated to respect, comply with and to enforce the decisions of the Court, within their competencies established by the Constitution and law; and (ii) all natural and legal persons are obligated to respect and to comply with the decisions of the Court.

Furthermore, pursuant to paragraphs 6 and 7 of Rule 66 of the Rules of Procedure: (i) in the event of a failure to enforce a decision, or a delay in enforcement or in giving information to the Court about the measures taken, the Court may issue a ruling in which it shall establish that its decision has not been enforced and publish this position in the Official Gazette; and (ii) inform the State Prosecutor of all decisions of the Court that have not been enforced.

According to the abovementioned authorizations, through letters in 2014, 2015 and 2019, the Chief State Prosecutor was notified about non-enforcement of Judgments of the Court: (i) KI08/09, Applicant *Independent Union of Workers of IMK Steel*

Factory, in Ferizaj, Judgment of 17 December 2010; (ii) KI112/12, Applicant *Adem Meta*, Judgment of 5 July 2013; and (iii) KI187/13, Applicant *N. Jovanović*, Judgment of 1 April 2014.

Based on the above-mentioned authorizations established in the Constitution and its Rules of Procedure, the Court has re-assessed the implementation of its Judgments, and after analyzing the relevant documents, has also found the lack of implementation of another two Judgments, and for which consequently has rendered non-enforcement decisions, about which I am notifying You through this letter.

More precisely, on 22 September 2021, the Court rendered Decisions on Non-enforcement regarding two Judgments of the Constitutional Court, namely, (i) Judgment KI56/09, Applicant: *Fadil Hoxha and 59 others*, of 22 September 2010; and (ii) KI132/15, Applicant: *Deçani Monastery*, of 19 May 2015.

By these two Decisions on Non-enforcement, the Court has decided (i) to find that the Judgments in cases KI56/09 and KI132/15, have not been implemented by the responsible authorities of the Republic of Kosovo; (ii) to publish Decisions on Non-enforcement in relation to Judgments in cases KI56/09 and KI132/15; and (iii) notify the State Prosecutor about the issuance of Decisions on Non-enforcement regarding Judgments in cases KI56/09 and KI132/15.

Finally, I would like to emphasize that beyond the finding of non-enforcement of the abovementioned Judgments contrary to Article 116 of the Constitution and this notification to the State Prosecutor's Office, the Constitutional Court has no jurisdiction to assess responsibility for non-enforcement of the abovementioned Judgments by the responsible authorities. It is up to the State Prosecutor's Office to take further actions according to legal authorizations, based on the Criminal Code and the Criminal Procedure Code of the Republic of Kosovo.

The Constitutional Court of the Republic of Kosovo remains committed to the full realization of its function as guardian of the Constitution and the protection of human rights established in the Constitution. For the realization of these goals, the latter welcomes the cooperation with You, always in the interest of respecting the constitutionality and the principles of the rule of law in the Republic of Kosovo.

Respectfully,

Gresa Caka-Nimani
President

Kopje e vërtetuar
Overena kopija
Certified copy

Attached:

1. Copy of the Decision on Non-enforcement of Judgment KI56/09, of the Constitutional Court of the Republic of Kosovo, of 22 September 2021; and
2. Copy of the Decision on Non-enforcement of Judgment KI132/15, of the Constitutional Court of the Republic of Kosovo, of 22 September 2021.