Prishtina, on xx February 2023

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JUDGMENT

in

case no. KI122/21

Applicant

Lekë Bytyqi

Constitutional review of Desision CPP. no. 1/2021, of the Supreme Court of 10 March 2021

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
Nexhmi Rexhepi, Judge and
Enver Peci, Judge

Applicant

1. The Referral was submitted by Lekë Bytyqi, residing in Prishtina, represented with power of attorney by Habib Hashani, a lawyer in Prishtina ((hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges Judgment [CPP. No. 1/2021] of 10 March 2021 of the Supreme Court of the Republic of Kosovo (hereinafter: the Supreme Court) in conjunction with Decision [Rev. no. 37/2016] of 23 February 2016 of the Supreme Court, in conjunction with Decision [Ac. no. 3494/2015] of 14 October 2015, of the Court of Appeals, and Decisions [C. no. 725/15] of 3 July 2015 and of 15 July 2015, of the Basic Court in Prizren (hereinafter: the Basic Court).

Subject matter

3. The subject matter is the constitutional review of the challenged Decision whereby it is claimed that the Applicant's fundamental rights and freedoms 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) have been violated.

4. The Applicant also requests the Court that his identity be not disclosed, on the grounds that he is a minor and that *"[...] the whole dispute (and not only this one), takes place between the claimant, who is the grandson of the opposing party (the respondent N. is the grandmother, while the respondents Sh.B and A.B are the claimant's uncles)."*

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 30 June 2021, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).

7. On 8 July 2021, the President of the Court Gresa Caka-Nimani appointed Judge Selvete Gërxhaliu-Krasniqi as Judge Rapporteur and the Review Panel composed of judges: Gresa Caka-Nimani (Presiding), Bajram Ljatifi and Nexhmi Rexhepi (members).

8. On 23 July 2021, the Court notified the Applicant about the registration of the Referral.

9. On 23 August 2021, the Court notified the Supreme Court about the registration of the Referral and submitted a copy of the Referral to the latter.

10. On 1 February 2022, the Court requested the Basic Court in Prizren to submit complete case file.

11. On 22 February 2022, the Court requested the Kosovo Judicial Council to submit complete case file KI122/21 to the Court.

12. On 23 February 2022, the Basic Court submitted complete case file to the Court.

13. On 15 November 2022, the Review Panel considered the report of the Judge Rapporteur and requested that the report be completed.

14. On 16 December 2022, Judge Enver Peci took the oath in front of the President of the Republic of Kosovo, in which case his mandate at the Court began.

15. On 23 February 2023, the Review Panel considered the report of the Judge Rapporteur and requested that the report be completed.

16. On 22 May 2023, the Review Panel considered the report of the Judge Rapporteur and requested that the report be completed.

17. On 7 July 2023, the Rules of Procedure of the Constitutional Court of the Republic of Kosovo no. 01/2023, was published in the Official Gazette of the Republic of Kosovo and entered into force 15 days after its publication. Therefore, when considering the referral, the Constitutional Court refers to the provisions of the abovementioned Rules of Procedure. In this regard, in accordance with Rule 78 (Transitional Provisions) of the Rules of Procedure no. 01/2023, exceptionally certain provisions of the Rules of Procedure no. 01/2018, continue to be applied to cases that were registered in the Court before its repeal, only if and to the extent they are more favorable for the parties.

18. On 27 July 2023, the Review Panel considered the report of the Judge Rapporteur and by majority recommended to the Court the admissibility of the Referral.

19. On the same date, the Court by majority, respectively with (7) votes for and (1) vote against, held that (i) the referral is admissible; and found that (ii) Decision [CPP. 1/2021] of 10 March 2021 of the Supreme Court, is not in compliance with paragraph 1 of Article 31 [Right to Fair and Impartial Trial] of the Constitution in conjunction with paragraph 1 of Article 6 (Right to a fair trial) of the ECHR.

Summary of facts

20. From the case file it follows that the Applicant, and the interested parties are direct legal descendants of H. B., who died on 27 March 2006. In this respect, the respondent-the interested party N. B. is the ex-wife, the second and the third respondents Sh.B and A.B are the sons, while the Applicant Lekë Bytyqi is the grandson, namely the son of his deceased son - N.B (the father - the direct legal predecessor of the Applicant, and the son of the common legal predecessor of litigants H.B). Therefore, the Applicant claimed that, based on the Law on Inheritance, as the heir of the first rank of succession of the deceased H.B., has the right of ownership and possession in ¼ ideal part of the disputed facility.

21. From the case file, it turns out that the Applicant submitted a lawsuit to the Basic Court where he requested to confirm (i) the right of ownership and (ii) the imposition of the security measure, whereby he requested that N.B, Sh.B, and A.B, be prohibited from alienating or encumbering the disputed facility with any other property right in favor of a third person or to infringe the real and mandatory rights of the Applicant in the contested object by any illegal action of possession (the apartment and the business premises located in Prizren), until the definitive resolution of this dispute by a final judgment.

Facts related to the request for interim security measure

22. On 3 July 2015, the Basic Court by the Decision [C. no. 725/2015] rejected as ungrounded in entirety the proposal of the Applicant for the imposition of an interim security measure, whereby he requested that the defendants N.B, Sh .B. and A.B, all from Prizren, to be prohibited from alienating or encumbering the contested object with any other property rights in favor of any third person or to infringe the real and

mandatory rights of the Applicant in the contested object by any illegal action of possession - the apartment and the business premises located in Prizren, until the definitive resolution of this dispute by a final judgment.

23. The Basic Court reasoned the rejection of the Applicant's proposal for the imposition of an interim security measure as follows:

> *Based on the evidence attached to the case file (especially the property tax invoices as well as the claimant's own statements in the lawsuit), the court found that the respondents are not the owners of the contested immovable property and that the latter is registered in the name of H.B. from Prizren, respectively the legatees of the litigating parties, for which the court finds that an interim measure cannot be imposed, since according to the laws in force, no one except the owner can dispose of his share. Also, the court finds that there is no basis for the imposition of an interim measure, since in the present case the Applicant of the proposal is the heir of the deceased H.B. (his grandson) and has the opportunity to submit a proposal for the examination of the inheritance and until the inheritance is examined for the alienation or charging of any other right of the disputed immovable property on the part of the respondents, the consent - the signature of the claimant is also required, since as mentioned above, according to the law in force, it is known how ownership is transferred.*

24. On 21 July 2015, the Applicant submitted a complaint against the Decision [C. no. 725/2015] of 3 July 2015 (for the rejection to impose an interim measure), on the grounds of essential violations of the contested provisions; erroneous and incomplete determination of factual situation, with the proposal that the interim measure be approved.

Facts of the case regarding the Applicant's statement of claim

25. On 15 July 2015, the Basic Court by the Decision [C. no. 725/2015] (i) summons the Applicant to correct/supplement the lawsuit in its subjective sense, respectively to adjust the passive legitimacy of the lawsuit; (ii) requested to submit the completed lawsuit to the court within 3 days after the receipt of this decision; as well as (iii) if the supplemented lawsuit is not returned within the above-mentioned deadline, it will be considered that the latter has been withdrawn, and if it is returned to the court incomplete, the latter will be rejected. According to the assessment of the Basic Court, the latter considers that the lawsuit is deficient, because from the case file it turns out that he filed a lawsuit against the aforementioned respondents regarding the confirmation of ownership of the immovable property, for which the respondents are not the owners of the immovable property, but the latter, together with the Applicant, are legal heirs of the decedent H.B, under whose name the contested immovable property is evidenced. On the other hand, the Applicant has not submitted any evidence that would prove that they have started the inheritance procedure and the respondents have not accepted that the inheritance be completed, and heirs be declared for the immovable property of the decedent.

26. On 24 July 2015, the Applicant also filed an appeal against the Decision [C. no. 725/2015] of 15 July 2015, on the grounds of essential violations of the contested provisions; erroneous and incomplete determination of factual situation, as well as incorrect application of substantive law; with the proposal to annul the Decision as well as all the procedural actions taken by the Basic Court before it has provided the reply to the lawsuit.

27. On 14 October 2015, the Court of Appeals of Kosovo (hereinafter: the Court of Appeals) by the Decision [Ac. no. 3494/2015] rejected as inadmissible the appeals of the Applicant submitted against the decisions of the Basic Court [C. no. 725/15] of 3 July 2015 and 15 July 2015. Regarding the submitted appeals, the panel of the Court of Appeals assessed that *"that both appeals filed against the two decisions of the first instance court are not admissible. The first appeal is inadmissible based on article 310 par.5 of the LCP, while the second appeal is based on article 387 par.2 of the LCP."*

28. On 4 December 2015, the Basic Court by the Decision [C. no. 725/15] considered that the lawsuit of the Applicant has been withdrawn. In the reasoning of this Decision, it is emphasized that: *"From the time of rendering the decision which obliged the claimant to correct and complete the lawsuit in its subjective sense, respectively to adjust the passive legitimacy of the lawsuit, under the threat of legal consequences, the legal deadline of 3 days has passed, while in the case file, there is no evidence that the claimant, or his authorized representative, has acted in accordance with this decision."*

29. Subsequently, the Basic Court in the aforementioned Decision of 4 December 2015, also emphasized as follows:

> *"Taking into account the fact that even in the aforementioned decision, the claimants, respectively their authorized representative, did not act in accordance with the court's order (the legal deadline given by the court has passed) while there were no other concrete proposals, and since the claimant has not submitted any evidence by which it would be proven that they have started the inheritance procedure and the respondents have not accepted that the inheritance be completed and they be declared heirs due to the immovability of their decedent. Also, the claimant in the lawsuit has emphasized that the inheritance procedure has not started, since according to the legal provisions in force each heir (including the claimant) can request the division of the inheritance at any time and this right is not prescribed, and if the heirs have disagreements regarding the division of the inheritance, then a civil dispute can be initiated within the period of 30 days, and the lawsuit has been filed against the aforementioned respondents regarding the confirmation of ownership of the immovable property, for which the respondents are not the owners of the immovable property, but the latter together with the claimant are legal heirs of the decedent H.B, under whose name the contested immovable property is evidenced, the court decided as in the enacting clause of this decision, in accordance with Article 102.3 of the LCP."*

30. The Applicant did not file an appeal against the Decision [C. no. 725/2015] of 4 December 2015 of the Basic Court, by which his lawsuit was considered withdrawn.

31. On 16 December 2015, against the Decision [Ac. no. 3494/2015] of the Court of Appeals, the Applicant submitted a request for revision due to essential violations of the provisions of the contested procedure and erroneous application of substantive law, with proposal that the challenged affected decision be annulled, and the matter be remanded to the first instance court for retrial.

32. On 23 February 2016, the Supreme Court by the Decision [Rev. no. 37/2016]: (i) approved as grounded the Applicant's revision, and the Decision of the Court of Appeals [AC. no. 3494/2015] of 14 October 2015, in the part that refers to the dismissal of the claimant's complaint, submitted against the Decision of the Basic Court [C. no. 725/2015] of 4 December 2015, (by which the claimant's lawsuit is considered withdrawn) is quashed and the matter is remanded to the second instance court for

retrial; (ii) the Applicant's revision submitted against the Decision of the Court of Appeals [AC. no. 3494/2015] of 14 October 2015, in the part that refers to the dismissal of the claimant's complaint, submitted against the Decision [C. no. 725/2015] of the Basic Court of 3 July 2015, is dismissed as inadmissible (by which the claimant's request for interim security measure was rejected).

33. Consequently, the case referring to the dismissal of the claimant's appeal, filed against the Decision of the Basic Court [C. no. 725/2015] of 4 December 2015, (whereby the claimant's lawsuit was considered withdrawn) was *quashed* and the matter was remanded to the Court of Appeals for retrial. Therefore, regarding this point of the Decision, the case was pending to be retried by the Court of Appeals.

34. On 8 May 2019, the Applicant submitted to the Basic Court a repetition of the proposal for imposing the security measure of the statement of claim so that the court renders a decision - on the measure of security for the claim - which approves the proposal of the Applicant, with the aim to secure his claim, to impose the security measure and the respondents N.B., Sh.B. and A.B., all of them jointly and each of them who uses or is in possession of the contested immovable property, are prohibited from damaging, alienating or encumbering this immovable property or infringing upon the Applicant's real rights in the contested immovable property.

35. In the period in which the case by revision was remanded to the Court of Appeals and which had not yet decided, the respondents N.B, Sh.B and A.B, on 23 February 2021, submitted a *proposal for the repetition of the procedure*, against the Decision [Rev. no. 37/2016] of 23 February 2016, of the Supreme Court, in point I of its enacting clause. The proposal for the repetition of the procedure was filed for reasons defined by the provision of Article 232 point (g) of the LCP, using as a reason and basis because the Applicant did not file an appeal against the decision of the Basic Court [C. no. 725/2015] of 4 December 2015 (by which the claimant's lawsuit is considered withdrawn), so the Supreme Court in point I of the enacting clause has erroneously quashed Decision [Ac. no. 3494/2015] of 14 October 2015, of the Court of Appeals and remanded the case to the same court for retrial.

36. The Supreme Court in the Decision stated that *"The proposal for the repetition of the procedure was sent to the claimant's representative, lawyer Habib Hashani, on 25.02.2021, in the case file there is no evidence that he has provided any reply to the proposal of the respondents for repeating the procedure."*

37. On the other hand, the Applicant submitted to the Court the acknowledgment of receipt of the Post of Kosovo, which proves that the latter had submitted by mail the letter Answer of the Claimant - the counter-proposal, on 13 March 2021, where he proposed that: the Proposal of the "Applicants – Proposers" - is inadmissible and that the Supreme Court also notify the Court of Appeals and be instructed to, within its obligations and competence, to urgently act according to the order specified in point I of the enacting clause of the Decision [Rev. no. 37/2016] of 23 February 2016, that is, even though more than 5 (five) years have already passed, to retry the case, - to reconsider the Applicant's complaint, submitted against the Decision of the Basic Court in Prizren [C. no. 725/2015] of 4 December 2015.

38. On 10 March 2021, the Supreme Court by the Decision [CPP. no. 1/2021]: (i) approved as grounded the proposal of the respondents, N.B, Sh.B and A.B, for the repetition of the procedure completed by the Decision of the Supreme Court [Rev. no. 37/2016] of 23 February 2016; (ii) the Judgment of the Supreme Court [Rev. no. 37/2016], of 23 February 2016, in part I of the enacting clause is quashed, and the revision of the Applicant, filed against the Judgment of the Court of Appeals [Ac .no. 3494/2015] of

14 October 2015, in the part that refers to the dismissal of the claimant's appeal filed against the Decision of the Basic Court [C. no. 725/2015] of 15 July 2015 (by which the lawsuit is returned to the claimant for completion) is *dismissed* as inadmissible.

39. In the reasoning of the above-mentioned Decision, the Supreme Court, among other things, emphasized the following*: "The claimant, in the second instance court, has submitted two appeals, by the first appeal he challenged Decision C. no. 725/2015 of 03.07.2015 (which rejected the request for the security measure), while by the second appeal he challenged the decision C. no. 725/2015 of 15.07.2015 (whereby the claim was returned to the claimant for completion). The claimant has not submitted an appeal against the decision C. no. 725/29015 of 14.10.2015 [emphasis added: should be 04.12.2015] (by which the claimant's claim was considered withdrawn."*

40. In the following, the Supreme Court after assessing the admissibility of the Applicant's revision in relation to part I of the enacting clause of the Decision [Rev. no. 37/2016] of 23 February 2016, based on the provision of Article 221 in conjunction with Article 230 of the Law on Contested Procedure (LCP), found that: The revision is not allowed. The Supreme Court reasoned this decision as follows:

> *"From the case file it turns out that the subject of this legal matter is the assessment of the legality of the decision of the second instance court which dismissed the claimant's appeal against the decision of the Basic Court in Prizren, [C. no. 725/29015] of 15.07.2015, by which the claimant was summoned to correct -supplement the lawsuit in its subjective sense.*
>
> *In the provision of Article 228.1 of the LCP, it is foreseen that the parties can submit a revision only against the final decision which ends the court procedure in the second instance.*
>
> *By decision of the Court of Appeals of Kosovo, AC. no. 2141/2016 of 26.7.2016 [emphasis added: should be Ac. no. 3494/2015, of 14.10.2015], the claimant's appeal, filed against Decision of the Basic Court in Prizren, C. no. 725/29015 of 15.07.2015, by which the claimant was summoned to correct- supplement the lawsuit in its subjective sense, since such an appeal was not allowed, due to the fact that against the decisions given during the preparation of the main hearing , which are related to the direction of the trial, no appeal is allowed (Article 387.2 of the LCP) and in this sense we do not have a final decision within the meaning of Article 228.1 of the LCP."*

41. On 25 May 2021, the case file shows the official note which clarifies that on 11 May 2021, the registry's office of the Basic Court assigned a new number to this case, namely [C. no. 517/2021], while after analysis of the case by the relevant judge and based on the Judgment [CPP. no. 1/2021] of the Supreme Court of 10 March 2021, it was found that the error came from the registry's office as it was mistakenly given a new number, since by the aforementioned Decision of the Supreme Court, the Decision [Rev. no. 37/2016] of 23 February 2016 of the Supreme Court was quashed and the Applicant's revision was rejected as inadmissible.

Applicant's allegations

42. The Applicant alleges that the challenged Judgment of the Supreme Court was rendered in violation of his fundamental rights and freedoms guaranteed by Article 31 of the Constitution.

43. The Applicant considers that by the challenged Decision, to his detriment, three fundamental legal principles, incorporated in the foundation of the legal system of Kosovo, have been violated, according to which, before a court takes a decision, it is obliged to listen to the other party as well (principle *audiatur et altera pars*), the one - according to which the same issue cannot be decided twice (principle *ne bis in idem*) and the one - according to which, all court authorities are forbidden to delay, ignore, deny the requests of individuals that they submit before them (the principle according to which denial of decision-making, denial of trial is prohibited - prohibition *deni de justice*).

44. According to the Applicant, the challenged Decision was taken quickly, within a very short time (only within 15 days from the day of submission of the Proposal for repetition of the respondent's procedure) and without examining the claimant's response.

45. The Applicant further emphasizes that the Supreme Court on the same issue, the revision of the claimant, decides twice. According to him, the first time, 5 (five) years ago, by the Decision [Rev. no. 37/2016], the Supreme Court approved the revision, and the second time, by the Decision [CPP. no. 1/2021], after 5 (five) years, the Supreme Court decided to reject the revision, while it quashes the final Decision [Rev. no. 37/2016] of 23 February 2016 (so – it does not annul it).

46. The Applicant also emphasizes that by the challenged Decision, any procedural path has been closed that "*someone*", - even the first instance Court itself, which is competent, will proceed and decide according to the claimant's Proposal for imposing the measure of securing the claim, submitted to the Basic Court, on 8 May 2019. Therefore, according to the Applicant, the Supreme Court violated the principle, according to which it is forbidden to refuse to grant protection, it is forbidden to deny the right of anyone whose case is raised before the court, therefore - the action *deni de justice* is prohibited.

47. Finally, the Applicant requests the Court that: (1) The Applicant considers a decision of the Constitutional Court to be reasonable, legal and in function of protection of his right to fair and impartial trial, by which the challenged Decision – is annulled; (2) However, the Applicant considers that the only adequate, reasonable legal solution and in function of the protection of his right to a fair and impartial trial would be the decision of the Constitutional Court, according to which, the Judgment would annul the challenged Decision and modify the Decision of the Supreme Court [Rev. no. 37/2016] of 23 February 2016, so that the Applicant's revision is approved as grounded and that the Decision of the Court of Appeals [AC.no.3494/20 15] of 14 October 2015, the Decision of the Basic Court [C. no. 725/2015] of 15 July 2015 and the Decision of the Basic Court [C. no. 725/2015] of 4 December 2015, be annulled and the case be remanded to the first instance court - the Basic Court, for retrial and reconsideration.

48. Finally, the Applicant also requests that his identity not be revealed, since he has a family relationship with the interested parties, namely he is their grandson (respondent N.B is the grandmother, Sh.B and A.B are the Applicant's uncles.

Relevant constitutional and legal provision

Constitution of the Republic of Kosovo

Article 31
[Right to Fair and Impartial Trial]

1. Everyone shall be guaranteed equal protection of rights in the proceedings before courts, other state authorities and holders of public powers.
2. Everyone is entitled to a fair and impartial public hearing as to the determination of one's rights and obligations or as to any criminal charges within a reasonable time by an independent and impartial tribunal established by law.
3. Trials shall be open to the public except in limited circumstances in which the court determines that in the interest of justice the public or the media should be excluded because their presence would endanger public order, national security, the interests of minors or the privacy of parties in the process in accordance with law.
[...]

European Convention on Human Rights

Article 6
(Right to a fair trial)

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
[....]

Law No. 03/L-006 on Contested Procedure

Article 99

99.2 Submission must be comprehensible and must contain everything necessary for it to be acted upon. In particular, it should contain the following: the name of the court, the first name and the family name (the name of the legal person), the permanent or temporary residence (headquarters of the legal person) of the parties, their legal representatives and authorized representatives, if the parties have them, the disputed facility, the content of the statement and the signature of the claimant.

Neni 102

102.1 Submission must be comprehensible and must contain everything necessary for it to be acted upon. In particular, it should contain the following: the name of the court, the first name and the family name (the name of the legal person), the permanent or temporary residence (headquarters of the legal person) of the parties, their legal representatives and authorized representatives, if the parties have them, the disputed facility, the content of the statement and the signature of the claimant.

[...]

102.3 It will be considered that the submission is withdrawn if not returned to the court within the specified period. If returned uncorrected or not supplemented, the submission shall be rejected.

The decision of the absolute decree

Article 166

166.1 The decision that can be attacked through a complaint becomes an absolute decree one for as much it is decided over the claim charge or against claim charge.

166.2 The court, in accordance to its official task during the proceedings looks into the possibility of the same issue being examined before, f it ascertains that the procedure was initiated for the request for which a verdict of absolute decree exists, the charges will be dropped as not allowed ones.

Article 196

The complaint that is late, incomplete or not allowed can be dismissed by the second instance court with a verdict, if it wasn't done initially by the court of the first instance (article 186).

Article 209

I*n deciding on the special appeal, the court of the second instance can:*

a) eject the appeal as timeless, incomplete and not allowed;

Article 218

The revision presented after the legal time period, is incomplete and not allowed can be rejected by the first instance court without holding a courts session.

Article 221

A later revision, an incomplete or not allowed one will be rejected by the court of revision, if it wasn't done by the court of the first instance within its authorizing boundaries (article 218 of this law).

Article 228

228.1 Sides can present revision against verdict of absolute decree though which the procedure in court of second instance will finish.

228.2 Revision is not allowed against the verdicts outlined in the parag.1 of this article in the contests in which revision against the decision isn't allowed.

Article 230

The procedure in accordance to the revision against the verdict applies accordingly the provisions of this law over the revision against decision.

Article 232

Finalized procedure with an absolute decree can be repeated based on the proposal party:

a) if the party with an illegal act, especially in the case of not being invited to the session, the party is not given the opportunity to part take in the examination of the main issue;

b) if in the final procedure, as a charging party or unknowingly participated the individual that can't act as an intermediate party; the legal entity wasn't represented by an authorized person, when the party without legal background wasn't represented by its legal representative, when the legal representative or by proxy of the side had no required authorization for pursuing the issue at the court or for conducting concrete procedural actions respectively when pursuing the case at the court or conducting concrete procedural actions was not approved by the side later on;;

c) if the final decision of the court was based on untrue statements of witnesses, experts, or based on falsified documents or in which untrue content was certified;

d)if the final decision of the absolute decree is a result of penal act of the judge, legal representative or by proxy of the side, opposing side of the third party;

e) if the party gains the possibility to use the courts verdict of the absolute decree, which was earlier issued in the procedure developed among the same parties for the same charge claim;

f) if the final decision of the absolute decree is based on another court verdict, or on the verdict of another body while this verdict was changed, revoked or annulled by an absolute decree;

g) if the party is aware of other facts or finds new proofs, or gains the opportunity to get a more favorable verdict if these facts and proofs were used in the earlier procedure..

Article 233

233.1 Due to the reasons shown in the article 232 point. a) and b) of this law, the repetition of the procedure could not be required if they are used successfully in the previous procedure

233.2 Due to the reasons shown in the article 232, point. g) of this law the repetition of the procedure can be asked only if the party without fault of its own could not present these circumstances before the previous procedure ended in the court verdict of absolute decree.

Article 237

237.1 Proposal for repeating the procedure presented after the deadline, is incomplete and not permit able is rejected by the court of the first instance through a verdict without a court hearing.

237.2 If the court of the first instance doesn't reject the proposal, a sample is sent to the opposing party which has a right to reply within a period of fifteen (15) days.

Article 238

After the response regarding the proposal has reached, or after the deadline for responding to the proposal has passed, the court sends the proposal, with the response if presented, including all official documents related to the case to the court of the second instance within a period of eight (8) days.

Article 310

310.5 The verdict over temporary measures cannot be appealed against.

Article 387

387.2 No appeal is allowed against acts given during the preparation of the trial arrangement regarding the main hearing.

Admissibility of the Referral

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

50. 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."

51. In addition, the Court also examines whether the Applicant has fulfilled the admissibility requirements, provided by in the Law. In this respect, the Court first refers to Article 47 [Individual Requests] , 48 [Accuracy of the Referral, 49 [Deadlines] which provide:

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 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 ...".

52. As to the fulfillment of these criteria, the Court finds that the Applicant is an authorized party, who challenges an act of a public authority, namely Judgment [CPP. no. 1/2021] of 10 March 2021, of the Supreme Court after having exhausted all legal remedies provided by law. The Applicant also clarified the fundamental rights and freedoms he alleges to have been violated, in accordance with the requirements of Article 48 of the Law and submitted the Referral in accordance with the deadlines set out in Article 49 of the Law.

53. In addition, the Court examines whether the Applicant has met the admissibility criteria established in paragraph (2) of Rule 34 (Admissibility Criteria) of the Rules of Procedure No. 01/2023. Rule 39 (2) of the Rules of Procedure sets out the criteria on the basis of which the Court may consider the Referral, including the criterion that the Referral is not manifestly ill-founded . Rule 34 (2) specifically states that:

Rule 34
(Admissibility Criteria)

"(2) The Court may consider a referral as inadmissible if the referral is intrinsically unreliable when the applicant has not sufficiently proved and substantiated his/her allegations."

54. After examining the constitutional complaint of the Applicant, the Court considers that the referral cannot be considered as manifestly ill-founded on constitutional basis, as provided by paragraph (2) of Rule 34 of the Rules of Procedure, and consequently, the referral is declared admissible for review on the merits. (see also the ECtHR case: *Alimuçaj v. Albania*, application no. 20134/05, Judgment, of 9 July 2012, paragraph 144, and see similarly Court case KI27/20, Applicant *The VETËVENDOSJE! Movement,* Judgment, of 22 July 2020, paragraph 43).

55. The Court also finds that the Applicant's referral meets the admissibility criteria established in paragraph (1) of Rule 34 of the Rules of Procedure. The latter cannot be declared inadmissible based on the criteria defined in paragraph (3) of Rule 34 of the Rules of Procedure.

Merits of the Referral

56. The Court will first recall the essence of the case that this referral involves and the relevant Applicant's allegations, in the assessment of which, the Court will apply the case law standards of the ECtHR, in accordance with which, according to Article 53 [Interpretation of Human Rights Provisions] of the Constitution, the Court is obliged to interpret the fundamental human rights and freedoms guaranteed by the Constitution.

57. In this respect, the Court firstly recalls that the circumstances of the present case are related to the case in which the Applicant had submitted a lawsuit for certification of the ownership right and the imposition of the security measure, whereby he requested that N.B, Sh.B , and A.B, be prohibited from alienating or encumbering the contested object with any other property right in favor of a third person, until the final resolution of this dispute by a final judgment. The Basic Court, by its Decision of 3 July 2015, rejected the Applicant's proposal for the imposition of an interim security measure as ungrounded in entirety. After the Basic Court's request of 15 July 2015 addressed to the Applicant to correct the lawsuit in its subjective sense, namely to adjust the passive legitimacy of the lawsuit, on 4 December 2015, the Basic Court decided that the Applicant's lawsuit was withdrawn since the latter had not submitted the required completion. Consequently, the Applicant did not file an appeal against the Decision of 4 December 2015, whereby his lawsuit was considered withdrawn. Therefore, the Applicant submitted an appeal against the Decision of 3 July 2015 (by which the proposal for the interim security measure was rejected) and the Decision of 15 July 2015 (whereby he was requested to correct the lawsuit in terms of its passive legitimacy). The Court of Appeals rejected as inadmissible the Applicant's appeals against the Decision of 3 July 2015 and the Decision of 15 July 2015. Subsequently, the Supreme Court, on 23 February 2016, approved the Applicant's revision as grounded and the decision of the Court of Appeals, in the part that referred to the rejection of the Applicant's appeal, filed against the Decision of the Basic Court of 4 December 2015, (whereby the claimant's lawsuit is considered withdrawn) is *quashed* and the case is remanded to the second instance court for retrial. While the case was pending before the Court of Appeals for retrial, the interested parties N.B, Sh.B and A.B submitted a proposal for the repetition of the procedure, against the Supreme Court Decision, under the claim that the Applicant did not file an appeal against the Decision of the Basic Court of 4 December 2015 (whereby the claimant's lawsuit is considered withdrawn), so the Supreme Court erroneously, in point I of the enacting clause, quashed the Decision of the Court of Appeals and remanded the case to the same court for retrial. The Supreme Court approved as grounded the proposal of the interested parties for repeating the procedure completed by the Decision of the Supreme Court of 23 February 2016; as well as quashed the Judgment of the Supreme Court of 23 February 2016, in part I of the enacting clause, as well as *rejecting*, as inadmissible , the Applicant's revision filed against the Decision of the Court of Appeals, in the part that refers to the dismissal of the Applicant's appeal submitted against the Decision of the Basic Court [C. no. 725/2015] of 15 July 2015 (whereby the lawsuit is returned to the claimant for supplementation).

58. The Applicant challenges before the Court the findings of regular courts, claiming a violation of Article 31 of the Constitution in conjunction with Article 6 of the ECHR, as a result of (I) violation of the principle of *res judicata*, as well as (II) violation of the principle of equality of arms and the principle of *adversariality*.

59. Therefore, in the following, the Court will examine the aforementioned claims of the Applicant in the light of the procedural guarantees guaranteed by Article 31 of the Constitution, in conjunction with Article 6 of the ECHR, which have been interpreted through case law of the ECtHR, in accordance with which, based on Article 53 [Interpretation of Human Rights Provisions] of the Constitution, the Court is obliged to interpret the fundamental human rights and freedoms guaranteed by the Constitution.

60. Regarding the claims of violation of the principle of *res judicata*, the Court initially notes that in 2016, namely at the moment when the Supreme Court by the Decision [Rev. no. 37/2016] approved the Applicant's revision as grounded, the latter quashed the Decision [AC. no. 3494/2015] of 14 October 2015, of the Court of Appeals in the

part that refers to the rejection of the Applicant's appeal as inadmissible, submitted against the Decision [C. no. 725/2015] of 4 December 2015, of the Basic Court (whereby the Applicant's lawsuit was considered withdrawn) and the case was remanded to the second instance court for retrial. Therefore, at this point this Decision had not reached the status of *res judicata* as the case was remanded for retrial, and was pending decision by the Court of Appeals.

61. Therefore, while since 2016 the case was remanded to the Court of Appeals to be re-tried, in the meantime in 2021, the Supreme Court by the challenged decision allowed *the request for repetition of the procedure* submitted by the interested parties and at the same time had ***quashed*** its Decision [Rev. no. 37/2016] of 23 February 2016, whereby it remanded the case to the Court of Appeals for retrial, only in the part that refers to the rejection of the Applicant's appeal, filed against the Decision, as [C. no. 725/2015] of 4 December 2015, of the Basic Court (whereby the Applicant's lawsuit was considered withdrawn). Moreover, in addition to allowing the request for a repetition of the procedure, the Supreme Court rejected as inadmissible the request for revision of the Applicant submitted against the Decision [Ac. no. 3494/2015] of 14 October 2015, of the Court of Appeals of Kosovo, in the part that refers to the dismissal of the claimant's appeal filed against the Decision [C. no. 725/2015] of 15 July 2015, of the Basic Court (whereby the lawsuit was returned to the Applicant for supplementation).

62. According to the Court's assessment, the Supreme Court, by the challenged decision, remanded the case to the Court of Appeals for retrial and a new decision was expected from this court of second instance. Thus, the Supreme Court assessed that while the subject of this case was the assessment of the legality of the Decision [Ac. no. 3494/15] of 14 October 2015, of the Court of Appeals, which dismissed the Applicant's appeal against the Decision of the Basic Court in Prizren [C. no. 725/2015] of 15 July 2015, whereby the Applicant was summoned to correct- supplement complete the lawsuit in its subjective sense, it is considered that this Decision was not final either, which ends the court procedure in the second instance. So, while it was expected that the Court of Appeals would again adjudicate the case, the case at this point had not reached the status of decision *res judicata*.

63. Therefore, remanding the case for retrial to the Court of Appeals by the Decision of the Supreme Court [Rev. no. 37/2016], consists in what has already prevented the Decision [AC.no.3494/2015] of 14 October 2015, of the Court of Appeals to become final. So, while it was expected that the Court of Appeals would again adjudicate the case, the matter had not reached the status of decision *res judicata*.

64. Finally, the Court considers that this claim of the Applicant regarding the violation of the *res judicata* principle is manifestly ill-founded on constitutional basis, therefore this part of the referral must be declared inadmissible in accordance with Article 113.7 of the Constitution and Rule 39 (2) of the Rule of Procedures.

II. Regarding the allegation of violation of the principle of adversariality and equality of arms in the procedure

65. The Court, first of all, recalls that the Applicant claims that the challenged Decision was rendered quickly, within a very short time (only within 15 days from the day of submission of the respondents' proposal) and without examining his response. Thus, the Applicant claims that while the proposal for repeating the procedure was submitted to him on 25 January 2021, he claims that on 13 March 2021, he submitted to the Supreme Court the letter entitled "Response of the Claimant- counter-proposer" with the proposal to reject the Proposal of the interested parties: N.B, Sh.B and A.B.

66. Therefore, in light of the Applicant's allegations, the Court, will elaborate on the general principles established through the case law of the ECtHR regarding the principle of adversarial proceedings and equality of arms.

a. General principles according to the case law of the Court and of the ECtHR regarding adversarial principle and the equality of arms

67. The Court first states that a fair trial comprises the right to a trial in accordance with *"adversarial proceedings"*, a principle which is closely linked to the principle of *"equality of arms"* (see case of the ECtHR: *Regner v. Czech Republic*, no. 35289/11, Judgment of 19 September 2017, paragraph 146). In this context, there has been considerable development in the case law of the ECtHR, in particular as regards the importance attached to appearances and the increase in public attention or sensitivity to the proper administration of justice (see *Borgers v. Belgium,* no. 12005/86, Judgment of 30 October 1991, paragraph 24).

68. The right to adversarial proceedings means in principle the opportunity for the parties to a criminal or civil trial to have knowledge of and comment on all evidence adduced or observations filed, even by an independent member of the national legal service, with a view to influencing the court's decision (see ECtHR cases: *Kress v. France,* no. 39594/98, Judgment of 7 June 2001, paragraph 74; *Ruiz-Mateos v. Spain,* no. 12952/87, Judgment of 23 June 1993, paragraph 63; *McMichael v. The United Kingdom,* no. 16424/90, Judgment of 24 February 1995, paragraph 80; *Vermeulen v. Belgium,* no. 19075/91, Judgment of 20 February 1996, paragraph 33; *Lobo Machado v. Portugal,* no. 15764/89, Judgment of 20 February 1996, paragraph 31). This requirement may also apply before a Constitutional Court (see ECtHR case: *Milatová and others v. Czech Republic,* no. 61811/00, Judgment of 21 June 2005, paragraphs 63-66; *Gaspari v. Slovenia,* no. 21055/03, Judgment of 21 June 2009, paragraph 53).

69. The right to adversarial proceedings must be capable of being exercised in satisfactory conditions: a party to the proceedings must have the possibility to familiarise itself with the evidence before the court, as well as the possibility to comment on its existence, contents and authenticity in an appropriate form and within an appropriate time (see cases of the ECtHR, *Krčmář and Others v. the Czech Republic*, no. 35376/97, Judgment of 3 March 2000, paragrafi 422000, § 42; *Immeubles Groupe Kosser v. France*, nr. 38748/97, Judgment of 21 March 2002, paragraph 26), if necessary by obtaining an adjournment (see ECtHR case: *Yvon v. France*, no. 44962/98, Judgment of 24 April 2003,paragraph 39).

70. The court itself must respect the adversarial principle, for example if it decides a case on the basis of a ground or objection which it has raised of its own motion (see ECtHR case: *Čepek v. the Czech Republic*, no. 9815/10, Judgment of 5 September 2013, paragraph 45, and compare *Clinique des Acacias and Others v. France*, nos. 65399/01, 65406/01, 65405/01 and 65407/01, Judgment of 13 October 2005, paragraph 38, with *Andret and Others v. France* nr. 1956/02, decision of 25 May 2004, in the last-mentioned case the Court of Cassation informed the parties that new grounds were envisaged and the applicants had an opportunity to reply before the Court of Cassation gave judgment).

71. Limits: the right to adversarial proceedings is not absolute and its scope may vary depending on the specific features of the case in question (see case of the ECtHR, *Hudáková and Others v. Slovakia*, no. 23083/05, Judgment of 27 Aprill 2010, paragraphs, 26-27), subject to the Court's scrutiny in the last instance (see case of the ECtHR, *Regner v. the Czech Republic* cited above, paragraphs 146- 147). In the last-

mentioned case, the ECtHR pointed out that the proceedings had to be considered as a whole and that any restrictions on the adversarial and equality-of-arms principles could have been sufficiently counterbalanced by other procedural safeguards (paragraphs 151-161).

b. Application of these principles in the Applicant's case

72. The Court, first of all, recalls that the Applicant's allegations related to the violation of the principle of adversariality, is related to the fact that the challenged Decision was taken (without passing the deadline of 15 days from the day of submission of the proposal for repeating the procedure of the interested parties) and without examining his reply sent by post.

73. In this respect, based on the case file, it results that on 25 February 2021, the Applicant was notified about the request for repetition of the procedure, submitted by the interested parties N.B, Sh. B and A.B. In this regard, the Supreme Court in the Decision [CPP. no. 1/2021] of 10 March 2021, stated as follows: *"The proposal for the repetition of the procedure was sent to the claimant's representative, lawyer Habib Hashani, on 25.02.2021, in the case file there is no evidence that he has provided any reply to the proposal of the respondents for repeating the procedure."*

74. On the other hand, based on the case file, the Applicant states that on 25 February 2021, he received the request for repetition of the procedure submitted by the interested parties N.B, Sh.B. and A.B. Also, the Applicant emphasizes that the response to the proposal of the interested parties for the repetition of the procedure was sent by him on 13 March 2021, from the moment of receipt of this request.

75. Therefore, the Court notes that the Supreme Court had decided on 10 March 2021 (i.e. before the deadline of 15 days had passed for enabling the Applicant to provide a response), but the Applicant submitted his reply to the proposal for repeating the procedure, after the 15-day deadline established in Article 237 of the Law on Contested Procedure.

76. Regarding the circumstances of the present case, the Court recalls that the Decision [CPP. no. 1/2021] of 10 March 2021, of the Supreme Court emphasized as follows:

> *"The proposal for the repetition of the procedure was sent to the claimant's representative, lawyer Habib Hashani, on 25.02.2021, in the case file there is no evidence that he has provided any reply to the proposal of the respondents for repeating the procedure."*

77. The Court further emphasizes (i) paragraph 2 of Article 237; and (ii) Article 238 of the Law on Contested Procedure that establish:

> *237.2 If the court of the first instance doesn't reject the proposal, a sample is sent to the opposing party which has a right to reply within a period of fifteen (15) days.*
>
> *Article 238*
>
> *After the response regarding the proposal has reached, or after the deadline for responding to the proposal has passed, the court sends the proposal, with the response if presented, including all official documents related to the case to the court of the second instance within a period of eight (8) days.*

78. In this regard, the Court initially recalls that the Applicant's claim regarding the violation of the principle of equality of arms and adversariality is related to the fact that the challenged Decision was taken (without passing the deadline of 15 days from the day of submission of the proposal for repetition of the procedure by the interested parties) and without examining his response which he claims to have submitted to the Supreme Court

79. The ECtHR and the Court in their case law emphasized that the principle of "*equality of arms*", requires "*fair balance between the parties*" where each party must be afforded a reasonable opportunity to present his or her case, under conditions that do not place him/her at a substantial disadvantage *vis-a-vis* his/her opponent. In this regard, the Court considers that the Supreme Court has failed to guarantee the implementation of the principle of equality of arms and the principle of procedural adversariality, because the Applicant has been placed at a substantial disadvantage *vis-a-vis* the respondents, namely the interested parties, N.B, Sh.B, and A.B, being deprived of the opportunity to have a real and substantive confrontation with the arguments and allegations presented by the interested party, as opposing parties in the procedure.

80. According to the constitutional system of the Republic of Kosovo, the ECHR, the case law of the ECtHR, as well as EU legislation, one of the essential requirements of the right to a fair trial is '*equality of arms'* between the parties. In this regard, equality of arms consists in ensuring that each party has a reasonable opportunity to present his or her case under conditions that do not place at disadvantage either party. The Court recalls that any complaint regarding the lack of equality of arms is examined in the light of Article 31 of the Constitution and Article 6 (1) of the ECHR, because the principle of equality of arms is only one feature of the broader concept of a fair trial, which also includes the fundamental right that the court proceedings also include the adversarial principle. (see the ECtHR case: *Ruiz Mateos v. Spain*, no. 12952/87, Judgment of 23 June 1993, paragraph 63).

81. The case law of the Court of Justice of the European Union (hereinafter: ECJ) similarly establishes that principle of equality of arms, which is a corollary of the very concept of a fair hearing), implies that each party must be afforded a reasonable opportunity to present his case, including his evidence, under conditions that do not place him at a substantial disadvantage *vis-à-vis* his opponent (See cases ECJ: joined cases C-514/07 P, C-528/07 P and C-532/07 P, *Sweden and others v API and Commission* [2010] ECR I-8533, para 88, and C-199/11, *Europese Gemeenschap v. Otis NV and others*, Judgment of 6 November 2012, paragraph 71).

82. The right to adversarial proceedings in principle means the possibility for the parties in the criminal or contested proceedings to be aware of and comment on all the evidence administered or on the submissions submitted, even by an independent member of the national legal service, as well as to influence the court decision. Thus, the Court considers that the obligation to notify the opposing party, by the courts, of the exercise of legal remedies against them, is not an end in itself. This obligation is a necessary procedural step to enable the parties to be treated equally, to be able to challenge the claims and arguments of the opposing party and to present their case effectively (see cases of the Court KI82/21, Applicant *Municipality of Gjakova*, Judgment of 30 September 2021, paragraph 97; KI193/19, Applicant *Salih Mekaj*, Judgment of 31 December 2020, paragraph 59).

83. Therefore, the Court considers that as long as the Supreme Court had notified the Applicant regarding the request for repetition of the procedure, submitted by the interested parties N.B, Sh. B and A.B, as well as the decisions of the Supreme Court on

10 March 2021, without passing the 15-day deadline, constitutes a violation of principles of adversarial proceedings and equality of arms as guaranteed by Article 31 of the Constitution in conjunction with Article 6 paragraph 1 of the ECHR (see, *mutandis mutandis*, case of Court KI209/19, by Applicant *Memli Krasniqi*, Judgment of 26 November 2020, paragraph 57).

84. Accordingly, the Constitutional Court considers that this failure of the Supreme Court constitutes an insurmountable procedural flaw, as the Applicant has been deprived of his right to a fair trial, which is guaranteed by Article 31 of the Constitution and Article 6.1 of the ECHR. Therefore, the Court finds that there has been a violation of Article 31 of the Constitution in conjunction with Article 6 paragraph 1 of the ECHR.

85. On the other hand, the Court also takes into account that the Applicant states that he forwarded the response to the proposal of the interested parties for the repetition of the procedure on 13 March 2021, namely on the 16th day from the day of receipt of this request.

86. Therefore, taking into account the procedural failure on the part of the Applicant, the Court considers that the result for the Applicant would not change even if the Court remanded the case to a retrial. Therefore, in the present case the violation is of a declarative nature and this judgment does not prejudice the Applicant's claims for the right to property and inheritance.

Request for non-disclosure of the Applicant's identity

87. The Court notes that the Applicant requested that his identity be not disclosed in the proceedings before this Court, as he has a family relationship with the interested parties, namely he is their grandson (respondent N. B is the grandmother, Sh. B. and A. B. are the Applicant's uncles).

88. In this regard, the Court refers to Rule 32 (6) of the Rules of Procedure, which establishes:

> *"(6) Parties to a referral who do not wish their identity to be disclosed to the public shall so indicate and shall state the reasons justifying such a departure from the rule of public access to information in the proceedings before the Court. The Court by majority vote authorizes non-disclosure of identity or grants it without a request from a party. When non-disclosure of identity is granted by the Court, the party should be identified only through initials or abbreviations or a single letter".*

89. In relation to this request, the Court considers that the reasoning given by the Applicant for non-disclosure of identity, which refers to his family relation to the interested parties does not constitute a sufficient basis which would justify the approval of his request for non-disclosure of his identity (see in a similar way cases of the Court: KI111/20, Applicant *Elez Elezi*, Resolution on Inadmissibility of 28 December 2020; KI74/17 Applicant *Lorenc Kolgjeraj*, Resolution on Inadmissibility of 5 December 2017, paragraph 32).

90. Therefore, based on the above, the Court decides to reject the Applicant's request for non-disclosure of identity.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 20 of the Law and Rules 24(2) and 48 (1) (a) of the Rules of Procedure, in its session held on 7 July 2023, by majority:

DECIDES

I. TO DECLARE with seven (7) votes for and one (1) vote against, the Referral admissible;

II. TO HOLD with seven (7) votes for and one (1) vote against, that Decision [CPP. no. 1/2021] of the Supreme Court of Kosovo of 10 March 2021, is not in compliance with paragraph 1 of Article 31 [Right to Fair and Impartial Trial] of the Constitution, in conjunction with Article 6 (Right to a fair trial) of the European Convention on Human Rights;

III. TO REJECT, unanimously, the request for non-disclosure of identity;

IV. TO NOTIFY this Judgment to the parties, and in accordance with paragraph 4 of Article 20of the Law, to publish it in the Official Gazette;

V. This Judgment is effective immediately.

Judge Rapporteur	**President of the Constitutional Court**
Selvete Gërxhaliu-Krasniqi	Gresa Caka-Nimani

This translation is unofficial and serves for informational purposes only.