REPUBLIKA E KOSOVËS - REPUBLIKA KOSOVO - REPUBLIC OF KOSOVO
GJYKATA KUSHTETUESE
USTAVNI SUD
CONSTITUTIONAL COURT

Prishtina, on 26 September 2023
Ref. no.: AGJ 2281/23

This translation is unofficial and serves for informational purposes only.

JUDGMENT

in

case no. KI64/23

Applicant

Mejrem Qehaja Rexha

Request for constitutional review of the excessive length of the court proceedings in the Basic Court in Gjakova regarding the case [C. no. 546/18]

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 Mejrem Qehaja Rexha, residing in Gjakova, represented by Ylli Bokshi, a lawyer from Gjakova (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges the excessive length of the court proceedings in case [C. no. 546/18], which is being conducted in the Basic Court in Gjakova [hereinafter: the Basic Court].

Subject matter

3. The subject matter of the Referral is the constitutional review of the aforementioned proceedings, whereby the Applicant claims a violation of her 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: the ECHR].

Legal basis

4. 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 25 (Filing of Referrals and Replies) of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

5. 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.

Proceedings before the Constitutional Court

6. On 15 March 2023, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).

7. On 31 March 2023, the President of the Court by Decision No. GJR. KI64/23 appointed Judge Radomir Laban, as Judge Rapporteur and by Decision KSH.KI64/23 appointed the members of the Review Panel composed of judges: Gresa Caka-Nimani (Presiding), Bajram Ljatifi and Safet Hoxha (members).

8. On 4 April 2023, the Court notified the Applicant about the registration of the Referral. On the same date, a copy of the Applicant's Referral was sent to the Basic Court.

9. On 27 April 2023, the Court requested additional documents from the Applicant, namely the complete and original case file [C. no. 546/18].

10. On 10 May 2023, the Basic Court submitted the complete and original case file to the Court.

11. On 31 August 2023, the Review Panel considered the report of the Judge Rapporteur and unanimously recommended to the Court the admissibility of the Referral. On the same date, the Court unanimously found that (i) the Applicant's Referral is admissible; (ii) that there has been a violation of paragraph 2 of Article 31 of the Constitution in conjunction with paragraph 1 of Article 6 of the ECHR, regarding the right to fair and impartial trial within a reasonable time.

Summary of facts

12. On 11 December 2008, the Applicant submitted to the Municipal Court in Gjakova [hereinafter: the Municipal Court] a lawsuit for confirmation of the right to ownership of the immovable property, against the respondents (R.B.), (A.D.), (I.D.), (L.D.) [hereinafter: the respondents]. The Applicant, by the statement of claim, alleged that the immovable property number [5018/3], with an area of 0.05.96 ha, class IV field, purchased from a person named (SH.B.). The latter had purchased the property from the respondents on 19 April 1996. However, the respondents refused to transfer ownership of this immovable property to the Applicant.

13. The Applicant asked the Municipal Court to confirm her right to the aforementioned ownership, and to force the respondents to transfer ownership of the immovable property to her. Also, the Applicant proposed the imposition of the interim measure, suspecting that the claimants could sell or alienate the property in question.

14. On 4 June 2009, the Municipal Court, by the Decision [C. no. 863/08], invited the respondents to submit their response to the lawsuit, with all the evidence, within 15 days. The Municipal Court warned the respondents that if they did not respond to the lawsuit, she would receive a judgment for disobedience.

15. On 25 June 2009, the respondents submitted their response to the lawsuit in the Municipal Court. The latter claimed that the property in question was sold by their father to the person named (SH.B.), at a very low price, under the condition that the person (SH.B.) could not sell or alienate that property to other people. The respondents claimed that the person (Sh.B.), without their consent, had sold the property to another person named (N.Q.). The respondents claimed that the Applicant did not have active legitimacy in this legal matter.

16. On 22 July 2009, the Municipal Court held the session on the main hearing of the case, in which the Applicant, two of the respondents and their authorized representative participated, while the other two respondents were absent. It was established that the respondents were living in Germany together with their families. The Applicant defended her statement of claim and proposed that the Municipal Court appoint a temporary representative to the two respondents, due to the impossibility of their arrival in Kosovo. The Municipal Court, by the Decision [C. no. 863/08], postponed the court session to 29 September 2009.

17. On 29 September 2009, the Municipal Court held a court session, in which the Applicant, one of the respondents and his representative participated, while the other three were absent. It was established that the respondents were summoned in a regular manner, but they did not justify their absence. The Municipal Court, by the Decision [C. no. 863/08], postponed the session to 27 October 2009, the parties were notified verbally and the

respondent's representative was obliged to provide the addresses of the respondents, who as it was found out, lived abroad.

18. On 7 October 2009, the authorized representative of the two respondents notified the Municipal Court of the addresses of the other two respondents. On 26 January 2010, the latter again notified the Municipal Court that the other two respondents had not submitted a valid power of attorney, therefore he requested that the summons for the next court session be sent to them personally.

19. On 27 October 2009, the Municipal Court held the preparatory session in which the Applicant and the representative of the two respondents participated. The parties proposed to postpone the hearing, because they were in talks to resolve the dispute out of court. The Municipal Court by the Decision [C. no. 863/08] postponed the session to 27 January 2010, and the parties were notified verbally.

20. On 27 January 2010, the Municipal Court held the next court session, in which the Applicant participated, while the respondents and the authorized representative of one of them were absent. The Municipal Court by the Decision [C.nr.863/09] postponed the court hearing and decided that the two respondents should be invited through the Ministry of Justice.

21. On 6 January 2016, the Basic Court in Gjakova held a preparatory session in which the Applicant and one of the respondents participated, while the other three were absent. It was established that one of the respondents who was absent had accepted the invitation in a regular manner, while there was no evidence for the other two that they had been summoned in a regular manner. The Basic Court, by the Decision [C. no. 863/08], postponed the session to 1 September 2016, verbally notified the parties who were present, while it was decided that the two respondents be summoned through the Ministry of Justice.

22. On 1 September 2016, the Basic Court held the next preparatory session, in which the Applicant participated, while all the respondents were absent. It was established that the authorized representative of the two respondents had accepted the invitation and had not explained the absence, while the other two respondents A.D. and I.D., were invited through the Ministry of Justice. It was not clear if the latter were invited in a regular manner, because the verbal notes were in German, and a translation into Albanian was required to ascertain such a thing. The Basic Court, by the Decision [C. no. 863/08], postponed the hearing, and decided that the Applicant had to translate the verbal note into Albanian.

23. On 20 November 2017, the Basic Court rendered a decision whereby it requested the Applicant to translate the verbal note into Albanian, which the latter had not translated in time. Otherwise, the claim would be considered withdrawn.

24. On 29 December 2017, the Applicant requested from the Basic Court an additional deadline for the translation of the verbal note.

25. On 21 February 2018, the Basic Court, by the Decision [C. no. 863/08], interrupted the contested procedure due to the death of the respondent R.D., until the moment when the heirs of the respondent would take over the procedure, or when the Basic Court would decide to call them.

26. On 14 June 2018, the Applicant filed a request for the continuation of the interrupted procedure. The inheritance of the deceased respondent was not completed, but the Applicant determined her heirs, I.D, A.D, I.D., and notified the Basic Court of their addresses. Also, it was proposed to impose a security measure to the contested property.

27. The name of the contested procedure was modified from [C. no. 863/08], to a new name [C. no. 546/18].

28. On 6 September 2018, the Basic Court rendered the decision [C. no. 546/18] whereby it requested the Applicant to translate the decision into German, immediately after receipt. It was also requested that her request for the continuation of the interrupted procedure be translated, in order to communicate with the respondents in the language they were using. Otherwise, the claim would be considered withdrawn. On the same date, the Basic Court, by another decision, summoned the respondents to submit their answers within a 7 (seven) day deadline regarding the proposal for the imposition of the security measure.

29. On 26 September 2018, the Applicant forwarded the documents translated into German to the Basic Court.

30. On 27 September 2018, the Basic Court requested the Ministry of Justice to send to the respondents A.D. and I.D. the relevant documents, namely the decision of 6 September 2018 and the request for the continuation of the interrupted procedure, regarding the claim and the proposal for the imposition of the security measure.

31. On 15 September 2020, the Basic Court through an official note announced that the session scheduled to be held on 1 July 2020, was not held due to the contagious disease COVID-19.

32. On 28 September 2020, the next preparatory session was held at the Basic Court, in which the Applicant and the respondents were absent. It was established that the Applicant, on 25 September 2018, requested the postponement of the session due to the inability to participate, while the respondent I.D., despite the regular invitation he had received, did not justify his absence. By the Decision [C. no. 546/18], it was decided that the hearing be postponed to 22 October 2020.

33. On 22 October 2020, the next preparatory session was held in the Basic Court, in which the Applicant participated, while the respondent I.D. was absent, who also had authorization for the other respondents, despite having accepted the invitation in regular manner. By the Decision [C. no. 546/18], it was decided that the hearing be postponed to 11 January 2021.

34. On 11 January 2021, the next preparatory session was held at the Basic Court, in which the Applicant participated while the respondents A.D., I.D. and I.D. were absent It was found that there was no evidence to prove whether the respondents had accepted the invitations in a regular manner. The Applicant requested the postponement of the session so that she could personally ensure their participation in the next session. By the Decision [C. no. 546/18], it was decided that the hearing be postponed to 29 March 2021.

35. The Basic Court by an official note announced that the scheduled session to be held on 29 Marc, 2021, was postponed indefinitely, due to the contagious disease COVID-19.

36. On 20 May, 2021, the next preparatory session was held at the Basic Court, in which the Applicant's authorized representative and the respondent I.D. took part. It was established that the latter had the authorizations for the other two respondents and would bring them to the next hearing. The Applicant had previously requested the postponement of the session to another date, to which the respondent I.D. agreed. By the Decision [C. no. 546/18] it was decided that the session was postponed to 3 June 2021.

37. On 3 June 2021, the next preparatory session was held at the Basic Court, in which the Applicant, the respondent I.D. who also had the authorization for the respondent A.D. took part, while the third respondent I.D. was absent. It was found that there was no evidence as to whether the latter had been duly invited. By the Decision [C. no. 546/18] it was decided that the hearing was postponed to 13 September 2021. The parties were notified verbally instead of the regular summons.

38. On 13 September 2021, the next preparatory session was held in the Basic Court, in which the respondent I.D. participated, who also had the authorization for the other two respondents A.D. and I.D., while the Applicant was absent. It was established that the Applicant had previously requested the postponement of the hearing on the grounds of health issues. By the Decision [C. no. 546/18] it was decided to postpone the session to 18 October 2021, and the parties were notified verbally.

39. On 18 October 2021, the next preparatory session was held at the Basic Court, in which the Applicant and the respondents participated. The Applicant stated that she was withdrawing from the request for the imposition of the security measure, while the respondents stated that they would bring the decision on the inheritance and asked for the postponement of the session. By the Decision [C. no. 546/18] it was decided to withdraw the proposal for the security measure; that the next hearing be held on 9 December 2021, and the parties were notified verbally; and for the respondents to bring the decision on inheritance in the next session.

40. On 9 December 2021, the next preparatory session was held at the Basic Court, in which the Applicant participated while the respondents were absent, despite the regular summon. It was decided that the hearing would be held despite the absence of the respondents. The Applicant proposed that in the next session the scene of the event should be viewed and the proposed witnesses be summoned. By the Decision [C. no. 546/18] it was decided that the inspection at the scene of event would take place on 27 January 2022; to duly summon the respondents; and to hear the proposed witnesses.

41. On 27 January 2022, the next session was held, namely the inspection at the scene of event. The Applicant and the geodesy expert were present, while the respondents were absent, for whom there was no evidence as to whether they were duly summoned. By the Decision [C. no. 546/18] it was decided to postpone the hearing to 24 March 2022, and to dully summon the respondents.

42. On 28 February 2022, the Basic Court announced through an official notice that the judge of the case M.K. was promoted to the Court of Appeals, therefore the holding of the aforementioned session was postponed for an indefinite date.

43. On 22 June 2022, 24 January 2023 and 13 March 2023, the Applicant submitted requests to the Basic Court, in order to set the next court session, because, according to her, all the necessary legal requirements were met for such a thing.

Applicant's allegations

44. The Applicant alleges that the delay of the procedure [C. no. 546/18] in the Basic Court violated her constitutional 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.

45. The Applicant alleges that: "*The Basic Court in Gjakova, for confirmation of ownership, against Rabije Derri, etc., for confirmation of ownership, with a proposal for the imposition of interim security measure, although the Municipal Court, now the Basic Court in Gjakova, within the meaning of Article 306.par.1 of the LCP could have imposed the interim measure even without prior notice and hearing of the opponent of the security measure, provided that the proposer of the security made the claim that the security measure is justified and urgent and that the purpose of the security measure would be lost by acting otherwise, from which it turns out that the contested Court had to act urgently by acting or rejecting the proposal for the imposition of the interim measure".*

46. The Applicant refers to the case law of the Court, the Judgment in case KI06/21, of 22 December 2022, regarding the general principles for the delay of court proceedings.

47. The Applicant alleges that: "*...the delay in the action and proceeding of the contested legal case C. no. 546/18 of the Basic Court in Gjakova with unreasonable delay was a violation of paragraph 2 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 Convention, regarding the right to a fair and impartial trial within a reasonable time, therefore, I propose to the Constitutional Court of Kosovo to render this Judgment: to declare the referral admissible; to find that there has been a violation of Article 31 of the Constitution and Article 6 of the Convention; that the Republic of Kosovo compensate the Applicant in the amount of 10.0000.00 euros, with interest and expenses within 15 days from the day of receipt of this Judgment; to order the Basic Court in Gjakova to notify the Constitutional Court as soon as possible, but no later than 6 months, regarding the measures taken to implement the Judgment of this Court".*

Relevant constitutional and legal provisions

Constitution of the Republic of Kosovo

Article 31
[Right to Fair and Impartial Trial]

1. All are equal before the law. Everyone enjoys the right to equal legal protection without discrimination.
2. No one shall be discriminated against on grounds of race, color, gender, language, religion, political or other opinion, national or social origin, relation to any community, property, economic and social condition, sexual orientation, birth, disability or other personal status.
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.

4. Everyone charged with a criminal offense has the right to examine witnesses and to obtain the obligatory attendance of witnesses, experts and other persons who may clarify the evidence.
5. Everyone charged with a criminal offense is presumed innocent until proven guilty according to 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 79

[...]
79.3 The court may appoint a temporary representative for the defendant also in the following circumstances:
a) if the residence of the defendant is unknown or the defendant has no authorized representative;
b) if the defendant or his or her legal representative that do not have an authorized representative are out of country and it was not able for the materials to be sent.
79.4 The court will inform, without delay, the custody body on the appointment of the temporary representative as well as the party when this is possible.

Article 81

81.1 The court appoints the temporary representative from the ranks of lawyers
[..]

Article 82

82.1 The temporary representative has all the rights and responsibilities of the legal representative in the procedure.
82.2 The temporary representative exercises stated rights and responsibilities until the defendant or his or her authorized representative show in front the court, or when the custody body informs the court on the appointment of the custodian, respectively.

Article 83

If the temporary representative is appointed for the reasons stated in article 79, paragraph 3 point a) and b) of this law, the court within seven days will make announcement in the official gazette and bill it in the table of the subject court, or according to the need also in other appropriate ways.

Article 105

105.1 If documents are to be served to foreign persons or institutions or foreigners who enjoy immunity, the service is presented through diplomatic routes unless the international contract or this law does not determine a different form of communication.

105.2 The service to a legal person with the headquarters in a foreign country may be presented also through its representational office in Kosovo.

Article 110

110.1 The claim, reply to the claim, calling letter to the session, payment order, court decision, against which may be filed special petition, the remedy for appeal is presented to the party in person or to his or her legal or authorized representative. Other documents are presented to the addressee in person when such is expressly determined by this law or when the court concludes that because original documents are attached to the document or for any other reason additional precautionary measures are required.

110.2 If the person on whom the document must be personally served is not found where the service is to be effected, the person effecting the service shall find out when and where that person may be found and shall leave with one of the persons referred to in Article 111, paragraph 1 and 2 of this law a written notice directing the addressee of the document to be in his or her dwelling or workplace on a particular day and hour in order to receive the document.

110.3 If even after this the submitter of the motion does not find the person to whom must the motion be delivered, then he must act in accordance with the provisions of section 111 of this law, and so the submission is considered completed.

CHAPTER XVIII

Acquaintance for the trial and recess of the trial

Article 277

The trial process is acquitted: a) when the party dies or looses procedural capabilities and doesn't have a representative by proxy at the court;

[...]

Article 279

279.1 As a result of the acquaintance of the trial the deadlines for conducting procedural actions are not met.

279.2 During the period that the court proceedings have stopped, the court cannot conduct any procedural actions, but if the intermission has been caused after the main hearing session of the case the court can issue a verdict based on the material from the proceedings during the examination of the case.

279.3 Procedural actions committed by one of the parties during the period of court being off the proceedings do no produce any judicial effects against the opposing party. Their impact starts only when the proceeding of court that has been in recess continues.

Article 280

280.1 The procedure stopped for causes shown under the article 277 paragraph 1 point a) – d) of this law will continue when the successor, or tutor of the inherited wealth, the legal representative, bankruptcy administrator pr judicial successor of a legal

entity take over the procedure or when they are called by the court to do that with proposal of the opposing party.
[...]

Article 306

306.1 The court can set temporary measures of insurance without a notification or a preliminary hearing of the objector of insurance based on the proposal for the insurance presented, if the proposed insurance shows plausible pretence that measures of insurance is based and urgent, and if acted otherwise it will loose the aim of the insurance measures.
306.2 The verdict from the paragraph 1 of this article is sent by the court to the objector of the insurance immediately. The objector of insurance in his reply within a period of 3 days can contest the causes for setting temporary measures, and after that the court can set a hearing after three days. The answer of the objector should contain a justification part.

CHAPTER XXIII THE MAIN HEARING PREPARATION
General Provisions

Article 386

386.1 As soon as court gets the charges, it initiates preparations for the main hearing.
386.2 These preparations consist of the examinations of the charges, sending it to the party that does not know about it regarding necessary answers, holding preparatory session, and to set a date for the main hearing
386.3 During the preparation for the main hearing, the parties can send requests to submit facts and evidence that they would propose them.

Article 387

387.1 In order to prepare as better as possible to resolve the case, the court from the moment when the charges are raised until when the session for the main hearing is set by orders decides for: a) answering the charges by the party that does not know; b) evidence insurance; c) charge withdrawal; d) charge change; e) procedure stoppage; f) intermediary presence; g) presence of the legal predecessor in the court process; h) separating or joining of two court procedures; i) setting the court deadlines or postponing them; j) setting the court sessions or postponing them; k) resettling in the previous state; l) temporary means of insurance; m) ensuring procedural expenses; n) relieving a party from procedural expenses; o) depositing for procedural expenses and means; p) setting the expert; q) naming temporary representative; r) sending court orders; s) means for pre request improvement and fulfillment; t) regular judicial presentation; u) court incompetence; v) joining charges; w) trial stoppage if the charge is withdrawn or if it is annulled, as well as with other matter that have to do with the trial direction.

PREPARATORY SESSION
a) General provisions

Article 400

400.1 The court convenes the preparatory session after it has received an answer to the accusation.

400.2 If the accused did not respond to the charges, and if there aren't circumstances to come with an order, the court will convene preparatory session after the deadline set by law regarding the response to the charges.
400.3 Whenever it's possible, the court will set the preparatory session after it had consulted the parties involved.
400.4 As a rule, the preparatory session is held with thirty (30) days from the day when the court has received the response from the accused.

Article 402

402.1 The court notifies the conflicted parties if they do not appear for the preparatory session in the invitation for the session, as well as that they should bring all facts based on which are their claims and that they will use during the procedure. They should also bring all documents and things they would like to use as evidence.
402.2 The court invitation, as a rule, is sent at least seven (7) days before the session is held.

Article 409

409.1 1 *If the plaintiff does not come to the preparatory session even though he/she is summoned regularly, it is considered that the charge is withdrawn, except if the accused asks for it.*
409.2 If the accused does not come to the preparatory session, and he/she is summoned regularly, then the session continues with the present plaintiff.

Admissibility of the Referral

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

49. In this respect, the Court refers to paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, in conjunction with paragraph 4 of Article 21 [General Principles] of the Constitution which establish:

Article 113
[Jurisdiction and Authorized Parties]

"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."
[...]

Article 21
[General Principles]

[...]
4. Fundamental rights and freedoms set forth in the Constitution are also valid for legal persons to the extent applicable.

50. The Court further examines whether the Applicant has fulfilled the admissibility requirements as established in Law, namely Articles 47, 48 and 49 of the Law, which establish:

Article 47
[Individual Requests]

"1. Every individual is entitled to request from the Constitutional Court legal protection when he considers that his/her individual rights and freedoms guaranteed by the Constitution are violated by a public authority.
2. The individual may submit the referral in question only after he/she has exhausted all the legal remedies provided by the law."

Article 48
[Accuracy of the Referral]

"In his/her referral, the claimant should accurately clarify what rights and freedoms he/she claims to have been violated and what concrete act of public authority is subject to challenge."

Article 49
[Deadlines]

"The referral should be submitted within a period of four (4) months. The deadline shall be counted from the day upon which the claimant has been served with a court decision. In all other cases, the deadline shall be counted from the day when the decision or act is publicly announced…".

51. As to the fulfillment of the aforementioned criteria, the Court assesses that the Applicant is an authorized party, pursuant to Article 113.7 of the Constitution; she challenges the constitutionality of an act of a public authority, namely the delay of the court proceedings in the case [C. no. 546/18], which is being conducted in the Basic Court after exhausting all available legal remedies, in accordance with Article 113.7 of the Constitution and Article 47.2 of the Law; has specified the rights guaranteed by the Constitution, which she claims to have been violated, in accordance with the requirements of Article 48 of the Law; and submitted the referral within the legal deadline of 4 (four) months, as provided for in Article 49 of the Law.

52. The Court finds that the Applicant's Referral meets the admissibility criteria set out in paragraph (1) of Rule 39 of the Rules of Procedure and that the latter cannot be declared manifestly ill-founded on the basis of paragraph (2) of Rule 39 of the Rules of Procedure. The Court also notes that the Referral is admissible, and its merits must be reviewed.

Merits

53. The Court recalls that the Applicant submitted a lawsuit before the Municipal Court in Gjakovë on 11 December 2008, for confirmation of ownership against 4 (four) respondents who lived abroad. She claimed that she had purchased an immovable property on the surface area of 0.0596 ha, yet the respondents refused to transfer ownership of the immovable property on her name. Through a statement of the claim, she demanded imposition of the interim measure and recognition of her ownership over the aforementioned property. The respondents, on the other hand, claimed that the property had been sold by their father to somebody else, not the applicant, hence the latter lacked legal legitimacy in this dispute.

54. The Court further emphasizes that, the respondents were living outside Kosovo so it was decided to communicate with them by invitations sent through by the Ministry of Justice.

On 21 February 2018, the Basic Court interrupted the contested procedure due to the death of one of the respondents, until the moment when the heirs of the respondent would take over the procedure, or when the Basic Court would decide to call them. The contested procedure was continued, on the request of the Applicant, on 6 September 2018.

55. The Court notes that, the Municipal Court, then the Basic Court, held a total of 17 (seventeen) court hearings, most of them with a preparatory character. In most of the cases, the court hearings had to be postponed due to absence of the respondents, in fewer cases due to absence of the Applicant and sometimes on objective grounds. The last court hearing was held on 27 January 2022. The Applicant filed a request with the Basic Court for continuation of the contested procedure and scheduling of new court hearings, yet the matter remained pending and no decision was rendered on the merits of the statement of the claim.

Allegation of violation of Article 31 of the Constitution in conjunction with Article 6 of the Convention

56. The Court reiterates that the Applicant alleges that the Basic Court could have imposed the interim measure against the aforementioned property, as requested by her, given the existence of all evidence in favor of the request for interim measure being well-grounded and that the Basic Court had to act urgently.

57. The Court finds that the Applicant alleges unreasonable delay on the part of the Basic Court when acting upon this ownership dispute and its failure to adjudicate the case within a reasonable time. The Applicant alleges that the Basic Court has violated her right to fair and impartial trial, guaranteed by Article 31.2 of the Constitution, in conjunction with Article 6.1 of the ECHR. She requests from the Court: (i) to find that there has been a violation of the Constitution; (ii) to compensate the Applicant in the amount of 10,000.00 euros; and (iii) to order the Basic Court to notify the Court within a deadline of 6 (six) months, regarding the measures taken to implement the Judgment.

58. The Court will be reviewing now the merits of the case. During its review, the Court: (i) will be reflecting upon all general principles pertaining to the excessive length of the court proceedings, in compliance with the ECtHR and the Court case law, and (ii) will be applying the general principles in the circumstances of the present case.

(i) Determination of the duration of the procedure

59. The Court recalls that, based on its case law and that of the ECtHR, the calculation of the length of the court proceedings starts to run from the moment when the competent court at the party's request starts the procedure for the establishment of a claimed right or legitimate interest (the case of ECtHR, *Poiss v. Austria*, no.9816/82, Judgment of 23 April 1987, paragraph 50; see Court case KI127/15, Applicant *Mile Vasović*, Resolution on inadmissibility of 5 June 2017; case *KI19/17*, Applicant *Fatos Dervishaj*, Resolution on inadmissibility of 20 February 2018).

60. In calculating the length of the procedure, the entire procedure is taken as a basis, including the appeal proceedings (ECtHR case, *Konig v. Germany*, no. 6232/73, Judgment of 28 June 1978, para. 98). The judicial process is considered completed with the issuance of a final decision by a competent court of the last instance (see, the ECtHR

case *Eckle v. the Federal Republic of Germany*, of 15 July 1982, paragraph 74; the case of Court, KI177/19, Applicant *NNT "Sokoli",* Judgment of 29 March 2021; ECtHR case, *Poiss v. Austria*, no. 9816/82, Judgment of 23 April 1987, paragraph 50).

61. The execution of a court decision is considered an integral part of the entire procedure, and is included in the calculation of the time durationof that procedure (ECtHR case, *Martins Moreira v. Portugal*, no. 11371/85, Judgment of 26 October 1988, para 44). The calculation of the length of the procedure is not interrupted until the moment when the acquired right becomes effective (ECtHR case, *Estima Jorge v. Portugal*, no. 24550/94, Judgment of 21 April 1998, paras. 36-38).

(ii) General principles of the duration of the procedure

62. The Court recalls that it is the state's obligation to organize the justice system in such a way that the courts can guarantee everyone's rights to a final court decision, regarding their civil rights and obligations within a reasonable time (see ECHR case, *Comingersoll v. Portugal*, no. 35382/97, Judgment of 6 April 2000, paragraph 24; ECtHR case, *Lupeni Greek Catholic Parish and others v. Romania*, no. 76943/11, Judgment of 29 November 2016, paragraph 142).

63. The Court recalls that the administration of justice without delays is very important in order not to jeopardize the efficiency and credibility of the justice system (ECtHR case, *Scordino v. Italy* (no.1), no.36813, Judgment of 29 March 2006, paragraphs 224-225). The excessive length of the administration of justice constitutes one of the main risks against the rule of law. When violations related to the length of the court proceedings become frequent and are not isolated cases, then the accumulation of these violations constitutes a practice that is incompatible with the ECHR (ECtHR case, *Bottazzi v. Italy*, no. 34884/97, Judgment of 28 July 1999, paragraph 22).

64. The reasonableness of length of the court proceedings must be assessed based on the relevant circumstances of each case (see ECtHR case, *Frydlender v. France*, no. 30979/96, Judgment of 27 June 2000, paragraph 43) Assessment for the reasonableness of the length of the court proceedings should be done on the basis of the characteristics of a case: for example, in the case of the division of the inheritance between the descendants of a deceased person, which lasted more than 22 years (see the case of the ECHR, *Omdahl v. Norway*, ,no. 46371/18, Judgment of 6 September 2021, paras. 471, 54-55).

65. The reasonableness of the length of the court proceedings is measured based on the following main criteria: the complexity of the case, the conduct of the party, the conduct of the state authorities, and the importance of what is at stake for the party in the judicial dispute (ECtHR case, *Surmeli v. Germany*, no. 75529/01, Judgment of 8 June 2006, para. 128; ECtHR case, *Nicolae Virgiliu Tanase v. Romania*, no. 41720/13, Judgment of 25 June 2019, paragraph 209).

(iii) Criteria for assessing the reasonableness of the length of proceedings

a) Complexity of the case

66. According to the practice of the ECtHR, the complexity of the case can be related to the factual and legal issues; with the involvement of several parties in the procedure; with a certain amount of evidence that must be handled before the regular courts; or even with a larger number of expert reports required (ECtHR case, *Papachelas v. Greece*, no.

31423/96, Judgment of 25 March 1999; ECtHR case, *Katte Klitsche de la Grange v. Italy*, No. 12539/86, Judgment of 27 October 1994, paragraph 55; ECtHR case, *H. V. the United Kingdom*, No. 9580/81, Judgment of 8 July 1987, paragraph 72; ECtHR case, *Humen v. Poland*, No. 26614/95, Judgment of 15 October 1999, paragraph 63; ECtHR case, *Nicolae Virgiliu Tanase v. Romania*,No. 41720/13, Judgment of 25 June 2019, paragraph 210) .

67. Even in cases where a procedure is not complex, the lack of clarity and predictability in the local legislation can make it difficult to resolve the case and contribute to the length of the proceedings (ECtHR case, *Lupeni Greek Catholic Parish and others v. Romania*, No. 76943/11, Judgment of 29 November 2016, paragraph 150).

b) Conduct of the party

68. According to the ECtHR, Article 6 of the ECHR does not require the party to actively cooperate with the judicial authorities, nor can it be blamed for the use of legal remedies according to the legislation in force. However, state authorities cannot be held responsible if these actions affect the length of the proceedings (see ECtHR case *Erkner and Hofauer v. Austria*, no. 9616/81, Judgment of 23 April 1987, paragraph 68; ECtHR case, *Nicolae Virgiliu Tanase v. Romania*, cited above, paragraph 211).

69. The party is only required to be attentive in taking procedural steps, and not to use tactics to postpone the procedure in its favor (see the ECtHR case, *Union Alemntaria Sanders S.A v. Spain*, no. 11681/85, Judgment of 7 July 1989, paragraph 35). The conduct of the party constitutes an objective fact that cannot be attributed to the state authorities, and must be taken into account when assessing whether the procedure was carried out within a reasonable period of time (ECtHR case, *Eiesinger v. Austria,* no. 11796/85 , paragraph 57). Only delays attributable to the State can affect the determination of whether the proceedings were not completed within a reasonable time (ECtHR case, *Humer v. Poland*, cited above, paragraph 66).

70. Some examples related to the conduct of the party: the lack of willingness of the party to deliver the documents can affect the slowing down of the procedure; frequent change of lawyer; efforts to reach out-of-court settlements; initiating proceedings before a court that does not have jurisdiction over the case; lack of care in taking procedural steps (ECtHR case, *Vernillo v. France*, no. 11889/85, Judgment of 20 February 1991, paragraph 34; ECtHR case, *Konig v. Germany*, cited above, paragraph 103 ECtHR case *Pizzetti v. Italy,* No. 12444/86 Judgment of 26 February 1993 paragraph 18, ECtHR case *Beaumartin v. France*, No. 15287/89 Judgment of 24 November 1994, paragraph 33; ECtHR case, *Keaney v. Ireland*, No. 72060/17, Judgment of 30 April 2020, paragraph 95).

c) Conduct of competent authorities

71. The State bears responsibility for all authorities: not only for the judicial system, but for all public institutions (ECtHR case, *Martins Moreira v. Portugal*, cited above, paragraph 60) When assessing whether the procedure was carried out within a reasonable time limit, the Court must assess the procedure as a whole: although the State may be responsible for certain procedural defects, this does not, however, exclude the possibility that it acted in accordance with its duties to examine the case in a quick manner (ECtHR case, *Nicolae Virgiliu Tanase v. Romania*, cited above, paragraph 211).

72. Delays caused by the frequent change of judges do not avoid the responsibility of the state for conducting proceedings within reasonable time limits, because it is the duty of the state to organize the justice system in an appropriate manner (case of ECHR, *Lechner and Hess v. Austria*, No. 9316/81, Judgment of 23 April 1987, paragraph 58). Chronic caseload cannot serve as justification for prolonging proceedings (ECtHR case, *Probtstmeier v. Germany*, no. 20950/92, Judgment of 1 July 1997, paragraph 64). Delays caused by reforms aimed at speeding up the resolution of cases cannot also serve as a justification for delaying the procedure, because it is the responsibility and duty of the state to organize the justice system in order to avoid delaying the procedures in remained unresolved cases (ECtHR case, *Fisanotti v. Italy*, no. 32305/96, Judgment of 23 April 1998, paragraph 22).

73. The Court in its practice has emphasized that regular courts must take into account the constitutional and legal obligation to finalize cases within a reasonable time, so that prolonged delays do not cause uncertainty for the parties. The courts cannot allow the case to be endlessly transferred from one court instance to another. Otherwise, public trust in the legal order would be jeopardized (Court case, KI06/21, Applicant *Dragan Mihajlović*, Judgment of 22 December 2022, paragraph 67).

d) Importance of what is at stake for the party in the dispute

74. According to the case law of the ECtHR, there are certain categories of cases, which, by their nature, should be treated with special care and decided with greater speed. Examples of these categories of cases include:

- Cases related to civil status (divorce case, confirmation of paternity) (ECtHR cases: *Bock v. Germany*, no. 11118/84, Judgment of 29 March 1989, paragraph 49; *Mikulić v. Croatia*, no. 53176 /99, Judgment of 7 February 2002, paragraph 44).
- Cases related to custody of children; with the parent-child relationship; with grandparents' care of children, when the latter have been left without parental care; parental responsibility and rights of contact with children (ECtHR cases: *Hokkanen v. Finland*, no. 19823/92, Judgment of 23 September 1994, paragraph 72; *Tsikakis v. Germany*, no. 1521/06, paras. 64 -68; *Paulsen-Medalen and Svensson v. Sweden* , no. 16817/90, Judgment of 19 February 1998, paragraph 39; *Q and R v. Slovenia*, no. 19938/20, Judgment of 8 February 2022, paragraph 80).

- Cases related to labor disputes; complaint against dismissal; suspension from work; transfer; reinstatement to work; pension-related issues (ECtHR cases: *Frydlender v. France*, no. 30979/96, Judgment of June 27, 2000, para. 45; *Vocatura kundër Italisë*, no. 11891/85, Judgment of May 24, 1991, para. 17; *Frydlender v. France*, cited above, paragraph 45; *Obermeier v. Austria*, no. 11761/85, Judgment of 28 June 1990, paragraph 72; *Sartory v. France*, no. 40589/07, Judgment of 24 September 2009, paragraph 34; *Ruotola v. Italy*, no. 12460/86, paragraph 117; *Borgese v. Italy*, no. 12870/87, Judgment of 26 February 1992, paragraph 18).

- Cases related to persons who suffer from "*incurable diseases"* and have "*reduced life expectancy*" (ECtHR cases: *X v. France*, no. 18020/91, Judgment of 31 March 1992, paragraph 47 ; *A and others v. Denmark*, no. 20826/92, Judgment of 8 February 1996, paras. 78-81).

- Cases related to allegations of violence by police officers (ECtHR case, *Caloc v. France*, no. 33951/96, Judgment of 20 July 2000, paragraph 120).

- In cases where the right to education may be endangered (ECtHR case, *Orsus and others v. Croatia*,no. 15766/03, Judgment of 16 March 2010, paragraph 109).

- Some other cases do not require additional attention, for example, cases related to the compensation of damage caused in road accidents, or cases related to the division of the inheritance between the heirs of the deceased (ECtHR cases, *Nicolae Virgiliu Tanase v. Romania*, no. 41720/13, Judgment of 25 June 2019, paragraph 213; *Omdahl v. Norway*, no. 46371/18, Judgment of 22 April 2021, paras. 63-64).

Application of these principles in the circumstances of the present case

(i) Determining the length of the proceedings

75. The Court notes that the Applicant first filed a lawsuit with the Basic Court on 11 December 2008. The last court session held by the Basic Court was on 27 January 2022. The Court notes that the court proceedings in the Basic Court still has not continued since the time of the last court session, until the moment when the Applicant submitted her referral to the Court, on 15 March 2023. The Court assesses that the period that will be taken into account for the calculation of the deadline starts from 11 December 2008 (when the Applicant submitted the lawsuit to the Municipal Court), until 15 March 2023 (when the Applicant submitted the referral to the Court). Therefore, more than 14 years.

(ii) Criteria for assessing the reasonableness of the length of proceedings

(a) Complexity of the case

76. The Court notes that the Applicant submitted a lawsuit for confirmation of ownership regarding the immovable property on the surface area of 0.05.96 ha. She claimed that she had purchased the property in question from a person named Sh.B., while the latter had previously purchased it from the respondents on 19 April 1996. However, the respondents refused to transfer ownership of the immovable property to the Applicant.

77. The Court notes that, on the other hand, the respondents by the response to the lawsuit claimed that their father had sold the immovable property to the person SH.B. at a symbolic price, provided that the latter does not alienate the property to third parties without his prior consent.

78. The Court notes that the Applicant attached some evidence to the claim: the possession list of the property, the contract signed between the respondent and the person SH.B., and proposed to hear four witnesses. Meanwhile, the respondents proposed hearing of a witness, and calling other witnesses as needed.

79. The Court assesses that the issues related to the confirmation of ownership can be complicated and not easy to solve. However, based on the circumstances of the case, the evidence presented and the small number of proposed witnesses, the Court assesses that the case in question cannot be considered complicated to decide.

(b) Conduct of the party

80. The Court notes that the Applicant filed a claim with the Municipal Court, whereby she requested the confirmation of ownership and imposition of the security measure in

relation to the contested immovable property. This was the first legal remedy that the Applicant had used, by which she had started the court proceedings against the respondents.

81. The Court notes that the Municipal Court, then the Basic Court, held a total of 17 court hearings in relation to this case: in 15 of them, the Applicant participated, while she was absent in only two court hearings. In cases of absence, the Applicant had previously notified the Basic Court about the reasons for non-participation, including the serious health condition of her lawyer.

82. The Court notes that the Applicant and the respondents proposed postponing a hearing, because they were in talks to resolve the dispute out of court.

83. The Court notes that, in the session of 1 September 2016, the Basic Court requested from the Applicant the translation of the verbal notes, from the German language into the Albanian language, in order to ascertain whether the respondents were duly summoned through the Ministry of Justice. After that, the Basic Court rendered a decision whereby it notified the party of the legal consequences in case of non-translation. The Applicant requested an additional deadline to perform the requested translation. The Court notes that, then, the contested procedure was interrupted, due to the death of one of the respondents.

84. The Court notes that the Applicant submitted a request for the continuation of the interrupted proceedings. The Basic Court requested the latter to translate the request in question, in order to communicate with the respondents in the language they were using. The Applicant forwarded the documents translated into German to the Basic Court, fulfilling her obligation.

85. The Court notes that, in another case, the Applicant requested the postponement of the court session, in which the respondents were absent, and requested an additional deadline so that she could personally ensure their participation.

86. The Court notes that, from 27 January 2022, when the last court session was held, the Applicant submitted three requests to the Basic Court for scheduling a new session, with the claim that all legal requirements were met. Despite this, no new session was scheduled until the moment when the Applicant submitted the complaint to the Court.

87. The Court assesses that the Applicant participated in almost all court sessions. Even in the cases where she was absent, her lawyer presented convincing reasons for non-participation. In two other cases, she had requested the postponement of the hearing, because they had tried to find an out-of-court settlement with the respondents, respectively she had undertaken to ensure the respondents" participation in the hearing, even though it was not her legal responsibility to do such a thing such. However, the Court assesses that these actions were not aimed at delaying the court proceedings, but rather indicate the Applicant's interest in completing the procedure as soon as possible.

88. Secondly, the Court assesses that, after the decision to suspend the procedure, due to the death of one of the respondents, the Applicant submitted a request for the continuation of the contested procedure. In addition to determining the heirs of the deceased respondent, the Applicant had also notified the Basic Court of their addresses. Also, the Court assesses

that the Applicant fulfilled the obligations determined by the Basic Court in relation to the translation of the documents into German, namely her request and the decision.

89. The Court assesses that, since the filing of the lawsuit, the Applicant was active and interested throughout the court proceedings, and the delays cannot be attributed to her actions. The Court assesses that the Applicant did not contribute to the delays and postponements of the court hearings. On the contrary, she was attentive to the course of the proceedings and made every effort to complete it. From the time when the last court session was held, the Applicant submitted three requests for the continuation of the contested procedure and scheduling the next session.

(c) Conduct of authorities

90. The Court notes that the Municipal Court, then the Basic Court, held a large number of court sessions, 17 in total. Almost all hearings had a preparatory character and were postponed in most cases due to the non-participation of the respondents.

91. The Court notes that, in the first court session held by the Municipal Court, it was established that two of the respondents lived abroad. During the court proceedings, communication with the respondents was done through invitations sent to the Ministry of Justice.

92. The Court notes that, from 27 January 2010 to 6 January 2016, no court session was held, in a period of 6 (six) years. This was the longest period within which no contested procedure was conducted. Whereas, from 21 February 2018, when the court proceedings were interrupted, the next session was held on 28 September 2020, a period of more than 2 (two) years.

93. The Court notes that the Basic Court held the last court session, the inspection at the scene of event, in which the Applicant and the geodesy expert participated. The hearing was adjourned due to the absence of the respondents.

94. The Court notes that the Basic Court did not hold two previously scheduled court sessions, due to the contagious disease COVID-19. Whereas, the last scheduled hearing on 24 March 2022, was not held because the judge of the case was promoted to the Court of Appeals.

95. The Court assesses that the Municipal Court, then the Basic Court, held a significant number of preparatory sessions, without managing to examine the merits of the claim. The Court acknowledges the fact that the respondents lived abroad and their attendance at the hearings was difficult to secure. However, the Court considers that such a long period of time, more than 14 (fourteen) years, within which the courts of first instance could not render a decision on merits of the case, cannot be considered reasonable.

96. The Court assesses that, in the first session held in the Municipal Court, the Applicant requested the appointment of a temporary representative for the respondents living abroad. The Court notes that the first instance courts took actions to communicate with the respondents, through the Ministry of Justice, but in many cases they failed to prove whether the summons were duly sent. The Court assesses that the regular courts could have appointed temporary representatives for respondents who did not participate in court hearings, or when communication with them was difficult. In this way, the court

proceedings would become dynamic and the respondents would not be able to delay the case with their absence.

97. The court assesses that the Law on Contested Procedure foresees the possibility for regular courts to appoint a temporary representative to the respondents, in cases where the respondents is abroad, and the sending of documents could not be done. According to the Law, the temporary representative who is appointed from among the lawyers, has all the rights and responsibilities of the legal representative. In such cases, a public announcement is made, which is published in the official gazette and displayed on the notice board of the court of the case. The Court assesses that the first instance courts did not use this opportunity and this caused the court proceedings to be prolonged.

98. The Court takes into account the fact that the contested procedure in this case was interrupted due to the death of one of the respondents; in one case the parties had tried to reach out of court settlement; that two hearings were postponed due to contagious disease COVID-19 and another due to the promotion of the judge of the case. However, none of these facts constitute a justification for the first instance courts, to the extent that they influenced the delay of the proceedings.

(d) Importance of what is at stake for the party in the dispute

99. The Court reiterates that, based on the practice of the ECtHR, there are certain categories of cases that require increased attention and faster decision-making, for example: civil status cases, child custody cases, cases from employment relationship.

100. The Court notes that the case in question does not belong to the category of cases that, by its legal nature, requires a faster resolution and increased care. However, the Court assesses that this does not mean that other cases should be resolved negligently and in excessively long periods of time, which cannot be considered reasonable.

101. The Court assesses that the regular courts should deal with ownership claims in the most reasonable time frames, take actions and be active until the final resolution of the case, based on the complexity of the case.

102. The Court assesses that the period of 14 years is too long to be considered reasonable, even more so when no decision on merits was rendered on the case in the first instance court.

103. The Court finds that there has been a violation of Article 31 of the Constitution, in conjunction with Article 6 of the ECHR.

Legal effects of this Judgment

104. The Court reiterates that it has is no legal authorization to assign any type of compensation for cases in which it finds a violation of the Constitution and the ECHR (Court cases, KI10/18, Applicant *Fahri Deqani*, Judgment of 8 October 2019, paragraph 119; KI108/18, Applicant *Blerta Morina*, Resolution on inadmissibility of 5 September 2019, paragraph 197; KI19/21, Applicant *Sadik Pllana*, Judgment of 18 July 2022 paragraph 115; KI06/21, Applicant *Dragan Mihajlović*, Judgment of 22 December 2022).

105. The Court reiterates that, in some cases, the finding of a constitutional violation represents a type of "*just compensation*", especially when the Applicant may have suffered a non-

material damage. However, individuals may seek compensation from public authorities in case of violation of their constitutional rights and freedoms. In cases where only the finding of the violation is not sufficient and monetary compensation is necessary, individuals have the right to use the legal remedies available to exercise their rights, including compensation for material and non-material damage before regular courts (Court cases KI113/21, Applicant *Bukurije Haxhimurati*, Judgment of 20 December 2021, paras. 145-151; KI10/18, Applicant *Fahri Deqani*, cited above; KI108/18, Applicant *Blerta Morina*, cited above; KI06/21, Applicant *Dragan Mihajlović*, cited above).

106. The Court assesses that, after this judgment, which finds the violation of Article 31 of the Constitution, in conjunction with Article 6 of the ECHR, the regular courts should take all the necessary steps to conclude the legal case with increased dynamics and within the fastest possible time frame.

FOR THESE REASONS

The Constitutional Court, in accordance with Article 113.7 of the Constitution, Articles 27 and 49 of the Law and in accordance with Rule 48 (1) (a) of the Rules of Procedure, on 31 August 2023, unanimously

DECIDES

I. TO DECLARE the Referral admissible;

II. TO HOLD that there has been a violation of paragraph 2 of Article 31 [Right to Fair and Impartial Trial] of the Constitution of the Republic of Kosovo in conjunction with paragraph 1 of Article 6 (Right to a fair trial) of the European Convention on Human Rights, regarding the right to fair and impartial trial within a reasonable time;

III. To order the Basic Court to notify the Constitutional Court as soon as possible, but no later than 6 (six) months, namely until 29 February 2024, regarding the measures taken to implement the Judgment of this Court, in accordance with Rule 60 of the Rules of Procedure;

IV. TO NOTIFY this Judgment to the Parties;

V. TO PUBLISH this Judgment in the Official Gazette, in accordance with Article 20.4 of the Law;

VI. This Judgment is effective immediately.

Judge Rapporteur	**President of the Constitutional Court**
Radomir Laban	Gresa Caka-Nimani

This translation is unofficial and serves for informational purposes only.