



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

GJYKATA KUSHTETUESE

УСТАВНИ СУД

CONSTITUTIONAL COURT

KABINETI I KRYETARIT / URED PREDSEDNIKA / CABINET OF THE PRESIDENT

Prishtina, on 8 March 2024

Ref. no.: KK 138/24

Mr. Besim Kelmendi
Acting Chief State Prosecutor
“Luan Haradinaj” Str., No. 100
10000, Prishtina, Republic of Kosovo

Subject: Information on Non-Enforcement of Judgment in case KI86/18, of the Constitutional Court of the Republic of Kosovo, applicant: *Slavica Đorđević*, of 3 February 2021

Honorable Acting Chief State Prosecutor, Mr. Kelmendi,

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

Pursuant to paragraph 1 of Article 116 [Legal Effect of Decisions] of the Constitution, its decisions are binding on the judiciary and all persons and institutions of the Republic of Kosovo. In connection with this constitutional provision, rule 60 (Enforcement of Decisions) of the Rules of Procedure no. 01/2023 of the Constitutional Court of the Republic of Kosovo also stipulates that (i) all constitutional organs, including courts and other authorities, are obligated to respect, comply with and to enforce the decisions of the Court, within their competencies established by the Constitution and law; and (ii) all natural and legal persons are obligated to respect and to comply with the decisions of the Court.

In addition, based on paragraphs 6 and 7 of rule 60 of the Rules of Procedure: (i) in the event of a failure to enforce a certain decision or a delay in giving information to the Court on the measures taken to enforce it, the Court may render a Decision on non-enforcement, in which it shall establish that the respective decision has not been enforced and publish it in the Official Gazette; and (ii) to notify the State Prosecutor of all decisions of the Court that have not been enforced.

According to the abovementioned authorizations, through letters in 2014, 2015, 2019, 2021 and 2022, the Chief State Prosecutor has been notified about the non-enforcement of the Court's Judgments: (i) KI08/09, applicant *Independent Union of Workers of IMK Steel Factory*, Judgment of 17 December 2010; (ii) KI112/12, applicant *Adem Meta*, Judgment of 5 July 2013; (iii) KI187/13, applicant *N. Jovanović*, Judgment of 1 April 2014; (iv) KI56/09, applicant *Fadil Hoxha and 59 others against the Municipal Assembly of Prizren*, Judgment of 22 September 2010; (v) KI132/15, applicant *The Monastery of Decani*, Judgment of 19 May 2016; and (vi) applicant *Branislav Jokić*, Judgment of 5 December 2017.

Based on the above-mentioned authorizations established in the Constitution and its Rules of Procedure, the Court has re-assessed the implementation of its Judgments, and after

analyzing the relevant documents, has also found the lack of confirmation of implementation of another Judgment, and for which consequently has rendered non-enforcement decision, about which I am notifying You through this letter.

More precisely, on 13 February 2024, the Court rendered Decision on Non-Enforcement regarding Judgment KI86/18, applicant: *Slavica Đorđević*, of 3 February 2021, where it decided (i) to find that the Judgment in case KI86/18 has not been fully implemented by the responsible authorities of the Republic of Kosovo; (ii) publish the Decision on Non-Enforcement regarding Judgment in case KI86/18; and (iii) notify the State Prosecutor of the issuance of the Decision on Non-Enforcement regarding the Judgment in case KI86/18.

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

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

Respectfully,

Gresa Caka-Nimani
President

Attached:

1. Copy of the Decision on Non-Enforcement of Judgment KI86/18, of the Constitutional Court of the Republic of Kosovo, of 13 February 2024.