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

Prishtina, on 29 March 2024
Ref. no.: RK 2411/24

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RESOLUTION ON INADMISSIBILITY

in

Case No. KI123/22

Applicant

Getoar Mjeku

Constitutional review of Judgment [ARJ.nr.36/2022] of the Supreme Court, of 13 June 2022

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

Applicants

1. The Referral was submitted by Getoar Mjeku from Prishtina (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges the constitutionality of Judgment [ARJ nr.36/2022] of the Supreme Court of Kosovo, of 13 June 2022 in conjunction with Decision [AA.nr.638/2020] of the Court of Appeals, of 28 May 2021, and Judgment [AA.nr.684/2021] of the Court of Appeals, of 21 March 2022.

Subject matter

3. The subject matter is the constitutional review of Judgment [ARJ nr.36/2022] of the Supreme Court, which allegedly violates the Applicant's fundamental rights guaranteed by Articles 24 [Equality Before the Law], 31 [Right to Fair and Impartial Trial], and 49 [Right to Work and Exercise Profession] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution) in conjunction with Article 6 (1) (Right to a Fair Trial) and Article 1 of Protocol No. 12 (General Prohibition of Discrimination) of the European Convention on Human Rights (hereinafter: ECHR), and Articles 1 (Untitled), 2 (Untitled), and 23.1 (Untitled) of the Universal Declaration of Human Rights (hereinafter: UDHR).

4. On 7 July 2023, the Rules of Procedure of the Constitutional Court of the Republic of Kosovo No. 01/2023, were published in the Official Gazette of the Republic of Kosovo and entered into force fifteen (15) days after their publication. Consequently, during the examination of the Referral, the Constitutional Court refers to the provisions of the aforementioned 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, will continue to be applied in cases registered in the Court before its abrogation, only if and to the extent that they are more favorable for the parties.

Legal basis

5. The Referral is based on Article 113 (1) and (7) [Jurisdiction and Authorized Parties] of the Constitution, Articles 22 (Processing Referrals) and 47 (Individual Requests) of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law) 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).

Proceedings before the Constitutional Court

6. On 10 August 2022, the Applicant submitted the Referral by electronic mail to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).

7. On 9 December 2022, the Applicant was notified about the registration of the Referral and a copy of the Referral was sent to the Supreme Court.

8. On 25 August 2022, the President of the Court by Decision [GJR. No. KI123/22] appointed Judge Radomir Laban as Judge Rapporteur and the Review Panel composed of judges: Gresa Caka-Nimani (Presiding), Bajram Ljatifi and Nexhmi Rexhepi (members).

9. On 16 December 2022, Judge Enver Peci took the oath before the President of the Republic of Kosovo, on which occasion began his mandate at the Court.

10. On 22 February 2023, the Court sent letters to the Applicant and the Ministry of Education, Science, and Technology (hereinafter: MEST) regarding the clarification of some issues raised in the Applicant's Referral.

11. The Applicant was asked to clarify: "*Can you explain to the Constitutional Court the issue of your undergraduate studies, specifically whether your degree in undergraduate studies is equivalent to level (6) in the field of law in accordance with the National Qualifications Framework?*"

12. MEST was asked to clarify: "*From the case files, it emerges that the Ministry of Education, Science, Technology, and Innovation (MEST), by Decision no. 6-4473 dated 04.10.2016, had recognized the Juris Doctor Degree that the Applicant had obtained from Southern Methodist University Dedman School of Law as equivalent to a level 7 Master's degree according to the National Qualifications Framework. Can you clarify to the Constitutional Court the issue of the Applicant's undergraduate studies, specifically whether his undergraduate degree is equivalent to level (6) in the field of law in accordance with the National Qualifications Framework? Can you clarify to the Constitutional Court, if with the aforementioned MEST decision, the Applicant is recognized the title of graduated lawyer and whether he ultimately meets the conditions for being allowed to enter the bar examination pursuant to Article 6 paragraph 1, sub-paragraph 1.2., of the Law on Bar Examination No. 04/L-141?*"

13. On 1 and 2 March 2023, the Applicant and MEST submitted their comments. The content of the comments provided by the Applicant and MEST is reflected in the following text of this decision.

14. On 13 February 2024, the Review Panel reviewed the report of the Judge Rapporteur and unanimously recommended to the Court the inadmissibility of the Referral.

15. In accordance with Rule 56 (Dissenting Opinions) of the Rules of Procedure, Judge Nexhmi Rexhepi has prepared a dissenting opinion which will be published together with this Resolution.

Summary of facts

16. Based on the case file, it emerges that the respondent, the Ministry of Justice, through Decision [no.04/2019] dated 11.01.2019, in point I of the enacting clause, decided I. The complaint of Getoar Mjeku (the Applicant) against decision no. 08-4636/2 dated 26.12.2018 of the Commission for the Evaluation of Candidates' Applications for the Bar Examination, regarding the refusal to permit the entering of the Bar Examination, is rejected as ungrounded. In point II. The decision no. 08-4636/2 dated 26.12.2018 of the Commission for the Evaluation of Candidates' Applications for the Bar Examination remains in force. In point III. This decision shall enter into force on the date of signature.

17. On 15 January 2019, the Applicant initiated an administrative conflict against the respondent, the Ministry of Justice, through a claim. The Applicant requested the annulment of the decision of the Minister of Justice, highlighting the erroneous application of substantive law, erroneous establishment of facts, exceeding of legal authorization, and infringement of constitutional rights. Essentially, the Applicant alleged that the respondent, the Ministry of Justice, was not authorized to request evidence of bachelor studies, as Article 6.1.2 (Conditions on entering the bar exam) of Law No. 04/L-141 on Bar Examination (hereinafter referred to as the LBE) requires either bachelor or master - but not both. The Applicant also emphasized that the MEST

had issued a decision on his education level and that the Ministry of Justice is not competent to assess the duration, volume, or content of his studies.

18. On 13 October 2020, the Basic Court through Judgment [A.no.127/19] decided: **(i)** The claim of the Applicant is **APPROVED**; **(ii)** Decision no. 04/2019 dated 11.01.2019 of the Ministry of Justice is **ANNULLED**, and the case is remanded for reconsideration to the respondent, Ministry of Justice; (iii) regarding the legal-property claim concerning claims for damages caused, the Applicant is instructed to regular legal-civil litigation; **(iv)** each party bears its own procedural expenses. The Basic Court held that the Applicant's Juris Doctor degree earned from the Southern Methodist University Dedman School of Law had been recognized by the Ministry of Education, Science, and Technology with decision no. 6-4473 dated 04.10.2016 as equivalent to the level 7 Master's degree according to the National Qualifications Framework.

19. On 29 October 2020, the respondent, Ministry of Justice, filed an appeal with the Court of Appeals, alleging substantial violations of procedural provisions, erroneous and incomplete establishment of the factual situation, and erroneous application of substantive law, proposing that the judgment of the Basic Court [A.no.127/19] dated 13.10.2020 be modified, the Applicant's claim be rejected in its entirety, and the decision of the respondent, Ministry of Justice, remain in effect.

20. On 28 May 2021, the Court of Appeals through Decision [AA.no.638/2020] approved the appeal of the respondent, Ministry of Justice, and quashed the Judgment of the Basic Court [A.no.127/19] dated 13.10.2020, and remanded the case to the first-instance court for reconsideration and retrial. The Court of Appeals highlighted that, based on the situation of case, upon reviewing the appealed judgment of the first-instance court, the decision of the respondent, and other case files, according to the claims in the appeal, it found that the appealed judgment contained substantial violations of the provisions of Law No. 03/L-006 on Contested Procedure (hereinafter: LCP) under Article (Untitled) 182.2 point (n) and 183 (Untitled).

21. On 7 July 2021, the Basic Court through Judgment [A.no.127/19] decided: **(i)** The claim of the Applicant is **APPROVED**; **(ii)** Decision no. 04/2019 dated 11.01.2019 of the Ministry of Justice is **ANNULLED**, and the case is remanded for reconsideration to the respondent, Ministry of Justice. The Basic Court reiterated that the Applicant's Juris Doctor degree earned from the Southern Methodist University Dedman School of Law had been recognized by the Ministry of Education, Science, and Technology with decision no. 6-4473 dated 04.10.2016 as equivalent to the level 7 Master's degree according to the National Qualifications Framework.

22. On 2 August 2021, the respondent, Ministry of Justice, filed an appeal, alleging substantial violations of procedural provisions, erroneous and incomplete establishment of the factual situation, and erroneous application of substantive law, proposing that the Judgment of the Basic Court [A.no.127/19] dated 07.07.2021 be modified, the Applicant's claim be rejected in its entirety, and the decision of the respondent, Ministry of Justice, remain in effect.

23. On 21 March 2022, the Court of Appeals through Judgment [AA.no.684/2021] decided: **(i)** The appeal of the respondent, Ministry of Justice, is **APPROVED**; (ii) The Judgment of the Basic Court [A.no.127/19] dated 07.07.2021 is **MODIFIED**; **(iii)** The claimant's statement of claim requesting the annulment of the decision of the respondent, Ministry of Justice, no.04/2019 dated 11.01.2019, is **REJECTED**; **(iv)** The decision of the respondent, Ministry of Justice, no.04/2019, dated 11.01.2019, **remains** in force. The Court of Appeals found that the first-instance court violated Article 183 paragraphs 1 and 2, because the reasons on which the first-instance court's judgment is

based, regarding the complete and correct establishment of the factual situation, were erroneously proven and the substantive law was applied erroneously, which influenced the issuance of an unlawful and unjust judgment.

24. The Applicant file a request for extraordinary review of a court decision, alleging violations of substantive and procedural law. The Applicant proposed: **(i)** to approve the request for extraordinary review as founded; **(ii)** to annul the Judgment of the Court of Appeals [AA no. 684/2021] dated 21.03.2022; **(iii)** to reject the appeal of the respondent, Ministry of Justice, as unfounded, whereas the Judgment of the Basic Court [A no. 127/19] dated 07.07.2021, be upheld.

25. On 13 June 2022, the Supreme Court through Judgment [ARJ no. 36/2022] rejected the request for an extraordinary review of the court decision, filed by the Applicant against the Judgment of the Court of Appeals [AA.no.684/2021] dated 21.03.2022, as unfounded. The Supreme Court emphasized that the Court of Appeals correctly established the factual situation and correctly applied substantive law in its decision-making process, including the approval of the appeal of the respondent, Ministry of Justice, the modification of the appealed judgment of the first instance and rejecting the claimant's claim as unfounded.

Applicant's allegations

26. The Applicant alleges violation of his fundamental rights guaranteed by Articles 24 [Equality Before the Law], 31 [Right to Fair and Impartial Trial], and 49 [Right to Work and Exercise Profession] of the Constitution in conjunction with Article 6 (1) (Right to a Fair Trial) and Article 1 of Protocol No. 12 (General Prohibition of Discrimination) of the ECHR and Articles 1 (Untitled), 2 (Untitled), and 23.1 (Untitled) of the UDHR.

27. The Applicant claims: "*This Referral is not about the interpretation of a legal norm, hence it is not a matter of legality. The Referral concerns the constitutional guarantee of addressing claims in the reasoning of the judgment, the judgment by an independent and impartial court, the prohibition of discrimination, as well as the right to work and the exercise profession.*"

28. Specifically, regarding the Judgment of the Court of Appeals [AA.no.684/2021] dated 21.03.2022, the Applicant claims that it has a deficient reasoning and adds: "*If the description of the procedure is disregarded, the Appeals' analysis consists of three sentences-paragraphs, with 157, 156, and 134 words.*"

29. The Applicant also claims that the Judgment of the Supreme Court [ARJ no. 36/2022] dated 13 June 2022, likewise is deficient in reasoning and adds: "*From the reasoning of the Judgment, it is clear that the Supreme Court did not address the key claims regarding the legal conditions to apply for the exam (and about the conjunction "or" in Article 6.1.2 of the Law on Bar Examination), about the violation of constitutional rights such as equality before the law and the right to work and exercise profession, as well as about the lack of reasoning and denial of the right to a fair trial protected by the Constitution.*"

30. The Applicant emphasizes that based on the guarantees under Article 31 of the Constitution and Article 6 (1) of the ECHR, courts are obliged to examine and respond to the claims and arguments of the parties. In this regard, the Applicant refers to the case law of the Court regarding the right to a reasoned decision: "*Based on the case law of the ECtHR and that of the Court, courts are required to examine and provide specific and clear responses regarding: (i) the substantial claims and arguments of the party;*

(ii) claims and arguments that are decisive for the outcome of the proceedings; or (iii) claims related to the rights and freedoms guaranteed by the Constitution and the ECHR."

31. The Applicant emphasizes that before the Supreme Court, against the decision of the Court of Appeals, he had argued: "*The Court of Appeals has erroneously applied the substantive law by requiring me to have a bachelor's degree. The law allows me to enter the exam with a master's degree. Article 6.1.2 of the Law on the Bar Examination provides that either a bachelor's degree or a master's degree is required, not both. The conjunction «or» clearly allows candidates with a master's degree. Article 10.3 regulates the form of application for the exam and should be read in conjunction with Article 6.1.2.4. The Court of Appeals has violated my rights to equality before the law and to work and exercise profession, protected by Articles 24 and 49 of the Constitution. The Court of Appeals has infringed my right to a fair trial under Article 31 of the Constitution by issuing an unreasoned decision that does not address my key claims about Article 6.1.2 of the LBE. The Court of Appeals has also violated procedural provisions for a reasoned decision.*"

32. In this regard, the Applicant alleges: "*These claims and arguments are essential or decisive because they touch upon the reasons why I addressed to the Supreme Court and the reasons why I filed a claim against the Ministry of Justice. It is impossible to resolve the issue without elaborating the meaning of Article 6.1.2 of the LBE. It is also impossible to resolve the issue without addressing the claims about the flawed reasoning of the court decision. Claims about the violation of constitutional rights are equally important.*"

33. The Applicant claims that: (i) The Supreme Court did not address the conjunction "or" in Article 6.1.2 of the Law on Bar Examination at all; (ii) it did not consider the argument as to why Article 10.3 and Article 6.1.2 of the Law on Bar Examination should be read in conjunction with each other; (iii) it provided no explanation as to why the Law requires a bachelor's degree as a condition for permitting entry to the Bar Examination; (iv) it did not address the fact that the Law allows candidates with a master's degree to enter the Bar Examination and does not require proof of the duration of exams.

34. The Applicant also highlights that the Judgment of the Supreme Court is discriminatory and claims that: "*The Supreme Court's judgment seriously distorts my submission that mentions the "eight-semester Juris Doctor program". I described this fact to illustrate the discrimination I face as a graduate from abroad and as a licensed lawyer in the United States. The Court has not bothered to consider the equality before the law and other constitutional rights. The judgment remains an unprocessed template, although the panel used my words to coat it with a layer of specific reasoning. The reasoning is vague, which in the eyes of the law is equivalent to being non-existent. Almost every public authority involved in this case has been looking for "the ring" in the wrong place, even though the ring is clearly visible in Article 6.1.2 and has not been lost at all. If the authorities have doubts about the Juris Doctor degree from the USA, they can easily refer to notorious facts about the degree's content or seek administrative assistance of the Ministry of Education, which has recognized the diploma and holds the case file.*"

35. Regarding the lack of a legitimate aim for discrimination against him, the Applicant claims that: "*This distinction does not find "objective and reasonable reasoning". In other words, it does not serve any legitimate aim; instead, it acts against the public interest in brain gain. The respondent Ministry has treated me unequally because of my education in America, my connection with American legal communities and*

Albanian expatriates in the U.S.A., and my status I enjoy in society as a patriot, educated individual with high moral character. This decision is especially unreasoned when considering the Law on the Bar, which allows me to engage as a "foreign lawyer" if I pay fees of thousands of euros. Thus, there is no legitimate reason to deny me the right to exam. My exclusion from the Bar Examination, with the judgment of the Supreme Court, is discriminatory according to the Constitution and the ECHR."

36. Regarding the violations of Articles 24, 31, and 49 of the Constitution, the Applicant claims that: "The deficient judgment of the Supreme Court has violated my equality before the law and the right to work and exercise profession, discriminating against me as a former expatriate and a lawyer graduated and licensed in the United States and making it impossible for me to practice law. Although the practice avoids assessing other violations when a violation of Article 31 is found, the Court should pay attention to unreasonable discrimination and my exclusion from the lawyers' community."

37. The Applicant also states that the Supreme Court has violated the principle of separation of powers sanctioned by Article 4 of the Constitution and claims that: "*The Supreme Court has appropriated the legislator's power: it has amended the Law passed in the Assembly when it replaced the conjunction "or" in Article 6.1.2 of the LBE with the conjunction "and"*." In this regard, the Applicant adds: "*The importance of the separation of powers between the judiciary and political institutions is increasingly taking place in the ECtHR's case law. When the court appropriates the political power of the Assembly, it ceases to be an independent and impartial court, as required by Article 31.2 of the Constitution and Article 6.1 of the Convention. Thus, the Judgment of 13 June 2022 denies me a fair trial, therefore it should be quashed*."

38. In conclusion, the Applicant requests the Court to: **(i)** declare the Referral admissible, **(ii)** hold that there have been violations of Articles 24, 31, and 49 of the Constitution and Articles 6, 14, and Article 1 of Protocol No. 12 of the ECHR; **(iii)** declare the Judgment of the Supreme Court [ARJ.no.36/2022] of 13 June 2022, invalid; **(iv)** remand the Judgment of the Supreme Court [ARJ.no.36/2022] of 13 June 2022, for retrial in accordance with the Judgment of the Constitutional Court.

Comments submitted by MEST

39. In their response of 1 March 2023, MEST emphasized: "*According to AI 12/2018, Principles and Procedures of Recognition of Vocational High School Diplomas and University Degrees Earned Outside the Republic of Kosova, the equivalence recognition of diplomas in NARIC is made for employment purposes. Mr. Mjeku has complained to the justice bodies as to why his "Juris Doctor" degree was recognized by NCR as a professional master's degree (level 7 according to the NQF) and not as level 8 (doctorate). NCR recognized his "Juris Doctor" degree as a professional degree of level 7 according to the NQF. The "Juris Doctor" degree cannot be equated with the "Graduated Lawyer" title, which is earned in Kosovo. This is due to the fact that for Graduated Lawyer, studies last three years, whereas to earn the "Graduated Lawyer" title, the studies must be four years. It is worth noting that to equate a degree obtained abroad with an equivalent or similar degree in Kosovo, according to Article 10 paragraph 4 of UA 12/2018, the similarity of the program in both countries must be at least 70%. Our opinion is based on the decisions of NARIC, specifically the Division for Recognition and Equivalence and the National Council for Recognition (NCR)*."

Comments submitted by the Applicant

40. In the response of 2 March 2023, the Applicant had highlighted: "*On 14 December 2018, I filed an application to enter the bar examination in the Republic of Kosovo, in accordance with Law No. 04/L-141. Article 6.1.2 of that Law provides that candidates must "have a lawyer's degree according to a four (4) year program or to have finished the master studies." Thus, either a four-year diploma or a master's degree is required, but not both. The conjunction "or" has that meaning. I have submitted evidence of my master's studies, which is level 7 of the National Qualifications Framework. The Ministry of Justice and the regular courts (except the Basic Court) have requested evidence of bachelor's studies or level 6 without a legal basis and have completely disregarded my argument that legally the master's degree suffices. It is entirely irrelevant the Supreme Court's finding that I have not submitted evidence of studies in the "corresponding program" of level 6. Firstly, such evidence was not legally required. Secondly, law faculties in many countries award the first degree of level 7, surpassing level 6. Thirdly, the Ministry of Justice could have sought assistance according to Article 34 of Law No. 05/L-031 on General Administrative Procedure, to become acquainted with the facts and documents in possession of a state institution. The Ministry of Education has recognized my basic studies diploma with decision no. 6-2214 of 16 May 2016. However, the evidence of level 6 studies was not a legal requirement to enter the bar examination in Kosovo, and no administrative body or court should have delved into that issue since I have proved level 7 studies in law. My Referral addressed to the Constitutional Court is not about issues of legality or establishment of factual situations but about the violation of my constitutional rights — I have been denied of the guarantee of addressing claims in the reasoning of the judgment, trial by an independent and impartial court, prohibition of discrimination, as well as the right to work and exercise the profession. The Constitutional Court should particularly review why the Supreme Court did not respond to my argument about the conjunction "or" in Article 6.1.2 of Law No. 04/L-141, but has appropriated the role of the legislator by adding words to the law which are not there. The Court should also review the discrimination against me. Eight years of university education sufficed for me to ender the bar examination and exercise the profession of attorney in the U.S.A. The U.S attorney license enables me to register as a "foreign lawyer" in the Republic of Kosovo, according to Article 40.4 of Law No. 04/L-193 on the Bar. But I must pay the Bar Association discouraging fees not paid by locals — a license 4,500 euros for one case, in addition to the application of 68 euros and an annual membership up to 1,800 euros. Thus, my country allows me to exercise the profession if I pay more than my colleagues and if I agree to be called a "foreign". The Ministry of Justice and the regular courts have given me no reason why I should be treated differently from my colleagues. This unequal treatment constitutes discrimination prohibited according to Article 24 of the Constitution, Article 14 of the European Convention on Human Rights, and Article 1 of Protocol 12 of the Convention. The failure of the Ministry and courts to respond to the claim of distorting legal requirements and discrimination infringes the right to a fair and impartial trial according to Article 31 of the Constitution and Article 6 of the Convention.*"

Relevant constitutional and legal provisions

Constitution of the Republic of Kosovo

Article 24
[Equality Before the Law]

"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. Principles of equal legal protection shall not prevent the imposition of measures necessary to protect and advance the rights of individuals and groups who are in unequal positions. Such measures shall be applied only until the purposes for which they are imposed have been fulfilled."

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."

Article 49
Article 49 [Right to Work and Exercise Profession]

"1. The right to work is guaranteed.

2. Every person is free to choose his/her profession and occupation."

Article 53
[Interpretation of Human Rights Provisions]

"Human rights and fundamental freedoms guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights."

European Convention on Human Rights

Article 6
(Right to a due process)

"*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."*

Article 14
(Prohibition of discrimination)

"*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*"

LAW NO. 03/L-202 ON ADMINISTRATIVE CONFLICTS

Article 6
The principle of verbal review

"The court shall decide based on verbal review directly and publicly regarding the administrative conflict."

Article 44
Untitled

"1. The legality of the contested administrative act shall be reviewed by the court within the limits of the indictment request, but shall not be obliged by the indictment causes.

2. The court shall be careful according to the official duty for the nullity of the administrative act."

Article 49
Procedure according to the legal remedies

"1. Appeal against the court decision, is submitted to the competent court in the manner determined in Article 28 of this law.

2. The claim shall be submitted within a time limit of fifteen (15) days, from day of receipt of the court decision.

3. In other issues of the proceeding, according to the appeal, the provisions of this law shall be implemented.

4. Request for exceptional re-review of the court decision according to Article 24 and request for legality protection according to Article 25 is submitted, in a manner determined by Article 28 of this law, to the court to decide according to the request."

Article 63
Other procedure provisions

"If this law does not contain provisions for the procedures on administrative conflicts, the law provisions on civil procedures shall be used."

LAW No. 03/L-006 ON CONTESTED POCCEDURE

Article 182
Untitled

"182.1 Basic violation of provisions of contested procedures exists in case when the court during the procedure didn't apply or wrong application of any of the provisions of this law, while this has or will impact a rightful legal decision.

182.2 Basic violation of provisions of contested procedures exists always:

a) when the court is not made based on provisions or when during the issuance of the verdict was done by the judge who didn't participate in the main hearing;

b) when it is decided on a request which isn't a part of the legal jurisdiction;

c) when the in the issuance of the decision participated the judge who according to the law should be dismissed, respectively the judge was already dismissed by a court decision or in the cases when a person not qualifies as a judge participated in the issuance of the verdict;

d) in cases when the court based on rejection of parties has wrongly decided that it belonged to subject competencies;
e) if it was decided for the request based on the charges raised after the time period previously set by the law;

f) if the court has decided for the claim for which is subject of the highest court of the kind, a court of different kind;

g) if it's contrary to the provisions of this law, the court has based its decision on illegal possession of parties, (article 3. paragraph 3);

h) if it's contrary to the provisions of this law, the court has issued a decision based on confession of the party, disobedience, absence, withdrawal from the claim or without holding of the main hearing;

i) if any of the parties through illegal activity, especially by not offering the opportunity for a hearing in the court;

j) if in opposition with provisions of this law the court has refused the request of the party that in the procedure use its own language and writing, and follow the procedure in ones own language, and for this reason complaints;

k) if in the procedure as a plaintiff or as the accused has participated a person who couldn't be part of the procedure; when the party which is a legal entity was not represented by the authorized person; when the party with lack of procedural knowledge wasn't represented by a legal representative; when the legal representative, respectively the representative with proxy of the party had no necessary authorization for conducting a procedure, respectively performing specific actions in the procedure if the conducting the proceeding, respectively exercising of special actions in proceeding is not alowed;

l) if it was decided for the request for which the procedure is ongoing or for which earlier an absolute decree was reached; or for which the plaintiff once has withdrawn; or for which a court agreement was reached;

m) if in opposition with law the audience was expelled from the main hearing;

n) if the decision has leaks due to which it' can't be examined, especially if the disposition of the decision is not understandable or contradictory in itself with the

reasoning of the verdict, or when the verdict has no reason or which gives no justification for the final facts, or which reasoning are unclear, contradictory, or if in the final facts there are contradictions between what is said in the verdict, the main document or the procedural records and of the document or the minutes of proceeding;

o) if the verdict overpass the claim for charges."

Article 183
Untitled

"183.1 There is a wrong ascertainment or incomplete one regarding the factual state when the court wrongly has verified a crucial fact, respectively when the fact of the kind wasn't verified.

183.2 There is an incomplete ascertainment of the factual state and this is shown by new facts or new proofs."

LAW No. 04/L-141 ON BAR EXAMINATION

Article 6
Terms for Passing the Examination

"1. Candidates who enter the exam must meet the following conditions:

1.1. to be citizens of the Republic of Kosovo.

1.2. to have a lawyer's degree according to a four (4) year program or to have finished the master studies.

1.3. to have worked at least one (1) year in legal matters in court, state prosecutor's office or the law office or to have worked at least two (2) years in professional legal work in the country or abroad, in public institutions, state agencies and administration of international institutions in Kosovo

2. The bar exam can be entered by persons who are not employed in administrative bodies, commercial societies or other legal persons from paragraph 1. of this Article, who as graduated lawyers have done the necessary practice in court, state prosecutor or the attorney's office in order to gain professional training and examination requirements for passing the bar, according to the conditions in subparagraph 1.2. of this Article.

3. A candidate who has a law degree in any university abroad should nostrify the diploma of Faculty of Law at the Ministry of Education, Science and Technology.

4. Graduated lawyers who have passed the professional exam for working in the administration bodies, and those who have passed the professional examination for minor offences judge, shall pass the bar exam as a complementary examination, according to a shortened program, in compliance to the preliminary provisions, by acknowledging the taken exams."

Article 10
Exam Application

1. The request for the Bar Examination is submitted at the Ministry of Justice.

2. Candidates in the request shall declare the official language in which they wish to sit the exam and whether they sat the exam earlier.

3. The candidate attaches, to the request, the evidence of completing the exam requirements from Article 6 of this law on being graduated in law faculty and having the legal work experience.

4. Persons are issued a certificate for the practice, under Article 6 paragraph 2. of this Law, by the President of Court, State Prosecutor's Office, or the Advocates' Chamber where the person is registered as a trainee lawyer.

5. In taking the examination according to the shortened program the candidate is required, in addition to the testimony from the previous paragraph, to attach proof of professional exam taken for work in administrative bodies, respectively the proof of the exam taken for minor offenses judge.

6. Respective Commission of the Ministry by decision determines if the candidate meets the requirements for the bar exam. Against decision of the commission, an appeal may be submitted to the Minister of Justice, in terms eight (8) days. The Minister within five (5) days shall decide on the appeal of the candidate. The Minister's decision is final.

Admissibility of the Referral

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

42. In this regard, the Court refers to paragraph 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, which establishes:

"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."

43. The Court further examines whether the Applicant has met the admissibility criteria as set out in the Law. In this regard, the Court first refers to Articles 47 (Individual Request), 48 (Accuracy of the Referral) and 49 (Deadlines) of the Law, which stipulate:

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 ...".

44. In assessing the fulfilment of the admissibility criteria as referred above, the Court notes that the Applicant specified that he challenges an act of a public authority, namely the Judgment [ARJ. no. 36/2022] of the Supreme Court, of 13 June 2022, after having exhausted all legal remedies established by law. The Applicant also clarified the 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 deadline set in Article 49 of the Law.

45. In addition, the Court examines whether the Applicant has met the admissibility requirements specified in Rule 34 [Admissibility Criteria] of the Rules of Procedure. Rule 34 (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. Specifically, Rule 34 (2) states that:

"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."

46. The Court recalls that the aforementioned rule, based on case law of the ECtHR as well as that of the Court, allows the latter to declare referrals inadmissible for reasons related to the merits of a case. More specifically, based on this rule, the Court can declare a referral inadmissible after assessing its merits, namely if it considers that the content of the referral is manifestly ill-founded on constitutional basis, as stipulated in paragraph (2) of Rule 34 of the Rules of Procedure (see case KI04/21, Applicant: *Nexhmije Makolli,* Resolution on Inadmissibility of 12 May 2021, paragraph 26; also see case KI175/20, Applicant: *Kosovo Privatization Agency*, Resolution on Inadmissibility of 27 April 2021, paragraph 37).

47. Based on the case law of the ECtHR but also of the Court, a referral may be declared inadmissible as "*manifestly ill-founded*" in its entirety or only with respect to any specific claim that a referral may contain. In this regard, it is more accurate to refer to the same as "manifestly ill-founded claims". The latter, based on the case law of the ECtHR, can be categorized into four separate groups: (i) claims that qualify as claims of "fourth instance"; (ii) claims that are categorized as "clear or apparent absence of a violation"; (iii) "unsubstantiated or unsupported" claims; and finally, (iv) "confused or far-fetched" claims. (see case KI04/21, cited above, paragraph 27, and case KI175/20, cited above, paragraph 38).

48. In the context of assessing the admissibility of the Referral, namely in assessing whether it is manifestly ill-founded on constitutional basis, the Court will first recall the

essence of the case contained in this Referral and the respective allegations of the Applicant, in the assessment of which the Court will apply the standards of the ECtHR case law which, based on Article 53 [Interpretation of Human Rights Provisions] of the Constitution, it is obliged to interpret the fundamental rights and freedoms guaranteed by the Constitution (see case KI04/21, cited above, paragraph 28).

49. The Court notes that the essence of this case is related to the Applicant's request to enter the Bar Examination at the Ministry of Justice. The Ministry of Justice's Commission for the Evaluation of Candidates' Applications for the Bar Examination rejected the Applicant's request to be permitted to enter the Bar Examination. Meanwhile, the Applicant filed a complaint with the Ministry of Justice, which rejected the Applicant's complaint against the Commission for the Evaluation of Candidates' Applications for the Bar Examination as unfounded. The Applicant filed a complaint with the Basic Court. The Basic Court approved the Applicant's statement of the claim and annulled the decision of the Ministry of Justice. The Ministry of Justice filed an appeal with the Court of Appeals. The Court of Appeals approved the appeal of the Ministry of Justice and remanded the case to the Basic Court for reconsideration and retrial. In the retrial, the Basic Court approved the Applicant's claim and annulled the decision of the Ministry of Justice. The Ministry of Justice once again appealed to the Court of Appeals, and the latter approved the appeal of respondent Ministry of Justice, modified the Judgment of the Basic Court, and rejected the Applicant's statement of the claim. The Applicant submitted a request for extraordinary review of the court decision, alleging violations of substantive and procedural law. The Supreme Court rejected the request for extraordinary review of the court decision, filed by the Applicant against the Judgment of the Court of Appeals, as unfounded.

50. The Court recalls that the Applicant essentially alleges that by denying him the right to enter the Bar Examination, the Ministry of Justice, the Court of Appeals, and the Supreme Court have committed: (i) violation of Article 31 of the Constitution and Article 6 (1) of the ECHR due to the deficient reasoning of their decisions; (ii) violation of Article 24 of the Constitution and Article 14 of the ECHR and Article 1 of Protocol No. 12 of the ECHR due to objectively unjustified discrimination against him compared to candidates with educational qualifications from the Faculty of Law of the Republic; and, (iii) as a consequence of deficient reasoning and objectively unjustified discrimination, the Applicant also claims that his right to work and exercise profession under Article 49 of the Constitution has been violated, as he is not allowed to enter the Bar Examination.

51. The Court considers that the assessment of proceedings is made in their entirety, that is, whether they were fair or not is assessed taking into account their development in their entirety (see the cases of the ECtHR, *Ankerl v. Switzerland*, no. 17748/91, Judgment of 23 October 1996, paragraph 38; and *Centro Europa 7 Srl and Di Stefano v. Italy*, no. 38433/09, Judgment of 7 June 2012, paragraph 197). Consequently, any defect in the correctness of the proceedings can, under certain conditions, be corrected at a later stage, or at the same instance (see ECtHR case *Helle v. Finland*, no.157/1996/776/977, Judgment of 19 December 1997, paragraph 54), or by a higher court (see ECtHR case *Schuler Zgraggen v. Switzerland*, no. 14518/89. Judgment of 24 June 1993, paragraph 52).

52. In this regard, the Court refers to the reasoning of the Court of Appeals: "*The panel finds that the first-instance court violated Article 183 paragraphs 1 and 2, because the reasons on which the first-instance court's judgment is based, regarding the complete and correct establishment of the factual situation, were erroneously proven and the substantive law was applied erroneously, which influenced the issuance of an unlawful and unfair judgment. The panel considers that the first-instance court acted incorrectly when it established the factual situation as in the appealed judgment, by*

approving the claimant's (Applicant's) claim and annulling the decision of the respondent, because the decision issued by the respondent is a fair decision and based on the law. The respondent rejected the Applicant's complaint because the complainant does not meet the criteria set out in Article 6 of Law No. 04/L-141 on the Bar Examination as he failed to prove whether he has completed basic studies in the field of law (law faculty) in a corresponding study program in accordance with the National Qualifications Framework and he has no evidence of completing the basic (bachelor) studies of level (6) according to the National Qualifications Framework, failing to fulfill the obligation referred to in Article 10 paragraph 3 of Law No. 04/L-141 on the Bar Examination. The Judgment had to be modified because the factual situation was not correctly established as it is clearly seen from the case files that the claimant (Applicant) did not make credible his request to enter the Bar Examination under the conditions provided by the provisions of Law No. 04/L-141 on the Bar Examination, provided by Article 6 and Article 10 par. 3 of this Law, facts these which are sufficient for this court to amend the first-instance judgment and to upheld the decision of the administrative body in force."

53. The Court also points out the findings of the Supreme Court: "*The Court of Appeals correctly established the factual situation and correctly applied substantive law in its decision-making, including the approval of the appeal of the respondent, Ministry of Justice, the modification of the appealed judgment of the first instance, and rejecting the claimant's (Applicant's) claim as unfounded, regarding the annulling of the decision of the respondent, Ministry of Justice, No. 04/2019 dated 11.01.2019. The Supreme Court reviewed these claims in the request in their entirety on legal grounds and considers that they are not grounded nor based on evidence and facts, therefore they are not influential in establishing a different situation from that established by the second-instance courts. The claimant (Applicant) did not present any evidence at any stage of the review of his case, in the administrative procedure before the responding body (even though it was requested and he was given a deadline) and neither in the court proceedings, that he has completed basic studies in the field of law or in a corresponding program in accordance with the National Qualifications Framework in order to recognize the grade 6 (six) of basic (bachelor) studies. Even though the claimant (Applicant) states that he has completed a four-year bachelor with a pre-law focus and an eight-semester "Juris Doctor" program but nevertheless does not submit it as evidence, therefore this proves that he does not meet the legal conditions to enter the Bar Examination, in the absence of evidence of completion of basic studies, before registering and completing Master's studies. Also, in the Master's diploma, Juris Doctor, does not appear the "eight-semester" program, as stated by the Applicant in the request for extraordinary review. Therefore, based on the above, it is not proven that the claimant (Applicant) has met the legal conditions in the sense of Article 10. 3, of the Law on the Bar Examination which provides that the candidate shall attach to application for the exam the evidence that he/she meets the conditions referred under Article 6 of this Law, for the completion of the Law Faculty.*"

54. The Court also refers to the Applicant's response of 2 March 2023, wherein the Applicant highlighted: "On 14 December 2018, I filed an application to enter the Bar Examination in the Republic of Kosovo, according to Law No. 04/L-141. Article 6.1.2 of that Law provides that candidates must "*have a lawyer's degree according to a four (4) year program or to have finished the master studies*." Thus, either a four-year degree or a master's degree is required, but not both. The conjunction or has that meaning. I have submitted evidence of my master's studies, which is level 7 of the National Qualifications Framework. The Ministry of Justice and the regular courts (except for the Basic Court), without legal grounds, have requested evidence of bachelor's studies or level 6 and have completely disregarded my argument that legally the master's degree suffices. It is entirely irrelevant the Supreme Court's finding that I have not submitted

evidence of studies in a "corresponding program" of level 6. Firstly, such evidence is not legally required. Secondly, law faculties in many countries award the first degree of level 7, surpassing level 6. Thirdly, the Ministry of Justice could have sought assistance according to Article 34 of Law No. 05/L-031 on General Administrative Procedure, to become acquainted with the facts and documents in possession of a state institution. The Ministry of Education recognized my basic studies diploma with decision No. 6-2214, of 16 May 2016. But evidence of level 6 studies was not a legal requirement to enter the Bar Examination in Kosovo, and no administrative body or court should have dealt with that issue since I have proved studies of level 7 in law."

55. In this context, the Court refers to the response of MEST, of 2 March 2023 emphasized: "*According to AI 12/2018, Principles and Procedures of Recognition of Vocational High School Diplomas and University Degrees Earned Outside the Republic of Kosova, the equivalence recognition of diplomas in NARIC is made for employment purposes. Mr. Mjeku has complained to the justice bodies as to why his "Juris Doctor" degree was recognized by NCR as a professional master's degree (level 7 according to the NQF) and not as level 8 (doctorate). NCR recognized his "Juris Doctor" degree as a professional degree of level 7 according to the NQF. The "Juris Doctor" degree cannot be equated with the "Graduated Lawyer" title, which is earned in Kosovo. This is due to the fact that for Graduated Lawyer, studies last three years, whereas to earn the "Graduated Lawyer" title, the studies must be four years. It is worth noting that to equate a degree obtained abroad with an equivalent or similar degree in Kosovo, according to Article 10 paragraph 4 of UA 12/2018, the similarity of the program in both countries must be at least 70%. Our opinion is based on the decisions of NARIC, specifically the Division for Recognition and Equivalence and the National Council for Recognition (NCR).*"

56. In the lights of the above, the Court notes that the Court of Appeals and the Supreme Court: **(i)** have provided a comprehensive reasoning on all central issues of the Applicant's case, indicating that the Applicant was given the opportunity to present arguments against the responding party, the Ministry of Justice; **(ii)** the Court of Appeals and the Supreme Court have established the legal basis by providing sufficient and logical explanations about the legal conditions that must be met to have the right to enter the bar examination; **(iii)** the Court of Appeals and the Supreme Court explained that the Applicant did not submit the evidence — contrary to what he had claimed — proving that he does not meet the conditions to enter the bar examination, as defined by the relevant provisions of the LBE; and, **(iv)** from the response of the MEST, of 2 March 2023, results that the Applicant has not proven that the program from which he received his diploma has reached a similarity measure of at least 70% to be considered equivalent to the "graduated lawyer" degree awarded by higher education institutions in the Republic of Kosovo.

57. The Court considers that the claim of replacing the conjunction "or" with conjunction "and" in essence is an allegation as to how the Supreme Court interpreted and applied the law in the Applicant's case. In this regard, the Court has consistently stated that it is not the role of this Court to review the conclusions of regular courts regarding the factual situation and the application of substantive law, and that it cannot assess the facts which led a regular court to make one decision rather than another. Otherwise, the Court would be acting as a "fourth instance" court, which would result in exceeding the limits established in its jurisdiction. (See, in this context, the case of the ECtHR *García Ruiz v. Spain*., no. 30544/96, Judgment of 21 January 1999, paragraph 28 and the references used therein; and see also the cases of the Constitutional Court KI128/18 Applicant *Limak Kosovo International Airport Sh.A. "Adem Jashari"*, Resolution on Inadmissibility of 27 May 2019, paragraph 56; and KI62/19 Applicant *Gani Gashi*, Resolution on Inadmissibility of 13 November 2019, paragraph 58).

58. The Court reiterates that in this individual Referral, it shall not assess the constitutionality of the LBE but only whether the regular courts have interpreted and applied the law in accordance with the fundamental rights and freedoms guaranteed by the Constitution. In this context, the Court — in line with the principle of subsidiarity of individual Referrals — reiterates that there are no weighty reasons to question the interpretation and application of the law by the relevant ministries and regular courts (see, *mutatis mutandis,* the case of the Court KI185/22 Applicant *Salih Topalli*, Resolution on Inadmissibility, of 8 February 2023, paragraph 48).

59. Again, regarding the issue of misinterpretation and misapplication of the law, the Court reiterates that concerning the regular courts, the Supreme Court is the highest judicial authority in the Republic of Kosovo (see Article 103.2 of the Constitution) and that its interpretation of the relevant legal provisions and other legal issues prevails over the legal interpretations of lower instance courts as well as the parties to the litigation. In the present case, the assessment and interpretation of legal provisions do not raise issues of procedural guarantees referred to in Article 31 of the Constitution and Article 6 (1) of the ECHR (see the cases of the Court KI37/21 Applicants *Isa Tusha, Naser Tusha, and Miradije Tusha*, Resolution on Inadmissibility, of 8 September 2021, paragraph 65; also see KI156/22 Applicant "*Thermo SHPK*", Resolution on Inadmissibility, of 12 April 2023, paragraph 58).

60. In the context of the claim for insufficient reasoning, the Court reminds that both the Court and the ECtHR in their case law have emphasized that Article 31 of the Constitution, namely Article 6, paragraph 1 of the ECHR, oblige courts to provide reasons for their decisions; they have also established that this cannot be interpreted as a requirement for a detailed response to every argument. (See the cases of the Court no. KI174/21 Applicant *Bashkim Makiqi*, Resolution on Inadmissibility of 16 February 2022, paragraph 57, and no. KI97/16 Applicant *IKK Classic*, Judgment of 4 December 2017, paragraph 49; also see the cases of the ECtHR *Van de Hurk v. The Netherlands*, no. 16034/90, Judgment of 19 April 1994, paragraph 61; *Higgins and others v. France*, no. 134/1996/753/952, Judgment of 19 February 1998, paragraph 42).

61. The Court considers that the challenged decisions of the regular courts are reasoned and contain verified facts, relevant legal provisions, and the logical relation between them. (see the cases of the Court, no. KI174/21 Applicant *Bashkim Makiqi*, cited above, paragraph 58, and no. KI72/12, Applicants *Veton Berisha and Ilfete Haziri,* Judgment of 17 December 2012, paragraph 61, and no. KI135/14, Applicant *IKK Classic*, Judgment of 9 February 2016, paragraph 58).

62. The Court notes that the Court of Appeals and the Supreme Court have found that the "Juris Doctor" degree provided by the Applicant is not equivalent to the "Graduated Lawyer" degree awarded after completing university education in the field of law in the Republic of Kosovo. This finding of the Court of Appeals and the Supreme Court was also verified by the response of MEST submitted to the Court on 1 March 2023.

63. The Court reiterates that in this case it has assessed the correctness of the procedures in their entirety and reiterates that, in accordance with the principle of subsidiarity, it does not find weighty reasons to substitute with its own assessment the assessment of the regular courts regarding the issue of whether the Applicant is a "Graduated Lawyer" or not (see, *mutatis mutandis*, the case of the Court KI107/22, Applicant *Valdet Avdiu*, Resolution on Inadmissibility of 18 January 2023, paragraph 47).

64. Regarding the Applicant's claims of violations of Articles 24 and 49 of the Constitution, in the context of claims of discrimination and exercise of profession, the Court repeats

that regular courts have merely applied and interpreted the relevant law concerning the recognition of the "Graduated Lawyer" degree, which is valid for all candidates wanting to enter the bar exam, and in this sense, the regular courts have not set different conditions for the Applicant compared to other candidates. The Court also considers that the Applicant has not demonstrated compared to which individual or group of individuals he was treated differently/discriminated against and how his right to work and exercise profession was violated.

65. Despite the claims of the Applicant and considering the proceedings developed in their entirety before the regular courts, the Court finds that the Applicant benefited from the adversarial proceedings and was able to submit at various stages of the proceedings the claims and evidence he considered important for his case; he had the opportunity to effectively refute the claims and evidence submitted by the opposing party; the regular courts heard and examined all his claims, which, objectively viewed, were significant for resolving the case; factual and legal reasons for the challenged decisions were given in detail, and the proceedings, viewed in their entirety, were fair (see, *mutatis mutandis*, the case of the ECtHR, *Garcia Ruiz v. Spain*, , cited above, paragraphs 29 and 30; also, see the case of the Court no. KI22/19, Applicant *Sabit Ilazi*, Resolution on Inadmissibility of 7 June 2019, paragraph 42).

66. Therefore, the Court concludes that the Applicant's claims of violation of the right to a fair and impartial trial guaranteed by Article 31 of the Constitution and Article 6 of the ECHR are claims qualified as "unsubstantiated or unreasoned" claims and as such, these claims of the Applicant are manifestly ill-founded on constitutional grounds, as defined in paragraph (2) of Rule 34 of the Rules of Procedure.

67. Regarding the Applicant's claims of violations of Articles 24 and 49 of the Constitution in conjunction with Article 14 of the ECHR and Article 1 of Protocol No. 12 to the ECHR, the Court considers that these claims will not undergo constitutional review because they do not raise any new issue that has not been previously addressed under Article 31 of the Constitution in conjunction with Article 6 of the ECHR. (see the case of the Court no. KI215/21,, Applicants *Arbër Shkreli and others*, Resolution on Inadmissibility of 15 February 2022, paragraph 93 and the references mentioned therein).

FOR THESE REASONS

The Constitutional Court, in accordance with Article 113.7 of the Constitution, Articles 20 and 47 of the Law, and Rules 34 (2) and 48 (1) of the Rules of Procedure, on 13 February 2024,

DECIDES

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

II. TO NOTIFY this Decision to the Parties;

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

IV. This decision is effective as of the date of its publication in the Official Gazette in accordance with paragraph 5 of Article 20 of the Law.

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

This translation is unofficial and serves for informational purposes only.