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

Prishtina, on 28 October 2024
Ref. no.: AGJ 2572/24

This translation is unofficial and serves for informational purposes only.

JUDGMENT

in

Case No. KI36/23

Applicant

"DONA-IMPEX" Sh.p.k.

Constitutional review of Judgment E. Rev. No. 45/2021 of the Supreme Court of Kosovo, of 10 November 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
Jeton Bytyqi, Judge

Applicant

1. The Referral was submitted by "DONA-IMPEX" L.L.C., headquartered in Prishtina, represented by Ymer Bardhi, a lawyer from Prishtina (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges the constitutionality of the Judgment [E. Rev. no. 45/2021] of 10 November 2022 of the Supreme Court of Kosovo (hereinafter: the Supreme Court), in conjunction with the Judgment [Ae. no. 355/2019] of 8 March 2021 of the Court of Appeals of Kosovo (hereinafter: the Court of Appeals), and the Judgment [I. EK. no. 624/18] of 30 July 2019 of the Basic Court in Prishtina – Commercial Matters Department (hereinafter: the Basic Court).

Subject matter

3. The subject matter is the constitutional review of the challenged judgment, which allegedly violates the Applicant's fundamental rights and freedoms guaranteed by Article 3 [Equality Before the Law], Article 24 [Equality Before the Law], Article 31 [Right to Fair and Impartial Trial], and Article 54 [Judicial Protection of Rights] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), as well as Article 6 (Right to a fair trial), Article 13 (Right to an effective remedy), and Article 14 (Prohibition of discrimination) of the European Convention on Human Rights (hereinafter: ECHR). The Applicant also alleges violations of Articles 1 and 2 of the International Convention on the Elimination of All Forms of Racial Discrimination. (Court's clarification: the Applicant refers to Articles 1 and 2 of the International Convention on the Elimination of All Forms of Racial Discrimination, but the content of the aforementioned Articles 1 and 2, to which the Applicant refers in the case file, is analogous to the content of Articles 1, 2, 4, and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted and opened for signature and ratification by the General Assembly with its Resolution 2106 (XX) of 21 December 1965, entered into force on 4 January 1969, in accordance with Article 19).

4. The Applicant also alleges violations of Article 2, paragraph 1 (J), Article 4, and Article 8 of Law No. 2004/3 the Anti-Discrimination Law

Legal basis

5. The Referral is based on paragraph 4 of Article 21 [General Principles] and 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).

6. 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 favourable for the parties.

Proceedings before the Constitutional Court

7. On 10 February 2023, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).

8. On 16 February 2023, the President of the Court by Decision [No. GJR. KI36/23] and Decision [No. KSH. KI36/23] appointed Judge Remzije Istrefi-Peci as Judge Rapporteur and the Review Panel composed of judges: Gresa Caka-Nimani (Presiding), Radomir Laban and Nexhmi Rexhepi (members).

9. On 28 February 2022, the Court notified the Applicant of the registration of the Referral. On the same day, a copy of the Referral was served on the Supreme Court.

10. On 24 August 2023, the Court requested clarifications from the Supreme Court regarding the challenged decision, specifically concerning a paragraph which appears to be in contradiction with its own enacting clause.

11. On 29 July 2023, the Supreme Court submitted the requested clarifications to the Court.

12. On 11 March 2024, Judge Jeton Bytyqi took the oath before the President of the Republic of Kosovo, thereby commencing his mandate at the Court.

13. On 29 April 2024, the Review Panel considered the report of the Judge Rapporteur and assessed that the Referral requires further examination and will be reconsidered in one of the upcoming sessions.

14. On 11 September 2024, the Review Panel considered the report of the Judge Rapporteur and unanimously recommended to the Court the admissibility of the Referral and a review on the merits.

15. On the same day, the Court unanimously (i) held that the Referral is admissible; (ii) found that there has been a violation of paragraph 1 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; (iii) declared the Judgment [E. Rev. no. 45/2021] of 10 November 2022 of the Supreme Court invalid; (iv) remanded the Judgment [E. Rev. no. 45/2021] of 10 November 2022 of the Supreme Court for reconsideration, in accordance with this Court's Judgment.

Summary of facts

16. From the case file, it results that on 6 April 2005, the Applicant entered into a Lease Contract (no. 03/706/1) with the Public Housing Enterprise (hereinafter: PHE), for the use of commercial premises – a warehouse, with an area of 257.50 m^2, a relationship which was extended with the contracts dated 7 March 2006, 27 August 2007, 15 September 2009, and tacitly until 7 March 2014.

17. On 13 November 2006, the PHE filed a lawsuit with the Municipal Court in Prishtina (hereinafter: the Municipal Court), for the payment of debt for the contested period (2005–2014) based on the lease contract of the commercial premises.

18. On 19 May 2008, the Municipal Court, through Decision number [2212/06], declared itself lacking subject-matter jurisdiction to decide over this contentious legal matter.

19. On 14 March 2014, the PHE Commission closed the warehouse that had been the object of the lease contract, stating that during the period 2005–2014, the Applicant's total debt in the name of lease amounted to 33,766.01 euros.

20. On 11 January 2016, the Municipal Court referred the case to the Basic Court.

First proceedings in the regular courts

21. On 10 October 2016, the Basic Court, through Judgment [I. C. no. 34/2016], approved in its entirety the statement of the claim of PHE, which was related to the payment of debt for the contested period (2005–2014) based on the lease contract of the commercial premises.

22. Against the aforementioned judgment, the Applicant filed an appeal with the Court of Appeals, alleging erroneous establishment of the factual situation and erroneous application of substantive law.

23. On 20 November 2018, the Court of Appeals, through Decision [Ae. no. 281/2016], (i) approved the appeal of the Applicant; (ii) quashed the Judgment [I. C. no. 34/2016] of the Basic Court and remanded the case for retrial and reconsideration. In its decision, the Court of Appeals found that the first-instance judgment was issued "*in contradiction with Article 8 of the LCP because it did not carefully assess each piece of evidence separately and all of them together.*".

Summary of facts related to the criminal procedure

24. It appears from the case file that on 15 December 2016, the Applicant filed a criminal report against the responsible person of PHE, due to a reasonable suspicion that the same: "*in an absolutely arbitrary and unilateral manner drafted the Minutes of the meeting number No. 03-629 dated 11.03.2014, wherein, in the place designated for the signature of the 'Party' (in the capacity of lessee), without the physical presence and without the authorization of the reporting economic entity, wrote the name, surname, address, and ID number of the reporter [E.K.], and thus, by exploiting his position and exceeding his legal authorizations, with the aim of unjust material gain and contrary to the law of the economic entity Public Housing Enterprise – Prishtina, being aware that by acting in an absolutely unlawful manner, the reporting economic entity 'DONA – IMPEX' LLC – Prishtina, would suffer irreparable material damage without any right, by obliging the payment of lease even for the time period during which the reporting Company did not use at all the warehouse owned by the Public Housing Enterprise – Prishtina, thus, by acting contrary to the laws in force, there exists a reasonable suspicion that he committed: – a criminal offense under Article 290 (Misuse of economic authorizations), a criminal offense under Article 335 (Fraud), a criminal offense under Article 414 (Misuse of official position or authority), a criminal offense under Article 426 (Fraud in office), as well as a criminal offense under Article 434 (Falsifying official document) of the Criminal Code of the Republic of Kosovo*".

25. On 5 January 2019, the Applicant submitted to the Basic Prosecution Office in Prishtina the submission "*Urgency for acceleration of procedure*", stating that: "*Since the Public Housing Enterprise – Prishtina, with a lawsuit filed with the Basic Court in Prishtina, has*

initiated a civil dispute with the legal basis: PAYMENT OF LEAS based on MINUTES OF THE MEETING No.: 03-629 dated 10.03.2014, an act which is the object of the subject-matter Criminal Report, it is of existential interest for the reporter, 'DONA – IMPEX' LLC, Prishtina, that the Basic Prosecution Office decides on the merits vis-à-vis the Criminal Report", proposing that the case in question be expedited urgently for review and a decision-making based on merits.

26. The Court does not have further information in the case files regarding subsequent actions related to the aforementioned criminal proceedings.

Procedure upon retrial regarding the statement of claim

27. On 30 July 2019, the Basic Court, acting in retrial, through Judgment [I. EK. no. 624/2018], approved the statement of the claim of PHE as grounded, obliging the Applicant that, based on the lease contract of the commercial premises – warehouse, to pay to the claimant the debt in the amount of 33,766.01 euros, with interest as applied by banks in Kosovo for funds deposited for a period of one year without a specified purpose, calculating from 18 May 2016 until definitive payment.

28. The Basic Court in its judgment assessed that in the present case, although the parties were in a contractual relationship, the Applicant did not fully make the payments related to the debt incurred from the use of the warehouse, and that the regular issuance of invoices by the claimant and the receipt of invoices by the Applicant has the legal effect of the tacit continuation of this legal – obligatory relationship, emphasizing that the Applicant "*had the opportunity to declare through a simple statement that he terminated the contractual relationship and that the warehouse in question was no longer being used, as he did on 11.03.2014. His claim that he informed the claimant by phone that he was not interested in continuing this contractual relationship was not considered by the court as it was merely declarative*".

29. It appears from the case file that the Basic Court, in order to ascertain the amount of the debt, had engaged the financial expert E.P., and from the expert's report results that the Applicant had paid part of the received invoices, whereas as unpaid invoices, respectively as debt, the amount of 33,766.01 euros was ascertained.

30. Against the aforementioned judgment, within the legal deadline, the Applicant filed an appeal with the Court of Appeals, due to: (i) violations of the provisions of the contested procedure, incorrect and incomplete establishment of the factual situation, and (ii) erroneous application of substantive law, proposing to the Court of Appeals that the challenged judgment be quashed and the matter remanded to the court of first instance for retrial and reconsideration, or that the same be modified and the claimant's statement of the claim be rejected in its entirety as ungrounded.

31. On an unspecified date, the PHE submitted a response to the appeal, proposing to the Court of Appeals to dismiss the Applicant's appeal as unfounded and unsubstantiated, and to uphold the Judgment of the Basic Court.

32. On 8 March 2021, the Court of Appeals of Kosovo, through Judgment [Ae. no. 355/19], rejected the appeal of the Applicant as unfounded and upheld the Judgment [I. EK. no. 624/2018] of 30 July 2019 of the Basic Court.

33. The Court of Appeals found that the court of first instance had correctly applied substantive law, specifically the provisions of Article 17, paragraph 1 of the Law on Obligational Relationships, which stipulates that "*Parties to obligation relations shall be bound to carry out their obligation and shall be responsible for its performance*.", emphasizing that in the present case, the parties were in a contractual relation, but the Applicant did not fully make the payments related to the debt incurred from the use of the warehouse, and by not fulfilling his obligation arising from the unpaid lease from the use of the warehouse, he owed the claimant the amount of 33,766.01 euros. Consequently, an obligation relation was created between the litigating parties, in which PHE has the status of creditor and the Applicant has the status of debtor. Based on these provisions, the Court of Appeals assessed that the obligation of the defendant to pay the debt in the adjudicated amount exists.

34. Against the aforementioned judgment of the Court of Appeals, the Applicant timely filed a revision with the Supreme Court, due to essential violations of the provisions of the contested procedure and erroneous application of substantive law, proposing that the Supreme Court admit the Applicant's revision, modify the judgments of the lower instance courts, or quash them and remand the case to the court of first instance for retrial.

35. On an unspecified date, PHE submitted a response to the lawsuit, proposing that the Applicant's revision be rejected as unfounded.

36. On 10 November 2022, the Supreme Court, through Judgment [E. Rev. no. 45/2021], rejected the Applicant's revision filed against the Judgment of the Court of Appeals, as unfounded.

37. In its reasoning, the Supreme Court, in paragraph three (3) of page three (3) of Judgment [E. Rev. no. 45/2021], after rejecting the Applicant's revision as unfounded in the enacting clause of the judgment in question, noted that "*In such a state of affairs, the Supreme Court of Kosovo finds that the judgment of the second-instance court is involved with essential violations of the provisions of the contested procedure referred to in Article 182.2 point (n) of the LCP, because the judgment does not contain reasons for decisive facts, respectively the given reasons are contradictory to the evidence from the case files. In fact, the second-instance court, in the judgment, did not provide reasons as to with what evidence it established that the defendant continued to use the leased property even after the period during which the lease contract was valid and that this contract was not tacitly extended, which implies termination of the contract and for this period there was no obligation to pay the lease*".

38. Further in the aforementioned judgment, the Supreme Court, inter alia, stated: "Based on the provision of Article 596, paragraph 1 of the LOR, it is stipulated that '*Should after the expiration of time covered by contract of lease, the lease-holder continue to use the object without the lessor's objection, a new lease contract shall be considered to have been concluded for an indefinite period, and under the same terms and conditions as the previous one*'. *The defendant used the commercial premises in question even after the expiration of the contract and did not declare or make any request to the claimant that it wishes to terminate the contract and hand over the commercial premises — the warehouse — to the claimant. The invoices submitted by the claimant to the defendant for the use of the warehouse, which were also addressed by the financial expert, relate to the premises in question, and the defendant did not challenge these invoices but received the invoices issued by the claimant until 07.03.2014, when it notified the claimant that it no longer uses the commercial premises. Therefore, the defendant's claims that the invoices*

do not contain essential elements and are drafted contrary to the law are unfounded. Likewise, the claims that the lease contracts have such defects, in accordance with Article 111 of the LCT, and should result in their complete legal nullity, are unfounded because the defendant did not challenge the validity of the lease contracts for any eventual deficiency that would lead to their nullity. The claim that the minutes of the meeting dated 11.03.2014 have the characteristics of a criminal offense and that a criminal report has been filed with the Basic Prosecution Office cannot be admitted because no decision has been made regarding the criminal responsibility of the responsible person of the defendant."

Applicant's allegations

39. The Court recalls that the Applicant alleges that the challenged Judgment allegedly violated his fundamental rights and freedoms guaranteed by Article 3 [Equality Before the Law], Article 24 [Equality Before the Law], Article 31 [Right to Fair and Impartial Trial], and Article 54 [Judicial Protection of Rights] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), as well as Article 6 (Right to a fair trial), Article 13 (Right to an effective remedy), and Article 14 (Prohibition of discrimination) of the European Convention on Human Rights (hereinafter: ECHR). The Applicant also alleges violations of Articles 1, 2, 4, and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination.

40. The Applicant alleges that the Judgment of the Supreme Court involved a violation of paragraph 1 of Article 182 of the LCP, by incorrectly applying the provisions of the aforementioned law because, according to the Applicant, "*the reasonings of the judgments issued by the regular courts of both instances, as well as the Judgment of the Supreme Court of Kosovo, are judgments formulated without the necessary legal foundation, absolutely unclear and without the indispensable inclusion in explaining their proper legal and factual basis*". Consequently, it considers the judgments of the regular courts to be flawed because they "*do not contain a concise summary of the factual findings based on the evidence presented during the judicial proceeding or on the facts obtained by the court itself, as well as a meaningful declaration of the legal basis on which the challenged judgments are objectively based*".

41. Specifically, the Applicant highlights that the challenged judgments of both instances contain unclear and contradictory data, with a complete lack of reasoning, and consequently, are in contradiction with the provision of subparagraph (n) of paragraph 2 of Article 182 of the LCP, adding that "*especially the findings of the Supreme Court of Kosovo articulated in the challenged judgment*".

42. Further in his Referral, the Applicant emphasizes that two invoices were mistakenly delivered to it by PHE, invoices which, according to the Applicant, had nothing to do with the commercial premises — warehouse, the subject matter of this dispute, and the amounts of which were not deducted at all in the Judgment issued by the court of first instance. Moreover, the Applicant considers that PHE had a legal obligation to terminate the lease contract with a simple declaration, "*and that at the first instance when the defendant was sent the appropriate invoice for lease payment — and the payment in the name of lease was not made within the eight (8) day deadline. The termination of the Lease Contract for non-payment of lease, as one of the essential elements of bilateral obligational contracts, was an IMPERATIVE OBLIGATION OF THE CLAIMANT, based on the principle of honesty and conscientiousness, the principle of bona fides, the principle of*

prohibition of abuse of another's rights, as well as the principle of care not to cause material damage to another (Article 124 of the former LCT).".

43. Regarding the adjudicated amount of his obligation to pay the debt in the name of unpaid rents, the Applicant states that "*according to the respective issued invoices, for the period after 31.12.2009 and finally until 07.03.2014, the claimed adjudicated debt has no legal basis whatsoever, since between the litigating parties there were no properly established contractual relations of an economic nature of lease & lessee, and therefore there was no legal basis for the obligation to pay the debt from the legal relationship of lease & lessee*".

44. In his Referral, the Applicant reiterates that it objects the amendment of the lawsuit by PHE, considering that it was done in violation of the provisions of paragraph 1 of Article 257 and Article 258 of the LCP. Also, the Applicant expresses suspicion that in the case file there is no court record confirming the decision-making of the court of first instance on the amendment of the lawsuit and the reasons for it, contrary to the provision of paragraph 6 of Article 258 of the LCP.

45. Furthermore, the Applicant states that after the case was remanded for retrial and reconsideration in the court of first instance, the same court did not heed the remarks and findings of the court of second instance, issuing the challenged Judgment, "*without clarifying the validity of the contested evidence, even basing it on copies of invoices for which it is not clear whether they were presented to the court in original, as such a thing was not contested in the minutes*".

46. Subsequently, the Applicant adds that in this dispute, the claimant's lawsuit and statement of the claim, regarding the alleged debt, are already time-barred.

47. The Applicant also states, "*It is a fact that the challenged judgments are judicial decisions also issued in contradiction with INTERNATIONAL CONVENTIONS and the UNIVERSAL DECLARATION OF HUMAN RIGHTS, the CONSTITUTION OF THE REPUBLIC OF KOSOVO, and LAW No. 2004/3 THE ANTI-DISCRIMINATION LAW of Kosovo {analogous to the relevant provisions of LAW No. 05/L-021 ON PROTECTION FROM DISCRIMINATION}*". In this regard, the Applicant refers to and cites the content of Article 14 of the ECHR, the content of "*Article 3 paragraph 1 point (c) OF THE CONVENTION ON DISCRIMINATION (employment and profession) (Court's clarification: the Applicant refers to Article 3 of the 'Discrimination Convention' without specifying the respective convention*), the content of Articles 1 and 2 of the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the content of "*Article 2, paragraph 1 (j), Article 4, and Article 8 of Law No. 2004/3 the Anti-Discrimination Law,*" and states that in the present case, "*contrary to the principle of honesty and consciousness, the principle of prohibition of causing damage to another and of good care (bona fides), as well as the principle of abuse of rights, PHE unjustly insists on causing the Applicant irreparable material damage, 'with persistent chances up to bankruptcy*".

48. The Applicant considers that in the case of the challenged judgments, "*without any exception, it is a matter of erroneous application of substantive law,*" and that they involve elaboration and adjudication of the matter dealing with "*incorrect or incomplete establishment of the factual situation*".

49. Further, the Applicant assesses that the continued validity of the challenged judgments would not only cause him considerable material damages but also "*the case of these judgments presents legal uncertainty and loss of confidence in the judiciary, and it would not be good judicial practice for the challenged judgments to be used further as a source to help regular courts properly interpret the legal norm, the development of the judicial process, and the qualification of the facts of each case in an adequate manner*".

50. In conclusion, the Applicant proposes to the Court that the Referral be declared admissible for constitutional review.

Clarifications of the Supreme Court

51. The Court recalls once again that on 24 August 2023, it requested from the Supreme Court clarifications regarding paragraph (on page 3 of Judgment [E. Rev. no. 45/2021] of 10 November 2022, of the Supreme Court, which resulted to be in contradiction with the enacting clause as well as the content of the Judgment [E. Rev. no. 45/2021] of 10 November 2022, of the Supreme Court.

52. On 29 July 2023, the Supreme Court submitted to the Court the requested clarifications, as follows:

> *"The judge who presided over the panel in the decision-making procedure according to the revision of the defendant, in the aforementioned judgment, is now retired, therefore, in his absence, I am providing this clarification, emphasizing that the fact is that the paragraph 3 of page 3 of our Judgment E.Rev.no.46/2021 dated 10.11.2022 is in contradiction with the decision-making as in the enacting clause of this judgment, however, this paragraph, in my belief, remained as a technical error from some other judgment and, as such, is not at all related either to the enacting clause or to the reasoning of this judgment whereby the defendant's revision was rejected, whereas if the judgment of the second or first instance were involved with essential violations from Article 182.2, point n, of the LCP, then it would necessarily have to quash both judgments or only one of them in terms of Article 223.1 of the LCP, but in this case, the entire other reasoning of this judgment pertains to the rejection of the revision by concluding that the judgments of the first and second instance are fair and lawful. We think that it is a technical error in the writing of this judgment, not having a direct impact on the lawfulness of the same judgment in which the entire part of its reasoning corresponds with the manner of decision-making as in the enacting clause".*

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 54
[Judicial Protection of Rights]

Everyone enjoys the right of judicial protection if any right guaranteed by this Constitution or by law has been violated or denied and has the right to an effective legal remedy if found that such right has been violated.

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.
[...]"

Article 13
(Right to an effective remedy)

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

LAW No. 03/L-006 ON CONTESTED PROCEDURE

Article 182

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;

[...]

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;

Article 257

257.1 Changing the claim means change of the uniqueness of the claim charge, expansion of the claim charge or presentation of a different request from the existing one.
257.2 The charge is not recognized a changed one unless the plaintiff hasn't changed the judicial basis of the claim charge, even though the plaintiff has reduced the claim charge, added or improved the specific sayings mentioned in the claim.

Article 258

258.1 The plaintiff can change the claim at the latest before the finalization of the preliminary hearing or until the beginning of the session for the main hearing of the case if the preliminary session wasn't set. In these cases the court should give the charged party sufficient time to prepare for examining of changed charge.
258.2 After the preliminary session, at the latest till the closure of the main hearing of the case, the court should allow changes to the claim charge if it ascertains that the change is not aimed at the prolonging the proceeding and if the charged party agrees to the change of the claim.
258.3 It is considered that the charged party will agree to the change of the claim if the charged party participates in the examining of the case with a changed claim charge, without opposing earlier the changes.

Admissibility of the Referral

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

54. In this respect, the Court refers to paragraphs 1 and 7 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution which establish:

"1. The Constitutional Court decides only on matters referred to the court in a legal manner by authorized parties."

[...]
7. Individuals are authorized to refer violations by public authorities of their individual rights and freedoms guaranteed by the Constitution, but only after exhaustion of all legal remedies provided by law."

55. The Court further refers to Articles 47 (Individual Requests), 48 (Accuracy of the Referral), and 49 (Deadlines) 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...].

56. The Court also refers to paragraph 4 of Article 21 [General Principles] of the Constitution, which stipulates: "*Fundamental rights and freedoms set forth in the Constitution are also valid for legal persons to the extent applicable*".

57. In this regard, the Court notes that the Applicant has the right to submit a constitutional complaint, invoking alleged violations of his fundamental rights and freedoms, which apply to individuals and legal entities (see Court case KI41/09, Applicant *Universiteti AAB-RiINVEST L.L.C.,* Resolution on Inadmissibility of 3 February 2010, paragraph 14; and see case KI26/19, Applicant *Xhavit Thaqi, owner of the company "NTP INTERBAJ",* Resolution on Inadmissibility of 7 October 2020, paragraph 56).

58. With regard to the fulfillment of these requirements, the Court finds that the Applicant is an authorized party; challenges an act of a public authority, namely Judgment [E. Rev. no. 45/2021] of the Supreme Court, of 10 November 2020; has specified the rights and freedoms he alleges to have been violated; has exhausted all legal remedies provided by law, and has submitted the Referral within the legal deadline.

59. The Court also finds that the Applicant' Referral meets the admissibility criteria set out in paragraph (1) of Rule 34 (Admissibility Criteria) of the Rules of Procedure. The same cannot be declared inadmissible on the basis of the conditions set out in paragraph (3) of

Rule 34 of the Rules of Procedure. Furthermore, and finally, the Court considers that this Referral is not manifestly ill-founded as set out in paragraph (2) of Rule 34 of the Rules of Procedure and, consequently, it must be declared admissible and its merits examined.

Merits

60. The Court initially recalls that the circumstances of the case relate to a Lease Contract concluded between the Applicant and the PHE, for the use of commercial premises - warehouse, and subsequently, the latter filed a lawsuit with the Municipal Court against the Applicant for payment of debt based on the lease contract of the commercial premises. Since the Municipal Court declared itself lacking jurisdiction to decide on the case, the case was transferred to the Basic Court. The Basic Court had approved in its entirety the statement of claim of the PHE and had obliged the Applicant to pay the total debt in the name of lease in the amount of 33,766.01 euros. Following the Applicant's appeal to the Court of Appeals, the latter had approved the appeal and remanded the case for retrial. Subsequently, the Basic Court, acting in retrial, approved in its entirety the statement of claim of the PHE and had obliged the Applicant to pay the aforementioned debt; the Decision of the Basic Court was subsequently upheld by the Court of Appeals and the Supreme Court.

61. The Applicant alleges that through the challenged decision his rights guaranteed in the following articles have been violated: Article 3 [Equality Before the Law], Article 24 [Equality Before the Law], Article 31 [Right to Fair and Impartial Trial], and Article 54 [Judicial Protection of Rights] of the Constitution, as well as Article 6 (Right to a fair trial), Article 13 (Right to an effective remedy), and Article 14 (Prohibition of discrimination) of the ECHR. The Applicant also alleges violations of Articles 1, 2, 4, and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination.

62. The Court notes that the essence of the Applicant's allegations relates to the violation of Article 31 [Right to Fair and Impartial Trial] of the Constitution, alleging that the decisions of the regular courts are not reasoned, respectively lack specific reasoning regarding his allegation of violation of his rights guaranteed by the Constitution. Specifically, the Applicant states that "According to the Law, the reasoning of a judgment with unclear and contradictory data, as is the case of the challenged judgments, is equivalent to a complete lack of reasoning, therefore, even on this basis, it can be said that the challenged judgments have been issued in contradiction with the provision of Article 182 paragraph 182.2 subparagraph (n) of the LCP."

63. Furthermore, the Applicant states that "*In the proceedings before the Supreme Court of the* Republic *of Kosovo, a violation of the provision of Article 182 paragraph 182.1 of the LCP has occurred, since both the Supreme Court and the regular courts of both instances — without any exception, have erroneously applied the provisions of this Law, which has had an impact on issuing an unlawful and unfair judgment. A violation of the provision of the contested procedure exists because the challenged judgments have such flaws due to which the judgments in question become — as such, entirely ungrounded. The flaws of these judgments lie in the fact that they do not contain a concise summary of factual findings based on the evidence presented during the judicial proceeding or on the facts obtained by the court itself, as well as a meaningful declaration of the legal basis on which the challenged judgments are objectively based. It is a rule and legal principle that a judgment must be reasoned concisely and substantively, which in the case of this dispute has not been done*".

64. Based on the above, the Court notes that the Applicant's allegation regarding erroneous application of the law is essentially linked to the lack of reasoning of the judicial decision. Therefore, below, based on the above and in assessing whether the Applicant's right to a reasoned judicial decision has been violated, the Court will first elaborate (i) the general principles regarding the right to a reasoned decision and then (ii) apply the same to the circumstances of the present case.

(i) General principles regarding the right to a reasoned decision

65. The guarantees embodied in paragraph 1 of Article 6 of the ECHR also include the obligation of the courts to provide sufficient reasoning for their decisions. (See ECtHR case *H. v. Belgium*, no. 8950/80, Judgment of 30 November 1987, paragraph 53, and the case of the Court KI143/22, Applicant *Hidroenergji sh.p.k.*, Judgment of 15 December 2022, paragraph 113). A reasoned judicial decision shows the parties that their case has truly been considered.

66. Even though the domestic court has a certain freedom of assessment regarding the selection of arguments and the decision on the admissibility of evidence, it is obliged to justify its actions by giving reasons for all its decisions (see the ECtHR cases: *Suominen v. Finland*, no. 37801/97, Judgment of 24 July 2003, paragraph 36; and case *Carmel Saliba v. Malta,* no. 24221/13, Judgment of 24 April 2017, paragraph 73, and the case of the Court KI143/22, Applicant Hidroenergji sh.p.k., Judgment of 15 December 2022, paragraph 114).

67. The lower instance court or state authority, on the other hand, must give such reasons and justifications to enable the parties to effectively use any existing right of appeal (see the ECtHR case *Hirvisaari v. Finland*, no. 49684/99 of 25 December 2001, paragraph 30). And the case of the Court KI143/22, Applicant *Hidroenergji sh.p.k*, paragraph 115).

68. Article 6, paragraph 1 obliges the courts to give reasons for their decisions, but this does not mean that a detailed response is required for each argument (see the ECtHR cases, *Van de Hurk v. The Netherlands,* no. 16034/90, Judgment of 19 April 1994, paragraph 61; *Garcia Ruiz v. Spain*, no. 30544/96, Judgment of 29 January 1999, paragraph 26; *Perez v. France*, no. 47287/99, Judgment of 12 February 2004, paragraph 81, and the case of the Court KI143/22, Applicant Hidroenergji sh.p.k., cited above, paragraph 116).

69. Whether the Court is obliged to give reasons depends on the nature of the decision taken by the court, and this can only be decided in the light of the circumstances of the case concerned, it is necessary to take into account, among other things, the different types of submissions that a party can submit to the court, as well as the differences that exist between the legal systems of the countries in relation to legal provisions, customary rules, legal positions and the submission and drafting of judgments (see the ECtHR cases *Ruiz Torija v. Spain*, no. 18390/91, Judgment of 9 December 1994, paragraph 29; *Hiro Balani v. Spain*, no. 18064/91, Judgment of 9 December 1994, paragraph 27, and the case of the Court KI143/22, Applicant Hidroenergji sh.p.k., cited above, paragraph 117).

70. Therefore, domestic courts are obliged to:

1. examine the main arguments of the parties (see cases *Buzescu v. Romania*, no. 61302/00, Judgment of 24 August 2005, paragraph 67; *Donadze v. Georgia,* no. 74644/01, Judgment of 7 June 2006, paragraph 35); and

2. examine strictly and with utmost diligence the requirements regarding the rights and freedoms guaranteed by the Constitution, the ECHR and its Protocols (see ECtHR cases: *Fabris v. France*, 16574/08 Judgment of 7 February 2013, paragraph 72; Wagner and JMËL v. Luxembourg, no. 76240/01, Judgment of 28 June 2007, paragraph 96);

71. Article 6, paragraph 1, does not require the Supreme Court to give a more detailed reasoning when it simply applies a certain legal provision regarding the legal basis for rejecting an appeal because such an appeal has no prospect of success (see ECtHR case, *Burg and others v. France,* no. 34763/02; Decision of 28 January 2003; *Gorou v. Greece* (no. 2), no. 12686/03, Decision of 20 March 2009, paragraph 41, and the case of the Court KI143/22, Applicant Hidroenergji sh.p.k., cited above, paragraph 120).

72. Similarly, in a case involving a request for allowing an appeal to be filed, which is a prerequisite for proceedings before a higher instance court, as well as for a possible decision, Article 6, paragraph 1 cannot be interpreted in the sense that it orders a detailed justification of the decision on rejecting the request for filing the appeal (see the ECtHR cases *Kukkonen v. Finland* (no. 2), no. 47628/06, Judgment of 13 April 2009, paragraph 24; *Bufferne v. France*, no. 54367/00; Decision of 26 February 2002, and the case of the Court KI143/22, Applicant Hidroenergji sh.p.k., cited above, paragraph 121).

73. In addition, when rejecting an appeal, the Court of Appeals may, in principle, simply accept the reasoning of the decision given by the lower instance court (see the ECtHR case *Garcia Ruiz v. Spain*, cited above, paragraph 26; see, contrary to this, *Tatishvili v. Russia*, no. 1509/02, Judgment of 9 July 2007, paragraph 62); However, the concept of a fair trial implies that a domestic court that has given a narrow explanation for its decisions, either by repeating the reasoning previously given by a lower instance court or otherwise, was in fact dealing with important issues within its jurisdiction, meaning that it did not simply and without additional effort grant the conclusions reached by the lower instance court (see the ECtHR case *Helle v. Finland,* no. (157/1996/776/977), Judgment of 19 December 1997, paragraph 60, and the case of the Court KI143/22, Applicant Hidroenergji sh.p.k., cited above, paragraph 122).). This requirement is all the more important if the party to the dispute has not had the opportunity to present its arguments orally in the proceedings before the local court.

(ii) Application of general principles to the circumstances of the present case

74. The Court recalls the Applicant's allegations regarding the lack of reasoning of judicial decisions, specifically in relation to Judgment [E. Rev. no. 45/2021] of 10 November 2022 of the Supreme Court, which the Applicant considers flawed due to the lack of reasoning of the judicial decision. The Applicant specifically alleges that the Judgment of the Supreme Court, namely the challenged decision, violates paragraph 1 of Article 182 of the LCP, by erroneously applying the provisions of this aforementioned law, emphasizing that it contains contradictory reasoning.

75. Consequently, the Applicant considers the judgments of the regular courts to be flawed, because they "*do not contain a concise summary of factual findings based on the evidence presented during the judicial proceeding or on the facts obtained by the court itself, as well as a meaningful declaration of the legal basis on which the challenged judgments are objectively based.*" Furthermore, the Applicant considers that the challenged judgments contain unclear and contradictory data, with a complete lack of reasoning, and

consequently, are in contradiction with the provision of subparagraph (n) of paragraph 2 of Article 182 of the LCP.

76. In this respect, the Court refers to the content Article 182 of the Constitution which provides:

> *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.*
>
> *[...]*
>
> *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;*

77. Furthermore, the Court will refer to the content of the decisions of the regular courts to assess whether there has been "sufficient reasoning" in the circumstances of the present case.

78. The Court will further recall the reasoning of Judgment [E. Rev. no. 46/2021] of 10 November 2022 of the Supreme Court, whereby it first had approved the stance of the lower instances as correct and lawful, assessing that the latter had correctly assessed the factual situation and had correctly applied substantive law. Furthermore, the Supreme Court in its reasoning adds that "*Based on the provision of Article 596, paragraph 1 of the LOR, it is stipulated that 'Should after the expiration of time covered by contract of lease, the lease-holder continue to use the object without the lessor's objection, a new lease contract shall be considered to have been concluded for an indefinite period, and under the same terms and conditions as the previous one'. The defendant used the commercial premises in question even after the expiration of the contract and did not declare or make any request to the claimant that it wishes to terminate the contract and hand over the commercial premises — the warehouse — to the claimant. The invoices submitted by the claimant to the defendant for the use of the warehouse, which were also addressed by the financial expert, relate to the premises in question, and the defendant did not challenge these invoices but received the invoices issued by the claimant until 07.03.2014, when it notified the claimant that it no longer uses the commercial premises. Therefore, the defendant's claims that the invoices do not contain essential elements and are drafted contrary to the law are unfounded. Likewise, the claims that the lease contracts have such defects, in accordance with Article 111 of the LCT, and should result in their complete legal nullity, are unfounded because the defendant did not challenge the validity of the lease contracts for any eventual deficiency that would lead to their nullity. The claim that the minutes of the meeting dated 11.03.2014 have the characteristics of a criminal offense and that a criminal report has been filed with the Basic Prosecution Office cannot be admitted because no decision has been made regarding the criminal responsibility of the responsible person of the defendant*".

79. Regarding the Applicant's allegation before the Court that the reasoning of the Supreme Court is contradictory, the Court recalls that the Supreme Court, after in the enacting clause of the judgment rejected the Applicant's revision filed against the Judgment of the Court of Appeals as unfounded and found that Judgment [Ae. no. 355/19] of the Court of Appeals of 8 March 2021, is fair and lawful, further states: "*In such a state of affairs, the Supreme Court of Kosovo finds that the judgment of the second-instance court is involved with essential violations of the provisions of the contested procedure referred to in Article 182.2 point (n) of the LCP, because the judgment does not contain reasons for decisive facts, respectively the given reasons are contradictory to the evidence from the case files. In fact, the second-instance court, in the judgment, did not provide reasons as to with what evidence it established that the defendant continued to use the leased property even after the period during which the lease contract was valid and that this contract was not tacitly extended, which implies termination of the contract and for this period there was no obligation to pay the lease*".

80. In relation to the above paragraph, namely the reasoning of the challenged decision which appears to be in contradiction with the enacting clause of the same, as well as with the very content of the reasoning, the Court recalls that regarding this issue, the latter requested clarifications from the Supreme Court.

81. On 29 July 2023, the Supreme Court, namely Judge SH.S. of the Supreme Court, clarified to the Court that the judge who had presided over the panel in the present case is now retired. However, Judge SH.S. emphasized that from the very content of the challenged judgment, it is evident that it is a matter of a technical error.

82. Based on the above elaboration of the Applicant's allegations as well as the aforementioned legal provisions, in relation to the Applicant's allegations, the Court considers that the Applicant raises essential allegations regarding the addressing of his case, specifically the fact that the challenged decision is contradictory because its enacting clause is not consistent with the reasoning.

83. In this regard, the Court once again recalls the reasoning of Judge SH.S of the Supreme Court, who before the Court, after the request of the latter, clarified that "*The judge who presided over the panel in the decision-making procedure according to the revision of the defendant, in the aforementioned judgment, is now retired, therefore, in his absence, I am providing this clarification, emphasizing that the fact is that the paragraph 3 of page 3 of our Judgment E.Rev.no.46/2021 dated 10.11.2022 is in contradiction with the decision-making as in the enacting clause of this judgment, however, this paragraph, in my belief, remained as a technical error from some other judgment and, as such, is not at all related either to the enacting clause or to the reasoning of this judgment whereby the defendant's revision was rejected, whereas if the judgment of the second or first instance were involved with essential violations from Article 182.2, point n, of the LCP, then it would necessarily have to quash both judgments or only one of them in terms of Article 223.1 of the LCP, but in this case, the entire other reasoning of this judgment pertains to the rejection of the revision by concluding that the judgments of the first and second instance are fair and lawful. We think that it is a technical error in the writing of this judgment, not having a direct impact on the lawfulness of the same judgment in which the entire part of its reasoning corresponds with the manner of decision-making as in the enacting clause*".

84. The Court considers that in the present case, the clarification given by Judge SH.S. of the Supreme Court, who was not part of the adjudicating panel in the challenged decision, does not fully address the Applicant's allegation that the judgment itself is contradictory because its enacting clause is not coherent with the rest of the reasoning. Furthermore, the Court notes that the part of the reasoning which results to be in contradiction with the enacting clause itself does not result to be a mere technical issue. This is because through the same paragraph which ascertains that the lower courts, respectively their decisions, had resulted in fundamental violations of the provisions of the contested procedure, and that they do not contain reasons for decisive facts, they refer to and elaborate on the factual situation of the present case.

85. Based on the above, the Court considers that the Supreme Court through the challenged decision as well as the clarification given by Judge SH.S. of the Supreme Court, had failed to provide concrete and sufficient reasoning to the Applicant's allegations, and moreover, it is not coherent as required by the procedural guarantees of Article 31 of the Constitution in conjunction with paragraph 1 of Article 6 of the ECHR, including the procedural flaws alleged by the Applicant.

86. The Court recalls that the ECtHR in its consolidated jurisprudence has determined that courts with appellate jurisdiction do not need to provide detailed reasoning in cases where they agree with the reasoning given by the court of first instance, despite the fact that the same should also be sufficiently reasoned (see ECtHR case *Garcia Ruiz v. Spain*, cited above, paragraph 31).

87. However, the courts of appeals having jurisdiction to dismiss unfounded appeals and resolve factual and legal considerations in the contested procedure are obliged to justify why they rejected to decide on the appeal (see the ECtHR case *Hansen v. Norway*, no. 15319/09, Judgment of 2 January 2015, paragraphs 77-83);

88. In the light of the above, the Court reiterates that the Supreme Court had the obligation to address the Applicant's substantial issues, which in the circumstances of the present case did not occur.

89. In this regard, the Court considers that the Supreme Court, beyond describing the factual situation and relevant evidence, did not reason the core allegations raised by the Applicant.

90. Finally, the Court reiterates that procedural justice requires that substantial allegations raised by the parties in the regular courts must be adequately addressed, especially if they relate to decisive claims which in the present case refer to the legality of (see the case of the Court KI202/21, *Kelkos Energy, SH.P.K.*, cited above, paragraph 140, and KI143/22, Applicant *Hidroenergji sh.p.k.*, cited above, paragraph 139).

91. Consequently, the Court finds that the challenged Judgment of the Supreme Court does not meet the criteria of a fair and impartial trial, guaranteed by Article 31 of the Constitution, in conjunction with Article 6 of the ECHR, due to the lack of a reasoned decision.

92. The Court states that its finding relates only to the lack of reasoning of the judicial decision, in the present case the challenged Judgment of the Supreme Court, and in no way prejudices the merits of the case.

93. The Court also notes that the Applicant raises allegations of violation of Articles 3 [Equality Before the Law] and 24 [Equality Before the Law] of the Constitution, in conjunction with Article 14 of the ECHR, as well as Article 54 [Judicial Protection of Rights] of the Constitution in conjunction with Article 13 (Right to an effective remedy) of the ECHR. From the Applicant's Referral, the Court notes that in this regard, the Applicant has only mentioned the violation of the articles of the Constitution and the ECHR, without providing reasoning and without supporting his claim regarding how the challenged decision, including the decisions of the lower courts, may have resulted in the violation of the latter.

94. Regarding the Applicant's allegation of violation of Articles 3 and 24 of the Constitution, as well as Articles 13 and 14 of the ECHR, the Court emphasizes that the mere fact that the Applicant does not agree with the outcome of the decisions of the regular courts, as well as mentioning of articles of the Constitution, are not sufficient to build a reasoned allegation of constitutional violations. When alleging such violations of the Constitution, the Applicants must provide reasoned allegations and convincing arguments (See in this context the case of the Court KI136/14, *Abdullah Bajqinca*, Resolution on Inadmissibility of 10 February 2015, paragraph 33).

FOR THESE REASONS

The Constitutional Court, pursuant to Articles 113.7 and 116.1 of the Constitution, and Articles 20, 27 and 47 of the Law and Rules 45 (2) (b) and 48 (1) (a) of the Rules of Procedure, in the session held on 11 September 2024, unanimously:

DECIDES

I. TO DECLARE the referral admissible;

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

III. TO DECLARE the Judgment [E. Rev. No. 45/2021] of the Supreme Court of Kosovo, of 10 November 2022, invalid.

IV. TO REMAND the Judgment [E. Rev. No. 45/2021] of the Supreme Court of Kosovo, of 10 November 2022, for reconsideration, in accordance with the Judgment of this Court;

V. TO ORDER the Supreme Court to notify the Court, in accordance with paragraph 5 of Rule 60 (Enforcement of Decisions) of the Rules of Procedure, by 19 March 2025, of the measures taken to implement this Judgment;

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

VII. TO HOLD that this Judgment is effective as of the date of its publication in the Official Gazette of the Republic of Kosovo in accordance with paragraph 5 of Article 20 of the Law.

Judge Rapporteur	**President of the Constitutional Court**
Remzije Istrefi-Peci	Gresa Caka-Nimani

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