



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE  
УСТАВНИ СУД  
CONSTITUTIONAL COURT**

Prishtina, on 3 March 2014  
No. ref.:RK 558/14

## **RESOLUTION ON INADMISSIBILITY**

in

**Case no. KI150/13**

Applicant

**Halit Lahu**

**Constitutional review of the Decision SCEL-09-0001 of the  
Trial Panel of the Special Chamber of the Supreme Court of Kosovo on  
Privatization Agency of Kosovo Related Matters,  
Dated of 15 March 2011**

### **THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO**

composed of

Enver Hasani, President  
Ivan Čukalović, Deputy-President  
Robert Carolan, Judge  
Altay Suroy, Judge  
Almiro Rodrigues, Judge  
Snezhana Botusharova, Judge  
Kadri Kryeziu, Judge and  
Arta Rama-Hajrizi, Judge

#### **Applicant**

1. The Applicant is Mr. Halit Lahu from Prishtina (hereinafter, the Applicant).

## **Challenged decision**

2. The Applicant challenges the Decision SCEL-09-0001 of the Trial Panel of the Special Chamber of the Supreme Court of Kosovo on Privatization Agency of Kosovo Related Matters (hereinafter, the Trial Panel of the Special Chamber), of 15 March 2011, which was served on the Applicant on 17 April 2011.

## **Subject matter**

3. The subject matter is the constitutional review of the challenged decision, which allegedly violated, among others, the right to a fair trial of the Applicant.

## **Legal basis**

4. The Referral is based on Article 113.7 of the Constitution of the Republic of Kosovo (hereinafter, the Constitution), Articles 20 and 22.7 of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo of 15 January 2009 (hereinafter, the Law) and Rule 29 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter, the Rules of Procedure).

## **Proceedings before the Constitutional Court**

5. On 19 September 2013, the Applicant filed the Referral with the Constitutional Court of the Republic of Kosovo (hereinafter, the Court).
6. On 24 September 2013, the President, by Decision no. GJR.KI. 150/13 appointed Judge Almiro Rodrigues as Judge Rapporteur. On the same day, the President by Decision no. KSH.150/13 appointed the Review Panel composed of judges: Altay Suroy (Presiding), Kadri Kryeziu and Arta Rama-Hajrizi.
7. On 10 October 2013, the Court notified the Applicant and the Special Chamber of the Supreme Court of the registration of Referral.
8. On 20 November 2013, the Review Panel considered the report of the Judge Rapporteur and made a recommendation to the Court on the inadmissibility of the Referral.

## **Summary of the facts**

9. On 27 June 2006, "SOE Ramiz Sadiku" completed the privatization process.
10. On 31 March 2009, the Applicant started judicial proceedings before the Special Chamber of the Supreme Court, complaining in order to ensure his alleged right to 20% share from the privatization of "SOE Ramiz Sadiku".
11. Finally, on 15 March 2011, the Trial Panel of the Special Chamber rejected (Decision SCEL-09-0001) the Applicant's complaint as inadmissible.

12. The Trial Panel of the Special Chamber reasoned as follows:

*“during the hearing and after the administration of the evidence it determined that the Applicant did not present evidence justifying why he missed the legal deadline for filing a complaint against the Agency”. Moreover, in the advice on legal remedy, the Trial Panel of the Special Chamber stated that „the party unsatisfied with the decision of the Trial Panel has the right to appeal within the legal deadline”.*

### **Applicant’s allegations**

13. The Applicant claims that the challenged Decision violates his constitutional rights guaranteed under Article 3 [Equality before the Law], Article 31 [Right to Fair and Impartial Trial], Article 46 [Protection of Property], and Article 54 [Judicial Protection of Rights] of the Constitution of Kosovo.
14. The Applicant requests the Constitutional Court to declare that *“the 20 % share from the privatization belong also to him because as a former employee of SOE Ramiz Sadiku he is entitled to it”*.

### **Assessment of admissibility of the Referral**

15. The Court first examines whether the Applicant has met the admissibility requirements, laid down in the Constitution and further specified in the Law and the Rules of Procedure.
16. In that regard, the Court refers to Article 113.7 of the Constitution which establishes:

*„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.”*

17. The Court also refers to Article 49 of the Law, which provides:

*„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”.*

18. The Court also takes into account Rule 36 (1) b) of the Rules of Procedure, which foresees:

*“(1) The Court may only deal with Referrals if:*

*...  
(b) the Referral is filed within four months from the date on which the decision on the last effective remedy was served on the Applicant.”*

19. The Court notes that the Applicant submitted Referral to the Court on 19 September 2013, whereas the final decision of the Trial Panel of the Special Chamber was served on the Applicant on 17 April 2011.
20. Thus, the Court considers that the Referral is out of time, because it was filed 2 years and 31 days after the expiration of legal time limit provided by Article 49 of the Law and Rule 36 (1) b) of the Rules of Procedure.
21. Therefore, the Court concludes that the Referral must be rejected as inadmissible.

### **FOR THESE REASONS**

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 20 of the Law and Rule 36 (1) b) of the Rules of Procedure, on 20 November 2013, unanimously

### **DECIDES**

- I. TO REJECT the Referral as Inadmissible;
- II. TO NOTIFY the Parties of this Decision;
- III. TO PUBLISH this Decision in the Official Gazette, in accordance with Article 20 (4) of the Law;
- IV. TO DECLARE this Decision effective immediately.

**Judge Rapporteur**



Almiro Rodrigues

**President of the Constitutional Court**



Prof. Dr. Enver Hasani