



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO
GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT

Prishtina, 22 June 2015
Ref. No.:RK 806/15

RESOLUTION ON INADMISSIBILITY

in

Case No. KI165/14

Applicant

Bajram Ahmeti

**Constitutional Review of Judgment Rev. no. 25/2012,
of the Supreme Court of Kosovo, of 10 May 2013**

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
Arta Rama-Hajrizi, Judge and
Bekim Sejdiu, Judge

Applicant

1. The Referral was submitted by Mr. Bajram Ahmeti with residence in Prishtina (hereinafter: the Applicant), who is represented by Mr. Ilaz Qerkinaj, a lawyer from Prishtina.

Challenged decision

2. The Applicant challenges Judgment Rev. no. 25/2012, of the Supreme Court, of 10 May 2013.
3. The Court has already rendered a decision on this matter in case KI163/13, in which as Applicants appear *Naser Dragusha and 6 other employees* (among whom is the Applicant) of Kosovo Energy Corporation (hereinafter: KEK). The Resolution on Inadmissibility in Case KI163/13 was rendered by the Court on 23 June 2014.

Subject matter

4. The subject matter is the constitutional review of the Judgment [Rev. no. 25/2012] of the Supreme Court, of 10 May 2013, which allegedly violated the Applicant's rights guaranteed by Article 31 [Right to Fair and Impartial Trial], Article 49 [Right to Work and Exercise Profession] and Article 54 [Judicial Protection of Rights] of the Constitution of the Republic of Kosovo.

Legal basis

5. The Referral is based on Article 113.7 of the Constitution and Article 47 of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law)

Proceedings before the Constitutional Court

6. On 10 November 2014, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
7. On 5 December 2014, the President of the Court, by Decision GJR. KI165/14, appointed Judge Snezhana Botusharova as Judge Rapporteur. On the same date, the President of the Court, by Decision KSH. KI165/14 appointed the Review Panel composed of Judges: Robert Carolan (Presiding), Almiro Rodrigues and Enver Hasani.
8. On 17 December 2014, the Court notified the Applicant and the Supreme Court of registration of the Referral.
9. On 6 February 2015, after having considered the report of the Judge Rapporteur, the Review Panel recommended to the Court the inadmissibility of the Referral.

Summary of facts

10. On 10 November 2014, the Applicant filed Referral KI165/14, in which, as new facts and evidence, he submitted to the Court only the letter of the EULEX Mission, Ref: 2014-COS-1242, of 2 October 2014.
11. In the letter [Ref: 2014-COS-1242] of 2 October 2014, of the EULEX Mission it was stated: *„that the Constitutional Court has already considered the*

Applicant's case and on this the Court rendered a decision on 23 June 2014, which was registered as KI163/13".

12. In fact, on 18 October 2013, the Applicant together with Naser Dragusha and five other KEK employees submitted a Referral to the Court, which the Court registered under the number KI163/13. In the Referral they challenged the same Judgment of the Supreme Court [Rev. no. 25/2012 of 10 May 2013].
13. Meanwhile, on 23 June 2014, the Court declared the Referral KI163/13 inadmissible because it was manifestly ill-founded (Case KI163/13, Resolution on Inadmissibility, 23 June 2014).
14. The facts and decisions of the regular courts, which the Applicant submitted in this new Referral KI165/14, have already been considered in Case no. KI163/13, as it was decided in the Resolution on Inadmissibility, of 23 June 2014, and accordingly the decisions that have already been subject of review in Case KI163/13 will not be reconsidered by the Court.

Applicant's allegations

15. In the new Referral KI165/14, the Applicant insists that the challenged Judgment violated his rights guaranteed by Article 31 [Right to Fair and Impartial Trial], Article 49 [Right to Work and Exercise Profession] and Article 54 [Judicial Protection of Rights] of the Constitution of the Republic of Kosovo.
16. The Applicant further alleges that the regular courts have violated his constitutionally guaranteed rights, namely his right to payment of personal income.
17. In the conclusion of his Referral, the Applicant requests the Court to enable him to exercise his right to the difference in salary which he is entitled to.

Admissibility of the Referral

18. The Court first examines whether all admissibility requirements, laid down in the Constitution and further specified in the Law and the Rules of Procedure, have been met.
19. In this respect, the Court refers to Article 116.1 of the Constitution [Legal Effect of Decisions], which provides:

Decisions of the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo.

20. In addition, the Court refers to Rule 63 (1) of the Rules of Procedure, which provides:

The decisions of the Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo.

21. Furthermore, Rule 36 (3) (d) of the Rules of Procedure, provides:

A referral may also be deemed inadmissible in any of the following cases:

(...)

d) the Court has already issued a Decision on the matter concerned and the Referral does not provide sufficient grounds for a new Decision.

22. The Court considers that the facts and allegations raised by the Applicant in his new Referral do not provide sufficient or relevant grounds or reasons for a new decision (see the case of the Constitutional Court KIO2/14, Applicant *Hamdi Ademi*, Resolution on Inadmissibility of 26 May 2014).
23. In fact, the Court wishes to recall that it has already dealt with the abovementioned matter in case no. KI163/13, *Naser Dragusha and 6 other KEK employees*, Resolution on Inadmissibility, rendered on 23 June 2014. In its Resolution, the Court declared the Referral inadmissible as manifestly ill-founded, since the facts presented by those Applicants did not in any way justify their allegations of violation of the constitutional rights and that the Applicants did not sufficiently substantiate how and why the Judgment of the Supreme Court violated their rights guaranteed by the Constitution.
24. Therefore, the Court finds that it has already rendered a decision on the subject matter and that the Referral does not contain sufficient grounds for rendering a new decision.
25. Accordingly, pursuant to Article 116.1 of the Constitution, Rule 63 (1) and Rule 36 (3) (d) of the Rules of Procedure, the Court concludes that this Referral must be declared inadmissible.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 116.1 of the Constitution, Rule 63 (1) and Rule 36 (3) (d) of the Rules of Procedure, in the session held on 22 June 2015, unanimously:

DECIDES

- I. TO DECLARE 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 immediately.

Judge Rapporteur



Snezhana Botusharova

President of the Constitutional Court



Prof. Dr. Enver Hasani

