



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

Prishtina, on 1 June 2015
Ref. No.: VHPK 804/15

DECISION TO REJECT THE REFERRAL

in

Case no. KI03/15

Applicant

Hasan Beqiri

**Constitutional Review of Judgment, API-KZI no. 2/2011
of the Supreme Court, of 25 May 2012**

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, and
Bekim Sejdiu, Judge.

Applicant

1. The Applicant is Mr. Hasan Beqiri, who is currently serving a sentence in Dubrava Prison.

Challenged Decision

2. The Applicant challenges Judgment API-KZI no. 2/2011 of the Supreme Court, of 25 May 2012, which, according to Applicant's information, was served on him on 22 December 2014.

Subject Matter

3. Subject matter is the constitutional review of the challenged decision, which allegedly has violated the Applicant's rights guaranteed by the Constitution of the Republic of Kosovo (hereinafter, the Constitution).

Legal Basis

4. The Referral is based on Article 113.7 of the Constitution and Articles 22 and 47 of the Law No. 03/L-121 on Constitutional Court of the Republic of Kosovo (hereinafter, the Law).

Proceedings before the Constitutional Court

5. On 14 January 2015, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter, the Court).
6. On 9 February 2015, the President of the Court appointed Judge Almiro Rodrigues as Judge Rapporteur and the Review Panel composed of Judges Altay Suroy (Presiding), Kadri Kryeziu and Arta Rama-Hajrizi.
7. On 19 February 2015, the Court notified the Applicant on the registration of Referral and requested from him to supplement it with relevant documentation.
8. On 13 May 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

9. The Applicant was accused of a criminal offense, was found guilty and was sentenced to imprisonment. The Applicant is currently serving the sentence in Dubrava Prison.

Applicant's Allegations

10. The Applicant claims that the regular courts violated his rights guaranteed by the Constitution and international conventions, without specifying any concrete constitutional provision.
11. The Applicant alleges that the regular courts did not present correctly the evidence and facts of the case and, therefore, the qualification of the criminal offense was erroneous.
12. Moreover, the Applicant requests that the alleged violation of human rights is assessed by the Court, based on his allegations raised in the Referral.

Admissibility of the Referral

13. The Court first examines whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution and further specified in the Law and Rule of Procedure.

14. Thus, the Court refers to the provisions of the Law that follow.

Article 22.4 [Processing Referrals]

“4. If the referral ... is ... incomplete, the Judge Rapporteur informs the relevant parties or participants and sets a deadline of not more than fifteen (15) days for supplementing the respective referral (...).”

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 (...).”

15. In addition, the Court refers to Rules 29 (2) [Filing of Referrals and Replies] and Rule 32 (5) [Withdrawal, Dismissal and Rejection of Referrals] of the Rules of Procedure, which provides:

29 (2) “The referral shall also include:

[...]

(h) the supporting documentation and information.

[...].”

32 (5) “The Court may summarily reject a referral if the referral is incomplete or not clearly stated despite requests by the Court to the party to supplement or clarify the referral (...).”

16. The Court recalls that the Applicant alleges that the regular courts violated his rights guaranteed by the Constitution and international conventions, because the facts and evidence were not presented in the proper manner and consequently the qualification of the criminal offense was wrong.

17. Pursuant to Article 22.4 of the Law, the Court requested the Applicant to submit the challenged decision and other decisions of the regular courts.

18. However, within the prescribed time limit, the Court has not received any decision of the regular courts.

19. The Court considers that it cannot take into account the Applicant’s allegations without the supporting documents and material evidence, in accordance with Article 22.4 of the Law and Rules 29 (2) (h) and 32 (5) of the Rules of Procedure.

20. The Court further considers that the Applicant has not shown a *prima facie* case, in order for the Court to assess the fulfillment of all procedural requirements on admissibility.
21. In addition, the Court emphasizes that it is not a fact-finding court and the burden of proof lies with the Applicant who failed to meet the procedural requirements laid down in the Constitution, the Law and the Rules of Procedure.
22. In sum, the Court considers that the Applicant's Referral does not meet the procedural requirements for further consideration due to non-completion of his Referral with the relevant documents, as required by Article 22.4 and 48 of the Law and Rule 29 (2) (h) of the Rules of Procedure.
23. Therefore, the Court concludes that Referral is to be summarily rejected and thus is inadmissible.

FOR THESE REASONS

The Constitutional Court, in accordance with Article 113.7 of the Constitution, Article 22.4 and 48 of the Law and Rules 29 (2) (h), 32 (5) and 56 (2) of the Rules of Procedure, on 1 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; and
- IV. TO DECLARE this Decision effective immediately.

Judge Rapporteur

Almiro Rodrigues



President of the Constitutional Court

Prof. Dr. Enver Hasani

