



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE  
УСТАВНИ СУД  
CONSTITUTIONAL COURT**

Prishtina, 13 July 2017  
Ref. No.: RK 1102/17

## **DECISION ON WITHDRAWAL OF REFERRAL**

in

**Case No. KI04/17**

Applicant

**Z. K.**

**Assessment of Applicant's request to withdraw the Referral**

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

composed of

Arta Rama-Hajrizi, President  
Ivan Čukalović, Deputy President  
Altay Suroy, Judge  
Almiro Rodrigues, Judge  
Snezhana Botusharova, Judge  
Bekim Sejdiu, Judge  
Selvete Gërxhaliu-Krasniqi, Judge and  
Gresa Caka-Nimani, Judge

#### **Applicant**

1. The Referral was submitted by Z. K. (hereinafter: the Applicant).

## **Subject matter**

2. The subject matter is the assessment of the Applicant's request to withdraw the Referral and the request for nondisclosure of identity.

## **Legal basis**

3. The Referral is based on Article 113 paragraph 7 of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), Articles 22 and 23 of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law), and Rules 29 (6) and 32 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

## **Proceedings before the Constitutional Court**

4. On 13 January 2017, the Applicant submitted a Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
5. On 20 February 2017, the Court notified the Applicant about the registration of the Referral and sent a copy of the Referral to the Supreme Court.
6. On 24 February 2017, the President of the Court appointed Judge Bekim Sejdiu as Judge Rapporteur and the Review Panel composed of Judges: Ivan Čukalović (presiding), Selvete Gërxhaliu-Krasniqi and Gresa Caka- Nimani (judges).
7. On 27 March 2017, the Applicant submitted a letter to the Court requesting withdrawal of the Referral.
8. On 2 June 2017, after having reviewed the report of the Judge Rapporteur, the Review Panel recommended to the Court to grant the Applicant's request to withdraw the Referral and the request to not disclose the identity.

## **Summary of facts**

9. As a result of judgments of lower instance courts the Applicant was found guilty for the commission of a criminal offence and was punished by imprisonment.
10. The last decision in the Applicant's case is a judgment of the Supreme Court which rejected as ungrounded the Applicant's request for protection of legality.
11. On 13 January 2017, the Applicant submitted a Referral to the Constitutional Court requesting constitutional review of the judgment of the Supreme Court.
12. In his Referral submitted to the Constitutional Court, the Applicant requested imposition of the interim measure, namely to postpone the execution of the imprisonment sentence, and he also requested nondisclosure of his identity.

13. As a result of the decisions of the lower instance courts which rejected the Applicant's request to postpone the execution of the imprisonment sentence, in February 2017, the Applicant reported to a correctional center to serve his sentence.

#### **Request for withdrawal of Referral KIo4/17 and nondisclosure of identity**

14. On 27 March 2017, the Applicant filed a request for withdrawal of the Referral. In his letter, the Applicant among others states: "[...] *on which occasion you were notified that I have already volunteered and I am serving the sentence in prison according to decision in force of the Court of Appeal [...].*"
15. In his Referral filed with the Constitutional Court on 13 January 2017, the Applicant also requested that his identity be not disclosed.

#### **Assessment of the request to withdraw the Referral**

16. In order to be able to decide on the Applicant's request to withdraw the Referral, the Court must first examine whether the Applicant has met the requirements provided by the Law and the Rules of Procedure.
17. The Court refers to the Article 23 [Withdrawal of a party] of the Law, which provides that,

*"The Constitutional Court shall decide on matters referred to it in a legal manner by authorized parties notwithstanding the withdrawal of a party from the proceedings. "*
18. The Court also refers to the Rule 32 [Withdrawal, Dismissal and Rejection of Referrals] of the Rules of Procedure, which provides that,

*"(1) A party may withdraw a filed referral or a reply at any time before the beginning of a hearing on the referral or at any time before the Court decision is made without a hearing.*

*(2) Notwithstanding a withdrawal of a referral, the Court may determine to decide the referral. [...]"*
19. Taking into account the Applicant's request and the circumstances of the case, the Court considers that there is no reason to continue with the assessment of the request for constitutional review of the abovementioned Judgment of the Supreme Court and the Applicant's request for the imposition of an interim measure.
20. Consequently, the Court, pursuant to Rule 32 (1) of the Rules of Procedure, grants the Applicant's request to withdraw the Referral.



### **Assessment of the request for non-disclosure of identity**

21. The Court recalls that the Applicant in his Referral filed on 13 January 2017 requested that his identity be not disclosed. In his Referral to the Court, the Applicant has stated the circumstances and the reasons for non-disclosure of the identity.
22. In this respect, the Court refers to the Rule 29 (6) of the Rules of Procedure, which provides that  
*“The party filing the referral may request that his or her identity not be publicly disclosed and shall state the reasons for the request. The Court may grant the request if it finds that the reasons are well-founded.”*
23. Based on the reasoning provided by the Applicant in his Referral filed with the Court, the circumstances of the case, and taking into account the fact that he filed a request for withdrawal of the Referral, the Court grants his request for non-disclosure of identity as grounded.

### **FOR THESE REASONS**

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 23 of the Law and Rules 29 (6) and 32 of the Rules of Procedure, on 2 June 2017, unanimously

### **DECIDES**

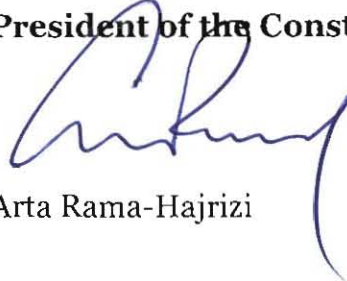
- I. TO GRANT the request for withdrawal of the Referral;
- II. TO GRANT the request for non-disclosure of identity;
- II. TO NOTIFY the Parties of this Decision;
- III. TO PUBLISH this Decision in the Official Gazette in accordance with Article 20.4 of the Law;
- IV. This Decision is effective immediately.

**Judge Rapporteur**

  
Bekim Sejdiu



**President of the Constitutional Court**

  
Arta Rama-Hajrizi