



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

GJYKATA KUSHTETUESE

УСТАВНИ СУД

CONSTITUTIONAL COURT

Prishtina, on 1 February 2016

Ref. no.:RK883/16

## **RESOLUTION ON INADMISSIBILITY**

in

**Case no. KI100/15**

Applicants

**Nurten Luboteni, Gazmend Luboteni, Suna Buçinca, Lulieta Hoxha,  
Mytaher Luboteni, Valbon Luboteni, Veton Luboteni, Diellza Luboteni,  
Rona Luboteni, Edi Luboteni and Bashkim Spahiu**

**Request for constitutional review of  
Judgment AC-I-14-0314, of the Appellate Panel of the Special Chamber of  
the Supreme Court of Kosovo on Privatization Agency of Kosovo Related  
Matters, of 23 December 2014**

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

composed of

Arta Rama-Hajrizi, President  
Ivan Čukalović, Deputy-President  
Robert Carolan, Judge  
Altay Suroy, Judge  
Almiro Rodrigues, Judge  
Snezhana Botusharova, Judge, and  
Bekim Sejdiu, Judge.

#### **Applicants**

1. The Referral is submitted by Nurten Luboteni, Gazmend Luboteni, Suna Buçinca, Lulieta Hoxha, Mytaher Luboteni, Valbon Luboteni, Veton Luboteni, Diellza Luboteni, Rona Luboteni, Edi Luboteni and Bashkim Spahiu (hereinafter, the Applicants), represented by lawyer Mr. Mas-har Pirana.

### **Challenged decisions**

2. The Applicants request constitutional review of Judgment AC-I-14-0314 of the Appellate Panel of the Special Chamber of the Supreme Court of Kosovo on Privatization Agency of Kosovo Related Matters (hereinafter, the Appellate Panel of the Special Chamber), of 23 December 2014.
3. The challenged decision was served on the Applicants on 21 January 2015.

### **Subject matter**

4. The subject matter is the constitutional review of the challenged Judgment of, which allegedly violated the Applicants' right to protection of property as guaranteed by Article 1 of Protocol 1 of the European Convention on Protection Human Rights and Fundamental Freedoms.

### **Legal basis**

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

6. On 23 July 2015, the Applicants submitted the Referral to the Constitutional Court (hereinafter: the Court).
7. On 9 August 2015, the President of the Court appointed Judge Almiro Rodrigues as Judge Rapporteur and the Review Panel composed of Judges: Robert Carolan (Presiding), Ivan Čukalović and Arta Rama-Hajrizi.
8. On 11 September 2015, the Court notified Applicants and Special Chamber of the Supreme Court of Kosovo of the registration of the Referral.
9. On 22 December 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 21 April 2009, the legal predecessors of the Applicants initiated judicial proceedings before the Municipal Court in Prizren to annul a sale-purchase contract on property.
11. The judicial proceedings went through different instances until the Appellate Panel of the Special Chamber.
12. In fact, on 23 December 2014, the Appellate Panel (Judgment AC-I-14-0314), rejected as ungrounded the Applicants' appeal.

### **Applicants' Allegations**

13. The Applicants allege that: *“were violated their fundamental constitutional rights to protection of their right to property based on Article 22 of the Constitution of Republic of Kosovo and the rights guaranteed under Article 1 of Protocol 1 of the European Convention on Human Rights”*.

### **Admissibility of the Referral**

14. The Court first examines whether the Applicants meet the admissibility requirements laid down in the Constitution and as further specified in the Law and Rules of Procedure.
15. In this respect, the Court refers to Article 49 of the Law which establishes:  
  
*“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. [...]”*
16. The Court also refers to Rule 36 (1) (c) Rules of Procedure, which foresees:  
  
*“(1) The Court may consider a referral if: (c) the referral is filed within four months from the date on which the decision on the last effective remedy was served on the Applicant, or [...]”*
17. In that respect, the Court notes that the challenged Judgment was served on the Applicants on 21 January 2015. The Applicants submitted the Referral to the Court on 23 July 2015. Thus, more than 4 (four) months passed from the date of service of the Judgment on the Applicants.
18. The Court considers that the Referral is out of time.
19. Therefore, the Court concludes that, in accordance with Article 49 of the Law and Rule 36 (1) (c) of the Rules of Procedure, the Referral is inadmissible.

## FOR THESE REASONS

The Constitutional Court, pursuant to Article 49 of the Law and Rule 36 (1) (c) and of the Rules of Procedure, in the session held on 22 December 2015, unanimously

## DECIDES

- I. TO DECLARE the Referral inadmissible;
- II. TO NOTIFY this Decision to the Parties and to publish it in the Official Gazette, in accordance with Article 20 paragraph 4 of the Law; and
- III. This Decision is effective immediately.

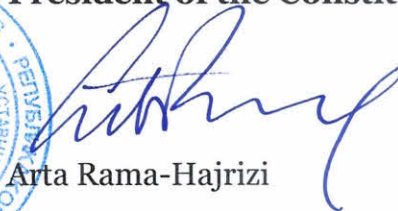
**Judge Rapporteur**



Almiro Rodrigues



**President of the Constitutional Court**



Arta Rama-Hajrizi