



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

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Prishtina, 17 November 2014  
Ref. no.: VTK728/14

## **DECISION TO STRIKE OUT THE REFERRAL**

in

**Case No. KI115/14**

Applicant

**Azem Ademi**

**Constitutional review of an unidentified ruling of  
an unidentified public authority**

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

composed of

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

### **Applicant**

1. The Referral was submitted by Mr. Azem Ademi, from Prishtina (hereinafter, the Applicant).

### **Challenged decision**

2. The Applicant does not identify a ruling of a public authority which is subject to challenge. Even though, the Applicant refers to the Resolution on Inadmissibility, in Case no. KI62/10 Applicant *Azem Ademi vs. Ministry of Justice*, of the Constitutional Court of the Republic of Kosovo, dated 18 March 2011

### **Subject matter**

3. The Applicant does not claim a violation of constitutional provisions to his detriment in any way whatsoever. However, the Applicant mentions "*Reasoning in relation to the case no. KI-62*" without drawing any conclusion.

### **Legal basis**

4. The Referral apparently 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 the Constitutional Court of the Republic of Kosovo (hereinafter, the Law). In fact, the Applicant does not mention any legal provision under which he is filing the Referral and he has not even filled in a Referral Form.

### **Proceedings before the Constitutional Court**

5. On 7 July 2014, the Applicant submitted a Referral with the Constitutional Court of the Republic of Kosovo (hereinafter, the Court).
6. On 6 August 2014, the President of the Constitutional Court, by Decision No. GJR. KI115/14 appointed Judge Almiro Rodrigues as Judge Rapporteur. On the same date, the President of the Constitutional Court, by Decision No. KSH. KI115/14 appointed the Review Panel composed of Judges Altay Suroy (Presiding), Kadri Kryeziu and Arta Rama-Hajrizi.
7. On 13 August 2014, the Court notified the Applicant about the registration of the Referral.
8. On 17 September 2014, 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 facts**

9. On 12 July 2010, the Applicant filed a referral with the Court thereby complaining that the Ministry of Justice had not accorded him certain rights which he claimed belonged to him as a citizen of a country which was part of the European Union.
10. On 18 March 2011, the Court rendered Resolution on Inadmissibility in Case No. KI62/10 rejecting the Applicant's referral as manifestly ill-founded.

11. On 7 July 2014, the Applicant filed one page of paper stating “Reasoning in relation to the case no. KI-62”.

### **Applicant’s allegations**

12. The Applicant states that “the Special Court is to adjudicate on the charges made by the ‘Marty Kosovo Report’, if proven. Myself, Azem Ademi, currently residing in Prishtina, citizen of the Republic of Kosovo, I cannot be charged similarly to Radovan Karadzic, a citizen of former Yugoslavia, charged with war crimes, currently being processed in the Hague Tribunal”.
13. The Applicant does not invoke violation of any constitutional provision in particular.

### **Admissibility of the Referral**

14. The Court first examines whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution and as further specified in the Law and the Rules of Procedure.
15. In this respect, the Court refers to Article 113.7 of the Constitution [Jurisdiction and Authorized Parties] of the Court, which provides:

*“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.”*
16. The Court also takes into account Rule 32 (4) of the Rules of Procedure, which foresees:

*“The Court may dismiss a referral when the Court determines a claim to be moot or does not otherwise present a case or controversy”.*
17. The Court notes that the Applicant filed one page of paper without challenging any decision of any public authority and without making a claim concerning a violation of constitutional provisions to his detriment. Moreover, the Court considers that the Applicant filed an unclear and unintelligible “Referral”.
18. The Court notes that proceedings before it are adversarial in nature and thus it is not up to the Court to build the case on behalf of the Applicant. On the contrary, it is up to the Applicant while referring the matter to the Court, to comply with all requirements on admissibility of a referral.
19. Before all the foregoing, the Court considers that the abovementioned one page of paper does not reach the minimum threshold to be considered a referral. (See case no. KI62/14, Applicant *Rexhep Haziri*, Decision to Strike Out the Referral of 4 August 2014, also *mutatis mutandis* see case *Starodub v. Ukraine*, No. 5483/02, ECtHR Decision of 7 June 2005).

20. The Court concludes that there is no case or controversy pending in relation to the subject above and, in compliance with Rule 32 (4) of the Rules of Procedure, the “Referral” must be stricken out.

**FOR THESE REASONS**

The Constitutional Court pursuant to Article 113(7) of the Constitution, Article 20 of the Law and Rule 32 (4) of the Rules of Procedure, on 17 September 2014, unanimously

**DECIDES**

- I. TO STRIKE OUT the Referral;
- 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