



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

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Pristina, 31 August 2012  
Ref. No.: RK288/12

## RESOLUTION ON INADMISSIBILITY

in

Case No. KI125/10

Applicant

**Sofije Grabovci**

**Constitutional Review the Decisions of the  
District Court in Prishtina AC.no.440/07 dated 17 December 2008  
and  
Supreme Court of Kosovo Rev.I.no.41/2008, dated 13 August 2010**

### THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of:

Enver Hasani, President  
Kadri Kryeziu, Deputy-President  
Robert Carolan, Judge  
Altay Suroy, Judge  
Almiro Rodrigues, Judge  
Snezhana Botusharova, Judge and  
Ivan Čukalović, Judge

#### **Applicant**

1. The Applicant is Sofije Grabovci from Gjilan.

#### **Challenged Decision and Subject Matter**

2. Judgments of the District Court in Prishtina AC.no.440/07, dated 17 December 2008, and of the Supreme Court of Kosovo Rev.I.no.41/2008, dated 13 August 2010

### **Legal Basis**

3. Art. 113.7 of the Constitution; Article. 20 of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter referred to as the Law), and Rule 56 (2) of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo.

### **Proceedings before the Court**

4. On 13 December 2010 the Applicant filed a Referral with the Secretariat of the Constitutional Court.
5. By order of the President of the Constitutional Court, dated 16 December 2010, Judge Altaj Suroy was appointed as Judge Rapporteur and the President appointed a Review Panel composed of Judges Almiro Rodrigues (Presiding), Gjyljeta Mushkolaj and Iliriana Islami.

### **Summary of the facts as alleged by the Applicant**

6. The Applicant commenced work with what is now the Raiffeisen Bank on 14 October 2002. She maintained that she was asked by the Bank to resign because of irregularities that arose from an audit conducted by the Bank on 20 May 2005. She maintains that she signed a letter of resignation while suffering from a medical condition that could have caused her to suffer from “memory disorder and contraction of self-consciousness”. The Applicant had been on sick leave and had been hospitalized from 17 January 2005 to 28 January 2005. Her husband delivered the letter of resignation to the Bank on 21 May 2005.
7. Subsequently she applied to the bank to be allowed to return to work. The bank replied to her by letter, dated 31 August 2006, that her request to return was not accepted. The bank stated that a matter which was discovered and investigated by the bank’s internal auditors was considered a serious abuse of official duty and that the bank stood by the conclusions of the auditors.
8. The Applicant brought proceedings against Raiffeisen Bank in the Municipal Court in Gjilan in 2006 who gave a Decision in her favour on 3 September 2007. The Municipal Court found that she was asked to resign and that she offered her resignation in a serious health condition as a consequence of which she could not control her behaviour. The Court “partially trusted” the statement of the bank’s representative who said that no disciplinary procedure was initiated against the Applicant because she tendered her resignation. The Court implicitly recognised that she was asked to resign.
9. On appeal the District Court in Gjilan reversed the Decision of the Municipal Court and found that the Applicant had voluntarily resigned. This reasoning was subsequently accepted by the Supreme Court in their Decision in the Bank’s favour, dated 13 August 2010.
10. The Applicant submitted a Referral to the Constitutional Court on 13 December 2010 and enclosed with it copies of all of the Decisions of the Courts mentioned together with a number of medical records and reports. The Referral, without specifically stating such, appears to be a request to overturn the final Decision made which was that of the Supreme Court of Kosovo dated 13 August 2010.

11. The Application has not substantiated in what manner her constitutional rights were violated by the Decision of the Supreme Court, dated 13 August 2010. Neither does she show how that Court acted in an arbitrary manner, did not take relevant facts into consideration, acted outside its jurisdiction. She does not indicate how she was denied a fair trial by an independent and impartial tribunal.

### **Assessment of the Admissibility of the Referral**

12. In order to be able to adjudicate the Applicants' Referral, the Court needs first to examine whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution as further specified in the Law and the Rules of Procedure.
13. One of the Requirements is that the Applicant cannot simply complain that the regular courts have committed errors of facts or law, unless and in so far as they may have infringed rights and freedoms protected by the Constitution.
14. In this connection the Constitutional Court states that it is not to act as a court of fourth instance, when considering the decision taken by the regular courts. It is the role of the regular court to interpret and apply the pertinent rules of both procedural and substantive law (see, the Resolution on Inadmissibility of the Constitutional Court in Case No. KI 13/09, *Sevdail Avdyli*, of 17 June 2010 and mutatis mutandis, *Garcia Ruiz v. Spain* [GC], no.30544/96, para.28, European Court on Human Rights 1999-I).
15. The Constitutional Court can only consider whether the evidence has been presented in such a manner and whether the proceedings in general, viewed in their entirety, have been conducted in such a way that the Applicant has not had a fair trial (see, for instance, Report of the European Commission on Human Rights in the case *Edwards v. United Kingdom*, App. No. 13071/87 adopted on 10 July 1991). The Court therefore concludes that the Referral should be rejected as manifestly unfounded.

### **FOR THESE REASONS**

The Constitutional Court, pursuant to Article 113.7, Article 20 of the Law and Rule 56 (2) of the Rules of Procedure, unanimously

### **DEDIDES**

- I. TO REJECT the Referral as Inadmissible;
- II. This Decision shall be notified to the Parties and shall be published in the Official Gazette, in accordance with Article 20.4 of the Law; and
- III. This Decision is effective immediately.the Law.

**Judge Rapporteur**

Altay Suroy

**President of the Constitutional Court**

Prof. Dr. Enver Hasani

