



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

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Pristina, 19 January 2012  
Ref. No.: RK186/12

## **RESOLUTION ON INADMISSIBILITY**

in

**Case no. KI 126/10**

Applicant

**Lulzim Ramaj**

**Constitutional Review of the Decision of the Ministry of Transport and  
Telecommunication No. 140, dated 25 January 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  
Ivan Čukalović, Judge  
Gjyljeta Mushkolaj, Judge and  
Iliriana Islami, Judge

#### **Applicant**

1. The Applicant is Mr. Lulzim Ramaj, residing in Peja.

## **Challenged decision**

2. The Applicant explicitly challenges the decision of the Ministry of Transport and Post-Telecommunication (hereinafter: "MTPT"), No. 140 of 25 January 2010.
3. However, in the Referral, the Applicant also complains of two more sets of proceedings, the proceedings against the Ministry of Transport and Telecommunication and the proceedings against the Post and Telecommunication in Peja, without being specific what his complaints are about.

## **Subject matter**

4. The Applicant alleges that his right guaranteed by the Constitution of the Republic of Kosovo (hereinafter: the "Constitution"), Article 24 [Equality Before the Law] has been violated.

## **Legal basis**

5. Article 113.7 of the Constitution, Article 22 of the Law on the Constitutional Court of the Republic of Kosovo of 15 January 2009, (No. 03/L-121), (hereinafter: the "Law") and Rule 56 (2) of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the "Rules of Procedure").

## **Proceedings before the Court**

6. On 28 October 2010, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the "Court"). On the same date, the Secretariat of the Court notified the Applicant that he needs to fill out the Referral form.
7. On 9 November 2010, the Applicant submitted the Referral form to the Court.
8. On 27 January 2011, the Court communicated the Referral to MTPT, which so far has not submitted any comments.
9. On 4 February 2011, the Applicant submitted additional documents.
10. On 14 February 2011, the President, by Order No. GJR. 126/10, appointed Judge Snezhana Botusharova as Judge Rapporteur. On the same date, the President, by Order No. KSH. 126/10, appointed the Review Panel composed of Judges Altay Suroy (Presiding), Kadri Kryeziu and Enver Hasani.
11. On 28 April 2011, the Court asked the Applicant to specify in what manner the challenged decisions violated his rights as guaranteed by the Constitution.
12. On 12 May 2011, the Applicant replied but the reply was not related to the initial Referral.
13. On 29 November 2011, the Review Panel considered the Preliminary Report of the Judge Rapporteur and made a recommendation to the Court on the inadmissibility of the Referral.

## **Summary of facts**

14. On 10 January 2008, the Applicant filed a complaint with the Kosovo Postal Service concerning the delay in receiving letters.

15. On 21 December 2009, the Applicant again wrote to the Kosovo Postal Service, complaining about the delays in its postal service and the alleged control of the letters by its staff.
16. On 5 January 2010, the Applicant complained to the MTPT against the decision of the Kosovo Postal Service of 24 December 2009, by which his allegations had been rejected.
17. On 25 February 2010, the Applicant complained to the Supreme Court against the decision of MTPT of 25 January 2010. The Applicant held that MTPT did not take into consideration his remarks and complaints.
18. On 27 July 2010, the Applicant submitted a complaint to the Kosovo Judicial Council against the Supreme Court for not having reviewed his complaint of 25 February 2010 and for prolonging the case.
19. On 13 August 2010, the Kosovo Judicial Council issued a decision concerning the Applicant's complaint of 27 July 2010.
20. On 25 August 2010, the Applicant complained against the decision of 13 August 2010 of the Kosovo Judicial Council for not taking any legal action against the Supreme Court.
21. As to the proceedings against the Ministry of Transport and Telecommunication and the proceedings against the Post and Telecommunication in Peja, the facts are as follows:

**a) Facts regarding the proceedings against the Ministry of Transport and Telecommunication**

22. On 31 March 2009, the Applicant filed a complaint with the MTPT concerning the postal service delays, theft and for not cleaning the stamp making it difficult to read the date on the stamp.
23. On 13 May 2010, the Applicant filed a further complaint with the MTPT concerning the delay in receiving mail.
24. On 20 May 2010, the MTPT issued a decision, which the Applicant has not submitted to the Constitutional Court.
25. The Applicant, then, filed a complaint to the Supreme Court against the decision of the MTPT of 20 May 2010.
26. On 8 June 2010, the Applicant filed a submission with the Supreme Court, changing the complaint against the decision of MTPT of 20 May 2010.
27. On 11 June 2010, the Supreme Court sent a communication to the Applicant concerning the payment of a judicial tax in respect to his complaint to the Supreme Court.
28. On 19 June 2010, the Applicant submitted a reply to the Supreme Court's communication of 11 June 2010.
29. On 17 July 2010, the Applicant filed a submission with the Supreme Court, changing his complaint.

## **b) Facts regarding the proceedings against the Post and Telecommunication in Peja**

30. On 29 April 2010, the Applicant filed a complaint with the Post Office in Peja against the officials of the Kosovo Postal Service for not sending the telephone bill in time.
31. On 7 July 2010, the Applicant filed another complaint with PTK in Peja against the workers of PTK for unjust enrichment and misconduct when exercising official duties.
32. On 2 September 2010, the Applicant filed a further complaint with the PTK in Peja about the alleged misconduct of its workers of PTK, alleging that he had to pay more for the stamps he bought than would be normal and that other workers of PTK did not clean the seal before using it.
33. On 7 September 2010, the Applicant filed a complaint with the Supreme Court against the decision of 3 September 2010 of the PTK branch in Peja.

### **Applicant's allegations**

34. The Applicant alleges that his right guaranteed by Article 24 [Equality Before the Law] of the Constitution has been violated.
35. The Applicant emphasizes that, with this Referral to the Constitutional Court, his rights have to be realized, in that the authorities: PTK, MTPT, the PTK branch in Peja, should have to pay him monetary compensation for the damages allegedly done by them and that the workers of PTK should be held accountable for misconduct in exercising their official duties.

### **Assessment of the admissibility of the Referral**

36. As to the Applicant's allegation that his right guaranteed by Article 24 [Equality Before the Law] of the Constitution have been violated, the Court observes that, in order to be able to adjudicate the Applicants' complaint, it is necessary to first examine whether he has fulfilled the admissibility requirements laid down in the Constitution as further specified in the Law and the Rules of Procedure.
37. In this connection, reference is made to Article 113.7 of the Constitution and 47(2) of the Law, according to which individuals, who submit a referral to the Court, must show that they have exhausted all legal remedies available under the applicable law.
38. The Court emphasizes that the rationale for the exhaustion rule is to afford the authorities concerned, including the courts, the opportunity to prevent or put right the alleged violation of the Constitution. This rule is based on the assumption that the Kosovo legal order will provide an effective remedy for the violation of constitutional rights (see *mutatis mutandis*, ECHR, *Selmouni v. France*, no. 25803/94, decision of 28 July 1999). However, it is not necessary for the constitutional rights to be explicitly raised in the proceedings concerned. As long as the issue was raised implicitly or in substance, the exhaustion of remedies is satisfied (see, *mutatis mutandis*, ECHR, *Azinas v. Cyprus*, no 56679/00, decision of 28 April 2004).
39. This Court applied the same reasoning, when it issued Resolution on Inadmissibility in the case of AAB-RIINVEST University L.L.C., Pristina vs. Government of the Republic of Kosovo, Case KI 41/09 of 27 January 2010, and in the Resolution on Inadmissibility

in the case of MIMOZA Kusari-Lila vs. The Central Election Commission, Case No. 73/09 of 23 March 2010.

40. As to the present case, it is clear from the Applicants' submissions, that the proceedings against the Ministry of Transport and Telecommunication as well as the proceedings against the Post and Telecommunication in Peja are still pending before the Supreme Court.
41. It follows, that the Applicant has not exhausted all legal remedies available under applicable law, as required by Article 113.7 of the Constitution and Article 47 (2) of the Law.
42. Further, as to the proceedings against the Ministry of Transport and Telecommunication as well as the proceedings against the Post and Telecommunication in Peja, the Applicant has failed to substantiate which/ and how the relevant decisions of these public bodies allegedly violate his rights as guaranteed by the Constitution.
43. It follows that the Referral as a whole is manifestly ill-founded pursuant to Rule 36 (1.c) of the Rules of Procedure which provides: *"The Court may only deal with Referrals if: c) the Referral is not manifestly ill-founded."*
44. For the foregoing reasons the Referral is Inadmissible.

#### **FOR THESE REASONS**

The Constitutional Court, pursuant to Article 113.7 of the Constitution and Article 47(2) of the Law, and Rule 36 (1.c) and Rule 56 (2) of the Rules of Procedure, on 29 November 2011, unanimously

#### **DECIDES**

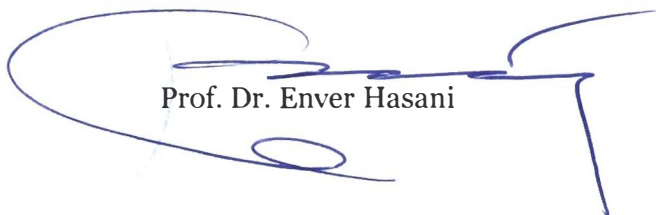
- I. TO REJECT the Referral as Inadmissible;
- II. This Decision shall be notified to the Parties and shall be published in the Official Gazette, in accordance with Article 20 (4) of the Law;
- III. This Decision is effective immediately.

**Judge Rapporteur**



Snezhana Botusharova

**President of the Constitutional Court**



Prof. Dr. Enver Hasani