



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT**

Prishtina, on 13 June 2016
Ref. no.:RK949/16

DECISION TO REJECT THE REFERRAL

in

Case No. KI128/15

Applicant

Adem Hoti

**Constitutional review of Decision Rev. no. 127/2014, of the Supreme
Court of the Republic of Kosovo, of 12 May 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,
Bekim Sejdiu, Judge
Selvete Gërxhaliu-Krasniqi, Judge and
Gresa Caka-Nimani, Judge

Applicant

1. The Referral was submitted by Mr. Adem Hoti from Revuq Village, Municipality of Podujeva (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges Decision, Rev. no. 127/2014, of the Supreme Court of the Republic of Kosovo, of 12 May 2014, by which the Revision filed by the Applicant against Decision Ac. no. 3661/2013, of the Court of Appeals of Kosovo, of 28 February 2014, was rejected as inadmissible.
3. The Applicant had previously filed a Referral with the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) whereby he had challenged the same aforementioned decisions. The Court had declared the referral inadmissible as manifestly ill-founded. (See Case KI114/14, Applicant *Adem Hoti*, Resolution on Inadmissibility, of 5 January 2015).

Subject matter

4. The subject matter of the Referral is the constitutional review of the challenged Decision, which allegedly violated the Applicant's rights guaranteed by Article 24 [Equality Before the Law] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution).

Legal basis

5. The Referral is based on Article 113.7 of the Constitution, Article 47 of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law), and Rules 32 (5) and 29 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 27 October 2015, the Applicant submitted the Referral to the Court.
7. On 5 November 2015, by Decision GJR. KI128/15, the President of the Court appointed Judge Robert Carolan as Judge Rapporteur. On the same day, by Decision KSH. KI128/15, the President appointed the Review Panel, composed of Judges: Snezhana Botusharova (Presiding), Arta Rama-Hajrizi and Bekim Sejdiu.
8. On 2 December 2015, the Court notified the Applicant of the registration of the Referral.
9. On 11 January 2016, the Applicant submitted a letter to the Court whereby he requested urgent review of his case.
10. On 12 April 2016, after having considered the report of the Judge Rapporteur, the Review Panel recommended to the full Court that the Referral should be rejected.

Summary of facts

11. As regards to the allegations, raised by the Applicant, the Court has already decided on the same allegations in Case KI114/14, of 5 January 2015.

Summary of facts related to the Resolution on Inadmissibility of the Constitutional Court, in Case KI114/14, of 5 January 2015

12. On 4 July 2014, the Applicant submitted a Referral to the Court, whereby he requested constitutional review of Decision, Rev. no. 127/2014, of the Supreme Court of the Republic of Kosovo, of 12 May 2014.
13. The Applicant, in Case KI114/14, alleged that by the aforementioned Judgment, Article 24 [Equality Before the Law] of the Constitution was violated to his detriment.
14. On 8 November 2013, the Basic Court in Prishtina, Branch in Podujeva (Decision CP. no. 439/13) rejected the proposal for allowing the execution filed against Municipal Directorate of Education in Podujeva.
15. Similarly, the Court of Appeals and the Supreme Court rejected his appeal and request for revision respectively.

Applicant's allegations

16. As alleged in the previous Referral, the Applicant alleges that by the challenged decision, his right guaranteed by the Constitution, namely Article 24 [Equality Before the Law] was violated.
17. In the present Referral, the Applicant has neither submitted any new piece of evidence nor raised any new complaints.

Admissibility of Referral

18. The Court first examines whether the Applicant has fulfilled the admissibility requirements as laid down in the Constitution and as further specified in the Law and the Rules of Procedure.
19. The Court first refers to Article 116.1 [Legal Effect of Decisions] of the Constitution which provides:

“Decisions of the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo”.

20. In this regard, the Court refers to Article 32 (5) of the Rules of Procedure, which provides:

“The Court may summarily reject a referral if the referral is incomplete or not clearly stated despite requests by the Court to the party to supplement or clarify the referral, if the referral is repetitive of a previous referral

decided by the Court, or if the referral is frivolous. (Amended 28 October 2014)”.

21. The Court notes that the present Referral, filed by the Applicant, is identical with his Referral KI114/14.
22. As regards his previous Referral KI114/14, the Court recalls that it had rendered a decision (Resolution on Inadmissibility in Case KI114/14), of 5 January 2015, wherein it had declared the Referral inadmissible as manifestly ill-founded. The aforementioned decision was served on the Applicant and published in compliance with Article 20.4 of the Law.
23. As mentioned above, in the present Referral, the Applicant challenges again Decision Rev. no. 127/2014, of the Supreme Court of the Republic of Kosovo, of 12 May 2014, he raises the same allegations and presents the same facts and evidence as in the previous Referral, KI114/14
24. The Court reiterates that it had already adjudicated on Case KI114/14 and, in the present Referral, the Applicant does not raise any new complaints. Thus, the present Referral is entirely repetitive of the previous Referral, KI114/14.
25. Therefore, based on Rule 32 (5) of the Rules of Procedure, the Court concludes that the present Referral is to be rejected because it is repetitive of the previous Referral KI114 /14, already decided by this Court.

FOR THESE REASONS

The Constitutional Court, in accordance with Article 116.1 of the Constitution and Rule 32 (5) of the Rules of Procedure, on 12 April 2016, unanimously:

DECIDES

- I. TO REJECT the referral;
- II. TO NOTIFY this Decision to the Parties;
- 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



Robert Carolan



President of the Constitutional Court



Arta Rama-Hajrizi