



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT**

Prishtina, on 22 February 2016
Ref. No.:RK893/16

RESOLUTION ON INADMISSIBILITY

in

Case No. KI129/15

Applicant

Rrahim Ramadani

**Constitutional review of Judgment CML. no. 6/2014, of the Supreme
Court of Kosovo, of 24 February 2015**

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
Selvete Gërxhaliu, Judge
Gresa Caka-Nimani, Judge

Applicant

1. The Referral was submitted by Mr. Rrahim Ramadani (hereinafter: the Applicant), from Prishtina.

Challenged decision

2. The Applicant challenges Judgment CML. no. 6/2014 of the Supreme Court of Kosovo, of 24 February 2015, which was served on him on 23 March 2015.

Subject matter

3. The subject matter of the Referral is the constitutional review of the Judgment, which allegedly violated the rights and freedoms guaranteed by Article 49 [Right to Work and Exercise Profession] of the Constitution of Kosovo (hereinafter: the Constitution).

Legal Basis

4. The Referral is based on Article 113.7 of the Constitution, Article 47 of the Law No. 03/L-121 on Constitutional Court of the Republic of Kosovo (hereinafter: the Law), and Rule 56 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

Proceedings before the Constitutional Court

5. On 28 October 2015, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 5 November 2015, the President of the Court by Decision No. GJR. KI129/15, appointed Judge Altay Suroy as Judge Rapporteur. On the same date, the President of the Court by Decision No. KSH. KI129/15, appointed the Review Panel composed of Judges: Robert Carolan (Presiding), Ivan Čukalović and Arta Rama-Hajrizi.
7. On 24 November 2015, the Court informed the Applicant and the Supreme Court about the registration of the Referral, and requested at the same time from the Applicant and the Court the evidence on the service of the challenged Judgment.
8. On 26 January 2016, after having considered the report of the Judge Rapporteur, the Review Panel recommended to the Court the inadmissibility of the Referral.

Summary of Facts

9. The Applicant had established employment relationship as a teacher until 30 September 2007.
10. On 14 December 2007, due to new reorganization and systematization of education, the executive authority of the Municipal Assembly in Prishtina rendered Decision [01. no. 24385] on termination of the Applicant's employment relationship.
11. On an unspecified date, the Applicant filed appeal with the Ministry of Education, Science and Technology (hereinafter: MEST), and with the

Independent Oversight Board of Kosovo (hereinafter: the IOBK) against Decision [01. no. 24385] of the Municipality of Prishtina.

12. On the Applicant's appeal, first MEST and then the IOBK rendered decisions, which annulled Decision [01. No. 24385] of the Municipality of Prishtina and ordered to include the Applicant in the new systematization plan and to find him another job position.
13. On 14 October 2008, the Municipality of Prishtina and the Applicant concluded an employment contract, by which the Applicant was assigned to a new job position.
14. On an unspecified date, the Applicant filed a claim with the Basic Court against the Municipality of Prishtina, by which he requested the compensation for unpaid salaries, differences in salaries, benefits and taxes, with a payment of an aggregate calculated amount, proposed by him.
15. In fact, on 24 February 2015, the Supreme Court by [Judgment CML. no. 6/2014], rejected as ungrounded the Applicant's request for revision of the Judgment of the Court of Appeal, of 26 August 2014.

Applicant's allegations

16. The Applicant claims that the Supreme Court violated his rights under Article 49 of the Constitution, by not allowing the payment of difference in salary, which is provided for in paragraph II of the IOBK decision.
17. The Applicant addresses the Court with the request: *„I want to be paid the difference from 01.10.2008 until now, for 85 months. I want to be reinstated to my previous job position or to remain in this job position for another 4 years until I retire”.*

Admissibility of Referral

18. 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 Rules of Procedure.
19. In this regard, the Court refers to Article 113.7 of the Constitution, which establishes:

“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.”

20. Moreover, the Court also refers to Article 49 of the Law, which provides:

“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...”

21. The Court further recalls Rule 36 (1) (c) of the 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.”

22. The Court notes that the Judgment [CML.br. 6/2014], of the Supreme Court was rendered on 24 February 2015 and served on the Applicant on 23 March 2015; which can be seen from the evidence that the Supreme Court had delivered to the Court.
23. The Applicant submitted his Referral to the Court on 28 October 2015; thus, the Referral was filed with the Court after the expiry of 4 months from the date the Judgment of the Supreme Court was served on the Applicant.
24. In this regard, the Court reiterates that the four months legal deadline under Article 49 of the Law and Rule 36 (1) (c) of the Rules of Procedures is of preclusive nature and is established to promote legal certainty by ensuring that cases raising issues under the Constitution are dealt within a reasonable time and that past decisions are not continually open to constitutional review (See case *O’LOUGHLIN and Others v. United Kingdom*, No. 23274/04, ECHR, Decision of 25 August 2005).
25. It follows that the Referral was filed out the deadline provided by Article 49 of the Law and Rule 36 (1) (c) of the Rules of Procedure, and as such is inadmissible.

FOR THESE REASONS

The Constitutional Court, pursuant to Rule 36 (1) (d) and (2) (b) of the Rules of Procedure, in the session held on 26 January 2016, unanimously:

DECIDES

- I. TO DECLARE the Referral Inadmissible;
- 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

Altay Suroy



President of the Constitutional Court

Arta Rama-Hajrizi