



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

Prishtina, 22 January 2015
Ref. no.:RK755/15

RESOLUTION ON INADMISSIBILITY

in

Case no. KI138/14

Applicant

Majda Fazli-Neziri

Request to the Court to issue an opinion regarding the employment opportunity with an acquired academic master degree

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of:

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

Applicant

1. The Applicant is Ms. Majda Fazli-Neziri, village Lubizhda, Municipality of Prizren.

Challenged decision

2. The Applicant does not challenge the decisions of public authorities, but only seeks the Court's opinion regarding the acquired academic title and employment opportunities.

Subject matter

3. The subject matter is related to an advisory opinion of the Court regarding the employment opportunity in the elementary school with the acquired academic master degree.

Legal basis

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

Proceedings before the Constitutional Court

5. On 15 September 2014, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 7 October 2014, the President of the Court, by Decision no. GJR. KI138/14, appointed Judge Ivan Čukalović as Judge Rapporteur. On the same date, the President of the Court, by Decision no. KSH. KI138/14, appointed the Review Panel composed of Judges: Altay Suroy (Presiding), Snezhana Botusharova and Arta Rama-Hajrizi.
7. On 10 October 2014, the Court notified the Applicant on the registration of Referral.
8. On 8 December 2014, after having considered the report of the Judge Rapporteur, the Review Panel made a recommendation to the Court on the inadmissibility of the Referral.

Summary of facts

9. The Applicant submitted to the Court a half-page referral, where she stated: *„that she is a student of master studies, Department of History, in the Faculty of Philosophy in Prishtina, that she is a good student and that after acquiring the master degree she would like to work as a professor of history in Bosnian language in the elementary school.“*
10. However, on an unspecified date, in an informal conversation with a staff of the Directorate of Education in Prizren, she was told that with the acquired master degree she cannot work in a primary school as a full-time professor of the school subject of history.

Applicant's allegations

11. In her Referral, the Applicant stated that she passed all her exams with a high average grade and that currently she is working in her master thesis.
12. The Applicant addresses the Court with the request:

„I request from the Constitutional Court to declare, to provide an opinion on the following: upon my graduation as a MASTER of HISTORY, in the University of Prishtina – the Department of History, may I work as a professor of the History with a primary school.“

Admissibility of Referral

13. In order to be able to adjudicate the Applicant's Referral, the Court needs to first examine whether she has fulfilled the admissibility requirements laid down in the Constitution and further specified in the Law and the Rules of Procedure.
14. Regarding the present Applicant's Referral, the Court refers to Rule 36, paragraph 3, item f) of the Rules of Procedure of the Constitutional Court, which provides:

*„A Referral may also be deemed inadmissible in any of the following cases:
f) the Referral is incompatible *ratione materiae* with the Constitution“.*

15. The court is obliged to examine whether it has jurisdiction *ratione materiae* in each stage of the proceedings. The compatibility with the Constitution and international instruments which are an integral part of the Constitution in accordance with Article 53 of the Constitution, *ratione materiae* of a Referral stems from the core competence of the Court. In order that a Referral is compatible *ratione materiae* with the Constitution, the right invoked by the Applicant, must be protected by the Constitution.
16. Since the Applicant has raised before the Court a matter which is not in accordance with Article 113.7 of the Constitution, it results that the Referral is not compatible *ratione materiae* with the provisions of the Constitution and as such it is inadmissible.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 47 of the Law, and Rule 36 (3) f) of the Rules of Procedure, in the session held on 8 December 2014, 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

Ivan Čukalović



President of the Constitutional Court

Prof. Dr. Enver Hasani

