



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT**

Prishtina, 6 August 2015
Ref. no.: VHK 814/15

DECISION TO STRIKE OUT THE REFERRAL

in

Case no. KI142/14

Applicant

Bajram Bajgora

**Constitutional Review of Judgment Ac. No. 1429/2014
of the Court of Appeal, dated 7 July 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

Applicant

1. The Referral was submitted by Mr. Bajram Bajgora, from Podujevo (hereinafter, the Applicant).

Challenged decision

2. The Applicant challenges the Judgment (Ac. No. 1429/2014, dated 7 July 2014) of the Court of Appeal which was served on him on 4 August 2014.

Subject matter

3. Subject matter is the constitutional review of the challenged decision, which allegedly violated the Applicant's rights as guaranteed by "*Article 46 [Protection of Property] of Constitution of the Republic of Kosovo (hereinafter, the Constitution) and Article 17 of the Universal Declaration of Human Rights (hereinafter, UDHR).*"

Legal basis

4. The Referral is based on Article 113.7 of the Constitution, Article 47 of the Law No. 03/L-121 on the 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 19 September 2014, the Applicant submitted the Referral, through postal service, to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 24 September 2014, the Court informed the Applicant that it has received a Referral under his name and that the same was not signed. On that occasion, the Court requested from the Applicant to appear before the Secretariat of the Court within seven (7) days from the receipt of this letter in order to sign the Referral.
7. On 7 October 2014, the President of the Court by Decision GJR. KI142/14, appointed Judge Altay Suroy as Judge Rapporteur and by Decision KSH. KI142/14 appointed the Review Panel composed of Judges Robert Carolan (Presiding), Ivan Čukalović and Enver Hasani.
8. On 21 January 2015, the Court sent a second letter to the Applicant reminding him that he has still not signed his Referral and informed him that signing the Referral is a procedural precondition for the Court to review his allegations.
9. Up to date, the Applicant has not responded to the requests of the Court.
10. On 29 June 2015, the President of the Court, by Decision no. KSH. KI142/14, appointed herself as a member of the Review Panel, replacing Judge Enver Hasani, whose mandate as Constitutional Court Judge ended on 26 June 2015.

11. On 7 July 2015, the Review Panel considered the report of the Judge Rapporteur and made a recommendation to the full Court on the inadmissibility of the Referral.

Summary of Facts

12. The Applicant filed a claim with the Basic Court in Prishtina requesting the annulment of a sales contract which was concluded between the Municipality of Podujevo and a third party regarding an immovable property.
13. On 24 February 2014, the Basic Court in Prishtina (Judgment C. no. 471/2010) rejected the claim of the Applicant as ungrounded.
14. On 7 July 2014, the Court of Appeal (Judgment C. no. 471/2010) rejected as ungrounded the appeal of the Applicant filed against the Judgment of the Basic Court.

Applicant's allegations

15. The Applicant claims that the Court of Appeal violated his right to property as guaranteed by the Constitution and the UDHR.
16. In relation to this claim, the Applicant alleges that *"[...] the justice in these past three decades has declined my right to property over the apartment which I have gained in 1961."*
17. The Applicant requests the Court: *"[...] to return my apartment on which I have lived for a long time together with my family."*

Assessment of the admissibility of the Referral

18. The Court first examines whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution and further specified in the Law and Rules of Procedure.
19. Thus, the Court refers to the provision of the Law which provides:

Article 22.4 [Processing Referrals]

"[...] 4. If the referral [...] is [...] incomplete, the Judge Rapporteur informs the relevant parties or participants and sets a deadline of not more than fifteen (15) days for supplementing the respective referral [...]"

20. In addition, the Court refers to Rules 29 (1) and 32 (5) of the Rules of Procedure, which provide:

Rule 29 [Filing of Referral and Replies]

"(1) [...] The referral [...] shall include the date of filing, and the signature of the person filing the referral. [...]"

Rule 32 [Withdrawal, Dismissal and Rejection of Referrals]

“(5) [...] The Court may summarily reject a referral if the referral is incomplete [...] despite requests by the Court to the party to supplement [...] the referral [...]”

21. In this regard, the Court notes that the Applicant filed an unsigned Referral through postal services on 19 September 2014.
22. The Court sent two letters to the Applicant requesting him to fulfill the procedural requirement as foreseen by Rule 29 (1) of the Rules of Procedure, respectively to sign the Referral submitted under his name.
23. However, the Court observes that the Applicant has not responded to either of the letters sent by the Court and thus failed to meet this procedural requirement.
24. Consequently, the Court considers that it cannot take into account the Applicant's allegations without him fulfilling the aforementioned procedural requirement.
25. In sum, the Court considers that the Referral is incomplete and must be summarily rejected and stricken out in accordance with Rule 32 (5) of the Rules of Procedure.

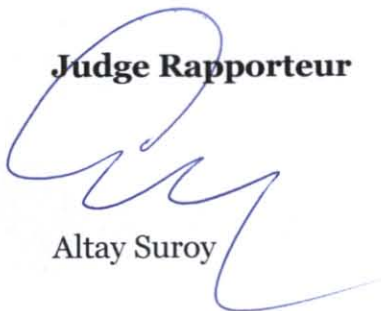
FOR THESE REASONS

The Constitutional Court, pursuant to Rule 32 (5) of the Rules of Procedure, on 6 August 2015, unanimously

DECIDES

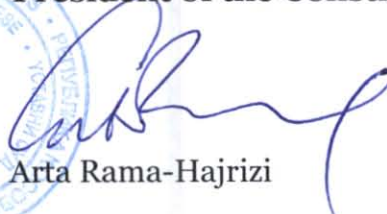
- I. TO STRIKE OUT the Referral;
- II. TO NOTIFY this Decision to the Parties;
- III. TO PUBLISH this decision in the Official Gazette, in accordance with Article 20 (4) of the Law;
- IV. TO DECLARE this Decision effective immediately.

Judge Rapporteur



Altay Suroy

President of the Constitutional Court



Arta Rama-Hajrizi