



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

Prishtina, 10 February 2015
Ref. No.:VTK769/15

DECISION TO STRIKE OUT THE REFERRAL

in

Case No. KI145/14

Applicant

Behxhet Mustafa

Constitutional review of the Ruling of the Basic Court in Prishtina, A. no. 1780/14, dated 12 September 2014

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 Mr. Behxhet Mustafa, residing in Prishtina.

Challenged decision

2. The applicant challenges Ruling A. no. 1780/14 of the Basic Court in Prishtina of 12 September 2014, which was served on him on 13 September 2014.

Subject matter

3. The subject matter is the constitutional review of the election procedure of the Rector of the University of Prishtina, "Hasan Prishtina", by which, allegedly, Article 20 (4.1) of the statute of the University of Prishtina was violated. The Applicant has not referred to any constitutional provisions.

Legal basis

4. The Referral is based on Article 113.7 of the Constitution of the Republic of Kosovo (hereinafter: 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 24 September 2014 the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the "Court").
6. On 30 September 2014 the Applicant submitted a request to withdraw his Referral because he wants to exhaust the legal remedies.
7. On 7 October 2014 the President of the Court, by Decision No. GJR. KI145/14, appointed Judge Ivan Čukalović as Judge Rapporteur. On the same date, the President of the Court by Decision No. KSH. KI145/14, appointed the Review Panel composed of Judges Altay Suroy (Presiding), Snezhana Botusharova and Arta Rama-Hajrizi.
8. On 9 October 2014 the Court notified the Applicant of the registration of the Referral.
9. On 9 December 2014 the Review Panel considered the report of the Judge Rapportuer and made a recommendation to the Court on the Inadmissibility of the Referral.

Admissibility of the Referral

10. The Court notes that, in order to assess the admissibility it has to examine the admissibility requirements laid down in the Constitution, the Law and the Rules of Procedure.
11. In the case at hand, the Applicant contests the election procedure of the Rector of the University of Prishtina, "Hasan Prishtina". However, on 30 September 2014 the Applicant submitted a request to withdraw his Referral because he wants to exhaust the legal remedies.

12. In this respect, the Court refers to Rule 32 (Withdrawal of Referrals and Replies) of the Rules of Procedure which provides:

“(1) A party may withdraw a filed referral or a reply at any time before the beginning of a hearing on the referral or at any time before the Court decision is made without a hearing.

(2) Notwithstanding a withdrawal of a referral, the Court may determine to decide the referral.

(3) The Court shall decide such a referral without a hearing and solely on the basis of the referral, any replies, and the documents attached to the filings. [...]”

13. Therefore, the Court concludes that there are no special circumstances regarding respect for human rights which would require further examination of the Referral and, thus, decides to strike out the Referral pursuant to Rule 32 of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 47 of the Law and Rule 36 (3) e) of the Rules of Procedure, on 23 September 2014, unanimously

DECIDES

- I. TO STRIKE OUT the Referral;
- II. TO NOTIFY the Parties of this Decision;
- 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

President of the Constitutional Court

Ivan Čukalović



Prof. Dr. Enver Hasani