



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

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Pristina, on 12 April 2016  
Ref. No.:RK922/16

## **DECISION TO REJECT THE REFERRAL**

in

**Case No. KI147/15**

Applicant

**“SYRI” LLC**

**Request for constitutional review of Judgment E. Rev. no. 10/2015, of the  
Supreme Court of 14 October 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 Gërzhaliu-Krasniqi, Judge and  
Gresa Caka-Nimani, Judge

### **Applicant**

1. The Referral was submitted by “SYRI” LLC from Gjakova (hereinafter: the Applicant).

## **Challenged decision**

2. The Applicant challenges Judgment E. Rev. no. 10/2015, of the Supreme Court, of 14 October 2015, Judgment Ae. no. 126/2013 of the Court of Appeal of Kosovo, of 9 October 2015, and of Judgment C. No. 198/2007, of the Commercial Court in Prishtina, of 19 May 2008.

## **Subject matter**

3. The subject matter of the Referral is the constitutional review of the three Judgments which allegedly violated the Applicant's rights and freedoms guaranteed by Article 31 [Right to Fair and Impartial Trial] of the Constitution of Kosovo (hereinafter: the Constitution) and Article 6, Article 13 and Article 1 of Protocol 1 of the European Convention on Human Rights (hereinafter: the ECHR).

## **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 Rules 29 and 32 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 14 December 2015, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 22 January 2016, the President of the Court appointed Judge Altay Suroy as Judge Rapporteur. On the same date, the President of the Court appointed the Review Panel composed of Judges: Snezhana Botusharova (Presiding), Arta Rama-Hajrizi and Bekim Sejdiu.
7. On 2 February 2016, the Court informed the Applicant and the Supreme Court about the registration of the Referral.
8. The Court also requested the Applicant to submit all necessary documents and the decisions challenged by him.
9. The Applicant did not respond to the Court's request.
10. On 16 March 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**

11. Having reviewed the file in case KI147/15, the Court noted that the Applicant submitted the Referral that is consisted of 2 (two) pages from which cannot be concluded what is the essence of the dispute and how the alleged violations, on which the Applicant has built his Referral, occurred.

12. The Court can only note that the Applicant challenges the following judgments:
- a) Judgment C. No. 198/2007 of the District Commercial Court in Prishtina, of 19 May 2008;
  - b) Judgment Ae. No. 126/2013 of the Court of Appeal of Kosovo, of 9 October 2014, and
  - c) Judgment E. Rev. no. 10/2015 of the Supreme Court of Kosovo, of 14 October 2015.

### **Applicant's allegations**

13. The Applicant stated in the Referral: *“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”*.
14. The Applicant requests: *„ the Court to officially provide all documents from the Basic Court in Prishtina, contained in the case files“*.

### **Admissibility of the Referral**

15. In order to be able to adjudicate the Applicant's Referral, the Court needs to first examine whether the Referral meets the admissibility requirements laid down in the Constitution, and further specified in the Law and the Rules of Procedure.
16. In this respect, Article 113 paragraph 7 of the Constitution provides:
- “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.”*
17. Article 48 of the Law also states:
- “In his/her referral, the claimant should accurately clarify what rights and freedoms he/she claims to have been violated and what concrete act of public authority is subject to challenge.”*
18. In this Referral, the Court refers to Rule 29 (Filing of Referrals and Replies) of the Rules of Procedure:
- “(2) The referral shall also include:*
- [...]*
- (g) the procedural and substantive justification of the referral; and*
- (h) the supporting documentation and information.”*

19. As well as Rule 32 (Withdrawal, Dismissal and Rejection of Referrals) of the Rules of Procedure, which stipulates:  
  

*(5) “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.”*
20. The Court notes that the Applicant in his Referral of 14 December 2015 explicitly requested the Court to provide *ex-officio* all documents and judgments challenged by him from the Basic Court in Prishtina.
21. The Court further reiterates that despite the request for additional documents sent to the Applicant on 2 February 2016 requesting him to complete his Referral of 14 December 2015 in the proper form with necessary documentation and the challenged judgments challenged by him in the Referral, in order to enable the Court to deal with his Referral, he did not do that.
22. The Court notes that it is the obligation of the Applicant to build a case and to submit all necessary information to the Court so that it could take the case into consideration.
23. Accordingly, the Court concludes that in the present case it cannot consider a referral as all requirements provided by the Rules of Procedure are not met.
24. Therefore, the Referral is to be rejected in accordance with Rules 29 and 32 (5) of the Rules of Procedures, because it is incomplete for review.

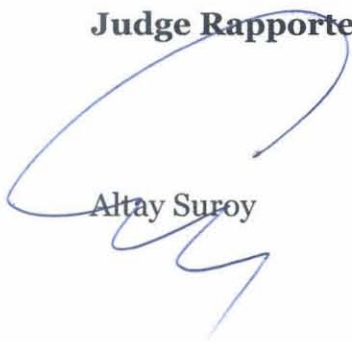
## FOR THESE REASONS

The Constitutional Court of Kosovo, pursuant to Rules 29 and 32 (5) of the Rules of Procedure, in the session held on 16 March 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 effective immediately.

**Judge Rapporteur**



Altay Suroy



**President of the Constitutional Court**



Arta Rama-Hajrizi