



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

Prishtina, 22 May 2015
Ref. No.: VHPK 796/15

DECISION TO REJECT THE REFERRAL

in

Case No. KI166/14

Applicant

Mentor Paqak

Request for reconsideration of the case KI78/14

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
Arta Rama-Hajrizi, Judge, and
Bekim Sejdiu, Judge

Applicant

1. Mr. Ibrahim Paqak submitted a claim to the Court on behalf of his son Mentor Paqak from Prizren. Mr. Ibrahim Paqak also represented his son (then, the Applicant) in the case KI78/14.

Challenged Decision

2. Mr. Ibrahim Paqak does not specifically refer to a decision of the Constitutional Court. However, it appears that the Applicant requests reconsideration of the Resolution taken in the Case KI78/14.

Subject Matter

3. The subject matter is the request for reconsideration of the case KI78/14.

Legal Basis

4. The claim filed by Mr. Ibrahim Paqak is a continuation of the Referral 78/14, which was based on Article 113.7 of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), Article 47.1 of the Law No. 03/L-121 on Constitutional Court of the Republic of Kosovo (hereinafter: the Law).

Proceedings before the Constitutional Court

5. On 10 November 2014, Mr. Ibrahim Paqak submitted the request for reconsideration to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 5 December 2014, the President of the Court by Decision no. GJR. KI166/14 appointed Judge Ivan Čukalović as Judge Rapporteur. On the same date, the President of the Court by Decision no. KSH. KI166/14 appointed the Review Panel, composed of Judges: Altay Suroy (Presiding), Snezhana Botusharova and Arta Rama-Hajrizi.
7. On 17 December 2014, the Court sent to the Applicant the official referral form of the Court, requesting him to specify what decision he wants to be reconsidered and to submit additional documents which substantiate his request.
8. On 16 April 2015, after having considered the report of the Judge Rapporteur, the Review Panel unanimously recommended to the Court the inadmissibility of the Referral.

Summary of Facts

9. On 5 May 2014, Mr. Ibrahim Paqak, on behalf of his son Mentor Paqak, filed with the Court the Referral KI78/14, challenging the Decision PN. no. 637/2013 of the Court of Appeals, dated 16 October 2013 and served on him in November 2013.
10. On 20 October 2014, the Court declared the Referral KI78/14 as inadmissible, because it was filed out of the legal.

Allegations of Mr. Ibrahim Paqak

11. Mr. Ibrahim Paqak requests the reconsideration of the case, as his son now has health problems
12. Mr. Ibrahim Paqak states that *“three lawyers had every record and a medical report in the file, but I do not know why they were not listed in the court sessions”*.
13. In addition, Mr. Ibrahim Paqak says that *“perhaps our right as human beings is violated, just because we are minority”*. .

Assessment of the Admissibility of the request

14. In this respect, the Court refers to Article 116 (1) [Legal Effect of Decisions] of the Constitution which provides:

Decisions of the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo.

15. In addition, the Court refers to Rule 32 (5) of the Rules of Procedure, which provides:

The Court may summarily reject a referral if (...) the referral is repetitive of a previous referral decided by the Court.

16. The Court notes that the Mr. Ibrahim Paqak points out to the health problems of his son as a ground for reconsideration of the decision taken in the case KI78/14.
17. In this regard, the Court considers that the health condition of his son does not affect or modify the circumstance of the Referral being filed out of the legal deadline, which was the reason of inadmissibility.
18. Therefore, the Court concludes that the decision taken in the case KI78/14 is final and binding and the alleged reason for reconsideration is without effect on the previous decision.
19. In sum, in accordance with Article 116 of the Constitution and Rule 32 (5) of the Rules, the Court summarily rejects the request and thus it must be stricken out.

FOR THESE REASONS

The Constitutional Court pursuant to Article 116 (1) of the Constitution and Rule 32 (5) of the Rules of Procedure, in its session held on 22 May 2015, unanimously

DECIDES

- I. TO REJECT summarily the Request;
- 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; and
- IV. TO DECLARE this Decision immediately effective.

Judge Rapporteur



Ivan Čukalović



President of the Constitutional Court



Prof. Dr. Enver Hasani