



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

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Pristine, 24 September 2012  
Ref. No.: RK301/12

## **RESOLUTION ON INADMISSIBILITY**

in

**Case no. KI20/12**

Applicant

**Halim Hajredinaj**

**Constitutional review of the Judgment of the Supreme Court of the Republic of  
Kosovo, A. no. 590/2011 of 23 September 2011**

### **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. Halim Hajredinaj from village Stanovc i Epërm, with permanent residence in Prishtina.

### **Challenged decision**

2. The challenged decision is the Judgment of the Supreme Court of the Republic of Kosovo (hereinafter: Supreme Court), A. no. 590/2011, of 23 September 2011, which was served on the Applicant on 26 October 2011

### **Subject matter**

3. The subject matter of the Referral submitted in the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) is the request for recognition of the right to disability pension.

### **Legal basis**

4. 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: Law), and Rule 28 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo ( hereinafter : Rules of Procedures).

### **Proceedings before the Court**

5. On 1 March 2012 the Court received the Referral by Mr. Halim Hajredinaj and registered it with no.KI 20/12.
6. On 2 March 2012, the President by Decision No. GJR. 20/12, appointed Judge Ivan Čukalović as Judge Rapporteur. On the same date, the President, by Decision No. KSH. 20/12, appointed the Review Panel composed of Judges: Almiro Rodrigues (Presiding), Snezhana Botusharova (member) and Mr.sc. Kadri Kryeziu, (member).
7. On 11 May 2012, the Court informed the applicant and the Supreme Court on the registration of the Referral.
8. On 25 May 2012, the Court requested the Supreme Court to inform the Constitutional Court on the date of receipt of the Judgment A. no. 590/2011 of 23 September 2011, by the Applicant.
9. On 7 June 2012, the Supreme Court submitted a reply to the request and informed the Court that on 26 October 2011, the Applicant was served with the Judgment A. no. 590/2011 of 23 September 2011.
10. On 19 September 2012, the Review Panel after having considered the report of the Judge Rapporteur, made a recommendation to the Court on the inadmissibility of the Referral.

### **Summary of the facts**

11. On 6 November 1989, the Basic Association of the Pension and Invalid Insurance of Kosovo, according to the Resolution no. 7011636939, finds that the Applicant belongs in the III category of disability due to the injury at work. The United Labour Organization was obliged to systemize the Applicant in any other work position that corresponded to his working ability, to provide monetary compensation for injuries caused at work and to ensure protection of rights under terms and conditions that were determined by the overall activities of this organization.

12. On 6 November 2007, the Enterprise “Trepça”, according to the Resolution No-L 505, approves the Applicant’s request for early retirement.
13. On 3 February 2011, the Ministry of Labour and Social Welfare (hereinafter MLSW), respectively the Pension Administration Department of Kosovo (PADK), pursuant to the Decision no. 5098514, rejected the request to receive the pension as a person with disabilities, on the grounds that the Applicant’s permanent disability does not exist.
14. On 28 April 2011, MLSW, respectively PADK, by Resolution no. 5098514, decided on the appeal of the Applicant, whereby rejected his request for recognition of the right to early retirement, thus agreeing with the assessment of the medical commission of the first instance, which concluded that Applicant does not meet the criteria for pension of persons with disabilities.
15. On 1 July 2011, the Applicant initiated procedure for Administrative Conflict in the Supreme Court, against the Resolution no. 5098514 of 3 February 2011 of the PADK.
16. On September 23 2011, The Supreme Court, issued the Judgment A. no. 590/2011, by deciding on the Applicant’s claim on the Administrative Conflicts, rejected the claim exercised by the Applicant on 1 July 2011, on the ground that the Medical Commissions authorized by Law, confirmed that there is no limited ability to work at the Applicant, as the Supreme Court emphasized, the administrative authorities have correctly applied the provision of the Article 3 of the Law on Administrative conflict.

### **Applicant’s allegations**

17. The Applicant alleges that the Supreme Court of the Republic of Kosovo, by the Judgment A. no. 590/2011 of 23 September 2011, by finally rejecting his right to recognition of status of the person with disabilities, has violated the rights guaranteed by the Constitution, which violation the Applicant did not specify in his Referral.
18. The Applicant, inter alia, requires compensated in cash for the injuries due to the accident which happened to him at the workplace.

### **Assessment of the admissibility of the Referral**

19. In order to be able to adjudicate the Applicant’s Referral, the Court needs first to examine whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution, further specified in the Law on the Constitutional Court and the Rules of Procedure.
20. The Court observes that the Applicant challenges the Judgment A. no. 590/2011 of the Supreme Court of 23 September 2011, which according to the Supreme Court’s book of evidence the applicant has received it on 26 October 2011. The Applicant submitted the Referral in the Court on 1 March 2012, which means that the Referral is filed out of the period of four (4) month as specified by Article 49 of the Law and Rule 36.1 (b) of the Rules of Procedure,
21. In this regard, the Court refers to Article 49 of the Law, which stipulates:

#### *Article 49 [Deadlines]*

*“The referral should be submitted within a period of four (4) months. The deadline shall be counted from the day upon which the claimant has been served with a court decision [...]”*

22. Based on all the foregoing, it results that the Applicant submitted the Referral out of the deadline prescribed by Law and Rules of Procedure of the Court.
23. Consequently, the Referral, pursuant to Article 113.7 of the Constitution, Article 20 of the Law, Rules 56 (2) of the Rules of Procedure, is considered as inadmissible.

### FOR THESE REASONS

The Constitutional Court, pursuant to Article 49 of the Law on Constitutional Court and Rule 36.1 (b) of the Rules of Procedures, on 19 September 2012, unanimously

### DECIDES

- I. TO REJECT the Referral as Inadmissible;
- II. This Decision shall be notified to the Parties and shall be published in the Official Gazette, in accordance with Article 20 (4) of the Law; and
- III. This Decision is effective immediately.

**Judge Rapporteur**

**President of the Constitutional Court**

Ivan Čukalović



Prof. Dr. Enver Hasani