



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

Pristine, 14 February 2012
Ref.No.:RK198/12

RESOLUTION ON INADMISSIBILITY

In

Case No. KI 128/11

Applicant

Boshnjaku Ismet

**Review of the
Judgment of the Supreme Court (Rev. no. 225/2007), dated of 25 September
2007**

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of

Enver Hasani, President
Kadri Kryeziu, Deputy-President
Robert Carolan, Judge
Altay Suroy, Judge
Almiro Rodrigues, Judge
Snezhana Botusharova, Judge
Ivan Čukalović, Judge
Gjyljeta Mushkolaj, Judge and
Iliriana Islami, Judge.

The Applicant

1. The Applicant is Boshnjaku Ismet from Batllavë, Podujevo.

Challenged Decision

2. The Applicant challenges the decision of the Supreme Court (Rev. no. 225/2007), dated of 25 September 2007, served on him on 15 January 2008.

Subject Matter

3. The Applicant alleges that his “fundamental right to work, guaranteed by Article 49.1 of the Constitution of Republic of Kosovo, was violated”.
4. The Applicant requests from the Constitutional Court of Kosovo “to annul the Ruling of the Supreme Court of Kosovo Rev. no. 225/2007, dated 25/09/2007” and “to approve [his] referral to return in the working place”.

Legal Basis

5. The Referral is based on Article 113 (7) of the Constitution, Articles 46, 47, 48 and 49 of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter, the “Law”), and Rule 56 (2) of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter, the “Rules”).

Proceedings before the Court

6. On 07 October 2011, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter, the “Court”).
7. On 16 January 2012 the President appointed Judge Almiro Rodrigues as Judge Rapporteur and a Review Panel composed of Judges Ivan Čukalović (Presiding), Kadri Kryeziu and Gjyljeta Mushkolaj.
8. On 18 January 2012, the Review Panel considered the Report of the Judge Rapporteur and made a recommendation to the Court on the inadmissibility of the Referral.

Summary of facts

9. The Applicant had an employment relationship with the SOE “Llapi”, which terminated on a date in 1991, after almost 13 years.
10. The Applicant, aiming at protecting his allegedly violated interests and rights, initiated judicial proceedings which commenced at the Municipal Court of Podujevo, passing through, on appeal to the District Court in Prishtina and which were finally dealt with at the Supreme Court.

11. In fact, on 25 September 2007, the Supreme Court (Rev. no. 225/2007) refused the Applicant's appeal against the Judgment of the District Court (Ac. No. 1043/2006, dated 10 May 2007).

Assessment of admissibility

12. In order to be able to adjudicate the Applicants' Referral, the Court first examines whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution, further specified in the Law and in Rule 36 of the Rules.
13. The Court considers that the public authorities of the Republic of Kosovo can only be required to answer to events which occurred subsequent to the entry into force of the Constitution i.e. from 15 June 2008. Accordingly, the Court cannot deal with a Referral relating to events that occurred before the entry into force of the Constitution (see, the Court's Resolution on Inadmissibility in Case No 18/10, Denic et al of 17 August 2011).
14. The matter does not fall under the temporal jurisdiction of the Constitutional Court as the Judgment of the Supreme Court (Rev. no. 225/2007), dated 25 September 2007, was served on the Applicant on 15 January 2008, a date before 15 June 2008, the date of entering into force of the Constitution, .
15. Furthermore, Rule 36 (3) h) of the Rules foresees that "*a Referral may also be deemed inadmissible*" if "*the Referral is incompatible ratione temporis with the Constitution*". Therefore, the Court considers that the Referral is out of time "*ratione temporis*".

FOR THESE REASONS

The Constitutional Court pursuant to Article 113 (7) of the Constitution and Rule 36 (3) (h) of the Rules, 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.
- III. This Decision is effective immediately.

Judge Rapporteur

Almiro Rodrigues



President of the Constitutional Court

Prof. Dr. Enver Hasani

