



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

Prishtina, on 29 August 2016
Ref. no.:RK 976/16

DECISION TO DISMISS THE REFERRAL

in

Case No. KI40/16

Applicant

Sokol Plakolli

**Request for review of undefined violations of the Constitution of the
Republic of Kosovo**

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 Mr. Sokol Plakolli, from the village of Letanc, Municipality of Podujeva (hereinafter: the Applicant).

Challenged decisions

2. The Applicant does not challenge any specific decision of any public authority.

Subject matter

3. The subject matter is the Applicant's request for the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) to "*urgently take concrete measures for suspension of work*" of a certain Centre (Centre M) and to initiate "*criminal proceedings against the leaders*" of the same.
4. The Applicant did not refer to any right or freedom guaranteed by the Constitution of the Republic of Kosovo (hereinafter: the Constitution), which might have been violated by a public authority.

Legal basis

5. The Referral is based on 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, the Law), and Rule 32 (4) of the Rules of Procedure of the Constitutional Court (hereinafter: the Rules of Procedure).

Proceedings before the Constitutional Court

6. On 24 February 2016, the Applicant submitted the Referral to the Court.
7. On 14 March 2016, the President of the Court appointed Judge Gresa Caka-Nimani as Judge Rapporteur. On the same date, the President appointed the Review Panel composed of judges: Altay Suroy (Presiding), Bekim Sejdiu and Selvete Gërxhaliu-Krasniqi.
8. On 26 April 2016, the Court informed the Applicant about the registration of the Referral.
9. On 14 June 2016, the Review Panel, after having considered the report of the Judge Rapporteur, recommended to the Court the inadmissibility of the Referral, namely its dismissal in accordance with Rule 32 (4) of the Rules of Procedure.

Summary of facts

10. With the exception the Applicant's allegations summarized in a so-called "*open letter*", the Court did not receive any facts or any other information regarding this case.
11. The Applicant did not submit any information or evidence showing that he has initiated any legal proceedings or that he has taken any other action to protect his rights and freedoms.

Applicant's allegations

12. The Applicant did not challenge any specific decision of any public authority and he did not refer to any right or freedom guaranteed by the Constitution that might have been violated.
13. The Applicant addressed the Court with a so-called "open letter" through which, he expressed his dissatisfaction and contested the work of the abovementioned Centre, and amongst others stated: "*Facing numerous challenges, I have noticed classical violations of the Constitution of Kosovo, therefore, I decided to address you as the institution which has the duty to protect the Constitution of Kosovo and to treat possible constitutional violations committed by individuals and institutions or organizations, whether governmental or nongovernmental.*"

Admissibility of Referral

14. The Court first examines whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution and as further specified in the Law and the Rules of Procedure.
15. In this respect, the Court refers to Article 113.1 and 113.7 of the Constitution, which establish:

"(1) The Constitutional Court decides only on matters referred to the court in a legal manner by authorized parties."

[...]

(7) 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."

16. The Court also refers to Article 48 of the Law, which provides:

"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."

17. Furthermore, the Court refers to Rule 29 (Filing of Referrals and Replies) of the Rules of Procedure, which provides:

"(2) The referral shall also include:

[...]

(f) a succinct description of the facts;

(g) the procedural and substantive justification of the referral; and

(h) the supporting documentation and information."

18. In relation to this, the Court notes that the Applicant has not fulfilled any of the requirements provided by the abovementioned provisions of the Constitution, the Law and the Rules of Procedure.

19. More specifically, the Court notes that the Applicant, with exception to his general and abstract referral, he i) did not challenge any decision of any public authority; ii) did not prove that any of the rights and freedoms guaranteed by the Constitution have been violated by a public authority; iii) did not submit any fact or data related to his case; iv) did not present any procedural or substantive justification as it pertains to his claim; and, v) did not submit any information or supporting documents.
20. In light of these facts, the Court refers to Rule 32 (4) (Withdrawal, Dismissal and Rejection of Referrals) of the Rules of Procedure, which provides:

“(4) The Court may dismiss a referral when the Court determines a claim to be moot or does not otherwise present a case or controversy and there is no special circumstance in respect to human rights and or public interest for the Court to review the case.”
21. In this regard, the Court concludes that the present Referral does not present a case or controversy and does not present any special circumstance in respect to human rights and freedoms guaranteed by the Constitution. Therefore, the present Referral cannot be taken for review as it fails to meet any of the procedural requirements stipulated by the Constitution, the Law and the Rules of Procedure.
22. In sum, the Court concludes that the Referral is to be dismissed in accordance with Rule 32 (4) of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court of Kosovo, in accordance with Article 113. 1 and 113.7 of the Constitution, Article 48 of the Law, and Rules 29 and 32 (5) of the Rules of Procedure, on 14 jun 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; and
- IV. This Decision is effective immediately;

Judge Rapporteur

President of the Constitutional Court


Gresa Caka-Nimani


Arta Rama-Hajrizi

