



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

Prishtina, 22 January 2016
Ref. No.: RK

RESOLUTION ON INADMISSIBILITY

in

Case No. KI63/15

Applicant

Bedri Haxhi Halili

**Constitutional review of Decision 508/15 of the Disciplinary Committee of
the municipal Islamic Community in Vushtrri, of 4 May 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

Applicant

1. The Applicant is Mr. Bedri Haxhi Halili from Vushtrri (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges Decision 508/15 of the Disciplinary Committee of the municipal Council of Islamic Community in Vushtrri (hereinafter: the Disciplinary Committee), of 4 May 2015.

Subject matter

3. The subject matter is the constitutional review of the challenged decision. The Applicant does not specifically mention the Articles of the Constitution, which have been violated.

Legal basis

4. The Referral is based on Article 113.7 of the Constitution of the Republic of Kosovo (hereinafter: the Constitution) and Article 47 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 25 May 2015, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 29 June 2015, the President of the Court by Decision No. GJR. KI63/15 appointed Judge Altay Suroy as Judge Rapporteur. On the same date, the President of the Court by Decision No. KSH. KI63/15 appointed the Review Panel, composed of Judges: Snezhana Botusharova (Presiding), Bekim Sejdiu and Arta Rama-Hajrizi.
7. On 28 July 2015, the Court informed the Applicant about the registration of the Referral.
8. On 18 December 2015, after having considered the report of the Judge Rapporteur, the Review Panel made a recommendation to the full Court on the inadmissibility of the Referral.

Summary of facts

9. On an unspecified date, before the Disciplinary Committee of the municipal Islamic Community in Vushtrri was initiated the disciplinary procedure against the Applicant.
10. This procedure was finalized by Decision 508/15 of the Disciplinary Committee, of 4 May 2015, whereby it was decided that the Applicant's salary be decreased for 20% for the next 9 months.

Applicant's allegations

11. The Applicant requests the Court that in the abovementioned decisions of the Disciplinary Committee finds violation of the rights guaranteed by the Constitution.

Relevant legal provisions

UNMIK Regulation No. 02/31 On freedom of religion in Kosovo

Article 5. Religious neutrality

[...]

5.2. Religious communities shall be separated from public authorities.

[...].

Article 7. Self-Determination and Self-Regulation

[...]

7.2. Religious communities shall independently regulate and administer their internal organization.

[...].

Assessment of the admissibility of the Referral

12. 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 and further specified in the Law and Rules of Procedure.
13. In this respect, the Court refers to Article 113.7 of the Constitution, which provides:

"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."

14. The Court also refers to Article 39.2 of the Constitution, which provides:

Article 39 [Religious Denominations]

"2. Religious denominations are free to independently regulate their internal organization, religious activities and religious ceremonies."

15. As regards the present Applicant's Referral, the Court refers to Rule 36 paragraph (3) item (a) and (e) of the Rules of Procedure, which provides the following:

"A referral may also be deemed inadmissible in any of the following cases:

(a) the Court does not have jurisdiction in the matter;

[...]

(e) the Referral is incompatible ratione materiae with the Constitution;

16. The court is obliged to examine whether it has jurisdiction *ratione materiae* in each each stage of the proceedings. The compatibility with the Constitution and international instruments which are an integral part of the Constitution in accordance with Article 53 of the Constitution *ratione materiae* of a Referral stems from the core competence of the Court. In order that a Referral is compatible *ratione materiae* with the Constitution, the right invoked by the Applicant, must be protected by the Constitution.
17. As the Applicant's Referral is related to the Decision of the Disciplinary Committee of the municipal Islamic Community in Vushtrri, this Referral is incompatible *ratione materiae* with the Constitutional Court, because the internal organization of the religious communities is not under the jurisdiction of the Constitutional Court. It follows that the Applicant's Referral is incompatible *ratione materiae* with the provisions of the Constitution.

FOR THESE REASONS

The Constitutional Court, in accordance with Articles 39. 2 and 113.7 of the Constitution, and Rules 36 (3) (a) and (e) of the Rules of Procedure, in the session held on 18 December 2015, unanimously

DECIDES

- I. TO DECLARE the Referral inadmissible;
- II. TO NOTIFY this Decision to the parties and to publish this Decision in the Official Gazette, in accordance with Article 20.4 of the Law; and
- III. This Decision is effective immediately.

Judge Rapporteur

Altay Suroy



President of the Constitutional Court

Arta Rama-Hajrizi