



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

Prishtina, on 7 November 2016
Ref. No.: RK996/16

DECISION TO REJECT THE REFERRAL

in

Case No. KI71/16

Applicant

Ramadush Mjaku

Request for constitutional review of an unspecified decision of a public authority

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of

Arta Rama-Hajrizi, President
Ivan Čukalović, Deputy-President
Altay Suroy, Judge
Almiro Rodrigues, Judge
Snezhana Botusharova, Judge
Bekim Sejdiu, Judge
Selvete Gërxhaliu-Krasniqi, and
Gresa Caka-Nimani, Judge

Applicant

1. The Referral is submitted by Mr. Ramadush Mjaku from Sllatina e Poshtme, Municipality of Viti (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges an unspecified decision of a public authority, but he does not specify the details of that decision, nor does he attach the challenged decision.

Subject matter

3. The subject matter is the constitutional review of the challenged decision. The Applicant did not mention any right or freedom guaranteed by the Constitution of the Republic of Kosovo (hereinafter: the Constitution) that might have been violated by a public authority.

Legal basis

4. The Referral is based on Article 113.7 of the Constitution, Article 47 of the Law No. 03/L-121 on Constitutional Court of the Republic of Kosovo (hereinafter: the Law) and Rule 29 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

Proceedings before the Constitutional Court

5. On 26 April 2016, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 11 May 2016, the President of the Court appointed Judge Selvete Gërxhaliu-Krasniqi as Judge Rapporteur. On the same date, the President appointed the Review Panel, composed of Judges: Snezhana Botusharova (Presiding), Ivan Čukalović and Arta Rama-Hajrizi.
7. On 13 July 2016, the Court informed the Applicant about the registration of the Referral and requested him to attach the challenged decision of a public authority, which allegedly violates his rights guaranteed by the Constitution.
8. On 20 July 2016, the Applicant submits additional documents to the Court. However, there is no decision challenged by the Applicant in the attached documents.
9. On 15 September 2016, after having considered the report of the Judge Rapporteur, the Review Panel recommended to the full Court the inadmissibility of the Referral.

Summary of facts

10. The Applicant stated that he applied with the certain public authority for the position of a coach in the local football club, but that his application has never been considered, nor he was invited to an interview.
11. The Applicant has not submitted any evidence to support his allegations, and any information or evidence, indicating that he has initiated any legal proceedings or undertaken any other action to protect his rights and freedoms.

Applicant's allegations

12. The Applicant emphasizes among the other: *"My appeal related to the job position of football coach submitted to the Mayor of my Municipality (of Ferizaj), the Mayor, having noticed that injustice was done to me, suggested me to sue the Football Club of Ferizaj in the Court. However, after consulting my attorney-at-law, I decided not to proceed through the Municipal Court in Ferizaj, because my attorney-at-law told me that this could last for a long time, even years. Therefore, taking into account the fact that I had a bitter experience in the past with the Court, I quitted doing so."*
13. The Applicant further requests: *"Realization of three of my legal claims wherefore I meet all the criteria, pursuant to the laws of the Republic of Kosovo and international laws, because as a professor that I am, having a long experience, I know very well the laws and I request such realization. I am willing to bear the criminal liability before the law in case my data are not accurate."*

Admissibility of Referral

14. The Court first examines whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution, 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 further refers to Article 48 of the Law, which specifies:

"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. In addition, 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 this regard, the Court notes that the Applicant has not fulfilled any of the criteria required by the abovementioned provisions of the Constitution, the Law and the Rules of Procedure.
19. More specifically, the Court notes that the Applicant, in addition to his general and abstract referral, i) he did not challenge any specific decision of a public authority; ii) has not proved that any of his rights and freedoms guaranteed by the Constitution have been violated by a public authority; iii) has not submitted any fact or data concerning his case; iv) he did not present any procedural or substantive justification of his referral; v) he did not submit any supporting information or documentation; and vi) has not exhausted any legal remedy provided by the law.
20. In light of these facts, the Court refers also to Rule 32 (5) (Withdrawal, Dismissal and Rejection of Referrals) of the Rules of Procedure, which provides:

“(5) The Court may summarily reject a referral if the referral is incomplete or not clearly stated despite requests by the Court to the party to supplement or clarify the referral, if the referral is repetitive of a previous referral decided by the Court, or if the referral is frivolous.”
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 Referral cannot be taken for review, as it does not meet any of the procedural requirements, stipulated by the Constitution, Law and Rules of Procedure.
22. In sum, the Court finds that the Referral is to be summarily rejected in accordance with Rule 32 (5) of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.1 and 113.7 of the Constitution, and Rule 32 (5) of the Rules of Procedure, in the session held on 15 September 2016, unanimously

DECIDES

- I. TO REJECT the Referral;
- 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;
- IV. This Decision is effective immediately.

Judge Rapporteur

Selvetë Gërxhaliu-Krasniqi



President of the Constitutional Court

Artan Rama-Hajrizi

