



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

Prishtina, on 6 April 2016  
Ref. No.:RK915/16

## RESOLUTION ON INADMISSIBILITY

in

**Case no. KI87/15**

Applicant

**Bahrije Galica**

**Constitutional Review of Judgment of the Supreme Court,  
Rev. No. 277/2014 of 20 November 2014**

### 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  
Bekim Sejdiu, Judge  
Selvete Gërxhaliu-Krasniqi, Judge and  
Gresa Caka-Nimani, Judge

#### **Applicant**

1. The Applicant is Ms. Bahrije Galica, represented by Mr. Naim Krasniqi, lawyer in Prishtina.

## **Challenged decision**

2. The challenged decision is Judgment of the Supreme Court, Rev. No. 277/2014, dated 20 November 2014.
3. The Applicant received the challenged Judgment on 2 January 2015.

## **Subject matter**

4. Subject matter is the constitutional review of the above mentioned Judgment of the Supreme Court, which the Applicant alleges violated her right guaranteed by Article 46 [Protection of Property] of the Constitution of Republic of Kosovo (hereinafter: Constitution), as well as Article 1 of Protocol No. 1 of European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: ECHR).

## **Legal basis**

5. 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, No. 03/L-121 (hereinafter: the Law) and Rule 56 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

## **Proceedings before the Court**

6. On 26 June 2015, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: The Court).
7. On 3 August 2015 the President of the Court, by Decision GJR. KI87/15, appointed Judge Altay Suroy as Judge Rapporteur. On the same day, the President, by Decision KSH. KI87/15, appointed the Review Panel composed of Judges: Snezhana Botusharova (Presiding), Arta Rama-Hajrizi and Bekim Sejdiu.
8. On 19 August 2015 the Court notified the Applicant of the registration of the Referral. On the same day, the Court sent a copy of the Referral to the Supreme Court.
9. On 19 August 2015, the Court requested from Basic Court in Prishtina to deliver a letter of receipt which shows when the Applicant was served with the Judgment of the Supreme Court, Rev. no. 277/2014, dated November 2014.
10. On 26 August 2015, the Court received a service note from the Basic Court in Prishtina, which shows that the Applicant, was served with the above mentioned Judgment of the Supreme Court on 2 January 2015.
11. On 8 March 2016, after having considered the report of the Judge Rapporteur, the Review Panel made a recommendation to the Court on the inadmissibility of the Referral.

## Summary of Facts

12. The Applicant since year 1983 until 1999, was employed in the fire brigade of the Municipality of Prishtina (hereinafter: the Employer).
13. On 27 September 2007, the Municipal Court in Prishtina obliged the Employer, to return the Applicant to the same job position or to a different position with similar tasks. On 7 December 2007, the Judgment became final.
14. As a result of this Judgment, on 11 February 2008, the Applicant was returned to her working place.
15. On an unspecified date, the Applicant filed a claim with Municipal Court in Prishtina, by which she requested compensation for lost salaries from 1 July 1999 until the date of her return to the working place.
16. On 5 April 2011, the Municipal Court (Judgment, C1. No. 115/08) in Prishtina approved the claim of the Applicant and obliged her Employer to compensate her for the lost salaries for the period from 1 July 1999 until the date of her return to the working place.
17. Against the Judgment of the Municipal Court, the Employer filed an appeal.
18. On 13 June 2014, the Court of Appeal (Judgment, Ac. No. 2517/2012) rejected the appeal of the Employer and upheld the Judgment of the Municipal Court of Prishtina.
19. Against the above mentioned Judgment of the Court of Appeal, the Employer submitted a revision to the Supreme Court.
20. On 20 November 2014, the Supreme Court (Judgment, Rev. No. 277/2014) partially approved as grounded the revision filed by the Employer and amended the Judgment of Court of Appeal and the Judgment of the Municipal Court in Prishtina.
21. By its Judgment, the Supreme Court decided to partially approve as grounded the Applicant's claim, obliging the Employer to compensate her for the lost salaries only for the period from 7 December 2007 until 11 February 2008. At the same time, the Supreme Court rejected as ungrounded the rest of the Applicant's claim for compensation for lost salaries for the period from 1 July 1999 until 7 December 2007.

## Applicant's allegations

22. As mentioned above, the Applicant in her referral claims that the Supreme Court has violated her property right.
23. The Applicant claims that "[...] she had a legitimate expectation that she will enjoy the above mentioned compensation based on the right to return to the working place. "

24. Finally, the Applicant requests from the Court to annul the Judgment of Supreme Court and remand the case for retrial.

### **Admissibility of the Referral**

25. The Court first examines whether the Applicant has fulfilled the admissibility requirements as laid down in the Constitution and as further specified in the Law and the Rules of Procedure.

26. In that respect, the Court refers to Article 49 of the Law which provides:

*“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. In all other cases, the deadline shall be counted from the day when the decision or act is publicly announced. If the claim is made against a law, then the deadline shall be counted from the day when the law entered into force”.*

27. The Court also takes into account Rule 36 (1) (c) of the Rules of Procedure, which foresees:

*(1) “The Court may consider a referral if:*

*[...]*

*(c) the referral is filed within four months from the date on which the decision on the last effective remedy was served on the Applicant [...].”*

28. In order to determine whether the Applicant has submitted the Referral within the time limit of four (4) months, the Court refers to the day when the Applicant was served with the final decision and the day on which the Referral was submitted to the Constitutional Court.
29. The challenged Judgment of the Supreme Court (Rev. No. 277/2014, dated 20 November 2014) was served on the Applicant on 2 January 2015, while she submitted her Referral to the Court on 26 June 2015. Based on this, it follows that the Referral was not submitted within the legal time limit provided in Article 49 of the Law and Rule 36 (1) (c) of the Rules of Procedure.
30. The Court recalls that the objective of the four month legal deadline under Article 49 of the Law and Rule 36 (1), (c) of the Rules of Procedures, is to promote legal certainty, by ensuring that the cases, raising issues under the Constitution, are dealt within a reasonable time and that the past decisions are not continually open to challenge (See case *O’Loughlin and others v. United Kingdom*, No. 23274/04, ECHR, Decision of 25 August 2005).
31. Consequently, the Court considers that the Applicant's referral is inadmissible because it is out of time.

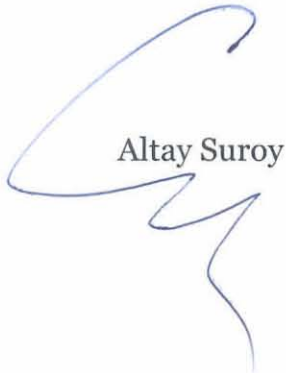
## FOR THESE REASONS

The Constitutional Court, in accordance with Article 49 of the Law and Rule 36 (1) (c) of the Rules of Procedure, on 8 March 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**



Altay Suroy

**President of the Constitutional Court**



Arta Rama-Hajrizi