



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

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Pristina, 17 April 2015  
Ref. No.: V791/15

## **DECISION**

in

**Case No. KO22/15**

Applicant

**Ombudsperson of the Republic of Kosovo**

**Request for recusal of the President of the Constitutional Court of the  
Republic of Kosovo**

**THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO**

composed of

Ivan Čukalović, Deputy President  
Altay Suroy, Judge  
Almiro Rodrigues, Judge  
Snezhana Botusharova, Judge  
Kadri Kryeziu, Judge  
Arta Rama-Hajrizi, Judge and  
Bekim Sejdiu, Judge

### **Applicant**

1. The Applicant is the Ombudsperson of the Republic of Kosovo, Mr. Sami Kurteshi.

## **Subject matter**

2. The Applicant requests reconsideration of the Resolution on Inadmissibility of the Constitutional Court of the Republic of Kosovo in Case KO155/14.
3. In this Referral the Applicant also requests the recusal of the President of the Constitutional Court of the Republic of Kosovo pursuant to Article 18 of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the “Law”) and Rule 7 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the “Rules of Procedure”).

## **Legal basis**

4. The request is based on Article 18 [Exclusion of a Judge] of the Law and Rule 7 [Recusal Procedures], paragraphs 2, 3 and 4, of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the “Rules of Procedure”).

## **Proceedings before the Court**

5. On 26 February 2015 the Applicant submitted the Referral KO22/15 containing the request for recusal of the President of the Court.
6. On 17 April 2015 the Court followed the prescribed procedure under Rule 7.4 of the Rules of Procedure which provides the following:

*“[...] the Court, by majority vote of the Judges, shall decide on the petition for recusal. Before rendering a decision on a recusal request, a statement shall be taken from the Judge whose disqualification is sought and, if need be, other clarifications shall be obtained. The Judge for whom recusal is requested may not participate in the decision. The decision of the Court shall be issued to the parties to the proceedings.”*

7. On 17 April 2015 the Court took a statement from the President of the Court pursuant to Rule 7.4 of the Rules of Procedure.
8. On the same date, in the absence of the President of the Court, the Court deliberated on the Applicant’s request and voted, unanimously, to reject it.

## **Allegations of the Applicant**

9. The Applicant considers that the President of the Court should be excluded, allegedly, *“[...] due to (1) his engagement in internal discussions of EULEX related to the procedure for the appointment of the three international judges; and (2) his explicit statement according to which bypassing the Assembly would not represent a constitutional violation in this case.”*

### **Assessment of the request**

10. As to the request of the Applicant, the Court notes that the Applicant has not submitted any evidence or arguments showing that there exists any valid reason for his recusal.
11. The Court assesses that the request of the Applicant is unjustified, irrelevant and unsubstantiated.
12. Therefore, the Court rejects the Applicant's request.


### **FOR THESE REASONS**

The Constitutional Court, pursuant to Article 29 of the Law and Rule 36 (1) (d) and (2) and Rule 56 of the Rules of Procedure, on 17 April 2015, unanimously,

### **DECIDES**

- I. TO REJECT the Request by the Applicant for recusal of the President of the Constitutional Court of the Republic of Kosovo;
- II. TO NOTIFY this Decision to the Applicant and the President of the Constitutional Court of the Republic of Kosovo;
- III. TO PUBLISH this Decision in the Official Gazette in accordance with Article 20(4) of the Law;
- IV. TO DECLARE this Decision effective immediately upon voting.

**Deputy President of the Constitutional Court**

  
Prof. Dr. Ivan Čukalović

