



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT**

Prishtina, 26 May 2014
Ref.no.: RK634/14

RESOLUTION ON INADMISSIBILITY

in

Case no. KI02/14

Applicant

Hamdi Ademi

**Constitutional Review of the Judgment of the Appellate Panel of the
Special Chamber of the Supreme Court of Kosovo, ASC-11-0069, of 22
April 2013**

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of:

Enver Hasani, President
Ivan Čukalović, Deputy-President
Robert Carolan, Judge
Altay Suroy, Judge
Almiro Rodrigues, Judge
Snezhana Botusharova, Judge
Kadri Kryeziu, Judge and
Arta Rama-Hajrizi, Judge

Applicant

1. The Applicant is Mr. Hamdi Ademi, from the village of Gllamnik, Municipality of Podujeva (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges the Judgment ASC-11-0069 of the Appellate Panel of the Special Chamber of the Supreme Court of Kosovo (hereinafter: the Appellate Panel) of 22 April 2013, served on the Applicant on 03 May 2013. The abovementioned decision was reviewed in the Constitutional Court in case KI73/13, Inadmissibility Resolution, which the Court reviewed on 18 November 2013.

Subject matter

3. The subject matter is the constitutional review of the judgment which is alleged to have deprived the Applicant the enjoyment of the rights to a share from 20% of the proceeds from the privatization of the Socially-Owned Enterprise "Ramiz Sadiku" (hereinafter: SOE "Ramiz Sadiku"), in Prishtina.
4. The Applicant does not refer specifically to the articles of the Constitution which are violated.

Legal basis

5. The legal basis for filing the referral is: Article 113.7 of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), Article 47 of the Law on the 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 09 January 2014, the Applicant filed his referral with the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
7. On 30 January 2014, the President of the Court, by Decision no. GJR. KI02/14, appointed Judge Altay Suroy as Judge Rapporteur. On the same date, by Decision no. KSH. KI02/14, the President appointed the Review Panel, composed of judges: Robert Carolan (Presiding), Ivan Čukalović and Enver Hasani.
8. On 24 February 2014, the Court notified the Applicant and the Special Chamber of the Supreme Court (hereinafter: SCSC), of the registration of the referral.
9. On 02 April 2014, after having reviewed the report of the Judge Rapporteur, the Review Panel made a recommendation to the full Court on inadmissibility of the Referral.

Summary of facts

10. On 16 May 2013, the Applicant filed his referral with the Court, which was registered under the number KI73/13, thereby challenging the Decision ASC-11-0069 of the SCSC Appellate Panel, of 22 April 2013.

11. In referral KI73/13, the Applicant claims that the challenged judgment violates his rights guaranteed by the Constitution, such as the right to life, the right to work, and that he is a victim of discrimination.
12. In referral KI73/13, the Applicant requested from the Court to: *„To benefit 20% for his work at the enterprise ‘Ramiz Sadiku’ and to be paid for sick leave from the day he suffered the car accident, until he turned 65”*.
13. On 18 November 2013, the Court declared the Applicant’s referral inadmissible (Case no. KI73/13, Resolution on Inadmissibility).
14. On 9 January 2013, the Applicant filed a new Referral with the Court (by challenging the same decision, as in the Case no. KI73/13), registered under the number KI02/14.
15. In Referral no. KI02/14, the Applicant has not submitted any new facts or evidence related to the nature of his case, but explicitly demands to: *„That the Court makes possible to face the Secretary of former SOE ‘Ramiz Sadiku’ whom he considers to be the only responsible person for losing his right to the 20%“*.

Applicant’s allegations

16. In his Referral, the Applicant claims to have lost his right to 20% of the proceeds of privatization due to an error of the responsible person in the SOE “Ramiz Sadiku”.
17. The Applicant addresses the Court with the following request:

„I want to face the Secretary of former ‘Ramiz Sadiku’ who has lost all my personal documents proving my history of work in the enterprise SOE ‘Ramiz Sadiku’“.

Admissibility of the Referral

18. The Court first examines whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution and further specified in the Law and the Rules of Procedure.
19. In this regard, the Court refers to Article 116.1 of the Constitution [Legal Effect of Decisions], which provides that:

„1. Decisions of the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo.“

20. Apart from the above, the Court also takes note of the Rule 63 (1) of the Rules of Procedure, which provides that:

„(1) The decisions of the Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo.“

21. Furthermore, the Rule 36 (3) e) of the Rules of Procedure provides that:

„(3) Referral may also be deemed inadmissible in any of the following cases:

(...)

e) the Court has already issued a Decision on the matter concerned and the Referral does not provide sufficient grounds for a new Decision“.

22. The Court considers that the facts and allegations raised by the Applicant in his new Referral do not provide any sufficient or relevant grounds or reasons for a new decision.

23. In fact, the Court wishes to remind that it has already dealt with the above-mentioned case no. KI73/13, Inadmissibility Resolution, in which on 18 November 2013, it rendered its resolution on inadmissibility of referral. In its Resolution, the Court noted that the Applicant had not substantiated his allegations related to violation of constitutional provisions, since the presented facts do not in any way indicate that the Trial Panel and the Appellate Panel of the Special Chamber of the Supreme Court violated his constitutionally guaranteed rights.

24. The Court finds that it has already rendered a decision on the subject matter while the Referral does not contain sufficient grounds for rendering a new decision.

25. Therefore, the Court declares this referral inadmissible, in compliance with Rule 36 (3) e) of the Rules of Procedure.

FOR THESE REASONS

Pursuant to Article 116.1 of the Constitution, Article 47 of the Law and Rule 36 (3) e) of the Rules of Procedure, the Constitutional Court, in its session held on 2 April 2014, unanimously

DECIDES

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

Judge Rapporteur

Altay Suroy



President of the Constitutional Court

Prof. Dr. Enver Hasani