



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

Pristine, 29 January 2013
Ref. No.: RK369/13

RESOLUTION ON INADMISSIBILITY

in

Case No. KI 106/12

Applicant

Lulzim Ramaj

Request for recognition of KLA member status

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of

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

The Referral

1. The Referral was submitted by Mr. Lulzim Ramaj, residing in Peja (the Applicant).
2. On 3 March 2011, the Applicant submitted a first Application (Case No. KI 32/11) to the Constitutional Court of the Republic of Kosovo (hereinafter, the "Court"). The Case was rejected as inadmissible on 18 January 2012.

Subject Matter

3. The present Referral is a follow-up of Case No. KI 32/11. The Applicant complains now that the Kosovo Liberation Army (KLA) organization is *"Refusing to issue a certificate that I was a KLA member – and denial of recognition of the KLA member status, Publication of the case in media and defamations of the KLA [...]"*.
4. In this respect the Applicant claims that *"[...] this is in contradiction to Article 21, paragraph 1, Article 24, paragraph 1, Article 36, paragraph 1 and Article 41 paragraph 1 of the Constitution of the Republic of Kosovo; Article 1, Article 2 paragraph 1, Article 7, Article 8 and Article 29 paragraph 2 of the Universal Declaration on Human Rights; Article 2 paragraph 1 (a) and (b), Article 5 paragraph 11 and 2, Article 8 paragraph 2, Article 8 paragraph 2, Article 14 paragraph 1, Article 25 paragraph 1, Article 26 of the International Covenant on Civil and Political Rights; and Article 1 (Obligation to enforce human rights) and Article 14 (prohibition of Discrimination) of the European Convention on Human Rights and its Protocols."*
5. Furthermore, the Applicant requests the Court not to have his identity foreclosed without providing any further reasons.

Legal basis

6. The Referral is based on Article 113.7 of the Constitution of the Republic of Kosovo (hereinafter, the "Constitution"), Article 22 of the Law on the Constitutional Court of the Republic of Kosovo of 15 January 2009, (No. 03/L-121), (hereinafter, the "Law") and Rule 56 (2) of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter, the "Rules of Procedure").

Proceedings before the Court

7. On 18 January 2012, the Constitutional Court, in a previous Case KI. No. 32/11, found the Referral inadmissible on the ground that the Applicant's petition was still pending before the Supreme Court. Thus, the Applicant's Referral was premature. That conclusion was consistent with the information given to the Applicant by the Kosovo Judicial Council on "his submission related to the delay in deliberation by the Supreme Court of Kosovo does not meet the time criterion to be considered as being delayed by the Court". There is still a pending submission to the Supreme Court.

8. On 22 October 2012, the Applicant submitted a new Referral to this Court.
9. On 4 December 2012, the President appointed Judge Almiro Rodrigues as Judge Rapporteur and the Review Panel composed of Judges Robert Carolan (Presiding), Altay Suroy and Ivan Čukalovič.
10. On 29 January 2013, the Review Panel considered the report of the Judge Rapporteur and made a recommendation to the Court on the inadmissibility of the Referral.

Summary of facts

11. No new information in relation to the previous case KI 32/11 has been submitted to the Court.
12. The facts, as described in case 32/11, were as it follows below.
13. On 17 September 2010, the Applicant submitted to the Peja branch of the KLA Veteran organization a request for recognition of the status of KLA veteran and also requested the issuance of the "KLA booklet".
14. On 12 October 2010, due to administrative silence by the Peja branch, based on Article 131 of Law on Administrative Procedure in Kosovo (Law no. 02/L-28), the Applicant filed an appeal to the Central Organization of KLA Veterans in Pristina.
15. On 13 December 2010, the Applicant submitted a petition before the Supreme Court of Kosovo in Pristina due to the fact that he did not receive a decision in respect of his appeal to the Central Organization of KLA Veterans.
16. On 28 December 2010 and on 29 January 2011, the Applicant submitted appeals to the Kosovo Judicial Inspectorate against inaction by the Supreme Court.
17. On 9 February 2011, the Applicant received a letter from the Office of Disciplinary Counsel of the Kosovo Judicial Council whereby he was informed that his submission related to the delay in deliberation by the Supreme Court of Kosovo and did not meet the time criterion to be considered.
18. On 9 February 2011, the Applicant made a further request to the Kosovo Judicial Council requesting the review of his appeals of 28 December 2010 and 29 January 2011.
19. The facts in case KI 106/12 follows below.
20. On 1 March 2011, the Applicant filed an appeal against the Central Organization of KLA Veterans in Pristina, without mentioning to which institution he appealed.

21. On 23 March 2011, the Applicant changed his appeal and instead of requesting the recognition of veteran KLA status he requested to have the status as member of KLA.
22. On 4 July 2012, the Applicant filed a submission to the Supreme Court which, according to the Applicant, has not yet replied. The Applicant does not mention what submission he filed and for what he filed.
23. On 18 July 2012, the Applicant filed a complaint with the Kosovo Judicial Council against the Supreme Court for not having reviewed and solved his case
24. On 24 August 2012, the Applicant filed an appeal against the Kosovo Judicial Council with the Kosovo Judicial Council due to administrative silence and for having rejected his appeal of 18 July 2012. According to the Applicant, he has not yet received a reply.
25. Furthermore, no supporting documentation and information was provided on the reasons for the Applicant to have his identity foreclosed.

Admissibility of the Referral

26. The Court first observes that, in order to be able to adjudicate the Applicant's new complaint, it is necessary to first examine whether he has fulfilled all admissibility requirements, laid down in the Constitution as further specified in the Law and the Rules of Procedure.
27. In this respect, the Court refers to Rule 36 (3) (e) which provides: "*A Referral may also be deemed inadmissible in any of the following cases: the Court has already issued a Decision on the matter concerned and the Referral does not provide sufficient grounds for a new Decision;*"
28. The Applicant's complaint that he was refused the recognition of KLA member status was already rejected by this Court in its Resolution on Inadmissibility in Case No. KI. 32/11.
29. The Applicant has failed to provide new and sufficient grounds for a new Decision. The only new information that the Applicant has brought before this Court is that he wants to change his request from recognition of KLA veteran status to member of KLA status. Furthermore, the Applicant has not submitted with this Court a final act issued by a public authority that he challenges before this Court. Moreover, the procedure that the Applicant undertook after Resolution on Inadmissibility in case KI 32/11 concerns also that the Applicant instead of requesting KLA veteran status is now requesting to have his member of KLA status.
30. Therefore, pursuant to Rule 36(3) (e) of the Rules, the Court will not deal with this Referral.

31. In these circumstances, the Court concludes that the Referral, pursuant to Rule 36 (3.e) of the Rules of Procedure, is inadmissible, because the Court has already decided on the concerned matter.
32. As to the Applicant's request for not having his identity foreclosed, the Applicant has not provided supporting grounds and evidence substantiating the request on the Applicant not having his identity foreclosed. Therefore, the Court rejects it as ungrounded.

FOR THESE REASONS

The Constitutional Court, pursuant to Rule 36 (3.e) of the Rules of Procedure and Rule 56 (2) of the Rules of Procedure, on 29 January 2013, unanimously,

DECIDES

- I. TO REJECT the Referral as Inadmissible, because the Constitutional Court has already decided the Applicant's case with Case No. KI. 32/11., i.e. the case is *res judicata*;
- II. TO REJECT the request on the Applicant not having his identity foreclosed
- III. TO NOTIFY this Decision to the Parties; and
- IV. TO PUBLISH this Decision in accordance with Article 20 (4) of the Law;
- V. This Decision is effective immediately.

Judge Rapporteur

Almiro Rodrigues



President of the Constitutional Court

Prof. Dr. Enver Hasani