



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

Prishtina, 25 January 2013
Ref. No.: RK364/13

RESOLUTION ON INADMISSIBILITY

in

Case No. KI116/12

Applicant

Lulzim Ramaj

**Constitutional review of the Telecommunications Regulatory Authority
Decision 1218/2/12 dated 12 June 2012**

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 Lulzim Ramaj, residing in Peja.

Challenged decision

2. The Applicant challenges the Telecommunications Regulatory Authority Decision 1218/2/12, dated of 12 June 2012 and served on him on 13 June 2012.

Subject matter

3. The subject matter of the Referral is the Applicant's complaint that the Regional Post Office in Peja has illicitly collected money from him, delayed his postal deliveries, postal deliveries have been served to him unclean and that he has been subjected to insults and threats by the CEO of the Regional Post Office in Peja.
4. The Applicant also requests from the Constitutional Court not to disclose his identity.

Legal basis

5. The referral is based on Article 113.7 of the Constitution; Article 20 of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo of 15 January 2009 (hereinafter, the Law), and Rule 56.2 of the Rules of Procedure of the constitutional Court of Kosovo (hereinafter, the Rules of Procedure).

Proceedings before the Court

6. On 12 November 2012, the Applicant submitted a referral to the Constitutional Court of the Republic of Kosovo (hereinafter, the Court).
7. On 4 December 2012, the President appointed Judge Almiro Rodrigues as Judge Rapporteur and a review panel composed of Judges Snezhana Botusharova, presiding, Kadri Kryeziu and Enver Hasani.
8. On 4 January 2013, the Court notified the Applicant and the Telecommunications Regulatory Authority about the registration of the Referral.
9. On 25 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 the facts

10. On 18 January 2012, the Applicant lodged a complaint against postal officers of the Regional Post Office in Peja, alleging illicit collection of 0.10 € per post-card, as Administrative Instruction No. 2005/4 for Universal Postal Services does not envisage postal tax for post-cards.
11. On 10 February 2012, the Applicant made a request to the Post Office to provide him with the price list of Kosovo postal services.
12. On 13 February 2012, the Applicant received a phone call from the CEO of the Regional Post Office in Peja and was told that the price list can be found in the walls of the Post Office premises as well as in the web-page of the Post Office.
13. On 15 February 2012, the Applicant lodged a complaint against the Regional Post Office in Peja to the Telecommunications Regulatory Authority (hereinafter, TRA).

14. On 21 February 2012, the Applicant lodged a complaint against a certain postal office employee in Prishtina, to the Directorate of Kosovo's Mails, due to concealment of the weight of the delivery letters. The Applicant got no reply.
15. On 25 April 2012, the Applicant lodged a complaint against the TRA Decision No.937/2/12, dated 14 March 2012, to the Supreme court of Kosovo. The Applicant thus far has received no reply.
16. On 24 August 2012, the Applicant notified the Judicial Council of Kosovo that the Supreme Court of Kosovo has not reviewed his lawsuit.

Applicant's allegations

17. The Applicant claims a violation of Articles 21 paragraph 1 [General Principles], 24 paragraph 1 [Equality before the Law], 36 paragraph 1 [Right to Privacy], 41 paragraph 1 [Right of Access to Public Documents] of the Constitution as well as Articles 1 [Obligation to respect human rights] and 14 [Prohibition of discrimination] of the European Convention on Human Rights. The Applicant also invokes violation of provisions of the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights.
18. The Applicant alleges that the Post Office has illicitly collected money from him, delayed his postal deliveries, postal deliveries have been served to him unclean and that he has been subjected to insults and threats by the CEO of the Regional Post Office in Peja.
19. The Applicant *inter alia* requests the Court:
 - To oblige TRA to remove the CEO of the Regional Post Office of Peja from office;
 - To remove the manager of Kosovo Postal Services from office;
 - To remove the postal supervisor of the Regional Post Office in Peja from office;
 - To remove from office the supervisor of the Postal Transit Center;
 - To remove from office a certain employee of the Regional Post Office in Peja against whom the Applicant had lodged a complaint dated 21 July 2012;
 - To remove from office all the employees who have abused their official duties based on postal evidence propounded by the Applicant and to fine each one of them individually in the amount of 5.000 € based on the provisions of the Law on Postal Services and the Labor Law;
 - To be paid indemnity in the amount of 2.500.500 (two million and five hundred thousand) €;
 - To be paid indemnity for the notes in the amount of 300.000 (three hundred thousand) €;
 - To exempt him from financial burden of judicial proceedings based on Article 31 paragraph 6 [Right to Fair and Impartial Trial] of the Constitution.

Admissibility of the Referral

20. In order to be able to adjudicate the Applicant's referral, the Court needs first to examine whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution, the Law and the Rules of Procedure.

21. The Court refers to Article 49 of the Law, which reads:

"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 the law entered into force".

22. The Court notes that the contested TRA decision was served to the Applicant on 13 June 2012 and that the Applicant had submitted the Referral on 12 November 2012.

23. Thus, the Applicant should have submitted his referral, at the latest, on 13 October 2012, in order to comply with the legal deadline for submitting a referral as set forth in Article 49 of the Law. The Applicant submitted his referral on 12 November 2012, a month beyond the prescribed legal deadline.

24. It follows that the referral is out of time.

25. The Court also refers to the Rule 36.3.d) of the Rules of Procedure, which provides:

A referral may also be deemed inadmissible in any of the following cases:

d) the Court considers that the referral is an abuse of the right of petition;

26. The Court also takes note that the Applicant has filed 4 different referrals including this one with the Court. The referrals filed by the Applicant are as follows:

- Resolution on Inadmissibility in Case no. KI126/10 Applicant Lulzim Ramaj – Constitutional Review of the Decision of the Ministry of Transport and Telecommunication No. 140, dated 25 January 2010, rendered by the Court on 19 January 2012;
- Resolution on Inadmissibility in Case no. KI32/11 Applicant Lulzim Ramaj – Request for recognition of KLA veteran status, rendered by the Court on 20 April 2012;
- Referral KI106/12 which is yet to be reviewed by the Court and which has as a subject matter the Applicant's request in relation to his KLA veteran status.

27. The Court refers to Article 53 [Interpretation of Human Rights Provisions] of the Constitution, which reads:

"Human rights and fundamental freedoms guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights".

28. The Court stresses that the case-law of the European Court of Human Rights expounds several ways which indicate the Applicants tendency to abuse with their right to petition. And one of them is when Applicants repeatedly lodge vexatious and

manifestly ill-founded applications with the Court that are similar to an application that they have lodged in the past that has already been declared inadmissible (*see M.v. the United Kingdom (dec.)*, and *Philis v. Greece (dec.)*).

29. In the instant case, the Court notes that the Applicant has filed 4 different referrals whereby 2 of them have already been declared inadmissible.
30. In the instant case, the Court considers that the Applicant has indeed abused with his right to petition, because he has filed similar referrals which in the past have been declared inadmissible.
31. In addition, the Applicant has not provided supporting grounds and evidence substantiating the request on the Applicant not having his identity foreclosed.
32. The Court considers that he has not substantiated in any way whatsoever as to *why* his identity should not be disclosed.
33. Therefore, the Court rejects as ungrounded the request not to disclose his identity.
34. In all, the Referral does not meet the requirements laid down in Article 49 of the Law and Rule 36. 3. d) of the Rules of Procedure and must be rejected as inadmissible and the request on protection of identity must be rejected as ungrounded.

FOR THESE REASONS

The Constitutional Court, Pursuant to Article 113.7 of the Constitution and Article 49 of the Law and in compliance with the Rule 36 (3) d of the Rules of Procedure, on 25 January 2013, unanimously:

DECIDES

- I. TO REJECT the Referral as inadmissible;
- II. TO REJECT the request on the Applicant not having his identity foreclosed;
- III. TO NOTIFY this Decision to the Parties;
- IV. TO PUBLISH this Decision in the Official Gazette, in accordance with Article 20 (4) of the Law; and
- V. This Decision is effective immediately.

Judge Rapporteur

Almiro Rodrigues



President of the Constitutional Court

Prof. Dr. Enver Hasan

