



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

Prishtina, 18 February 2014
Ref. no.:RK 549/14

RESOLUTION ON INADMISSIBILITY

in

Case no. KI154/13

Applicant

Beqir Halili

Constitutional Review of the Decision of the Trial Panel of the Special Chamber of the Supreme Court of Kosovo on Privatization Agency of Kosovo Related Matters, no. 1204, of 8 April 2010

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. Beqir Halili, from the village of Peran, Municipality of Podujeva (hereinafter: Applicant).

Challenged decision

2. The Applicant has not clarified in his Referral what decision of the Trial Panel of the Special Chamber of the Supreme Court of Kosovo on Privatization Agency of Kosovo Related Matters (hereinafter: Trial Panel of the Special Chamber) he is challenging, and he has only mentioned the Decision No. 1204, which is a part of a collective decision of the Trial Panel of the Special Chamber, of 8 April 2010, which explicitly affects him.

Subject matter

3. The subject matter is the constitutional review of challenged decision, which has allegedly violated the rights of the Applicant from the employment relationship, as guaranteed by Constitution.

Legal basis

4. The Referral is based on Article 113.7 of the Constitution, Article 47 of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo, of 15 January 2009 (hereinafter: Law) and Rule 56 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: Rules of Procedure).

Proceedings before the Court

5. On 4 October 2013, the Applicant filed a referral with the Constitutional Court of the Republic of Kosovo (hereinafter: Court).
6. On 9 October 2013, the President, by Decision no. GJR.KI. 154/13 appointed Judge Arta Rama Hajrizi as Judge Rapporteur. On the same day, the President by Decision no. KSH.143/13 appointed the Review Panel composed of judges: Altay Suroy (Presiding), Snezhana Botusharova and Kadri Kryeziu.
7. On 21 October 2013, the Court informed the Applicant and the Special Chamber of the Supreme Court on the registration of the Referral.
8. On 20 November 2013, the Review Panel considered the report of the Judge Rapporteur and made a recommendation to the Court on the inadmissibility.

Summary of the facts

9. The Applicant had established an employment relationship with the Socially-Owned Enterprise Ramiz Sadiku (hereinafter: SOE Ramiz Sadiku) starting from 1 June 1986 until 28 February 1990.
10. On 27 June 2006, the SOE Ramiz Sadiku was privatized.
11. On an unknown date, the Applicant filed a complaint with the Special Chamber of the Supreme Court against the final list of employees compiled by the Privatization Agency, since he as a former employee, was not part of such list.

12. In his complaint to the Special Chamber of the Supreme Court, the Applicant stated that he had missed the legal deadline for filing a complaint against the final list of employees entitled to a share of 20% of proceeds from the privatization of SOE Ramiz Sadiku, since he was under medical care at that moment.
13. On 8 April 2010, the Trial Panel of the Special Chamber rendered a collective decision, in which, under number 1204, there is a part of such a decision which explicitly affects the Applicant, thereby finding that the complaint of the Applicant is rejected as ungrounded.
14. In its reasoning of the decision, the Trial Panel of the Special Chamber noted that:

“Considering that the complaint of the Applicant was filed three (3) months after the expiry of deadline for filing complaints (the deadline of complaints had expired on 27 March 2009), there is no possibility of ensuring return to previous situation, or respectively that the complaint be reviewed as filed in due time. Having this in mind, the complaint of the applicant is rejected as ungrounded.”

Applicant’s allegations

15. In his Referral, the Applicant does not clarify which of his constitutionally guaranteed rights were violated by the challenged decision but claims that the decision has violated rights from employment relationship as guaranteed by the Constitution.
16. The Applicant addressed the Court with the following demand:

„I wish to realize my right to benefit 20% since I am entitled to it because I was employed at Ramiz Sadiku for more than 4 years, because after the war I was not even invited although several times I reported for work but I was told that I would be notified.“

Assessment of the admissibility of the Referral

17. In order to be able to adjudicate the Applicant’s Referral, it is necessary for the Court to first examine whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution, and further specified in the Law and the Rules of Procedure.
18. In this regard, the Court notes that Article 113.7 of the Constitution provides:

“7. Individuals are authorized to refer violations by public authorities of their individual rights and freedoms guaranteed by the Constitution, but only after exhaustion of all legal remedies provided by law”.

19. The Court also 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 when the law entered into force.”

20. The Court takes also into account Rule 36 (1) b) of the Rules of Procedure which provides:

(1) The Court may only deal with Referrals if:

...

(b) the Referral is filed within four months from the date on which the decision on the last effective remedy was served on the Applicant.”

21. Based on the submitted documents, the Court concludes that the Applicant filed the Referral with the Court on 29 September 2013, whereas the last Decision of the Trial Panel of the Special Chamber was served on him on 13 July 2010, which means after the expiry of the legal deadline prescribed by Article 49 of the Law and Rule 36 (1) b) of the Rules of Procedure.
22. It therefore results that the Applicant’s Referral is out of time.


FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 20 of the Law, and Rule 36 (1) b) of the Rules of Procedure, on 20 November 2013, unanimously

DECIDES

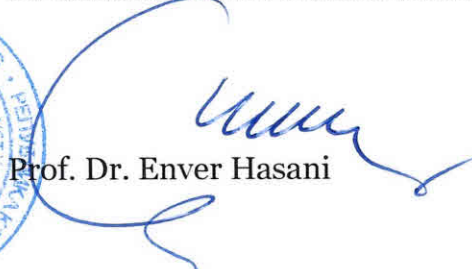
- I. TO DECLARE the Referral Inadmissible;
- II. TO NOTIFY this decision to the Parties
- III. TO PUBLISH the decision in the Official Gazette, in accordance with Article 20 (4) of the Law; and
- IV. This Decision is effective immediately.

Judge Rapporteur


Arta Rama-Hajrizi



President of the Constitutional Court


Prof. Dr. Enver Hasani