



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

Prishtina, 26 May 2014
Ref. No.: RK636/14

RESOLUTION ON INADMISSIBILITY

in

Case No. KI15/14

Applicant

Reshat Murati

**Constitutional Review of the Decision, CA. No. 2453/2012
of the Appellate Court, of 27 March 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

The Applicant

1. The Referral is submitted by Mr. Reshat Murati (hereinafter: the Applicant), with residence in Mitrovica.

Challenged decision

2. The challenged Decision is the Decision, CA. No. 2453/2012 of the Appellate Court of 27 March 2013, served on the Applicant on 2 May 2013.

Subject matter

3. The subject matter is the request for constitutional review of the Decision, CA. No. 2453/2012 of the Appellate Court of 27 March 2013, which rejected the Applicant's appeal as ungrounded and upheld the Decision, C. No. 2533/09 of the Municipal Court in Prishtina. The Decision of the Municipal Court in Prishtina rejected the Applicants' claim for reinstatement to his working place as out of time.

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 (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

5. On 28 January 2014 the Applicant filed the Referral with the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 7 February 2014, by Decision GJR. KI15/14, the President appointed Judge Robert Carolan as Judge Rapporteur. On the same date, by Decision KSH. KI15/14, the President appointed the Review Panel composed of Judges: Snezhana Botusharova (presiding), Kadri Kryeziu and Arta Rama-Hajrizi.
7. On 19 February 2014, the Court informed the Applicant of the registration of the Referral. On the same date, the Court notified the Appellate Court of the Referral.
8. On 11 March 2014 the Court requested the Basic Court in Prishtina to provide a copy of the receipt of service, which shows when the Decision CA. No. 2453/2012 of the Appellate Court dated 27 March 2013, was served on the Applicant.
9. On 19 March 2014, the Basic Court in Prishtina submitted to the Court the receipt service, which shows that Decision CA. No. 2453/2012 of the Appellate Court of 27 March 2013 was served on the Applicant's legal representative on 2 May 2013.
10. On 12 May 2014 the Review Panel considered the report of the Judge Rapporteur and made a recommendation to the full Court on the inadmissibility of the Referral.

Summary of facts

11. From 1970 until 2004, the Applicant was employed in the Insurance Company “Dardania”, successor of the Company “Dunavit” (hereinafter: the employer).
12. In 2004, the employer put the Applicant in the list of disengaged employees, with a compensation of 50 EUR per month.
13. Consequently, on 13 November 2009, the Applicant filed a claim for his reinstatement to his working place with the Municipal Court in Prishtina.
14. On 4 May 2011, the Municipal Court in Prishtina (Decision C. No. 2533/09) rejected the Applicant’s claim as out of time, because the Applicant had submitted his claim to the Court, requesting his reinstatement to his working place, on 13 November 2009, whereas the employment relationship between him and his employer had ended in 2004. Following an appeal filed by the Applicant, on 27 March 2013, the Appellate Court with its Decision, CA. No. 2453/2012 rejected the Applicant’s appeal as ungrounded and upheld the Decision (C. No. 2533/09 of 4 May 2011) of the Municipal Court in Prishtina.
15. The Decision of the Appellate Court (CA. No. 2453/2012 of 27 March 2013) was served on the Applicant’s legal representative on 2 May 2013.

Applicants’ allegation

16. The Applicant without specifying an alleged violation of any specific constitutional provision requests the following: “[...] *that the violation, pressure and discrimination against me and my family is stopped [...]*”

Admissibility of the Referral

17. First of all, in order to be able to adjudicate the Applicant’s Referral, the Court has to examine whether the Applicant has met all the requirements of admissibility, which are foreseen by the Constitution and further specified by the Law and Rules of Procedure.
18. In this respect, the Court refers to Article 49 of the Law, which provides that:

“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.”
19. In order to verify whether the Applicant has submitted the Referral within the prescribed four month deadline, the Court refers to the date of receipt of the final Decision by the Applicant and the date of submitting the Referral to the Constitutional Court.

20. From the submissions it appears that the Decision of the Appellate Court was served on the Applicant's legal representative on 2 May 2013, whereas the Applicant submitted the Referral to the Court on 28 January 2014.
21. In the instant case, the Court notes that the four-month period runs from the date on which the applicant's legal representative became aware of the decision (See *Çelik v. Turkey*, App. No. 52991/99, ECHR, Decision of 23 September 2004).
22. Based on the foregoing, it results that the Referral has not been submitted within the legal deadline stipulated by Article 49 of the Law.
23. Therefore, the Referral must be rejected as inadmissible, because it is out of time.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 49 of the Law and Rule 36 (1), b) of the Rules of Procedure on 12 May 2014, unanimously:

DECIDES

- I. TO DECLARE the Referral as Inadmissible;
- II. TO NOTIFY this Decision to the Parties;
- 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.

Judge Rapporteur



Robert Carolan

President of the Constitutional Court



Prof. Dr. Enver Hasani

