



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

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Prishtina, 30 June 2014  
Ref. No.: RK663/14

## RESOLUTION ON INADMISSIBILITY

in

**Case No. KI212/13**

Applicant

**Svetlana Stefanović**

**Constitutional Review  
of the Request for clarification of the Judgment of the Constitutional  
Court, KO108/13 of 9 September 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 Ms. Svetlana Stefanović (hereinafter: the Applicant), with residence in Korminjan i Epërm, Municipality of Kamenica.

## **Challenged Decision**

2. The Applicant does not challenge any specific decision of a public authority.

## **Subject Matter**

3. The subject matter is the Applicant's individual request for clarification of the Judgment (KO108/13) of the Constitutional Court of the Republic of Kosovo (hereinafter: the Court), of 9 September 2013, as to whether it is applicable in the whole territory of the Republic of Kosovo or partly.
4. The Applicant does not mention the Articles of the Constitution which may have been violated.

## **Legal basis**

5. The Referral is based on Article 113.7 of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), Article 47 of the Law No. 03/L-121 on 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**

6. On 19 November 2013, the Applicant filed her Referral with the Court.
7. On 3 December 2013, the President, by Decision No. GJR. KI212/13, appointed Judge Altay Suroy as Judge Rapporteur. On the same date, the President, by Decision No. KSH. KI212/13, appointed the Review Panel, composed of Judges: Robert Carolan (Presiding), Ivan Čukalović and Enver Hasani.
8. On 15 April 2014, the Constitutional Court notified the Applicant of the registration of Referral and requested from her to submit the power of attorney for representation before the Court.
9. On 25 April 2014, the Applicant submitted the requested document to the Court.
10. On 12 May 2014 the Review Panel considered the report of the Judge Rapporteur and made a recommendation to the full Court to declare the Referral as inadmissible.

## **Summary of facts**

11. On 31 May 2012, the Municipal Court in Kamenica, by Judgment P. no. 191/2008 convicted the Applicant and imposed a suspended sentence and a fine, for the commission of the criminal offence of Tax Evasion under Article 249, paragraph 1, in conjunction with paragraph 1 of the Provisional Criminal Code of Kosovo.

12. On 24 September 2013, the Judgment of the Municipal Court in Kamenica became final.
13. On an unknown date for the Court, the Basic Court in Gjilan issued the proposal for execution (No. Vepr. Edgj. 366/2013) of the Judgment of the Municipal Court in Kamenica (P. no. 191/2008 of 31 May 2012).
14. On 8 November 2013, the Applicant submitted the request to grant the amnesty to the Basic Court in Gjilan. The Applicant has not submitted any additional document or information, showing the status of her request for amnesty.

### **Applicant's allegations**

15. The Applicant alleges in her Referral that she is entitled to benefit from the Law on Amnesty [Law no. 04/L/2009] and that this law should be applied in her case too.
16. The Applicant does neither request the constitutional review of the Judgment of the Municipal Court (P. no. 191/2008, of 31 May 2012), nor of the Court of Appeal, which she mentions in the Referral, but has not submitted to the Court.
17. The Applicant justifies her request for clarification of the Judgment of the Constitutional Court (KO108/13, of 9 September 2013), by stating that: *“Despite the fact that this criminal offence was included in the Amnesty Law, in practice, prosecutors and judges, interpret in different ways the Judgment of your Court (...) although the Judgment is clear, that the Law on Amnesty is applied in the whole territory of the Republic of Kosovo, without exception...”*.
18. The Applicant addresses the Court with the request:

*“To provide an interpretation – clarification of your Judgment KO108/2013 of 09.09.2013 rendered in regards to the Law on Amnesty. Is this Law applied all over the territory of the Republic or only partially.*

*[...]*

*I ask for interpretation of the part of Judgment (...) concerning the criminal offence of the Call for Resistance (Article 411) listed in the mentioned Judgment under 1.1.15, with your position on item 193, according to the offence of Call for Resistance (Article 319), by your position on item 236 and according to the offence Incitement of Resistance (Article 186) with your position on item 263, with the intention of eliminating the dilemmas while applying the Amnesty Law in practice, although, in the mentioned Judgment you provided your clear position on item 193”.*

### **Admissibility of the Referral**

19. First of all, the Court observes 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.

20. The Court has to specifically determine whether the Applicant has met the requirements of Articles 113 (1) and 113 (7) of the Constitution, Article 47 (1) of the Law and Rule 36 (3) c) of the Rules of Procedure.
21. The Court refers to Article 113 (1) and 113 (7) of the Constitution which provide:

*"1. The Constitutional Court decides only on matters referred to the court in a legal manner by authorized parties".*

*"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".*
22. Article 47 (1) of the Law provides that:

*"1. Every individual is entitled to request from the Constitutional Court legal protection when he considers that his/her individual rights and freedoms guaranteed by the Constitution are violated by a public authority."*
23. Furthermore, Rule 36 (3) (c) of the Rules of Procedure provides that:

*"3. A Referral may also be deemed inadmissible in any of the following cases:  
c) the Referral was lodged by an unauthorized person;"*
24. As it was stated above, the Applicant requests a clarification of the Judgment (KO108/13, of 9 September 2013) of the Constitutional Court as to whether it is applicable in the whole territory the Republic of Kosovo or only partially.
25. In the present case, the Court notes that the Applicant has not raised any allegation of violation by a public authority. In fact, the Applicant explicitly stated that *"I do not request the constitutional review"* of the decision rendered by the Court of Appeal, which he has not submitted to the Court and has not challenged the constitutionality of the Judgment (P. no. 191/2008, of 31 May 2012), which already became final.
26. The Court further notes that the Applicant does not provide information regarding any legal or other proceedings or actions in relation to her complaints.
27. With regard to Applicant's right to submit a Referral under 113 (7) of the Constitution, the Court considers that the Applicant does not articulate an individual right or freedom which may have been violated, nor does she refer to any concrete action or decision of a public authority which may have violated her fundamental rights.
28. In these circumstances, the Court finds that, under Article 113 (1) of the Constitution, in conjunction with Rule 36 (3) c) of the Rules of Procedure, the Applicant is not an authorized party to request a clarification or interpretation of the decision of the Constitutional Court.

29. Consequently, for the reason outlined above, the Court finds that the Applicant is not an authorized party and pursuant to Rule 36 (3) item c) the Referral must be rejected as inadmissible.

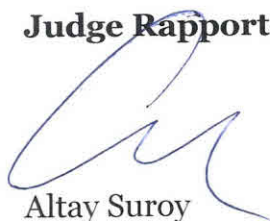
### FOR THESE REASONS

The Constitutional Court, pursuant to Articles 113 (1) and 113 (7) of the Constitution, Article 47 of the Law, Rules 36 (3) c) and 56 (2) 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; and
- IV. TO DECLARE this Decision effective immediately.

**Judge Rapporteur**



Altay Suroy



**President of the Constitutional Court**



Prof. Dr. Enver Hasani