



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

Prishtina, 12 June 2014
Ref.no.:RK 642/14

RESOLUTION ON INADMISSIBILITY

in

Joined Cases Nos.

KI228/13

KI04/14

KI11/14

KI13/14

Applicants

Lulzim Ramaj and Shahe Ramaj jointly in case no. KI228/13, and Lulzim Ramaj separately in cases nos. KI04/14, KI11/14, KI13/14

Case No. KI228/13,

Constitutional review of the Notification of the State Prosecutor, KMLP.I.no.11/13, dated 5 August 2013, in connection with Resolution on Inadmissibility case no. KI126/10 of the Constitutional Court dated 19 January 2012; Resolution on Inadmissibility case no. KI32/11 of the Constitutional Court dated 20 April 2012; and Resolution on Inadmissibility case no. KI102/11 of the Constitutional Court dated 12 December 2011

Cases nos. KI04/14, KI13/14

Constitutional review of the Decision of the Disciplinary Office of the Prosecutor, ZPD/11/0133, dated 8 February 2011, in connection with Constitutional review of Resolution on Inadmissibility case no. KI32/11 of the Constitutional Court dated 20 April 2012

Case no. KI11/14

Constitutional review of Decision P.no.470/13, of the Basic Court in Peja, dated 27 June 2013

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

Applicants

1. The Referral KI228/13 was submitted by Mr. Lulzim Ramaj and Mrs. Shahe Ramaj (hereinafter, the Applicants) residing in Peja, while Referrals KIO4/14, KI11/14 and KI13/14 were filed by the Applicant Lulzim Ramaj.

Challenged decision

A. As to Referral KI228/13

2. The Applicants challenge the notification KMLP. I. no. 11/13 of the State Prosecutor, dated 5 August 2013, and served to the Applicants on 7 August 2013,
3. Moreover, in referral KI228/13, the Applicants complain against the Resolution on Inadmissibility case no. KI126/10 of the Constitutional Court dated 19 January 2012; Resolution on Inadmissibility case no. KI32/11 of the Constitutional Court dated 20 April 2012; and Resolution on Inadmissibility case no. KI102/11 of the Constitutional Court dated 12 December 2011.

B. As to Referral KI11/14

4. The Applicant Lulzim Ramaj challenges Decision P. no. 470/13 of the Basic Court in Peja, dated 27 June 2013, served to him on 15 July 2013.

C. As to Referrals KIO4/14 & KI13/14

5. The Applicant Lulzim Ramaj challenges Decision of the Disciplinary Office of the Prosecutor, ZPD/11/0133, dated 8 February 2011, served to him on 9 February 2011.
6. Furthermore, the Applicant Lulzim Ramaj in referrals KIO4/14 & KI11/14 complains that the Resolution on Inadmissibility case no. KI32/11 of the Court dated 20 April 2012, is "*illegal, lacks reasoning and should have not been published*".

Subject matter

7. The subject matter of Referral KI 228/13 is the constitutional review of the Notification KMLP. I. no. 11/13 of the State Prosecutor of 5 August 2013 because “[...] *the decision of the State Prosecutor contradicts Article 392 of the CCK [Criminal Code of Kosovo], due to rendering unlawful decisions, since the file contains all case files, and the Prosecutor has not provided any legal clarification on the reasons for such a decision*”, in connection with the Resolution on Inadmissibility case no. KI126/10 of the Constitutional Court dated 19 January 2012; Resolution on Inadmissibility case no. KI32/11 of the Constitutional Court dated 20 April 2012; and Resolution on Inadmissibility case no. KI102/11 of the Constitutional Court dated 12 December 2011. They are not satisfied with the Resolutions of the Court because they consider that “[...] *the Constitutional Court did not explain to me why I did not exhaust all legal remedies when I made a request to the Ministry of Local Government to reconstruct my house...the Constitutional Court has published its resolutions in violation of Article 17.2.3 of the Law on the Constitutional Court even after my request not to publish its resolutions...by publishing its illegal resolutions the Constitutional Court has violated article 346 of the Criminal Code of Kosovo*”.
8. The subject matter of Referral KI 11/14 is the constitutional review of the Decision P. no. 470/13 of the Basic Court in Peja, of 27 June 2013, because “*No state aid came to us for legal help to construct a house although they came to verify the case and promised to bring us all building material is contrary to Article 3 (Equality before law), Article 16 (Supremacy of the Constitution), Article 17 (International agreements), Article 18 (Ratification of international treaties), Article 19 (Enforcement of international law), Article 21, paragraph 1 (General Principles), Article 22 (Implementation of International agreements and Instruments) Article 24, paragraph 1, (Equality before law), Article 31 (Right to a fair and impartial), Article 53 (Interpretation of Provisions for Human rights) and Article 54 (Judicial Protection of rights) of the Constitution of Kosovo, Article 1, Article 2, paragraph 1, Article 7, Article 8 and Article 29, paragraph 2 of the Universal Declaration of Human Rights, Article 2, paragraph 1 (a) and (b), Article 5, paragraph 11 and 2, Article 8, paragraph 2, Article 14, paragraph 1, Article 25, paragraph 1 and Article 26 of the International Covenant on Civil and Political Rights and Article 1 (Right to respect human rights), Article 6 (Right to a fair trial), Article 13 (Right to an effective remedy) and Article 14 (Prohibition of discrimination) of the European Convention on Human Rights and its Protocols thereof*”,
9. The subject matter of Referral KI04/14 and KI13/14 is the constitutional review of the Decision of the Disciplinary Office of the Prosecutor, ZPD/11/0133, of 8 February 2011 because “*The denial of the confirmation of being a member of the KLA and the denial of recognition of status as KLA member, the publication of the case in media and the defamation by OVL KLA is contrary 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 of Human Rights, Article 2, paragraph 1 (a) and (b), Article 5, paragraph 11 and 2, Article 8, paragraph 2, Article 14,*

paragraph 1, Article 25, paragraph 1 and Article 26 of the International Covenant on Civil and Political Rights and Article 1 (right to respect human rights), Article 6 (right to a fair trial), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights and Protocols thereof”, in connection with the Resolution on Inadmissibility case no. KI32/11 of the Constitutional Court dated 20 April 2012. He is not satisfied with the Resolution of the Court, because he consider that it “is illegal, lack reasoning should have not been published”.

10. Furthermore, in all of the Referrals the Applicants request not to disclose their identity based on “*Article 17.2.3 of the Law no. 03/L-121 on the Constitutional Court of Kosovo, and Article 36, paragraph 1 of the Constitution of Kosovo, and Articles 1 and 14 of the European Convention on Human Rights and its Protocols.*”

Legal basis

11. 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 Constitutional Court

12. On 7 December 2013, the Applicants Lulzim Ramaj and Shahe Ramaj by post office submitted a Referral to the Constitutional Court of the Republic of Kosovo (hereinafter, the Court), which arrived on 10 December 2013 at the Court and was registered under number KI228/13.
13. On 15 January 2014 the President of the Constitutional Court by Decision No. GJR. KI228/13, appointed Judge Snezhana Botusharova as Judge Rapporteur. On the same date the President of the Constitutional Court by Decision No. KSH. KI228/13, appointed the Review Panel composed of Judges Robert Carolan (presiding), Almiro Rodrigues and Ivan Čukalović.
14. On 16 January 2014 the Applicant Lulzim Ramaj filed a referral with the Court, which was registered under no. KIO4/14.
15. On 23 January 2014 the Applicant Lulzim Ramaj filed another referral with the Court, registered under no. KI11/14.
16. On 24 January 2014 the Applicant Lulzim Ramaj filed one more referral with the Court, which was registered under no. KI13/14.
17. On 3 February 2014, the President of Constitutional Court, in accordance with Rule 37.1 of the Rules of Procedure, by Decision Urdh. KI228/13, KIO4/14, KI11/14, KI13/14, ordered the Joinder of the Referrals KIO4/14, KI11/14 and KI13/14 to the Referral KI228/13.

18. On 7 February 2014, in accordance with Rule 37 of the Rules of Procedure, the Court notified the Applicants about the registration and joinder of the Referrals.
19. On 24 March 2014, after having considered the report of the Judge Rapporteur, the Review Panel made a recommendation to the full Court on the inadmissibility of the Referral.

Summary of facts

A. Referral KI228/13

20. On 5 March 2012, the Applicant Lulzim Ramaj filed a private lawsuit with the Basic Court in Prishtina against the Court for rendering Resolutions KI 102/11, KI 32/11 and KI 126/10 unlawfully as per Article 346 of the Criminal Code of Kosovo because the Constitutional Court “...*did not explain to me why I did not exhaust all legal remedies when I made a request to the Ministry of Local Government to reconstruct my house...the Constitutional Court has published its resolutions in violation of Article 17.2.3 of the Law on the Constitutional Court even after my request not to publish its resolutions...by publishing its illegal resolutions the Constitutional Court has violated article 346 of the Criminal Code of Kosovo*”.
21. On 27 March 2013, the Basic Court in Prishtina – General Department, by Decision P. no. 803/11, rejected Lulzim Ramaj’s private lawsuit as ungrounded.
22. The subsequent appeal by the Applicant Lulzim Ramaj was rejected as ungrounded by the Appellate Court of Kosovo (Decision PA1. No. 407/2013, dated 17 May 2013).
23. On 5 August 2013, the State Prosecutor (Notification KMLP. I. no. 11/13), notified the Applicant that the State Prosecutor could not find a legal basis to proceed with a request for protection of legality against the decision of the Basic Court and the Appellate Court.

B. Referral KI11/14

24. On 5 June 2013, the Applicant Lulzim Ramaj had asked the Directorate for Reconstruction in the Municipality of Peja to provide him with the necessary material for the reconstruction of his house.
25. According to the Applicant the Directorate for Reconstruction did not provide him with the requested construction material. He decided to file private lawsuits with the regular court of Kosovo against the Director of the Directorate for Reconstruction in the Municipality of Peja.
26. On 27 June 2013, the Basic Court in Peja-General Department, by Decision P. no. 470/13, rejected Lulzim Ramaj’s private lawsuit as ungrounded.

C. Referral KI04/14 and KI13/14

27. The Applicant Lulzim Ramaj complains that the Governmental Commission for Recognition and Verification of the KLA Veterans did not confer to him the status of the KLA veteran.
28. The Applicant considers that the Resolution on Inadmissibility KI32/11 of the Court with applicant Lulzim Ramaj, concerning the request for recognition of KLA veteran status, dated 20 April 2012, is illegal, lacks reasoning and should have not been published.
29. Furthermore, the Applicant addresses the Court with the following remarks *“this time around when you render a decision, whether you approve or reject the referral, provide me with a legal reasoning and do not do as you have done until now, to render decisions without legal reasoning”*.

Admissibility of the Referral KI228/14

30. The Court observes that, in order to be able to adjudicate the Applicants' complaints, it is necessary first to examine whether they have fulfilled the admissibility requirements laid down in the Constitution as further specified in the Law and the Rules of Procedure.
31. In relation to the Referral KI228/13, the Court refers to Article 113.7 of the Constitution, which provides:

“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”.

32. The abovementioned constitutional provision requires from the Applicants to file their referrals with the Court, in a legal manner after having exhausted all legal remedies.
33. The Court refers to Article 49 of the Law, which provides:

“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”.

34. The Court also refers 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...”

35. In this respect, the Court notes that decision KMLP. I. no. 11/13, of the State Prosecutor, dated 5 August 2013, was served to the Applicants on 7 August 2013.
36. Furthermore, the Court notes that even though referral KI228/13 was registered on 10 December 2013, the Court will consider the date of the postmark recording as the date when referral KI228/13 was introduced to the Court, which is 7 December 2013 (See case Kiprici v. Turkey, No.14294/04, ECtHR, Decision 3 September 2008).
37. It follows that referral KI228/13 is filed within the four (4) month legal deadline set forth by Article 49 of the Law and Rule 36 (1) (b) of the Rules of Procedure.
38. However, the Court notes that Applicant Shahe Ramaj was not involved, at any stage or capacity, in the proceedings before the regular courts. The Court notes that she filed referral KI228/13 together with the other Applicant and that Applicant Shahe Ramaj only complains that resolutions of the Court are *“illegal and lack reasoning”*
39. The Court reiterates Article 113.7 of the Constitution, which states that *“Individuals are authorized to refer violations by public authorities of their individual rights and freedoms guaranteed by the Constitution”*.
40. In the present Referral, Applicant Shahe Ramaj was neither a party to the proceedings, nor in the previous referrals to the Court KI102/11, KI32/11 and KI126/10, nor in the subsequent proceedings before the regular courts. It follows that Applicant Shahe Ramaj cannot be considered an authorized party to submit this Referral within the meaning of Article 113.7 of the Constitution.
41. In consequence, the Court must reject the Referral as inadmissible in so far as it has been submitted by Shahe Ramaj.
42. Regarding the other complaints submitted by Applicant Lulzim Ramaj in this Referral, the Court notes that this Applicant’s fundamental complaint is with the constitutionality of the Court’s Resolutions on Inadmissibility in Referrals 102/11, 32/11 and 126/10.
43. The Court refers to Article 116.1 of the Constitution, which provides:

“Decisions of the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo”.
44. The Court also refers to Rule 36 (3) (f) of the Rules of Procedure, which provides:

“(3) A Referral may also be deemed inadmissible in any of the following cases:
...
(f) the Referral is incompatible racione materiae with the Constitution.”

45. The Court notes that its decisions are final and binding and as such cannot be challenged by the Court itself or by any other public authority.
46. It follows that these complaints submitted by Applicant Lulzim Ramaj in Referral KI228/13 must be rejected by the Court as incompatible *ratione materiae* with the Constitution, as provided for in the Rule 36 (3) (f) of the Rules of Procedure.

Admissibility of the Referral KI11/14

47. In relation to referral KI11/14, the Court refers to Article 113.7 of the Constitution, which provides:

“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”.

48. The Court refers to Article 47 of the Law, which provides:

“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.

The individual may submit the referral in question only after he/she has exhausted all the legal remedies provided by the law”.

49. The Court also takes into account Rule 36 (1) a) of the Rules of procedure, which provide:

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

(a) all effective remedies that are available under the law against the Judgment or decision challenged have been exhausted.”

50. The Court notes from the submitted documents, that the Applicant Lulzim Ramaj did not challenge Decision P.no.470/13 of the Basic Court in Peja, before the higher instances of the regular judiciary.
51. It follows that referral KI11/14 must be rejected as inadmissible because the Applicant Lulzim Ramaj did not exhaust all legal remedies as required by Article 113.7 of the Constitution, Article 47 of the Law and Rule 36 (1) a) of the Rules of Procedure.

KI04/14 and KI13/14

52. In respect to referrals KI04/14 and KI13/14 filed by Applicant Lulzim Ramaj, the Court refers to Article 116.1 of the Constitution, which provides:

“Decisions of the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo”.

53. The Court also refers to Rule 36 (3) (f) of the Rules of Procedure, which provides:

“(3) A Referral may also be deemed inadmissible in any of the following cases:

...

(f) the Referral is incompatible ratione materiae with the Constitution.”

54. The Court notes that in referrals KI04/14 and KI13/14, the Applicant Lulzim Ramaj complains against the Resolution on Inadmissibility no. KI32/11, Applicant Lulzim Ramaj, dated 20 April 2012, pertinent to his status as KLA veteran, thereby claiming, *inter alia*, that it is an illegal resolution.
55. The Court notes that its decisions are final and binding and as such cannot be challenged by the Court itself or by any other public authority.
56. It follows that the referrals KI04/13 and KI13/14 pertinent to Applicant Lulzim Ramaj are rejected by the Court as incompatible *ratione materiae* with the Constitution, as provided for in the Rule 36 (3) (f) of the Rules of Procedure.

Admissibility concerning all referrals KI228/13, KI04/14, KI11/14, KI13/14

57. The Court considers that despite the separate admissibility criteria applied to each of the referrals and the conclusions based on that, the referrals have to meet mostly the requirements set in Rule 36 (3) d) of the Rules of Procedure, which provide:

“(3) 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;

58. As to the abuse of the right to petition, the Court emphasizes that the case-law of the European Court of Human Rights elaborates when there is abuse of the right to petition. This is the case, *inter alia*, when an applicant repeatedly lodges vexatious and manifestly ill-founded applications with the ECtHR that are similar to an application that he or she has lodged in the past that has already been declared inadmissible (see *M. v. the United Kingdom* (dec.), and *Philis v. Greece* (dec.)).
59. The Court notes that in the cases at issue, the Applicants have filed unsubstantiated and repetitive referrals. They have thus so far, altogether filed eight referrals with the Court including the current ones.
- a. KI126/10, Applicant, Lulzim Ramaj, Constitutional review of the Decision of the Ministry of Transport and Telecommunications, declared inadmissible by the Court on 19 January 2012;

- b. KI32/11 Applicant, Lulzim Ramaj, Request for recognition of KLA veteran status, declared inadmissible by the Court on 20 April 2012:
 - c. KI102/11, Applicant, Shahe Ramaj vs. Government of the Republic of Kosovo, Ministry of Health, declared inadmissible by the Court on 12 December 2011.
 - d. KI106/12, Applicant, Lulzim Ramaj, Request for recognition of KLA member status, declared inadmissible by the Court on 29 January 2013;
 - e. KI116/12, Applicant, Lulzim Ramaj, Constitutional review of the Telecommunications Regulatory Authority Decision, declared inadmissible by the Court on 25 January 2013;
 - f. KI228/13, Applicants, Lulzim Ramaj & Shahe Ramaj, Constitutional review of the Notification of the State Prosecutor, KMLP.I.no.11/13, dated 5 August 2013, in connection with Resolution on Inadmissibility case no. KI126/10 of the Constitutional Court dated 19 January 2012; Resolution on Inadmissibility case no. KI32/11 of the Constitutional Court dated 20 April 2012; and Resolution on Inadmissibility case no. KI102/11 of the Constitutional Court dated 12 December 2011, declared inadmissible by the Court on 24 March 2014;
 - g. KI04/14 & KI13/14, Applicant, Lulzim Ramaj, Constitutional review of the Decision of the Disciplinary Office of the Prosecutor, ZPD/11/0133, dated 8 February 2011, in connection with Constitutional review of Resolution on Inadmissibility case no. KI32/11 of the Constitutional Court dated 20 April 2012, declared inadmissible by the Court on 24 March 2014;
 - h. KI11/14, Applicant, Lulzim Ramaj, Constitutional review of Decision P.no.470/13, of the Basic Court in Peja, declared inadmissible by the Court on 24 March 2014.
60. The Court considers that in the current cases, the Applicants have lodged unsubstantiated, repetitive, vexatious and abusive referrals, thereby hampering the work of the Court by taking away its time and resources.
61. Taking into account all the foregoing, the Court considers that the Applicants are taking advantage of the right to petition in order to attack, denigrate and besmear the reputation of the Judges as professionals and individuals, and of the Court as an institution of justice.
62. Moreover, the Court rejects the Applicants request not to disclose their identity as unsubstantiated.
63. Therefore, the Court considers that the Referrals KI228/13, KI04/14, KI11/14 and KI13/14 constitute an abuse of the right of petition in accordance with the Rule 36 (3) d) of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 47 of the Law, Rule 36 (3) d) and Rule 56 (2) of the Rules of Procedure, on 24 March 2014, unanimously

DECIDES

- I. TO REJECT the Referrals as inadmissible;
- II. TO HOLD that the present Referrals constitute an abuse of the right to petition as per wording of the Rule 36 (3) d) of the Rules of Procedure;
- III. TO REJECT the Applicants request not to disclose their identity;
- IV. TO NOTIFY this Decision to the Parties;
- V. TO PUBLISH this Decision in the Official Gazette in accordance with Article 20.4 of the Law;
- VI. This Decision is effective immediately.

Judge Rapporteur



Snezhana Botusharova



President of the Constitutional Court



Prof. Dr. Enver Hasani