



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT**

Prishtina, 11 August 2014
Ref. no.:RK693/14

RESOLUTION ON INADMISSIBILITY

in

Case No. KI56/14

Applicant

Beqir Zhushi

**Constitutional Review of the Judgment ASC-11-0069 of the Special
Chamber of the Supreme Court, of 22 April 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
Arta Rama-Hajrizi, Judge.

Applicant

1. The Referral was submitted by Mr. Beqir Zhushi from Vushtrri (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges the Judgment ASC-11-0069 of the Special Chamber of the Supreme Court (hereinafter: the Special Chamber) of 22 April 2013, which was served on the Applicant on 29 April 2013, in relation to the Judgment SCEL-09-0001 of the Special Chamber, of 10 June 2011.

Subject matter

3. The subject matter of the Referral is the constitutional review of the challenged decisions, which allegedly *“have unjustly denied to Applicant the right to proceeds of 20% share from privatization of the SOE ‘Ramiz Sadiku’ in Prishtina”*.
4. In this respect, the Applicant does not refer to violation of any specific constitutional provision.

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 on the Constitutional Court of the Republic of Kosovo No. 03/L-121 (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

6. On 27 March 2014, the Applicant filed the Referral with the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
7. On 3 April 2014, the President of the Court, by Decision No. GJR. KI56/14, appointed Judge Arta Rama-Hajrizi as Judge Rapporteur. On the same date, the President of the Court, by Decision No. KSH. KI56/14 appointed the Review Panel composed of Judges: Altay Suroy (Presiding), Snezhana Botusharova and Kadri Kryeziu (members).
8. On 19 May 2014, the Applicant was notified on the registration of Referral. On the same date, a copy of Referral was submitted to the Special Chamber.
9. On 26 June 2014, Judge Kadri Kryeziu notified in writing the Court for his exclusion from the deliberations for the period June-July 2014 until the Court decides regarding the allegations raised against him
10. On 2 July 2014, the President of the Court by Decision No. KSH.56/14, replaced Judge Kadri Kryeziu with Judge Robert Carolan Ivan as a member of the Review Panel.
11. On 26 June 2014 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 facts

12. The Applicant was the employee of the SOE “Ramiz Sadiku” in Prishtina from 1977 until 1990.
13. The SOE “Ramiz Sadiku” was privatized on 27 June 2006.
14. On 23 March 2009, the Applicant filed an appeal within the time limit with the Special Chamber against the Privatization Agency of Kosovo (hereinafter: PAK), whereby he requested to be included on the list of eligible employees to a share of proceeds from the privatization of the SOE “Ramiz Sadiku” in Prishtina.
15. On 10 June 2011, the Trial Panel of the Special Chamber, decided to reject as ungrounded the Applicant’s appeal, by considering that the evidence submitted by the Applicant does not meet the requirements of Article 10.4 of the amended UNMIK Regulation 2003/13.
16. On 18 July 2011, the Applicant filed an appeal with the Appellate Panel of the Special Chamber against the abovementioned Judgment of the Trial Panel.
17. On 22 April 2013, the Appellate Panel of the Special Chamber upheld the Judgment of the Trial Panel and rejected the Applicant’s appeal as ungrounded.

Applicant’s allegations

18. The Applicant requests from the Court: *“... that my right to 20% is recognized, to which I am entitled to based on evidence of my work experience as well as on the reason of my dismissal from work of a discriminatory nature, by violent and discriminatory regime of the Republic of Serbia, which applied coercive measures, at the organization, where I used to work”.*

Assessment of the admissibility

19. The Court notes that in order to be able to adjudicate the Applicant’s Referral, it has to examine beforehand whether the Applicant has met the admissibility requirements, laid down in the Constitution and further specified by the Law and the Rules of Procedure.
20. 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.”
21. The Court also 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 when the law entered into force”.

22. The Court also takes 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.”

23. In the present case, the Court notes that the challenged decision was rendered on 22 April 2013 and was served on the Applicant on 29 April 2013. The Referral was submitted to the Court on 27 March 2014, i.e., seven months after the four (4) month time limit, provided by Article 49 of the Law of the Rule 36 (1) b) of the Rules of Procedure.
24. Consequently, the Referral is out of time and must be declared inadmissible pursuant to Article 49 of the Law and Rule 36 (1) b) of the Rules of Procedure.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113 (7) of the Constitution, Article 47 of the Law, Rules 36 (1) b) of the Rules of Procedure, on 26 June 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

Arta Rama-Hajrizi



President of the Constitutional Court

Prof. Dr. Enver Hasani