



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT**

Prishtina, 18 November 2013
No. ref: RK490/13

RESOLUTION ON INADMISSIBILITY

in

Case No. KI70/13

Applicant

Asllan Bahtiri

**Constitutional Review of the Judgment of the District Court in Prishtina
P.no.529/2008 of 1 December 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
Arta Rama-Hajrizi, Judge

The Applicant

1. The Applicant is Asllan Bahtiri from Prishtina.

Challenged decision

2. The challenged decision is the Judgment of the District Court in Prishtina, P.no. 529/2008 of 01 December 2010, which was upheld by the Judgment of the Supreme Court of Kosovo, Ap.no. 77/2011, of 18 January 2012.

Subject matter

3. The subject matter is the constitutional review of the Judgment of the District Court in Prishtina, P.no. 529/2008 of 1 December 2010, by which the Applicant was found guilty for the criminal offence of murder and by final judgment sentenced to imprisonment of two years and eight months (2 years and 8 months) written version of which judgment the Applicant refused to receive.

Legal basis

4. The Referral is based on Articles 113.7 and 21.4 of the Constitution; Articles 20, 22.7 and 22.8 of the Law No. 03/L-121, on the Constitutional Court of the Republic of Kosovo of 15 January 2009 (hereinafter: the Law) and Rule 56 para.2 of the Rules of Procedure (hereinafter: the Rules of Procedure).

Proceedings before the Constitutional Court

5. On 14 May 2013, the Applicant submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. The President, by Decision (No.GJR. 70/13 of 27 May 2013), appointed Judge Arta Rama-Hajrizi as Judge Rapporteur. On the same date, the President, by Decision No.KSH.70/13 appointed the Review Panel composed of judges: Altay Suroy (Presiding), Snezhana Botusharova and Kadri Kryeziu.
7. On 25 July 2013, the Constitutional Court requested additional documents from the Basic Court in Prishtina.
8. On 30 July 2013, the Basic Court in Prishtina notified the Constitutional Court that the Judgment of the District Court in Prishtina, P.no. 529/2008 of 1 December 2010, became final on 18 January 2012.
9. On 17 October 2013, after having considered the Report of the Judge Rapporteur Arta Rama-Hajrizi, the Review Panel composed of judges: Altay Suroy (presiding), Snezhana Botusharova and Kadri Kryeziu made a recommendation to the full Court on the inadmissibility of the Referral.

Summary of facts

10. By Judgment of the District Court in Prishtina, P.no. 529/2008 of 01 December 2010, the Applicant was found guilty for commission of the criminal offence of murder and by final judgment sentenced to imprisonment of two years and eight months (2 years and 8 months).

11. The Judgment of the District Court in Prishtina P.no. 529/2008 of 01 December 2010 was upheld by Judgment of the Supreme Court of Kosovo Ap.no. 77/2011 of 18 January 2012. The Judgment became final on 18 January 2012, while the Applicant refused to receive the written version of the judgment.

Applicant's allegations

12. The Applicant alleges that *"the right to protection for the offence, which he is accused of, was violated. It is said that the (offence) was committed in Germany in 1998, while he is tried in Kosovo; he requested to be returned to Germany and that the trial to be held there, where the evidence are."*
13. The Applicant requests from the Constitutional Court the following:

"I request to return my case for retrial and to show the sessions on TV, like some persons are shown on television, but to be recorded, because I have lost trust in justice, so in that way, nobody can manipulate anybody. The Court renders every decision "In the name of people," so according to this, it does not have anything to hide from people."

Assessment of the admissibility of Referral

14. In order to be able to adjudicate the Applicant's Referral, the Constitutional Court has to assess beforehand whether the Applicant has met the admissibility requirements laid down in the Constitution and the Law.
15. In this respect, the Constitutional Court refers to Article 49 (Deadlines) of the Law, which provides the following:

"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."

16. Based on the additional documents, submitted by the Basic Court in Prishtina, the Constitutional Court has determined that the Judgment of the District Court in Prishtina P.no. 529/2008 of 1 December 2010 became final on 18 January 2012, while the Applicant filed a submission to the Secretariat of the Constitutional Court on 14 May 2013.
17. From this it follows that the Referral is inadmissible for review pursuant to Article 49 (Deadlines) of the Law and Rule 36 (1b) 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."*

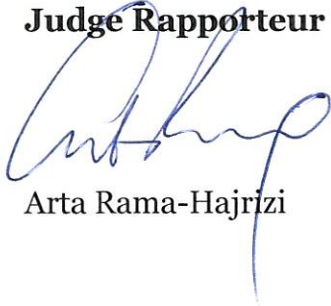
FOR THESE REASONS

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 49 of the Law and Rule 36.1 (b) of the Rules of Procedure, in the session held on 17 October 2013, unanimously

DECIDES

- I. TO REJECT the Referral as inadmissible;
- II. This Decision shall be notified to the Parties and shall be published in the Official Gazette, in accordance with Article 20 (4) of the Law; and
- III. Decision is effective immediately.

Judge Rapporteur



Arta Rama-Hajrizi



President of the Constitutional Court



Prof. Dr. Enver Hasani