



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

GJYKATA KUSHTETUESE

УСТАВНИ СУД

CONSTITUTIONAL COURT

Prishtina, 11 August 2014  
Ref. no.: VTK694/14

## **DECISION TO STRIKE OUT THE REFERRAL**

in

**Case No. KI75/14**

Applicant

**Tefik Dedinca**

**Constitutional review of unspecified decision of unspecified public  
authority**

**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 and  
Arta Rama-Hajrizi, Judge

### **Applicant**

1. The Referral is submitted by Mr. Tefik Dedinca a national of the Republic of Albania who is serving a sentence in the prison of Dubrava (hereinafter, the Applicant).

## **Challenged decision**

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

## **Subject matter**

3. The Referral has no subject matter and is illegible and unclear.

## **Legal basis**

4. 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. 03/121 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**

5. On 22 April 2014, the Applicant submitted a referral with the Constitutional Court of the Republic of Kosovo (hereinafter, the Court).
6. On 6 May 2014, the President of the Constitutional Court by Decision No.GJR. KI75/14, appointed Judge Ivan Čukalović as Judge Rapporteur. On the same date, the President of the Constitutional Court by Decision No. KSH. KI75/14 appointed a Review Panel composed of judges: Altay Suroy (presiding), Snezhana Botusharova and Arta Rama-Hajrizi.
7. On 27 May 2014, the Applicant was notified about the registration of the referral whereby he was asked to complete and clarify his referral.
8. On 3 June 2014, the Applicant was asked again to complete and clarify his referral.
9. On 6 and 16 June 2014, the Applicant replied by submitting with the Court the referral form.
10. On 1 July 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**

11. It can be drawn from the referral that the Applicant is a national of the Republic of Albania and that he is currently serving a sentence in the prison of Dubrava.
12. On 6 and 16 June 2014, the Applicant replied by submitting the referral form which is largely illegible and incomprehensible and did not attach to it relevant documentation.

## **Applicant's allegations**

13. Because the referral is illegible and unclear it is not possible to comprehend Applicant's allegations regarding the breach of the rights and freedoms guaranteed by the Constitution.
14. Few statements that can be read from the referral are: *"I'm innocent until death... physical and mental torture..."*

## **Assessment of admissibility**

15. The Court observes that in order to be able to assess the Applicant's referral, 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.
16. In this respect, 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".*

17. The Court refers to Rule 29 [Filing of Referrals and Replies] of the Rules of Procedure which provide:

*"(...)*

*(2) The referral shall also include: (a) the name and address of the party filing the referral; (b) the name and address of representative for service, if any; (c) a power of Attorney for representative, if any; (d) the name and address for service of the opposing party or parties, if known; (e) a statement of the relief sought; (f) a succinct description of the facts; (g) the procedural and substantive justification of the referral; and (h) the supporting documentation and information.*

*(3) Copies of any relevant documents submitted in support of the referral shall be attached to the referral when filed. If only parts of a document are relevant, only the relevant parts are necessary to be attached".*

18. The Court also takes into account Rule 32 (4) of the Rules of Procedure which provides:

*(4) The Court may dismiss a referral when the Court determines a claim to be moot or does not otherwise present a case or controversy.*

19. In the concrete case, the Court notes that the Applicant has submitted an illegible, unclear and incomprehensible referral and furthermore he has not taken any action in order to clarify and specify his referral in spite of the Court's request to do so.



20. In addition, a second letter was sent to the Applicant warning him that if no relevant information and documents are provided, the Court would understand that he was not anymore interested in further proceeding with his Referral. The Court further notes that the Applicant only submitted a largely illegible and incomprehensible referral form without attaching to it any relevant documentation.
21. In sum, the Court considers that the abovementioned "Referral" does not reach the minimum threshold to be considered a Referral. Moreover, the Court considers that it is legitimate to assume that the Applicant is not anymore interested in further proceedings with his Referral (see case KI143/13, Applicant *Nebih Sejdiu*, Decision to Strike Out the Referral of 24 April 2014, also *mutatis mutandis* see case *Starodub v. Ukraine*, No. 5483/02, ECtHR, Decision of 7 June 2005).
22. The Court considers that this referral does not present a case or controversy and must be declared inadmissible in accordance with Rule 32 (4) of the Rules of Procedure.

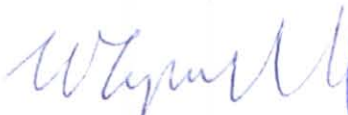
### FOR THESE REASONS

The Constitutional Court, pursuant to Article 113 (7) of the Constitution, Article 47 of the Law and Rule 32 (4) of the Rules of Procedure, on 1 July 2014, unanimously

### DECIDES

- I. TO STRIKE OUT the Referral;
- II. TO NOTIFY the Parties of this Decision;
- 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**



Ivan Čukalović



**President of the Constitutional Court**



Prof. Dr. Enver Hasani