



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE  
УСТАВНИ СУД  
CONSTITUTIONAL COURT**

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Pristina, 6 May 2011  
Ref. No.: 116 /11

**RESOLUTION ON INADMISSIBILITY**

in

**Case No. KI 85/10**

Applicant

**Magbule Asllani**

**Constitutional Review of the Supreme Court Judgment Rev. I.no. 482/2008  
dated 18 December 2008**

**THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO**

composed of:

Enver Hasani, President  
Kadri Kryeziu, Deputy-President  
Robert Carolan, Judge  
Altay Suroy, Judge  
Almiro Rodrigues, Judge  
Snezhana Botusharova, Judge  
Ivan Čukalović, Judge  
Gjyljeta Mushkolaj, Judge and  
Iliriana Islami, Judge

**Applicant**

1. The Applicant is Magbule Asllani, residing in Pristina Kosovo, represented by Xhevat Bici, a lawyer from Pristina.

### **Challenged court decision**

2. The challenged court decision is the Judgment of the Supreme Court Rev.I. no 482/2008 of 18 December 2008, which was served on the Applicant on 29 November 2009.

### **Subject matter**

3. The Applicant alleges that her right to work as guaranteed by Article 49 of the Constitution has been violated.
4. In particular the Applicant requests the Constitutional Court to “Uphold the suit of the...[Applicant] and quash the Supreme Court Judgment Rev.I. no 482/2008 of 18 December 2008 as unlawful and verify the District Court in Pristina Judgment Ac.nr. 80/2008 dated 17 June 2008 and Municipal Court in Pristina Judgment.”

### **Legal basis**

5. Article 113.7 of the Constitution, Articles 20 and 22 and 49 of the Law on the Constitutional Court and Rule 36 (1) (b) of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo.

### **Proceedings before the Court**

6. On 15 September 2010 the Applicant submitted the Referral to the Court.
7. On 12 April 2011 after having considered the Report of the Judge Rapporteur, Altay Suroy, the Review Panel, composed of Judge Ivan Čukalović (Presiding), Judge Enver Hasani and Judge Iliriana Islami made a recommendation to the full Court on the inadmissibility of the Referral.

### **Summary of the facts and allegations as presented by the Applicant**

8. According to the Applicant the Supreme Court Judgment is unlawful and unfair, since she has been working for her entire life and now at age of 63 her employment contract has not been extended.
9. The Applicant alleges that her employment contract was discontinued for no reason, although she worked for decades for the same court. Moreover, other employees were hired instead of her.
10. The Applicant claim that it is her “principle right” to obtain an extension of the employment contract for two additional years due to her age, because she has no chance of employment due to her age, and she was careful and accurate at her workplace, and she never obtained any remark by her supervisors and was one of the most hard working and careful employees.
11. The Applicant also alleges that the way in which her case was dealt is unjust and inhumane in violation of Articles 49 of the Constitution.
12. In support of her Application the Applicant submitted the Municipal Court Judgment of 15 November 2007 according to which her claim suit was upheld as grounded and decisions of the Appeal’s Commission of the Independent Judicial Council Secretary of Kosovo KA 41/2007 of 22 March 2007 and of IOBK no 1258/07 of 5 June 2007 were annulled.

13. The abovementioned judgment of the Municipal Court was confirmed by the Judgment of the District Court of Pristina issued on 17 June 2008.
14. However, on 18 December 2008 the Supreme Court of Kosovo upheld the revision of the Judicial Council of Kosovo and changed (i.e. annulled) the judgments of the Municipal and District Courts. In the reasoning of its judgment the Supreme Court stated that the material right was applied wrongfully by the lower instance courts (i.e. the Municipal Court in Pristina and District Court in Pristina) in the Applicant's case.
15. The Applicant alleges in her Referral that the above mentioned Supreme Court Judgment was served on her on 29 November 2009

#### **Assessment of the admissibility of the Referral**

16. In order to be able to adjudicate the Applicants' Referral, it is necessary to first examine whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution as further specified in the Law and the Rules of Procedure.
17. As to the Applicant's referral, the Court refers to Article 49 of the Law which insofar relevant reads as follows:

#### ***Deadlines***

*"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...."*

18. The Court notes that the challenged judgment of the Supreme Court of Kosovo Rev. I.no. 482/2008 of 18 December 2008 was served on the Applicant on 29 November 2009. The Court also notes that the Applicant submitted the Referral to the Court on 15 September 2010.
19. The Applicant is out of time prescribed by 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 20 of the Law on the Constitutional Court, and Rule 36 of the Rules of Procedure,

#### **DECIDES**

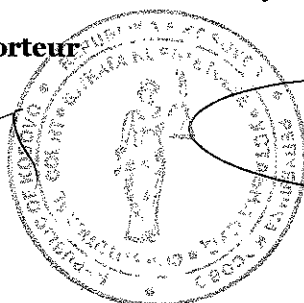
- I. TO REJECT the Referral Inadmissible.

This Decision shall be notified to the Parties and shall be published in the Official Gazette, in accordance with Art. 20(4) of the Law on the Constitutional Court.

This Decision is effective immediately.

**Judge Rapporteur:**

Altay Suroy



**President of the Constitutional Court**

Prof. Dr. Enver Hasani