



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

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Pristina, 21 January 2013  
Ref. No.: RK353/13

## **RESOLUTION ON INADMISSIBILITY**

in

**Case No. KI87/12**

Applicant

**Afrim Rexhepi**

**Constitutional Review of the Supreme Court Judgment Ap.no 119/2010, dated  
10 October 2011**

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

composed of

Enver Hasani, President  
Robert Carolan, Judge  
Altay Suroy, Judge  
Almiro Rodrigues, Judge  
Snezhana Botusharova, Judge  
Kadri Kryeziu, Judge  
Arta Rama-Hajrizi, Judge.

### **Applicant**

1. The referral was filed by Afrim Rexhepi (Applicant), residing in Pristina.

## **Challenged decision**

2. The Applicant challenges the Judgment of the Supreme Court of Kosovo, Ap. no 119/2010, dated 10 October 2011, and served on the applicant on 30 December 2011.

## **Subject matter**

3. The Applicant claims about the aggregation of imprisonment sentence against him and of the rejection of his appeal as being ungrounded.

## **Legal basis**

4. The referral is based on Article 113.7 of the Constitution, Articles 49 of the Law on the Constitutional Court of the Republic of Kosovo of 15 January 2009 (No. 03/L-121), (hereinafter: the "Law"), and Rule 56 (2) of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter: the "Rules of Procedure").

## **Proceedings before the Court**

5. On 1 October 2012, the Applicant submitted the Referral to the Court.
6. On 31 October 2012, the President appointed Judge Almiro Rodrigues as Judge Rapporteur and the Review Panel composed of Judges Robert Carolan (Presiding), Kadri Kryeziu and Enver Hasani.
7. On 3 November 2012, the Secretariat sent a letter to the Applicant, requesting him to complete his application to the Constitutional Court. On 14 November 2012, notwithstanding the aforementioned, the Secretariat informed the Applicant that his referral has been registered.
8. On 14 November 2012, the Secretariat informed the Supreme Court with the Applicant's referral.
9. On 30 November 2012, the District Court in Pristina provided the Secretariat with a copy of the signed receipts of the challenged Judgments of the Supreme Court of Kosovo. According to the signed receipts, the Applicant received the challenged Judgment of the Supreme Court on 30 December 2011.
10. On 21 January 2013, after having considered the Report of the Judge Rapporteur, the Review Panel made a recommendation to the Court on the inadmissibility of the Referral.

## **Summary of facts**

11. On 10 October 2011, the Supreme Court of Kosovo issued the challenged judgment (Ap .no 119/2010) and approved the Appeal of the Public Prosecutor in relation to the sentence.
12. Thus, the Supreme Court adjudicated the aggregate imprisonment sentence against the Applicant in duration of 3 (three) years and (2) two months. The appeal of the Applicant's defence counsel was rejected as ungrounded.

## **Applicant's allegations**

13. The Applicant requests from the Constitutional Court "to open investigation against the involved in this judgment because as consequence of people involved in it I am damaged and sentenced with 3 years and 2 months of imprisonment without being guilty although I was endangered with gun fire no one took this into consideration and I am not that kind of man as described by public prosecutor".
14. The Applicant does not indicate any right or fundamental freedoms or any constitutional provision which have been alleged violated by the Supreme Court Judgement.

## **Admissibility of the Referral**

15. Article 113 [Jurisdiction and Authorized Parties] of the Constitution establishes that

*The Constitutional Court decides only on matters referred to the court in a legal manner by authorized parties.*

16. The Court refers to the 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."*

17. In addition, Rule 36 [Admissibility Criteria] of the Rules provides that

*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.*

18. The Court notes that the final court decision was issued by the Supreme Court (Ap.no 119/2010) on 10 October 2011 and it was served on the Applicant on 30 December 2011.
19. The Court further notes that the Applicant's referral was submitted to the Constitutional Court on 1 October 2012, meaning almost ten months after the time limit prescribed by Article 49 of Law.
20. Thus, the Referral was not submitted to the Court in a legal manner, as prescribed by Art 113 (1) of the Constitution.

## FOR THESE REASONS

Pursuant to Article 113.7 of the Constitution, Article 49 of the Law and Rule 36 para.1 (b) of the Rules of Procedure the Constitutional Court, unanimously:

### DECIDES

- I. TO DECLARE the Referral 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. This Decision is effective immediately.

**Judge Rapporteur**



Almiro Rodrigues

**President of the Constitutional Court**



Prof. dr. Enver Hasani