



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

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Pristina, 14 December 2010  
Ref. No.: RK41/10

## **RESOLUTION ON INADMISSIBILITY**

In

**Case No. KI 03/09**

**Nexhmedin Llumnica**

vs.

**Decision C1.nr.618/02 of the Municipal Court of Pristina**

### **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  
Gjylieta Mushkolaj, Judge and  
Iliriana Islami, Judge

Unanimously adopts the following resolution on inadmissibility.

#### **The Applicant**

1. The Applicant is Nexhmedin Llumnica who resides in Pristina.

## **The Challenged Decision**

2. Decision C1.nr.618/02of the Municipal Court of Pristina of 11 August 2008.

## **Subject Matter**

3. The Applicant argues that his rights guaranteed by Article 46 (Protection of Property) of the Constitution of the Republic of Kosovo have been violated. He requests that the Court: (1) Suspend all economic activities of Melrose Investment Group in Kosovo; and (2) Award 800 million Euro as compensation for the violation.

## **Legal Basis**

4. Art. 113.7 of the Constitution of the Republic of Kosovo (hereinafter referred to as: the Constitution), Article 20 of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter referred to as: the Law), and Section 54(b) of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo (hereinafter referred to as: the Rules of Procedure).

## **Proceedings Before the Constitutional Court**

5. On 18 February 2009, the Applicant filed his referral with the Constitutional Court.
6. On 23 February 2009, the Interim Secretary of the Constitutional Court informed the Applicant that the Court had received and registered his request, and would review it as soon as the Court obtained complete functionality.
7. On 3 October 2009, the President of the Constitutional Court appointed Prof. Dr. Ivan Čukalović as Judge Rapporteur.
8. On 15 December 2009, the President of the Constitutional Court established the review panel in the composition of Judge Robert Carolan, Presiding, and Judges Altay Suroy and Snezhana Botusharova.

## **The Facts**

9. The Applicant argues that he was the co-owner, along with Riza Llumnica, of the cadastral plot 2653/11656/3, registered on possession list no. 2265 in MA Pristina.
10. On 25 November 1974, the Secretariat for Economy and Finance of MA Pristina expropriated cadastral plot 2653/11656/3, registered in the name of Hysen Bajram Llumnica. None of the property owners opposed the decision and the Secretariat offered them land plots in other locations as compensation. (Decision No. 05-464-74 of 25.03.1974).
11. In 1998, the Applicant submitted a request for the de-expropriation of the above property to the Directorate for Property and Legal Matters of the

Municipality of Pristina. Upon receipt, the Directorate informed the Applicant that he had to include the expropriation decision with his request.

12. On 10 May 2001, the Applicant and Riza Llumnica submitted a request to the Directorate for Property and Legal Matters of the Municipality of Pristina to request the de-expropriation of the above property.
13. On 03.10.2002, the Applicant and Riza Llumnica filed proceedings with the Municipal Court of Pristina, requesting acknowledgment of their property rights over cadastral plot 2653/3.
14. On 08 May 2003, the Applicant and others entered into a business contract with the “Melrose Investment Group” from Tirana. According to the terms of the contract, the Applicant and his partners were to sell the cadastral plot 2653/3 to the Melrose Investment Group in exchange for three apartments.
15. Sometime later, Melrose Investment Group issued proceedings for breach of contract alleging that the Applicant had failed to fulfill the provisions of the contract regarding the certification of property rights.
16. On 11 August 2008, the Municipal Court of Pristina found that it had absolutely no jurisdiction to deal with the matter because only the body that adopted the initial expropriation decision is competent to annul the decision. (C1.nr.618/02).

### **Assessment of Admissibility of the Referral**

17. Article 113.7 of the Constitution states:  
*Individual persons 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.*
18. Article 48 of the Law states:  
*In his/her referral, the claimant should accurately clarify what rights and freedoms he/she claims to have been violated and what concrete act of public authority is subject to challenge.*
19. The Applicant has not submitted any prima facie evidence indicating a violation of his rights under the Constitution (see Vanek v. Slovak Republic, ECHR Decision as to the Admissibility of Application no. 53363/99 of 31 May 2005). The Applicant does not specify how the Constitution supports his claim, as required by Article 113.7 of the Constitution and Article 48 of the Law. Thus, the referral must be rejected as manifestly ill-founded.

**FOR THESE REASONS**

The Constitutional Court, pursuant to Article 20 of the Law, and Section 54(b) of the Rules of Procedures, unanimously

**DECIDES**

- I. **To REJECT** this Referral as inadmissible.
- II. The Secretariat shall notify the Parties of the Decision and shall publish it in the Official Gazette in accordance with Article 20.4 of the Law.
- III. This Decision is effective immediately.

**Judge Rapporteur**

Ivan Čukalović



**President of the Constitutional Court**

Prof. Dr. Enver Hasani

