



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

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Pristina, 20 April 2011  
Ref. No.: RK97/11

## **RESOLUTION ON INADMISSIBILITY**

in

**Case No. KI 10/10**

Applicant

**Zvezdana Dimitrijević**

**Constitutional Review of the Decision of the Special Chamber of the Supreme  
Court of Kosovo, SCEL-09-0001, dated 8 January 2010**

### **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

#### **The Applicant**

1. The Applicant is Mrs. Zvezdana Dimitrijević from Kosovska Gračanica.

### **Subject Matter**

2. The Applicant alleges the Decision SCEL-09-0001 C-631, dated 8 January 2010, of the Special Chamber of the Supreme Court of Kosovo violated Article 49 [Right to Work and Exercise Profession] of the Constitution of the Republic of Kosovo.

### **Proceedings before the Court**

3. On 29 January 2010, the Applicant submitted a Referral to the Constitutional Court.
4. On 19 August 2010, the Constitutional Court, informed the Special Chamber of the Supreme Court of Kosovo of the filing of the Referral and requested if they had any comments deemed interesting to be reviewed by the Court regarding the issue.
5. On 25 August 2010, the Special Chamber of the Supreme Court of Kosovo replied saying that 31 public hearings have been held, and in one of them, respectively on 21 April 2010, Mrs. Zvezdana Dimitrijević personally attended, participated and was heard too.
6. Furthermore, the Special Chamber of the Supreme Court of Kosovo informed that a decision in case SCEL-09-0001 has not been delivered yet and the proceedings are still pending.
7. On 21 January 2011, after having considered the Report of the Judge Rapporteur Almiro Rodrigues, the Review Panel, composed of judges Altay Suroy (Presiding) Ivan Čukalović, Gjyljeta Mushkolaj, members made a recommendation to the full Court on the inadmissibility of the Referral.

### **Summary of the facts**

8. On 10 January 2007, the Applicant submitted a request to the Kosovo Trust Agency in Pristina, dated 9 May 2003, claiming that she should be in the list of employees eligible for the 20% of proceeds of the privatization of the Socially Owned Enterprise (hereinafter referred as: the "SOE Ramiz Sadiku").
9. Subsequently, on 7 September 2006 she submitted an urgency note to the Kosovo Trust Agency on the same content.
10. On 4 March 2009, the PAK published in the "Koha Ditore" newspaper a list of employees eligible for the 20% of proceeds of the privatization of the "SOE Ramiz Sadiku". The applicant's name is not in the list.
11. On 23 March 2009, the Applicant submitted an appeal to the Special Chamber of the Supreme Court of Kosovo against PAK.
12. On 5 May 2009, the PAK submitted an answer to the applicant's claim to the Special Chamber, where it states that, at the time of privatization, respectively on 27 June 2006, the Applicant was not registered as an employee of the "SOE Ramiz Sadiku", due to the fact that the Applicant worked in this SOE from 1972 until 1999, and that she submitted her case within the final deadline set out by the PAK (31 August 2007).
13. The Special Chamber informed the Court that a hearing on this case was held on 21 April 2010 and the Applicant's case is still pending.

### **The Applicant's allegations**

14. The Applicant claims that her name should be included in the list of employees' eligible for the 20% of the proceeds of the "SOE Ramiz Sadiku", in accordance with on the Transformation of the Right of Use to Socially-Owned Immovable Property. Section 10.4 of the UNMIK Regulation 2003/13 reads as follows:

*i. "For the purpose of this section an employee shall be considered as eligible, if such employee is registered as an employee with the Socially-Owned Enterprise at the time of privatization and is established to have been on the payroll of the enterprise for not less than three years. This requirement shall not preclude employees, who claim that they would have been so registered and employed, had they not been subjected to discrimination, from submitting a complaint to the Special Chamber pursuant to subsection 10.6"*

15. The Applicant also claims that she was on the payroll for more than 17 years, she believes that her rights have been violated and that proportionally to the years and months worked in the "SOE Ramiz Sadiku" she is entitled for an appropriate monetary compensation.

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

16. In order to be able to adjudicate the Applicants' Referral, the Court needs first to examine whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution, as well as the Law and the Rules of Procedure.

17. These requirements are namely that the Applicant may refer the matter to the Court in a legal manner (Article 113.1 of the Constitution) and after having exhausted all legal remedies provided by law (Article 113.7 of the Constitution).

18. As to the pertinent case, in accordance with the information received from the Special Chamber on 15 September 2010, a case is still pending at the Special Chamber and thus the Referral is premature as the Applicant has not exhausted all legal remedies provided by the law yet.

19. Therefore, the Court concludes that the Referral is inadmissible, pursuant to Article 113.7 of the Constitution.

**FOR THESE REASONS**

The Constitutional Court, pursuant to Article 113.7 of the Constitution, Article 47 of the Law on the Constitutional Court, and Rule 56 (2) of the Rules of Procedure, unanimously

**DECIDES**

I. TO REJECT the Referral as Inadmissible.

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 on the Constitutional Court.

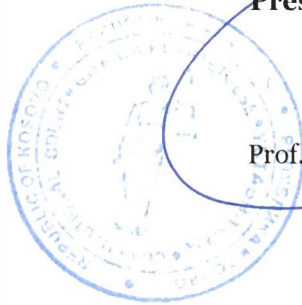
This Decision is effective immediately.

**Judge Rapporteur**



Almiro Rodrigues

**President of the Constitutional Court**



Prof. Dr. Enver Hasani