



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

Prishtina, on 20 November 2017
Ref.no: RK 1153/17

RESOLUTION ON INADMISSIBILITY

in

Case No. KI128/16

Applicant

Vadet Morina

**Constitutional review of Judgment PML 136/16 of the Supreme Court of
Kosovo, of 22 August 2016**

CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

Composed of

Arta Rama-Hajrizi, President
Ivan Čukalović, Deputy-President
Altay Suroy, Judge
Almiro Rodrigues, Judge
Snezhana Botusharova, Judge
Bekim Sejdiu, Judge
Selvete Gërxhaliu-Krasniqi, Judge and
Gresa Caka-Nimani, Judge

Applicant

1. The Referral was submitted by Vadet Morina from the Municipality of Rahovec (hereinafter: the Applicant).

Challenged decision

2. The Applicant challenges Judgment PML 136/16, of the Supreme Court of Kosovo, of 22 August 2016, in conjunction with Judgment PAKR. No. 21/16 of the Court of Appeal of Kosovo, DSC in Pristina, of 18 February 2016, and Judgment P. No. 119/14 of the Basic Court, DSC in Prizren, of 20 October 2015.

Subject matter

3. The subject matter of the Referral is the constitutional review of the challenged decisions, which have allegedly violated the rights guaranteed by Articles 21 [General Principles], 22 [Direct Applicability of International Agreements and Instruments], 31 [Right to Fair and Impartial Trial], 53 [Interpretation of Human Rights Provisions].

Legal basis

4. The Referral is based on Article 113.7 of the Constitution, Articles 22 and 47 of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law) and Rule 29 of the Rules of Procedure of the Constitutional Court of Kosovo (hereinafter: the Rules of Procedure).

Proceedings before the Constitutional Court

5. On 8 November 2016, the Applicant submitted through mail service the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).
6. On 14 December 2016, the President of the Court appointed Judge Selvete Gërxhaliu-Krasniqi as Judge Rapporteur and the Review Panel composed of Judges: Almiro Rodrigues (Presiding), Ivan Čukalović and Bekim Sejdiu.
7. On 2 March 2017, the Court notified the Applicant about the registration of the Referral and requested him to complete the Referral with relevant documentation. The Court, within the deadline, did not receive any documents requested from the Applicant.
8. On 2 June 2017, the Review Panel considered the report of the Judge Rapporteur, and recommended to the Court the inadmissibility.

Summary of facts

9. The Applicant merely mentions textually the challenged decisions, which have allegedly violated the rights guaranteed by the Constitution. However, the decisions mentioned by the Applicant were not attached to the Referral.

Applicant's allegations

10. The Applicant alleges:

“I’ve never committed a murder. No way. At one point, of a psychic violence and of a spiritual crisis I admitted, but I categorically revoked and denied it.”

Admissibility of the Referral

11. The Court first examines whether the Applicant has met the admissibility requirements, established in the Constitution the Law and the Rules of Procedure.
12. In this respect, the Court refers to the following provisions of the Law:

Article 22.4 [Processing Referrals]

“4. If the referral ... is...incomplete, the Judge Rapporteur informs the relevant parties or participants and sets a deadline of not more than fifteen (15) days for ... supplementing the respective referral (...).”

13. In addition, the Court refers to Rule 29 (2) [Filing of Referrals and Replies] and Rule 32 (5) [Withdrawal, Dismissal and Rejection of Referrals] of the Rules of Procedure, which provides::

29 (2) “The referral shall also include:

[...]

(h) the supporting documentation and information.

[...]”

32 (5) “The Court may summarily reject a referral if the referral is incomplete or not clearly stated despite requests by the Court to the party to supplement or clarify the referral (...).”

14. In connection with the foregoing, the Court finds that the Applicant filed a Referral under Article 113.7 of the Constitution in a capacity of the individual but has not clarified and completed the Referral in accordance with the criterion of Rule 29 of the Rules of Procedure. Thus, the requirements for assessing the merits of the case have not been fulfilled.
15. The Court recalls that the Applicant alleges that the regular courts violated his rights guaranteed by the Constitution and international conventions, for the reasons mentioned above.
16. Pursuant to Article 22.4 of the Law, the Court requested the Applicant to submit the challenged decision and other decisions of the regular courts.
17. However, the Court did not receive any additional documents and hard copies of the challenged decisions of the regular courts, which constitutionality the Court could assess only after the criteria required by the Constitution, the Law and the Rules of Procedure are met.
18. The Court considers that it cannot take into account the Applicant's allegations without the supporting documents and material evidence, in accordance with

Article 22.4 of the Law and Rules 29 (2) (h) and 32 (5) of the Rules of Procedure. (see decision of the Constitutional Court in case KIO3/15, *Applicant Hasan Beqiri*, of 13 May 2015, paragraphs 14, 15, 17, 19, 20 and 21).

19. In sum, the Court considers that the Applicant's Referral does not meet the procedural requirements for further consideration due to non-completion of his Referral with the supporting documents, as required by Article 22.4 of the Law and Rules 29 (2) (h) and 32 (5) of the Rules of Procedure.
20. Therefore, the Court concludes that Referral is to be summarily rejected.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 47 of the Law, and Rules 32 (5) and 55 (4) of the Rules of Procedure, in the session held on 2 June 2017, unanimously

DECIDES

- I. TO DECLARE the Referral inadmissible;
- II. TO NOTIFY this Decision to the Parties;
- III. TO PUBLISH this Decision in the Official Gazette, in accordance with Article 20.4 of the Law;
- IV. This Decision is effective immediately.

Judge Rapporteur

Selvete Gërxhaliu-Krasniqi

President of the Constitutional Court

Arta Rama-Hajrizi

