



REPUBLIKA E KOSOVËS
Republika Kosova - Republic of Kosovo
Gjykata Kushtetuese / Ustavni sud / Constitutional Court
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Prishtina, 21 June 2010
Ref. no.: RK 26/10

RESOLUTION ON INADMISSIBILITY

Case KI 25/09

Shefqet Haxhiu

vs.

Workers Organisation “Industria e akumulatorëve”

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 Shefqet Haxhiu, living in Mitrovica

Responding Party

2. The Responding Party is the Workers Organisation “Industria e akumulatorëve” in Mitrovica.

Subject Matter

3. The Applicant requests the Constitutional Court to assess the legality of the Regulation on Internal Organisation and Systematisation of Works and Working Tasks of the Workers Organisation "Industria e akumulatorëve" in Mitrovica.
4. According to the Applicant, the Regulation is not compliant with positive legal provisions, in that it does not contain the description of all jobs and working tasks, which represents the basis for assessing performance and work results, while its tabular part does not respect the coefficients and measurement scales, compliant with the educational qualifications.
5. He alleges that his "right to equal evaluation of employment in relation to payment determination" has been violated.

Legal basis

6. Article. 113 of the Constitution of the Republic of Kosovo (hereinafter referred to as: the Constitution); Article 20 of the Law No. 03/L-121 on the Constitutional Court of the Republic 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).

Summary of proceedings before the Court

7. On 20 May 2009, the Applicant filed a Referral with the Constitutional Court.
8. On 29 April 2010, after having considered the Report of the Reporting Judge, Snezhana Botusharova, the Review Panel, composed of Judges Altay Suroy (Presiding), Almiro Rodrigues and Gjyljeta Mushkolaj, recommended to the full Court to reject the case as inadmissible.

Summary of facts

9. It appears from the Applicant's submissions that he was offered employment by the Lead and Zink Mining, Metallurgic and Chemical Corporation Trepca in Mitrovica in 1968. On 16 February 1988, the Regulation on Internal Organisation and Systematisation of Works and Working Tasks of the Working Organisation "Industria e akumulatorëve" (hereinafter : the Regulation) was approved through a referendum held amongst the workers.
10. By letter of 30 December 1988, the Applicant requested the Employees Council of the Working Organisation to appoint him to a position commensurate with his tasks and qualifications, for the reason that he fulfilled all requirements as regards qualification, working experience and other determined criteria, necessary for the position. At the same time, he complained that the Council had not appointed him to that position in its decision of 1 January 1988, but had appointed others who did not possess the appropriate qualifications. The Applicant, therefore, requested the Employee Council to appoint him to the position concerned and to re-issue a new decision to that effect.
11. On 1 April 1993, the Constitutional Court in Belgrade reviewed the Applicant's request for the evaluation of legality of the Regulation of 16 February 1988, but declared itself incompetent to do so.

Applicant's allegations

12. The Applicant alleges that the Regulation in question is not compliant with positive legal provisions, in that it does not contain the description of all jobs and working tasks, which represents the basis for assessing performance and work results, while its tabular part does not respect the coefficients and measurement scales, compliant with educational qualifications.
13. The Applicant complains that his "right to equal evaluation in employment in relation to payment determination" has been violated.

Assessment of admissibility of the Referral

14. In order to be able to adjudicate the Applicant's Referral, the Constitutional Court needs first to examine, whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution and the Law.
15. In this connection, the Constitutional Court notes that the Applicant's complaint is related to a period prior to the date of the entry into force of the Constitution (see *Blečić v. Croatia*, Application no. 59532/00, ECHR Judgment of 29 July 2004) and, therefore, concludes that the Referral is out of time.
16. It follows that the Applicant has not fulfilled the formal requirements for the admissibility of the Referral, as laid down in Article 22.1 of the Law.

FOR THESE REASONS

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

DECIDES

- I. TO REJECT the Referral as 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.
- III. This Decision is effective immediately.

Judge Rapporteur



Snezhana Botusharova



President of the Constitutional Court



Prof. Dr. Enver Hasani