The Jurisdiction Of The Constitutional Court In Controlling The Constitutionality Of Criminal Judgments: Kosovo Case

Vilard Bytyqi
Kosovo Academy for Public Safety
vilard.bytyqi@rks-gov.net

Florentina Shala Braha
Kosovo Academy for Public Safety
florentina.SH.Braha@rks-gov.net

Fadil Berisha
Aleksander Xhuvani University

Abstract

This paper will deal with individual requests that are submitted at the Constitutional Court in order to assess the constitutionality of criminal judicial decisions. The right to submit issues for assessing the constitutionality of criminal court decisions is a constitutionally guaranteed right. Many individuals who are dissatisfied with the decisions of the judicial instances use their right to oppose such a decision even at the Constitutional Court.

Not all the cases submitted to the Court are based on the right which derives from the Constitution. While it is known that the constitutional judiciary in our country is a new practice, the legal professionals, including lawyers and other jurists, still have not understood the role of this Court.

In order to elaborate more in this paper, the conditions that must be fulfilled for a claim to be admissible in the Court will be treated by explaining one by one these conditions and even the practices which were developed at the court. Also, an important part of the paper will discuss the framework within which this court will decide upon the submission of the request. We will see that the Constitutional Court does not get out of the bases of the request submitted by the parties, by checking only the possible violation of constitutional rights guaranteed in criminal proceedings. It will not deal with the facts and the manner of obtaining the evidence, as this issue is in the hands of regular judicial instances. Finally, an emphasis will be placed on the legal effects of those decisions and obligations which produce Court decisions for the ordinary courts and other authorities.

Key Words: Control of Constitutionality, Constitutional Court, Court Decision, Legal Effect.