



REPUBLIKA E KOSOVËS - REPUBLIKA KOSOVO - REPUBLIC OF KOSOVO
GJYKATA KUSHTETUESE
USTAVNI SUD
CONSTITUTIONAL COURT

Prishtina, on 26 June 2025
Ref. no.: AGJ 2719/25

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JUDGMENT

in

Case No. KO124/25

Applicant

**Time Kadrijaj and 10 (ten) other deputies of the Assembly
of the Republic of Kosovo**

**Constitutional review of
“Decision of the Assembly of Kosovo to refuse the establishment of the Committee
for secret ballot, as well as all other decisions of the same nature taken in the
previous and subsequent sessions on the same matter, contained in the document
entitled “transcript of the constitutive meeting of the Assembly of the Republic of
Kosovo, held on 15, 17, 19, 21, 23, 25, 27, 29 April, 1, 3 and 5 May 2025”.**

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of:

Nexhmi Rexhepi, President
Safet Hoxha, Deputy President
Bajram Ljatifi, Judge
Radomir Laban, Judge
Remzije Istrefi-Peci, Judge
Enver Peci, Judge, and
Jeton Bytyqi, Judge

Applicant

1. The Referral was submitted by Time Kadrijaj, Bekë Berisha, Ramush Haradinaj, Daut Haradinaj, Lahi Brahimaj, deputies of Aleanca për Ardhmërinë e Kosovës (hereinafter: AAK), Paris Guri, Serbeze Kabashi Muçaj, Arjeta Abazi, Hykmete Bajrami, Jehona Lushaku, deputies of Lidhja Demokratike e Kosovës (hereinafter: LDK), and Ferat Shala, deputy of Partia Demokratike e Kosovës (hereinafter: PDK), in the Assembly of the Republic of Kosovo (hereinafter: the Assembly), represented by deputy Time Kadrijaj (hereinafter: the Applicants).

Challenged act

2. The Applicants challenge the constitutionality of “Decision of the Assembly of Kosovo to refuse the establishment of the Committee for secret ballot, as well as all other decisions of the same nature taken in the previous and subsequent sessions on the same matter, contained in the document entitled “transcript of the constitutive meeting of the Assembly of the Republic of Kosovo, held on 15, 17, 19, 21, 23, 25, 27, 29 April, 1, 3 and 5 May 2025”.

Subject matter

3. The Applicants allege that “*Decision of the Assembly of Kosovo to refuse the establishment of the Committee for secret ballot, as well as all other decisions of the same nature taken in the previous and subsequent sessions on the same matter, contained in the document entitled “transcript of the constitutive meeting of the Assembly of the Republic of Kosovo, held on 15, 17, 19, 21, 23, 25, 27, 29 April, 1, 3 and 5 May 2025”* is incompatible with Articles 4 [Form of Government and Separation of Power], 7 [Values], 63 [General Principles], 67 [Election of the President and Deputy Presidents], 70 [Mandate of the Deputies], 72 [Incompatibility] and 74 [Exercise of Function] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution).
4. In addition, the Applicants request the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) to impose an interim measure on the challenged act, thereby suspending “*the irreparable damage to the image of the Assembly of Kosovo in case of continuation of the constitutive sessions with an agenda determined in an unconstitutional manner and the damage to the image of the State of Kosovo in the country and abroad in case of continuation of unconstitutional sessions as above.*”

Legal basis

5. The Referral was submitted based on paragraph 5 of Article 113 [Jurisdiction and Authorized Parties] and paragraph 2 of Article 116 [Legal Effect of Decisions] of the Constitution, Articles 22 (Processing Referrals), 27 (Interim Measures), 42 (Accuracy of the Referral) and 43 (Deadline) of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law) and Rules 25 [Filing of Referrals and Replies], 44 [Request for Interim Measures], and 72 [Referral Pursuant to Paragraph 5 of Article 113 of the Constitution and Articles 42 and 43 of the Law] of the Rules of Procedure no. 01/2023 of the Court (hereinafter: the Rules of Procedure).

Proceedings before the Court

6. On 12 May 2025, the Applicants submitted the Referral to the Court.
7. On the same date, by Decision [No. GJR. KO124/25], the President of the Court appointed Judge Remzije Istrefi-Peci as Judge Rapporteur and, by Decision [No. KSH. KO124/24], the Review Panel composed of Judges: Nexhmi Rexhepi (Presiding), Bajram Ljatifi and Enver Peci (members).

8. On 13 May 2025, the Court notified the Applicants about the registration of the Referral. On the same date, the Court, for the registration of the Referral, notified: (i) the President of the Republic of Kosovo (hereinafter: the President); (ii) the Acting Prime Minister of the Republic of Kosovo (hereinafter: the Prime Minister); and (iii) the Ombudsperson Institution (hereinafter: the Ombudsperson). The Court notified the aforementioned interested parties that any comments regarding the Referral, if any, may be submitted to the Court by 19 May 2025.
9. On the same date, the Court notified the Deputy Secretary General of the Assembly of the Republic of Kosovo (hereinafter: the Deputy Secretary General) about the registration of the Referral, requesting that a copy of the Referral be provided to all deputies of the Assembly and that all relevant documents related to the subject matter of the contested case be submitted to the Court no later than 19 May 2025.
10. On 15 May 2025, the Deputy Secretary General of the Assembly submitted to the Court the following documentation:
 - (i) The invitation of the President of the Assembly of the VIII Legislature for the joint meeting with the leaders of the political entities on 8 April 2025;
 - (ii) The transcript from the joint meeting with the leaders of the political entities of 8 April 2025;
 - (iii) The invitation of the President of the Assembly of the VIII Legislature for the Constitutive Session of the IX Legislature on 15 April 2025;
 - (iv) The Decision of the Assembly on the establishment of the Temporary Committee for the Verification of Quorum and Mandates, No. 09-V-001, of 15 April 2025;
 - (v) The Report of the Temporary Committee for the Verification of Quorum and Mandates, of 15 April 2025;
 - (vi) The letter of the Chairperson of the Constitutive Session of the IX Legislature, addressed to the President of the Republic of Kosovo, of 16 April 2025;
 - (vii) The response of the President of the Republic of Kosovo, of 16 April 2025;
 - (viii) The invitation of the Chairperson of the Constitutive Session of the IX Legislature, for the continuation of the Constitutive Session, of 17 April;
 - (ix) The Decision of the Assembly authorizing the Temporary Committee for the Verification of Quorum and Mandates, No. 09-V-002, of 19 April 2025;
 - (x) The Report of the Temporary Committee for the Verification of Quorum and Mandates, of 19 April 2025;
 - (xi) Decision No. 09-V-003 of the Assembly on the non-election of deputy Albulena Haxhiu as President of the Assembly, no. 09-V-003, of 19 April 2025;
 - (xii) Decision No. 09-V-004 of the Assembly on the non-election of deputy Albulena Haxhiu as President of the Assembly, no. 09-V-003, of 19 April 2025;
 - (xiii) Decision No. 09-V-005 of the Assembly on the non-election of deputy Albulena Haxhiu as President of the Assembly, no. 09-V-003, of 23 April 2025;
 - (xiv) Decision No. 09-V-006 of the Assembly on the non-election of deputy Albulena Haxhiu as President of the Assembly, no. 09-V-003, of 25 April 2025;
 - (xv) Decision No. 09-V-007 of the Assembly on the non-election of deputy Albulena Haxhiu as President of the Assembly, no. 09-V-003, of 27 April 2025;
 - (xvi) Decision No. 09-V-008 of the Assembly on the non-election of deputy Albulena Haxhiu as President of the Assembly, no. 09-V-003, of 29 April 2025;
 - (xvii) The transcript of the Constitutive Session of the Assembly of the Republic of Kosovo, commenced on 15 April 2025, and continued on 17, 19, 21, 23, 25, 27, 29 April 2025, and 1, 3, 5, 7, 9, 11, and 13 May 2025.

11. On 19 May 2025, the Applicants submitted additional clarifications regarding the the case KO124/25.
12. On the same date, deputy Saranda Bogujevci from Lëvizja Vetëvendosje! and deputy Abelard Tahiri from the Partia Demokratike e Kosovës submitted comments regarding the case KO124/25.
13. On 21 May 2025, the additional clarifications of the Applicants were communicated to the President, the Prime Minister, the Ombudsperson, and the Deputy Secretary General. On the same day, the Applicants were notified regarding the comments submitted by deputy Saranda Bogujevci from Lëvizja Vetëvendosje! and deputy Abelard Tahiri from the Partia Demokratike e Kosovës.
14. On 19 June, 24 June and on 26 June, the Court considered the report of the Judge Rapporteur and decided: I. To declare, unanimously, the Referral admissible; II. To hold, unanimously, that: 1. The session for the constitution of the Assembly of the Republic of Kosovo, which began on 15 April 2025, has not been concluded and, as a result of the failure to elect the President and Deputy-Presidents of the Assembly of the Republic of Kosovo, it has not been conducted in accordance with the provisions and requirements of paragraph 1 of Article 66 [Election and Mandate] of the Constitution of the Republic of Kosovo; and 2. The elected Deputies of the Assembly of the Republic of Kosovo, in applying paragraph 1 of Article 66 [Election and Mandate] in conjunction with Article 67 [Election of the President and Deputy-Presidents], Article 70 [Mandate of Deputies] and 74 [Exercise of Function] of the Constitution of the Republic of Kosovo, Chapter IV of the Rules of Procedure of the Assembly of the Republic of Kosovo and in accordance with this Judgment must as soon as possible and no later than thirty (30) days conclude the Constitutive Session of the Assembly by electing the President and its Deputy-Presidents; III. TO REJECT, unanimously, the request for interim measure; IV. To notify this Judgment to the parties; V. To publish this Judgment in the Official Gazette of the Republic of Kosovo, in accordance with paragraph 4 of Article 20 (Decisions) of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo; VI. To hold that this Judgment enters into force immediately.

Summary of facts

15. On 16 August 2024, the President, Mrs. Vjosa Osmani, issued Decree [No. 119/2024] for setting and announcing the regular elections for the Assembly of the Republic of Kosovo, which were scheduled to be held on 9 February 2025.
16. On 9 February 2025, the elections for the Assembly of the Republic of Kosovo were held.
17. On 15 March 2025, the Central Election Commission (hereinafter: CEC) announced the results of the elections for the Assembly held on 9 February 2025.
18. On 27 March 2025, the CEC by Decision [No. 01/794-2025] certified the results of the elections for the Assembly held on 9 February 2025.
19. On 8 April 2025, based on paragraph 1 of Article 8 (Preparations for the inaugural session) of the Rules of Procedure of the Assembly (hereinafter: the Rules of the Assembly), the joint

meeting of the President of the VIII legislature with presidents of the political entities for preparation of the Constitutive Session of the Assembly (IX legislature) was held, which included the agenda of the session, including the allocation of seats for the deputies.

20. On 15 April 2025, the Assembly held the first constitutive session, chaired by the oldest deputy of the Assembly, Mr. Avni Dehari (hereinafter: the Chairperson), assisted by the youngest deputy of the Assembly, Ms. Sala Jashari, according to the agenda determined on 8 April 2025, as follows:
 - (i) Establishment of the Temporary Committee for the Verification of the Quorum and Mandates of Deputies;
 - (ii) Oath-taking of the deputies;
 - (iii) Election of the President of the Assembly; and
 - (iv) Election of the Deputy Presidents of the Assembly.
21. The session of 15 April 2025 was opened by the Chairperson, who requested from the political parties that each propose one member for the Temporary Committee for the Verification of the Quorum and Mandates of Deputies (hereinafter: the Temporary Committee). In this regard, for members of the Temporary Committee, Lëvizja Vetëvendosje! proposed deputy Artan Abrashi, PDK proposed deputy Përparim Gruda, LDK proposed deputy Armend Zemaj, Srpska Lista proposed deputy Branislav Nikolić, AAK, Nisma Socialdemokrate, Konservatorët, Intelktualët proposed deputy Time Kadrijaj, Kosova Demokratik Turk Partisi proposed deputy Fidan Brina Jiltayı, whereas for political parties represented by one deputy, the Chairperson read the names as follows: for the Iniciatia e Re Demokratike të Kosovës, deputy Elbert Krasniqi; for the Nova Demokratska Stranka, deputy Emilija Rexhepi; for the Za Slobodu, Pravdu i Opstanak, deputy Nenad Rashiq; for the Koalicija Vakati, deputy Rasim Demiri; for the Partia Liberale Egjiptiane – PLE, deputy Veton Berisha; for the Socjaldemokratska Unija – SDU, deputy Duda Balje; for the Partia e Ashkalinjve për Integrim, deputy Artan Asllani; for the Jedinstvena Goranska Partija, deputy Adem Hoxha and for the Partia Rome e Bashkuar e Kosovës, deputy Albert Kinolli.
22. On the same date, the Assembly, in the Constitutive Session of the IX Legislature of the Assembly, by Decision [No. 09-V-001] established the Temporary Committee, with the proposed composition, for the review of the relevant election documentation for the Assembly elections held on 9 February 2025.
23. Upon its establishment, the Temporary Committee submitted the report on the validity of the mandates of the deputies, whereby it ascertained that in the IX Legislature of the Assembly 120 deputies from political parties, coalitions, and citizens' initiatives were certified, as follows:
 - (i) Lëvizja Vetëvendosje! (Self-Determination Movement) – 48 deputies;
 - (ii) Partia Demokratike e Kosovës (Democratic Party of Kosovo) – 24 deputies;
 - (iii) Lidhja Demokratike e Kosovës (Democratic League of Kosovo) – 20 deputies;
 - (iv) Srpska Lista (Serb List) – 9 deputies;
 - (v) Aleanca për Ardhmërinë e Kosovës, Nisma Socialdemokrate, Konservatorët, Intelktualët (Alliance for the Future of Kosovo, Social Democratic Initiative, Conservatives, Intellectuals) – 8 deputies;
 - (vi) Kosova Demokratik Turk Partisi (Turkish Democratic Party of Kosovo) – 2 deputies;

- (vii) Iniciativa e Re Demokratike e Kosovës (New Democratic Initiative of Kosovo) – 1 deputy;
 - (viii) Nova Demokratska Stranka (New Democratic Party) – 1 deputy;
 - (ix) Za Slobodu, Pravdu i Opstanak (For Freedom, Justice and Survival) – 1 deputy;
 - (x) Koalicija Vakut (Vakut Coalition) – 1 deputy;
 - (xi) Partia Liberale Egjiptiane (Egyptian Liberal Party) – 1 deputy;
 - (xii) Partia e Ashkalinjve për Integrim (Ashkali Party for Integration) – 1 deputy;
 - (xiii) Socijaldemokratska Unija (Social Democratic Union) – 1 deputy;
 - (xiv) Jedinstvena Goranska Partija (United Gorani Party) – 1 deputy;
 - (xv) Partia Rome e Bashkuar e Kosovës (United Roma Party of Kosovo) – 1 deputy.
24. The Chairperson, after ascertaining that there were 118 (one hundred and eighty) deputies present in the hall, requested the same to declare regarding the report of the Temporary Committee, and after the vote, ascertained that it did not pass, as 52 (fifty two) deputies voted in favor, 46 (forty six) against, and 11 (eleven) abstained.
 25. On 16 April 2025, the Chairperson notified the President that the Report of the Temporary Committee had not received the votes of the majority of deputies and that, for this reason, the mandates of the deputies were not verified, the oath of the deputies of the Assembly was not administered, and the Chairperson interrupted the constitutive session.
 26. On the same date, the President replied to the letter of the Chairperson, in which she recalled the constitutional principles, as determined by the case law of the Court and the obligation of the Chairperson and all deputies elected to the IX Legislature of the Assembly to functionalize the institutions. She also recalled the obligation to continue the inaugural session not later than forty-eight (48) hours from its interruption.
 27. On the same date, the Chairperson, by letter [L-IX SK – 001/1], invited all deputies of the Assembly to participate on 17 April 2025 in the continuation of the proceedings of the constitutive session started on 15 April 2025.
 28. On 17 April 2025, the Constitutive Session continued, with 100 deputies present. The Chairperson interrupted the session to continue it within forty-eight (48) hours because there was no consensus in the consultative meeting.
 29. On 19 April 2025, the Constitutive Session continued, with 120 deputies present. The Chairperson put to a vote the establishment of the Temporary Committee with the same composition, a proposal that was voted by 120 deputies and from the Temporary Committee was requested to prepare a new report. The Temporary Committee submitted the report, by which it found the validity of the mandates of the deputies of the Assembly, and the same was unanimously adopted. Also, within this session, all deputies took their oath.
 30. On the same date, the Chairperson continued with the agenda and requested Lëvizja Vetëvendosje! to propose a candidate for President of the Assembly, and the latter proposed deputy Albulena Haxhiu. The proposal of Lëvizja Vetëvendosje! did not pass as the same received 57 (fifty-seven) votes in favor, 20 (twenty) against, and 3 (three) abstentions. After the vote, the session was interrupted for 15 minutes. Upon resumption, the Chairperson continued with the agenda and again requested Lëvizja Vetëvendosje! to propose a candidate for President of the Assembly, and the latter again proposed deputy Albulena Haxhiu. The proposal of Lëvizja Vetëvendosje! did not pass as it received 57 (fifty-seven)

votes in favor, 19 (nineteen) against, and 3 (three) abstentions. After the vote, the session was interrupted.

31. On the same date, the Assembly by Decision [No. 09-V-003] did not elect deputy Albulena Haxhiu as President of the Assembly.
32. Subsequently, the Constitutive Session continued on 21, 23, 25, 27, and 29 April 2025, in which the proposal for President of the Assembly remained the same and for which the deputies voted as follows:
 - (i) In the session of 21 April 2025, with 117 (one hundred and seventeen) deputies present, the proposal was not put to a vote, as Lëvizja Vetëvendosje! requested additional time;
 - (ii) In the session of 23 April 2025, with 117 (one hundred and seventeen) deputies present, 57 (fifty-seven) votes in favor; 46 (forty-six) against and 3 (three) abstentions;
 - (iii) In the session of 25 April 2025, with 118 (one hundred and eighteen) deputies present, 57 (fifty-seven) votes in favor; 47 (forty-seven) against and (three) abstentions;
 - (iv) In the session of 27 April 2025, with 109 (one hundred and nine) deputies present, 57 (fifty-seven) votes in favor; 41 (forty-one) against and (three) abstentions; and
 - (v) In the session of 29 April 2025, with 110 (one hundred and ten) deputies present, 54 (fifty-four) votes in favor, 44 (forty-four) against and 3 (three) abstentions.
33. The Assembly, by Decisions [No. 09-V-004; of 19 April 2025; No. 09-V-005; of 23 April 2025; No. 09-V-006; of 25 April 2025; No. 09-V-007; of 27 April 2025; and No. 09-V-008 of 29 April 2025] did not elect deputy Albulena Haxhiu as President of the Assembly.
34. On 1 May 2025, in the continuation of the Constitutive Session, according to the minutes of the meeting, the Chairperson found that 110 (one hundred and ten) deputies were present, emphasizing that: *“Until today we have had several attempts, but without producing results in the election of the presidency and the constitution of the Assembly. Taking into account the Judgment of the Constitutional Court of 2014 regarding the election of the President of the Assembly, specifically paragraph 124, which states: ‘The voting may be by open ballot or secret ballot; or in any other way, and, also based on the Rules of Procedure of the Assembly, which in Article 61, paragraph 4, provides for secret ballot. Therefore, with the aim of unblocking the process, I consider that the proper form that may open the way for constitution is voting in a secret manner with physical ballots.’”* Following this, the Chairperson invited the political parties to propose one (1) member for the Secret Ballot Committee regarding the change of the voting method. Thereafter, from the case file it results that the Chairperson invited the deputies to vote for the proposed members of the committee, for which 55 (fifty-five) deputies voted in favor, 1 (one) deputy against, and no abstention.
35. The Constitutive Session continued on 3 May 2025, on which occasion, after the Chairperson found that there were 106 (one hundred and six) deputies in the hall, again requested the political parties to propose a member for the Secret Ballot Committee, which was put to a vote, but this proposal received 54 (fifty-four) votes in favor, 1 (one) against, and no abstention. The Chairperson interrupted the session by finding that there was no quorum and informed those present of the continuation of the session on 5 May 2025.

36. The Constitutive Session continued on 5 May 2025, on which occasion, after the Chairperson found that there were 111 (one hundred and eleven) deputies in the hall, again requested the political parties to propose a member for the Secret Ballot Committee, which was put to a vote, but this proposal received 56 (fifty-six) votes in favor, 1 (one) against, and none abstention.

Applicant's allegations

37. The Applicants allege that the *“Decision of the Assembly of Kosovo to refuse the establishment of the Committee for secret ballot, as well as all other decisions of the same nature taken in the previous and subsequent sessions on the same matter, contained in the document entitled ‘transcript of the constitutive meeting of the Assembly of the Republic of Kosovo, held on 15, 17, 19, 21, 23, 25, 27, 29 April, 1, 3 and 5 May 2025’* was rendered in contradiction with Articles 4 [Form of Government and Separation of Power], 7 [Values], 63 [General Principles], 67 [Election of the President and Deputy Presidents], 70 [Mandate of the Deputies], 72 [Incompatibility] and 74 [Exercise of Function] of the Constitution.
38. Regarding the violation of Articles 70 and 72 of the Constitution, the Applicants claim that among the 120 (one hundred and twenty) deputies certified as valid with their mandates, there are also some who simultaneously exercise executive functions.
39. Furthermore, the Applicants claim that the modification of the agenda of the constitutive session by the Chairperson is contrary to the Constitution and that, arbitrarily, after each failure to obtain sufficient votes, the Chairperson ordered the interruption of the session.
40. In this respect, the Applicants emphasize that *“the same was done also when the failure to proceed to a secret ballot occurred, thereby deviating from and preventing the vote of the deputies for the Chairperson of the Assembly as provided for in the agenda of 8 April 2025, which is the only constitutional way defined by the RoPA and by the Judgment of the Constitutional Court of 2014 in case KO 119/14.”*
41. The Applicants also consider that: *“[...] every instance of voting in the Assembly of Kosovo, regardless of the formal means of expressing such vote, constitutes a decision if the required conditions are met, [...]”*.
42. Further, the Applicants, quoting paragraph 3 of Article 11 (Selection of the President of the Assembly) of the Rules of the Assembly, emphasize that: *“[...] neither for the election nor for the non-election of the President of the Assembly of Kosovo does there exist a form prescribed in writing in the RoP and, consequently, by analogy, the same rules must be applied in both cases of voting for the President of the Assembly, namely both when the election takes place and when the election of the President is refused.”*
43. The Applicants consider that the act challenged by this submission is titled the Minutes of the Constitutive Session of 5 May 2025 of the Assembly, emphasizing that *“it falls within the scope of ‘decision of the Assembly’, as provided for by paragraph 5 of Article 113 of the Constitution, because: (i) it was adopted by a majority of the votes of the deputies of the Assembly; (ii) it contains specific instructions and obligations, which must be implemented by the deputies, respectively to convene at each subsequent session for the same issue; (iii) after the issuance of the challenged Act, the deputies undertook actions to*

implement it, inter alia, by seeking to reach a political agreement for unblocking the situation (the deputies of the Assembly made it clear that they would not vote in secret but would vote openly for another candidate except Mrs. Albulena Haxhiu); and (iv) as a result, the current situation affects the violation of constitutional norms, including the restriction of the rights and freedoms of the deputies to exercise their duty as defined by the Constitution.”

44. The Applicants emphasize that: “[...] In terms of substance, within the meaning of the case law of the Constitutional Court as described above, the conduct of Mr. Avni Dehari that produced the challenged Act, subject of this Referral, is not simultaneously in compliance with Article 4.1 [Form of Government and Separation of Power], Article 7 [Values], Article 63 [General Principles], Article 67 [Election of the President and Deputy Presidents], Article 70.1 [Mandate of the Deputies], Article 72 [Incompatibility], and Article 74 [Exercise of the Function] of the Constitution of the Republic of Kosovo (‘the Constitution’).”
45. In conclusion, the Applicants request the Court to: (i) declare the Referral admissible; (ii) hold that the challenged act “*contained in the Minutes of the Constitutive Session*”, as well as all actions of the same nature in the “*previous and subsequent sessions on the same issue, is in compliance with paragraph 14 of Article 65 [Competencies of the Assembly] of the Constitution*”; (iii) hold that the challenged act “*contained in the Minutes of the Constitutive Session*”, as well as all actions of the same nature in the “*previous and subsequent sessions*” on the same issue, are not in compliance with Article 4 [Form of Government and Separation of Power], Article 7 [Values], Article 63 [General Principles], Article 67 [Election of the President and Deputy Presidents], Article 70 [Mandate of the Deputies], Article 72 [Incompatibility], and Article 74 [Exercise of Function] of the Constitution.

Allegations of the Applicants submitted through the submission of 19 May 2025

46. On 19 May 2025, the Applicants submitted additional comments with the aim of further clarifying the Referral.
47. The Applicants emphasize that the referral in case KO124/25 concerns the interpretation of the Constitution in relation to: (i) “*the current dramatic deadlocks in the procedure of inaugurating the Assembly of Kosovo, as a result of the deviation from the agenda determined on 8 April 2025 [...]*”; and (ii) “*the abuse of the constitutional provision of Article 67.2 of the Constitution, which grants the right to the relative winner of the elections to propose the same candidate for President of the Assembly.*”
48. Furthermore, the Applicants emphasize that they challenge the constitutionality of “*the decision rejecting the secret ballot, as well as other decisions related to the uninterrupted nomination of Mrs. Albulena Haxhiu for President of the Assembly.*”
49. Moreover, the Applicants emphasize that the subject of the Referral is also “*the voting as an act for the rejection of the secret ballot in the process of constituting the Assembly of Kosovo, namely the act of voting that rejects this type of voting.*” They further emphasize that the subject of the Referral is not “*the individual and arbitrary decision of Mr. Avni Dehari for the modification of the agenda of 8 April 2025 for the constitution of the Assembly, but the legal and constitutional consequences of this decision*” and that “*the*

decision of the Chairperson of the Assembly, as well as that of the President of the Assembly of Kosovo, cannot be subject to constitutional review.”

50. The Applicants consider that *“at the European level, no act, action, or inaction of public authorities should be beyond constitutional review, as evidenced by the opinions of the Venice Commission.”* (see Opinion CDL – AD(2016)007).
51. In this respect, the Applicants consider that *“any act (action or inaction) of the Assembly during the exercise of its constitutional jurisdiction should be subject to constitutional review, provided that: (i) a vote has been taken; (ii) the act (action or inaction) raises constitutional issues; and, finally, (iii) it has been undertaken at a time when there was a quorum in the Assembly.”*
52. The Applicants consider that *“[...] in all cases when a modification of the agenda has occurred, a vote was conducted and there was a quorum in the Assembly.”* The Applicants also emphasize that the failure to constitute the Assembly constitutes a fundamental constitutional issue, as it affects the functioning of constitutional bodies.
53. Finally, the Applicants propose that: *“(i) the Referral be declared admissible for review and decision on the merits; (ii) all decisions of the Assembly of Kosovo regarding the modification of the agenda of 8 April 2025 be annulled as unconstitutional; (iii) the constitutional situation as of 8 April 2025 be restored and action be ordered in accordance with the instructions of the Judgment KO119/14 regarding the constitutional procedure to be followed for the constitution of the Assembly of Kosovo after every general election; (iv) the possibility of nominating the same candidate for President of the Assembly of Kosovo more than once be limited; (v) a time limit be set within which the Assembly of Kosovo must be constituted after the holding of general elections.”*

Comments of the deputies of Lëvizja Vetëvendosje!

54. On 19 May 2025, the deputies of Lëvizja Vetëvendosje!, represented by deputy Saranda Bogujevci, submitted to the Court their comments regarding the allegations of the Applicants concerning the constitutional review of *“[...] the Decision of the Assembly of Kosovo on the rejection to establish the Secret Ballot Committee, as well as all other decisions of the same nature rendered in the previous and subsequent sessions on the same matter.”*
55. Initially, the deputies of Lëvizja Vetëvendosje! emphasized the reasons why: *“1) the voting of the President and Deputy Presidents of the Assembly of the Republic of Kosovo in any form, including the secret ballot, is an obligation of the deputies of the Republic of Kosovo for the purpose of constituting the Assembly and commencing the mandate of the Assembly as a legislative body, and 2) why there is no conflict of interest between the outgoing Government of the Republic of Kosovo and the new legislature of the Assembly of the Republic of Kosovo. Consequently, it will be demonstrated that the constitutional review of the votes of the deputies during the inaugural session, even if they were decisions, would not be in violation of Article 4.1, Article 7, Article 3, Article 67, Article 70.1, 72, and 74 of the Constitution.”*
56. Furthermore, the deputies of Lëvizja Vetëvendosje! cited Article 31 (Restrictions on the Outgoing Government) of the Law on Government and emphasized that the *“Kurti II”* Government is considered an outgoing government and performs the responsibilities

determined by this Article of the Law on Government and in accordance with the Judgment of the Constitutional Court in case KO95/20. They also emphasized that upon the expiration of the four (4) year mandate of the VIII legislature of the Assembly, the mandate of the Government also ends, which may no longer adopt new policies in the form of laws or international agreements requiring approval by the Assembly.

57. Likewise, the deputies of Lëvizja Vetëvendosje! underlined that: “[...] *after the certification of the election results, the Government performing its function, including the members of the Government, thus, may not continue working in the Government with a full mandate or full competences. This is in order to fulfill the requirement of Article 70 and Article 72 of the Constitution, so as to prevent conflicts of interest and so that the Government with a full mandate passes to the limited competences of the outgoing Government.*” The same emphasized that: “[...] *in the current case where the Government has lost its mandate by the very force of law and acts with limited competences until the formation of the new Government, it creates no conflict whatsoever with the ninth legislature which has not elected it. Therefore, there is no incompatibility of functions and no violation of Article 70 and 72 of the Constitution.*”
58. The deputies of Lëvizja Vetëvendosje!, regarding the election of the President and Deputy Presidents, as well as the duty of deputies during the constitutive session, emphasized that as long as the President of the Assembly and his Deputy Presidents are not elected, the Assembly is not constituted and the work of the legislature cannot begin. In this respect, they emphasized that the primary duty of the deputies is the constitution of the Assembly and that it is the obligation of every deputy “*to actively cooperate in the process of constituting the Assembly since this is a fundamental step for the functioning of democratic institutions.*”
59. Furthermore, the deputies of Lëvizja Vetëvendosje!, regarding the allegation of the Applicants concerning the change of the voting method during the procedure, emphasize that the same is entirely unfounded, because “*the voting for the President of the Assembly after each failure to elect is simply a new procedure from the beginning.*”
60. Moreover, the deputies of Lëvizja Vetëvendosje! emphasized that the Applicant has incorrectly stated the title of the Referral for constitutional review of “*the Decision of the Assembly of Kosovo on the rejection to establish the Secret Ballot Committee,*” because: “*not only is it not a decision of the Assembly either in form or embodied in the minutes as alleged by the Applicants, but there are not even the necessary conditions for decision-making on rejecting the voting of the Committee, but it is a matter of lack of quorum to take a decision, even for a decision to reject the vote on the Committee.*” In this respect, they pointed out that there was no proposal to change the agenda of the session, which can be observed from the transcript. They also emphasized that it is not true that there were no proposals for members of the Committee, since there were more political entities that proposed members than those that did not propose.
61. Furthermore, the deputies of Lëvizja Vetëvendosje! consider that from 1 May to the date when LVV submitted the comments, there was no quorum for decision-making, and therefore there was no decision of the Assembly, neither for the rejection of the Committee nor for the non-election of the President of the Assembly.
62. In conclusion, the deputies of Lëvizja Vetëvendosje!, regarding the admissibility of the Referral, emphasized that the Applicants, regarding the continuation of the constitutive

session of 5 May 2025, submitted the Referral within the deadline, whereas for the continuations prior to 1 May, the Referral is out of time because the Referral was submitted on 12 May 2025, and in this case there is no act adopted by the Assembly of any nature or form, written or unwritten, that would produce any legal consequence. In this regard, they consider that: *“In the continuation of the constitutive session held on 5 May, only 57 deputies participated in the vote for the establishment of the Committee, of whom 56 deputies voted FOR and 1 deputy voted against, making the Chairperson of the session to establish that there was no quorum for the adoption of the decision.”*

Comments of deputy Abelard Tahiri from (ii) Partia Demokratike e Kosovës

63. On 19 May 2025, deputy Abelard Tahiri from Partia Demokratike e Kosovës (hereinafter: PDK) submitted to the Court his comments regarding the Referral in case KO124/25.
64. Initially, the deputy clarified that he considers that the Referral submitted by the deputies meets the requirements for an authorized party as defined in paragraph 5 of Article 115 of the Constitution and also the admissibility criteria set out in Article 42 of the Law, and also emphasized that the Referral *“raises important constitutional questions.”*
65. Regarding the character of the Constitutive Session, the PDK deputy in his comment cites the Judgment of the Court in case KO119/14 considering that: *“[...] it follows that the Chairperson of the inaugural session is obliged to fully realize the constitutive session of the Assembly of the Republic of Kosovo, [...]”*
66. Further, the deputy from PDK considers that *“any change of the agenda of the constitutive session beyond the defined items is unconstitutional and, in essence, as such, is contrary to the role and function of the Chairperson of the constitutive session.”*
67. He also emphasized that there was no procedural motion for the proposal to change the voting method for the election of the President of the Assembly, which could only be proposed at the beginning of the constitutive session, while he emphasized that: *“[...] not only was there no prior motion and no vote on such a motion, but also the continuous putting to a vote of the establishment of the Secret Ballot Committee is unconstitutional, particularly for the simple fact that it clearly did not and is not obtaining the necessary votes from the deputies, and consequently, even assuming the existence of the aforementioned preliminary conditions (the said motion) for its review by the Assembly, the fact that it did not pass means the rejection of this motion – proposal, and consequently in the continuation of the session for the review of the proposal for the election of the President of the Assembly by open vote.”*
68. The deputy from PDK emphasized that *“the Assembly has taken a decision not to vote for this committee, and consequently, has taken a decision to reject the secret ballot as one of the voting methods in the Assembly. Meanwhile, the reintroduction of this item by the Chairperson Mr. Dehari for a vote by the Assembly in every continuation of the constitutive session constitutes a constitutional violation which, as such, of course in itself constitutes a constitutional issue that deserves assessment by this Court.”*
69. Further, regarding the non-proposal of the President of the Assembly, the PDK deputy emphasizes that: *“[...] just as the right to appoint the mandate-holder is not permanently vested in the winning party according to the election results, nor can the right of the first party/largest parliamentary group to continuously and permanently propose the*

President of the Assembly, because such a right to propose the President of the Assembly, from a constitutional perspective, cannot serve as a mechanism to block the constitution of the Assembly [...].”

70. In conclusion, the deputy from PDK emphasizes that: *“the right to propose the President of the Assembly by the largest parliamentary group emerging from the elections is rather relative and not absolute, and as such, in my view, should be interpreted only in symmetry with the constitutional procedure for the election of the Government.”*

Relevant constitutional provisions

Constitution of the Republic of Kosovo

Article 1 [Definition of State]

- 1. The Republic of Kosovo is an independent, sovereign, democratic, unique and indivisible state.*
- 2. The Republic of Kosovo is a state of its citizens. The Republic of Kosovo exercises its authority based on the respect for human rights and freedoms of its citizens and all other individuals within its borders.*
- 3. The Republic of Kosovo shall have no territorial claims against, and shall seek no union with, any State or part of any State.*

Article 2 [Sovereignty]

- 1. The sovereignty of the Republic of Kosovo stems from the people, belongs to the people and is exercised in compliance with the Constitution through elected representatives, referendum and other forms in compliance with the provisions of this Constitution.*
- 2. The sovereignty and territorial integrity of the Republic of Kosovo is intact, inalienable, indivisible and protected by all means provided in this Constitution and the law.*
- 3. The Republic of Kosovo, in order to maintain peace and to protect national interests, may participate in systems of international security.*

Article 4 [Form of Government and Separation of Power]

- 1. Kosovo is a democratic Republic based on the principle of separation of powers and the checks and balances among them as provided in this Constitution.*
- 2. The Assembly of the Republic of Kosovo exercises the legislative power.*
- 3. The President of the Republic of Kosovo represents the unity of the people. The President of the Republic of Kosovo is the legitimate representative of the country, internally and externally, and is the guarantor of the democratic functioning of the institutions of the Republic of Kosovo, as provided in this Constitution.*
- 4. The Government of the Republic of Kosovo is responsible for implementation of laws and state policies and is subject to parliamentary control.*
- 5. The judicial power is unique and independent and is exercised by courts.*

6. *The Constitutional Court is an independent organ in protecting the constitutionality and is the final interpreter of the Constitution.*
7. *The Republic of Kosovo has institutions for the protection of the constitutional order and territorial integrity, public order and safety, which operate under the constitutional authority of the democratic institutions of the Republic of Kosovo.*

Article 7 **[Values]**

1. *The constitutional order of the Republic of Kosovo is based on the principles of freedom, peace, democracy, equality, respect for human rights and freedoms and the rule of law, non-discrimination, the right to property, the protection of environment, social justice, pluralism, separation of state powers, and a market economy.*
2. *The Republic of Kosovo ensures gender equality as a fundamental value for the democratic development of the society, providing equal opportunities for both female and male participation in the political, economic, social, cultural and other areas of societal life.*

Article 63 **[General Principles]**

The Assembly is the legislative institution of the Republic of Kosovo directly elected by the people.

Article 64 **[Structure of Assembly]**

1. *The Assembly has one hundred twenty (120) deputies elected by secret ballot on the basis of open lists. The seats in the Assembly are distributed amongst all parties, coalitions, citizens' initiatives and independent candidates in proportion to the number of valid votes received by them in the election to the Assembly.*
2. *In the framework of this distribution, twenty (20) of the one hundred twenty (120) seats are guaranteed for representation of communities that are not in the majority in Kosovo as follows:*
 - (1) *Parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the Kosovo Serb Community shall have the total number of seats won through the open election, with a minimum ten (10) seats guaranteed if the number of seats won is less than ten (10);*
 - (2) *Parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the other Communities shall have the total number of seats won through the open election, with a minimum number of seats in the Assembly guaranteed as follows: the Roma community, one (1) seat; the Ashkali community, one (1) seat; the Egyptian community, one (1) seat; and one (1) additional seat will be awarded to either the Roma, the Ashkali or the Egyptian community with the highest overall votes; the Bosnian community, three (3) seats; the Turkish community, two (2) seats; and the Gorani community, one (1) seat if the number of seats won by each community is less than the number guaranteed.*

Article 65 **[Competencies of the Assembly]**

The Assembly of the Republic of Kosovo:

- (1) adopts laws, resolutions and other general acts;*
- (2) decides to amend the Constitution by two thirds (2/3) of all its deputies including two thirds (2/3) of all deputies holding seats reserved and guaranteed for representatives of communities that are not in the majority in Kosovo;*
- (3) announces referenda in accordance with the law;*
- (4) ratifies international treaties;*
- (5) approves the budget of the Republic of Kosovo;*
- (6) elects and dismisses the President and Deputy Presidents of the Assembly;*
- (7) elects and may dismiss the President of the Republic of Kosovo in accordance with this Constitution;*
- (8) elects the Government and expresses no confidence in it;*
- (9) oversees the work of the Government and other public institutions that report to the Assembly in accordance with the Constitution and the law;*
- (10) elects members of the Kosovo Judicial Council and the Kosovo Prosecutorial Council in accordance with this Constitution;*
- (11) proposes the judges for the Constitutional Court;*
- (12) oversees foreign and security policies;*
- (13) gives consent to the President's decree announcing a State of Emergency;*
- (14) decides in regard to general interest issues as set forth by law.*

Article 66 **[Election and Mandate]**

- 1. The Assembly of Kosovo shall be elected for a mandate of four (4) years, starting from the day of the constitutive session, which shall be held within thirty (30) days from the official announcement of the election results.*
- 2. Regular elections for the Assembly shall be held no later than thirty (30) days before the end of the mandate or, when the Assembly has been dissolved, no later than forty-five (45) days after the dissolution.*
- 3. The President of the Republic of Kosovo shall convene the constitutive session of the Assembly. If the President of the Republic of Kosovo is unable to convene the initial session, the Assembly shall be convened without the President's participation.*
- 4. The Mandate of the Assembly of Kosovo may be extended only in a State of Emergency for emergency defense measures or for danger to the Constitutional order or to public safety of the Republic of Kosovo and only for as long as the State of Emergency continues as regulated by this Constitution.*
- 5. The election conditions, constituencies and procedures are determined by law.*

Article 74 **[Exercise of Function]**

Deputies of the Assembly of Kosovo shall exercise their function in best interest of the Republic of Kosovo and pursuant to the Constitution, Laws and Rules of Procedure of the Assembly.

Article 134 **[Qualification, Election and Dismissal of the Ombudsperson]**

1. *The Ombudsperson is elected by the Assembly of Kosovo by a majority of all its deputies for a non-renewable five (5) year term.*
[...]

Article 136
[Auditor-General of Kosovo]

[...]

3. *The Auditor-General of the Republic of Kosovo is elected and dismissed by the Assembly by a majority vote of all its deputies on the proposal of the President of the Republic of Kosovo.*

Article 140
[Central Bank of Kosovo]

1. *The Central Bank of the Republic of Kosovo is an independent institution which reports to the Assembly of Kosovo.*

Rules of Procedure of the Assembly of the Republic of Kosovo

CHAPTER IV
INAUGURAL SESSION OF THE ASSEMBLY

Article 7
Inaugural session

1. *The inaugural session of the Assembly shall be convened by the President of the Republic of Kosovo within 30 (thirty) days from the day of official announcement of election results.*
2. *If the President of the Republic does not convene the inaugural session, the Assembly shall convene on its own on the 30th (thirtieth) day.*

Article 8
Preparations for the inaugural session

1. *The President of the previous term shall be responsible for preparations of the inaugural session of the Assembly.*
2. *The President of the previous term, not later than 5 (five) days before holding the inaugural session of the Assembly, shall convene the joint meeting with the leaders of political entities which have won seats in the Assembly, to prepare the draft agenda and decide on the seating order of MPs in the plenary chamber. If the meeting does not convene within the deadline of 5 (five) days, the Assembly shall convene on its own, on the day set by the President.*
3. *Paragraph 2 of this article shall not be applicable if the Assembly convenes according to article 7 paragraph 2 of this Regulation.*
4. *The agenda for the inaugural session of the Assembly shall include:*
 - 4.1. *Establishment of the Temporary Committee for Verification of the Quorum and Mandates;*
 - 4.2. *Oath of MPs;*

- 4.3. Selection of the President of the Assembly, and*
- 4.4. Selection of the Deputy Presidents of the Assembly.*
- 5. The report of the Temporary Committee for Verification of the Quorum and Mandates shall be voted on by the Assembly.*
- 6. Designation of the seating order in the plenary chamber shall be done according to the size of political entities. If two or more political entities have the same number of MPs, their seating order shall be decided based on the number of votes received in parliamentary elections.*

Article 9

Chairing of the inaugural session

- 1. Until the election of the President of the Assembly, the inaugural session of the Assembly shall be chaired by the MP the oldest in age, assisted by the youngest one.*
- 2. If the MPs under paragraph 1 of this article, are absent in the inaugural session or refuse to chair the session, then MPs that meet the requirements set in paragraph 1 of this article shall take over.*
- 3. There is no debate in the inaugural session.*
- 4. After the opening of the session and after the agenda has been presented, the Chairperson of the inaugural session shall request from political parties represented in the Assembly, to appoint one deputy each in the ad-hoc Committee for verification of quorum and mandates. The Committee shall be chaired by the MP of the largest parliamentary political entity.*
- 5. The ad hoc Committee for Verification of Quorum and Mandates shall review the relevant documentation of elections and shall present the Assembly a report on the validity of mandates of MPs and shall verify the presence and quorum in the inaugural session.*

Article 10

Oath of MPs

- 1. After the verification of mandates, the chairperson of the inaugural session shall invite the MPs to solemnly swear. The text of the oath shall read as follows:*

“I, Deputy of the Assembly of the Republic of Kosovo, swear that honestly and with devotion, shall carry out my duty and represent the people with dignity, shall work in the interest of Kosovo and all its citizens, shall be committed to protection and respect of the constitutionality and lawfulness, protection of sovereignty, the territorial and institutional integrity of Kosovo, for guaranteeing human rights and freedoms, in accordance with the domestic laws and European standards. I swear!”

- 2. The statement of the oath shall be read by the Chairperson of the session. MPs take the oath by pronouncing the words “I swear”. Each of the members shall sign the text of the Oath.*
- 3. MPs who are absent at the inaugural session when the oath is taken, and MPs who take seats during the legislature, shall take the oath in the first coming session.*
- 4. The MP who does not take the oath in the first regular session of the next session, as defined by paragraph 3 of this article, if there is an objective impossibility to make the oath within this period, shall send a written notification to the President of the*

Assembly, regarding the reasons that justify his/her absence, and he/she shall take the oath after the passing of such circumstances, but not later than in the third regular session of the row, after winning the mandate as in paragraph 3 of this article.

Article 11

Selection of the President of the Assembly

- 1. The President of the Assembly shall be elected in the inaugural session by majority of votes of all MPs.*
- 2. The Chairperson of the inaugural session shall request from the largest political entity in the Assembly to propose a candidate for the President of the Assembly.*
- 3. The Chairperson of the inaugural session shall inform the Assembly on the voting results for election of the President of the Assembly, shall announce the election of the President and invite him to take his seat.*

Article 12

Election of the Deputy Presidents of the Assembly

- 1. Deputy Presidents of the Assembly shall be elected by majority of votes of all MPs.*
- 2. The President of the Assembly shall request the three largest parliamentary political entities to propose a candidate each for Deputy President of the Assembly. The candidate for deputy president of the largest parliamentary entity shall be of a different gender from that of the President.*
- 3. If two or more political entities have the same number of MPs, the right to propose a candidate for deputy president shall belong to the entity which has received more votes in the general elections.*
- 4. The Presidents of the Assembly shall request from the MPs holding seats guaranteed for the Serb community to propose a (1) candidate for deputy president of the Assembly, as well as from MPs holding guaranteed seats for other communities, which are not in a majority, to propose a candidate for deputy president of the Assembly, who shall be elected with a majority vote of all MPs.*
- 5. The constitutive session shall end with the election of the President and deputy presidents of the Assembly. Interruptions during the constitutive session cannot be longer than 48 hours.*
- 6. Proposals from paragraph 4 of this article shall be made in writing, according to the following procedure:*
 - 6.1. The candidate for the deputy speaker of the Assembly from the ranks of the Serbian community is proposed by the majority of MPs of the Serbian community, and*
 - 6.2. The candidate for the deputy president of the Assembly from among the MPs of other non-majority communities is proposed by the majority of the MPs of other non-majority communities.*
- 7. In case of non-nomination of the candidates according to paragraph 6 of this article, the nomination of the candidates is done by lot, in the presence of the MPs of the respective communities. This procedure is administered by the President of the Assembly.*

Article 13

Mandate of the Assembly

- 1. The mandate of the Assembly, its continuation and dissolution, are outlined in articles 66 and 82 of the Constitution of the Republic of Kosovo.*

2. Following the dissolution of the Assembly, according to paragraph 1 of this article, the President shall submit the Decree on the Dissolution of the Assembly.
3. The Assembly shall suspend its activity one day prior to the start of election campaign.

Relevant constitutional provisions of other countries

Germany (Basic Law)

Article 39 [Electoral term - Convening]

1. Save the following provisions, the Bundestag shall be elected for four years. Its term shall end when a new Bundestag convenes. New elections shall be held no sooner than forty-six months and no later than forty-eight months after the electoral term begins. If the Bundestag is dissolved, new elections shall be held within sixty days.
2. The Bundestag shall convene no later than the thirtieth day after the elections.
3. The Bundestag shall determine when its sessions shall be adjourned and resumed. The President of the Bundestag may convene it at an earlier date. He shall be obliged to do so if one third of the Members, the Federal President or the Federal Chancellor so demand.

Article 40 [Presidency - Rules of procedure]

1. The Bundestag shall elect its President, Vice-Presidents and secretaries. It shall adopt rules of procedure.
2. The President shall exercise proprietary and police powers in the Bundestag building. No search or seizure may take place on the premises of the Bundestag without his permission.

Rules of Procedure

Rule 1 Constituent meeting

- (1) The first meeting of the newly elected Bundestag shall be convened by the outgoing President and shall be held not later than the thirtieth day after the election (Article 39 of the Basic Law).
- (2) Until the newly elected President or one of the Vice-Presidents assumes the office, the longest-serving Member of the Bundestag willing to do so shall take the Chair (President by seniority); where two or more Members have the same length of service, seniority in terms of age shall be decisive.
- (3) The President by seniority shall appoint Members of the Bundestag to act as Secretaries on a provisional basis. The roll of Members of the Bundestag shall then be called.
- (4) After the presence of a quorum has been ascertained, the President, Vice-Presidents and Secretaries shall be elected.

Rule 2 Election of the President and the Vice-Presidents

(1) The Bundestag shall, in secret and separate ballots (Rule 49), elect the President and the Vice-Presidents for the duration of the electoral term. Every parliamentary group in the German Bundestag shall be represented on the Presidency by at least one Vice-President.

(2) The person receiving the votes of the majority of the Members of the Bundestag shall be elected. If a majority is not obtained in the first ballot, new candidates may be proposed for a second ballot. If a majority of the votes of the Members of the Bundestag is still not obtained, a third ballot shall be held. If there is only one candidate in the third ballot, this candidate shall be elected if he or she receives the majority of votes cast. Where there are several candidates, the two candidates with the highest number of votes shall move into the third ballot; the person who obtains the most votes shall be elected. In the event of a tie, the President in the Chair shall draw lots to decide which of the two candidates is elected.

Italy (Constitution) **Article 61**

Elections for a new Parliament shall take place within seventy days from the end of the term of the previous Houses. The first meeting is convened no later than twenty days after the elections.

Until such time as the new Houses meet, the powers of the previous Houses are extended.

Spain (Constitution) **Section 68**

[...].

1. Elections shall take place between thirty and sixty days after the end of the previous term of office. The Congress so elected must be convened within twenty-five days following the holding of elections.

Section 72 *[...]*

2. The Houses elect their respective Speakers and the other members of their Bureaus. Joint sittings shall be presided over by the Speaker of the Congress and shall be governed by the Standing Orders of the Cortes Generales approved by the overall majority of members of each House

[...]

Sweden (Instrument of Government)

Chapter 8. **Certain bodies and officials**

Article 1

Elections of a Speaker and First, Second and Third Deputy Speakers under Chapter 4, Article 2 of the Instrument of Government shall be held at the first meeting of the

Chamber in the Riksdag electoral period and are valid until the end of the electoral period. The Speakers are elected individually in the above order.

If the election is held by secret ballot, the candidate who receives more than half the votes cast is elected. If no such majority is obtained, a new election is held. If no candidate receives more than half the votes cast on this occasion either, a third election is held between the two candidates obtaining the highest number of votes in the second election. The person receiving the most votes in the third election is elected.

Poland (Constitution)

Article 109

1. [...]

2. *The first sitting of the Sejm and Senate shall be summoned by the President of the Republic to be held on a day within 30 days following the day of the elections, except for instances specified in Article 98, paras. 3 and 5.*

Croatia (Constitution)

Article 73

Elections for members of the Croatian Parliament shall be held not later than 60 days after the expiry of the mandate or dissolution of the Croatian Parliament.

The first session of the Croatian Parliament shall be held not later than 20 days after the completion of the elections.

The Croatian Parliament shall be constituted at the first session by the selection of its President by the majority of its members present.

Slovenia (Constitution)

Article 81

Term of the National Assembly

The National Assembly is elected for four years.

If the term of the National Assembly expires during a war or state of emergency, its term shall expire six months after the end of the war or state of emergency, or earlier if the National Assembly itself so decides.

Elections to the National Assembly are called by the President of the Republic.

A new National Assembly shall be elected no sooner than two months and no later than fifteen days before the expiry of four years from the date of the first session of the previous National Assembly.

If the National Assembly is dissolved, a new National Assembly shall be elected no later than two months after the dissolution of the previous one.

The term of the previous National Assembly shall end on the first session of the new National Assembly, which shall be called by the President of the Republic no later than twenty days after the election of the new National Assembly.

Montenegro (Constitution)

Article 88

Constitution of the Parliament

The first session of the newly elected composition of the Parliament shall be called for by the Speaker of the previous composition of the Parliament and it shall be held within 15 days from the date of publication of the final results of the elections.

Albania (Constitution)

Article 65

- 1. The Assembly is elected every four years. The mandate of the Assembly starts with its first meeting after the elections and ends on the same date, of the same month of the fourth year from the date of the first meeting. In any case, the Assembly remains on duty until the first meeting of the newly elected Assembly.
[...]*

Article 67

- 1. The President of the Republic convenes the newly elected Assembly not earlier than the date of the termination of the mandate of the preceding Assembly, but no later than 10 days after such mandate has expired. If the preceding Assembly has been dissolved before the ending of its mandate, the President of the Republic convenes the new Assembly not later than 10 days since the announcement of the election results.*
- 2. If the President of the Republic does not exercise such a competence, the Assembly convenes itself on the tenth day of the period of time provided in point 1 of this Article.*

Rules of Procedure of the Assembly

Article 6

Election of the Speaker of the Assembly

- 1. The candidate for Speaker of the Assembly shall be proposed by at least 15 deputies. A deputy may not support more than one candidate. The proposal shall be made in writing, shall contain the relevant signatures and shall be submitted to the Provisional Secretariat of the Assembly.*
- 2. The Speaker of the Assembly shall be elected without debate and by secret ballot, by a majority of votes, in the presence of more than half of all members of the Assembly. If none of the candidates has obtained the required majority, a second round shall be held, in which the two candidates who have received the most votes shall be voted on.*
- 3. The voting shall be organized publicly and conducted by a voting commission, composed of 5 deputies, which shall reflect, as far as possible, the political composition of the Assembly. The oldest member shall also act as the chairman of the voting commission and announce the result of the vote.*
- 4. The chair of the session immediately invites the President of the Assembly to take his seat.*

North Macedonia (Constitution)

Article 63

The Representatives for the Assembly are elected for a term of four years. The mandate of Representatives is verified by the Assembly. The length of the mandate is reckoned from the constitutive meeting of the Assembly. Each newly-elected Assembly must hold a constitutive meeting 20 days at the latest after the election was held. The constitutive meeting is called by the President of the Assembly of the previous term. If a constitutive meeting is not called within the time laid down, the Representatives assemble and constitute the Assembly themselves on the twenty-first day after the completion of the elections. Elections for Representatives to the Assembly are held within the last 90 days of the term of the current Assembly, or within 60 days from the day of dissolution of the Assembly.

The term of office of the Representatives to the Assembly can be extended only during states of war or emergency.

Cases where a citizen cannot be elected a Representative, owing to the incompatibility of this office with other public offices or professions already held, are defined by law. The Assembly is dissolved when more than half of the total number of Representatives vote for dissolution.

Serbia (Constitution)

Article 101.

Election of deputies and constitution of the National Assembly

Elections for deputies shall be called by the President of the Republic, 90 days before the end of the term of office of the National Assembly, so that elections are finished within the following 60 days.

The first session of the National Assembly shall be convened by the Chairman of the National Assembly from the previous session, so that the session is held not later than 30 days from the day of declaring the final election results.

At the first session, the National Assembly shall confirm deputies' terms of office.

The National Assembly shall be constituted by confirmation of terms of office of the two thirds of deputies.

Against the decision made in relation to confirmation of terms of office, an appeal may be lodged before the Constitutional Court, which decides on it within 72 hours.

By means of confirming terms of office of the two thirds of deputies, the term of office of the previous session of the National Assembly shall end.

Bulgaria (Constitution)

Article 75

A newly elected National Assembly shall be convened for a first session by the President of the Republic within a month following its election. Should the President fail to do so, it shall be convened by one-fifth of the Members of the National Assembly.

Article 76

1. The first session of the National Assembly shall be opened by the senior present Member.

2. At the first session the Members shall swear the following oath:

"I swear in the name of the Republic of Bulgaria to observe the Constitution and the laws of the country and in all my actions to be guided by the interests of the people. I have sworn."

3. *The National Assembly shall elect at the same session its Chairperson and Deputy Chairpersons.*

Romania (Constitution)

Article 63 Term of Office

1. *The Chamber of Deputies and the Senate are elected for four-year-terms, which are extended by law [de jure] in the event of mobilization, war, siege or emergency until such situation has ceased to exist.*

2. *Elections for the Chamber of Deputies and the Senate are held no later than three months after the expiry of their term or the dissolution of Parliament.*

3. *The newly elected Parliament will be convened by the President of Romania no later than 20 days after the elections.*

4. *The term of the Chambers is prolonged until the new Parliament legally convenes. During this period the Constitution cannot be revised, nor can any organic laws be adopted, amended, or repealed.*

5. *Government bills or legislative proposals which were on the agenda of the preceding Parliament will be carried over into the new Parliament.*

Assessment of the admissibility of the Referral

71. Regarding the assessment of the admissibility of the Referral, the Court refers to paragraph 1 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, which establishes that: *"The Constitutional Court decides only on matters referred to the court in a legal manner by authorized parties"*.

72. The Court notes that the Applicants have filed their Referrals based on paragraph 5 of Article 113 of the Constitution, which stipulates:

"5. Ten (10) or more deputies of the Assembly of Kosovo, within eight (8) days from the date of adoption, have the right to contest the constitutionality of any law or decision adopted by the Assembly as regards its substance and the procedure followed".

73. In addition to the aforementioned constitutional criteria, the Court also takes into account Article 42 (Accuracy of the Referral) of the Law, which specifies the submission of the Referral based on paragraph 5 of Article 113 of the Constitution, which stipulates as follows:

Article 42 (Accuracy of the Referral)

"1. In a referral made pursuant to Article 113, Paragraph 5 of the Constitution the following information shall, inter alia, be submitted:

1.1. names and signatures of all deputies of the Assembly contesting the constitutionality of a law or decision adopted by the Assembly of the Republic of Kosovo;

- 1.2. *provisions of the Constitution or other act or legislation relevant to this referral; and*
- 1.3. *presentation of evidence that supports the contest”.*

74. The Court also refers to Rule 72 [Referral Pursuant to Paragraph 5 of Article 113 of the Constitution and Articles 42 and 43 of the Law] of the Rules of Procedure, which foresees:

Rule 72

[Referral pursuant to Article 113.5 of the Constitution and Articles 42 and 43 of the Law]

“(1) A referral filed under this Rule must fulfil the criteria established in paragraph (5) of Article 113 of the Constitution and Articles 42 (Accuracy of the Referral) and 43 (Deadline) of the Law.

2 [...]

(3) A referral filed under this Rule must, inter alia, contain the following information:

- (a) Names and signatures of all the members of the Assembly challenging the constitutionality of a law or decision adopted by the Assembly of the Republic of Kosovo;*
- (b) Provisions of the Constitution or other act or legislation relevant to this referral; and*
- (c) Presentation of evidence that supports the contest*

(4) The applicants shall attach to the referral a copy of the law or the challenged decision adopted by the Assembly, the register and personal signatures of the members of the Assembly submitting the referral and the authorization of the person representing them before the Court.

75. In the context of the assessment of the admissibility of the Referral, the Court initially recalls that on 15 April 2025, respectively on the 19-th day after the certification of the election results by the CEC, by Decision [no. 01/794-2025] of 27 March 2025, the Assembly held its first Constitutive Session, presided over by the Chairperson, according to the agenda which provided for: (i) the establishment of the Temporary Committee for Verification of the Quorum and Mandates of the Deputies; (ii) the oath taking by the deputies; (iii) the election of the President of the Assembly; and (iv) the election of the Deputy Presidents of the Assembly. Following the establishment of the Temporary Committee for Verification of the Quorum and Mandates of the Deputies, the latter presented the report on the validity of the mandates of the deputies, whereby it was established that in the IX Legislature of the Assembly, one hundred and twenty (120) deputies had been certified. On the same day, specifically on 15 April 2025, when 118 deputies were present, the Report of the Temporary Committee for Verification of the Quorum and Mandates of the Deputies was put to a vote, which report did not pass, due to the fact that fifty-two (52) deputies voted in favor, forty-six (46) against, and eleven (11) abstained. As a result, on 17 April 2025, the session was adjourned to continue within forty-eight (48) hours because consensus was not reached in the consultative meeting. On 19 April 2025, the constitutive session continued, at which one hundred and twenty (120) deputies were present, and in which session the Chairperson put to a vote the establishment of the Temporary Committee for Verification of the Quorum and Mandates of the Deputies with the same composition, a proposal that was voted for by 120 (one hundred and twenty) deputies of the Assembly. On this occasion, the Temporary Committee presented the

report, whereby it established the validity of the mandates of the deputies of the Assembly and the same was unanimously adopted. Furthermore, within the framework of this session, all deputies took their oath. On the same day, respectively on 19 April 2025, the Chairperson proceeded with the agenda and requested the Lëvizja Vetëvendosje! to propose the candidate for President of the Assembly, whereupon the latter proposed Deputy Albulena Haxhiu. The proposal of the Lëvizja Vetëvendosje! did not pass because 57 (fifty-seven) deputies voted in favor, 20 (twenty) against, and 3 (three) abstained. After the vote, the session was adjourned to continue after 15 (fifteen) minutes, during which the Chairperson proceeded with the agenda and requested the Lëvizja Vetëvendosje! to propose the candidate for President of the Assembly, whereupon the latter proposed Deputy Albulena Haxhiu. The proposal of the Lëvizja Vetëvendosje! did not pass because 57 (fifty-seven) deputies voted in favor, 19 (nineteen) against, and 3 (three) abstained. Thereafter, the constitutive session continued on 21, 23, 25, 27 and 29 April 2025, in which sessions the proposal for President of the Assembly was the same and which proposal in these 4 (four) sessions did not obtain the necessary number of votes from the deputies.

76. On 1 May 2025, the next session for constitution was held, where the Chairperson, after establishing that 110 (one hundred and ten) deputies were present, requested the political parties to each propose 1 (one) member for the Secret Ballot Committee. Subsequently, the Chairperson invited the deputies to vote for the members of the the Secret Ballot Committee, for which 55 (fifty-five) deputies voted in favor, 1 (one) deputy against, and none abstained. Thereafter, the Constitutive Session continued on 3 and 5 May 2025, respectively, where the Chairperson again requested the political parties to each propose one member for the Secret Ballot Committee, which was put to a vote, but this proposal did not pass in both sessions because (i) in the session of 3 May, when 106 (one hundred and six) deputies were present, 54 (fifty-four) deputies voted in favor, 1 (one) against and none abstained, and (ii) in the session of 5 May, when 111 (one hundred and eleven) deputies were present, 56 (fifty-six) deputies voted in favor, 1 (one) against and none abstained.
77. The Court initially recalls that the Applicants allege that: *“Decision of the Assembly of Kosovo to refuse the establishment of the Committee for secret ballot, as well as all other decisions of the same nature taken in the previous and subsequent sessions on the same matter, contained in the document entitled “transcript of the constitutive meeting of the Assembly of the Republic of Kosovo, held on 15, 17, 19, 21, 23, 25, 27, 29 April, 1, 3 and 5 May 2025 ”.*” are in contradiction with Articles 4 [Form of Government and Separation of Power], 7 [Values], 63 [General Principles], 67 [Election of the President and Deputy Presidents], 70 [Mandate of the Deputies], 72 [Incompatibility], and 74 [Exercise of Function] of the Constitution. The Applicants also allege that the list of 120 (one hundred and twenty) deputies verified as valid with their mandates also includes some deputies who simultaneously exercise executive functions, specifying that this constitutes a violation of Articles 70 [Mandate of the Deputies] and 72 [Incompatibility] of the Constitution. In relation to this allegation, the Court points out that this allegation was not raised in accordance with point 1 of paragraph 3 of Article 113 of the Constitution. The Court notes that in accordance with point 1 of paragraph 3 of Article 113 of the Constitution, in order for a referral to be assessed by the Court, it must be submitted by $\frac{1}{4}$ of the deputies of the Assembly of the Republic of Kosovo, which in the circumstances of this referral is not the case. Consequently, the Court will not proceed with the assessment of this allegation of the applicants.
78. In this regard, the Court reiterates that the essence of the allegations of the Applicants is the issue of constituting the Assembly after the certification of the election results, and in

the context of the admissibility of their Referral, recalls that the same, both in their initial Referral and in their supplemented Referral, have specified that: “*any act (action or omission) of the Assembly during the exercise of its constitutional jurisdiction must be subject to constitutional review provided that: (i) there has been a vote on it; (ii) the act (action or omission) raises constitutional issues and, finally, (iii) it was undertaken at a time when there was a quorum in the Assembly.*” That being said, the Applicants underline that the non-constituting of the Assembly constitutes a “*fundamental constitutional issue*”, because it affects the functioning of the constitutional bodies.

79. In this context, the Court points out that the constitutive session of the Assembly after the certification of the elections and its conclusion after fulfilling all the essential elements of constituting the Assembly marks the starting point of the functioning of the Assembly as a representative body, with legislative, decision-making and oversight functions, essentially governed by Article 66 [Election and Mandate], 67 [Election of the President and Deputy Presidents], 70 [Mandate of the Deputies] and 74 [Exercise of Function] of the Constitution.
80. In this case, the Court specifically refers to Articles 66 and 67 of the Constitution, which provide as follows:

Article 66
[Election and Mandate]

1. *The Assembly of Kosovo shall be elected for a mandate of four (4) years, starting from the day of the constitutive session, which shall be held within thirty (30) days from the official announcement of the election results.*
 2. *Regular elections for the Assembly shall be held no later than thirty (30) days before the end of the mandate or, when the Assembly has been dissolved, no later than forty-five (45) days after the dissolution.*
 3. *The President of the Republic of Kosovo shall convene the constitutive session of the Assembly. If the President of the Republic of Kosovo is unable to convene the initial session, the Assembly shall be convened without the President’s participation.*
 4. *The Mandate of the Assembly of Kosovo may be extended only in a State of Emergency for emergency defense measures or for danger to the Constitutional order or to public safety of the Republic of Kosovo and only for as long as the State of Emergency continues as regulated by this Constitution.*
- [...]

Article 67
[Election of the President and Deputy Presidents]

1. *The Assembly of Kosovo elects the President of the Assembly and five (5) Deputy Presidents from among its deputies.*
2. *The President of the Assembly is proposed by the largest parliamentary group and is elected by a majority vote of all deputies of the Assembly.*
3. *Three (3) Deputy Presidents proposed by the three largest parliamentary groups are elected by a majority vote of all deputies of the Assembly.*
4. *Two (2) Deputy Presidents represent non-majority communities in the Assembly and are elected by a majority vote of all deputies of the Assembly. One (1) Deputy President shall belong to the deputies of the Assembly holding seats reserved or guaranteed for the Serb community, and one (1) Deputy shall belong to deputies of the*

Assembly holding seats reserved or guaranteed for other communities that are not in the majority.

81. The Court, returning to the assessment of the admissibility of the Referral and in the context of the jurisdiction prescribed by paragraph 5 of Article 113 of the Constitution, in principle examines: (i) whether the Referral has been filed by an authorized party, as provided in paragraph 5 of Article 113 of the Constitution, Article 42 of the Law and Rule 74 of the Rules of Procedure; (ii) the nature of the challenged Act, namely whether it is qualified as a “decision of the Assembly”, as defined in paragraph 5 of Article 113 of the Constitution; (iii) accuracy of the Referral, as required by point 1.2 of Article 42 of the Law and point (b) of paragraph 1 of Rule 74 of the Rules of Procedure; and (iv) whether the Referral has been filed within 8 (eight) days after the adoption of the challenged Act, as defined in paragraph 5 of Article 113 of the Constitution.
82. In the present case, the Court notes that the Referral was submitted by 11 (eleven) deputies of the Assembly, which is more than the minimum required by Article 113, paragraph 5 of the Constitution, and, consequently, holds that the criterion for the authorized party has been fulfilled. As regards the nature of the contested Act of the Assembly, the Court, *inter alia*, had taken a similar approach also in the judgments in cases [KO93/21](#) and [KO160/23](#), where it emphasized that referrals submitted to the Court pursuant to paragraph 5 of Article 113 of the Constitution by ten (10) or more deputies have the right to challenge the constitutionality of any law or decision adopted by the Assembly, and the law or decision may be challenged both as to its content and as to the procedure followed (see, the case of the Court [KO93/21](#), with Applicants *Blerta Deliu-Kodra and 12 other deputies of the Assembly of the Republic of Kosovo*, Constitutional review of the Recommendations of the Assembly of the Republic of Kosovo, No. 08-R-01, of 6 May 2021, paragraph 197; see also the case [KO160/23](#), with Applicant *Abelard Tahiri and 11 other deputies of the Assembly of the Republic of Kosovo*; Constitutional review of “Decision No. Ref. L-VIII, SP-119 of 11 July 2023, on scheduling of the Plenary Session of 13 July 2023, of the President of the Assembly of the Republic of Kosovo”, paragraph 49, paragraph 50).
83. Nevertheless, in the present case, the Court firstly points out that the present Referral differs from the circumstances of the aforementioned cases. This is because, in the circumstances of the aforementioned and other referrals submitted to and reviewed by the Court under the jurisdiction prescribed by paragraph 5 of Article 113 of the Constitution, the contested acts by the Applicants were issued by the bodies of the Assembly or by the Assembly itself, the decision-making of which derived from a constituted and functional Assembly in terms of its legislative, decision-making and oversight powers, as prescribed by the Constitution.
84. Whereas, in the context of the circumstances relating to the Referral of the Applicants, the actions or omissions of the elected deputies summarized in the document entitled “*transcript of the constitutive meeting of the Assembly of the Republic of Kosovo, held on 15, 17, 19, 21, 23, 25, 27, 29 April, 1, 3 and 5 May 2025*” were conducted during the constitutive session of the Assembly, commenced on 15 April 2025, which, as a constitutional act within the meaning of paragraphs 1 and 3 of Article 66 [Election and Mandate] and Article 67 [Election of the President and Deputy Presidents] of the Constitution, has not been concluded due to the non-election of the President and Deputy Presidents thereof.

85. The Court holds that the “sessions” specified in the Referral of the Applicants are to be considered as a single session, which are not of the nature of an ordinary plenary session of the Assembly following its constitution. That being said, the Court reiterates that the Constitutive Session is a constitutional act, which is considered as completed only after (i) the verification of the mandates of the deputies, (ii) the taking of the oath by the deputies, and (iii) the election of the President and Deputy Presidents thereof. Consequently, with the election of the President and Deputy Presidents, the Assembly may be considered as constituted.
86. Therefore, in the context of the assessment of the admissibility of the Referral, the Court reiterates that the circumstances of the Referral of the Applicants differ from the cases decided by the Court within its jurisdiction prescribed by paragraph 5 of Article 113 of the Constitution, considering that the “*aforementioned sessions*” were conducted within the framework of the constitutive session of the Assembly and where the items on the agenda were (i) the establishment of the Temporary Committee for Verification of the Quorum and Mandates of the Deputies; (ii) the taking of the oath by the deputies; (iii) the election of the President of the Assembly; and (iv) the election of the Deputy Presidents of the Assembly. Consequently, based on this assessment and the finding that the constitutive session of the Assembly has not been concluded, the Court holds that the issue of the Constitutive Session of the Assembly constitutes a constitutional issue, which must be subject to the assessment and interpretation of the Constitutional Court within the meaning of paragraph 1 of Article 66 [Election and Mandate], paragraphs 2, 3 and 4 of Article 67 [Election of the President and Deputy Presidents], Article 70 [Mandate of the Deputies] and Article 74 [Exercise of Function] of the Constitution.
87. In conclusion, the Court reiterates that the Constitutive Session of the Assembly, within the meaning of paragraph 1 of Article 66 of the Constitution, is a constitutional act which is realized only upon the fulfilment of all essential elements of the constituting, including the election of the President in accordance with paragraph 2 of Article 67 and of the Deputy Presidents in accordance with paragraphs 3 and 4 of Article 67 of the Constitution.
88. Consequently, the Court holds that the Referral of the Applicants regarding the constitutive session of the Assembly, commenced on 15 April 2025, which has not been concluded due to the non-election of the President and Deputy Presidents thereof, is admissible for review and, hereinafter, the Court will proceed with the assessment of the Referral of the Applicants.

Merits of the Referral

I. Introduction

89. The Court initially recalls that the Applicants allege that the “*sessions held*” for constituting the Assembly, as reflected in the document entitled “*transcript of the constitutive meeting of the Assembly of the Republic of Kosovo, held on 15, 17, 19, 21, 23, 25, 27, 29 April, 1, 3 and 5 May 2025*” were conducted in contradiction with Articles 4 [Form of Government and Separation of Power], 7 [Values], 63 [General Principles], 67 [Election of the President and Deputy Presidents], 70 [Mandate of the Deputies], 72 [Incompatibility], and 74 [Exercise of Function] of the Constitution.
90. The Applicants request that (i) *all decisions of the Assembly of Kosovo on the amendment of the agenda of 8 April 2025* be annulled as “*unconstitutional*”; (ii) the “*constitutional*

situation of 8 April 2025 be reinstated and it be ordered to act in accordance with the instructions of Judgment KO119/14 regarding the constitutional procedure to be followed for constituting the Assembly of Kosovo after each general election”; (iii) the possibility of proposing the same candidate for President of the Assembly of Kosovo more than once be limited; and (iv) a time limit be determined within which the Assembly of Kosovo must be constituted after the holding of general elections.

91. Whereas the deputies of the Lëvizja Vetëvendosje!, in their comments submitted to the Court, and specifically regarding the election of the President and Deputy Presidents, as well as the duty of the deputy during the Constitutive Session, emphasized that (i) until the President and Deputy Presidents are elected, there is no constituted Assembly and the work of the legislature cannot commence; and (ii) deputies have as their primary duty the constituting of the Assembly and that it is the obligation of every deputy *“to actively cooperate in the process of constituting the Assembly as this is a fundamental step for the functioning of democratic institutions.”* On the other hand, Deputy Abelard Tahiri from the Partia Demokratike e Kosovës, regarding the proposal of the candidate for President of the Assembly, emphasized that: *“[...] just as the right to appoint the mandatory belongs exclusively to the winning party according to the election results is not permanent, nor can the right of the first party/largest parliamentary group emerging from the elections to continuously and permanently propose the President of the Assembly be permanent, because such a right to propose the President of the Assembly, from a constitutional perspective, cannot serve as a mechanism to block the constituting of the Assembly [...]”*
92. Taking into account the allegations of the Applicants, as well as the arguments and counterarguments of the interested parties, the Court considers that the constitutional issue and the subject matter of the assessment of this Referral is the Session for constitution of the Assembly, commenced on 15 April 2025, which has not been concluded due to the non-election of the President and Deputy Presidents of the Assembly. Therefore, in this context, the Court will commence with (i) the assessment of the issue relating to the constitution of the Assembly and the deadline thereof, to continue with the assessment of the Applicants’ allegations related to (ii) the amendment of the agenda of the constitutive session and the proposal of the Chairperson for the establishment of the *“Secret Ballot Committee.”*
93. The Court once again recalls that the constitutive session of the Assembly is considered as realized only after the election of the President and Deputy Presidents thereof. However, as elaborated above, during the constitutive sessions of the Assembly, it has been achieved only to verify the mandates of the deputies and the oath-taking. Until the submission of the Referral by the Applicants on 22 May 2025, a total of eleven (11) sessions had been held, which did not result in the election of the President and Deputy Presidents of the Assembly. Moreover, the Court notes that even after the submission of the Referral by the Applicants, the Assembly continued holding constitutive sessions of the Assembly, however, as of this date, these have not resulted in the election of the President and Deputy Presidents thereof. As a result of the failure to elect the President and Deputy Presidents, the Assembly has not managed to be constituted and, consequently, has not been operationalized as a representative body with legislative, decision-making, and oversight powers as prescribed by the Constitution. That being said, the constitution of the Assembly and the establishment of other constitutional bodies deriving from the Assembly serve to preserve the constitutional order by guaranteeing the interaction of all powers in the service of democracy and the rule of law in the Republic of Kosovo.

94. In such circumstances, when the Assembly fails to fulfill its basic functions, including its constitution and the election of the President and Deputy Presidents thereof, this constitutes a direct risk to the principle of representation and to the balance of powers, and requires a clear and principled response from the Court.
95. Therefore, in the circumstances of the present case, the Court specifies that it has not been called upon to resolve a political dispute between parliamentary groups, but to guarantee that the fundamental constitutional processes, as is the constitution of the Assembly in the circumstances of the Referral, which is considered as concluded with the election of the President and Deputy Presidents, are conducted in accordance with the principles of transparency, accountability, and functionality, and always in compliance with the fundamental principles and values enshrined in the Constitution of the Republic of Kosovo.
96. To this end, the Court will initially elaborate the general principles and values enshrined in the Constitution of the Republic of Kosovo, to continue with the elaboration of the relevant constitutional provisions relating to the constitution of the Assembly and the standards established through the case law of the Court and international standards.

II. General constitutional principles

97. Based on Article 1 [Definition of the State] of the Constitution, the Republic of Kosovo is “*an independent, sovereign, democratic, unique and indivisible state.*”
98. Article 2 [Sovereignty] of the Constitution provides that the sovereignty of the Republic of Kosovo stems from the people, belongs to the people, and is exercised through the elected representatives of the people, in accordance with the Constitution. Another manner in which sovereignty is exercised by the people is through referendums or other forms compatible with the Constitution.
99. In this context, the “*democratic*” definition of the State of Kosovo, *inter alia* and to the extent relevant to the circumstances of the present case, is fulfilled through 4 (four) essential constitutional articles, respectively Article 3 [Equality Before the Law], Article 4 [Form of Government and Separation of Power], Article 7 [Values] and Article 16 [Supremacy of the Constitution] of the Constitution of the Republic of Kosovo (see, cases no. KO100/22 and KO101/22, Applicants in case KO100/22, *Abelard Tahiri and 10 other deputies of the Assembly of the Republic of Kosovo*; Applicants in case KO101/22, *Arben Gashi and 10 other deputies of the Assembly of the Republic of Kosovo*, Constitutional review of Law No.08/L-136 on Amending and Supplementing Law No.06/L-056 on the Kosovo Prosecutorial Council, Judgment, of 24 March 2023, paragraphs 154-155).
100. Article 3 [Equality before the Law] of the Constitution, *inter alia*, stipulates that (i) the Republic of Kosovo shall be governed democratically, with full respect for the rule of law, through its own legislative, executive and judicial institutions; and (ii) the exercise of public authority in the Republic of Kosovo shall be based on the principles of equality before the law of all individuals and the full respect for the internationally recognized fundamental human rights and freedoms, as well as on the protection of rights and the participation of all communities and their members.
101. Article 4 [Form of Government and Separation of Power] of the Constitution defines the form of government and the separation of powers, and, *inter alia*, specifies that Kosovo is a democratic Republic based on the principle of separation of powers and checks and

balances among them, as prescribed by this Constitution, principles under which, (i) the Assembly exercises legislative power; (ii) the President is the legitimate representative of the country internally and externally and guarantor of the democratic functioning of the institutions of the Republic of Kosovo, in accordance with the Constitution and representing the unity of the people as per the same; (iii) the Government is responsible for the implementation of laws and state policies and is subject to parliamentary oversight; (iv) judicial power is unique, independent and exercised by the courts; and (v) the Constitutional Court is an independent organ for the protection of constitutionality and renders the final interpretation of the Constitution.

102. Article 7 [Values] of the Constitution stipulates that the constitutional order of the Republic of Kosovo, *inter alia*, is based on the principles of democracy, respect for human rights and freedoms, rule of law, non-discrimination, pluralism, and the separation of state powers and gender equality.
103. The Constitution of the Republic of Kosovo is the source of authority for every governing power and it defines the limits of the exercise of this authority.
104. Article 63 [General Principles] of the Constitution stipulates that: “*The Assembly is the legislative institution of the Republic of Kosovo directly elected by the people.*” Except for the Constitution and the obligation to exercise legislative power in accordance with the Constitution, the Assembly shall not be subject to any other authority, while the deputies as representatives of the people shall not be subject to any obligatory mandate. As a legislative institution directly elected by the people, the Assembly has a multitude of competences which are specifically defined in the Constitution, and these include legislative, decision-making, and oversight competences. In this respect, in the case law of this Court it has been emphasized that: “*Democracy, ‘vox populi’ (the voice of the people), requires the election of those who will represent the voice of the people in the legislative body of the state. In a parliamentary democracy, this [the Assembly], is the supreme governing entity vested with a variety of competencies, at the same time subordinate to the principle of separation of powers and check and balances [...]*” (see, Judgment of the Court in case KO119/14, Applicant: *Xhavit Haliti and 29 other Deputies of the Assembly of the Republic of Kosovo, Constitutional review of Decision No. 05-V-001, voted by 83 Deputies of the Assembly of the Republic of Kosovo on the election of the President of the Assembly of the Republic of Kosovo, of 17 July 2014, Judgment, of 21 August 2014, paragraph 49).*
105. Thus, the Constitution has established the democracy of the Republic of Kosovo as a parliamentary democracy, giving the Assembly a representative, legislative, and oversight function (see, *inter alia* Article 65 [Competencies of the Assembly] of the Constitution). In particular, the elected representatives of the people are the deputies of the Assembly elected in free and democratic elections. The exercise of sovereignty through the elected representatives of the people is the main and most widespread modality to express that which “*stems from the people*” and to reflect it in concrete actions and decisions through the system of representative democracy. Except for the Constitution and the obligation to exercise legislative power in accordance with the Constitution, the Assembly shall not be subject to any other authority, while the deputies as representatives of the people shall not be bound by any obligatory mandate (see, *inter alia* Article 70 [Mandate of the Deputies] of the Constitution). In this way, the Assembly, as the representative of the sovereign, exercises sovereignty through the elected representatives, in accordance with the Constitution, which also derives from the people and manifests the will of the people for a

free, democratic, and peace-loving state, the homeland of all its citizens, citizens equal in rights and with equality before the law, who will live in their own state as a state of economic well-being and social prosperity, a state which, as a worthy member of the family of free and peace-loving states, contributes to regional and European stability through cooperation and good neighborliness and aims for Euro-Atlantic integration (see, the Preamble of the Constitution). These ideals of the sovereign materialized in the Constitution of the Republic of Kosovo will remain unfulfilled commitments whenever and wherever the representatives of the sovereign are not guided by the principle of cooperation in good faith and do not engage constructively and supportively in resolving any situation that may create or has created dysfunctionality of the representative body or other constitutional and state institutions.

106. The first step in the formation of constitutional institutions after elections, as determined in the Constitution, respectively after the official announcement of the election results, is the constitution of the Assembly.
107. The Court recalls that in case KO119/14, in which the interpretation of paragraph 1 of Article 64 [Structure of the Assembly] and paragraph 2 of Article 67 [Election of the President and Deputy Presidents] of the Constitution was made, it was established that the right to propose the candidate for President of the Assembly belonged to the largest parliamentary group, as the group emerging from the elections as certified in the act of the official announcement of their result (see, paragraph 116 of the Judgment in case KO119/14).
108. Subsequently, the Court also notes that paragraph 2 of Article 67 of the Constitution provides that the President of the Assembly shall be elected by a majority of the votes of all deputies of the Assembly. The Court holds that this constitutional provision gives the largest parliamentary group the right to propose the candidate for President of the Assembly, but at the same time establishes the constitutional obligation that this proposal must receive the approval of the majority of all deputies of the Assembly, namely 61 (sixty-one) votes. Furthermore, as also emphasized in the Judgment in case KO119/14, the Court notes that “*nowhere in the Constitution it is provided that the failure to elect the President of the Assembly would trigger the holding of new parliamentary elections* KO119/14).
109. In the context of constituting state institutions, the Court has emphasized that the structure of constitutional norms, and especially that which relates to the establishment of state institutions deriving from the vote of the people, must be interpreted in such a way as to enable and not block the establishment of institutions and the effective exercise of their functions, because only in this way can the principle of separation of powers and checks and balances among them, as provided by this Constitution, be correctly applied (see, case KO72/20, *Rexhep Selimi and 29 other deputies of the Assembly of the Republic of Kosovo*, Constitutional review of Decree No. 24/2020 of the President of the Republic of Kosovo, of 30 April 2020 paragraph 475).
110. Thus, and in the sense of the effective functioning of state institutions, the Court has emphasized the importance of the interpretation of the Constitution regarding the establishment of constitutional bodies. Furthermore, the Court has emphasized the establishment of institutions after elections, where the elected representatives of the people are legitimized for a constitutional representation mandate of 4 (four) years in the Assembly of the Republic, and then, their Government, elected through the Assembly, according to the procedures established in the Constitution.

111. Whereas the democratic functioning of state institutions is the primary responsibility of every person vested with public authorizations, all actions undertaken by persons vested with power or public authorization must be in accordance with the Constitution and its spirit and must contribute to the smooth functioning and coordination of matters of public interest for the state, enabling it to develop and realize the values and principles on which it is founded. Any obstacle or lack of cooperation in fulfilling constitutional obligations and authorizations is contrary to the spirit of the Constitution (see, case of the Court KO72/20, cited above, paragraphs 476-478).
112. As also emphasized by the Venice Commission in an Opinion for Montenegro, which is relevant to the circumstances of this case: “[...] *it is the principle of loyal cooperation among state institutions which ought to have provide a solution.*” *Only mutual respect can lead to the establishment of mutually accepted practices, which are in compliance with the European Constitutional Heritage and which enable a country to avoid and serenely overcome crises*” (see, Opinion [CDL-AD\(2022\)053](#) of the Venice Commission for Montenegro regarding the amendments to the Law on the President, adopted on 16-17 December 2022, paragraph 29).
113. Subsequently, the Venice Commission specified that: “*Compliance with the rule of law cannot be restricted to the implementation of the explicit and formal provisions of the law and of the Constitution only. It also implies constitutional behaviour and practices, which facilitate the compliance with the formal rules by all the constitutional bodies and the mutual respect between them.*” (see, Opinion [CDL-AD\(2012\)](#) for Romania concerning compatibility with constitutional principles and the Rule of Law of the actions taken by the Government and Parliament of Romania in respect to other state institutions and on the Government Emergency Ordinance amending Law no. 47/1992 regarding the organization and functioning of the Constitutional Court, and on the Government Emergency Ordinance amending and completing Law no. 3/2000 regarding the organization of a referendum, adopted on 14-15 December 2012, paragraph 73).
114. The European Court of Human Rights (hereinafter: the ECtHR) has emphasized that representative democracy is an essential element of the European public order and that “*the rights guaranteed by Article 3 of Protocol No. 1 are essential to the establishment and maintenance of the foundations of an effective and meaningful democracy governed by the rule of law, and therefore have a prime importance in the Convention system.*” (see, *inter alia*, the ECtHR cases of *Mathieu-Mohin and Clerfayt v. Belgium*, Judgment of 2 March 1987, paragraph 47, and *Ždanoka v. Latvia* [GC], no. 58278/00, Judgment of 16 March 2006, paragraphs 98 and 103). Furthermore, the ECtHR in principle has underlined that: “*There is a close connection between an effective political democracy and the effective functioning of Parliament. [...] The rules concerning the internal operation of Parliament are the exemplification of the well-established principle of the autonomy of Parliament. In accordance with this principle, Parliament is entitled, to the exclusion of other powers and within the limits of the constitutional framework, to regulate its own internal affairs, for example the composition of its bodies*” (see, the ECtHR case of *Mugemangango v. Belgium*, no. 310/15, Judgment of 10 July 2020, paragraph 74).
115. Consequently, and in the assessment of constitutional issue to be assessed by the Court, the aforementioned constitutional principles as well as the provisions specified by the Constitution, relating to the constitution of the Assembly, including those established and elaborated through the Court’s previous case law, shall be applied.

(i) Regarding the constitution of the Assembly and the deadline thereof

116. Initially, the Court reiterates the constitutional determination of parliamentary democracy and the essential role of the Assembly with legislative, decision-making, and oversight competences. This essential role is clearly manifested in Article 2 [Sovereignty], paragraph 2 of Article 4 [Form of Government and Separation of Power], Article 7 [Values], Article 65 [Competencies of the Assembly], Article 70 [Mandate of the Deputies], Article 74 [Exercise of Function], including also those related to paragraph 1 of Article 134 [Qualification, Election and Dismissal of the Ombudsperson], paragraph 3 of Article 136 [Auditor-General of Kosovo] and paragraph 1 of Article 140 [Central Bank of Kosovo] of the Constitution, which include the competence of the Assembly to elect the heads of these institutions and their reporting to the Assembly. This spirit, in essence, permeates the entire constitutional text. The very nature of this democracy follows a type of consensus democracy, disfavors and excludes the possibility for the Assembly as a representative body to become a non-functional legislature as a result of procedural deadlocks.
117. The Court recalls that based on paragraph 1 of Article 66 [Election and Mandate] of the Constitution, the Assembly is elected for a four (4) year mandate. After the regular conclusion of the mandate of the Assembly, the country automatically goes to elections. That being said, the purpose of a legislature under the Constitution is the completion of its 4 (four) year mandate. In new elections, the people vote and elect a new legislature, with the belief that such legislature will represent them for the next 4 (four) years. This constitutes the regular cycle of the election of the representatives of the people in the Assembly. Notwithstanding this regular cycle of representative democracy, the mandate of the Assembly may end before the completion of the regular 4 (four) year mandate, only according to the arrangement established by Article 82 [Dissolution of the Assembly] of the Constitution, which specifically determines 3 (three) situations of mandatory dissolution of the Assembly and, one (1) possible situation of dissolution of the Assembly. Exceptionally, based on paragraph 4 of Article 66 of the Constitution, the mandate of the Assembly may be extended beyond the regular 4 (four) year constitutional mandate, in circumstances of a State of Emergency (see, case KO72/20, cited above, paragraph 350).
118. The Court, in the sense of the obligation for cooperation, has emphasized that all powers without exception, whether they are part of the classic triangle of the separation of powers, or whether they are another important part of the structure of the state, have a constitutional obligation to cooperate with each other in the general public good and in the best interest of all citizens of the Republic of Kosovo. All these powers have the obligation to perform their public duties with the aim of realizing the values and principles on which the Republic of Kosovo is founded and functions. In this respect, loyal cooperation between constitutional/public institutions constitutes a constitutional obligation and loyalty to the formal and public oath upon assuming constitutional responsibilities by each holder of the respective public function (see, case KO72/20, cited above, paragraph 353).
119. Based on the aforementioned principles, the Court notes that according to paragraph 1 of Article 64 [Structure of the Assembly] of the Constitution it is determined that the Assembly has 120 (one hundred and twenty) deputies elected by secret ballot based on open lists. Seats in the Assembly are distributed among all parties, coalitions, citizens' initiatives, and independent candidates, in proportion to the number of valid votes won by them in the elections for the Assembly.

120. According to paragraph 1 of Article 66 [Election and Mandate] of the Constitution, it is stipulated that the Assembly of Kosovo is elected for a four-year mandate, starting from the day of the Constitutive Session, which shall be held within thirty (30) days from the date of the official announcement of the election results.
121. Furthermore, according to paragraph 2 of Article 67 [Election of the President and Deputy Presidents] of the Constitution of the Republic of Kosovo, it is provided that the President of the Assembly is proposed by the largest parliamentary group and is elected by a majority of the votes of all deputies of the Assembly.
122. The Court refers to paragraphs 1 and 2 of Article 70 [Mandate of the Deputies] of the Constitution, through which it is stipulated that: *“Deputies of the Assembly are representatives of the people and are not bound by any obligatory mandate”* and *“The mandate of each deputy of the Assembly of Kosovo begins on the day of the certification of the election results.”*
123. Subsequently, the Court also refers to Article 74 [Exercise of Function] of the Constitution, which provides that: *“The deputies of the Assembly of Kosovo shall exercise their function in best interest of the Republic of Kosovo and pursuant to the Constitution, Laws and Rules of Procedure of the Assembly.”*
124. Returning to the provisions of paragraph 1 of Article 66 of the Constitution, which specify that *“The Assembly of Kosovo shall be elected for a mandate of four (4) years, starting from the day of the constitutive session, which shall be held within thirty (30) days from the official announcement of the election results.”* In the English version of the Constitution, the provision of Article 66 is formulated as follows: *“The Assembly of Kosovo shall be elected for a mandate of four (4) years, starting from the day of the constitutive session, which shall be held within thirty (30) days from the official announcement of the election results.”* (The Court explains that this formulation in the English language – *“shall be held”* – constitutes a mandatory norm, and not a permissive one, according to the standardized use of normative and constitutional language also in Anglo-Saxon law, according to *Black’s Law Dictionary*, *“shall”* is *“mandatory”*, not *“permissive”*).
125. The Court notes that in its previous case law, the latter has not interpreted or assessed paragraph 1 of Article 66 of the Constitution, which relates to the constitution of the Assembly after elections. However, in this regard, the Court recalls that in case KO119/14, it interpreted paragraph 1 of Article 64 and paragraph 2 of Article 67 of the Constitution, where it held that the right to propose the candidate for President of the Assembly belonged to the largest parliamentary group, as the group resulting from the elections as certified in the act of the official announcement of their results (see, paragraphs 111-118 of the Judgment in case KO119/14).
126. Consequently, in case KO119/14, the Court underlined as follows: (i) *“[...] Constitutive Session of the Assembly cannot be considered as having been accomplished if the Assembly has not elected its President and Deputy Presidents* (see, paragraph 109 of the Judgment in case KO119/14); and (ii) *“the election of President of the Assembly and Deputies is a prerequisite for the Assembly to start functioning as a legislative body. This requires all Deputies to be present and vote in order to constitute the Assembly”* (see, paragraph 123); and (iii) *“It is the right and duty of all Members of Assembly to find a way to elect President and Deputy Presidents of the Assembly in accordance with the*

constitutional provisions in conjunction with the relevant Rules of Procedure of the Assembly and make the Assembly functional” (see, paragraph 127).

127. In terms of the referral of the Applicants, the Court holds that paragraph 2 of Article 67 of the Constitution is of fundamental importance in guaranteeing the representation of the electoral will and institutional legitimacy within the process of constituting the Assembly. According to the constitutional interpretation, paragraph 2 of Article 67 [Election of the President and Deputy Presidents] of the Constitution contains two (2) inseparable elements, namely (i) the right of the largest parliamentary group to propose the President of the (ii) Assembly (see, the interpretation of the Court in case KO119/14, paragraph 116); and that the candidate proposed (i) shall be elected by a majority of the votes of all deputies of the Assembly. That being said, and regarding the second element, the Court holds that the requirement for the President of the Assembly to be elected by a majority of the votes of all deputies of the Assembly establishes a clear and objective standard of constitutional legitimacy.
128. With regard to the election of the Deputy Presidents, the Constitutional Court in case [KO84/18](#) clarified that, based on paragraph 3 of Article 67 of the Constitution, for the election of 3 (three) Deputy Presidents, two conditions must be fulfilled, namely, (i) they must be proposed by the three largest parliamentary groups and (ii) must receive the votes of the majority of all deputies of the Assembly. As regards the first condition, the Court notes that the Constitution, in Article 67, paragraph 3, clearly provides that the right to propose 3 (three) candidates for the positions of Deputy Presidents belongs exclusively to the three (3) largest parliamentary groups. The Court holds that the right of the three (3) largest parliamentary groups to propose candidates for the position of Deputy President of the Assembly is essential for the preservation of the foundations of an effective and meaningful democracy in the constitution of the Assembly, governed by the rule of law. The Court further specified that (i) *“while the right of proposal belongs to the three (3) major parliamentary groups, these groups are not necessarily limited to proposing candidates from their parliamentary group”* and (ii) *“paragraph 3, of Article 67 of the Constitution, allows for a broad discretion of the candidate’s proposal for the position of Vice President of the Assembly without limiting the proposal by a certain parliamentary group.”* Furthermore, the Court in this case specified that *“Unlike the language of paragraph 3 of Article 67 which enables greater freedom of the proposal, paragraph 4 of Article 67 of the Constitution expressly stipulates that “Two (2) Deputy Presidents represent non-majority communities in the Assembly and are elected by a majority vote of all deputies of the Assembly. One (1) Deputy President shall belong to the deputies of the Assembly holding seats reserved or guaranteed for the Serb community, and one (1) Deputy shall belong to deputies of the Assembly holding seats reserved or guaranteed for other communities that are not in the majority.”’* As regards the second requirement, the Court recalls that in order to be considered as elected, the nominees of the parliamentary groups are not automatically elected Vice Presidents of the Assembly upon proposal by the parliamentary groups but are subject to the voting process in the Assembly. The proposed of parliamentary groups are elected vice presidents of the Assembly only if they receive votes of the majority of all deputies of the Assembly.” (see, case KO84/18, Applicants Albin Kurti and 11 other deputies of the Assembly of the Republic of Kosovo, Constitutional review of Decision No. 06/V-145 of the Assembly of the Republic of Kosovo regarding the Proposal of the Parliamentary Group of the Lëvizja Vetëvendosje! on dismissal of Aida Dërguti from the position of Vice President of the Assembly of the Republic of Kosovo, Judgment of 3 December 2018, paragraphs 94-96).

129. In the context of the circumstances of the present case, the Court holds that the required majority for the election of the President of the Assembly is “*by a majority vote of all deputies of the Assembly*,” respectively 61 (sixty-one) votes in an Assembly of 120 (one hundred and twenty) deputies. Departure from this constitutional standard, under any circumstance, undermines the constitutional order and the constitutional legitimacy of the constitutive process of the Assembly of the Republic of Kosovo, according to the Constitution of the Republic of Kosovo. In this sense, failure to achieve the required majority for the election of the candidate proposed by the largest parliamentary group for President of the Assembly, on the other hand, constitutes a failure of the deputies to successfully conclude the constitutive session, also in terms of the constitutional obligation set out in paragraph 1 of Article 66 of the Constitution.
130. The Court reiterates that the right of the largest parliamentary group to propose the candidate for the President of the Assembly has been established through the Judgment in case KO119/14. Nevertheless, the Court emphasizes that the right to propose the candidate for President of the Assembly is directly linked to the obtaining of the majority of votes of all deputies of the Assembly. As such, this right to propose the candidate for President of the Assembly simultaneously constitutes an obligation for the largest parliamentary group to cooperate in good faith and to consult constructively with other parliamentary groups in order to find the necessary consensus or compromise and that this right may in no way result in blocking the constitution of the Assembly. In this context, this obligation for constructive cooperation in good faith that stems from Article 67 of the Constitution itself is closely related to the obligation set out in Article 74 of the Constitution, according to which the deputies of the Assembly exercise their function in the best interest of the Republic of Kosovo in accordance with the Constitution, laws and rules of procedure of the Assembly. At the same time, such an obligation also applies to other parliamentary groups who, in the spirit of cooperation and constructive consultations, propose candidates for Deputy Presidents of the Assembly, who, based on paragraphs 3 and 4 of Article 67 of the Constitution, are also elected by a majority of the votes of all deputies.
131. Furthermore, the Court, returning to the provisions of paragraph 1 of Article 66 of the Constitution, underlines that the very structure of this constitutional provision, implies that holding the constitutive session within the thirty (30) day period is not a formal or indicative possibility, but a constitutional obligation closely connected to the commencement of the mandate of the new legislature.
132. The requirement referred to in paragraph 1 of Article 66 of the Constitution that the Assembly shall hold the Constitutive Session within thirty (30) days, does not merely mean that the elected deputies must physically assemble in the chamber. The meaning of this norm must be substantial and functional, implying that within this period, all constitutional actions that result in the constitution of the Assembly must be accomplished. These include: (i) the verification of the mandates of the elected deputies, (ii) the taking of the oath by them, (iii) the election of the President of the Assembly, and (iv) the election of the Deputy Presidents of the Assembly. That being said, the Court reiterates that without the successful completion of these constitutional actions, the Assembly cannot be considered legally constituted and, consequently, cannot exercise any of the functions assigned to it by the Constitution.
133. The Court holds that a Constitutive Session that is held but does not elect the President and Deputy Presidents of the Assembly, does not achieve the legal effect prescribed by the

Constitution, and is an incomplete session and consequently, does not fulfill the requirement of paragraph 1 of Article 66 of the Constitution.

134. The Court also notes that paragraph 2 of Article 70 [Mandate of the Deputies] of the Constitution provides that “*the mandate of the deputy of the Assembly of Kosovo begins on the day of the certification of the election results.*”
135. As emphasized in the previous decisions of the Court, when a constitutional norm is subject to interpretation by the Court, as the final authority for the interpretation of the Constitution (see, paragraph 6 of Article 4 and paragraph 1 of Article 112 of the Constitution), it starts from the principle that the Constitution is a unique legal act, the norms of which are interrelated and interact in a coherent and logical manner. This interconnection and interaction enable the Court to understand the intent of the constitution-maker and to derive the meaning of the constitutional norms (see, *inter alia*, the Judgment of the Court in case KO72/20, cited above, paragraph 475).
136. The Court, in light of the joint reading of the provisions of paragraph 1 of Article 66 [Election and Mandate], paragraph 2 of Article 67 [Election of the President and Deputy Presidents], and paragraph 2 of Article 70 [Mandate of the Deputies] and Article 74 [Exercise of Function] of the Constitution, notes that the mandate of the Assembly as a constitutional body and the mandate of the deputy as an elected representative of the sovereign in the Assembly are interlinked mandates.
137. Therefore, the commencement of the mandate of the deputy under paragraph 2 of Article 70 [Mandate of the Deputies] and the commencement of the mandate of the Assembly under paragraph 1 of Article 66 [Election and Mandate] of the Constitution are both subject to a four-year duration.
138. Following this, the Court underlines that, based on paragraph 1 of Article 66 of the Constitution, the commencement of the mandate of the Assembly is conditioned by the day of holding the Constitutive Session, while paragraph 2 of Article 70 [Mandate of the Deputies] of the Constitution conditions the commencement of the mandate of the deputy with the day of the certification of the election result. The commencement of the mandate of the deputy under paragraph 2 of Article 70 [Mandate of the Deputies] should also be understood in the context of the requirements of item 1, paragraph 3 of Article 70, which stipulates that the mandate of the deputy ends or becomes invalid if the oath is not taken. That being said, this mandate cannot be fully exercised without fulfilling the requirements of paragraph 3 of this Article, especially without taking the oath, which is an integral part of the constitutive process and is also realized in the Constitutive Session. Thus, the mandate of the deputy and the mandate of the Assembly are interlinked, since deputies represent the sovereign, but this representation cannot be implemented institutionally without constituting the Assembly.
139. In reading paragraph 1 of Article 66 of the Constitution, the Court notes that the Constitution refers to the Constitutive Session as a single, unique session. Thus, the constitution-maker has envisaged that the Constitutive Session shall be held within 30 (thirty) days from the date of the official announcement of the election results. Moreover, although according to paragraph 3 of Article 66 [Election and Mandate], the President is authorized to convene the Constitutive Session, it nevertheless maintains the right, but also sets the obligation, for the Assembly to convene itself, if the President is not able to convene the Constitutive Session. This exception, namely the requirement that the Assembly

convene for the Constitutive Session without the convocation by the President, is a clear indication that the constitution-maker has avoided possible formal barriers that could become obstacles to holding the constitutive session, respectively to constituting the Assembly after general elections.

140. Based on the above elaborations, the Court considers that the 30 (thirty) day deadline determined by the constitution-maker in paragraph 1 of Article 66, cannot be treated as a period within which only the attempt at constituting the Assembly is to be made, but this deadline, in conjunction with the provisions in Article 2, paragraph 2 of Article 4, Article 7, Article 65, Article 74, paragraph 1 of Article 134, paragraph 3 of Article 136 and paragraph 1 of Article 140 of the Constitution, is a deadline within which the Assembly must be constituted.
141. The Court, in case KO119/14, regarding which actions to be taken to successfully realize the constitutive session, emphasized that: *“the election of President of the Assembly and Deputies is a prerequisite for the Assembly to start functioning as a legislative body. This requires all Deputies to be present and vote in order to constitute the Assembly.”* (paragraph 123 of the Judgment in case KO119/14). Furthermore, in the same Judgment, the Court specified that: (i) *“The Court notes that nowhere in the Constitution it is provided that the failure to elect the President of the Assembly would trigger the holding of new parliamentary elections.”* (paragraph 126 of the Judgment in case KO119/14); (ii) *“It is the right and duty of all Members of Assembly to find a way to elect President and Deputy Presidents of the Assembly in accordance with the constitutional provisions in conjunction with the relevant Rules of Procedure of the Assembly and make the Assembly functional.”* (paragraph 127 of the Judgment in case KO119/14); and (iii) *“When constituting the Assembly, all Deputies have to be present and vote the way they wish, openly or secretly, voting for, against or abstain and cannot be exempted from doing so.”* (paragraph 128 of the Judgment in case KO119/14). In continuation, the Court in case KO84/18 reiterated that deputies are obliged to participate in the work of the Assembly, including their participation in voting regarding proposals presented on the basis of the Constitution and other related rules. Nevertheless, the Court reiterated that *“deputies are free to decide how they will vote regarding the proposals presented before them and may vote “in favor”, “against” or “abstain” taking into account the best interest of the State in accordance with the Constitution and other rules”* (see, case KO84/18, cited above, paragraph 122).
142. The Court, in case KO72/20, in relation to the obligation of mutual cooperation, underlined that *“the designation of the candidate for Prime Minister involves the mutual obligation for the cooperation between the President and the winning political party in this process. Moreover and whilst having in mind the technical and formal nature of the “consultation” for the purpose of designating the first candidate for Prime Minister, a step that puts into motion the process Government formation and corresponding constitutional deadlines, it is clear and self-understanding that this “consultation” must be concluded as soon as possible and that it involves the requirement for a swift cooperation dynamic.”* According to the Court, *“on the contrary, all of the above-mentioned constitutional norms regarding the deadlines and the purposes that they entail regarding the formation of the Government, would be without any meaningful effect and completely unnecessary. The election of the Government would remain hostage to the “unlimited deadlines” and at the full discretion of a winning political party or coalition or at the full discretion of the President. The former, would hold the formation of the Government pending, relying to the full and indefinite discretion to propose a candidate for Prime Minister, while the*

President would also refer to the full and indefinite discretion to decree the same. This "full and unlimited discretion in terms of time", in the meantime, is related to the election of the Government, a competence which pertains to another branch of government, respectively the Assembly. Such an approach and interpretation would be arbitrary and clearly contrary to the structure of constitutional norms, its purpose and spirit, but also contrary to the basic principles of a parliamentary democracy. In this regard, the Court also emphasizes that, despite the allegations of the applicants regarding the delay of the procedures for establishing institutions after the elections, emphasizing the situation of 2014 in respect to the prolongation of the process for the establishment of the Assembly, the Court has never, including in the Judgment KO119/14, addressed the issue of deadlines related to the constitution of the Assembly, as the same were not the subject matter of the case before the Court ." (see, case of the Court KO72/20, cited above, paragraphs 569-570).

143. Thus, the Court reiterates that the Constitution has not provided in any of its provisions that failure to elect the President of the Assembly would produce the legal consequence of causing new elections for the Assembly to be held. That being said, the Court holds that it is the right and duty of all deputies of the Assembly to find the way to elect the President and Deputy Presidents of the Assembly, in accordance with the provisions of the Constitution and the procedural rules further specified by the Rules of the Assembly, so that the Assembly of the Republic of Kosovo, as a representative, legislative, and oversight body, is fully functional in exercising its constitutional mandate. This is also related to the provisions of Article 74 [Exercise of Function] of the Constitution, through which it is specified that: *"The deputies of the Assembly shall exercise their function in best interest of the Republic of Kosovo and pursuant to the Constitution, Laws, and Rules of Procedure of the Assembly."* In this regard, the Court underlines that there is no greater interest of the Republic of Kosovo than for its highest representative body to be constituted and to commence its functioning as soon as possible.
144. Therefore, the Court again refers to its previous case law, where it emphasized that to constitute the Assembly, all deputies must be present and vote according to their free will, with a vote *"in favor"*, *"against"* or *"to abstain."* (see, case of the Court, KO119/14, paragraph 128).
145. In conclusion, the Court reiterates that the Constitutive Session of the Assembly, within the meaning of paragraph 1 of Article 66 of the Constitution, is a constitutional act which must be successfully fulfilled within thirty (30) days from the date of the official announcement of the election results, through the fulfillment of all essential elements of constituting, including the election of the President pursuant to paragraph 2 of Article 67 and the Deputy Presidents pursuant to paragraphs 3 and 4 of Article 67 of the Constitution. Any other interpretation would relativize the constitutional order, respectively the Constitution of the Republic of Kosovo, and would imply the tolerance of institutional deadlock, contrary to the functional nature of a democracy guided by the principles of democracy and the rule of law.

(ii) Regarding the allegations of the Applicants concerning the "amendment of the agenda" and the proposal of the Chairperson for the establishment of the "Secret Ballot Committee"

146. The Court recalls that the Applicants, in their Referral, challenge the amendment of the *"agenda"* of the constitutive session of the Assembly, in which case, according to them, on 1, 3, and 5 May, the Chairperson proposed the establishment of the *"Secret Ballot*

Committee.” In this respect, the Applicants specify that (i) “the amendment of the agenda of the constitutive session by the Chairperson” is contrary to the Constitution and that “[t]he same was done also when the failure occurred to proceed to the secret ballot, thus deviating and preventing the voting of the deputies for the President of the Assembly as determined by the agenda of 8 April 2025, which is the only constitutional path determined by the Rules of Procedure of the Assembly and by the Judgment of the Constitutional Court of 2014 in case KO119/14.”

147. In continuation of the above allegations, the Court initially refers to Article 76 [Rules of Procedure] of the Constitution, which provides that *“The Rules of Procedure of the Assembly are adopted by two-thirds (2/3) of all its deputies and shall determine the internal organization and method of work for the Assembly.”* The Court notes that the Rules of Procedure of the Assembly of the Republic of Kosovo (hereinafter: Rules of Procedure of the Assembly), which is currently in force, was adopted on 28 July 2022.
148. The Court also recalls its previous case law, through which it has emphasized that paragraph 1 of Article 64 and paragraph 2 of Article 67 of the Constitution constitute the legal basis for the structuring and constituting the Assembly, whereas the Rules of the Assembly, adopted according to the authorizations and requirements of Article 76 of the Constitution, constitutes the procedural instrument and mechanism through which the implementation of the specific constitutional provisions is effected (see, paragraph 106 of the Judgment in case KO119/14). In this sense, the Court notes that Article 76 of the Constitution considers the Rules of Procedure of the Assembly, adopted by two-thirds of the votes of the deputies, as an act with binding legal force through which the organization and functioning of the Assembly are regulated. Furthermore, this constitutional provision obliges the Assembly to act within the procedures adopted by the Assembly itself in accordance with the constitutional order of the Republic of Kosovo.
149. The Court has already given its assessment regarding the scope and requirements of paragraph 1 of Article 66 of the Constitution (see, paragraphs 130-144 of this Judgment).
150. In what follows, the Court notes that Chapter IV [Inauguration of the Assembly] of the Rules of Procedure of the Assembly specifies the procedure to be followed for conducting the Constitutive Session.
151. According to paragraph 2 of Article 8 (Preparation of the Constitutive Session) of the Rules of Procedure of the Assembly, it is stipulated that: *“The President of the previous term, not later than 5 (five) days before holding the inaugural session of the Assembly, shall convene the joint meeting with the leaders of political entities which have won seats in the Assembly, to prepare the draft agenda and decide on the seating order of MPs in the plenary chamber. If the meeting does not convene within the deadline of 5 (five) days, the Assembly shall convene on its own, on the day set by the President.”*
152. From the case file, the Court notes that the President of the Assembly of the VIII Legislature, in the joint meeting with the presidents of the political entities which have won seats in the Assembly, held on 8 April 2025, made preparations for holding the Constitutive Session of the IX Legislature of the Assembly, convened by the President.
153. According to paragraph 4 of Article 8 of the Rules of Procedure of the Assembly, it is expressly provided that: *“The agenda for the inaugural session of the Assembly shall include: 4.1 Establishment of the Temporary Committee for Verification of the Quorum*

and Mandates; 4.2 Oath of the deputies; 4.3 Election of the President of the Assembly; and 4.4 Election of the Deputy Presidents of the Assembly.”

154. Article 7 (Inaugural session) of the Rules of the Assembly refers to the requirements of paragraphs 1 and 3 of Article 66 of the Constitution, whereas paragraph 4 of Article 8 (Preparations for the inaugural session) of the Rules of the Assembly expressly determines the agenda of the Constitutive Session of the Assembly.
155. Notwithstanding that paragraph 2 of Article 8 of the Rules of Procedure of the Assembly foresees that the President of the previous legislature, in the joint meeting with the presidents of the political entities which have won seats in the Assembly, deals with the proposal of the agenda for the constitutive session and other procedural organizational aspects, nevertheless, paragraph 4, determined after paragraph 2 of Article 8 thereof, has defined in a strict and formal manner the agenda for the Constitutive Session, which constitutes the core and sole content of the Constitutive Session, and which must be rigorously followed by the Chairperson of the Constitutive Session.
156. Such a finding is reinforced by the fact that the Constitutive Session is regulated in a special manner, by the Constitution and by the Rules of Procedure of the Assembly, and as such has a solemn character, and follows an agenda, which is not subject to ordinary parliamentary procedures.
157. From the case file, the Court also notes that the distribution of materials to the deputies on the occasion of holding the Constitutive Session on 15 April 2025 was done based on the predetermined requirements for the content of the agenda according to paragraph 4 of Article 8 (Preparations for the inaugural session) of the Rules of Procedure of the Assembly.
158. The chairing of the Constitutive Session according to Article 9 (Chairing of the inaugural session) of the Rules of Procedure of the Assembly is entrusted to the eldest deputy in age, who shall perform this duty assisted by the youngest deputy in age. Moreover, the same article of the Rules of the Assembly stipulates that during the conduct of the Constitutive Session, debates are not permitted (see, paragraph 3 of Article 9). This prohibition is related to the solemn character of the Constitutive Session and is also conditioned by the strictly formal nature of the agenda determined by paragraph 4 of Article 8 of the Rules of Procedure of the Assembly.
159. Furthermore, according to paragraph 4 of Article 9 (Chairing of the inaugural session) of the Rules of Procedure of the Assembly, the Chairperson of the Constitutive Session, after opening the session and presenting the agenda, requests the political entities represented in the Assembly to appoint one deputy each to the Temporary Committee for Verification of the Quorum and Mandates. This Committee is chaired by the deputy from the largest parliamentary political entity.
160. According to paragraph 5 of Article 9 (Chairing of the inaugural session) of the Rules of Procedure of the Assembly, the Temporary Committee for Verification of the Quorum and Mandates examines the relevant election documentation, submits to the Assembly the report on the validity of the mandates of the deputies of the Assembly, and verifies the presence and quorum in the Constitutive Session.
161. On 15 April 2025, the Chairperson of the Constitutive Session proceeded with the first item of the agenda “*Establishment of the Temporary Committee for Verification of the Quorum*

and Mandates of the Deputies.” Subsequently, the Chairperson invited the political entities represented in the Assembly to appoint one deputy to the composition of the Committee. According to the case file, the Chairperson invited the representative of the largest parliamentary group to propose a deputy for Chairperson of the Committee.

162. According to the case file submitted by the Secretariat of the Assembly to the Court, it has been established that 119 (one hundred and nineteen) deputies were present in the chamber, and that there was quorum to continue with the item on the agenda. The deputies, by a show of hands, voted for the appointment of the members of the Committee, and 119 (one hundred and nineteen) deputies voted for the composition of the Committee. The Court notes that the deputies, through the achievement of common consensus, on 15 April 2025, fulfilled the requirement of item 4.1 of paragraph 4 of Article 8 (Preparation of the inaugural session) of the Rules of Procedure of the Assembly.
163. Nevertheless, the Court also notes that on the same day, respectively on 15 April 2025, in the continuation of the session, the Report of the Temporary Committee did not proceed further because it did not receive the majority of votes from 113 (one hundred and thirteen) deputies present, and consequently, there was no further fulfillment of item 4.2 of paragraph 4 of Article 8 (Preparation of the inaugural session) and Article 10 (Oath of MPs) of the Rules of Procedure of the Assembly.
164. On 17 April 2025, the Constitutive Session that commenced on 15 April 2025 continued. From the case file, it results that the Chairperson of the Constitutive Session addressed the President of the Republic of Kosovo, as the deputies did not vote on the Report of the Temporary Committee. The Court notes that the continued constitutive session of 17 April 2025 also failed, and consequently, the next schedule for holding the Constitutive Session was set for 19 April 2025, within 48 hours, at 12:00.
165. The Court also notes that Articles 11 (Selection of the President of the Assembly) and 12 (Election of the Deputy Presidents of the Assembly) of the Rules of Procedure of the Assembly specifically determine the procedural steps that must be followed by the Chairperson of the Constitutive Session in the procedure of the election of the President and Deputy Presidents of the Assembly.
166. According to the case file, it is established that on 19 April 2025, a consultative meeting was held with representatives of the political entities. In the consultative meeting with the representatives of the political entities, they agreed that the Report of the temporary Committee be voted on unanimously and to proceed with the session. The Court, further notes that on 19 April 2025, the Constitutive Session continued, at which 120 (one hundred and twenty) deputies were present. The Chairperson put to a vote the establishment of the Temporary Committee with the same composition, a proposal which was voted for by 120 (one hundred and twenty) deputies, and the Temporary Committee was requested to draft a new report. The Temporary Committee presented the report, by which it established the validity of the mandates of the deputies of the Assembly, and the same was unanimously adopted, and within this session, all deputies took their oath based on the agenda, as per item 4.2 of paragraph 4 of Article 8 (Preparations of the inaugural session) and Article 10 (Oath of MPs) of the Rules of Procedure of the Assembly. Upon completion of the agenda, the item regarding the oath of the deputies, the Chairperson of the Constitutive Session continued with the conduct of the agenda item, the election of the President of the Assembly.

167. Returning to the Rules of the Assembly, the Court notes that pursuant to Article 11 (Selection of the President of the Assembly), it is provided that:
- 1. The President of the Assembly shall be elected in the inaugural session by majority of votes of all MPs.*
 - 2. The Chairperson of the inaugural session shall request from the largest political entity in the Assembly to propose a candidate for the President of the Assembly.*
 - 3. The Chairperson of the inaugural session shall inform the Assembly on the voting results for election of the President of the Assembly, shall announce the election of the President and invite him to take his seat.*
168. The Court notes that, on 19 April 2025, the candidate for President of the Assembly was proposed by the largest Parliamentary Group.
169. The Court notes that, also on 19 April 2025, the candidate proposed for President of the Assembly by the Largest Parliamentary Group, despite the parliamentary service having established (2) twice consecutively that there was a quorum, the proposed candidate for President of the Assembly did not manage to obtain the majority of votes to assume the position of President of the Assembly.
170. Subsequently, on 21 April 2025, following a break of forty eight (48) hours, the holding of the Constitutive Session which commenced on 15 April 2025 continued. According to the case file, the largest parliamentary group also requested additional time. The Chairperson interrupted the Constitutive Session and scheduled its continuation for 23 April 2025.
171. From the case file, and as described above, the largest parliamentary group continued with the same proposed candidate for President of the Assembly. The same candidate's name was proposed on 23, 25, 27, 29 April 2025.
172. The proposal of the candidate for President of the Assembly did not succeed, on any of these dates set for the continuation of the Constitutive Session of 15 April 2025, to obtain the necessary number of votes for election as President of the Assembly of the Republic of Kosovo.
173. The Court reiterates again that the “sessions” held for the constitution of the Assembly are not considered to be of the nature of an ordinary parliamentary session, but these sessions constitute a unique session with a constitutive character, which marks the beginning of the functioning of the highest representative body of the sovereign and the state. That being said, this unique character of the Constitutive Session also requires a high standard of responsibility and institutional will to accomplish it, in the spirit of constitutional cooperation between the parties and in service of fulfilling the requirements of Article 66 of the Constitution.
174. The Court initially recalls that from the minutes of the meeting it results that on 1 May 2025, in the continuation of the Constitutive Session, based on the transcript of this session, the Chairperson stated that: *“Until today we have had several attempts, but without results in the election of the presidency and the constituting of the Assembly. Taking into account the Judgment of the Constitutional Court of 2014 regarding the issue of the election of the President of the Assembly, specifically paragraph 124 where it is stated: ‘The vote may be by open ballot or secret ballots or in any other ways.’ And, also based on the Rules of Procedure of the Assembly, which in Article 61, paragraph 4 also*

provides for secret voting. Therefore, with the aim of opening the way to unblock the process, I consider that the proper way which may open the way to constitute the Assembly is voting by secret ballot with physical ballot papers.” Following this statement, the Chairperson invited the political parties to each propose 1 (one) member for the Secret Ballot Committee, regarding the change of the manner of voting. The Court also notes that in the session of 1 May 2025, where it was established that 100 (one hundred) deputies were present, in the vote for the members proposed for the Secret Ballot Committee, 55 (fifty-five) deputies voted in favor, 1 (one) deputy voted against and no abstention.

175. Thereafter, the Constitutive Session continued on 3 and 5 May 2025, where the Chairperson again requested the political parties to each propose one member for the Secret Ballot Committee, a proposal which was put to a vote, and which (i) in the session of 3 May where 106 (one hundred and six) deputies were present, 54 (fifty-four) deputies voted in favor, 1 (one) against and no abstention, and (ii) in the session of 5 May where 111 (one hundred and eleven) deputies were present, where 56 (fifty-six) deputies voted in favor, 1 (one) against and no abstention.
176. In this regard, the Applicants emphasize that the amendment of the agenda of the Constitutive Session by the Chairperson is contrary to the Constitution. In this sense, the Applicants in their additional clarifications added that the subject matter of the Referral is *“the vote as an act for rejecting the secret ballot in the process of constituting the Assembly of Kosovo, namely the voting act which rejects this type of voting.”* While they emphasize that the subject matter of the Referral is not *“the individual and arbitrary decision of Mr. Avni Dehari to amend the agenda of 8 April 2025 for constituting the Assembly, but the legal and constitutional consequences of this decision.”*
177. On the other hand, the deputies of the Lëvizja Vetëvendosje! emphasized that the Applicants have inaccurately presented the title of the Referral for constitutional review of *“to refuse the establishment of the Committee for secret ballot,”* because: *“not only is it not a decision of the Assembly either in form or embodied in the minutes as alleged by the Applicants, but there are not even the necessary conditions for decision-making on rejecting the voting of the Committee, but it is a matter of lack of quorum to take a decision, even for a decision to reject the vote on the Committee.”*
178. The Court underlines that the issue of the manner of voting in the Constitutive Session, namely whether it should be open or secret, is not specified either by constitutional provisions or in Chapter IV of the Rules of Procedure of the Assembly. The Court notes that Chapter IV (Inaugural session of the Assembly) of the Rules of Procedure of the Assembly, in the context of the holding of the constitutive session, does not contain any reference to Article 53 (Amendment of the agenda), Article 57 (Procedural motions), or Article 122 (Interpretation of the Rules of Procedure). Each of these articles of the Rules of Procedure of the Assembly clearly and expressly determines the circumstances under which their scope extends, the parties who can initiate such actions or their authorizations, as well as the matters for which such proposals may be made or the time when such proposals may be raised.
179. In continuation, and insofar as relevant to the circumstances of the present Referral, the Court refers to the manner of voting for the election of constitutional bodies as provided by the Constitution. The Court notes that the provisions in the Constitution for secret voting are specified in paragraph 1 of Article 86 [Election of the President] of the Constitution, by which it is specified that: *“The President of the Republic of Kosovo shall be elected by the*

Assembly, in secret ballot.”; and paragraph 5 of Article 114 [Composition and Mandate of the Constitutional Court] of the Constitution, by which it is specified that: “The President and Deputy President of the Constitutional Court shall be elected from the judges of the Constitutional Court by a secret ballot of the judges of the Court, [...]”.

180. Likewise, the Court in its case law, specifically in its Judgment in case KO119/14, emphasized that “*When constituting the Assembly, all Deputies have to be present and vote the way they wish, openly or secretly, voting for, against or abstain and cannot be exempted from doing so.*” (see, paragraph 128 of the Judgment in case KO119/14).
181. Furthermore, regarding the deputies and their mandate, the Court in its practice has emphasized that under Article 74 [Exercise of Function] of the Constitution, “*deputies shall exercise their function in best interest of the Republic of Kosovo*” (see case KO98/11, Applicant Government of the Republic of Kosovo, Judgment of 20 September 2011, paragraphs 58 and 59). What deputies consider to be in the best interest of the Republic of Kosovo in terms of politics and public policies, is entirely at the discretion of the deputies of the Assembly. As long as the Constitution is respected, any solution of the elected and, at the same time, representatives of the people, must be respected. Deputies are not bound by any obligatory mandate (see, case KO72/20, cited above, paragraph 357).
182. The Court, returning to the constitutional regulation of the Republic of Kosovo, recalls that Article 67 [Election of the President and Deputy Presidents] of the Constitution does not specify the manner of voting for the President and Deputy Presidents of the Assembly, namely it does not determine whether the voting should be secret or open. Such a determination is not specified either in Chapter IV of the Rules of Procedure of the Assembly, the provisions of which determine the procedure of the constitutive session of the Assembly. Based on the documents forwarded by the Secretariat of the Assembly, the Court notes that the commencement of the voting process for the election of the President of the Assembly, IX Legislature, was done according to previous parliamentary practices.
183. As it follows from the case file, after 29 April 2025, in which session the candidate from the largest parliamentary group for President of the Assembly was proposed for the last time and did not manage to obtain the required majority by open voting, the Chairperson of the Constitutive Session proceeded with a proposal to change the method of voting. This proposal, at the session of 1 May 2025, was justified by the Chairperson with the unblocking of the procedure for the election of the President of the Assembly. The Court further notes that on these three (3) separate dates (1, 3 and 5 May 2025), the Assembly not only failed to elect the President of the Assembly, but also failed in establishing the proposed Committee for leading the secret ballot process, and despite the fact that it was established that at these three “*sessions*” the following deputies were present: 110 (one hundred and ten) deputies at the session of 1 May, where 55 (fifty-five) deputies voted in favor, 1 (one) deputy against and no abstention; 106 (one hundred and six) deputies, at the session of 3 May, where 54 (fifty-four) deputies voted in favor, 1 (one) against and no abstention; and (one hundred and eleven) deputies present at the session of 5 May, where 56 (fifty-six) deputies voted in favor, 1 (one) against and no abstention. Following this, the Court explains that 5 May 2025, the date of the holding of the Constitutive Session, is the last date for which the Court is in possession of the case file, since the Referral submitted by the Applicants was registered with the Court on 12 May 2025.
184. The Court again recalls Article 67, paragraph 2 of the Constitution, which provides that: “*The President of the Assembly is proposed by the largest parliamentary group and is*

elected by a majority vote of all deputies of the Assembly.” Following this, the Court has already emphasized that the right to propose the candidate for President of the Assembly by the largest parliamentary group is conditioned by obtaining a majority of votes of all deputies that the proposed candidate must receive in order to be elected President of the Assembly.

185. Consequently, this constitutional criterion, which has conditioned the right of proposal with the obligation to secure the necessary number of votes for the President of the Assembly, requires good faith cooperation from the elected deputies to find the necessary compromise or consensus for all matters arising or which may arise, including the election of the candidate for President of the Assembly, or the manner of voting, during the formation of constitutional bodies after free elections, yet always within the requirements and limits set by the Constitution of the Republic of Kosovo and the Rules of Procedure of the Assembly.
186. Based on the above elaboration, the Court has found that: (i) the Constitutive Session of the Assembly, within the meaning of paragraph 1 of Article 66 [Election and Mandate] of the Constitution, is a constitutional act that must be successfully completed within thirty (30) days from the date of the official announcement of the election results, through the fulfillment of all essential elements of the constitution, which after the oath taking of the deputies must be finalized with the election of the President and Deputy Presidents pursuant to paragraphs 1, 2, 3 and 4 of Article 67 of the Constitution; (ii) it is the right and duty of all deputies of the Assembly to find the way to elect the President and Deputy Presidents of the Assembly, in accordance with the provisions of the Constitution and the procedural rules further specified by the Rules of the Assembly, so that the Assembly of the Republic of Kosovo, as a representative, legislative, and oversight body, is fully functional in exercising its constitutional mandate; (iii) in the Constitutive Session, all elected deputies must be present and vote according to their free will, voting “*in favor*”, “*against*” or “*to abstain*”. Following these findings, the Court has specified that the constitution of the Assembly must be accomplished as soon as possible and no later than 30 (thirty) days from the date of entry into force of the Judgment of the Court.
187. Therefore, the Court, based on the above assessment and findings, considers that the conduct and completion of the Constitutive Session must be guided in accordance with the constitutional provisions for the constitution of the Assembly, Chapter IV (Inaugural session of the Assembly) of the Rules of the Assembly, and the previous parliamentary practices for the constitution of the Assembly of the Republic of Kosovo.

Conclusion

188. The Court reiterates that the structure of constitutional norms, and especially those related to the establishment of state institutions stemming from the people's vote, must be interpreted in such a way as to implement and not to block the establishment and effective exercise of their functions. Thus, all actions taken by elected members of the Assembly must comply with the Constitution and its spirit and contribute to the orderly conduct and coordination of affairs of public interest for the state, enabling it to develop and implement the values and principles it is built upon
189. The Court held that the Constitutive Session that began on 15 April 2025, as a result of the failure to elect the President and Deputy Presidents of the Assembly, has not been concluded. Consequently, the Court assessed that the Constitutive Session of the Assembly, within the meaning of paragraph 1 of Article 66 [Election and Mandate] of the Constitution,

is a constitutional act that must be successfully completed within thirty (30) days from the date of the official announcement of the election results, through the fulfillment of all essential elements of the constitution, which, after the taking oath of the deputies, must be finalized with the election of the President and Deputy Presidents in accordance with paragraphs 1, 2, 3 and 4 of Article 67 [Election of the President and Deputy Presidents] of the Constitution.

190. In this regard, the Court based its assessment on the fact that: (i) the mandate of the deputy and the mandate of the Assembly are interrelated, as the deputies represent the sovereign, but this representation cannot be implemented in an institutional aspect without the constitution of the Assembly; (ii) the election of the President and Deputy Presidents of the Assembly is a precondition for the Assembly to begin functioning and this requires all deputies to be present and vote for the constitution of the Assembly so that the latter can begin functioning as a legislative, decision-making and oversight body as soon as possible; (iii) the right to propose the President of the Assembly, reserved for the largest parliamentary group, was established through the Judgment in case KO119/14; (iv) the proposal of the candidate for President of the Assembly is directly linked to obtaining the majority of votes of all deputies of the Assembly, and as such this right to propose the candidate for President of the Assembly constitutes at the same time an obligation for the largest parliamentary group to cooperate in good faith and consult constructively with other parliamentary groups to find the necessary consensus or compromise. This right cannot in any way result in blocking the constitution of the Assembly and that the obligation for constructive cooperation in good faith that stems from Article 67 [Election of the President and Deputy Presidents] of the Constitution itself is at the same time closely linked to the obligation set out in Article 74 [Exercise of Function] of the Constitution, according to which deputies of the Assembly shall exercise their function in the best interest of the Republic of Kosovo in accordance with the Constitution, laws and the Rules of Procedure of the Assembly; (v) such an obligation also applies to other parliamentary groups which, in the spirit of cooperation and constructive consultations, propose candidates for Deputy Presidents of the Assembly, who, based on paragraphs 3 and 4 of Article 67 [Election of the President and Deputy Presidents] of the Constitution, are also elected by a majority of votes of all deputies; and (vi) it is the right and duty of all deputies of the Assembly to find a way to elect the President and Deputy Presidents of the Assembly, in accordance with the provisions of the Constitution, procedural rules specified in Chapter IV of the Rules of the Assembly and previous parliamentary practices for the constitution of the Assembly of the Republic of Kosovo.
191. Therefore, the elected deputies of the Assembly of the Republic of Kosovo pursuant to paragraph 1 of Article 66 [Election and Mandate], in conjunction with paragraphs 1, 2, 3 and 4 of Article 67 [Election of the President and Deputy Presidents] as well as Articles 70 [Mandate of the Deputies] and 74 [Exercise of Function] of the Constitution, in accordance with Chapter IV [Inaugural Session of the Assembly] of the Rules of the Assembly and the previous parliamentary practices of the constitution of the Assembly, as well as the findings made in this Judgment, are obliged, no later than thirty (30) days from the entry into force of this Judgment, to fulfill the constitutional obligation of constituting the Assembly of the Republic of Kosovo by electing its President and Deputy Presidents.

Regarding the request for interim measure

192. The Court recalls that the Applicants have also requested the Court to render decision on imposition of an interim measure, thereby suspending “*the irreparable damage to the*

image of the Assembly of Kosovo in case of continuation of the constitutive sessions with an agenda determined in an unconstitutional manner and the damage to the image of the State of Kosovo in the country and abroad in case of continuation of unconstitutional sessions as above.”

193. In this context, considering that the Court has already decided on the referral of the applicants, the Court emphasizes that it is unnecessary to further examine the request for interim measure (see, Court’s case KI207/19, applicants *The Social Democratic Initiative, New Kosovo Alliance and the Justice Party*, Judgment of 10 December 2020, paragraph 237; and see also case KO93/21, cited above, paragraph 368).

FOR THESE REASONS

The Constitutional Court, in accordance with paragraph 5 of Article 113 of the Constitution, Article 20 of the Law and Rules 48 (1) (a) and 72 of the Rules of Procedure, in its session held on 26 June 2025:

DECIDES

- I. TO DECLARE, unanimously, the Referral admissible;
- II. TO HOLD, unanimously, that:
 1. The session for the constitution of the Assembly of the Republic of Kosovo, which began on 15 April 2025, has not been concluded and, as a result of the failure to elect the President and Deputy-Presidents of the Assembly of the Republic of Kosovo, it has not been conducted in accordance with the provisions and requirements of paragraph 1 of Article 66 [Election and Mandate] of the Constitution of the Republic of Kosovo;
 2. The elected Deputies of the Assembly of the Republic of Kosovo, in applying paragraph 1 of Article 66 [Election and Mandate] in conjunction with Article 67 [Election of the President and Deputy-Presidents], Article 70 [Mandate of Deputies] and 74 [Exercise of Function] of the Constitution of the Republic of Kosovo, Chapter IV of the Rules of Procedure of the Assembly of the Republic of Kosovo and in accordance with this Judgment must as soon as possible and no later than thirty (30) days conclude the constitutive session of the Assembly by electing the President and its Deputy-Presidents;
- III. TO REJECT, unanimously, the request for interim measure;
- IV. TO NOTIFY this Judgment to the parties;
- V. TO PUBLISH this Judgment in the Official Gazette of the Republic of Kosovo, in accordance with paragraph 4 of Article 20 (Decisions) of the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo;
- VI. TO HOLD that this Judgment enters into force immediately.

Judge Rapporteur

President of the Constitutional Court

Remzije Istrefi - Peci

Nexhmi Rexhepi

This translation is unofficial and serves for informational purposes only.