



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

Prishtina, on 18 August 2025
Ref. no.: AGJ 2758/25

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JUDGMENT

in

cases no. KO193/25 and KO196/25

Applicant

KO193/25, Memli Krasniqi and 12 (twelve) other deputies of the Assembly of the Republic of Kosovo;

KO196/25, Hykmete Bajrami and 10 (ten) other deputies of the Assembly of the Republic of Kosovo

Constitutional review of

“Decision of the Assembly on the voting of the Committee for secret ballot, within the framework of the continuation of the constitutive session of the IX Legislature of the Assembly, held according to the transcript of 29 June 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

Applicants

1. Referral KO193/25 was submitted by Memli Krasniqi, Vlora Çitaku, Abelard Tahiri, Arbnore Salihu, Sala Jashari, Përparim Gruda, Eliza Hoxha, Blerta Deliu-Kodra, Elmi Reçica, Rrahman Rama, Jakup Nura, Rashit Qalaj and Ganimete Musliu, deputies of the Assembly of the Republic of Kosovo (hereinafter: the Assembly), from Partia Demokratike

e Kosovës (the Democratic Party of Kosovo) (hereinafter: PDK), represented by Faton Fetahu, lawyer in the Municipality of Prishtina (hereinafter: the Applicants).

2. Referral KO196/25 was submitted by Hykmete Bajrami, Avdullah Hoti, Kujtim Shala, Fadil Hadergjonaj, Alban Zogaj, Krenar Xhaferi, Paris Guri, Lumir Abdixhiku, Jehona Lushaku, Arjeta Abazi and Armend Zemaj, deputies of the Assembly, from Lidhja Demokratike e Kosovës (the Democratic League of Kosovo) (hereinafter: LDK), represented by the deputy Hykmete Bajrami.

Contested act

3. The Applicants KO193/25 and KO196/25 challenge the constitutionality of the *“Decision of the Assembly on the voting of the Committee for secret ballot, within the framework of the continuation of the constitutive session of the IX Legislature of the Assembly, held according to the transcript of 29 June 2025.”*

Subject matter

4. The subject matter of referrals KO193/25 and KO196/25 is the constitutional review of the *“Decision of the Assembly on the voting of the Committee for secret ballot, within the framework of the continuation of the constitutive session of the IX Legislature of the Assembly, held according to the transcript of 29 June 2025”*, which according to the Applicants’ allegations is not compatible with Articles 65 [Competencies of the Assembly], 67 [Election of the President and Deputy Presidents], 74 [Exercise of Function] and 76 [Rules of Procedure] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution).

Legal basis

5. The referrals are based on paragraph 5 of Article 113 [Jurisdiction and Authorized Parties] and paragraph 2 of Article 116 [Effect of Decisions] of the Constitution, Articles 22 (Processing Referrals), 27 (Interims Measures), 42 (Accuracy of the Referral) and 43 (Deadlines) of 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) 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 3 July 2025, the Applicants of KO193/25 submitted their Referral to the Court, while on 4 July 2025, the Applicants of KO196/25 submitted their Referral to the Court.
7. On 7 July 2025, the President of the Court, by Decision [No. GJR. KO193/25] appointed Judge Bajram Ljatifi as Judge Rapporteur and by Decision [No. KSH. KO193/25] the Review Panel composed of Judges: Nexhmi Rexhepi (Presiding), Radomir Laban and Enver Peci (members).
8. On the same day, the President of the Court, pursuant to paragraph 3 of Rule 32 [Joinder and Severance of Referrals] of the Rules of Procedure, by Order [Order KO193/25 and KO196/25], ordered the joinder of Referral KO196/25 with Referral KO193/25. Based on

paragraph 4 of the aforementioned Rule, for the joined referrals, the Judge Rapporteur and the composition of the Review Panel remain the same as appointed for the first Referral, namely Referral KO193/25.

9. On 9 July 2025, the Court, about the registration of the Referrals and the Order for their joinder, notified: (i) the Applicants; (ii) the President of the Republic of Kosovo (hereinafter: the President); and (iii) the Deputy Secretary General of the Assembly of the Republic of Kosovo (hereinafter: the Deputy Secretary General of the Assembly), who was requested to serve a copy of the Referral to all deputies of the Assembly and to submit to the Court all relevant documents related to the subject matter of the contested case, no later than 11 July 2025. Through the aforementioned letters, the President and the Deputy Secretary General of the Assembly were notified that the President and the Deputies of the Assembly may submit their comments regarding the Referral of the Applicants, if any, until 11 July 2025.
10. On 11 July 2025, the Deputy Secretary General of the Assembly submitted the following documentation to the Court:
 - (i) Invitation of the President of the Assembly of the VIII Legislature for the joint meeting with the presidents of political entities on 8 April 2025;
 - (ii) Transcript from the joint meeting with the presidents of political entities of 8 April 2025; and
 - (iii) Transcript of the Constitutive Session of the Assembly, commenced on 15 April 2025, continued on 17,19,21,23,25,27,29 April 2025 and 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 May 2025 and 2,4,5,7,9,11,13,15,17,19,21,23,25,27, 29 June 2025 and 1,3,5,7 and 9 July 2025.
11. On the same day, the deputy Saranda Bogujevci, on behalf of Lëvizja Vetëvendosje! requested an extension of the deadline for submitting comments until 12 July 2025.
12. On the same day, the Court approved the request of the deputy Saranda Bogujevci from Lëvizja Vetëvendosje!, notifying her that the comments should be submitted by 12 July 2025.
13. On 12 July 2025, the deputy Saranda Bogujevci from Lëvizja Vetëvendosje! submitted comments regarding Referrals KO193/25 and KO196/25.
14. On 14 July 2025, the Court requested the Deputy Secretary General of the Assembly, to submit to the Court by 15 July 2025, the minutes of the sessions of the constitution of the Assembly, where the vote was taken for the election of the President and Deputy Presidents of the Assembly, of all legislatures of the Assembly from 2008 onwards.
15. On the same day, the Deputy Secretary General of the Assembly submitted the following documents to the Court:
 - (i) Transcript of the Constitutive Session of the Assembly, held on 4 and 9 January 2008;
 - (ii) Transcript of the Constitutive Session of the Assembly, held on 21 February 2011;
 - (iii) Transcript of the Constitutive Session of the Assembly, held on 17 July, 18 September and 8 December 2014;

- (iv) Transcript of the Constitutive Session of the Assembly held on 3, 4, 10, 14, 24 August and 7 September 2017;
 - (v) Transcript of the Constitutive Session of the Assembly, held on 26 December 2019; and
 - (vi) Transcript of the Constitutive Session of the Assembly, held on 22 March 2021.
16. On 15 July 2025, the Court notified the Applicants KO193/25 and KO196/25 about the comments submitted by the deputy Saranda Bogujevci from Lëvizja Vetevendosje!.
 17. On 24 July 2025, the Court, unanimously, decided (i) to impose *ex officio* the interim measure prohibiting any decision and action of the elected deputies of the Assembly regarding the Constitutive Session after the expiry of the thirty (30) day period, as established in paragraph 2 of point II of the enacting clause of Judgment KO124/25; (ii) to order that the interim measure shall enter into force on 27 July 2025, for a period until 8 August 2025; (iii) to notify this Decision to the parties; (iv) to publish this Decision in the Official Gazette, in accordance with Article 20.4 of the Law; and that (v) the decision shall enter into force on 27 July 2025.
 18. On 7 August 2025, Judge Radomir Laban requested recusal from the decision-making in cases KO193/25 and KO196/25 as well as KO215/25. On the same date, the Court, unanimously rejected the request for recusal of Judge Radomir Laban.
 19. On 7 August 2025, the Court considered the report of the Judge Rapporteur and unanimously recommended to the Court the admissibility of the Referral. On the same day, the Court decided (i) to hold, unanimously, that the elected deputies of the Assembly have not implemented the Judgment of 26 June 2025 of the Court in the case KO124/25, and consequently all sessions held from 27 June to 26 July 2025 are declared null and void;; (ii) to hold, unanimously, that the Chairperson of the Constitutive Session of the Assembly has not complied with the Judgment of the Constitutional Court of the Republic of Kosovo in case KO124/25 of 26 June 2025, and consequently his actions are incompatible with paragraph 1 of Article 116 [Legal Effect of Decisions] of the Constitution of the Republic of Kosovo; (iii) to order, by six (6) votes for and one (1) against, the Chairperson of the Constitutive Session of the Assembly to continue with item 3 of the agenda of the Constitutive Session, approved on 8 April 2025, and in accordance with paragraph 2 of Article 67 [Election of the President and Deputy Presidents] of the Constitution of the Republic of Kosovo, to call the representative of the largest parliamentary group to propose the candidate for the President of the Assembly, who is elected by open ballot which can be carried out only up to 3 (three) times for the same candidate; (iv) to order, unanimously, all elected deputies of the Assembly, in accordance with Article 4 [Form of Government and Separation of Powers], Article 7 [Values] and Article 74 [Exercise of Function] of the Constitution of the Republic of Kosovo, during the procedure for electing the President and Deputy Presidents of the Assembly, to be present and vote; (v) to order, by six (6) votes for and one (1) against, the elected deputies of the Assembly, in accordance with paragraphs 2, 3 and 4 of Article 67 [Election of the President and Deputy Presidents] of the Constitution, to elect the President and its Deputy Presidents of the Assembly pursuant to items 3 and 4 of the agenda of the Constitutive Session within 30 (thirty) days of the date of entry into force of this Judgment; (vi) to extend, unanimously, the interim measure imposed on 24 July 2025 until this Judgment enters into force; (vii) to notify this Judgment to the Parties; (viii) 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; and (ix) to hold that this

Judgment enters into force on the day of its publication by the Court and of the notification to the parties.

Summary of facts

20. The Court initially emphasizes that the Applicants' referrals in the current cases are related to referral KO124/25, submitted to the Court by Time Kadrijaj and 10 (ten) other deputies of the Assembly.
21. In addition, and to the extent relevant to the circumstances of the present referrals, the Court will briefly reflect a short summary of the facts relating to referral KO124/25.

Summary of facts pertaining to referral KO124/25

22. On 15 April 2025, on the 19th day following the certification of the election results by the Central Election Commission (hereinafter: CEC), the Assembly, by Decision [no. 01/794-2025] of 27 March 2025, held the first Session for the constitution of the Assembly, chaired by the Chairperson, according to the agenda that stipulated: (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. After the establishment of the Temporary Committee for Verification of the Quorum and Mandates of the Deputies, 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 52 (fifty-two) deputies voted in favor, 46 (forty-six) against and 11 (eleven) abstained. As a result, on 17 April 2025, the session was adjourned to continue within 48 (forty-eight) hours because consensus was not been reached in the consultative meeting. On 19 April 2025, the Constitutive Session continued, at which (i) after 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; (ii) 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; and (iii) all deputies took their oath. On the same day, following the request of the Chairperson to Lëvizja Vetëvendosje! to propose the candidate for President of the Assembly, whereupon the latter proposed Deputy Albulena Haxhiu, a proposal which did not pass during the voting held that day and in the constitutive sessions on 21, 23, 25, 27 and 29 April 2025. From 1 May 2025 until the publication of the Judgment in case KO124/25, the Assembly continued to hold continuous constitutive sessions for constitution, during which the Chairperson requested political parties to propose 1 (one) member each for the Secret Ballot Committee, a proposal which did not obtain the necessary votes, resulting in the non-constitution of the Assembly.
23. On 26 June 2025, the Court, through the Judgment in case KO124/25, with the Applicant Time Kadrijaj and 10 (ten) other deputies of the Assembly, Constitutional Review of 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, held on 15, 17, 19, 21, 23, 25, 27, 29 April, 1, 3 and 5 May”*, found that:

- (i) the Session for the Constitution of the Assembly, 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, 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
- (ii) the elected Deputies of the Assembly, 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 30 (thirty) days conclude the constitutive session of the Assembly by electing the President and its Deputy-Presidents.

Summary of facts pertaining to referrals KO193/25 and KO196/25

- 24. On 27 June 2025, the Constitutive Session of the Assembly continued, where 100 (one hundred) deputies were present. The Chairperson, after consulting with representatives of political entities, notified the deputies that, taking into account the Judgment of the Court in case KO124/25, they agreed that the session should be interrupted until the meeting with political leaders invited by the largest political entity is completed and that the Constitutive Session of the Assembly should continue on 29 June 2025, at 11:00 hrs.
- 25. On 29 June 2025, the Constitutive Session of the Assembly continued, where 95 (ninety-five) deputies were present. The Chairperson asked the political parties to propose 1 (one) member each for the Committee for Secret Ballot, a proposal which after being put to the vote received 53 (fifty-three) votes in favor, none against and no abstentions. The Chairperson interrupted the session and notified the deputies about the continuation of the session on 1 July 2025, at 11:00 hrs.
- 26. The Constitutive Session continued on 1 July 2025, whereupon, after the Chairperson ascertained that there are 100 (one hundred) deputies present, he again requested the political parties to propose members for the Committee on Secret Ballot, a proposal which after the voting received 51 (fifty-one) votes in favor, none against and no abstentions. The Chairperson interrupted the session and informed the deputies about the continuation of the session on 3 July 2025, at 11:00 hrs.
- 27. On 3 July 2025, the Constitutive Session of the Assembly continued, where 99 (ninety-nine) deputies were present. The Chairperson asked the political parties to propose 1 (one) member each for the Committee on Secret Ballot, a proposal which after being put to the vote received 54 (fifty-four) votes in favor, none against and no abstentions. The Chairperson interrupted the session and notified the deputies about the continuation of the session on 5 July 2025, at 11:00 hrs.
- 28. Following the publication of the Court's Judgment in case KO124/25, the Assembly continued to hold sessions for the constitution of the Assembly on 27 June, 29 June, 1 July, 3 July, 5 July, 7 July, 9 July, 11 July, 13 July, 15 July, 17 July, 19 July, 21 July and 23 July 2025, during which the elected members of the Assembly did not conclude the constitutive session of the Assembly to elect the President and its Vice-Presidents.

29. On 22 July 2025, the President of the Republic of Kosovo filed with the Court the request for “*assessment of the conflict between constitutional competences under Article 113 (3)(1) of the Constitution of the Republic of Kosovo*”, registered with the Court under number KO215/25.
30. On 24 July 2025, the Court, unanimously, decided (i) to impose *ex officio*, the interim measure prohibiting any decision and action of the elected deputies of the Assembly with respect to the Constitutive Session after the expiry of the 30 (thirty) day period, as set out in paragraph 2 of point II of the enacting clause of Judgment KO124/25; (ii) to order that the interim measure shall enter into force on 27 July 2025 for the duration until 8 August 2025; (iii) to notify this Decision to the parties; (iv) this Decision in the Official Gazette, in accordance with Article 20.4 of the Law; and that (v) this Decision enters into force on 27 July 2025.
31. On 25 and 26 July 2025, the Assembly continued to hold sessions for the constitution of the Assembly, during which the elected deputies of the Assembly did not conclude the constitutive session of the Assembly to elect the President and its deputy presidents.

Applicants’ allegations

32. The Applicants KO193/25 and KO196/25 claim that: “*The decision of the Assembly for the voting of the Committee for secret ballot, in the framework of the continuation of the constitutive session of the IX Legislature of the Assembly, held according to the transcript of 29 June 2025*” was issued contrary to Articles 65 [Competencies of the Assembly], 67 [Election of the President and Deputy Presidents], 74 [Exercise of Function] and 76 [Rules of Procedure] of the Constitution.
33. In what follows, the Court will initially reflect the Applicants’ allegations of referral KO193/25 and then will proceed to summarize the Applicants’ allegations of referral KO196/25.

(i) Applicants’ allegations of referral KO193/25

34. The Applicants of referral KO193/25 emphasize that the constitutive sessions of 29 June 2025 as well as of 1 and 3 July 2025, in which the proposal of the members for the Committee for Secret Ballot for the election of the President of the Assembly was requested, were not conducted in accordance with the Judgment of the Court in case KO124/25, resulting in a violation of the findings and express instructions provided through the Judgment.
35. In this regard, the Applicants of referral KO193/25 add that the issue of the Committee on Secret Ballot has been treated exhaustively and that the Court: “*in the context of the examination of the referral found that:*

- The agenda of the constitutive session is unchangeable and cannot be changed after the beginning of the constitutive session;*
- *that no one has the right to decide secret ballot without a constitutional basis;*
- *The agenda of the constitutive session is set in par. 4 of Article 8 of the Rules of Procedure of the Assembly and constitutes the main and only content of the constitutive session, which must be meticulously adhered to by the Chairperson of the constitutive session;*

-The Constitution does not specify the method of voting for the election of the President of the Assembly;”

36. Further, the Applicants of referral KO193/25 claim that the procedural motions are not applicable to the constitutive session but only to the ordinary plenary sessions. According to the Applicants, *“failure to submit to ordinary parliamentary procedures: ”means the legal impossibility for the agenda of this session to be supplemented/changed, since as prescribed in par. 178 of the relevant judgment, the issue of the manner of voting in the constitutive session, namely whether it should be open or secret, is not specified either by the constitutional provisions or in Chapter IV of the Rules of Procedure of the Assembly.”*
37. In this regard, the Applicants add that: *“Consequently, the Court has clearly and accurately ascertained that the provisions governing the holding of the constitutive session do not contain any reference to Article 53 (amendment of the agenda), Article 57 (procedural motions) and Article 122 (interpretation of the Rules of Procedure of the Assembly) of the Rules of Procedure of the Assembly, thus assessing that the subject, purpose and scope of these three (3) articles of the Rules of Procedure of the Assembly regulate other matters of parliamentary life and the same cannot be applied for the purposes of the procedure of the constitutive session, in the absence of determining/referring to the same Chapter IV of the Rules of the Assembly.”*
38. The Applicants emphasize that, through the Judgment in case KO124/25, the Court has referred to the election of the President and judges of the Constitutional Court, as cases in which the manner of secret ballot is applied. In this regard, the Applicants of referral KO193/25 claim that the manner of secret ballot for the election of the President of the Assembly is not provided in the Constitution at all and that *“[...], it is no coincidence that the election of the President of the Assembly based on the previous practice was done only through open voting, since Article 67.2 of the Constitution does not contain any such constitutional condition – for the proposal of two or more candidates, but is limited only to the proposal of the candidate for President of the Assembly by the largest parliamentary group.”* According to the Applicants of this referral, *“the fact that the Constitution does not specify a secret manner to elect the President of the Assembly and above all the fact that Chapter IV of the Rules of Procedure of the Assembly – as the only legal basis on which the voting process is organized in this body - does not also specify such a manner of voting - the election of the President of the Assembly should be done taking into account only the previous practices of constituting the Assembly.”*
39. Further, the Applicants KO193/25 claim that the challenged decision is unconstitutional, as a result of the violation of the provisions set forth in the Judgment of the Court in case KO124/25, because, within the meaning of paragraph 6 of Article 65 [Competencies of the Assembly] of the Constitution, it has made it impossible for the Assembly to exercise its competence to elect the President of the Assembly. Also, the Applicants claim that the challenged decision is contrary to paragraph 108 of the Judgment of the Court in case KO119/14.
40. In this regard, the Applicants KO193/25 claim that the *“conduct” and “conclusion” of the constitutive session was exclusively prevented as a result of the decision of the chairperson of the session, the **first**, to request from the political entities the proposals for members of the Committee for Secret Ballot, the **second**, to put to the vote, the **third**, to vote the Committee for Secret Ballot, and the **fourth**, to terminate the session arbitrarily, after failing to pass, respectively to not approve the procedure for secret ballot”*. The

Applicants consider that the above-mentioned actions of the Chairperson of the constitutive session are in complete inconsistency with the instructions of the Court and represent a deviation of the agenda, predetermined in advance and expressly in paragraph 4 of Article 8 of the Rules of Procedure of the Assembly.

41. Further, the Applicants claim that the voting procedure of the Committee for Secret Ballot by the deputies is contrary to Article 74 [Exercise of Function] of the Constitution on the grounds that the deputies who have voted on such a proposal, inconsistent with the agenda of the constitutive session, have not exercised their function in the best interest of the Republic of Kosovo and in accordance with the Constitution and the Rules of the Assembly. Moreover, according to the Applicants, *“the arbitrary action of the Chairperson of the session to terminate the continuation of the constitutive session, after the failure to establish the above-mentioned Committee, constitutes his unconstitutional act, because in this way he has prevented the deputies of the Assembly from exercising their function in the “best interest of the Republic of Kosovo and in accordance with the Constitution and the Rules of the Assembly”, an action which was clearly inconsistent with par. 4 of Article 8 of the Rules of the Assembly, as well as par. 155, 165, 178, 179, 182 and 187 of the relevant judgment.”*
42. The Applicants KO193/25 consider that, in the absence of a constitutional regulation of the voting method for the election of the President of the Assembly, the constitutive session should take place only on the basis of paragraph 4 of Article 8 of the Rules of Procedure of the Assembly, as well as on the basis of previous practices of the Assembly. In this regard, the Applicants add that the continuation of the constitutive session on 29 June and on 1 and 3 July 2025, continued incorrectly and the aforementioned constitutional violations were repeated in the same way.
43. The Applicants claim that *“the impossibility of the successful realization of the constitutive session, namely the election of the President and Deputy Presidents of the Assembly, is exclusively related to the misinterpretation and complete non-conception of the findings and instructions of the relevant judgment by the largest parliamentary group (in this case Lëvizja Vetevendosje) and the Chairperson of the constitutive session (who is also a deputy of this parliamentary group), who have turned the proposal of the secret ballot and/or the Committee for Secret Ballot, which would administer such a voting procedure into a tool for blocking the constitution of the Assembly.”*
44. In this regard, the Applicants KO193/25 point out that Article 67 [Election of the President and Deputy Presidents] of the Constitution has separately defined the process of electing the President from the process of electing the Deputy-Presidents. According to the Applicants, the largest parliamentary group is continuously blocking the constitution of the Assembly, claiming that the obligation to elect the President of the Assembly belongs to all deputies and not the largest parliamentary group. Regarding this, the Applicants claim that *“although par. 2 of Article 67 of the Constitution, has clearly defined two (2) indivisible elements regarding the election of the President of the Assembly (1. The right of the parliamentary group to propose the President of the Assembly; 2. The condition for the proposed candidate to be elected with the majority of the votes of all the deputies of the Assembly of Kosovo), in the circumstances of the present case, the largest parliamentary group, even after the publication of the relevant judgment, is acting in concerning and very serious disregard of the obligation it has “to cooperate in good faith and constructive consultation with other parliamentary groups, to find the necessary consensus or*

compromise, so that this right does not in way results in blocking the constitution of the Assembly”.

45. The Applicants KO193/25, referring to paragraphs 130, 185 and 190 of the Judgment of the Court in case KO124/25, emphasize that the Court’s findings are related to *“the obligation that only the largest parliamentary group has to ensure (through consensus and compromise with other parliamentary groups), the necessary majority of deputies to elect the President of the Assembly, so that this right does not continue to become a tool of blocking the constitution of the Assembly.”* The Applicants claim that the tendency of the largest parliamentary group to equate the process of electing the President with the process of electing the Deputy-Presidents is completely unfounded, contrary to the Constitution and the Rules of the Assembly, as well as the findings of the aforementioned Judgment of the Court, as according to the Applicants *“it has become clear without any doubt that the obligation for other parliamentary groups applies only in relation to the election of the Deputy-Presidents of the Assembly, whose election requires neither compromise nor consensus, but is limited only to cooperation and constructive consultations to propose and vote the candidates for deputy presidents, whose election cannot be blocked, because voting for their election is joint and not individual. [...]”*.
46. Consequently, the Applicants KO193/25 it necessary for the Court to provide an exhaustive and definitive clarification in relation to the clear obligations of the parliamentary groups for the election of the President and Deputy Presidents of the Assembly and to consider the 30-day deadline for the completion of the constitutive session of the Assembly, the Court, as a matter of urgency, assess the constitutionality of the contested decision and, on the other hand, ensure a reasonable deadline to constitute the Assembly no later than within the above deadline.
47. Finally, the Applicants KO193/25 request the Court (i) to declare the referral admissible; (ii) to declare that the Decision of the Assembly on the vote of the Committee on secret ballot, within the continuation of the constitutive session of the IX Legislature of the Assembly, held according to the transcript of 29 June 2025, is contrary to the Constitution; (iii) to declare the Decision of the Assembly on the termination of the constitutive session of the IX Legislature of the Assembly, held according to the Transcript of 29 June 2025, is contrary to the Constitution; (iv) to order the Assembly to continue the Constitutive Session (election of the President) until its successful and full implementation, only on the basis of the previous constitutive practices of the Assembly, through open voting; and (v) to find that the failure to elect the President of the Assembly and the Deputy Presidents of the Assembly does not cause the holding of new parliamentary elections.

(ii) Allegations of the applicants in referral KO196/25

48. The Applicants KO196/25 claim that the Chairperson of the Constitutive Session in the case of the Decision on the establishment of the Committee on Secret Ballot regarding the election of the President of the Assembly, at the session of 29 June 2025, and after the publication of the Judgment of the Court, has violated the constitutional provisions by not respecting the Judgment of the Court of 26 June 2025 in case KO124/25.
49. The Applicants regarding the proposal of the Chairperson specify that: *“Although such a proposal was rejected, not being approved, the Chairperson of the session, in an unconstitutional manner, violating the provisions of the constitution and acting contrary to the findings of the Judgment of the Constitutional Court, had interrupted the*

proceedings of the Assembly for the continuation of the constitutive session and postponed the session to 1 July 2025. Consequently, the proposal and vote for the Committee on Secret Ballot as well as the arbitrary interruption of the session by the Chairperson of the Session was contrary to Article 65 (6), Article 67 par.7 (2), Article 74 and Article 76 of the Constitution.”

50. According to the Applicants, the Judgment in case KO124/25 “in some points ascertained the manner of organizing the Constitutive Session, including the clarification that the agenda of the Constitutive Session cannot be changed, from the agenda determined from the beginning of the first session, as it was also determined explicitly in the Rules of Procedure of the Assembly.” Consequently, the Applicants argue that “the Constitutional Court has defined that the agenda is unchanged from the agenda set at the beginning of the constitutive session, the Chairperson of the Session has no right to act differently, even if there was a political will to change the items on the agenda. This is due to the fact that the political will enters into the function of reaching a political agreement for the establishment of institutions after the national elections, but in no case cannot interfere with the procedures defined by the constitutional provisions and the provisions of the Rules of Procedure of the Assembly, as long as they are in force. The political will in the future may be oriented towards amendments of the constitution and laws, as well as changes of the rules set forth by the Rules of Procedure of the Assembly, but in no way can such will be realized by violating parliamentary procedures while they are in force.”
51. In this regard, the Applicants emphasize that: “Any parliamentary entity that votes on the formation of the Committee for Secret Ballot would be a constitutional violation, consequently the democratic functioning of the institution with the highest representatives and legislators in our state would be endangered. Therefore, in this case, the Constitutional Court of the Republic of Kosovo should exhaust the review of this request and issue even more clarified conclusions by approving our referral with the points proposed in the enacting clause of the Judgment in this case, as it is clearly noted the tendency of the Chairperson of the Session and his political entity to try to misinterpret the findings of the Judgment of the Constitutional Court in this case.”
52. Subsequently, the Applicants argue that the Constitutional Court should also address the role of the Chairperson of the Session in cases when he has violated the Constitution of the Republic of Kosovo during the exercise of his/her mandate/role of leading the constitutive session, especially in the case when there is a Judgment of the Constitutional Court, which has given the necessary findings and instructions to respect the agenda of the constitutive session in accordance with the provisions of the Rules of Procedure of the Assembly. In this regard, they specify that “an opportunity should be created for the session to develop the works in accordance with the agenda of the constitutive session, giving the opportunity for the deputies to vote for the election of the President of the Assembly and the election of the Deputy Presidents of the Assembly, as two separate items of the agenda, paving the way for the establishment of the institutions after the parliamentary elections.”
53. Further, the Applicants consider that Article 53 (amendment of the agenda), Article 57 (procedural motions) and Article 122 (interpretation) of the Rules of Procedure of the Assembly cannot be applied in a constitutive session, but they are applied only in regular parliamentary sessions, because, according to them, “the agenda of the constitutive session is determined explicitly by the Rules of Procedure of the Assembly, as established by Article 8 paragraph 4 of the Rules of Procedure of the Assembly of the Republic of Kosovo.”

54. Following the elaboration of their allegations, the Applicants point out that: *"The conduct of the constitutive session was arbitrarily prevented as a result of the decision of the Chairperson of the session, firstly, to change the agenda of the constitutive session by requesting the political entities the proposals for members of the Committee on Secret Ballot, secondly, by casting a vote to vote for the Committee on Secret Ballot even without having proposals from the majority of political entities represented in the Assembly, and thirdly, to arbitrarily interrupt the session, after the failure to pass, respectively the non-approval of the procedure for voting in secret, preventing deputies from voting for the President of the Assembly."*
55. Consequently, the Applicants claim that the actions of the Chairperson of the Constitutive Session of the Assembly are in full contradiction with the constitutional provisions as well as with the instructions and findings of the Constitutional Court and furthermore represent a deviation of the agenda, predetermined in advance, according to paragraph 4 of Article 8 of the Rules of Procedure of the Assembly, which Rules according to them within the meaning of Article 76 of the Constitution, constitutes the highest act in which the internal organization and manner of work of the Assembly is defined.
56. The Applicants also argue that the interruption of the continuation of the Constitutional Session, after the failure of the establishment of the Committee on Secret Ballot, constitutes *"unconstitutional act, because in this way it has prevented the deputies of the Assembly from exercising their function "in the best interest of the Republic of Kosovo and in accordance with the Constitution and the Rules of the Assembly"*. Consequently, the Applicants claim that the actions of the Chairperson are contrary to paragraph 4 of Article 8 of the Rules of Procedure of the Assembly, as well as paragraphs 155, 165, 178, 179, 182 and 187 of the Judgment of the Court in case KO124/25.
57. Subsequently, the Applicants specify that Article 67 (Election of the President and Deputy Presidents) of the Constitution has clearly defined in a separate way the process of electing the President, from the process of electing deputy presidents, as well as the obligations of parliamentary groups in relation to their electoral process. According to them, paragraph 2 of Article 67 of the Constitution has clearly *"defined two (2) indivisible elements regarding the election of the President of the Assembly. 1. The right of the parliamentary group to propose the President of the Assembly; 2. The condition for the proposed candidate to be elected with the majority of the votes of all the deputies of the Assembly of Kosovo), in the circumstances of the present case, the largest parliamentary group, even after the publication of the relevant judgment, is acting in disregard of the Judgment of the Constitutional Court "for cooperation in good faith and constructive consultation with other parliamentary groups, in order to find the necessary consensus or compromise, so that this right does not in any way result in blocking the constitution of the Assembly"*.
58. In addition, the Applicants argue that: *"[...] the continued tendency of the largest parliamentary group to consider as the same political and procedural process of the process of electing the President, with the process of electing the Deputy Presidents of the Assembly, is completely unfounded, contrary to the Constitution and the Rules of Procedure of the Assembly. The President of the Assembly is a representative of the institution of the Assembly and the same when elected represents the Assembly, while the Deputy Presidents of the Assembly are political representatives of the largest parliamentary groups who address the positions of political groups in the bodies of the Assembly of the Republic and the same are elected by a joint vote as direct representatives of parliamentary groups."* In this sense, the Applicants consider that *"Article 67 of the*

Constitution has separated the process of electing the President from the process of electing the Deputy Presidents. Their proposal, their vote, and their election are separate, distinct, and unconditional. Therefore, as such, it is essential that the court clarifies, in order to avoid any tendency of the blocking policy which aims to merge into one item on the agenda of the election of the President and Deputy Presidents of the Assembly."

59. Further, and regarding paragraph 145 of the Judgment in case KO124/25, through which it is ascertained that the Constitutive Session of the Assembly, within the meaning of paragraph 1 of Article 66 of the Constitution, is a constitutional act that must be successfully fulfilled within 30 (thirty) days from the date of the official announcement of the election results, through the fulfillment of all essential elements of the constitution, including the election of the President according to paragraph 2 of Article 67 and the deputy presidents according to paragraphs 3 and 4 of Article 67 of the Constitution" the Applicants request from the Court to *"[...] clarify the circumstances when the Assembly does not achieve to be constituted within 30 days, what are the actions to be taken and what is the role of the other institutions, in the concrete case of the President of the Republic, as guarantor of the democratic functioning of the institutions."*
60. In the end, the Applicants reiterate that *"the decision of the Assembly of Kosovo to vote for the Committee on Secret Ballot, in the framework of the Constitutive Session of the IX Legislature of the Assembly, held according to the transcript of 29.06.2025, related to the change of the agenda of the Constitutive Session of the Assembly of the Republic of Kosovo, started on 15 April 2025,"* is contrary to point 6 of Article 65, point 2 of paragraph 7 of Article 67, Article 74 and Article 76 of the Constitution of the Republic of Kosovo.
61. Finally, the Applicants request the Court: (i) to declare the Referral admissible; (ii) to declare the *"Decision of the Assembly on the Voting of the Committee on Secret Ballot, in the framework of the continuation of the Constitutive Session of the IX Legislature of the Assembly, held according to the Transcript of 29 June 2025, contrary to Article 65, paragraph 6, Article 67, point 7 (2), Article 74 and Article 76 of the Constitution of the Republic of Kosovo"* (iii) to declare the *"Decision of to the Assembly for the termination of the constitutive session of the IX Legislature of the Assembly, held according to the Transcript of 29 June 2025, contrary to the Constitution of the Republic of Kosovo"*; and (iv) to order *"the Chairperson of the Constitutive Session to conduct the proceedings of the session in accordance with Article 65, paragraph 6, Article 67, paragraph 7 (2), Article 74 and Article 76 of the Constitution of the Republic of Kosovo as well as Article 8, paragraph 4 of the Rules of Procedure of the Assembly of the Republic of Kosovo, according to the proposal of the agenda at the beginning of the constitutive session, by open vote"*

The comments of the deputies of Lëvizja Vetëvendosje!

62. On 12 July 2025, the deputies of Lëvizja Vetëvendosje!, represented by the deputy Saranda Bogujevci, submitted to the Court the comments on the allegations of the Applicants KO193/25 and KO196/25 regarding the constitutional review of the *"Decision of the Assembly on the voting of the Committee for secret ballot, within the framework of the continuation of the constitutive session of the IX Legislature of the Assembly, held according to the transcript of 29 June 2025."*
63. Initially, the members of the Lëvizja Vetëvendosje! claim that the Applicants have misunderstood and misinterpreted the Judgment of the Court in case KO124/25. With this in mind, the deputies of Lëvizja Vetëvendosje! point out that *"Although the Constitutional*

Court in case no. KO124/25 found that the Constitutive Session constitutes a constitutional act, it did not rightly find as acts adopted by the Assembly "the Decision on Voting of the Committee on Secret Ballot in the framework of the continuation of the Constitutive Session of the IX Legislature, held according to the Transcript and embodied in the minutes of the continuation of the Constitutive Session". In the absence of acts adopted by the Assembly, even a decision of a negative nature rejecting the vote of the Committee for secret ballot, regardless of the written form or not, the Constitutional Court did not adjudicate the allegations of the Applicants in case no. KO124/25, because there was no act approved by the Assembly. We are not saying this necessarily to challenge the admissibility of these referrals, but to clarify to the end the decision-making process and procedure in the Assembly of Kosovo, including the fact that the Assembly, in the absence of a quorum, practically refusal of a part of the deputies sworn to participate in the vote, is failing to take any kind of decision. So, there is no written or unwritten decision on the establishment of the Committee for secret ballot, nor against it, there is no decision on the election of the President and Deputy Presidents of the Assembly by open ballot or by secret ballot. Nor is there a decision on non-election of the president. Only one of these decisions or some of them together would produce in the material sense a decision of the Assembly, with legal consequences and a clear subject for the eventual assessment of their constitutionality. On this issue, the Constitution clearly stipulates in Article 113, paragraph 5 that one of the conditions of admissibility of the request for review of the constitutionality is that the act must be approved by the Assembly. There is no such act for this process, therefore the activation of Article 113, paragraph 5 is not permissible at this stage."

64. Further, the deputies of Lëvizja Vetevendosje!, referring to paragraph 5 of Article 113 of the Constitution, add that, according to them, the Court has no right to interpret the opinions, attitudes and behavior of the deputies during the continuation of the constitutive session, but only of the formal acts voted in the Assembly. In this respect, the deputies of Lëvizja Vetevendosje!, underline that *"From the Applicants' referrals, the conviction is created that the Applicants are claiming for constitutional preventive control for a process from which no act has been adopted, because a part of the deputies present at the session have not fulfilled their constitutional obligation to participate in the vote, as established in Judgments KO119/14 and KO124/25."*
65. The deputies of Lëvizja Vetevendosje! emphasize that the Applicants have not clarified what is the contested act and what consequence they are preventing after the vote for the secret committee and the election of the President of the Assembly did not take place. According to the deputies of Lëvizja Vetëvendosje!, *"The Applicants have all the mechanisms and possibilities, i.e. the constitutional way of contesting, enabling the approval of the act of the Assembly in advance, either the vote of the committee or the election of the President of the Assembly, to then eventually request the constitutional review of the vote of the Committee or the election of the President of the Assembly either by procedure or by content."*
66. The deputies of Lëvizja Vetëvendosje! further consider that the Court by the Judgment in case KO124/25 has determined that the deputies should contribute to the constitution of the Assembly by being constructive with participation in the vote and cannot be exempted from this obligation. In this regard, the deputies of the Lëvizja Vetëvendosje! add that the Applicants do not participate in the vote and do not propose any way to go towards the constitution of the Assembly.

67. As to the allegations of the Applicants regarding the manner of voting, the deputies of Lëvizja Vetëvendosje! stress that *“The attempt of the Applicants to exclude the possibility of secret ballot as a voting method for the President of the Assembly is completely collapsed in the face of the two clear and uncontested findings of the Court in the judgment of case KO124/25. Firstly, the Court has noted that the Constitution not only does not provide for a secret vote for the President of the Assembly, but also does not provide for an open vote: “The Court emphasizes that the question of the manner of voting in the Constitutive Session, namely whether the same should be in an open or secret manner, has not been defined either by constitutional provisions or by Chapter IV of the Rules of the Assembly” (par. 178, emphasis added). According to the logic of the Applicants, therefore, should it be concluded that neither open voting nor secret voting is permissible, because both are “without constitutional basis”? Of course, not. Second, both judgments of the Court, in cases KO124/25 and KO119/14, reiterate several times that secret voting, as a method of voting, is acceptable not only for the election of the president and judges of the Constitutional Court, but also, expressly and specifically, for the constitution of the Assembly: “In the constitution of the Assembly, all deputies must be present and vote as they wish, openly or secretly” (KO124/25, par. 180, emphasis added, referring to the judgment of the Constitutional Court in case KO119/14, par. 128 Despite of the Applicants’ allegation, therefore, the Court has expressly found that secret ballot is an acceptable option in the constitution of the Assembly”.*
68. Also, the deputies of Lëvizja Vetëvendosje! emphasize that *“The purpose of the Court, obviously, was to ascertain that, while the Constitution is silent regarding the manner of voting in the constitution of the Assembly, then both manners, the open voting and secret voting, are acceptable and that choosing the right way is a matter for the discretion of the deputies themselves to decide. For this reason, the Court emphasizes that: “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” (KO124/25, par. 181, referring to the judgment of case KO72/20, par. 357, emphasis added).”*
69. Referring to paragraph 185 of the Judgment of the Court in case KO124/25, the deputies of Lëvizja Vetëvendosje! claim that secret voting is neither mandatory nor prohibited, but is permissible as a possible compromise between deputies, in order to constitute the Assembly.
70. In this regard, through the comments submitted to the Court, the deputies of Lëvizja Vetëvendosje! emphasize that the proposal of the chairperson to establish a secret ballot committee represents a sincere attempt to find the necessary “compromise or consensus” for the manner of voting, in order to elect the President of the Assembly as a necessary step for the constitution of the Assembly, in accordance with subparagraph 4.3 of paragraph 4 of Article 8 of the Rules of Procedure of the Assembly.
71. The deputies of Lëvizja Vetëvendosje!. require the Court: *“(1) to reiterate the findings of the judgments in cases KO124/25 and KO119/14, that secret voting for the President of the Assembly is not prohibited as a voting method and (2) to authorize the chairperson of the constitutive session, with the approval of the deputies, to take the decision to establish a committee for secret ballot, within the third item of the agenda, “Election of the President of the Assembly”.*

72. According to the deputies of Lëvizja Vetëvendosje!, the Chairperson of the constitutive session, based on the Judgments of the Court in cases KO119/14 and KO124/25, which emphasize the primary responsibility of the deputies to find ways to constitute the Assembly, as well as seeing that the proposal for President of the Assembly by the largest party in the Assembly did not receive enough votes, after 6 (six) attempts with open voting, has initiated the procedure for secret voting as an attempt to fulfill the constitutional obligation to constitute the Assembly.
73. Furthermore, the deputies of Lëvizja Vetëvendosje ! cite the Judgments of the Court in cases KO119/2014, KO29/11 and KO124/25, and related to them, they state that *“Judgment KO119/2014 states that it is the obligation of all deputies to be present and vote to constitute the Assembly. In the case KO29/11 the Court decided that: The deputies of the Assembly are representatives of the people...Moreover, regarding their obligation as deputies, Article 74 of the Constitution ensures that: deputies of the Assembly shall exercise their function in the best interest of the Republic of Kosovo and in accordance with the Constitution, laws and Rules of Procedure of the Assembly. Moreover, the Court recalls that voting in the Assembly can be done in different ways: by voting for, against, or abstaining from voting, by open or secret ballot, or in any other way. Therefore, the Constitutional Court requests that every opportunity to constitute the Assembly is tried, including the secret ballot. The same is repeated in Judgment No. KO124/25.”* According to the deputies of Lëvizja Vetëvendosje!, the Court through Judgment in case KO124/25 *“states that neither the Constitution nor the Rules of Procedure of the Assembly speak about the manner of voting”*, but that the Applicants mistakenly use this position as a prohibition of secret voting.
74. Pertaining the claim of the Applicants regarding the lack of a constitutional basis for secret voting and their referral in paragraph 178 of the Judgment of the Court in case KO124/25, the deputies of Lëvizja Vetëvendosje! point out that *“What paragraph 178 of Judgment KO124/25, read also in the light of the Judgment of the Constitutional Court KO119/14, affirms is that the form of voting for the President and Deputy Presidents of the Assembly is not determined by the Rules of Procedure of the Assembly, but the forms of voting for the same are defined and moreover are presented as mandatory for the deputies in order to constitute the Assembly through the Judgments of the Constitutional Court that have a normative and directly applicable effect in the legal order of the Republic of Kosovo. Both of these judgments of the Constitutional Court convey the same message to the deputies that they should therefore: vote - for, against or abstain, and that through open or secret voting they should constitute the Assembly.”*
75. In this respect, the deputies of Lëvizja Vetëvendosje! claim that (i) the proposal for voting of the Committee for secret ballot is a procedural action towards the constitution of the Assembly through the election of the President of the Assembly; (ii) the deputy has the obligation to stand in the hall, to vote according to his own conscience and free will by for, against or abstaining from voting by the Committee for secret ballot; and that (iii) the refusal of the deputy to stand in the hall or to vote blocks the constitution of the Assembly.
76. Furthermore, the deputies of Lëvizja Vetëvendosje!. object to the claims of the Applicants KO193/25 and KO196/25 regarding Articles 53, 57 and 122 of the Rules of Procedure of the Assembly in relation to Chapter IV (constitutive session), referring to the constitutional institutions whose election is subject to secret ballot. In this regard, the deputies of Lëvizja Vetëvendosje! point out that *“The Constitutional Court has clearly stated that the constitutive session has a special character. Consequently, the rules provided for in the*

Rules of Procedure of the Assembly are applied, including the "rules" established through the Constitutional Court, or more clearly, through its jurisprudence. Therefore, as the Constitutional Court affirms in KO119/14, repeated in KO124/25, the purpose of the constitutive session is the election of the President and deputy presidents, to enable the Assembly to exercise the functions of the legislative body. To do so, the deputies are obliged to vote for, against or abstain, and to elect the president by open or secret method, and cannot be exempted from doing so."

77. Further, the deputies of Lëvizja Vetëvendosje! consider that the fact that the Rules of Procedure of the Assembly is silent about the manner of voting for President and Deputy Presidents of the Assembly does not mean that it allows only one form of voting, *"especially when it is taken into account that any deviation from proving the secret ballot to constitute the Assembly would be clearly contrary to the practice of the Constitutional Court, its jurisprudence, and the obligatory and normative character of the judgments of this Court."*
78. Moreover, the deputies of Lëvizja Vetëvendosje! add that the Chairperson of the session acted in accordance with parliamentary and democratic practices of putting the secret ballot committee to the vote and that the passage to the secret ballot is not a deviation from the agenda, is not an arbitrary violation of the practice so far, is not unlawful and does not violate the primary goal of the Assembly's constitution. According to deputies of Lëvizja Vetëvendosje!, the change of circumstances implies a change of ways to achieve the same goal. Referring to the Judgment of the Court in case KO72/20, the deputies of Lëvizja Vetëvendosje! stress that *"The Court has expressly found that previous practices cannot be interpreted in such a way as to prevent the deputies from deciding differently from these practices, within their constitutional competences"* Therefore, the deputies of Lëvizja Vetëvendosje! claim that *"Although the option of secret ballot in the constitution of the Assembly has never been used to date, this in itself does not make it unconstitutional to use this option for the first time, especially considering that the Court "itself has recognized such an option as acceptable, as we have noted above. As in the case KO72/20, the secret ballot for the President of the Assembly, "as long as it is in the will of the Assembly and in the will of the majority of the people's elected representatives, is a legitimate request based on the Constitution"*
79. The deputies of Lëvizja Vetëvendosje!. emphasize that it remains to be seen whether the secret vote for the President of the Assembly is in the will of the majority of the elected ones, when there is a necessary quorum of deputies who vote "for", "against" or abstain. In this regard, the deputies of Lëvizja Vetëvendosje! add that the quorum is missing in the present case as a result of the non-participation of a group of deputies in the vote on the establishment of the committee for secret ballot, which they claim blocks the expression of the will of the majority and disregards *"openly the Court's request for "cooperation in good faith by elected deputies to find the necessary compromise or consensus on... the manner of voting" (KO124/25, par. 185, emphasis added)."*
80. Through the comments submitted to the Court, among other things, the deputies of Lëvizja Vetëvendosje! claim that the Applicants have practiced obstructive forms that affect the spirit and in special cases also articles of the Constitution. In this regard, the deputies of Lëvizja Vetëvendosje! consider that *"Although it is clear that the proposal for the President of the Assembly is given by the first winning party, they have proposed and continue to propose other concrete names for the President (Aleanca për Ardhmërinë e Kosovës). Several other deputies from the Applicants have set conditions on who or what should be*

the proposal of the first party for President, through discriminatory negative selection, excluding from the possibility for proposal all deputies who were part of the incumbent Government (Partia Demokratike e Kosovës). Meanwhile, group of Lidhja Demokratike e Kosovës has non-discriminatorily ruled out the possibility of voting on any proposal from Lëvizja Vetëvendosje. So, the representatives of the Applicants, in direct violation of Article 67, par. 2 of the Constitution, have taken unconstitutional actions, in order to block the election of the President of the Assembly.”

81. The deputies of Lëvizja Vetëvendosje! further add that even after the publication of the Judgment of the Court in case KO124/25, the Applicants continued to stay in the hall after the interruption of the session, take the floor even though no debate is foreseen in the constitutive session and propose for members of the committee for secret ballot the deputies from the ranks of the entity Lëvizja Vetëvendosje!, denying the right of the largest parliamentary group for the proposal of the candidate for President of the Assembly. On the other hand, the deputies of Lëvizja Vetëvendosje! consider all the actions of the Chairperson of the session and those of Lëvizja Vetëvendosje! *“are in accordance with the constitutional spirit, the jurisprudence of the Constitutional Court, democratic principles, the primary purpose of the constitution and the support of the secret ballot goes in this direction”*.
82. Regarding the allegation of the Applicants that the transition from open voting to secret voting represents a change of the agenda, the deputies of Lëvizja Vetëvendosje! claim that paragraph 4 of Article 8 of the Rules of Procedure of the Assembly does not specify as an item on the agenda the manner of voting for the President of the Assembly and deputy presidents of the Assembly. More specifically, the deputies of Lëvizja Vetëvendosje! add that *“The reference of the claimants to the articles of the Rules, such as Article 53 (Amendment of the agenda), Article 57 (Procedural motions), and Article 122 (Interpretation of the Rules of Procedure of the Assembly), is unfounded, because there was not and there is no proposal to change the agenda of the Constitutive Session. The session remained in the third item of the Agenda, which is “Election of the President of the Assembly” and this item includes voting as an action. No item on the agenda can be an item on the agenda if it is dependent on the realization of another item. The agenda item must have the object of self-fulfillment and clear elements that give it the character of the particular agenda item. Therefore, procedurally not only the proposal for a vote of the Committee does not constitute neither a procedural motion nor a supplement to the agenda, nor an interpretation of the Rules, consequently the “Voting of the Committee for Secret Ballot” does not meet the elements to be a particular item of the agenda. Moreover, in the parliamentary practice of the Assembly of Kosovo, whenever as an item on the agenda there has been the election of an institutional head or members of any other constitutional body, for whom an election by secret ballot is foreseen, the voting of the Secret Ballot Committee has never been an item on the preliminary agenda. This is because the election of the head or member of the constitutional body by secret ballot also implies the voting of the Voting Committee”*.
83. The deputies of Lëvizja Vetëvendosje! emphasize that *“in none of the constitutive sessions since 2001 has there been any document certifying that sometimes the form of voting open or closed is foreseen on the agenda and that in the scenario of the constitutive session there was any element providing for the preliminary vote on the form of voting.”* In this regard, the deputies of Lëvizja Vetëvendosje! add that secret ballot is a democratic right that does not constitute a change of procedure, a change of the agenda or a violation of the

course of the constitutive session and that the deputies who are against this form should express their will by voting against.

84. Also, the deputies of Lëvizja Vetëvendosje! emphasize that they oppose the allegation of the Applicants of referral KO193/25 regarding the obligation of only the largest parliamentary group for cooperation in good faith and constructive approach, pointing out that the Court through paragraph 130 of the Judgment in case KO124/25, in addition to the obligation for the largest parliamentary group, *"only two sentences below, it is emphasized that: "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" (par. 130, added emphasis). See, yes, the same words in pairs. 190 ("such an obligation also applies to other parliamentary groups")."*
85. Finally, the deputies of Lëvizja Vetëvendosje! emphasize that the obligation of all deputies of the Assembly to find a way to elect the President and deputy presidents of the Assembly *"is repeated at least six times in the judgments of 2014 and 2025: "It is the right and duty of all Members of Assembly to find a way to elect President and Deputy Presidents of the Assembly" (par. 126, 141, 143, 186 and 190, referring to the judgment of the Constitutional Court in case KO119/14, par. 127; emphasis added)."* In this direction, the deputies of Lëvizja Vetëvendosje! add that, unlike the Applicants, they do not try to avoid the obligation for cooperation in good faith, compromise and consensus and for constructive consultations, but they ask the Court to *"reiterate what it has repeated twice in the last judgment: "Such an obligation also applies to other parliamentary groups"*.

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 30 (thirty) days from the official announcement of the election results.*
- 2. Regular elections for the Assembly shall be held no later than 30 (thirty) 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 116 **[Legal Effect of Decisions]**

1. Decisions of the Constitutional Court are binding on the judiciary and all persons and institutions of the Republic of Kosovo.

2. While a proceeding is pending before the Constitutional Court, the Court may temporarily suspend the contested action or law until the Court renders a decision if the Court finds that application of the contested action or law would result in unrecoverable damages.

3. If not otherwise provided by the Constitutional Court decision, the repeal of the law or other act or action is effective on the day of the publication of the Court decision.

4. Decisions of the Constitutional Court are published in the Official Gazette

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.*

Assessment of the admissibility of the Referral

86. 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”*.
87. 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”.
88. 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”*.
89. 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;

(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.

90. The Court recalls that with respect to the Referral KO124/25, the Applicants have challenged *“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 contrary to 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. In the context of this Referral, the Court assessed that the essence of the Applicants’ allegations was the issue of the constitution of the Assembly after the certification of the election results, commenced on 15 April 2025, which had not been concluded as a result of the failure to elect the President and Deputy Presidents of the Assembly. In the context of the assessment of the admissibility of the Referral based on its jurisdiction defined by paragraph 5 of Article 113 of the Constitution, the Court found that the Referral was submitted by authorized parties and, considering that the above-mentioned “sessions” were aimed at constituting the Assembly, 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, it assessed and held that these constituted constitutional issues which should be subject to review and interpretation by the Constitutional Court, within the meaning of paragraph 1 of Article 66, paragraphs 2, 3 and 4 of Article 67, Articles 70 and 74 of the Constitution. Consequently, the Court considered that the Applicants’ Referral was admissible for review. Following its finding on the admissibility of the Referral, through its Judgment in case KO124/25, 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, must be successfully concluded within 30 (thirty) days from the date of the official announcement of the election results, through the completion of all essential elements of the constitution of the Assembly.
91. The Court through its Judgment in case KO124/25 held that: (i) *“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, 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 (ii) “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 the Deputies] and Article 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 30 (thirty) days, conclude the constitutive session of the Assembly by electing the President and its Deputy Presidents.” In the enacting clause of the Judgment in case KO124/25, of 26 June 2025, it was specified that it enters into force immediately.

92. Following the entry into force of the Judgment of the Court in case KO124/25 and until the submission of the Referrals by the Applicants, the Constitutive Session of the Assembly continued on 27 June 2025, 29 June 2025, 1 July 2025 and 3 July 2025. In the Constitutive Session of 29 June, 1 July and 3 July 2025, the Chairperson of the Constitutive Session requested from the political parties to propose 1 (one) deputy each for membership in the Committee for Secret Ballot. In the session of 29 June 2025, 95 (ninety-five) deputies were present; however, the proposal of the Chairperson of the Constitutive Session, after being put to a vote, received 53 (fifty-three) votes in favor, none against and no abstentions. In the session of 1 July 2025, 100 (one hundred) deputies were present; however, the proposal of the Chairperson, after being put to a vote, received 51 (fifty-one) votes in favor, none against and no abstentions. In the session of 3 July 2025, 99 (ninety-nine) deputies were present; however, the proposal of the Chairperson, after being put to a vote, received 54 (fifty-four) votes in favor, none against and no abstentions.
93. The Court recalls that the Applicants claim that the proposal of the Chairperson of the Constitutive Session to propose the members for the Committee for Secret Ballot for the election of the President of the Assembly, during the sessions of 29 June, 1 and 3 July 2025, is not in compliance with the Judgment of the Court in case KO124/25. Furthermore, the Applicants claim that “*The Decision of the Assembly on the voting of the Committee for Secret Ballot, within the framework of the continuation of the constitutive session of the IX Legislature of the Assembly, held according to the transcript of 29 June 2025*” was issued in contradiction with Articles 65 [Competencies of the Assembly], 67 [Election of the President and Deputy Presidents], 74 [Exercise of Function] and 76 [Rules of Procedure] of the Constitution.
94. However, as elaborated also in the part on the facts, from the date of submission of the Referrals, of 3 and 4 July 2025, respectively until 26 July 2025, on which date also expired the 30 (thirty) day deadline determined by item II, paragraph 2 of the Judgment in case KO124/25, on 5 July, 7 July, 9 July, 11 July, 13 July, 15 July, 17 July, 19 July, 21 July and 23 July 2025, sessions were held for the constitution of the Assembly, in which the Chairperson, with the purpose of establishing the Committee for Secret Ballot, again invited the representatives of the political entities to propose one deputy for membership in the Committee for Secret Ballot. On 24 July 2025, with the purpose of preventing irreparable damage and for reasons of public interest, the Court issued *ex officio* the Decision on interim measure, whereby it decided to prohibit any decision and action of the elected deputies after 26 July 2025.
95. In the framework of the assessment of the admissibility of the Referrals, the Court notes that Referral KO193/25 was submitted by 13 (thirteen) deputies, whereas Referral

KO196/25 was submitted by 11 (eleven) deputies, which is more than the minimum required by paragraph 5 of Article 113 of the Constitution and, consequently, considers that the criterion for the authorized party has been met.

96. In continuation, and in the context of the abovementioned allegations, which relate to the implementation of the Judgment of the Court in case KO124/25, the Court, taking into account the procedure carried out during the sessions for the constitution of the Assembly held after the entry into force of the Judgment in case KO124/25 until the expiry of the 30 (thirty) day deadline determined by item II, paragraph 2 of the same Judgment, finds that, both from the aspect of its findings regarding the assessment of the constitutional deadline for the constitution of the Assembly, the procedure of election of the President and Deputy Presidents, including the obligation set out in item II of its enacting clause, which resulted in the non-conclusion of the Constitutive Session of the Assembly, the Judgment of the Court has not been implemented.
97. Consequently, the Court, based on the elaboration as above, and the circumstances that even after the expiry of the 30 (thirty) day deadline, determined by item II, paragraph 2, of the enacting clause of the Judgment in case KO124/25, as a result of the failure to elect the President and Deputy Presidents of the Assembly, the Constitutive Session has not been concluded with all the essential elements for the constitution of the Assembly, finds that the Referrals of the Applicants are admissible and will consequently proceed with the review of the merits of the Referrals.

Merits of the Referral

I. Introduction

98. The Court initially reiterates that in case KO124/25, the subject matter of the Applicants' Referral was the assessment of (i) the issue related to the constitution of the Assembly and the deadline for its constitution, as well as (ii) the allegation of the Applicants regarding the "*amendment of the agenda of the Constitutive Session*" and the proposal of the Chairperson for the establishment of the "*Committee for Secret Ballot*".
99. The Court, in summary, recalls that through its Judgment in case KO124/25, of 26 June 2025, concerning the deadline for the constitution of the Assembly, it held that "*The Constitutive Session of the Assembly, within the meaning of paragraph 1 of Article 66 of the Constitution, is a constitutional act that must be successfully concluded within 30 (thirty) days from the date of the official announcement of the election results, through the completion of all essential elements of the constituting, including the election of the President pursuant to paragraph 2 of Article 67 and the Deputy Presidents in accordance with 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 tolerance of institutional deadlock, contrary to the functional nature of a democracy guided by the principles of democracy and the rule of law*" (see paragraph 145 of the Judgment). This finding of the Court was based, *inter alia*, on the fact that the provisions of paragraph 1 of Article 66 of the Constitution imply that holding the constitutive session within the 30 (thirty) day deadline is not a formal or indicative option, but a constitutional obligation closely related to the commencement of the mandate of the new legislature. According to the Court, the requirement from paragraph 1 of Article 66 of the Constitution, that the Assembly shall hold the Constitutive Session within 30 (thirty) days, does not mean only that the elected deputies must physically meet in the hall,

but that the meaning of this norm must be substantial and functional, implying that within this deadline all constitutional actions resulting in the constitution of the Assembly must be carried out, which 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. Having said this, the Court has reiterated 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 (see paragraphs 131-132 of the Judgment in case KO124/25).

100. Whereas, in the context of the assessment of the issue related to the allegations regarding the “*amendment of the agenda*” of the Constitutive Session and the proposal of the Chairperson of the Constitutive Session for the establishment of the “*Committee for Secret Ballot*”, the Court concluded that “*based on the assessment and findings as above, it considers that the development and conclusion of the Constitutive Session must be conducted in accordance with the constitutional provisions for the constitution of the Assembly, Chapter IV (Constitution of the Assembly) of the Rules of Procedure of the Assembly, and the parliamentary practices to date for the constitution of the Assembly of the Republic of Kosovo.*” (see paragraph 187 of the Judgment in case KO124/25).
101. Following these findings, through item II of the Judgment in case KO124/25, the Court decided that the elected deputies of the Assembly, in applying paragraph 1 of Article 66, in conjunction with paragraphs 1, 2, 3 and 4 of Article 67, as well as Articles 70 and 74 of the Constitution, in accordance with Chapter IV of the Rules of Procedure of the Assembly and the parliamentary practices to date for the constitution of the Assembly, as well as in compliance with the findings set out in this Judgment, are obliged that, and no later than 30 (thirty) days from the entry into force of this Judgment, to fulfil the constitutional obligation for the constitution of the Assembly of the Republic of Kosovo through the election of the President and its Deputy Presidents.
102. The Court recalls that the Applicants essentially claim that (i) the proposal of the Chairperson of the Constitutive Session to propose the members for the Committee for Secret Ballot for the election of the President of the Assembly, during the sessions of 29 June, 1 and 3 July 2025, is not in compliance with the Judgment of the Court in case KO124/25; and (ii) following this, they specify that “*The Decision of the Assembly on the voting of the Committee for Secret Ballot, within the framework of the continuation of the constitutive session of the IX Legislature of the Assembly, held according to the transcript of 29 June 2025*” was issued in contradiction with Articles 65 [Competencies of the Assembly], 67 [Election of the President and Deputy Presidents], 74 [Exercise of Function] and 76 [Rules of Procedure] of the Constitution.
103. The allegations of the Applicants are counter-argued by the Deputy of Vetëvendosje! Movement, Ms. Saranda Bogujevci, who in the comments submitted to the Court on behalf of Vetëvendosje! Movement essentially emphasizes that (i) the secret ballot is permissible as a possible compromise between the deputies, for the purpose of constituting the Assembly; and (ii) the proposal of the Chairperson of the Session for establishing a committee for secret ballot represents a sincere attempt to find the necessary “compromise or consensus” on the manner of voting, for the purpose of constituting the Assembly; (iii) the non-participation of the deputies in the vote for the formation of the committee for secret ballot blocks the expression of the will of the majority; and (iv) all elected deputies

of the Assembly have the obligation to find a way to elect the President and Deputy Presidents of the Assembly.

I. Regarding the non-implementation of the Judgment of the Court by the elected deputies of the Assembly and the actions of the Chairperson of the Constitutive Session

104. As elaborated above, in the context of the implementation of a decision of the Constitutional Court, the Court finds that as a result of the expiry of the 30 (thirty) day deadline determined by item II.2 of the enacting clause of the Judgment in case KO124/25, within which the Constitutive Session of the Assembly was not concluded as a result of the failure to elect the President and the Deputy Presidents of the Assembly, the elected deputies have not implemented the Judgment of the Court.
105. Following the finding as above, that the elected deputies of the Assembly have not implemented the Judgment of the Court within the 30 (thirty) day deadline determined by item II, paragraph 2 of the enacting clause of the Judgment of the Court in case KO124/25, in the circumstances of the expiry of this deadline within which the Assembly did not manage to be constituted, and the *ex officio* imposition of the interim measure of 24 July 2025 prohibiting any decision and action of the elected deputies of the Assembly until the resolution of the merits of the Referrals, the Court considers that the subject of assessment and interpretation in relation to the Referrals before it, consists of (i) the assessment of the actions of the Chairperson of the Constitutive Session during the chairing of the sessions for the constitution of the Assembly, held within the 30 (thirty) day deadline after the entry into force of the Judgment in case KO124/25; and (ii) the determination of the obligations of the elected deputies for the constitution of the Assembly and the manner of implementation of the Court's Judgment in case KO124/25.
106. The Court initially notes that based on paragraph 1 of Article 116 [Legal Effect of Decisions] of the Constitution, its decisions are binding on the judiciary and all persons and institutions of the Republic of Kosovo. In relation to this constitutional provision, Rule 60 (Implementation of decisions) of the Rules of Procedure of the Court also provides that: (i) all constitutional bodies, including courts and other authorities, are obliged to respect and implement the decisions of the Court, within their competencies defined by the Constitution and by law; and (ii) all natural and legal persons are obliged to respect and abide by the decisions of the Court.
107. The Court has also emphasized that while the democratic functioning of state institutions is the primary responsibility of each person vested with public authorizations, all actions undertaken by persons vested with public power or authorization must be in accordance with the Constitution and its spirit, and must contribute to the proper functioning and coordination of matters of public interest for the state, enabling it to develop and to realize the values and principles upon which it is built. According to the Court, any hindrance or lack of cooperation in the fulfilment of constitutional obligations and authorizations is contrary to the spirit of the Constitution (see, case KO72/20, Applicant Rexhep Selimi and 29 other deputies, Constitutional review of the Decree of the President of the Republic of Kosovo, no. 24/2020, of 30 April 2020, paragraphs 476-478).
108. The Court notes that the Venice Commission emphasizes that the implementation of the decisions of the Constitutional Court is an essential requirement of the rule of law (see, Opinion CDL-AD(2018)028 of the Venice Commission on Constitutional arrangements

and the separation of powers, as well as the independence of the judiciary and of law enforcement bodies, adopted on 14-15 December 2025, paragraph 77). Furthermore, the Court notes that the issue of the obligation to execute the decisions of Constitutional Courts has also been addressed by the Venice Commission, and in this respect, the latter, in one of its opinions, namely through its Opinion CDL-AD(2017)003 on the Law amending the Organic Law No. 2/1979 on the Constitutional Court of Spain (adopted on 10-11 March 2017) addresses the issue of the nature of the decisions of the Constitutional Court and who is obliged to execute them, in case the latter are not respected by the parties to whom they are addressed. Through this Opinion, the Venice Commission emphasized that the decisions of the Constitutional Court are final and have a binding character (paragraphs 8 and 69 of the Opinion). According to the Venice Commission: *“This is a corollary of the supremacy of the Constitution. Disregarding a judgment of a Constitutional Court is disregarding the Constitution and the Constituent Power, which attributed the competence to guarantee this Constitution’s supremacy to the Constitutional Court. When a public official refuses to execute a judgment of the Constitutional Court, he or she violates the Constitution, including the principles rule of law, separation of power and loyal cooperation of state organs [...]”* (see, paragraph 8 of the Opinion).

109. Therefore, in the context of the issues raised by the Applicants in case KO124/25, the Court considers that both (i) regarding the constitution of the Assembly and the deadline for its constitution, also regarding (ii) the allegation of the *“amendment of the agenda”* of the Constitutive Session and the proposal of the Chairperson for the establishment of the *“Committee for Secret Ballot”*, it has provided its interpretation, assessment, and findings, including the determination of the obligation that the elected deputies, in applying paragraph 1 of Article 66 [Election and Term] in conjunction with Article 67 [Election of the President and Deputy Presidents], Article 70 [Mandate of the Deputies] and Article 74 [Exercise of Function] of the Constitution, Chapter IV of the Rules of Procedure of the Assembly and in accordance with the Judgment in case KO124/25, must, as soon as possible and no later than 30 (thirty) days, conclude the Constitutive Session of the Assembly by electing its President and Deputy Presidents.
110. The Court recalls its case law through which it has emphasized that *“deputies are obliged to 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) and *“[...] As long as the Constitution is respected, every solution of the elected representatives and, at the same time, representatives of the people, must be respected [...]”* (see, case KO72/20, paragraph 357). In this regard, Article 74 [Exercise of Function] of the Constitution establishes the obligation for each deputy to exercise his/her function in the best interest of the Republic of Kosovo. That said, every action or inaction of the deputies must be assessed in light of this constitutional standard.
111. However, notwithstanding this constitutional standard, the Court finds that the elected deputies of the Assembly have not implemented the Judgment of 26 June 2025 of the Constitutional Court of the Republic of Kosovo in case KO124/25.
112. As regards the actions of the Chairperson of the Constitutive Session, the Court recalls paragraph 2 of Article 8 of the Rules of Procedure of the Assembly, which stipulates that the President of the previous legislature, in the meeting with the chairpersons of the political entities that have won seats in the Assembly, deals with the proposal of the agenda and other organizational matters for the Constitutive Session, whereas it is precisely

paragraph 4 of Article 8 of the Rules of Procedure that determines exhaustively and formally the agenda for the Constitutive Session.

113. The Court recalls that Article 76 [Rules of Procedure] of the Constitution defines the Rules of Procedure of the Assembly, approved by 2/3 of the votes of the deputies, as an act with binding legal force, through which the organization and functioning of the Assembly is regulated. This constitutional provision obliges the Assembly to act within the procedures approved by the Assembly itself, in accordance with the constitutional order of the Republic of Kosovo.
114. In this respect, the Court notes paragraph 4 of Article 8 of the Rules of Procedure of the Assembly, which stipulates 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*” (see, paragraph 153 of the Judgment in case KO124/25). This agenda represents the sole content of the Constitutive Session and must be strictly observed by the Chairperson of the Constitutive Session, without deviations and with no room for procedural interventions that conflict with the constitutional regulation of the constitution of the Assembly.
115. Furthermore, the Court notes that paragraph 3 of Article 9 of the Rules of Procedure of the Assembly expressly prohibits the holding of debates during the Constitutive Session, reflecting the solemn, closed and predetermined character of this session. This prohibition on debate, in conjunction with the agenda determined exhaustively in paragraph 4 of Article 8 of the Rules of Procedure of the Assembly, excludes any action not formally and clearly foreseen in the normative framework, namely Chapter IV of the Rules of Procedure of the Assembly regulating the constitution of the Assembly.
116. The Court recalls that in the context of the assessment of the Applicants’ allegation in case KO124/25 concerning the “*amendment of the agenda*” of the Constitutive Session in relation to the proposal of the Chairperson for the establishment of the “*Committee for Secret Ballot*” during the sessions held on 1, 3, and 5 May 2025, it found that the conduct and completion of the Constitutive Session must be guided in accordance with the constitutional provisions on the constitution of the Assembly, Chapter IV (Inaugural Session of the Assembly) of the Rules of Procedure of the Assembly, and the parliamentary practices to date for the constitution of the Assembly of the Republic of Kosovo (see, paragraph 187 of the Judgment in case KO124/25).
117. That said, the Court has already found that the agenda of the Constitutive Session according to paragraph 4 of Article 8 of Chapter IV of the Rules of Procedure of the Assembly is a formal act which explicitly determined the items on the agenda, for the constitution of the Assembly. As such, the agenda of the Constitutive Session, in the spirit of Articles 66 [Election and Mandate] and 67 [Election of the President and Deputy Presidents] of the Constitution, represents a constitutional obligation for the elected deputies of the Assembly to conclude the Constitutive Session by accomplishing all items of the agenda for the constitution of the Assembly within the deadline set by the Constitution. As emphasized in its Judgment in case KO124/25, the Court reiterates that Chapter IV (Constitution of the Assembly) of the Rules of Procedure of the Assembly contains no reference to Articles 53 (Amendment of the agenda) and 57 (Procedural motions), nor to Article 122 (Interpretation of the Rules of Procedure of the Assembly) (see, paragraph 176 of the Judgment in case KO124/25).

118. Following this, the Court considers that particularly after the entry into force of the Judgment in case KO124/25, the Chairperson of the Constitutive Session, in the exercise of his task as a chair of the Constitutive Session proceedings and in the spirit of good faith and cooperation with all elected deputies, was obliged to implement the findings of the Court in case KO124/25, which clearly and precisely set out his obligations and those of all deputies to conclude the Constitutive Session through the election of the President and Deputy Presidents of the Assembly, in accordance with the provisions of paragraph 1 of Article 67, in conjunction with paragraphs 2, 3 and 4 of Article 67, Article 74 of the Constitution, Chapter IV of the Rules of Procedure of the Assembly, as well as in accordance with the parliamentary practices to date for the constitution of the Assembly of the Republic of Kosovo.
119. In such circumstances, the Court considers that, in terms of the responsibility of the Chairperson for chairing the Constitutive Session, he had the obligation to chair the Constitutive Session proceedings according to the formal agenda until the conclusion of the process of the constitution of the Assembly. That said, the Court notes that the function of the Chairperson of the Constitutive Session is clearly determined in paragraph 1 of Article 9 (Chairing of the Constitutive Session) of the Rules of Procedure of the Assembly, which stipulates that *“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.”*
120. Therefore, any action or decision of a Chairperson of the Constitutive Session contrary to his/her duties and responsibilities during the chairing of the session, expressly set out in Chapter IV of the Rules of Procedure of the Assembly and further specified through Judgment KO124/25 of the Constitutional Court, constitutes a violation of paragraph 1 of Article 116 of the Constitution.
121. As elaborated above, after the entry into force of the Judgment in case KO124/25 and until the submission of the present Referrals by the Applicants, the Constitutive Session continued on 27 and 29 June and on 1 and 3 July 2025. In all these sessions, the Chairperson of the Session continuously has reiterated the request to the parliamentary groups to propose 1 (one) member for the Committee for Secret Ballot. Based on the case-file, the Court notes that in none of these sessions was the establishment of this Committee achieved.
122. The Court recalls that in Judgment KO124/25 it found that the Constitution of the Republic of Kosovo does not determine the method of voting for the election of the President of the Assembly. However, in this respect, the Court found that *“[...] 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 (see paragraph 185 of the Judgment in case KO124/25)”*.
123. In this respect, the lack of consensus among the deputies to proceed with the change of voting, namely the transition to a secret ballot for voting on the same candidate for the President of the Assembly, and in particular the non-proposal or non-delegation of members to the composition of the Committee for Secret Ballot is a clear indication that the process of constitution of the Assembly could not remain dependent on the physical

convening of the deputies every 48 (forty-eight) hours, in which the formation of the Committee for Secret Ballot is continuously proposed.

124. The Court emphasizes that the right of the oldest deputy in age to chair the proceedings of the Constitutive Session until the election of the President of the Assembly, as provided in Article 9 (Chairing of the inaugural session) of the Rules of Procedure of the Assembly, must be interpreted in accordance with the relevant provisions of the Constitution and in function of fulfilling the constitutional purpose of the constitution of the Assembly.
125. Further, during the conduct of the sessions for the constitution of the Assembly on 1, 3, and 5 May 2025, and especially those that continued after the entry into force of the Judgment in case KO124/25, according to the case files, the Court notes that the deputies did not agree to delegate members to the composition for the establishment of the Committee for Secret Ballot. Consequently, in the absence of the will of the deputies to establish the Committee for Secret Ballot, the repeated proposal by the Chairperson of the proceedings of the Constitutive Session for the parliamentary groups to delegate deputies to the Commission, has resulted in the impossibility of the elected deputies of the Assembly to vote for the President of the Assembly within the 30 (thirty) day deadline.
126. Following this elaboration, the Court notes that in the sessions held for the constitution of the Assembly within the 30 (thirty) day deadline after the entry into force of the Judgment in case KO124/25, namely from 27 June until 26 July 2025, it was not possible to vote for a candidate for President of the Assembly. As a result, the Court considers that the repeated actions of the Chairperson to conduct and coordinate the holding of the Constitutive Session in accordance with the Judgment of the Court in case KO124/25, constitute an exceeding of the formal and solemn competences related to the agenda of the Constitutive Session, which has simultaneously resulted in the non-constitution of the Assembly according to the provisions of paragraph 1 of Article 66, in conjunction with paragraphs 2, 3 and 4 of Article 67 of the Constitution.
127. The Court emphasizes that whoever has the honor to chair the Constitutive Session also has the obligation that, in accordance with Chapter IV of the Rules of Procedure of the Assembly and Article 76 [Rules of Procedure of the Assembly] of the Constitution, he/she chairs the Session for the constitution of the Assembly in the spirit of good faith, cooperation and constructive coordination with all the elected deputies towards its successful conclusion according to the provisions of paragraph 1 of Article 66, and paragraphs 2, 3 and 4 of Article 67 [Election of the President and Deputy Presidents] of the Constitution.
128. Finally, the Court finds that (i) the elected deputies of the Assembly have not implemented the Judgment of the Court in case KO124/25 after the expiry of the 30 (thirty) day deadline; (ii) the actions of the Chairperson of the Constitutive Session are not in compliance with paragraph 1 of Article 116 of the Constitution; and (iii) all sessions held from 27 June to 26 July 2025 must be declared invalid.
129. Based on its findings regarding, the Court, in terms of the implementation of the Judgment of the Court in case KO124/25 after the expiry of the 30 (thirty) day deadline, finds that (i) the elected deputies of the Assembly have not implemented the Judgment of the Court in case KO124/25 and that (ii) the actions of the Chairperson of the Constitutive Session of the Assembly are not in compliance with the Judgment of the Court, and as a consequence, are in violation of paragraph 1 of Article 116 [Legal Effect of Decisions] of the Constitution

of the Republic of Kosovo, which findings result in the invalidation of all sessions held from 27 June until 26 July 2025. Consequently, the Court holds that the Chairperson of the Session must proceed with items 3 and 4 of the agenda of the Constitutive Session, which provide for the election of the President and the Deputy Presidents of the Assembly, and in the absence of consensus for a secret ballot, the procedure should continue with an open ballot.

II. Regarding the obligation to continue and conclude the Constitutive Session

130. As emphasized also through its case-law, in terms of the effective functioning of state institutions, the Court has continuously reiterated that, in the service of preserving the constitutional order of the Republic of Kosovo based on the principles of democracy, respect for human rights and freedoms, the rule of law, non-discrimination, pluralism and separation of powers, the Constitution of the Republic of Kosovo is the source of authority of every governing power and it determines the limits of the exercise of this authority.
131. Consequently, the Constitutional Court, as the final authority for the interpretation of the Constitution, reiterates the importance of interpreting the Constitution in relation to the constitution of the Assembly. Moreover, the Court again emphasizes that disregarding the judgments of the Constitutional Court by the elected deputies is equivalent to disregarding the Constitution and their constitutional mandate, and that the disregarding of a Judgment in the circumstances of a non-constituted Assembly violates the principles embodied in the Constitution of the Republic of Kosovo.
132. Following this, the Court again notes the principles and standards related to the implementation of the decisions of the Constitutional Court. As specified above, the Court reiterates that the non-compliance with the decisions of the Constitutional Court constitutes non-compliance with the Constitution. Therefore, in terms of the non-implementation of the decisions of the Constitutional Court, as affirmed also by the Venice Commission, the measures adopted to implement the decisions of the Constitutional Court are legitimate (see paragraph 69 of the Opinion CDL-AD (2017) 003). In the circumstances of the present case, the Court holds that, due to the fact that the previous sessions have not been held in accordance with the Judgment in case KO124/25, the process should return to the remaining phase. For this reason, the Court emphasizes that the continuation of the Constitutive Session with the aim of constituting and operationalizing the Assembly of the Republic of Kosovo is in accordance with the Constitution and its spirit, and that the continuation of the Constitutive Session is considered necessary so that the Assembly of the Republic of Kosovo, as a representative, legislative and oversight body, is fully functional in the exercise of its constitutional mandate.
133. In light of the Court's finding on the non-implementation of its Judgment in case KO124/25, which directly resulted in the non-fulfilment of the constitutional obligations by the elected deputies for the constitution of the Assembly, the Court will hereinafter reiterate the constitutional obligation of the elected deputies to constitute the Assembly. The necessity to accomplish the items in the agenda for the constitution of the Assembly arises directly from the effects and consequences that the constitution of the constitutional representative body produces for the functioning of the constitutional order of the Republic of Kosovo. In these circumstances, and based on the Referrals filed before it, the Court, in its capacity as the final authority for the interpretation of the Constitution, reiterates the vital function of a constituted Assembly after elections, where the elected representatives of the people are legitimized for a four (4) year constitutional mandate of representation in

the Assembly of the Republic, and thereafter, their Government, elected through the Assembly, according to the procedures set out in the Constitution.

134. That said, the Court considers that the continuation of the Constitutive Session in order to give effect to the fulfilment of the constitutional obligation for the constitution of the Assembly is necessary in order to accomplish the establishment and effective functioning of the state institutions of the Republic of Kosovo, and that as such it serves the implementation of the principle of the separation of powers and checks and balances between them, as defined by Article 4 [Form of Government and Separation of Powers] of the Constitution.
135. The Court has emphasized that a Constitutive Session that is held but does not elect the President and Deputy Presidents of the Assembly is an incomplete session, as it does not fulfil the requirement of paragraph 1 of Article 66 of the Constitution. Following this and in the sense of concluding the Constitutive Session, the Court reiterates the importance of continuing this session and concluding it with the constitution of the Assembly in accordance with constitutional principles and values, which derives from constitutional principles and determinations and which must follow the spirit of good faith and constructive cooperation of all elected deputies.
136. 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 Assembly (see, the Court's interpretation in case KO119/14, paragraph 116); and (ii) that the proposed candidate is elected by a majority vote of all the deputies of the Assembly. Having said this and as regards the second element, the Court assesses that the requirement that the President of the Assembly is elected by a majority vote of all the deputies of the Assembly establishes a clear and objective standard of constitutional legitimacy.
137. Furthermore, the Court has also emphasized that the majority required for the election of the President of the Assembly is "*the majority of votes of all deputies of the Assembly*", namely 61 (sixty-one) votes in an Assembly of 120 (one hundred and twenty) deputies and that, according to the Court, the departure from this constitutional standard, under any circumstance, undermines the constitutional legitimacy of the process of constituting the Assembly, according to the Constitution of the Republic of Kosovo.
138. In this regard, the Court has emphasized that the failure to obtain the required majority for the election of the candidate proposed by the largest parliamentary group for President of the Assembly constitutes, on the other hand, a failure of the deputies to successfully conclude the Constitutive Session, also in terms of the constitutional obligation set forth in paragraph 1 of Article 66 of the Constitution (see paragraph 129 of the Judgment in case KO124/25).
139. The Court recalls that through its Judgment in case KO124/25 it determined 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*" (see paragraph 187 of the Judgment in case KO124/25).

140. To this end, the Court considers that the Chairperson of the Constitutive Session must continue the session with item 3 and 4 of the agenda, by calling the representative of the largest parliamentary group to propose the candidate for President of the Assembly and proceed with the voting procedure for the candidate as initiated and implemented during its first five (5) sessions for the election of the candidate for President of the Assembly. In this sense, the Court recalls that in the sessions for the constitution of the Assembly held on 19 April, 23 April, 25 April, 27 April and 29 April, after the proposal of the candidate by the largest parliamentary group, the voting procedure was conducted by open voting (see, 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]).
141. In terms of previous parliamentary practices, the Court, based on the documentation received from the Assembly, namely the transcripts of the constitutive sessions of the Assembly of the III Legislature (Constitutive Session of 4 and 9 January 2008), IV Legislature (Constitutive Session of 21 February 2011); V Legislature (Constitutive Session of 17 July, 18 September and 8 December 2014); VI Legislature (Constitutive Session of 3, 4, 10, 14, 24 August and 7 September 2017); VII and VIII Legislatures, notes that in these sessions for the constitution of the Assembly, the President and its Deputy Presidents were elected through open voting. Specifically, according to the transcript of the constitutive session of 4 and 9 January 2008, based on the Constitutional Framework of Kosovo, on 9 January 2008, after the proposal of the candidates for President and Deputy Presidents by the Albanian majority, the chairperson of the constitutive session, after establishing that 111 (one hundred and eleven) deputies were present at this session, invited “*the deputies, with a formal vote by raising their hands, without debate, to declare themselves for their election.*” As a result of the vote, the President and 5 (five) Deputy Presidents were elected with 88 (eighty-eight) votes “*in favor*”, while 1 (one) voted against and there were no abstentions. Furthermore, based on the transcript of the constitutive session of 21 February 2011, it results that regarding the item on the agenda for the election of the President, after the proposal of the candidate for President by the parliamentary group Partia Demokratike e Kosovës, the Chairperson of the constitutive session, after establishing that 118 (one hundred and eighteen) deputies were present, invited them “*by raising their hands to declare themselves ‘in favor’, ‘against’ or ‘abstain’*”, where for the election of the President, 90 (ninety) deputies voted in favor, 17 (seventeen) voted against and 3 (three) deputies abstained. In the same session, regarding the fourth item on the agenda for the election of the Deputy Presidents, their election was carried out through open voting, in which case the five Deputy Presidents of the Assembly were elected. Thirdly, based on the transcript of the “*constitutive meeting of the Assembly of the Republic of Kosovo, held on 17 July, 18 September and 8 December 2014*” it results that in the session of 8 December 2014, regarding the item on the agenda for the election of the President and Deputy Presidents of the Assembly, after the proposal of the candidate for President of the Assembly, after establishing that 119 (one hundred and nineteen) deputies were present, the Chairperson invited them to vote for the proposed candidate “*by raising hands*”. In this case, the President of the Assembly was elected by a majority of votes of all deputies, with 71 (seventy-one) deputies voting in favor, 42 (forty-two) voting against and no deputy abstaining. In the same session, the Deputy Presidents of the Assembly were elected by a majority of votes of all deputies through open voting. Furthermore, based on the “*Transcript of the constitutive meeting of the Assembly of the Republic of Kosovo, held on 3, 4, 10, 14, 24 August and 7 September 2017*”, it results that in the session of 7 September 2017, the Chairperson “*asked the deputies to vote by raising their hands*” for the proposed candidate for President of the Assembly. As a result, 114 (one hundred and fourteen) deputies participated in the vote, with 62 (sixty-two) deputies voting in favor and 52 (fifty-

two) deputies voting against. In the same session, the Deputy Presidents of the Assembly were elected by a majority of votes of all deputies through open voting. Furthermore, based on the “*Transcript of the constitutive meeting of the Assembly of the Republic of Kosovo, held on 26 December 2019*”, after the Chairperson established that 111 (one hundred and eleven) deputies were present, he proceeded with the request that the deputies, by raising their hands, declare themselves for the proposed candidate. The proposed candidate for President of the Assembly in this session was elected by a majority of votes of all deputies, with 75 (seventy-five) deputies voting in favor, 27 (twenty-seven) voting against and 6 (six) deputies abstaining. On the same day, the Deputy Presidents of the Assembly were elected by a majority of votes of all deputies through open voting. Finally, based on the “*Transcript of the constitutive meeting of the Assembly of the Republic of Kosovo, held on 22 March 2021*”, after the Chairperson established that 113 (one hundred and thirteen) deputies were present, he asked the deputies to declare themselves by raising their hands for the proposed candidate for President of the Assembly, who, with 69 (sixty-nine) votes in favor, 33 (thirty-three) votes against and no abstentions, was elected President of the Assembly. The constitutive session of the Assembly, namely that of the VIII Legislature of the Assembly, concluded with the election of its Deputy Presidents, by a majority of votes of all deputies and through open voting.

142. Based on the elaboration above concerning the election of the President and Deputy Presidents of the Assembly in Legislatures III, IV, V, VI, VII, and VIII, it follows that the manner of voting for candidates for President and Deputy Presidents of the Assembly has been conducted by open voting.
143. Following this, and in the context of the interpretation and assessment of the Court in case KO124/25 as well as the above assessments, the Court, based on paragraph 1 of Article 66, Articles 67 and 74 of the Constitution, finds that the Chairperson of the Constitutive Session, in the absence of consensus for a secret ballot, must preside over the Constitutive Session based on Chapter IV of the Rules of Procedure, and parliamentary practices to date, proceeding with the implementation of the items of the agenda for the election of the President and Deputy Presidents of the Assembly, through the same manner of voting, as initiated on 19 April 2025 and continued on 23 April, 25, 27, and 29 April 2025, namely through open voting.
144. Further, in terms of Article 76 [Rules of Procedure] of the Constitution, the Court recalls that the deputies of the Assembly, respectively the deputies of a constituted Assembly, may determine, amend or supplement the Rules of Procedure of the Assembly but always in accordance with the Constitution of the Republic of Kosovo.
145. Whereas, in the context of fulfilling the constitutional obligations for the constitution of the Assembly within a 30 (thirty) day deadline, the Court reiterates that the right to propose the candidate for President of the Assembly is directly linked to obtaining the majority of votes of all deputies of the Assembly. The Court has already emphasized that 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 conduct constructive consultations with other parliamentary groups in order to find the necessary consensus or compromise, and that this right in no way may result in blocking the constitution of the Assembly (see paragraph 130 of the Judgment in case KO124/25).
146. Before the Court proceeds with the determinations on the continuation of the Constitutive Session, it considers it necessary to clarify that as a basis for the constitution of the

Assembly remains the Judgment of the Court in case KO124/25 together with the procedural solutions stipulated through this Judgment which derive from the consequences of the non-implementation of the constitutional deadline for the constitution of the Assembly and the deadline set forth through item II of the enacting clause of the Judgment in case KO124/25.

147. The Court recalls its case law, where in case KO72/20 it has emphasized that *“The Constitution of the Republic of Kosovo consists of a unique set of constitutional principles and values on the basis of which the state of the Republic of Kosovo is built and should function. These principles and values embody and reflect the spirit of the Constitution, which is transposed into each of its norms. As such, the Constitution and each of its norms must be interpreted in interdependence with each other and not isolated from each other, and always taking into account its principles and values. No norm of the Constitution can be interpreted separately and isolated from the principles and values proclaimed in the Constitution, including its Preamble. No constitutional norm can be taken out of context and interpreted mechanically and independently of the rest of the Constitution. This is due to the fact that the Constitution has an internal cohesion according to which each part has a connection with its other parts.”* (see paragraph 346 of Judgment KO 72/20 of the Constitutional Court).
148. When the Court examines the constitutionality of a matter brought before it, it takes into account the Constitution as a whole, as well as its basic provisions in Chapter I of the Constitution, which are interpreted in connection with the constitutional provisions pertaining to the contentious matter. On this basis, the Court in such cases examines the constitutionality of the case within the meaning of the rule of law and the general interest and not the subjective interests of any of the parties to the proceedings.
149. In this context, the Court considers that the continuous proposal for voting of the same candidate for President of the Assembly by the largest parliamentary group should not serve as a blocking mechanism which would make impossible obtaining a majority vote of all deputies. To that end, the Court considers that the determination of an unblocking mechanism for the proposal of the candidate for President of the Assembly is considered necessary and would essentially serve the fulfilment of the constitutional obligation for the constitution of the Assembly and the commencement of its functioning as the representative body of the sovereign. In light of this elaboration, the Court considers that, in the event of failure to obtain the majority of votes of all deputies for the election of the President of the Assembly, the voting of the proposed candidate for President of the Assembly may only be conducted up to three (3) times for the same candidate.
150. Consequently, the Court as the final authority for the interpretation of the Constitution, based on the circumstances of the concrete case and bearing in mind that the Constitutive Session of the Assembly, even after the expiration of the 30 (thirty) day deadline set forth in the Constitution, has not concluded, holds that the voting for the same candidate for President of the Assembly cannot be conducted more than three (3) times. The limitation to 3 (three) rounds of voting for the same candidate, based on the spirit of the Constitution and the election of heads of institutions, is a protective mechanism that ensures that the will of citizens expressed through parliamentary elections is not manifested in a state institutional vacuum, but is rather implemented through the constitution of the Assembly as a body exercising sovereignty and as a body with legislative and oversight powers.

151. The Court relates this determination also with the constitutional and legal provisions pertaining to the voting of the heads of other institutions by the Assembly (see Article 86 [Election of the President] of the Constitution), and Article 9 (Election of the Ombudsperson) of Law No. 05/L-019 on the Ombudsman), a process which takes place within a specified time limit and through a reasonable number of voting rounds. Therefore, the Court assesses that limiting the possibility of voting for the same candidate for President of the Assembly up to three (3) times is considered as a mechanism and possibility for the elected deputies, in the spirit of constructive cooperation and in the spirit of exercising their constitutional mandate according to the provisions of the Constitution, to achieve the fulfilment of their constitutional obligations for the election of the President of the Assembly.
152. In the light of the findings given in Judgment KO124/25 regarding the 30 (thirty) day deadline set out in paragraph 1 of Article 66 of the Constitution and the rights and obligations arising from its Articles 67 and 74, as well as in the light of the findings made in this Judgment in cases KO193/25 and KO196/25, the Court reiterates that “[...] *In the context of the constitution of state institutions, the Court has emphasized that structure of constitutional norms, and in particular the one relating to the establishment of state institutions deriving from the people’s vote, must be interpreted in such a way as to implement and not block the effective establishment and exercise of their functions, because only that way the principle of separation of powers and control of the balance between them can be applied correctly, as defined by this Constitution* (see, case KO72/20, Applicants *Rexhep Selimi and 29 other deputies*, Constitutional Review of the Decree of the President of the Republic of Kosovo, No. 24/2020, of 30 April 2020, paragraph 475)”. In this regard, the Court emphasizes that this rule is determined on the basis of the constitutional principle reconfirmed by the Court through its case law, namely the principle that the purpose of constitutional norms is the functioning of institutions. In this context, the Court considers that the Assembly may in the future initiate the supplementing of the legal norms regarding the constitution of the Assembly through its Rules of Procedure, but that until the latter is amended, the procedural solutions provided through this Judgment shall apply.
153. Therefore, in the absence of a constituted Assembly of the Republic of Kosovo, the Constitutional Court as the final authority for the interpretation of the Constitution, notes that in the spirit of the constitutional provisions in Article 4 [Form of Government and Separation of Powers], Article 7 [Values], Article 16 [Supremacy of the Constitution], Article 63 [General Principles], Article 65 [Competences of the Assembly], Article 66 [Election and Mandate], Article 67 [Election of the President and Vice-Presidents], Article 70 [Mandate of Deputies], Article 74 [Exercise of Function], and Article 76 [Rules of Procedure] it clearly follows that their purpose is the implementation and the functionalization of the Assembly as a representative body of the people.
154. In the context of determining the obligations of the elected deputies in the constitution of the Assembly as a result of the expiration of the 30 (thirty) day deadline set forth in item II of paragraph 2 of the enacting clause of the Judgment in case KO124/25 within which the Assembly has not been constituted, the Court again emphasizes the responsibility of the elected deputies of the Assembly that their actions must be in compliance with the Constitution and its spirit and that they must contribute to the proper conduct and coordination of matters of public interest for the state.

155. The Court attaches essential importance to the circumstances of a non-constituted Assembly, which cannot exercise its legislative, decision-making, and oversight competencies, in particular its inability to elect the Government and the constitutional institutions deriving from the decision-making of the Assembly, circumstances which have resulted in the continued existence of a Government in office with limited competencies and without oversight by the Assembly, circumstances which directly affect the proper functioning of the constitutional order in the sense of Articles 2 [Sovereignty], 4 [Form of Government and Separation of Power], and 7 [Values] of the Constitution.
156. Based on the elaboration above, the Court considers that in the interest of preserving the constitutional order and the effective functioning of key state institutions in the sense and for the purpose of enforcing the provisions of paragraph 1 of Article 66, paragraphs 2, 3 and 4 of Article 67, and Article 74 of the Constitution, the elected deputies of the Assembly must continue the Constitutive Session of the Assembly, commenced on 15 April, which must conclude with the election of the President and Deputy Presidents thereof. That said, the Court considers that the obligations of the deputies arising from paragraph 1 of Article 66, paragraphs 2, 3 and 4 of Article 67, and Article 74 of the Constitution must be implemented and developed as initiated on 15 April and continued until 29 April 2025, in compliance with Chapter IV of the Rules of Procedure of the Assembly and the parliamentary practice to date for the election of the President and Deputy Presidents of the Assembly as soon as possible and no later than 30 (thirty) days from the day of entry into force of this Judgment.
157. Following this, and in the context of the conduct of the procedure for the constitution of the Assembly, which according to the findings of this Judgment must continue with item 3 and item 4 of the agenda of the Constitutive Session, the Court recalls that the Chairperson of the Session must conduct and carry out the procedure of the Constitutive Session in compliance with the obligations set forth by the Constitution, Chapter IV of the Rules of Procedure, and the determinations of this Judgment. Consequently, the Court considers that the convening and holding of the Constitutive Session, in the event of attempts to elect the President and Deputy Presidents of the Assembly, must be carried out in accordance with the obligations set forth by the Constitution, Chapter IV of the Rules of Procedure, and the findings of this Judgment. Following this, and in the sense of the continued efforts of the Assembly to elect the President and Deputy Presidents within the 30 (thirty) day deadline from the entry into force of this Judgment, the Court recalls the importance that the Chairperson of the Constitutive Session must conduct the holding of the constitutive session in compliance with paragraph 5 of Article 12 (Election of the Deputy Presidents of the Assembly) of the Rules of Procedure of the Assembly, which provides that *“Interruptions during the constitutive session cannot be longer than 48 hours.”*
158. The Court, in the context of the obligations for the holding of the Constitutive Session, reiterates that the election of the President and Deputy Presidents of the Assembly is a prerequisite for the Assembly to commence its functioning, and, in the context of the provisions of Articles 4, 7 and 74 of the Constitution, this requires all elected deputies, during the voting of candidates for President and Deputy Presidents of the Assembly, to be present and to vote. The Court reiterates that in the circumstances of the specific case, there is no greater interest of the Republic of Kosovo than the constitution of the highest representative body.
159. The Court reiterates that in the circumstances of the present case, the exercise of the function of the elected deputies in accordance with this Constitution, the laws, and the rules of procedure of the Assembly, resulting in the election of the President and Deputy

Presidents of the Assembly, is in the best interest of the Republic of Kosovo and serves the preserving of the constitutional order, and guarantees the functioning of the institutions. Consequently, the Court once again emphasizes that there is no greater interest for the Republic of Kosovo than for the highest representative body to be constituted and to commence, as soon as possible, the exercise of its functions and its constitutional competences and duties.

160. Consequently, the Court finds that the Chairperson of the Constitutive Session must continue with item 3 of the agenda of the Constitutive Session, adopted on 8 April 2025, and in compliance with paragraph 2 of Article 67 [Election of the President and Deputy Presidents] of the Constitution, invite the representative of the largest parliamentary group to propose the candidate for President of the Assembly of the Republic of Kosovo, who shall be elected through open voting, which may only be conducted up to 3 (three) times for the same candidate. Therefore, the Court hereby determines that the elected deputies of the Assembly must elect the President and Deputy Presidents of the Assembly of the Republic of Kosovo under items 3 and 4 of the agenda of the Constitutive Session within 30 (thirty) days from the date of entry into force of this Judgment.

FOR THESE REASONS

The Constitutional Court, pursuant to paragraph 5 of Article 113 of the Constitution, Article 20 of the Law, and Rules 46 (4) and 48 (1) (a) and 72 of the Rules of Procedure, on 7 August 2025, decided:

- I. TO DECLARE, unanimously, the Referral admissible;
- II. TO HOLD, unanimously, that the elected deputies of the Assembly of the Republic of Kosovo have not implemented the Judgment of 26 June 2025 of the Constitutional Court of the Republic of Kosovo in case KO124/25, and consequently all sessions held from 27 June to 26 July 2025 are declared null and void;
- III. TO HOLD, unanimously, that the Chairperson of the Constitutive Session of the Assembly of the Republic of Kosovo has not complied with the Judgment of the Constitutional Court of the Republic of Kosovo in case KO124/25 of 26 June 2025, and consequently his actions are incompatible with paragraph 1 of Article 116 [Legal Effect of Decisions] of the Constitution of the Republic of Kosovo;
- IV. TO ORDER, by six (6) votes for and one (1) against, the Chairperson of the Constitutive Session of the Assembly of the Republic of Kosovo to continue with item 3 of the agenda of the Constitutive Session, approved on 8 April 2025, and in accordance with paragraph 2 of Article 67 [Election of the President and Deputy Presidents] of the Constitution of the Republic of Kosovo, to call the representative of the largest parliamentary group to propose the candidate for the President of the Assembly of the Republic of Kosovo, who is elected by open ballot which can be carried out only up to 3 (three) times for the same candidate;
- V. TO ORDER, unanimously, all elected deputies of the Assembly of the Republic of Kosovo, in accordance with Article 4 [Form of Government and Separation of Powers], Article 7 [Values] and Article 74 [Exercise of Function] of the Constitution of the Republic of Kosovo, during the procedure for electing the President and

Deputy Presidents of the Assembly of the Republic of Kosovo, to be present and vote;

- VI. TO ORDER, by six (6) votes for and one (1) against, the elected deputies of the Assembly of the Republic of Kosovo, in accordance with paragraphs 2, 3 and 4 of Article 67 [Election of the President and Deputy Presidents] of the Constitution of the Republic of Kosovo, to elect the President and its Deputy Presidents of the Assembly of the Republic of Kosovo pursuant to items 3 and 4 of the agenda of the Constitutive Session within 30 (thirty) days of the date of entry into force of this Judgment;
- VII. TO EXTEND, unanimously, the interim measure imposed on 24 July 2025 until this Judgment enters into force;
- VIII. TO NOTIFY this Judgment to the parties;
- IX. TO PUBLISH this Judgment in the Official Gazette of the Republic of Kosovo, in accordance with paragraph 4 of Article 20 (Decisions) of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo;
- X. TO HOLD that this Judgment enters into force on the day of its publication by the Constitutional Court of the Republic of Kosovo and of the notification to the parties.

Judge Rapporteur

President of the Constitutional Court

Bajram Ljatifi

Nexhmi Rexhepi

This translation is unofficial and serves for informational purposes only.