



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

Prishtina, 31 July 2024
Ref. no.: AGJ 2508/24

This translation is unofficial and serves for informational purposes only.

JUDGMENT

in

case no. KO158/23

Applicant

**Besnik Tahiri and nine (9) other deputies of the Assembly
of the Republic of Kosovo**

**Constitutional review of Law No. 08/L-142 on Amending and
Supplementing the Laws that Determine the Amount of the Benefit in the
Amount of the Minimum Wage, Procedures on Setting of Minimum Wage and
Tax Rates on Annual Personal Income**

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of:

Gresa Caka-Nimani, President
Bajram Ljatifi, Deputy President
Selvete Gërxhaliu-Krasniqi, Judge
Safet Hoxha, Judge
Radomir Laban, Judge
Remzije Istrefi-Peci, Judge,
Nexhmi Rexhepi, Judge
Enver Peci, Judge and
Jeton Bytyqi, Judge

Applicant

1. The Referral was submitted by ten (10) deputies of the Assembly of the Republic of Kosovo (hereinafter: the Assembly), namely: Besnik Tahiri, Ramush Haradinaj, Pal Lekaj, Albana Bytyçi, Shemsedin Dreshaj, Time Kadrijaj, Bekë Berisha, Fatmir Humolli, Albana Reshitaj and Haki Abazi (hereinafter: the Applicants), who are represented by Besnik Tahiri.

Contested Law

2. The Applicants challenge the constitutionality of Law no. 08/L-142 on Amending and Supplementing the Laws that Determine the Amount of the Benefit in the Amount of the Minimum Wage, Procedures on Setting of Minimum Wage and Tax Rates on Annual Personal Income, which provisions amend and supplement (i) Law no. 04/L-261 on Kosovo Liberation Army War Veterans, amended and supplemented by Law no. 05/L-141; (ii) Law no. 04/L-092 for Blind Persons; (iii) Law no. 05/L-067 on the Status and the Rights of Persons with Paraplegia and Tetraplegia; and (iii) Law no. 03/L-212 on Labor (hereinafter: the contested Law), adopted by Decision [No. 08-V-589] of 13 July 2023 of the Assembly of the Republic of Kosovo (hereinafter: the Assembly).

Subject matter

3. The subject matter of the referral is the constitutional review of the contested Law, claiming that certain of its provisions are not compatible (i) with “*equality before the law*” guaranteed by Article 24 [Equality Before the Law]; (ii) “*right to property*”, namely “*legitimate expectations*” guaranteed by Article 46 [Protection of Property]; and (iii) “*social equality*” and “*social protection*” guaranteed by articles 7 [Values] and 51 [Health and Social Protection] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution), in conjunction with Article 14 [Prohibition of discrimination and Article 1 (General prohibition of discrimination) of Protocol No. 12 as well as Article 1 (Protection of property) of Protocol No. 1 of the European Convention on Human Rights (hereinafter: ECHR).
4. The applicants specifically challenge the constitutionality of the provisions of the contested Law, as follows: (i) Article 2 (Amending and supplementing Law No. 04/L-261 on War Veterans of the Kosovo Liberation Army, amended and supplemented by Law No. 05/L-141), which amends paragraph 3.1 of paragraph 3 of Article 16A of Law no. 04/L-261 on Kosovo Liberation Army War Veterans, amended and supplemented by Law no. 05/L-141; (ii) Article 3 (Amending and supplementing Law No. 04/L – 092 on Blind Persons; (iii) Article 4 (Amending and supplementing Law No. 04/L – 092 on Blind Persons), which amends paragraph 1 of Article 7 of Law no. 05/L-067 on the Status and the Rights of Persons with Paraplegia and Tetraplegia; and (iv) Article 6 (Amendment and supplement of Law on Labor No. 03/L-212), which amends paragraph 1 of Article 57 (Minimum wage) of Law on Labor no. 03/L-212.

Legal basis

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

Proceedings before the Court

6. On 21 July 2023, the Applicants submitted the Referral to the Constitutional Court of the Republic of Kosovo (hereinafter: the Court).

7. On 26 July 2023, the President of the Court, by Decision [GJR. KO158/23], appointed Judge Remzije Istrefi-Peci as Judge Rapporteur and by Decision [KSH. KO158/23], the Review Panel composed of judges: Safet Hoxha (Presiding), Nexhmi Rexhepi and Enver Peci (members).
8. On 21 July 2023, the Court notified the Applicants about the registration of the Referral.
9. On 21 July 2023, the Court notified about the registration of the referral: (i) the President of the Republic of Kosovo (hereinafter: the President); (ii) The President of the Assembly, who was asked to notify the deputies that they can submit their comments regarding the referral of the Applicants, no later than 4 August 2023; as well as (iii) the General Secretary of the Assembly, with the clarification based on paragraph 2 of article 43 of the Law, “*in the event that a law or decision adopted by the Assembly of the Republic of Kosovo is contested in accordance with Article 113, Paragraph 5 of the Constitution, such a law or decision shall be sent to the President of the Republic of Kosovo for promulgation in accordance with modalities determined in the final decision of the Constitutional Court on this contest*”. The Court, based on the aforementioned provision of the Law, and its case law, recalled that this provision means that the contested Law cannot be decreed, enter into force, or produce legal effects until the final decision of the Court, regarding the case filed before it.
10. On the same date, the Court notified about the registration of the referral: (i) the Prime Minister of the Republic of Kosovo (hereinafter: the Prime Minister); (ii) the Institution of the Ombudsperson (hereinafter: the Ombudsperson); and (iii) the Ministry of Finance, Labor and Transfers (hereinafter: the Ministry of Finance), informing them that they can submit their comments to the Court regarding the submitted referral, if they have any, no later than 4 August 2023.
11. On 28 July 2023, the General Secretary of the Assembly submitted the following documents to the Court:
 1. *The Draft Law on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income, of 15 April 2022;*
 2. *The report of the functional Committee on Budget, Labor and Transfers for the review in principle of the Draft Law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income, of 27 April 2022;*
 3. *Decision [no. 08-V-297] of the Assembly for the approval in principle of the Draft Law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income, of 14 June 2022;*
 4. *Minutes of the plenary session of the Assembly, of 5 May 2022;*
 5. *Part of the transcript of the Plenary Session, the first review of the Draft Law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income, of 5 May, 13 and 14 June 2022;*
 6. *The report with amendments of the functional Committee on Budget, Labor and Transfers, for the second review of the Draft Law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of*

- minimum wage and tax rates on annual personal income, sent to permanent committees, on 7 June 2023;*
7. *Minutes of the meeting of the functional Committee on Budget, Labor and Transfers, of 24 May 2023;*
 8. *Report with recommendation of the Committee on Legislation, Mandates, Immunities, Rules of Procedure of the Assembly and Oversight of the Anti-Corruption Agency for Draft Law No. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income and amendments to this draft law, of 7 June 2023;*
 9. *Minutes of the meeting of the Committee on Legislation, Mandates, Immunities, Rules of Procedure of the Assembly and Oversight of the Anti-Corruption Agency, of 7 June 2023;*
 10. *Report with recommendation of the Committee on European Integration for Draft Law No. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income and amendments to this Draft Law, of 14 June 2023;*
 11. *Minutes of the meeting of the Committee on European Integration, of 14 June 2023;*
 12. *Report of the functional Committee on Budget, Labor and Transfers, for the second review of the Draft Law No. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income, attached also the reports of permanent committees, of 22 June 2023;*
 13. *Decision [no. 08-V-589] of the Assembly for the approval of Law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income, of 13 July 2023.*
12. On 4 August 2023, the Court received comments from (i) the Ombudsperson; (ii) The Government of the Republic of Kosovo (hereinafter: the Government), respectively on behalf of the Ministry of Finance through the Prime Minister; and (iii) the Parliamentary Group of the VETËVENDOSJE! Movement, through Mrs. Mimoza Kusari-Lila, Head of the Parliamentary Group of the VETËVENDOSJE! Movement, regarding the Referral.
 13. On 10 August 2023, the Court notified about the receipt of the comments: (i) the applicants; (ii) the President; (iii) the President of the Assembly; (iv) the Prime Minister; (v) the Ombudsperson; (vi) The Ministry of Finance, who were notified about the possibility of submitting additional comments, no later than 25 August 2023, regarding the comments received from interested parties.
 14. On 15 August 2023, the Court received a request from the President of the Assembly to extend the deadline for submitting additional comments. However, the President of the Assembly did not submit additional comments.
 15. On 22 August 2023, the Court approved the request of the President of the Assembly to extend the deadline, namely until 26 September 2023.
 16. On 19 June 2024, the Review Panel considered the report of the Judge Rapporteur and unanimously, recommended to the Court the admissibility of the Referral. On the same date, the Court decided, unanimously, to (i) to find that article 2 (Amending and

supplementing Law No. 04/L-261 on War Veterans of the Kosovo Liberation Army, amended and supplemented by Law No. 05/L-141) of the contested Law, is not in contradiction with article 24 [Equality Before the Law] and article 46 [Protection of Property] of the Constitution of the Republic of Kosovo in conjunction with article 1 of Protocol no. 1 of the European Convention on Human Rights; (ii) with eight (8) votes in favor and one (1) against, that article 3 (Amending and Supplementing of Law No. 04/L-092 on Blind Persons) of the contested Law, is not in contradiction with article 24 [Equality Before the Law] and article 46 [Protection of Property] of the Constitution of the Republic of Kosovo in conjunction with article 1 of Protocol no. 1 of the European Convention on Human Rights; (iii) unanimously, that article 4 (Amending and Supplementing of Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons) of the contested Law, is not in contradiction with article 24 [Equality Before the Law] and article 46 [Protection of Property] of the Constitution of the Republic of Kosovo in conjunction with article 1 of Protocol no. 1 of the European Convention on Human Rights; (iv) with eight (8) votes in favor and one (1) against, to find that article 6 (Amending and supplementing of Law No. 03/L-212 on Labor) of the contested Law, is not in contradiction with article 51 [Health and Social Protection] of the Constitution of the Republic of Kosovo.

Summary of facts

17. On 13 April 2022, the Government, by Decision [No. 04/69], approved draft law No. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income.
18. On 14 April 2022, the Government proceeded the draft law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income for review and adoption in the Assembly.
19. On 26 April 2022, the Functional Committee on Budget, Labor and Transfers (hereinafter: the Functional Committee on Budget), recommended to the Assembly the approval, in principle, of draft law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income.
20. On 14 June 2022, the Assembly by Decision [No. 08-V-297], with sixty-eight (68) votes for and six (6) abstentions, adopted in principle draft law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income.
21. On 7 June 2023, the Committee on Legislation, Mandates, Immunities, Rules of Procedure of the Assembly and Oversight of the Anti-Corruption Agency (hereinafter: the Committee on Legislation), recommended that the contested draft law is in compliance with the Constitution and the applicable law, and the latter can be submitted to the Assembly for review and adoption.
22. On 14 June 2023, the Committee on European Integration, by majority vote, concluded that: *“Draft law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income, is not specifically regulated by EU legislation”*.

23. On 21 June 2023, the Functional Committee on the Budget recommended to the Assembly the adoption of draft law no. 08/L-142 on amending and supplementing the laws that determine the amount of the benefit in the amount of the minimum wage, procedures on setting of minimum wage and tax rates on annual personal income, and submitted four (4) proposal-amendments to the latter.
24. On 13 July 2023, the Assembly by Decision [No. 08-V-589], with sixty (60) votes “for” and one (1) “*abstention*”, adopted the contested Law, without the proposed amendments.

Applicants’ allegations

25. The Applicants claim that the contested Law in its entirety is not in compliance with articles: 7 [Values], 24 [Equality Before the Law], 46 [Protection of Property], 49 [Right to Work and Exercise Profession] and Article 51 [Health and Social Protection] of the Constitution. Specifically, the applicants claim that Articles 2, 3, 4 and 6 of the contested Law are not in compliance with (i) “*equality before the law and non-discrimination*” guaranteed by Article 24 [Equality Before the Law]; (ii) “*right to property*” guaranteed by Article 46 [Protection of Property]; and (iii) “*social equality and social protection*” guaranteed by Article 7 [Values] and Article 51 [Health and Social Protection] of the Constitution, which claims will be presented below.

(i) *regarding “equality before the law and non-discrimination”*

26. Initially, the applicants, referring to Law no. 04/L-261 on Kosovo Liberation Army War Veterans, amended and supplemented by Law no. 05/L -141, emphasize that: “*Veterans of the Kosovo Liberation Army receive only the veteran’s pension, which cannot be below the minimum wage. This pension, according to the Law, is not received in cases where the same person benefits from any other social scheme, nor when the same person is in any employment relationship. As a result, the pension in question, in each case, is the veteran’s only source of income*”.
27. The applicants specifically refer to the content of Article 18 (Pension Level) of Law no. 04/L-261 on Kosovo Liberation Army War Veterans as amended and supplemented by Law no. 05/L -141, emphasizing: “*Depending on budget affordability, living costs and possible inflation, at the end of each year, the Government of Kosovo, upon the proposal of the Ministry of Finance, with a special decision may decide on the level of pension for KLA Fighter Veterans for the coming year, which may not be lower than the minimum salary in Kosovo*”. In connection with this, the applicants emphasize that “*The law in question was amended by Law No. 05/L -141. This law has determined the monthly pension according to categories. Article 16 A of Law No. 05/L -141 established that “3. Until the final categorization of the KLA Fighter Veteran list, the pension scheme shall be implemented as foreseen in the basic Law”. The categorization in question has not yet been completed.*”
28. The applicants emphasize that the pension of KLA veterans is their only source of income. Therefore, according to them, the reference made to the minimum wage for the amount of their pensions is rational. The applicants refer to the Report of the Committee of Experts on the Application of Conventions and Recommendations of the International Labor Organization, which defined the minimum wage as “*the minimum amount paid to a worker for work performed or services rendered, within a specified period, whether calculated on the basis of time or production, which cannot be reduced either by the individual or by collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his family, in the light of national, economic and social conditions*”.

29. The applicants reiterate that “*the same situation applies to blind persons [see article 7.2. of Law No. 04/L - 092 on Blind Persons] and paraplegic and tetraplegic persons [see article 7.1. of Law No. 05/L -067 on the Status and Rights of Paraplegic and Tetraplegic Persons]. Even in these cases, it is considered that the amount of the pension should meet the minimum needs for living. What is the level of the amount that corresponds to elementary needs, this is determined by the minimum wage, according to the procedures established by law*”.
30. According to the applicants, the contested Law treats the pensions of the aforementioned groups separately from the minimum wage since articles 2, 3, 4 and 7 [Clarification: the applicants refer to article 7, but the claims refer to the provisions of article 6 of the contested Law], reduce the reference to the minimum wage. Specifically, the applicants emphasize that “*The contested law no longer provides a guarantee for veterans of the Kosovo Liberation Army, blind persons and paraplegic and tetraplegic persons, that their pensions will be equal to the minimum wage, namely the amount that the government estimates as minimum for covering minimum costs of living. Despite the fact that the pension in question is the only source of income for these categories.*”
31. The applicants allege that the contested Law: (i) gives the right to the Government to determine the pensions of these groups at different levels, and not equally for all; (ii) makes a distinction between categories, in the same circumstances; and (iii) there is a possibility that the level of the pension of one category is higher than the level of the amount of the pension of another category, which may constitute discrimination.
32. According to the applicants, the contested Law differentiates between different categories, which did not exist before and that the Government will now have the opportunity to assess and determine the level of the amount that is necessary to meet the minimum needs for living, but that it will not necessarily set this level of the amount for the other categories. According to the applicants, these categories are in relatively similar situations, while the contested Law allows them to be treated differently.
33. The applicants further claim that the contested Law fulfills all the criteria to be considered discriminatory, according to the principles determined by the case law of the ECtHR and the Court. In this context, the applicants refer to the cases of the Court (i) [KO01/17](#), Applicant *Aida Dërguti and 23 other deputies of the Assembly of the Republic of Kosovo*, Judgment of 28 March 2017, paragraph 74; (ii) [KO157/18](#), Applicant *The Supreme Court of the Republic of Kosovo*, Judgment of 13 March 2019; and (iii) [KO93/21](#), Applicant *Blerta Deliu-Kodra and 12 other deputies of the Assembly of the Republic of Kosovo*, Judgment of 28 December 2021, paragraph 298), as well as cases of the ECtHR (i) [Sejdic and Finci v. Bosnia and Herzegovina](#), no. 27996/06 and 34836/06, Judgment of 22 December 2009; (ii) [Konstantin Markin v. Russia](#), no. 30078/06, Judgment of 22 March 2012; (iii) [Mamatas and others v. Greece](#), no. 63066/14, 64297/14, 66106/14, Judgment of 21 July 2016; and (iv) [Napotnik v. Romania](#), no. 33139/13, Judgment of 20 January 2021.
34. Finally, the applicants claim that (i) the contested Law allows the Government to “*make differences between different categories*”; (ii) that it does not pursue a “*legitimate aim*” that would justify such a difference; and that (iii) the latter is not “*proportional to the aim pursued*”. According to the applicants, “*for all these reasons, the contested Law is contrary to Article 24 [Equality Before the Law] of the Constitution of the Republic of Kosovo*”.

(ii) regarding “*the right to property*”

35. The applicants in relation to this allegation emphasize that the KLA veterans, blind persons, and paraplegic and tetraplegic persons had “*legitimate expectations*” that their pension will be at the level of the minimum wage, and that the contested Law puts these social categories in “*legal uncertainty*”, because the Government can determine a different level of pension, not taking as a reference the minimum wage, which is considered as the necessary amount to cover living expenses. Such a thing, according to the applicants, represents a “*violation of the right to property*,” which is guaranteed by the Constitution and the ECHR.
36. The applicants further emphasize that “*legitimate expectations*” constitute property, which as such enjoys protection under Article 1 of Protocol No. 1 of the ECHR. In this regard, the applicants emphasize that “*in the present case, the “legitimate expectation” is not a mere hope, but is based on the laws in force.*” In this context, the latter are referred to the ECtHR cases: (i) [*Pressos Compania Naviera S.A and others v. Belgium*](#), no. 17849/91, Judgment of 20 November 1995; (ii) [*Kopecky v. Slovakia*](#), no. 44912/98, Judgment of 28 September 2004; (iii) [*Centro Europa 7 S.R.L and Di Stefano v. Italy*](#), no. 38433/09, Judgment of 7 June 2012; (iv) [*Saghinadze v. Georgia*](#), no. 18768/05, Judgment of 1 June 2015; (v) [*Ceni v. Italy*](#), no. 25376/06, Judgment of 4 February 2014; and (vi) [*Belane Nagy v. Hungary*](#), no.53080/13, Judgment of 13 December 2016.
37. Specifically, the applicants emphasize that “*veterans of the Kosovo Liberation Army, blind persons and paraplegic and tetraplegic persons have had a legitimate expectation, based on the laws in force, that their pensions will be sufficient to cover their minimum living expenses, the amount of which is determined year by year by the government, depending on economic circumstances. The Government’s discretion to set the amount of pensions below the minimum wage for these categories, while the categories in question have no other income, seriously undermines their legitimate expectations*”.
38. Finally, in relation to the abovementioned allegation, the applicants emphasize that the contested Law gives discretion to the Government in determining the amount of their pension, which may be less than the minimum wage, and therefore, according to them, this constitutes a violation of “*legitimate expectation*”, namely violation of Article 46 [Protection of Property] of the Constitution.

(ii) regarding “social equality and social protection”

39. The applicants note that the Law on Labor, in its Article 57 (Minimum wage), stipulates that: “*The Government of Kosovo shall define a minimum wage at the end of every calendar based on the proposals from the Social- Economic Council*”. Meanwhile, the Law on the Economic-Social Council, in article 2, stipulates that “*The provisions of this Law apply to all social partners at national level, who, in the SEC, are represented by: 1.1 Employees’ Organizations (trade unions); 1.2 Employers’ organizations; and 1.3 Government of Kosovo*”. In this way, the applicants emphasize that the procedure for setting the minimum wage requires the achievement of an agreement of the representatives of the society.
40. The applicants, in relation to this allegation, refer to the Convention for Setting the Minimum Wage of the International Labor Organization (Minimum Wage Fixing Convention, 1970, no. 131) and emphasize that according to this Convention, “*Each Member of the International Labour Organisation which ratifies this Convention undertakes to establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate*”. In addition, the applicants emphasize that this Convention provides that “*the*

competent authority in each country shall, in agreement with or after full consultation with the representative organizations of employers and workers concerned, where they exist, determine the wage bands to be covered". In connection with this, the applicants claim that the contested Law violates these international standards, because it gives the right to the Government to set the minimum wage, without reaching agreement in the Economic-Social Council.

41. The applicants refer to Article 6 (Amendment and supplement of Law on Labor No. 03/L-212) of the contested Law, which amends Article 57 (Minimum wage) of the Law on Labor, which determines that: *"The Government of the Republic of Kosovo at the end of each calendar year determines the minimum wage upon the proposal of the Economic and Social Council. In lack of such a proposal from the Economic and Social Council, the relevant Minister of Finance, after informing the Economic and Social Council, may submit such a proposal to the Government of the Republic of Kosovo"*, and, in this context, they allege *"that the aforementioned provision of the contested Law, which amends Law No. 03/L-212 on Labor (Article 57, paragraph 1 of Law no. 03/L-212 on Labor) is in contradiction with international standards which require the necessity of social coordination when determining the level of the minimum wage"*.
42. In connection with *"the necessity of social coordination in determining the minimum wage"* the applicants emphasize that they are aware that *"...the obligation of the Government or any other institution for broad social coordination in the case of determining the amount of the minimum wage is not defined by the Constitution, just like the Economic-Social Committee is not regulated by constitutional provisions. But beyond that, the jurisprudence of the Constitutional Court has already established its position that when interpreting the Constitution, the spirit and essence of the Constitution must also be examined and not necessarily only its text"*. In this context, the applicants emphasize that (i) the necessity of social coordination in setting the minimum wage is an international standard established by the International Labor Organization; (ii) that the International Labor Organization has defined the main social issues; and that (iii) social justice is one of the constitutional values prescribed by Article 7 [Values] of the Constitution. Based on the above, the applicants emphasize that *"in the case of action according to articles 7 and 51 of the Constitution of the Republic of Kosovo, disregarding the basic concepts of social justice, as defined by the International Labor Organization, violates social justice as a constitutional value, established in article 7 of the Constitution of the Republic of Kosovo and the purpose of the Constitution, according to its Article 51. For this reason, the Government's ability to unilaterally decide the minimum wage contradicts Article 7 and 51 of the Constitution of the Republic of Kosovo"*.
43. Referring to Law no. 03/L-212 on Labor, the applicants emphasize that this law, in its introduction, underlines: *"Taking into account Conventions of the International Labour Organisation, European Union Legislation and the fundamental principles of free labour market and economy"*. Thus, as long as we have a law in force that determines that the Conventions of the International Labor Organization are the basis of this the law, the provisions of the contested Law violate the legal infrastructure related to issues from the employment relationship". Such a thing, according to the applicants, is contrary to Article 7 [Values] of the Constitution, which defines social justice as part of the values of the constitutional order.
44. Finally, the applicants emphasize that the possibility for the Government to set the minimum wage unilaterally is contrary to Articles 7 and 51 of the Constitution, and *"Conventions of the International Labor Organization"*.

Comments submitted by interested parties

45. In what follows, the Court will present the responses to the Applicants' referral, namely (i) comments of the Ombudsperson; (ii) comments of the Government of the Republic of Kosovo, on behalf of the Ministry of Finance; and (iii) comments of the Parliamentary Group of VETËVENDOSJE! Movement.

(i) comments of the Ombudsperson

46. On 4 August 2023, the Ombudsperson submitted to the Court the comments regarding the contested Law, emphasizing that he has analyzed the latter "[...] *in the light of legal certainty, rule of law, health and social protection, as well as human dignity*", and that he noticed that this Law amends (i) Law no. 04/L-261 on Kosovo Liberation Army War Veterans, amended and supplemented by Law no. 05/L-141; (ii) Law no. 04/L - 092 for Blind Persons; and (iii) Law no. 05/L - 067 on the Status and the Rights of Persons with Paraplegia and Tetraplegia .

(a) regarding the amendment of Law no. 04/L-261 on Kosovo Liberation Army War Veterans, amended and supplemented by Law no. 05/L-141 by the contested Law

47. The Ombudsperson, based on the provisions of the contested Law, emphasizes that *"The Government has been given the opportunity to decide on the level of the amount of pensions after the proposal of the relevant ministry"*. According to the Ombudsperson, *"Leaving this opportunity to the Government may result in instability regarding the pensions of KLA veterans"*. The Ombudsperson further emphasizes, *"even though apparently the spirit of this provision implies that it is about increasing the amount of the veteran's pension, because the cost of living and eventual inflation are mentioned, this does not mean that if the budgetary possibilities are limited, the Government can even reduce the level of the amount of the pension. The determination of such an opportunity puts veterans in a situation of legal uncertainty in terms of the amount of the pension, because their right is shifted from the legal level to the level of the Government's decision, which will be reassessed in annual stages, especially those whose only source of income is this pension"*.

(b) regarding the amendment of Law no. 04/L - 092 for Blind Persons by the contested Law

48. The Ombudsperson emphasizes that the contested Law *"completely changes the regulation in the basic law, because it has avoided the base in the minimum wage and it has also avoided the minimum threshold of 100 euro of income for blind people. Such a practice produces legal uncertainty for persons whose rights are regulated by special laws"*. In this regard, the Ombudsperson points out, *"similarly to the Law on Kosovo Liberation Army War Veterans, meaning that there is the possibility that the Government by decision will determine the level of the amount of pensions for blind people, not based on the minimum wage nor the minimum threshold of 100 euro according to the current basic law. The non-existence of a legal threshold leaves the regulation of the level of income for blind people completely at the discretion of the Government and, without prejudging anything, the risk of instability of this income is greater, because the Government's decisions are reviewed in annual stages"* .

(c) regarding the amendment of Law no. 05/L-067 on the Status and Rights of Persons with Paraplegia and Tetraplegia by the contested Law

49. The Ombudsperson, among other things, emphasizes that *"... even in this case, the law radically changes the determination regarding the basis of compensation for*

paraplegic and tetraplegic persons”, adding that while “the basic law has clearly defined the basis in the minimum wage, Law no. 08/L-142 has deleted this basis, leaving it completely at the discretion of the Government, which, after the proposal of the relevant ministry, decides on the amount of compensation for the beneficiaries of this law”.

(d) analysis of the Ombudsperson

50. The Ombudsperson points out that the contested Law changes the laws that regulate the social aspects (i) of KLA veterans; (ii) of blind persons; as well as (iii) of paraplegic and tetraplegic persons, and that the amendment of the basic laws, removing the reference to the minimum wage as the basis of pensions or other income, as well as removing the minimum threshold for certain categories of persons (blind persons) , may result in the violation of the principle of legal certainty of these categories of persons, whose rights are regulated by special laws.
51. According to the Ombudsperson, in such situations when the minimum wage is changed by the Government as a result of the increase in the cost of living or eventual inflation, the “*non-existence of a basis*” that legally guarantees certain categories that their income and pensions are in line with the minimum wage “*brings such persons into economic difficulties and affects their way of life*”.
52. The Ombudsperson notes that by changing special laws from general laws, a dangerous practice of drafting legislation is being created. He emphasizes that the rights and benefits of these categories of people are now being moved from the legal to the sub-legal level, putting them in a more uncertain position. In this regard, the Ombudsperson adds that the flaws in normative acts affect the rule of law, namely legal certainty. With legal certainty, he emphasizes, it is required that the legal norms are clear and precise, which aim to predict situations, actions and promises given to individuals by the state (legitimate expectations), which must be respected. According to the Ombudsperson, the contested law “*does not fulfill the necessary elements of a norm which would contribute to the rule of law.*” The Ombudsperson also refers to the Venice Commission, respectively the Rule of Law Report of the Venice Commission, approved by the Venice Commission at the 86th Plenary Session, on 25-26 March, 2011, paragraph 41.
53. Furthermore, the Ombudsperson assesses that Article 51 of the Constitution stipulates that healthcare and social insurance related to unemployment, illness, disabilities and old age are regulated by law. The right to pension, he emphasizes, is included in the group of social economic rights, which by nature are positive rights. It is a positive obligation of the state to protect the individual, to provide him with means of living in the form of economic support from the state, when he is in old age or when he is unable to work. Through economic and social policies, he emphasizes, the state has the obligation to guarantee the protection of the individual, through financial measures, including pensions for these social categories.
54. The Ombudsperson, referring to the provisions of Article 23 [Human Dignity] of the Constitution, states that “*...it is the state’s obligation to provide sufficient income to the categories of persons highlighted in such a way that they have the opportunity to have a dignified life*”. The Ombudsperson supports this consideration “*given the increase in prices as well as the inflation that has reigned in the country in recent years*”.
55. Finally, the Ombudsperson requests the Court to assess whether the contested Law is in compliance with the Constitution, namely in accordance with “*legal certainty*”, with

“elements of the rule of law”, as well as with “health and social protection and human dignity”.

(ii) comments of the Government of the Republic of Kosovo, on behalf of the Ministry of Finance

56. On 4 August 2023, the Prime Minister submitted the *“Comments of the Government of the Republic of Kosovo regarding referral KO158/23, respectively the comments of the Ministry of Finance, Labor and Transfers”*, emphasizing that the submitted comments are on behalf of the Ministry of Finance, and that based on the allegations of the applicants, the comments will be limited only to that if the content of the contested Law is contrary to the Constitution, and specifically the Ministry of Finance will present its arguments (a) *regarding the claims of discrimination of social categories*; and (b) *regarding the claims for the way of determining the minimum wage*. Regarding the claims for the discrimination of social categories, the Ministry of Finance, referring to the case law of the Constitutional Court and of the ECtHR, emphasizes that in order to ascertain whether an act may have resulted in discrimination contrary to the guarantees of Article 24 of the Constitution, Article 14 of the ECHR, and Article 1 of Protocol No. 12 of the ECHR, it must first be assessed whether the relevant act has treated differently *“persons in analogous or relatively similar situations”*, and if this is the case, assess whether this difference in treatment (a) is prescribed by law; (b) pursues a legitimate aim; and (c) is proportionate, namely *“if there is a relationship of proportionality between the limitation of the right and the goal that is intended to be achieved”*. In this case, the Ministry of Finance refers to the case of the Court [KO01/17](#), cited above, paragraph 74, and ECtHR case [Carson and others v. the United Kingdom](#), no. 42184/05, Judgment of 16 March 2010.
57. The Ministry of Finance, in connection with the applicants’ allegations for the discrimination of social categories, submitted comments regarding the assessment (i) *“if we are dealing with persons in an analogous or relatively similar situation”*, applying (a) *“general principles”*, and (b) *“the application of these principles in the present case”*. Then the Ministry of Finance presented comments also in relation to the applicants’ allegations regarding (c) *“the legitimate aim and proportionality which has been pursued”*, and (d) *“legitimate expectations”* as well as (ii) *“the way of determining of the minimum wage”*.
58. The Ministry of Finance first emphasizes that the concept of *“differences between people who are not persons in analogous or relatively similar situations”* refers to the recognition that individuals may have distinct characteristics or circumstances that distinguish them in some respect. These differences according to the Ministry of Finance may *“have legal, social or practical implications, leading to different treatment or consideration for each group, and that the requirement to demonstrate an analogous situation does not require the comparison groups to be identical.”*
59. The Ministry of Finance, based on the case law of the Court, emphasizes that *“The Constitutional Court has established in its case law that only differences in treatment based on an identifiable characteristic or “status” are capable of amounting to unequal treatment within the meaning of Article 24 of the Constitution and 14 of the ECHR. Second, a different treatment is discriminatory if it has no objective and reasonable justification, that is, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realized.”* In addition, the Ministry emphasizes that *“a different treatment is discriminatory if it has no objective and reasonable justification, that is, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realized. A wide margin is*

usually allowed to the state when it comes to general measures of economic or social strategy, unless they are manifestly without reasonable foundation (see, case of the Court, [KO01/17](#), cited above, paragraph 74 and 75)."

60. In this context, the Ministry of Finance considers that it is necessary to (i) assess whether war veterans, blind persons, paraplegic and tetraplegic persons are in a similar or comparable situation as categories to each other, as well as (ii)) to assess if they are in a similar or comparable situation with other employees who are in an employment relationship. According to the Ministry of Finance, "*employees in employment relationship*" constitute the "*comparator*" or the group of persons to whom war veterans, blind persons, paraplegic and tetraplegic persons are compared. In relation to this, the Ministry points out that the existence of a special regulation of the legal status with specific laws of these categories at first sight reflects the existence of a situation for which these categories are not in a comparable or similar situation.
61. The Ministry of Finance further emphasizes that "*Veterans of the Liberation War as a special category have gone through unique experiences after serving in the Kosovo Liberation Army and secondly they have made a vital contribution to the freedom of the country.*" In this way, as a reward for the effort and sacrifice of this category, the legislator has defined certain rights and benefits, which in Law no. 04/L-261 are not limited only to the pension established in Article 18 of this law, but also other rights such as the right to free healthcare services, priority in employment, certain rights in travel, priority in admission to institutions of public education. Therefore, the rights and benefits granted to the veterans of the Kosovo Liberation Army War are based on the legislator's assessment of their contributions during the Kosovo Liberation Army War, and not on the basis of the right to a certain amount of benefit. Veterans exercise other rights according to Law no. 04/L-261, beyond the benefit in Article 18 of Law no. 04/L-261, which is different from "*employees in employment relationship*" for whom the minimum wage institute applies and who do not have these guaranteed rights as veterans have due to the fact of being in employment relationship.
62. The Ministry of Finance further emphasizes that unlike war veterans, blind persons, paraplegic and tetraplegic persons, gain rights and benefits due to their personal characteristics, in this case, "*lack of certain physical skills*". In this context, the Ministry of Finance reiterates that "*...the rights and benefits of blind persons are specified in Law No. 04/L-092 for Blind Persons, where, among other things, blind persons enjoy the right to employment under favorable and preferential conditions, exemption from taxes and duties, housing, travel, electricity expenses, etc. Similarly, the rights and benefits of paraplegic and tetraplegic persons are regulated by Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons where, among other things, this category has the right to a personal guardian, exemption from taxes and duties, free healthcare, reduction in electricity rates, care for housing and exemptions on the trip.*"
63. On this basis, the Ministry of Finance considers that "*...the category of veterans, blind persons and paraplegic and tetraplegic persons enjoy other rights and benefits which present such policies that enable them to fulfil living expenses beyond the benefit that was previously related to the amount of the minimum wage, while on the other hand for 'employees in employment relationships' for whom the notion of minimum wage applies, as the only source of income, do not have similar exemptions or advantages that would enable them to afford living expenses*". Consequently, according to the Ministry of Finance, "*these categories cannot be considered as persons in analogous or relatively similar situations only by the fact that the amount of one of the various benefits that these categories are entitled to is related to the minimum wage.*"

64. In conclusion, the Ministry of Finance emphasizes that *“being different categories and not in the same situation, the legislator has considered that the institute of the minimum wage should be related only to the work and services performed within the work, unlike the concept of minimum income which aims to guarantee minimum living conditions regardless of whether the person has a job from which he receives a salary.”*
65. With regard *“the legitimate aim and proportionality that has been pursued”*, the Ministry of Finance refers to the case law of the ECtHR, emphasizing that the latter assessed that in the field of social legislation, including the field of pensions, states enjoy a wide margin of appreciation, which in the interest of social justice and economic well-being may legitimately lead them to adjust, limit or even reduce the amount of pension normally paid to the qualifying population. The Ministry of Finance also refers to case law of the Court, namely case [KO01/17](#), cited above, where it assessed that *“the legislator enjoys a certain discretion to decide on the measures to achieve the specific objectives and it is certainly not for the Court to substitute its own assessment for the assessment of the relevant authorities as to what might be the best policy in this field”*.
66. The Ministry of Finance further explains that the contested Law aims to create conditions for increasing the minimum wage, taking into account the financial stability and sustainability of the budget of the Republic of Kosovo. In connection with this, the Ministry of Finance argues that taking the minimum wage as a basis for determining the level of pensions for the aforementioned social categories is not sustainable, disproportionate in the long term and a great burden for the country's budget. In this context, the Ministry of Finance emphasizes: *“This is because it would create a great burden for the budget of Kosovo, linking these benefits with the minimum wage, the purpose of which is completely different and which is decided taking into account other criteria related to the employment relationship, and that it would also affect the social dialogue between the social partners, since the element of connection of the minimum wage would have to be taken into account when determining the minimum wage”*. The Ministry of Finance, further, specifically states that *“The fact that the minimum wage has never been changed even after more than 12 years, although there was a legal obligation to do so, shows the practical effect of this connection that has been made, therefore it was considered necessary to regulate the legal aspects related to the minimum wage”*. According to MFLT, on 17 August 2011, the Government by Decision no. 04/33, determined the minimum wage in Kosovo, 130.00 euro for employees under the age of 35, and 170.00 euro for employees over the age of 35 to the age of 65. Since that time, the minimum wage has never been changed, although Article 57 of Law No. 03/L-212 on Labor had determined that the Government of Kosovo at the end of each calendar year determines the minimum wage according to the proposal of the Social-Economic Council.” According to the Ministry of Finance this situation *“...would create a great burden for the budget of Kosovo, linking these benefits to the minimum wage, the purpose of which is completely different and which is decided taking into account other criteria related to the employment relationship, and which will also affect the social dialogue between the social partners, given that the element of connection of the minimum wage should be taken into account when determining the minimum wage. Conversely, this would mean that in order for the impact on the budget to be sustainable, the minimum wage would be set at a lower level than the relevant criteria/formula for determining the minimum wage.”*
67. The Ministry of Finance further argues that the determination of pension for all other social categories, including the beneficiaries of basic age pension, contribution-payer age pension, disability pension, early pensions, work disability pension and family pension, and others such as these, is regulated by the Law on Pension Schemes Financed by the State, and the amount of these pensions is not related to the minimum

wage, but is determined by the Government with a special decision, according to established criteria, including the cost of living, budget opportunities and eventual inflation. In order for the legal regulation to be similar and proportional for all social categories and taking into account the characteristics of each social group, it is foreseen that the determination of the pension is made according to the proposal of the ministry and based on certain criteria.

68. The Ministry of Finance emphasizes that the disconnection of the minimum wage with the three mentioned categories is that *“other social categories such as those regulated by Law No. 04/L-131 on Pension Schemes Financed by the State, (beneficiaries of the basic age pension, contribution-payer age pension, disability pension, early pensions, work disability pension and family pension) the amount of pensions is not related to the amount of the minimum wage.”* In this regard, the MFLT emphasizes that *“... determining the minimum wage as a criterion for establishing benefits that are not related to insurance periods and that are paid directly from the state budget, could raise issues of unequal treatment with other categories governed by Law no. 04/L-131 on Pension Schemes Financed by the State and would create disproportionate expectations that each group or category that benefits from pension schemes or benefits financed from the state budget, including persons on social assistance, would have to receive the benefit in the amount of the minimum wage, which goes beyond the purpose of the minimum wage, as well as endangers the macro-economic stability of the country.”*
69. Further and in relation to the allegation of the applicants that *“veterans of the Kosovo Liberation Army, blind persons, paraplegic and tetraplegic persons have had a legitimate expectation that their pension will be at the level of the minimum wage”*, the Ministry of Finance refers to the practice of the ECtHR, according to which contracting states have the freedom to decide on the form of social schemes, and the choice of the type or amount of benefits to be provided. According to the Ministry, the ECtHR has accepted that in the field of social legislation, including the field of pensions, states enjoy a wide margin of appreciation, which in the interest of social justice and economic well-being, can legitimately lead them to regulate, limit or even reduce the amount of pension that is usually paid to the qualifying population, bearing in mind that any such measure must be applied in a non-discriminatory manner and be in accordance with the requirements of proportionality. In this context, the Ministry refers to the case of the ECtHR (i) [Sukhanov and Ilchenko v. Ukraine](#), no. 683885/10, Judgment of 26 June 2014, paragraph 36; (ii) [Kolesnyk v. Ukraine](#), no. 57116/10, Decision of 3 June 2014, paragraph 89 and 91; and (iii) [Fakas v. Ukraine](#), no. 4519/11, Decision of 3 June 2014, paragraphs 37-43 and 48.
70. Further, the Ministry of Finance emphasizes that the legislator has at his discretion authorizations to change the laws that regulate social issues, if the aim pursued was legitimate and there is a reasonable relationship of proportionality between the means employed and the aim sought to be achieved. In this context, the Ministry of Finance refers to the case of the ECtHR [Lakicevic and others v. Montenegro and Serbia](#), no. 27458/06, 37205/06, 37207/06 and 33604/07, Judgment of 13 December 2011, paragraph 61. In the present case, the Ministry of Finance argues that the right to pension has not been terminated, but only the minimum wage has been separated from the pension of social groups, and such a thing *“is legitimate and proportionate”*.
71. Specifically, the Ministry of Finance emphasizes that, *“in the case of changing the form of determining the amount of the respective benefits according to the Contested Law, the essence of the right to the benefit as such has not been violated in the case of the Contested Law. Thus, this right will continue to be applied, and as explained above, the intervention of the legislator to disconnect the link with the minimum wage level*

is proportional and legitimate, so it cannot be considered that we are dealing with 'legitimate expectations' so that the amount of benefits would always be as the amount of the minimum wage.

72. The Ministry of Finance, referring to the case law of the ECtHR, states that “*For more relating to the case [Sukhanov and Ilchenko v. Ukraine](#) (cited above) in paragraph 36, as for the fixed amount of the pension, the ECtHR does not accept that the applicants’ claims to pension supplement in the amount of 30% of the minimum pension amounted to a “legitimate expectation” ... in particular, because such claims did not have sufficient basis in the national law.” Similarly, in relation to veterans, the connection of benefits to the minimum wage, by Article 16A of Law No. 04/L-141, only fixed amounts other than the minimum wage were determined.*”
73. The Ministry of Finance considers that “*there has been a legal vacuum for the way of determining the amount of the benefits established by Law no. 04/L -261.*” This is because according to the Ministry of Finance, “*...by Article 5 of Law No. 05/L -141 on Amending and Supplementing Law No. 04/1. -261 on Kosovo Liberation Army War Veterans, Article 18 of the Basic Law was deleted, which determined the amount of the benefit at the minimum wage level. In this situation, the legislator has considered that it is necessary to supplement and amend article 16A, paragraph 3 subparagraph 3.1 of Law No. 04/L-261, where, in addition to the legitimate and proportional aim of determining the amount of the benefit , different from what it was before, the method of adjusting the amount of the relevant benefit is also clarified.*”
74. Based on the above, the Ministry of Finance emphasizes that “*in analogy with the case law of the ECtHR, it cannot be said that there existed “legitimate expectation” when there is a dispute regarding the correct interpretation and application of the domestic law (see among others [Kopecky v. Slovakia](#), cited above, paragraph 50, [Anheuser-Busch Inc. v. Portugal](#), no. 73049/01, Judgment of 11 January 2007, paragraph 65)*”.
75. Referring to the case law of the ECtHR, the Ministry of Finance emphasizes that “*in addition to veterans, also in terms of blind persons and paraplegic and tetraplegic persons, we recall that from the case law of the ECtHR it can be concluded that the doctrine of legitimate expectations is assessed within a context if legitimate expectations are based on a legal act of authorities (the basis of legitimate expectations) justified in the sense that it can assume that the law or norm will not subsequently be changed (see, mutatis mutandis, [Pine Valley Developments Ltd and others v. Ireland](#), no. 12742/87, Judgment of 29 November 1991)*”.
76. With regard to claims regarding the way of determining the minimum wage, the Ministry of Finance emphasizes that “*The applicants have failed to argue that such an issue concerns a constitutional category*”, because “*the basis of their claim is rooted in the notion that international standards of the International Labor Organization (“ILO”) are consistent with spirit and essence of the Constitution*”. However, from the perspective of the Ministry of Finance, “*such an argument, which aims to incorporate “en bloc” all ILO labor standards within the constitutional system of Kosovo, raises concerns*”.
77. In this context, the Ministry of Finance emphasizes that the applicants take as a basis the International Labor Organization and its conventions when setting the minimum wage. The Ministry of Finance emphasizes that “*Kosovo has not ratified the ILO convention on setting the minimum wage and other conventions, nor is it part of this organization. Moreover, many member states have not ratified the Convention on determining minimum wage, including half of the Council of Europe states, while some other countries do not regulate the minimum wage institute at all*”. The Ministry

- of Finance also points out that the contested Law is in full compliance with the Convention on setting of the minimum wage, as it allows the minimum wage to be fixed and adjusted from time to time since the social dialogue will focus only on the relevant components of the labor market that are related with the amount of the minimum wage.
78. According to the Ministry of Finance, “*the ILO Convention determines that the competent authority in each country shall, in agreement with or after full consultation with the representative organizations of employers and workers concerned, where they exist, determine the wage bands to be covered*”. Ministry of Finance adds that, under this Convention it is necessary to have full agreement or consultation. The Convention does not determine the necessity for a concrete proposal to exist from any institution similar to the Economic-Social Council. According to them (i) the function of the Economic-Social Council is to promote the consultation of the parties, therefore, through new legal changes, the role of this council is intended to be proactive and enable the achievement of a relevant proposal, (ii) and only when there is no proposal from the Economic-Social Council, then the Government exercises its executive authority to determine the minimum wage, but only after full consultation and in the absence of a proposal.
79. In what follows, the Ministry of Finance emphasizes that, according to them, despite this fact, the institute of the minimum wage is not a constitutional category, and that “*The applicants erroneously claim that the regulation of the contested Law is contrary to the Minimum Wage Fixing Convention (No. 131) of 1970, moreover, they do not specify what is the essence of the right that has been violated and they do not specify the specific article of the Convention that is considered not to have been respected.*” The Ministry of Finance, on the contrary, considers that by making the new regulation according to the contested Law, greater compatibility of the indirect application of this Convention in our legislation is achieved, considering that the minimum wage has not been changed for 12 years, precisely through the new regulation it is possible to create the conditions and facilities for the minimum wage to be fixed and adjusted from time to time since the social dialogue will focus only on the relevant components of the labor market related to the amount of the minimum wage. This is because based on Law no. 04/L-008 on the Economic-Social Council, it is precisely the function of the Economic-Social Council to promote the consultation of the parties, therefore through new legal changes the role of this council is intended to be proactive and enable the achievement of a relevant proposal, and only in the absence of this proposal, the Minister of Finance is authorized, after informing the Economic-Social Council, to make a proposal to the Government, so that the Government is enabled to exercise its constitutional powers for the exercise of executive power. So, even in this case the proposal of the Minister of Finance means that the full consultation will be exhausted, and only when this happens and if there is no proposal, then the Minister has the right to give his proposal for the minimum wage.
80. The Ministry of Finance notes that it is indisputable that the applicant states that in Law no. 03/L-212 on Labor, in the preamble it is determined that it has been approved “*taking into account Conventions of the International Labour Organisation, European Union Legislation and the fundamental principles of free labour market and economy*”, however, the inclusion of several treaties and conventions originating from different entities presents a problem in the way the law is applied, when in a specific case, these different entities see the meaning of the same human rights differently. In relation to this the Ministry of Finance refers to the cases of the Court of Justice of the European Union (CJEU), [*International Transport Workers Federation and Finnish Seamen’s Union v. Viking Line ABP and OU Viking Line Eesti*](#), C-438-05, Judgment of 11 December 2007; [*Laval un Parterni Ltd v. Svenska Byggnadsarbetareförbundet and Others*](#), C-341/05, Judgment of 18 December 2007, as well as European Union law,

arguing that there is a “*lack of coherence in interpretation.*” Therefore, according to the Ministry of Finance, the applicants have failed to argue how the method of determining the minimum wage has become a constitutional standard only by the fact of mentioning in a general way the international standards of the ILO.

81. However, the Ministry of Finance also emphasizes that some international standards of the ILO, due to their almost universal ratification, have practically been transformed into fundamental standards of human rights related to labor issues, emphasizing, (i) Convention on Freedom of Association and Protection of the Right to Organize, 1948 (No. 87); (ii) Convention on the Right to Organize and Collective Bargaining, 1949 (No. 98); (iii) Convention on Forced Labor, 1930 (No. 29) (and its 2014 Protocol); (iv) the Abolition of Forced Labor Convention, 1957 (No. 105); (v) the Minimum Age Convention, 1973 (No. 138); (vi) Worst Forms of Child Labor Convention, 1999 (No. 182); (vii) Equal Remuneration Convention, 1951 (No. 100); (viii) Discrimination (Employment and Occupation) Convention, 1958 (No. 111); (ix) the Occupational Safety and Health Convention, 1981 (No. 155); and (x) the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

(iii) Comments of the Parliamentary Group of the VETEVENDOSJE Movement!

82. On 4 August 2023, deputy Mimoza Kusari-Lila, on behalf of the Parliamentary Group of the VETEVENDOSJE Movement! (hereinafter: LVV parliamentary group), submitted comments regarding the referral. Initially, the LVV parliamentary group considers that the applicants’ referral presents allegations that have no direct or indirect connection with the constitutional norm, specifically emphasizing that “*under no circumstances has the contested Law violated the letter or spirit of the constitution or international acts that are accepted by the Republic of Kosovo.*”
83. The Court notes that, in their entirety, the comments submitted by the parliamentary group of the LVV are similar to the comments of the Ministry of Finance.
84. More specifically and related to the claims regarding discrimination, the Parliamentary Group of the LVV emphasizes that in order to determine whether or not there has been discrimination, it must be assessed whether there is a difference in treatment between persons in similar situations. Referring to the case law of the ECtHR, they emphasize that only differences in treatment based on an identifiable characteristic, or “status”, are capable of amounting to discrimination. According to them, the practice of the ECtHR has established that when it comes to the general measures of the economic or social strategy, the states are allowed a much wider margin, because only in this way the legitimate aims of the governing and political programs of the legitimate institutions democratically elected can be implemented. According to them, the ECtHR respects the policy choice of the legislature, because legislators and governments are in possession of direct knowledge of their society and its needs, and in this context they refer to the cases of the ECtHR: [Carson and others v. the United Kingdom](#), cited above, paragraph 61; [Molla Sali v. Greece](#), no. 20452/14, Judgment of 18 June 2020; [Fabris v. France](#), no. 16574/08, Judgment of 7 February 2013; [Weller v. Hungary](#), no. 44399/05, Judgment of 30 June 2009; [Hämäläinen v. Finland](#), no. 37359/09, Judgment of 16 July 2014, para. 109.
85. The parliamentary group of the LVV emphasizes that the contested Law has amended the laws which relate the amount of the pension to the minimum wage, namely the law on the veterans of the KLA war, on blind persons, on the status and rights of paraplegic and tetraplegic persons. The existence of a special regulation of the legal status with specific laws of these categories shows that these categories are not in a similar

situation. The veterans of the KLA war receive benefits due to their participation in the war, as a recognition of society for their contribution to the country's freedom, which is not based on their economic status. The law on war veterans also defines additional rights, such as free health services, priority in employment and others. On the other hand, they emphasize, the blind persons and paraplegic and tetraplegic persons, gain rights and benefits due to their personal characteristics, including not only pension but also other rights, such as healthcare, exemption from taxes and duties and others. Meanwhile, the concept of minimum wage applies to workers in employment, as a reward for performing tasks at the working place. Consequently, according to the Parliamentary Group of the LVV, all these social categories are different and have no similarities between themselves.

86. Further, the Parliamentary Group of the LVV emphasizes that through the contested Law, the legislator intended to create the possibility of increasing the minimum wage, so that this instrument plays its role only as an institution of market order and worker protection. Taking the minimum wage as a basis when determining the amount of pension for the aforementioned social categories is unsustainable in the long run. According to them, the fact that the minimum wage has not been changed for 12 years, despite the fact that it is a legal obligation, indicates the necessity of dividing the minimum wage from the amount of pensions. Their connection has not been appropriate, also due to the fact that the abovementioned social categories also gain other rights defined by the law. Another reason for disconnecting the minimum wage from the pensions of these social categories is the fact that Law no. 04/L-131 on Pension Schemes Financed by the State (beneficiaries of the basic age pension, contribution-payer age pension, disability pension, early pensions, work disability pension and family pension), does not link the minimum wage with the amount of pension for these categories. The aforementioned law establishes that *“the Government of the Republic of Kosovo, upon the proposal of the responsible Ministry for finance, decides on the amount of pensions determined by this law, depending on budgetary possibilities, cost of living and eventual inflation”*. Precisely through the contested Law, all social categories are treated equally, taking into account the specific characteristics of each group. Determining the minimum wage as a criterion for determining benefits would create the expectation that every group that benefits from state-funded social and pension schemes would have to receive benefits equal to the minimum wage, which goes beyond the purpose of the minimum wage and risks macro-economic stability of the country. They emphasize that the intention of the legislator is that, through the contested Law, the minimum wage be an instrument of labor market regulation and social protection of workers, while, *“setting of the “minimum income” provided by the state budget should be designed so as not to affect work incentives nor create poverty traps.”*
87. Further and related to *“legitimate expectations”*, the Parliamentary Group of the LVV emphasizes that the contested Law does not infringe upon the right to pension for these social groups, and this right will continue to be applied in the future. According to them, the legitimate expectation cannot be created by believing that the pension will always be equal to the minimum wage. They refer to the ECtHR case [Sukhanov and Ilchenko v. Ukraine](#), according to whom, the latter emphasized that as of the particular amount of the pension, it cannot be deemed that the applicants' claims to pension supplement in the amount of 30% of the minimum pension amounted to a *“legitimate expectation”* (see, ECtHR, [Sukhanov and Ilchenko v. Ukraine](#), cited above, paragraph 36).
88. The parliamentary group of the LVV points out that according to the case law of the ECtHR, the doctrine of legitimate expectations is assessed within a context if the legitimate expectations are based on a legal act of authorities, justified in the sense that it can assume that the law or norm will not be changed later. According to them, the

practice of the ECtHR emphasizes that it cannot be guaranteed that the legislator cannot change the law, especially if such a change is proportional.

89. Specifically, the parliamentary group of the LVV emphasizes that “by Article 5 of Law No. 05/L -141 on Amending and Supplementing Law No. 04/L -261 on Kosovo Liberation Army War Veterans, Article 18 of the Basic Law was deleted, which determined the amount of the benefit at the level of the minimum wage. Consequently, in such a situation, there has been a legal vacuum for the way of determining the amount of benefits prescribed by Law No. 04/L -261.” In this situation, according to the Parliamentary Group of the LVV “the legislator considered that it is necessary to supplement and amend article 16A, paragraph 3 subparagraph 3.1 of Law No. 04/L-261, where, in addition to the legitimate purpose of determining the amount of the benefit differently from what it was before, the way of adjusting the amount of the relevant benefits was also clarified. Therefore, in analogy with the case law of the ECtHR it cannot be said that there was any “legitimate expectation” when there is a dispute regarding the correct interpretation and application of domestic law.” The LVV parliamentary group refers to the case [Kopecký v. Slovakia](#), cited above, paragraph 50; and [Anheuser-Busch Inc. v. Portugal](#), cited above, paragraph 65.
90. Furthermore, the Parliamentary Group of the LVV considers that in addition to veterans, also in terms of blind persons and paraplegic and tetraplegic persons, from the case law of the ECtHR “it may be concluded that the doctrine of legitimate expectation is considered in the context of whether legitimate expectations rely on a legal act of the authorities (the basis of legitimate expectations) is justified in the sense that it can assume that the law or norm will not subsequently be annulled (see, *mutatis mutandis*, ECtHR [Pine Valley Developments Ltd and others v. Ireland](#), cited above). Consequently, the parliamentary group of the LVV emphasizes that “According to the case law of the ECtHR it is not guaranteed that the legislator cannot change the law, especially if such a change is proportionate (see *mutatis mutandis* ECtHR X v. Germany, application no. 8410/78, Decision on Admissibility, of 13 December 1979).
91. Finally, the parliamentary group of the LVV emphasizes that “the connection of the minimum wage with the corresponding benefits related to veterans, blind persons, paraplegic and tetraplegic persons which are paid from the state budget and which are not subject to certain periods of financial contribution, would endanger in the short and long term macro-financial sustainability or vice versa, it would make it impossible to increase the minimum wage.”
92. In the end and related to the claims for “setting the minimum wage”, the Parliamentary Group of the LVV emphasizes that the applicants have failed to argue “the claim that the determination of the minimum wage violated the Constitution of the Republic of Kosovo” such an issue concerns constitutional categories. Despite this, the parliamentary group of the LVV emphasizes that “the applicants erroneously claim that the setting of the minimum wage according to the contested Law, is not compatible with the ILO Minimum Wage Convention, and do not specify article of the Convention that has been violated.”
93. According to the parliamentary group of the LVV, the contested Law on setting the minimum wage is in full compliance with the ILO Convention on setting the minimum wage. Specifically, the LVV parliamentary group emphasizes “and precisely by making the new regulation according to the contested law, greater compatibility of the indirect application of this Convention in our legislation is achieved.” The Convention in question determines that “the competent authority in each country shall, in agreement with or after full consultation with the representative organizations of employers and workers concerned, where they exist, determine the wage bands to be

covered". According to them, the Convention does not require a concrete proposal from any institution similar to the Economic-Social Council, but offers two options, that of agreement and that of full consultation. According to the contested Law, the Ministry of Finance can propose setting the minimum wage, only after full consultation with the Economic-Social Council and in the absence of a concrete proposal from them.

Relevant constitutional and legal provisions

94. In the following, the Court will present, (I) Relevant provisions of the Constitution of the Republic of Kosovo; (II) Relevant provisions of the ECHR and applicable protocols in the present case, including other relevant international documents and instruments; (III) Relevant provisions of the applicable laws of the Republic of Kosovo; and (IV) Contested provisions of the contested Law.

I. RELEVANT CONSTITUTIONAL PROVISIONS

CONSTITUTION 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.
[...]*

Article 22 [Direct Applicability of International Agreements and Instruments]

Human rights and fundamental freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions:

- (1) Universal Declaration of Human Rights;*
- (2) European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;*
- (3) International Covenant on Civil and Political Rights and its Protocols;*
- (4) Council of Europe Framework Convention for the Protection of National Minorities;*
- (5) Convention on the Elimination of All Forms of Racial Discrimination;*
- (6) Convention on the Elimination of All Forms of Discrimination Against Women;* (7) *Convention on the Rights of the Child;*
- (8) Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment*

Article 24 [Equality Before the Law]

1. All are equal before the law. Everyone enjoys the right to equal legal protection without discrimination.

2. No one shall be discriminated against on grounds of race, color, gender, language, religion, political or other opinion, national or social origin, relation to any community, property, economic and social condition, sexual orientation, birth, disability or other personal status.

3. Principles of equal legal protection shall not prevent the imposition of measures necessary to protect and advance the rights of individuals and groups who are in unequal positions. Such measures shall be applied only until the purposes for which they are imposed have been fulfilled.

Article 46
[Protection of Property]

1. The right to own property is guaranteed.

2. Use of property is regulated by law in accordance with the public interest.

[...]

Article 51
[Health and Social Protection]

1. Healthcare and social insurance are regulated by law.

2. Basic social insurance related to unemployment, disease, disability and old age shall be regulated by law.

Article 53
[Interpretation of Human Rights Provisions]

Human rights and fundamental freedoms guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights.

Article 55
[Limitations on Fundamental Rights and Freedoms]

“1. Fundamental rights and freedoms guaranteed by this Constitution may only be limited by law.

2. Fundamental rights and freedoms guaranteed by this Constitution may be limited to the extent necessary for the fulfillment of the purpose of the limitation in an open and democratic society.

3. Fundamental rights and freedoms guaranteed by this Constitution may not be limited for purposes other than those for which they were provided.

4. In cases of limitations of human rights or the interpretation of those limitations; all public authorities, and in particular courts, shall pay special attention to the essence of the right limited, the importance of the purpose of the limitation, the nature and extent of the limitation, the relation between the limitation and the purpose to be achieved and the review of the possibility of achieving the purpose with a lesser limitation.

5. The limitation of fundamental rights and freedoms guaranteed by this Constitution shall in no way deny the essence of the guaranteed right.”

Article 65
[Competencies of the Assembly]

The Assembly of the Republic of Kosovo:

(1) adopts laws, resolutions and other general acts

[...]

Article 93
[Competencies of the Government]

The Government has the following competencies:

- (1) proposes and implements the internal and foreign policies of the country;*
 - (2) promotes the economic development of the country;*
 - (3) proposes draft laws and other acts to the Assembly;*
- [...]

Article 94
[Competencies of the Prime Minister]

[...]

(3) ensures the implementation of laws and policies determined by the Government;

II. EUROPEAN CONVENTION ON HUMAN RIGHTS

Article 14
[Prohibition of discrimination]

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

**Protocol No. 1 of Convention for the Protection of Human Rights and
Fundamental Freedoms**

Article 1
[Protection of property]

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

[...]

**Protocol No. 12 of the Convention for the Protection of Human Rights and
Fundamental Freedoms**

Article 1
[General prohibition of discrimination]

- 1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*
- 2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.*

III. RELEVANT PROVISIONS OF APPLICABLE LAWS

**LAW NO. 04/L -261 ON KOSOVO LIBERATION ARMY
WAR VETERANS** (published in the Official Gazette on 23 April 2014)

**Article 16
(Fighter Veteran's Personal Pension)**

1. *KLA Fighter Veteran shall enjoy a Fighter Veteran's Personal Pension according to the conditions defined in this Law.*
2. *KLA Fighter Veteran may not benefit any pension from other pension schemes funded by the state. If the Fighter Veteran benefits from any other pension scheme funded by the state in the Republic of Kosovo, he/she shall decide on one of the pensions he/she will receive.*
[...]
4. *KLA Veterans who are employed in the public or private sector shall not have the right to get the pension.*

**Article 17
(Supplement to the Age Pension)**

KLA Fighter Veteran, employed in the public or private sector, after reaching the legally prescribed age for retirement shall be entitled to a pension supplement equal to the pension of the Fighter Veteran.

**Article 18
(Pension Level)**

Depending on budget affordability, living costs and possible inflation, at the end of each year, the Government of Kosovo, upon the proposal of the Ministry of Finance, with a special decision may decide on the level of pension for KLA Fighter Veterans for the coming year, which may not be lower than the minimum salary in Kosovo.

**LAW No. 05/L - 141 ON AMENDING AND SUPPLEMENTING LAW No.
04/L -261 ON KOSOVO LIBERATION ARMY WAR VETERANS** (published
in the Official Gazette on 14 April 2017)

Article 16 A

[...]

2. *The general budget for realization of the payment of KLA Fighter Veteran pension, will be completely used during the year for this destination and cannot exceed 0.7% of the Annual Gross Domestic Product.*
3. *The scheme determined in paragraph 2 of this Article shall be implemented after the final categorization.*

3.1. *Until the final categorization of the KLA Fighter Veteran list, **the pension scheme shall be implemented as foreseen in the basic Law.***
(amended by Article 2 of the contested Law)
[...]

Article 5

1. *Article 18 of the basic Law shall be deleted.*

LAW No. 04/L - 092 FOR BLIND PERSONS (published in the Official Gazette on 18 July 2012)

**Article 7
(Incomes and benefits)**

1. *Blind persons shall enjoy all rights and benefits according to the laws in force.*
2. *Blind persons determined by this law, shall receive compensation from the state budget in a certain scale based on the minimum salary in Kosovo but not less than one hundred (100) Euro monthly and it shall be determined by sub-legal act issued by the Government.*

(amended by Article 3 of the contested Law)

[...]

LAW No. 05/L -067 ON THE STATUS AND THE RIGHTS OF PERSONS WITH PARAPLEGIA AND TETRAPLEGIA (published in the Official Gazette, on 16 June 2016)

**Article 7
(Compensation)**

1. *The beneficiaries of this law, receive compensation from the state budget in a certain degree based on the minimum salary in Kosovo, and is determined by secondary legislation issued by the Government according to the proposal of MLSW.*

(amended by Article 4 of the contested Law)

[...]

LAW No. 03/L-212 ON LABOUR (published in the Official Gazette on 1 December 2010)

**Article 57
(Minimum Salary)**

1. *The Government of Kosovo shall define a minimum wage at the end of every calendar based on the proposals from the Social- Economic Council.*

(amended by Article 6 of the contested Law)

[...]

Law No. 04/L-008 ON SOCIAL ECONOMIC COUNCIL (published in the Official Gazette, on 10 July 2011)

**Article 6
(The Composition of Social Economic Council)**

1. *The Social Economic Council consists of fifteen (15) members, who, in this body, represent the interests of Employees' Organizations, Employers' Organizations and Government.*

2. SEC consists of:

- 2.1. *five (5) representatives appointed by the Employees' Organizations;*
- 2.2. *five (5) representatives appointed by the Employers' Organizations; and*
- 2.3. *five (5) representatives appointed by the Government of Kosovo.*

**Article 8
(SEC functions)**

Functions of the Social Economic Council are:

1.1. counseling and guidance of the institutions of Republic of Kosovo, in creation and implementation of labor policy, social welfare and economic policies;

Article 9

(Duties, responsibilities and competences of SEC)

1. SEC with the purpose of successful implementation of its functions is responsible and competent for:

1.1. the establishment, development and progress of social dialogue in the Republic of Kosovo;

[...]

1.5. policies promoting employment, reducing unemployment, competitiveness, labor productivity, prices, wages and minimal wage of employees in the Republic of Kosovo;

[...]

IV. CONTESTED PROVISIONS OF THE CONTESTED LAW

LAW NO. 08/L-142 ON AMENDING AND SUPPLEMENTING THE LAWS THAT DETERMINE THE AMOUNT OF THE BENEFIT IN THE AMOUNT OF THE MINIMUM WAGE, PROCEDURES ON SETTING OF MINIMUM WAGE AND TAX RATES ON ANNUAL PERSONAL INCOME

Law 1

(Purpose)

1. This law aims to amend and supplement the laws set forth in the further provisions of this Law, which relate the amount of benefits or compensations to the minimum wage, change the tax rates on annual personal income, as well as change the procedure for setting of the minimum wage.

Article 2

(Amending and supplementing Law No. 04/L-261 on War Veterans of the Kosovo Liberation Army, amended and supplemented by Law No. 05/L-141)

1. Article 16A paragraph 3 under paragraph 3.1 of Law No. 04/L-261 on War Veterans of the Kosovo Liberation Army, amended and supplemented by Law No. 05/L-141, amended with the following text:

3.1. Until the final categorization of the list of KLA War Veteran, the Government of the Republic of Kosovo, upon the proposal of the responsible Ministry for finance, decides on the amount of pensions determined by this law, depending on budgetary possibilities, cost of living and eventual inflation.

Article 3

(Amending and supplementing Law No. 04/L – 092 on Blind Persons)

1. Article 7, paragraph 2 of Law No. 04/L - 092 for Blind Persons, amended with the following text:

2. The Government of the Republic of Kosovo, upon the proposal of the responsible Ministry for finance, decides on the amount of compensation for blind persons defined by this law, depending on budgetary possibilities, cost of living and eventual inflation.

Article 4
(Amending and supplementing Law No. 05/L -067 on the Status and Rights of Paraplegic and Tetraplegic Persons)

1. Article 7 paragraph 1 of Law No. 05/L -067 on the Status and Rights of Paraplegic and Tetraplegic Persons, amended with the following text:
1. The Government of the Republic of Kosovo, upon the proposal of the responsible Ministry for Finance, decides on the amount of compensation for the beneficiaries of this law, depending on budgetary possibilities, cost of living and eventual inflation.

Article 6
(Amendment and supplement of Law on Labor No. 03/L-212)

Article 57 paragraph 1 of Law on Labor No. 03/L-212, is amended as follows:

Article 57
Minimum wage

1. The Government of the Republic of Kosovo at the end of each calendar year determines the minimum wage upon the proposal of the Economic and Social Council. In lack of such a proposal from the Economic and Social Council, the relevant Minister of Finance, after informing the Economic and Social Council, may submit such a proposal to the Government of the Republic of Kosovo.

Admissibility of the Referral

95. The Court must first assess whether the referrals submitted to the Court have met the admissibility criteria established in the Constitution and further specified in the Law and the Rules of Procedure.
96. In this respect, the Court refers to paragraph 1 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution which establishes that:

Article 113
[Jurisdiction and Authorized Parties]

1. The Constitutional Court decides only on matters referred to the court in a legal manner by authorized parties.
97. The Court notes that the Applicants have filed their referral 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.
[...]

98. The Court, in assessing the fulfillment of the necessary number of deputies of the Assembly to submit a referral based on this relevant provision, notes that the referral was submitted by ten (10) deputies, a number sufficient to fulfill the criterion defined by the first sentence of paragraph 5 of article 113 of the Constitution to set the Court in motion. Consequently, this criterion has been met.

99. The Court must also assess whether ten (10) or more deputies of the Assembly are legitimated to be “*authorized parties*” in the sense of the second sentence of paragraph 5 of article 113 of the Constitution, to challenge the constitutionality of any law or the act adopted by the Assembly, both as regards the content and the procedure followed. In the present case, the applicants are legitimized as an authorized party, due to the fact that they contest the constitutionality of Law no. 08/L-142 on Amending and Supplementing the Laws that Determine the Amount of the Benefit in the Amount of the Minimum Wage, Procedures on Setting of Minimum Wage and Tax Rates on Annual Personal Income, adopted by Decision [no. 08-V-589] of 13 July 2023 of the Assembly.
100. As for the time limit within which the relevant referral must be submitted to the Court, the latter notes that the referral was submitted by the applicants on 21 July 2023, while the contested Law was adopted by the Assembly on 13 July 2023. which means that the referral was submitted to the Court within the deadline set by paragraph 5 of Article 113 of the Constitution.
101. In addition to the aforementioned constitutional criteria, the Court also takes into account Article 42 (Accuracy of the Referral) and 43 (Deadlines) of the Law, which specify and determine the further conditions for submitting the referral, based on paragraph 5 of Article 113 of the Constitution, which establish as follows:

**Article 42
(Accuracy of the Referral)**

1.

“1. In a referral made pursuant to Article 113, paragraph 6 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.

**Article 43
(Deadline)**

1. A law or decision adopted by the Assembly of the Republic of Kosovo shall be sent to the President of the Republic of Kosovo for promulgation after the expiry of the deadline prescribed by Article 113, Paragraph 5 of the Constitution.

102. The Court, also, 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 establishes that:

**Rule 72
(Referral Pursuant to Paragraph 5 of Article 113 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) A referral filed under this Rule shall have a suspensive effect.

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

information:

(a) Names and signatures of all the members of the Assembly challenging the constitutionality of a law or decision adopted by the Assembly of the Republic of Kosovo;

(b) Provisions of the Constitution or other act or legislation relevant to this referral; and

(c) Presentation of evidence that supports the contest.

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

(5) The Court shall, immediately after having registered a referral filed pursuant to paragraph (5) of Article 113 of the Constitution, notify the Assembly of the Republic of Kosovo of the registration of the referral.

(6) In the event that a law or a decision of the Assembly that requires a decree by the President is challenged, the Court shall, immediately after the registration of the referral submitted in accordance with paragraph (5) of Article 113 of the Constitution and Articles 36 (Suspension Effect) and 43 (Deadline) of the Law, notify the President and the Assembly of the suspensive effect of the referral on entry into force of the challenged law or decision, until the Court issues a final decision regarding the case at stake”.

(7) The referral under this Rule must be filed within eight (8) days from the date of adoption of the challenged law or decision.

103. In the context of the provisions of the contested Law, the Court notes that the applicants (i) wrote their names and signatures in their respective referral; (ii) specified the contested Law of the Assembly of 13 July 2023; (iii) they referred to specific articles of the Constitution, which they claim that the provisions of the contested Law are not compatible with; and (iv) submitted arguments in support of their allegations, as well as (v) submitted the referral within a period of eight (8) days, as provided by paragraph 5 of article 113 of the Constitution and sub-rule (7) of rule 72 of the Rules of Procedure.
104. Therefore, taking into account the fulfillment of the constitutional and legal criteria regarding the admissibility of the referral, the Court declares the referral of the applicants admissible and in the following, will examine its merits.

Merits of the referral

I. INTRODUCTION

105. The Court initially recalls that the applicants contest the constitutionality of Law no. 08/L-142 on Amending and Supplementing the Laws that Determine the Amount of the Benefit in the Amount of the Minimum Wage, Procedures on Setting of Minimum Wage and Tax Rates on Annual Personal Income, claiming that the latter is not in compliance with the Constitution of the Republic of Kosovo, respectively with its articles 7 [Values], 24 [Equality Before the Law], 46 [Protection of Property] and 51 [Health and Social Protection].
106. As explained in detail in the part of this Judgment that is related to the relevant claims and counter-arguments, the applicants before the Court specifically challenge the constitutionality of articles 2, 3, 4 and 6 of the contested Law, claiming that the latter result in violation of (i) equality before the law; and (ii) the property rights of KLA veterans, blind persons and paraplegic and tetraplegic persons, essentially because as a result of the elimination of legal guarantees that the pensions and corresponding compensations of the aforementioned categories are at least at the level of minimum

wage in the Republic of Kosovo, the latter have not been treated equally and consequently they have been discriminated against, moreover their property rights have been violated, and (iii) the way of setting the minimum wage results in the violation of equality and social protection. The Ombudsperson, in essence, supports the arguments of the applicants, while the latter are opposed by the Ministry of Finance and the Parliamentary Group of the LVV.

107. In the aforementioned context, the Court first notes that based on Article 1 (Purpose) of the contested Law, the purpose of this Law is to: (i) amend and supplement the laws defined in Articles 2, 3 and 4 thereof, which relate the amount of pension and compensations to the minimum wage for (a) Kosovo Liberation Army War Veterans; (b) blind persons; and (c) paraplegic and tetraplegic persons; (ii) to change the tax rates on annual personal income; and (iii) change the minimum wage setting procedure. Specifically and in the circumstances of the present case, the Court notes that the specific provisions of the contested Law amend and supplement (i) Law no. 04/L-261 on Kosovo Liberation Army War Veterans, amended and supplemented by Law no. 05/L-141; (ii) Law no. 04/L - 092 on Blind Persons; (iii) Law no. 05/L - 067 on the Status and Rights of Paraplegic and Tetraplegic Persons; and (iv) Law no. 03/L-212 on Labor.
108. The amendment and supplement of the aforementioned laws through the contested Law, is related to the way of setting the amount and compensation of the aforementioned categories, namely (i) veterans of the KLA; (ii) blind persons; and (iii) paraplegic and tetraplegic persons, categories which, based on the applicable laws, enjoy certain rights and benefits that are guaranteed and/or compensated by the budget of the Republic of Kosovo.
109. Before the constitutional review of the provisions of the contested Law, the Court first emphasizes the main constitutional competence of the Assembly for legislation at the national level. The Assembly, as a legislative power, *“apart from the Constitution and the obligation to exercise legislative power in accordance with the Constitution, [...] is not subject to any other authority”* (see, among others, the case of the Court [KO72/20](#), applicant *Rexhep Selimi and 29 other deputies of the Assembly of the Republic of Kosovo*, Judgment of 28 May 2022, paragraph 352). In the context of the circumstances of the present case, it is therefore indisputable the authorization of the Assembly that in exercising its competence based on paragraph 1 of Article 65 [Competencies of the Assembly] of the Constitution, to regulate the issue of benefits and compensations for the aforementioned categories according to a specific policy chosen by the Assembly itself. The latter has full authorization to choose the best and most appropriate modality that it considers to be suitable for the salary system for the Republic of Kosovo in terms of public policies. The only limitation that the Assembly has in legislation is to respect the law-making procedures and to vote on laws that are in compliance with the Constitution and the values and principles proclaimed therein.
110. The Court also emphasizes that it is clear that based on the Constitution of the Republic of Kosovo, the Constitutional Court does not act *ex officio* in checking the constitutionality of laws. The constitutionality of all laws in force in the Republic of Kosovo is presumed as such as long as the latter is not contested before the Constitutional Court by the authorized parties. The Assembly is considered to have issued a constitutional law until the moment such a law or a part of the law is not assessed as unconstitutional by the Court. The latter also highlights the fact that in all cases where a Law of the Assembly is challenged before the Court by the authorized parties, the focus of the assessment is always the respect of constitutional norms and human rights and freedoms - and never the assessment of the selection of public policy that has led to the adoption of a certain Law. The Court has already emphasized in its case law that when assessing the constitutionality of a law, it never assesses whether it

is a law based on good public policies or not, but whether it is in compliance with the constitutional provisions (see, Court's cases [KO73/16](#), applicant *the Ombudsperson*, Judgment of 8 December 2016, paragraph 52; case [KO72/20](#), cited above, paragraph 357; [KO12/18](#), applicant *Albulena Haxhiu and 30 other deputies of the Assembly of the Republic of Kosovo*, Judgment of 11 June 2018, paragraph 117; [KO219/19](#), cited above, paragraph 259; and [KO216/22_KO220/22](#), applicant: for referral *KO216/22 –Isak Shabani and 30 other deputies of the Assembly of the Republic of Kosovo*, Judgment of 11 June 2018, paragraph, and for *KO220/22 - Arben Gashi and 9 (nine) other deputies of the Assembly of the Republic of Kosovo*, Judgment of 2 August 2023, paragraph 312).

111. With the above clarifications in mind, the Court emphasizes that the scope of this referral and respectively the constitutional issue that this Judgment entails is the compatibility with the Constitution of the provisions of the contested Law, namely the assessment of whether the latter violates the principle of equality before the law and the right to property guaranteed by Articles 7, 24 and 46 of the Constitution, as well as equality and social protection based on Article 51 of the Constitution.
112. In order to assess the constitutionality of the contested Law, the Court will first present: (I) the scope of the contested Law; and (II) will subject to its assessment the contested provisions of the contested Law, applying in this assessment, among other things, the relevant constitutional principles and those arising from the case law of the ECtHR and the Court, related to equality before law and the right to property.

II. Scope of the contested Law

113. The Court recalls that articles 2, 3 and 4 of the contested Law amend and supplement (i) Law no. 04/L-261 on Kosovo Liberation Army War Veterans, amended and supplemented by Law no. 05/L-141; (ii) Law no. 04/L - 092 for Blind Persons; and (iii) Law no. 05/L - 067 on the Status and Rights of Persons with Paraplegia and Tetraplegia. The amended and/or supplemented provisions of the aforementioned laws are related to the way of setting the amount of pensions and compensations for the category of (i) KLA veterans; (ii) blind persons; and (iii) paraplegic and tetraplegic persons. Also, the Court recalls that Article 6 of the contested Law amends and supplements Law no. 03/L-212 on Labor, related to the manner of setting the minimum wage level in the Republic of Kosovo. Article 5 of the contested Law, on the other hand, amends and supplements Law no. 05/L-028 on Personal Income Tax, but this article was not contested before the Court by the applicants.
114. In order to deal with the claims of the applicants, including the comments and responses of the Ombudsperson and other parties, including the Government, in the following, the Court will first elaborate, as far as it is relevant in the circumstances of the present case, (i) applicable laws, including changes over the years related to the aforementioned categories; and (ii) their changes through the contested Law, starting with (a) KLA veterans; (b) blind persons; and (c) paraplegic and tetraplegic persons, and (iii) changing the way of setting the minimum wage.
 - (a) *KLA veterans*
115. The Court initially recalls that on 7 December 2000, UNMIK Regulation no. 2000/66 on benefits for war invalids and relatives of those who died, as a result of the armed conflict in Kosovo entered into force. As far as it is relevant to the circumstances of the present case, the latter, among others, had set the benefits for the categories included in its scope, including but not limited to (i) financial payments for war invalids; (ii) the free use of medical aid provided in government medical centers and rehabilitation centers in Kosovo for war invalids and their relatives; (iii) exemption from sales tax, excise duty

and customs tax on vehicles adapted for the specific disability of war invalids; and (iv) financial payments to the relatives of those who died as a result of the armed conflict in Kosovo. This Regulation, in article 3 (Special Fund) established as it follows: *a special fund will be established to provide special assistance to war invalids with the right of use also for relatives of those who died as a result of the armed conflict in Kosovo, including limited financial payments from allocated resources for this purpose from the Consolidated Budget of Kosovo and supplementary contributions through the Consolidated Budget of Kosovo.*

116. On 23 February 2006, the Assembly of Kosovo adopted Law no. 02/L-02 on the Status and Rights of the Martyrs` Families, Invalids, Veterans and Members of Kosovo Liberation Army and Families of Civilian Victims of War. Through this law, which also included the category of KLA veterans, the status of invalids, veterans and KLA members, as well as the special rights and benefits for their family members, were regulated. The aforementioned law, among other things, established (i) the forms of pensions in its article 4 (Types of pensions); (ii) the special benefits in Article 5 (Special Benefits) thereof; (iii) the basis of the disability pension and the categorization of disability in Article 8 (The rights of KLA invalids according to the level of disability) thereof, and according to which also the basis of the personal disability pension is 140% of the minimum wage earned in Kosovo, in the previous year; and (iv) the rights of veterans and members of the KLA in Article 10 (Rights of veterans and members of the KLA) thereof.
117. The aforementioned law was repealed in 2011, through the adoption of Law no. 04/L-054 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims of War and their Families. The latter also determined pensions and benefits for the category of invalids of the KLA. Whereas, related to the category of veterans, the above-mentioned law in Article 12 (Status and the rights of veterans of the KLA) specified that (i) according to the provisions of this law, the responsible body of the Government recognizes and defines the status of KLA veterans; and (ii) the rights to benefits for KLA veterans as well as the qualification criteria for their recognition and realization will be regulated by a special law.
118. The Court further recalls that Law no. 04/L-261 on Kosovo Liberation Army War Veterans (hereinafter: the Law on Veterans of 2014), was adopted in 2014. This law, as far as it is relevant to the circumstances of the present case, (i) had determined the categorization of KLA veterans according to Article 4 (Categorization of Kosovo Liberation Army veterans); and (ii) the rights to benefits for KLA fighter veterans, in Chapter IV thereof. The latter included, (i) the right to free health care services in Article 23; (ii) the right to priority in employment in Article 24; (iii) the right to travel in Article 25; (iv) the right to vocational rehabilitation in Article 26; (v) facilities for KLA fighter veterans in Article 27; (vi) the right to double tenure in Article 28 (vii) housing care in Article 29; (viii) priority of admission to public educational institutions in Article 30; (ix) exemption from administrative payments in Public University education in Article 31; (x) accommodation in homes for the elderly in Article 32; (xi) funeral expenses in Article 33; and (xii) pension for heirs in Article 20, according to the provisions of the aforementioned law. In addition, the Court also notes that based on Article 17 (Supplement to the Age Pension) it is foreseen that the KLA War Veteran employed in the public and private sector after reaching the legal retirement age is entitled to a pension supplement equal to the pension of the fighter veteran.
119. As far as it is relevant to the circumstances of the present case, articles 16 (Fighter Veteran's Personal Pension) and 18 (Pension Level) of the Law on Veterans of 2014, determine the amount and method of determining the pension. More specifically, Article 16 of the aforementioned law stipulates that (i) the Fighter Veteran of the KLA enjoys the

personal pension of the Fighter Veteran according to the conditions defined in this law; (ii) KLA Fighter Veteran may not benefit any pension from other pension schemes funded by the state. If the Fighter Veteran benefits from any other pension scheme funded by the state in the Republic of Kosovo, he/she shall decide on one of the pensions he/she will receive; and (iii) KLA veterans who are employed in the public and private sector are not entitled to pension benefits. Whereas Article 18 of the above-mentioned law specifies that depending on the budget possibilities, living costs and possible inflation, at the end of each year, the Government of Kosovo, upon the proposal of the Ministry of Finance, with a special decision may decide on the level of pension for KLA Fighter Veterans for the coming year, which may not be lower than the minimum salary in Kosovo.

120. The aforementioned law was supplemented and amended in 2017, through Law no. 05/L-141 on Amending and Supplementing the Law no. 04/L-261 on Kosovo Liberation Army War Veterans (hereinafter: Law on Veterans of 2017). This law reformulated Article 15 (Realization of the right to pension and benefits) of the 2014 Law, as follows: (i) KLA, Fighter Veteran through recognition of the right to pension and various benefits, is provided with financial support and certain benefits for the contribution given in the KLA war; (ii) The KLA Fighter Veteran who did not act in Kosovo during the war does not enjoy the right to a pension; and (iii) an exception to this article includes logistics that operated at supplying points in Albania and neighboring countries. Whereas, the Law on Veterans of 2017, Article 16 of the Law of 2014, was supplemented through Article 16A, and through which the KLA War Veteran was categorized, as a beneficiary of pension and other benefits, in three categories, in accordance with the time of mobilization and service in the KLA, determining the monthly pension (i) at two hundred and fifty (250) euro for the first category; (ii) one hundred and seventy (170) euro for the second category; and (iii) one hundred and twenty (120) euro for the third category. Article 16A also determined that (i) the general budget, for the realization of the pension payment of the KLA Fighter Veteran, will be completely used during the year for this destination and cannot exceed 0.7% of the Annual Gross Domestic Product; and (ii) until the final categorization of the KLA Fighter Veteran list, the pension scheme is implemented as provided by the basic law. Finally, through the 2017 Law, Article 18 (Pension Level) of the 2014 Law on Veterans was deleted, according to which, depending on budgetary possibilities, the cost of living and eventual inflation, at the end of each year for next year, the Government of Kosovo, with the proposal of the Ministry of Finance with a special decision, can decide on the amount of the pension of the KLA Fighter Veteran, which cannot be less than the minimum salary defined in Kosovo.

121. The Court recalls that the contested Law, through Article 2 thereof, amends Article 16A of the Veterans Law of 2017, namely replaces its paragraph 3.1, with paragraph 3.1 of Article 2 of the contested Law, replacing the wording (i) “*until the final categorization of the KLA Fighter Veteran list, the pension scheme shall be implemented as foreseen in the basic Law*” with (ii) “*until the final categorization of the list of KLA War Veteran, the Government of the Republic of Kosovo, upon the proposal of the responsible Ministry for finance, decides on the amount of pensions determined by this law, depending on budgetary possibilities, cost of living and eventual inflation*”.

(b) *Blind Persons*

122. The Court recalls that Law no. 04/L-092 for Blind Persons (hereinafter: Law on Blind Persons) was adopted by the Assembly in 2012. It regulates the legal status of blind persons in the Republic of Kosovo as well as the rights and benefits as well as defines the criteria for the categorization of blind persons. As far as it is relevant to the circumstances of the present case, the aforementioned Law also defines their rights, including but not limited to those related to (i) employment in Article 5; (ii) exemption

from taxes and fees in Article 6; (iii) housing in Article 8; (iv) health care in Article 9; (v) education and training in Article 10; (vi) access to information in Article 11; (vii) travel in Article 13; and (viii) electricity and telephone costs in Article 14, according to the provisions of the aforementioned law. Article 7 (Incomes and benefits) of the Law on Blind Persons also defines income and benefits, including that (i) blind persons defined by this law receive from the state budget compensation at a certain scale based on the minimum wage in Kosovo, but not less than one hundred (100) euro per month and is determined by a sub-legal act issued by the Government; and (ii) material beneficiaries due to blindness, according to paragraph 1, of this article cannot be beneficiaries of any compensation from other pension schemes applicable in Kosovo, unless otherwise determined by law.

123. The Court recalls that the contested Law, through its article 3, amends paragraph 2 of article 7 of the Law on Blind Persons, replacing it with paragraph 2 of article 3 of the contested Law, respectively replacing the wording (i) “*Blind persons determined by this law, shall receive compensation from the state budget in a certain scale based on the minimum salary in Kosovo but not less than one hundred (100) Euro monthly and it shall be determined by sub-legal act issued by the Government*” with (i) “*The Government of the Republic of Kosovo, upon the proposal of the responsible Ministry for finance, decides on the amount of compensation for blind persons defined by this law, depending on budgetary possibilities, cost of living and eventual inflation*”.

(c) Paraplegic and Tetraplegic Persons

124. The Court recalls that Law no. 05/L-067 on the Status and Rights of Persons with Paraplegia and Tetraplegia (hereinafter: Law on Paraplegic and Tetraplegic Persons) was approved by the Assembly in 2016. It regulates the status and rights of persons who, as a cause of illness or injury have permanently lost the possibility of displacement and movement of the lower extremities or persons who, due to illness or injury, have permanently lost the possibility of displacement and movement of the upper and lower extremities who receive monthly allowance. The aforementioned law defines the rights to benefits of the beneficiaries of this law, as well as the administrative procedures for exercising these rights.
125. As far as it is relevant to the circumstances of the present case, the aforementioned Law also defines their rights, including but not limited to those related to (i) the personal guardian in Article 8; (ii) funds for compensation and guardian payments in Article 9; (iii) exemption from taxes and fees in Article 10; (iv) education in Article 12; (v) health care in Article 13; (vi) electricity costs in Article 14; (vii) travel in Article 15; and (viii) care for housing in Article 16, according to the provisions of the aforementioned law. Article 7 (Compensation) of the aforementioned Law also defines the modalities of compensation, including that (i) the beneficiaries of this law receive compensation from the state budget in a certain degree based on the minimum salary in Kosovo, and is determined by secondary legislation issued by the Government according to the proposal of the Ministry of Education and Culture; (ii) the beneficiaries of this law, based on the assessment by the evaluation committee, who continuously have permanent and full consequences, use medicaments on daily basis, have complete loss of sensitivity of extremities and in order to prevent decubital injuries receive an additional amount of fifty percent (50%) of compensation from paragraph 1 of this Article; (iii) employment, self-employment or any other form of employment, will not be the reason for exclusion from compensation, as defined in this law; and (iv) beneficiaries of this law, regardless of age receive compensation, as foreseen by this law.
126. The Court also notes that Article 21 (Benefits Subject of Fiscal Difficulties) of the Law on Paraplegic and Tetraplegic Persons, defines the exceptions to the aforementioned rights,

benefits and compensations, determining that regardless of the other provisions of this law, the payment of any and all financial benefits provided by this law shall be required only to the extent that (i) funds are appropriated separately for such purpose, according to the applicable Law on the annual budget; (ii) there are sufficient funds available for such payments; (iii) the government has not issued a decision under paragraph 2 of this Article that reduces or eliminates such payments; and (iv) to the extent that the Government deems necessary to address the circumstances that create unforeseen fiscal strain on public budget or otherwise to ensure the preservation of public fiscal discipline, Government shall have the authority to issue a decision that reduces or eliminates any privilege ensured by this law, including benefits related to financial payments even if funds are appropriated by the Law on Budget applicable at that time.

127. The Court recalls that the contested Law, by its Article 4, amends paragraph 1 of Article 7 of the Law on Paraplegic and Tetraplegic Persons, replacing paragraph 1 of Article 7 of the aforementioned Law with paragraph 1 of Article 4 of the contested Law, respectively replacing the wording (i) “*The beneficiaries of this law, receive compensation from the state budget in a certain degree based on the minimum salary in Kosovo, and is determined by secondary legislation issued by the Government according to the proposal of MLSW*” with (ii) “*The Government of the Republic of Kosovo, upon the proposal of the responsible Ministry for Finance, decides on the amount of compensation for the beneficiaries of this law, depending on budgetary possibilities, cost of living and eventual inflation*”.

III. Constitutional review of the contested Law

128. The Court first emphasizes that based on (i) Article 7 [Values] of the Constitution, one of the values of the Republic is also social justice; (ii) Article 24 [Equality Before the Law] of the Constitution, everyone is equal before the law and no one can be discriminated against, among other things, on the basis of economic or social status; and (iii) Article 51 [Health and Social Protection] of the Constitution, (a) health care and social insurance are regulated by law; and (b) basic social insurance related to unemployment, disease, disability and old age shall be regulated by law.
129. Based on the aforementioned provisions, the Court emphasizes the fact that the Constitution, through its Article 51, the issues related to health care, social insurance, including those related to “*unemployment, disease, disability and old age*”, has delegated at the level of the law and which is adopted by the Assembly of the Republic, always under the constitutional guarantees, including those related to social justice and equality before the law, according to the provisions of articles 7 and 24 of the Constitution, respectively.
130. The Court further emphasizes that the issues related to the aforementioned categories, namely (i) KLA veterans; (ii) blind persons; and (iii) paraplegic and tetraplegic persons, are regulated by laws of the Republic of Kosovo and which, in the context of the amount of pension and compensation, are amended and supplemented by the contested Law. However, the Court emphasizes that the laws applicable to the aforementioned categories do not identically regulate the issue of the level/amount of pensions and/or corresponding compensations included in the context of the connection with the minimum wage in the Republic of Kosovo.
131. In fact, the only category which, based on the applicable laws, has a guarantee that the amount of the pension “*may not be lower than the minimum salary in Kosovo*”, is the category of KLA veterans. However, according to the clarifications that will follow, this guarantee contained in Article 18 of the Law on Veterans of 2014, has been eliminated through the Law on Veterans of 2017 and has been subject to the assessment of the

Constitutional Court in case [KO01/17](#), applicant *Aida Dërguti and 23 other deputies of the Assembly of the Republic of Kosovo* and which, in the context of the disconnection between the amount of the veteran's pension and the minimum wage guarantee, did not find any violation of the constitutional provisions.

132. On the other hand, the guarantees related to the minimum wage in the context of the level of compensation for blind persons and paraplegic and tetraplegic persons are subject to other formulations in the applicable laws, namely the Law on Blind Persons and the Law on Paraplegic and Tetraplegic Persons. More precisely and in contrast to the wording in the Law on Veterans of 2014, according to which the amount of the pension, “*may not be lower than the minimum salary in Kosovo*”, (i) the Law on Blind Persons determines that the latter, “*receive compensation from the state budget in a certain scale based on the minimum salary in Kosovo but not less than one hundred (100) Euro monthly and it shall be determined by sub-legal act issued by the Government*”, while (ii) the Law on Paraplegic and Tetraplegic Persons determines that the latter “*receive compensation from the state budget in a certain degree based on the minimum salary in Kosovo*”, and it is determined by a sub-legal act issued by the Government, according to the proposal of the MLSW, in its article 7, moreover, that the latter is also subject to the requirement of the sufficiency of funds in the state budget, according to the provisions of its article 21.
133. Based on the above clarifications, the Court notes that (i) the only category which, based on the applicable Law of 2014, had a guarantee for the amount of compensation at the minimum wage level, is the category of KLA veterans, but that such a guarantee was eliminated in 2017 and was subject to the review of the Constitutional Court; (ii) the category of blind persons and paraplegic and tetraplegic persons, based on the respective applicable laws, do not have the guarantee that the level of the respective compensations will not be lower than the value of the minimum wage, but the compensation guarantee “*in a certain degree based on the minimum salary*” whereas, (iii) the only category for which the applicable law guarantees the low threshold of the compensation value, namely the guarantee that the same cannot be lower than one hundred (100) euro per month, is that of blind persons.
134. In what follows and based on the above-mentioned clarifications, the Court will subject the contested provisions of the contested Law to the constitutional review, starting with (i) the constitutional review of articles 2, 3, 4 of the contested Law with article 24 [Equality Before the Law] of the Constitution; (ii) the constitutional review of Articles 2, 3, 4 of the contested Law with Article 46 [Protection of Property] of the Constitution; and (iii) the constitutional review of article 6 of the contested Law with articles 7 [Values] and 51 [Health and Social Protection] of the Constitution. Throughout the review of the aforementioned articles and based on the claims of the applicants and the arguments and counterarguments of the parties before the Court, the latter will also elaborate and apply the relevant principles related to equality before the law and the right to property, taking into account the special circumstances of each category separately, namely the category of (i) KLA veterans; (ii) blind persons; and (iii) paraplegic and tetraplegic persons.
 1. **Constitutional review of articles 2, 3, 4 of the contested Law with Article 24 [Equality Before the Law] of the Constitution**
 - A. **The essence of the allegations and counterarguments of the parties**
135. The Court first points out that the applicants claim that articles 2, 3 and 4 of the contested Law, which amend and supplement the Basic Laws that regulate the status of the three above-mentioned categories of society in relation to the method of determining

the amount of pensions and compensations, by “*eliminating the reference to the minimum wage*”, violate the principle of equality before the law and as such are discriminatory. In essence, the applicants claim a violation of the constitutional principle of equality before the law, among the three categories mentioned above, because by leaving the determination of the relevant compensation to the discretion of the Government, the contested Law: (i) gives the right to the Government to set the pensions of these groups at different amounts, and not equally for all; (ii) makes a distinction between categories, in the same circumstances; and that (iii) there is a possibility that the amount of pension of one category is higher than the amount of pension of another category, which may constitute discrimination. Consequently, they have no guarantee that they will be compensated equally. In essence, the claims of the applicants are also supported by the Ombudsperson.

136. On the other hand, the Ministry of Finance and the Parliamentary Group of the LVV counter-argued, emphasizing, among other things, that the provisions of the contested Law do not violate the principle of equality before the law, because the aforementioned categories are not in “*a similar or comparable situation*” with each other nor with other employees who are in an employment relationship, because (i) KLA war veterans receive pension and other benefits due to their service in the war and as a sign of gratitude of the state towards them; (ii) blind persons and paraplegic and tetraplegic persons acquire rights and benefits due to their personal characteristics; while (iii) employees are paid for their work and service and, consequently, the concept of minimum wage applies only to the latter.

B. Court’s assessment

137. The Court recalls that the applicants’ allegations in the context of the aforementioned articles are, in principle, related to the principle of equality before the law, namely the unequal treatment between the categories of KLA veterans, blind persons and paraplegic and tetraplegic persons and who, in the absence of guarantees for the minimum wage, may not be treated in the same way, the claims, which the Court will subject to its assessment in the following.
138. In the aforementioned context, the Court, as it has established through its case law, initially recalls that Article 24 [Equality Before the Law] of the Constitution establishes that everyone is equal before the law and that everyone enjoys the right to equal legal protection. Protection against discrimination established in Article 14 (Prohibition of discrimination) and Article 1 (General prohibition of discrimination) of Protocol no. 12 of the ECHR prohibits discrimination not only against the rights defined by the ECHR, but also against the rights which are defined through the applicable laws. Moreover, and in the sense of Article 24 of the Constitution, the Court also notes that the scope of this Article is broad and extends to the guarantee of the prohibition of discrimination, not only in terms of the rights guaranteed by the Constitution, but also those by law. Therefore, the assessment of allegation of violation of this article should be made beyond the guarantees of Article 14 of the ECHR, and also include the guarantees established in Article 1 of Protocol no. 12 of the ECHR (see, in this regard, case of the Court, [KO93/21](#), Applicant: *Blerta Deliu-Kodra and twelve (12) other deputies of the Assembly of the Republic of Kosovo*, Judgment of 23 December 2021, paragraphs 283-293; and case of the Court [KO79/23](#), Applicant *the Ombudsperson*, Judgment of 26 December 2023, paragraphs 353-354).
139. The principles regarding equality before the law and non-discrimination have been elaborated, recently, in three (3) Court cases, namely, (i) Judgment [KO93/21](#), regarding the constitutional review of the Recommendations of the Assembly of the Republic of Kosovo, no. 08-R-01, of 6 May 2021 (see, paragraphs 283-364 regarding the general

principles); and (ii) Judgment [KO190/19](#) regarding the constitutional review of Article 8, paragraph 2, of the Law [no. 04/L-131](#) on Pension Schemes Financed by the State in conjunction with article 5 and 6 of the Administrative Instruction (MLSW) no. 09/2015 on the Categorization of Beneficiaries of Contribute Paying Pensions according to Qualification Structure and Duration of Payment of Contributions (see paragraphs 180-230 regarding the general principles); and (iii) Judgment [KO79/23](#) regarding the constitutional review of Law no. 08/L-196 on Salaries in the Public Sector (see, paragraphs 352-361 regarding the general principles).

140. Based on the aforementioned case law and as far as it is relevant in the circumstances of the present case, the Court recalls the criteria that must be assessed in order to ascertain whether the principle of equality before the law has been violated according to the provisions of Article 24 of the Constitution, respectively (i) if there was a “*difference in treatment*” of persons in “*analogous situations or relatively similar situations*” - or failure to treat persons differently in relatively different situations; and if this is the case, then it is assessed (ii) whether such difference – or lack of difference – is objectively justified, namely whether (a) the difference in treatment is “*prescribed by law*”; (b) the difference in treatment pursued a “*legitimate aim*”; and (c) there is a relationship of “*proportionality*” between the difference in treatment and the aim sought to be achieved (see, *inter alia*, the Court’s cases [KO93/21](#) applicant *Blerta Deliu-Kodra and 12 other deputies of the Assembly of the Republic of Kosovo*, Constitutional review of Recommendations of the Assembly of the Republic of Kosovo, No. 08-R-01, of 6 May 2021, Judgment of 28 December 2022, paragraphs 301-311; and [KOO1/17](#), applicant *Aida Dërguti and 23 other Deputies of the Assembly*, Constitutional review of the Law on amending and supplementing Law no. 04/L-261 on War Veterans of the Kosovo Liberation Army, Judgment of 28 March 2017, paragraph 74).
141. As a consequence, and to ascertain whether there is a “*difference in treatment*” between certain categories, the Court must first determine whether the latter are in “*analogous or relatively similar situations*”. The Court followed the same approach, among others, in the case (i) [KO93/21](#), and through which, among other things, it has assessed that all electricity consumers in the Republic of Kosovo are in “*analogous or relatively similar situations*” (see, Court Judgment in case [KO93/21](#), paragraphs 301-311); and (ii) [KO190/19](#), through which it has assessed that in terms of the legal provisions regarding the contributory pension category, all citizens who have proof of the respective qualifications as defined by the contested Law and Administrative Instruction and have contribution paying experience, are in “*analogous or relatively similar situations*” (see, Court Judgment in case [KO190/19](#), paragraphs 183-187).
142. In the circumstances of the contested provisions of the contested Law and the claims of the applicants, in the circumstances of the present case, it is disputed whether there is a “*difference in treatment*” between the three categories, because leaving the determination of the corresponding compensation at the discretion of the Government, the latter have no guarantee that it will compensate them equally. According to the above clarifications, the court emphasizes that in order to determine whether “*there is a difference in treatment*”, it must first determine whether the aforementioned categories are in “*analogous or relatively similar situations*”.
143. The Court first recalls that the status, including the benefits of KLA veterans, blind persons and paraplegic and tetraplegic persons, are determined by (i) Law no. 04/L-261 on Kosovo Liberation Army War Veterans, amended and supplemented by Law no. 05/L-141; (ii) Law no. 04/L - 092 for Blind Persons; and (iii) Law no. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons, respectively, while (iv) the rights and obligations of employees in the Republic of Kosovo, are specified by Law no. 03/L-212 on Labor.

144. The Court, initially and in the context of the minimum wage in the Republic of Kosovo, clarifies the difference between the Law on Labor and the laws that regulate the respective rights and benefits/compensations of the KLA veterans, blind persons and paraplegic and tetraplegic persons, emphasizing Article 1 (Purpose) of the Law on Labor, which states that this law aims to regulate the rights and obligations from the employment relationship, as defined by this law, while in Article 2 (Scope of application), it establishes that the provisions of this law apply to employees and employers of the private and public sector in the Republic of Kosovo. On the other hand, the Law on Veterans, the Law on Blind Persons and the Law on Paraplegic and Tetraplegic Persons, establish the rights and benefits applicable to the three aforementioned categories, due to their contribution to the liberation war of Kosovo in the case of KLA veterans, although due to their personal characteristics in the case of blind persons and paraplegic and tetraplegic persons. Considering the difference between the scope of the Law on Labor on the one hand and the scope of the laws applicable to KLA veterans, blind persons and paraplegic and tetraplegic persons on the other hand, including the purpose of each aforementioned law, the distinction between the categories that regulate, including the rights and facilities that are defined by the laws applicable to KLA veterans, blind persons and paraplegic and tetraplegic persons in contrast to employees in the public and private sectors in the Republic of Kosovo, the Court emphasizes that the aforementioned categories are not in “*analogous or relatively similar situations*” to those employed in the Republic of Kosovo according to the provisions of the Law on Labor.
145. On the other hand and in the context of the categories of KLA veterans, blind persons and paraplegic and tetraplegic persons, the Court notes that (i) the Law on Veterans in Article 1 (Purpose), determines that the purpose of issuing this law is the determination of the rights to benefits of the veterans of the Kosovo Liberation Army, who, with their sacrifice, commitment and precious contribution, in the Kosovo Liberation War, were decisive factors for bringing freedom and independence to the people of Kosovo, while in its article 2 (Scope), specifies that this law defines the rights to benefits for KLA Veterans and their close family members, the qualification criteria for their recognition and realization as well as the administrative procedures for the exercise of these rights; (ii) the Law on Blind Persons, in Article 1 (Purpose), determines that this law regulates the legal status of blind persons in the Republic of Kosovo, while in Article 2 (Scope), it specifies that the latter regulates rights and benefits as well as defines the criteria for the categorization of blind persons; while (iii) the Law on Paraplegic and Tetraplegic Persons, in Article 1 (Purpose), specifies that this law regulates the status and rights of persons who, due to illness or injury, have permanently lost the possibility of relocation and movement of the lower extremities or persons who, due to illness or injury, have permanently lost the possibility of relocation and movement of the upper and lower extremities, who receive monthly compensation.
146. Furthermore, and in the context of the minimum wage, the Court emphasizes that while the aforementioned Laws, namely (i) the Veterans Law of 2017, through Article 16A and Article 5 thereof, *inter alia*, (a) specify the monthly pension of the War Veteran; (b) determine that the general budget, for the realization of the pension payment of the Fighter Veteran of the KLA, is used entirely during the year for this purpose and cannot exceed 0.7% of the Gross Domestic Product per year and in case of exceeding 0.7 % of the Gross Domestic Product, then the pension reduction occurs proportionally for all the beneficiaries of this law; (c) delete Article 18 of the Basic Law, which relates the amount of pensions to the minimum wage; whereas it also clarifies that (d) until the final categorization of the KLA Fighter Veteran list, the pension scheme is implemented as provided by the basic law; (ii) the Law on Blind Persons in its article 7, the minimum amount of the corresponding compensation, is not necessarily related to the minimum wage, but with an amount of not less than one hundred (100) euro per month; and (iii)

the Law on Paraplegic and Tetraplegic Persons, in its article 7, the minimum amount of the corresponding compensation, not necessarily related to the minimum wage, but with a certain degree of it, while in its article 21, it also defines the discretion of the Government to change the amount of this compensation under certain circumstances.

147. Moreover, the three laws and under the scope of which enter the category of KLA veterans, blind persons and paraplegic and tetraplegic persons, beyond the relevant monthly compensation, also define a series of rights and benefits and which are valid only for the three categories mentioned above. More specifically, in the case of veterans, the Law on Veterans of 2014, *inter alia*, defines (i) the right to free health services in Article 23; (ii) the right to priority in employment in Article 24; (iii) the right to travel in Article 25; (iv) the right to vocational rehabilitation in Article 26; (v) facilities for KLA fighter veterans in Article 27; (vi) the right to double tenure in Article 28; (vii) residential care in Article 29; (viii) priority of admission to public educational institutions in Article 30; (ix) exemption from administrative payments in Public University education in Article 31; (x) placement in houses for the elderly in Article 32; (xi) funeral expenses in Article 33; and (xii) pension for heirs in Article 20, according to the provisions of the aforementioned law. Whereas, the Law on Blind Persons, among other things, defines (i) employment in Article 5; (ii) exemption from taxes and fees in Article 6; (iii) housing in Article 8; (iv) health care in Article 9; (v) education and training in Article 10; (vi) access to information in Article 11; (vii) travel in Article 13; and (viii) electricity and telephone costs in Article 14, according to the provisions of the aforementioned law. Finally, and in the case of paraplegic and tetraplegic persons, the relevant Law, among other things, defines (i) the personal guardian in Article 8; (ii) funds for compensation and guardian payments in Article 9; (iii) exemption from taxes and fees in Article 10; (iv) education in Article 12; (v) health care in Article 13; (vi) electricity costs in Article 14; (vii) travel in Article 15; and (viii) care for housing in Article 16, according to the provisions of the aforementioned law. The Court also notes that that based on Article 17 (Supplement to the Age Pension) it is foreseen that the KLA War Veteran employed in the public and private sector after reaching the legal retirement age is entitled to a pension supplement equal to the pension of the fighter veteran.
148. Based on the above clarifications, and taking into account the difference in the scope of the laws applicable to KLA veterans, blind persons and paraplegic and tetraplegic persons, including the purpose of each of the aforementioned laws, the difference between the categories that regulate, including the rights and facilities defined by the laws applicable to KLA veterans, blind persons and paraplegic and tetraplegic persons, the Court assesses that the aforementioned categories are not in “*analogous or relatively similar situations*”.
149. In support of the above finding, the Court refers to the case law of the ECtHR, namely the Judgment of the Grand Chamber of the ECtHR, in the case of *Fabian v. Hungary*, in which the ECtHR did not find a violation of Article 14 in conjunction with Article 1 of Protocol no. 1 of the ECHR, precisely after the elaboration of the principles and the finding that the respective categories, namely those employed in the public and private sectors, were not in “*analogous or relatively similar situations*” in the context of compensations and/or social benefits (see the case of the ECtHR, *Fabian v. Hungary*, no. 78117/13, Judgment of 5 September 2017, paragraphs 130-134). Moreover and similarly, the ECtHR had acted in the case of *Gellértheyyi and others v. Hungary*, and in which it had assessed that even the different categories within the public sector are not necessarily in “*analogous or relatively similar situations*” (see, ECtHR case, *Gellértheyyi and v. Hungary*, no. 78135/13 and 429/14, Decision of 6 March 2018, paragraphs 31, and 35-36).

150. The Court emphasizes that through two other cases, the ECtHR has dealt with the difference in treatment between war veterans and other categories and which benefit from various social benefits. More specifically, the Court refers to the ECtHR case [Popovic and Others v. Serbia](#), in which the applicants with physical disabilities had raised claims for alleged discrimination by the respondent state in granting disability benefits. The respective applicants claimed that they were awarded a lower amount than persons classified as military beneficiaries, despite having exactly the same paraplegic disability. In the specific context of the case at issue, the ECtHR did not consider it necessary to adopt a firm view on whether the applicants (as disabled civilians) and disabled war veterans could be considered two groups in “*analogous or relatively similar situations*” according to the ECtHR case law, however, it found that the respective difference in treatment had an objective and reasonable justification, essentially accepting the argument of the respective Government that the difference in treatment was justified by the way in which the two groups had suffered injuries, namely (i) war veterans who had sustained injuries during their military service, during which, by the nature of things, they had been exposed to a higher level of risk in the performance of duties imposed by the state; while (ii) the other group consisted of civilians, including the applicants, who had suffered injuries in situations unrelated to the performance of such duties, which mainly involved accidents or illnesses or actions of third parties (see, ECtHR case [Popovic and Others v. Serbia](#), no. 26944/13, Judgment of 30 June 2020, paras 74-80).
151. On the other hand, in case [Radosav Milivojevic v. Serbia](#), the ECtHR found no similarities between persons receiving old-age pensions and those receiving disability pensions. According to the ECtHR, the difference between these groups was not intended to favor one group over another nor to discriminate against a group on the basis of their disability but was simply a reflection of the different nature of pensions and contributed to the balancing of pensions for the groups who benefited from state social insurance. In this case, the ECtHR assessed that the purpose of the measure that differentiates between old-age and disability pensioners in the present case is not to place a category in a less favorable position or to discriminate against a certain group of persons on the basis of disability, but instead to reflect the different nature of the two pensions and to contribute to the careful balancing of the benefit amounts given to different groups of beneficiaries in the state's social insurance system. (see, ECtHR case [Radosav Milivojevic v. Serbia](#), no. 11944/16, Decision of 5 July 2022, paragraph 36)
152. Based on the aforementioned clarifications, namely the assessment of the Court that, taking into account the scope of the aforementioned laws, including the difference between the compensations and benefits of the respective categories related to the respective rights and obligations, the category of veterans, blind persons and paraplegic and tetraplegic persons among themselves, are not in “*analogous or relatively similar situations*”, based also on the case law of the ECtHR, it must be concluded that between the same categories, there is no “*difference in treatment*” and therefore, nor violation of the principle of equality before the law.
153. As a consequence and based on the clarifications above, the Court finds that articles 2, 3 and 4 of the contested Law are not in contradiction with article 24 [Equality before the Law] of the Constitution in conjunction with article 1 (General prohibition of discrimination) of Protocol no. 12 of the ECHR.

2. Constitutional review of articles 2, 3, 4 of the contested Law with article 46 [Protection of Property] of the Constitution

A. The essence of allegations and counterarguments of the parties

154. The Court recalls that the applicants claim that articles 2, 3 and 4 of the contested Law violate the right to property, including the “*legitimate expectations*” of KLA veterans, blind persons and paraplegic and tetraplegic persons related to the amount of their pension, namely the guarantee that it will not be below the minimum wage level in the Republic of Kosovo. In addition, the applicants claim that the full discretion of the Government to determine the amount of pension of the aforementioned categories also violates the principle of legal certainty contrary to the property rights of these categories. On the other hand, the Ministry of Finance and the parliamentary group of the LVV oppose these claims, stressing that the disconnection from the minimum wage is related to the need to maintain financial sustainability and the flexibility needed to change the level of the minimum wage, holding also that in principle, Governments enjoy wide discretion in determining social and economic policies and pension levels.

B. Assessment of the Court

155. The Court first recalls that the concept of “*assets*” and “*legitimate expectations*”, included in the context of “*future income*” according to the provisions of Article 1 of Protocol no. 1 of the ECHR, has recently dealt with it in two of its Judgments, namely (i) the Court’s Judgment in cases KO216/22 and KO220/22, related to the constitutional review of the Law on Public Officials; and (ii) in case KO79/23 related to the constitutional review of the Law on Salaries in the Public Sector.
156. Through these Judgments, and as far as it is relevant to the circumstances of the present case, the Court clarified that based on the case law of the ECtHR in the interpretation of Article 1 of Protocol no. 1 of the ECHR, the concept of “*property*”, in principle, includes “*existing assets*” as well as claimed assets, in relation to which an applicant can argue that he or she has at least a “*legitimate expectations*”. For an “*expectation*” to be “*legitimate*”, it must be of a more concrete nature than a simple expectation and be based on a legal provision or a legal act such as a court decision, which relates to the property interest in question. Otherwise, no legitimate expectation can be said to arise when there is a dispute regarding the correct interpretation and application of domestic law and when the requests of the applicants are subsequently rejected by the national courts (see, among others, the case law of the ECtHR, in cases [Kopecký v. Slovakia](#) [GC], no. 44912/98, Judgment of 28 September 2004, paragraphs 49-50; [Centro Europa 7 S.R.L. and di Stefano v. Italy](#) [GC], no. 38433/09, Judgment of 7 June 2012, paragraph 173; [Saghinadze and others v. Georgia](#), 18768/05, Judgment of 13 January 2015, paragraph 103; [Ceni v. Italy](#), 25376/06, Judgment of 16 December 2014, paragraph 39; [Béláné Nagy v. Hungary](#) [GC], no. 53080/13, Judgment of 13 December 2016, paragraph 75).
157. Moreover, based on the case law of the ECtHR, “*future income*” and “*pension and social benefits*” also enjoy the protection of Article 1 of Protocol no. 1 of the ECHR, in the conditions and principles determined by the case law of the ECtHR. Based on the same case law, these rights are not absolute, however their limitation must meet certain conditions. The test determined through the case law of the ECtHR in the interpretation of Article 1 of Protocol no. 1 of the ECHR is compatible with Article 55 of the Constitution and which also establishes the relevant criteria based on which the fundamental rights and freedoms guaranteed by the Constitution, including the right to property guaranteed by Article 46 of the Constitution, may be limited, respectively in the circumstances in which the “*interference/restriction*” of the respective rights is (i) “*prescribed by law*”; (ii) pursue a “*legitimate aim*”; and (iii) is “*proportionate*” in relation to the legitimate aim pursued.
158. The Court, taking into account the circumstances of the present case, also clarifies that the ECtHR has also defined the basic principles related to pension and/or social schemes, specifying that the rights related to the latter, in principle, fall within the scope

and enjoy the guarantees of Article 1 of Protocol no. 1 of the ECHR. Furthermore, through the case law of the ECtHR, it has also been clarified that even a welfare benefit in a non-contributory scheme can constitute an asset for the purposes of Article 1 of Protocol no. 1 of the ECHR (see, among others, the Judgments of the ECHR in cases [Bucheň v. Czech Republic](#), no. 36541/97, Judgment of 26 November 2002, paragraph 46; [Koua Poirrez v. France](#), no. 40892/98, Judgment of 30 September 2003, paragraph 37; [Wessels-Bergervoet v. the Netherlands](#), no. 34462/97, Judgment of 4 June 2002; and [Van den Bouëhuijsen and Schering v. the Netherlands](#), no. 44658/98, Decision of 16 December 2003).

159. Furthermore, through the case law of the ECtHR and as far as it is relevant in the circumstances of the present case, the ECtHR has defined (i) the rights of the relevant state; but also (ii) the rights of the individual.
160. In the context of the discretion of the respective state, the ECtHR has emphasized, in principle, that (i) Article 1 of Protocol no. 1 of the ECHR does not place any restrictions on the freedom of Contracting States to decide whether to operate any form of social security scheme, or to choose the type or amount of benefits that may be provided under any such scheme (see, among others, Judgments of the ECHR in the cases [Sukhanov and Ilchenko v. Ukraine](#), cited above, paragraph 36; [Kolesnyk v. Ukraine](#) cited above, paragraphs 89 and 91; and [Fakas v. Ukraine](#), cited above, paragraphs 34, 37, 37-43, 48), however, if a State provides for the payment as a right of a welfare benefit - whether or not it is conditioned on the prior payment of contributions - that legislation must be considered as generating a property interest, which falls within the ambit of Article 1 of Protocol No. 1 of the ECHR (see, *inter alia*, ECtHR case law, [Stec and others v. the United Kingdom](#) [GC], 65731/01 and 65900/01, Decision of 6 June 2005, para. 54); (ii) states enjoy wider discretion in matters related to social and economic rights because state governments are in a better position to recognize the needs of society and to determine the public interest in economic and social matters (see, among others, the ECHR case, [Luczak v. Poland](#), no. 77782/01, Judgment of 27 November 2008, paragraph 48); and (iii) rights related to pension schemes can be limited for legitimate purposes, and which, in principle, include the risk of damaging the financial balance of the social security system, provided that such restrictions are proportionate (see, among others, CJEU cases, applicant [FK Rechtsanwaltskammer Wien](#), Judgment of 15 September 2022, paragraph 74 and 75; [Raymond Kohll v Union des caisses demaladie](#), judgment of 28 April 1998, paragraph 41; and [ITC Innovative Technology Center GmbH v Bundesagentur für Arbeit](#), judgment of 11 January 2007, para 43).
161. Whereas, in the context of the rights arising as above, the ECtHR, in principle, has emphasized that (i) as long as it cannot replace the assessment of national authorities regarding the level of financial benefits of social schemes (see, the ECHR case, [Seiko v. Lithuania](#), no. 82968/17, Judgment of 12 October 2020, paragraph 32) and that the same have full authority to decide on the creation of social schemes, on the amounts of pensions and other benefits, however, when the amount of the pension is reduced or suspended, this constitutes interference with property, which requires justification for the general interest (see the ECtHR case, [Rasmussen v. Poland](#), no. 38886/05, Judgment of 28 April 2009, paragraph 71); and (ii) when the person in question does not fulfill or ceases to fulfill, the legal conditions defined in the domestic law for granting any special form of benefits or pension, there is no interference with the rights according to Article 1 of Protocol no. 1 of the ECHR (see the case of the ECtHR, [Rasmussen v. Poland](#), cited above, paragraph 71), however, where the suspension or reduction of a pension is not due to any change in the applicant's own circumstances, but due to changes in the law or its application, this may result in an interference with rights according to Article 1 of Protocol no. 1 of the ECHR (see, the case of ECtHR, [Belane Nagy v. Hungary](#), cited above, paragraph 86).

162. In the circumstances of the contested provisions of the contested Law and the claims of the applicants, in the circumstances of the present case, it is disputed whether the property rights guaranteed by Article 46 of the Constitution and Article 1 of Protocol no. 1 of the ECHR, for (i) KLA veterans; (ii) blind persons; and (iii) paraplegic and tetraplegic persons have been violated. To assess whether this is the case, according to the clarifications provided above, the Court must first determine whether (i) the aforementioned categories enjoy a right to property based on the applicable laws, namely the Veterans' Law, the Blind Persons Law and the Law on Paraplegic and Tetraplegic Persons and consequently their rights fall within the scope of the protection of Article 46 of the Constitution, and if this is the case, (ii) it must assess whether the contested Law has "*interfered/restricted*" the relevant property rights. In order to ascertain whether such "*interference/restriction*" has resulted in the violation of property rights, the Court must assess whether the restriction of the rights of the aforementioned categories, (i) is "*prescribed by law*"; (ii) pursues a "*legitimate aim*"; and (iii) is "*proportionate*" to the purpose pursued. The Court will elaborate on the aforementioned criteria for each category, namely for (i) KLA veterans; (ii) blind persons; and (iii) paraplegic and tetraplegic persons.

(i) *KLA veterans*

163. The Court recalls that Law no. 04/L-261 on Kosovo Liberation Army War Veterans, namely the Law on Veterans of 2014, as far as it is relevant to the circumstances of the present case, has established (i) the categorization of KLA veterans according to Article 4 (Categorization of Kosovo Liberation Army veterans); and (ii) the rights to benefits for KLA fighter veterans, in Chapter IV thereof. As explained above, Article 18 (Pension Level), had determined that depending on the budget possibilities, the cost of living and eventual inflation, at the end of each year for the next year, the Government of Kosovo with the proposal of the Ministry of Finance with a special decision, it can decide on the amount of the pension of the Fighter Veteran of the KLA, which "*may not be lower than the minimum salary in Kosovo*". The Court notes that based on this provision, the Government of Kosovo had the discretion to determine the amount of pensions, depending on budget opportunities, the cost of living and eventual inflation, with the condition that the amount of the pension is not lower than the minimum wage in the Republic of Kosovo. As explained above, this provision was amended, namely eliminated through the amendment and supplement of the Veterans Law in 2017. More specifically, the latter, (i) adds Article 16A; and (ii) deletes Article 18 of the Basic Law.

164. By Article 16A of the Law on Veterans of 2017, it is determined (i) the categorization into three categories of the KLA veteran, in accordance with the time of mobilization and service in the KLA; (ii) veteran's monthly pension, respectively for the first category, two hundred and fifty (250) euro, the second category, one hundred and seventy (170) euro and the third category, one hundred and twenty (120) euro; and (iii) that the general budget, for the realization of the pension payment of the KLA Fighter Veteran, is used entirely during the year for this purpose and cannot exceed 0.7% of the Gross Domestic Product per year and in case of exceeding 0.7 % of the Gross Domestic Product, then the pension reduction occurs proportionally for all the beneficiaries of this law. It is important to note that according to the aforementioned article, such an adjustment is applied after the final categorization, while until the final categorization of the list of the KLA Fighter Veteran, the pension scheme is applied as provided by the basic law. Having said that, the article that determined the amount of pensions by relating the amount of pensions to the minimum wage guarantee was deleted by Article 5 of the Law on Veterans of 2017. As a result, the Court emphasizes that regardless of the fact that the Law of 2017, specifies that the provisions of the Basic Law, namely that of 2014, will be applicable until the final categorization of the KLA veteran list, through the deletion of Article 18 of

the Basic Law, that in 2017 the guarantee that the amount of the veteran's pension should be related to at least the level of the minimum wage in the Republic of Kosovo.

165. This Law, namely the Law of 2017, has been subject to the constitutional review by the Constitutional Court by the Judgment in case [KO01/17](#), (see, Judgment of the Court in case [KO01/17](#), with the applicant *Aida Dërguti and 23 other deputies of the Assembly of the Republic of Kosovo*). The respective applicants, before the Court, among other things, claimed that the Law on Veterans of 2017 was contrary to articles 24 [Equality Before the Law], 46 [Protection of Property] and 51 [Health and Social Protection] of the Constitution, in essence and among others, because (i) the aforementioned law discriminated against persons participating in the liberation war who lived in another country and who were excluded from the right to benefits; and (ii) the elimination of Article 18 of the basic law, excluded the reference, namely the guarantees that veterans' benefits cannot be lower than the minimum wage in the Republic of Kosovo, also claiming that the elimination of this guarantee is contrary to "*legitimate expectations*" and "*right to property*" of KLA veterans (see, Court's Judgment in case [KO01/17](#), paragraphs 35-48).
166. In the assessment of the constitutionality of the Law on Veterans of 2017, the Court had declared in violation of the Constitution, paragraph 2 of article 3 of Law no. 04/L-241 for Veterans of the War of the Liberation Army of Kosovo, which made a difference in the right to benefits between KLA veterans living in neighboring countries and KLA veterans living in other countries (see the Court's Judgment in case [KO01/17](#), paragraphs 79-103), while the rest of the aforementioned Law was assessed in accordance with the Constitution.
167. It is worth noting that in Judgment [KO01/17](#), the Court also assessed the constitutionality of Article 16A of the Veterans Law of 2017, which eliminated Article 18 of the basic law, namely the Veterans Law of 2014 and which guaranteed the level of the veteran's pension at least in the value of the minimum wage in the Republic of Kosovo. In assessing this article, the Court elaborated on the general principles related to the right to property as guaranteed by Article 46 [Protection of Property] of the Constitution in conjunction with Article 1 (Protection of Property) of Protocol no. 1 of the ECHR, included in the context of legitimate expectations, and found that (i) as long as the elimination of the guarantees related to the minimum wage for the categories of KLA veterans, constituted "*interference*" in the relevant property rights, this "*interference*" had a legitimate aim and was proportionate to the aim pursued. In this context, the Court, among other things, emphasized the fact that (i) the legislation in force that provides for the payment of a right to the welfare benefit, must be considered as generating a property interest that falls within the scope of Article 1 of the Protocol no. 1 of the ECHR and that an interference with these rights may result if the suspension or reduction of a pension is not a consequence of any change in the circumstances of the applicant itself, but is a consequence of changes in the law or its implementation, however, the fact that a person has entered and is part of a state social insurance system does not necessarily mean that the system cannot change, either in terms of payment eligibility or the amount of the benefit or pension (see , the Judgment of the Court in case [KO01/17](#), paragraphs 149, 150 and 151); and (ii) the legislator enjoys a more specific margin of free evaluation when it comes to the general measures of the social strategy, moreover that the reduction of the amount is within the reasonable framework and is applied equally to all categories of veterans KLA (see Court's Judgment in case [KO01/17](#), paragraphs 181 and 183).
168. The Court, in the assessment that the deletion of Article 18 of the Law on Veterans of 2014, namely the elimination of the guarantee that the level of the amount of the pension is related at least to the level of the minimum wage in the Republic of Kosovo, was not in

contradiction with the Constitution, also emphasized that (i) Article 18 of the Law on Veterans of 2014 resulted in property rights according to Article 46 of the Constitution and Article 1 of Protocol no. 1 of the ECHR; (ii) that the 2017 Law, which eliminated this article, resulted in “*interference*” with the property rights of KLA veterans, but that (iii) such “*interference*” was (a) prescribed by law ; (ii) pursued a legitimate aim; and (iii) was proportionate to the purpose pursued. In the context of the latter, Court Judgment [KO01/17](#), also highlights the fact that the Law on Veterans of 2017 (i) determines the amount of pensions for the three categories of KLA veterans; and (ii) determines that the general budget, for the realization of the pension payment of the Fighter Veteran of the KLA, is used entirely during the year for this purpose and cannot exceed 0.7% of the Gross Domestic Product per year and in case of exceeding 0.7% of the Gross Domestic Product, then the pension reduction occurs proportionally for all the beneficiaries of this law (see Court Judgment in case [KO01/17](#), paragraphs 172-174).

169. Under the above clarifications, the Court emphasizes that any issue related to the elimination of the guarantee of the amount of the pension of the veteran of the KLA at least at the level of the minimum wage in the Republic of Kosovo, has been concluded through the Law on Veterans of the year 2017. Furthermore, through its Judgment in case [KO01/17](#), the Court declared that Article 5 of the Law on Amending and Supplementing Law no. 04/L-241 on Kosovo Liberation Army War Veterans, by which Article 18 of Law no. 04/L-241 on Kosovo Liberation Army War Veterans, is in compliance with the Constitution.
170. The Court recalls that Article 2 of the contested Law replaces only paragraph 3.1 of Article 16A of the Law on Veterans of 2017, according to which “*KLA Fighter Veteran list, the pension scheme shall be implemented as foreseen in the basic Law*”, determining that until the final categorization of the list of KLA Veterans, the Government of Kosovo, with the proposal of the Ministry of Finance, decides on the amount of pensions, depending on budgetary possibilities, the cost of living and eventual inflation. The basic law to which paragraph 3.1 of Article 16A of the Veterans Law of 2017 refers to the Veterans Law of 2014, which in its Article 18, defines the guarantee related to the minimum wage in terms of the amount of the pension of the veteran. Having said that, the implementation of Article 2 of the contested Law is conditioned by two other provisions of the Law on Veterans of 2017, namely (i) paragraph 4 of Article 16A according to which, the monthly pension of the War Veteran, for the first category , is two hundred and fifty (250) euro, for the second category, it is one hundred and seventy (170) euro and for the third category, one hundred and twenty (120) euro; and (ii) paragraph 2 of article 16A, according to which, the general budget, for the realization of the pension payment of the Fighter Veteran of the KLA, is used entirely during the year for this purpose and cannot exceed 0.7% of the Gross Domestic Product per year.
171. In the aforementioned context, the Court notes that (i) while the interconnection of the pension level with the minimum wage in the Republic of Kosovo has been eliminated since 2017, taking into account that the final categorization of the list of KLA veterans has not been made, the latter, based on paragraph 3.1 of Article 16A of the Law on Veterans of 2017, have continued to be paid based on Article 18 of the basic law, namely the Law on Veterans of 2014; and that (ii) by amending paragraph 3.1 of section 16A of the Veterans Law of 2017, section 2 of the contested Law severed the connection between article 16A of the Veterans Law of 2017 and article 18 of the Veterans Law of 2014, leaving the determination of the amount of veterans’ pensions at the discretion of the Government of Kosovo, until the final categorization of the list of KLA veterans has been made.
172. Based on the aforementioned clarification, it follows that Article 2 of the aforementioned Law does not eliminate the legal correlation of the amount of the veteran’s pension with

the minimum wage but has the effect of potentially changing the amount of this pension according to the Government's own determinations. Consequently, the Court emphasizes that the only connection of Article 2 of the contested Law with the guarantee for the minimum wage level in the Republic of Kosovo and which was eliminated in 2017, is the time required for the final categorization of the list of KLA veterans. The final categorization of the list of veterans has not been done since the adoption of the 2017 Law, despite the fact that the latter in Article 8 (Issuance of sub-legal acts) defined a deadline of six (6) months after the entry into force of this law, issue sub-legal acts.

173. In the aforementioned context and in the determination of whether the amendment and supplement of Article 16A of the Law on Veterans of 2017 by Article 2 of the aforementioned Law, imposes property rights on the category of KLA veterans, interconnection of the amount of pensions with minimum wage pensions is not disputed, because this issue has been resolved by the Law on Veterans of 2017 and Court Judgment [KO01/17](#). What is disputed in the circumstances of the assessment of Article 2 of the contested Law, is whether the time needed until the final categorization of the list of KLA veterans can raise "*legitimate expectations*" regarding the "*future income*" of veterans of the KLA for the purposes of the guarantees contained in Article 46 of the Constitution in conjunction with Article 1 of Protocol no. 1 of the ECHR.
174. As elaborated in the general principles above, the Court recalls that based on the case law of the ECtHR in the interpretation of Article 1 of Protocol no. 1 of the ECHR, the concept of "*assets*", in principle, includes both "*existing assets*" and claimed assets, in relation to which, an applicant can argue that he or she has at least a "*legitimate expectation*". In the circumstances of the present case, it is not disputed that we are not dealing with "*existing assets*", but with future assets related to which there is a "*legitimate expectation*". In order for an "*expectation*" to be "*legitimate*", it must be of a more concrete nature than a mere expectation and be based on a legal provision or a legal act such as a court decision, relating to the property interest in question. In the circumstances of the present case, and as explained above, and taking into account the Veterans Law of 2017 and the subsequent Judgment of the Court in the case [KO01/17](#), "*legitimate expectation*" is no longer related to the guarantee of the level of pensions at least in the level of the minimum salary, but with the method of determining the amount of this pension "*until the final categorization of the list of veterans*". In this context, the Court emphasizes that delays in the implementation of the applicable laws or the mere hope for delays related to the final categorization of the list of KLA veterans, cannot create "*legitimate expectation*" regarding the property, namely "*the future income*", in the context of property rights.
175. Consequently, and taking into account (i) the findings of the Court's Judgment in case [KO01/17](#), regarding the guarantees that related to the level of the pension of the KLA veteran at least to the level of the minimum wage in the Republic of Kosovo; (ii) the fact that the delays related to the implementation of the Law on KLA Veterans of 2017 in the context of the categorization of the KLA Veterans Lists, cannot result in "*legitimate expectations*" related to the "*future income*", respectively, do not result in a guarantee for the continuation of the pension payment at least at the level of the minimum wage in the Republic of Kosovo.
176. As a result and based on the clarifications above, the Court finds that Article 2 of the contested Law is not contrary to Article 46 of the Constitution in conjunction with Article 1 of Protocol no. 1 of the ECHR.

(ii) *Blind Persons*

177. The Court recalls that the Law on Blind Persons in its Article 7 (Incomes and benefits) stipulates that blind persons defined by this law receive from the state budget “*compensation in a certain scale based on the minimum salary*” in Kosovo, but “*not less than one hundred (100) Euro per month*” and is determined by a sub-legal act issued by the Government. Article 3 of the contested Law amends this provision by determining that the Government of Kosovo, with the proposal of the Ministry of Finance, decides on the amount of compensation for blind persons, depending on the budget possibilities, the cost of living and eventual inflation.
178. In the aforementioned context, the Court first notes that Article 7 of the Law on Blind Persons, while it refers to the minimum wage, does not determine the guarantee of payment of the corresponding compensation at the level of the minimum wage. In fact, the aforementioned article specifies that the level of compensation is based “*on a certain scale based on the minimum salary in Kosovo*”, not defining the same, but guaranteeing that the level of compensation cannot be less than one hundred (100) euro per month. Article 3 of the contested Law eliminates this guarantee, leaving it to the discretion of the Government to determine the amount of compensation for blind persons, with the proposal of the Ministry responsible for finance, for the amount of compensation for the beneficiaries of this law depending on (i) budgetary opportunities, (ii) cost of living, and (iii) eventual inflation.
179. The Court notes that the provisions of the Law on Blind Persons differ from the provisions of the Law on Veterans and the Law on Paraplegic and Tetraplegic Persons, respectively. This is because, as detailed above (i) the Law on Veterans is the only law that guarantees the level of the monthly pension at least at the level of the minimum wage in the Republic of Kosovo, a guarantee which has been eliminated through the Law on Veterans of 2017; (ii) the Law on Paraplegic and Tetraplegic Persons does not guarantee the level of compensation at least at the level of the minimum wage in Kosovo, but at a certain level of it, moreover, it also determines the Government’s discretion to change and reduce this amount in certain circumstances; while (iii) the Law on Blind Persons, as long as it does not guarantee the level of the compensation at least at the level of the minimum wage in Kosovo, but at a certain level of it, defines the low threshold of this monthly compensation, namely the fact that the latter cannot be “*less than one hundred (100) Euro per month*”. As explained above, Article 3 of the contested Law eliminates this guarantee, leaving it to the discretion of the Government that the amount of compensation for blind persons depends on (i) budgetary possibilities, (ii) the cost of living, and (iii) eventual inflation.
180. In the aforementioned context, the Court recalls that blind persons, who fall within the scope of the Law on Blind Persons, have a legal right to monthly compensation at least in the amount of one hundred (100) euro. Therefore, they have an acquired right that is related to the “*future income*” and “*pension and social benefits*”, including the level of compensation in the aforementioned amount, and which the case law of the ECtHR qualifies as property rights. It is not disputed, according to the elaboration of the general principles in this Judgment, that a concrete right which is based on the applicable law, also contains “*legitimate expectations*” within the meaning of Article 1 of Protocol no. 1 of the ECHR and Article 46 of the Constitution. The Court reiterates that compared to the current law, the change brought by the contested Law, despite the fact that it does not specify the amount of compensation, has the consequence of losing the legal guarantee that the amount of compensation for this category of persons will not fall below the value of one hundred (100) euro.
181. To examine the claims of the applicants regarding the violation of Article 46 of the Constitution and Article 1 of Protocol No. 1 of the ECHR, taking into account the above-mentioned finding of the Court that “*future income*” at least at the level of the value of

one hundred (100) euro for blind persons, constitutes “*property*” in the sense of these articles, the Court, in the following, it must apply the test defined in the general principles, which consists of four (4) steps and must respectively determine: (1) whether there has been interference/restriction in the peaceful enjoyment of the property and if this is the case, further determine (2) whether the relevant interference/restriction on the peaceful enjoyment of property is “*prescribed by law*”; (3) whether the interference/restriction in the peaceful enjoyment of property had a “*legitimate aim*”; and (4) whether the interference/restriction on the peaceful enjoyment of the property is “*proportionate*”.

182. Initially, the Court notes that Article 3 of the contested Law does not determine the value of the compensation for blind persons, leaving it at the discretion of the Government depending on budgetary possibilities, cost of living and eventual inflation. The Court emphasizes that it is not disputed that the elimination of the legal guarantee for compensation for blind persons at least in the amount of one hundred (100) euro per month constitutes “*interference/restriction*” in the property rights of this category of citizens of the Republic of Kosovo. Moreover, it is not disputed that such interference/restriction, (i) is “*prescribed by law*”, namely by Article 3 of the contested Law; and (ii) pursues a “*legitimate aim*”, i.e. in the determination of public policies related to the management of the budget of the Republic of Kosovo and the harmonization of applicable laws related to the insurance/pension system and that of compensation for the relevant categories. Having said that, in the circumstances of the present case, the Court must assess whether such an interference/restriction of the rights of blind persons is proportionate to the aim pursued.
183. In this context, the Court recalls that to be in accordance with the general rule defined in the first sentence of the first paragraph of Article 1 of Protocol no. 1, interference with the right to the peaceful enjoyment of “*property*”, in addition to being “*prescribed by law*” and pursues a “*legitimate aim*” must result in a “*fair balance*” between the requirements of the public interest of the community and the requirements to protect the fundamental rights of the individual (see, among other cases, *Beyeler v. Italy nr 78630/11*, Judgment of 11 October 2022, paragraph 107; *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia and former Yugoslav Republic of Macedonia*, cited above, paragraph 108 and case of the Court, *KI185/21*, applicant *LLC “Co Colina”*, cited above, paragraph 211). More specifically, in cases involving alleged violations of Article 1 of Protocol no. 1, the Court must assess whether, due to the action or inaction of the State, the person in question had to bear a disproportionate and excessive burden. When assessing compliance with this request, the Court must make a comprehensive review of the various interests in this matter, bearing in mind that the Convention aims to protect the rights which are “*practical and effective*”. In this context, it should be emphasized that uncertainty - whether legislative, administrative or arising from the practices applied by the authorities, is a factor that is taken into account when assessing the behavior of a State (see the case of the ECtHR, *Broniowski v. Poland*, cited above, paragraph 151 and Court’s case, *KI185/21*, applicant *LLC “Co Colina”*, cited above, paragraph 212).
184. In assessing whether the “*interference*” with the rights of blind persons by eliminating the legal guarantees that the monthly compensation cannot be lower than one hundred (100) euro, the Court first refers to the case law of the ECtHR, according to which and among others, (i) persons with disabilities are identified as a category which is specifically marginalized, and which has historically been subject to discrimination and prejudice, resulting in their isolation in society; and that as a consequence (ii) the margin of evaluation of the states in restricting the rights of this category is substantially more limited and the states must have very serious reasons to interfere with these rights (see, among others, the cases of the ECtHR, *Glor v. Switzerland*, no. 13444/04, Judgment of

30 April 2009, paragraph 84; *Guberina v. Croatia*, no. 23682/13, Judgment of 22 March 2016, paragraph 73).

185. In this context, the Court recalls Article 7 of the Constitution based on which, the constitutional order of the Republic of Kosovo is based, among other things, on the principles of respect for human rights and freedoms and the rule of law, non-discrimination, property rights and social justice. On the other hand, the Court also recalls Article 51 of the Constitution, based on which, basic social insurance, which deals with unemployment, illness, disabilities and old age, is regulated by law. While Article 51 of the Constitution specifies that the relevant basic social insurance is regulated by law, the latter is also subject to the guarantees stemming from the Constitution, including the principle of legal certainty. The latter has been elaborated in detail through the Opinions of the Venice Commission, the case law of the ECtHR but also that of the Court, and as far as it is relevant in the circumstances of the present case, it also imposes the obligation that the relevant provisions of the law are “*clear, accessible and foreseeable*”. “*Foreseeability*”, based on the above principles, requires that the law be formulated with sufficient precision and clarity to enable legal entities to regulate their behavior respectively (see, *inter alia*, the Rule of Law Checklist of the Venice Commission, CDL-Ad(2016)007, Strasbourg, 18 March 2016, paragraphs 58 and 59; and *inter alia*, Court cases KO100/22 and KO101/22, cited above, paragraph 347).
186. Article 3 of the contested Law, (i) eliminates in its entirety the legal guarantee that the monthly compensation for blind persons in the Republic of Kosovo is at least one hundred (100) euro per month; (ii) in the elimination of this guarantee, the determination of the amount of compensation for this category of persons is left to the discretion of the Government, determining that the Government of the Republic of Kosovo, with the proposal of the responsible Ministry for Finance, decides on the amount of compensation for the beneficiaries of this law depending on (a) budgetary opportunities, (b) cost of living, and (c) eventual inflation. Having said this, the Court considers that the contested Law in its Article 4 defines as a legal guarantee the respective parameters on the basis of which security and foreseeability are determined for blind persons, enabling them to appropriately adjust their behavior and relevant expectations regarding a their essential right, namely basic social insurance and which they have acquired based on the applicable law, namely the Law on Blind Persons.
187. In such circumstances, and taking into account (i) the competence of the Assembly to determine the social policies of the Republic on the one hand; but also (ii) the fact that in the circumstances of the present case, the right of blind persons to benefits and/or monthly compensation is not disputed; and (iii) the fact that the contested Law does not determine nor reduce the amount of these benefits and/or compensations, the Court finds that Article 3 of the contested Law is not contrary to Article 46 of the Constitution in conjunction with Article 1 of Protocol no. 1 of the ECHR.
188. Having said that, and taking into account (i) the values of the Constitution of the Republic related to social justice and fundamental rights and freedoms; (ii) the importance of this category of citizens according to the Constitution, but also the case law of the ECtHR; (iii) Article 51 [Health and Social Protection] of the Constitution and which, among other things, guarantees basic social insurance related to unemployment, illness, disabilities and old age in a manner regulated by law; and (iv) the fact that the margin of evaluation of the states in limiting the rights of this category is substantially more limited and the states must have very serious reasons to interfere with these rights, including the possibility of reducing the corresponding compensations, the Court emphasizes that the eventual reduction of the amount of “*future income*”, including in the context of “*pensions and social benefits*”, of blind persons must always be proportionate to the legitimate purpose pursued and in this context, any eventual

reduction, including the minimum threshold of one hundred (100) euro, may be contested and subject to assessment of legality and/or constitutionality, namely compatibility with fundamental rights and freedoms.

(iii) *Paraplegic and tetraplegic persons*

189. The Court recalls that the Law on Paraplegic and Tetraplegic Persons in its Article 7 (Compensation), establishes that paraplegic and tetraplegic persons receive from the state budget compensation “*at a certain level, based on the minimum wage*” in Kosovo, and is determined by a sub-legal act issued by the Government, according to the proposal of the MSLW. Article 4 of the contested Law changes this provision by determining that the Government of Kosovo, with the proposal of the Ministry of Finance, decides on the amount of compensation for paraplegic and tetraplegic persons, depending on the budget possibilities, the cost of living and eventual inflation.
190. In the aforementioned context, the Court first notes that Article 7 of the Law on Paraplegic and Tetraplegic Persons, while it refers to the minimum wage, does not determine the guarantee of payment of the corresponding compensation at least at the level of the minimum wage. In fact, the aforementioned article specifies that the level of compensation is based “*in a certain scale based on the minimum salary in Kosovo*”, not defining the same, but referring to the determination of the same level of the Government, through the sub-legal act. Article 4 of the contested Law changes this provision, namely the determination of the amount of compensation for this category of persons, determining that the Government of Kosovo, with the proposal of the Ministry of Finance, decides on the amount of compensation, depending on the budgetary possibilities, the cost of life and eventual inflation.
191. The Court also notes that, beyond the fact that Article 7 of the above-mentioned law, only determines that the level of compensation is based “*in a certain scale based on the minimum salary in Kosovo*”, thus not necessarily determining that the level of compensation is at least at the level of the minimum salary in the Republic of Kosovo, as is the case with the category of KLA veterans, in its article 21, also determines the Government’s discretion to change the amount of compensation, depending on the availability of sufficient funds for such payments, also specified that to the extent that the Government deems it necessary to address circumstances that create unforeseen fiscal strains on the public budget or to otherwise ensure the preservation of public fiscal discipline, it will have the authority to issue a decision that reduces or eliminates any benefits provided by this law, including benefits related to financial payments even if the funds are appropriated according to the budget law applicable at that time.
192. Based on the aforementioned clarification, the Court emphasizes that based on the provisions of the Law on Paraplegic and Tetraplegic Persons, (i) there is no legal guarantee based on which the amount of compensation is related to the level of the minimum wage in the Republic of Kosovo; furthermore that (ii) the Government has the discretion to change the amount of this payment depending on the availability of funds in case of fiscal difficulties under the conditions defined in this law. In essence, Article 4 of the contested Law only changes the way of determining the amount of the corresponding compensation from the sub-legal act with the proposal of the Ministry of Education, Culture, Sports, Science and Technology, to the decision of the Government with the proposal of the responsible Ministry for Finance.
193. In the aforementioned context, the Court emphasizes that paraplegic and tetraplegic persons, who fall within the scope of the Law on Paraplegic and Tetraplegic Persons, have a legal right to monthly compensation. This fact is not contested and is not affected by Article 4 of the contested Law. The amount of this compensation has not been

specified either by Article 7 of the Law on Paraplegic and Tetraplegic Persons or by Article 4 of the contested Law. In fact, and as explained above, while Article 7 of the Law on Paraplegic and Tetraplegic Persons refers to the minimum wage, it does not determine that the corresponding compensations must be at least at the level of the minimum wage, but at a certain level of it, moreover, that article 21 of the same law, determines the discretion of the Government to change this amount under certain conditions. Consequently, based on the provisions of the applicable Law, there is no legal guarantee related to the amount of this compensation. In such circumstances, it is disputed whether the right to compensation, the amount of which is not defined in the applicable law, can raise “*legitimate expectations*” regarding the “*future income*” of paraplegic and tetraplegic persons for the purposes of guarantees which includes Article 46 of the Constitution in conjunction with Article 1 of Protocol no. 1 of the ECHR.

194. As elaborated in the general principles above, the Court recalls that based on the case law of the ECtHR in the interpretation of Article 1 of Protocol no. 1 of the ECHR, the concept of “*assets*”, in principle, includes both “*existing assets*” and claimed assets, in relation to which, an applicant can argue that he or she has at least an “*legitimate expectation*”. In the circumstances of the present case, it is not disputed that we are not dealing with “*existing assets*”, but with future assets related to which there is a “*legitimate expectation*”. In order for an “*expectation*” to be “*legitimate*”, it must be of a more concrete nature than a mere expectation and be based on a legal provision or a legal act such as a court decision, relating to the property interest in question. In the circumstances of the present case, taking into account that the right to monthly compensation is not disputed, but the amount of this compensation, which is not defined by the Law on Paraplegic and Tetraplegic Persons, nor is it changed and/or reduced by Article 4 of the contested Law, in the Court’s assessment, there can be no “*legitimate expectation*” regarding the property, namely “*future income*”, in the context of property rights.
195. In such circumstances, and having regard to (i) the competence of the Assembly to determine the social policies of the Republic on the one hand; but also (ii) the fact that in the circumstances of the present case, the right of paraplegic and tetraplegic persons to benefits and/or monthly compensation is not contested; and (iii) the fact that the contested Law does not determine nor reduce the amount of these benefits and/or compensations, the Court finds that Article 4 of the contested Law is not contrary to Article 46 [Protection of Property] of the Constitution in conjunction with Article 1 (Protection of Property) of Protocol no. 1 of the ECHR.
196. Having said this and taking into account (i) the values of the Constitution of the Republic related to social justice and fundamental rights and freedoms; (ii) the importance of this category of citizens according to the Constitution, but also the case law of the ECtHR; (iii) Article 51 [Health and Social Protection] of the Constitution and which, among other things, guarantees basic social insurance related to unemployment, illness, disabilities and old age in a manner regulated by law; and (iv) the fact that the margin of evaluation of the states in limiting the rights of this category is substantially more limited and the states must have very serious reasons to interfere with these rights, including the possibility of reducing the corresponding compensations, the Court emphasizes that the eventual reduction of the amount of “*future income*”, including in the context of “*pensions and social benefits*”, of paraplegic and tetraplegic persons must always be proportionate to the legitimate aim pursued and in this context, any eventual reduction of these compensations, can be contested and be subject to the assessment of legality and/or constitutionality, namely compatibility with fundamental rights and freedoms.
197. In the end and in the context of the category of blind and paraplegic and tetraplegic persons, the Court emphasizes the United Nations Convention on the Rights of Persons

with Disabilities and which the Assembly of the Republic of Kosovo has proposed to include in the constitutional order of the Republic of Kosovo, namely in the list of international instruments specified in Article 22 of the Constitution and which have precedence over the laws of the Republic of Kosovo. In this context, the Court recalls that on 2 August 2023, by Judgment in case KO207/22, it decided regarding the assessment of the compatibility with the Constitution of the Republic of Kosovo of the proposed constitutional amendment to the list of international agreements and instruments directly applicable in Republic of Kosovo, to add the United Nations Convention on the Rights of Persons with Disabilities (see Judgment in case KO207/22, with the applicant *the President of the Assembly of the Republic of Kosovo*, Judgment of 3 August 2023).

198. While the Constitution of the Republic of Kosovo has not yet been amended to include the aforementioned Convention in the legal order of the Republic of Kosovo, as elaborated in the Court Judgment KO207/22, the inclusion of such a Convention in the constitutional order creates positive obligations for all public authorities in the Republic of Kosovo. Specifically, the Court recalls the provisions of Article 28 (Adequate standards of living and social protection) of the United Nations Convention on the Rights of Persons with Disabilities and the obligations of the authorities, respectively the state parties to recognize the right of persons with disabilities limited to an adequate standard of living for themselves and their families, including adequate food, clothing and shelter, and to the continuous improvement of living conditions, and the obligation to take appropriate steps to protect and promote the realization of these rights without discrimination based on disability.

3. Assessment of the constitutionality of Article 6 of the contested Law with Article 51 [Health and Social Protection] of the Constitution

A. The substance of the parties' allegations and counterarguments

199. The Court recalls that the applicants claim that Article 6 of the contested Law, which allows the Government, in the absence of a proposal from the Economic-Social Council, to determine the minimum wage independently from the Economic-Social Council, is not in accordance with the constitutional values of social justice, among other things, because despite the fact that the Economic-Social Council and issues related to the determination of the minimum wage are not specified in the Constitution, the social justice as a principle of the constitutional order must be interpreted according to the ILO and the Convention on the Determination of the Minimum Wage, which specifies that the competent authorities, in agreement or after full consultation with representative organizations of employers and workers, determine the minimum wage. In essence, the claims of the applicants are also supported by the Ombudsperson.
200. On the other hand, the Ministry of Finance and the Parliamentary Group of the LVV counter-argue, emphasizing that (i) the method of setting the minimum wage is not a constitutional issue; (ii) The Republic of Kosovo is not a member of the ILO, nor has its conventions ratified; whereas (iii) even if the standards stemming from the Convention on Setting the Minimum Wage were to be applied, the contested article is compatible with the latter because it determines that the Government sets the minimum wage after the proposal of the Economic-Social Council and only in the absence this proposal, the Government can set the level of the minimum wage itself.

B. The assessment of the Court

201. The Court first emphasizes that Article 57 (Minimum Salary) of the Law on Labor determines that the Government of Kosovo at the end of each calendar year determines the minimum wage according to the proposal of the Economic and Social Council.

Furthermore, the Court notes that, based on the aforementioned article, when determining the minimum wage, the following factors must be taken into account: (i) the cost of living expenses; (ii) unemployment rate percentage; (iii) the general situation in the labor market; and (iv) the degree of competition and productivity in the country. Also, the aforementioned article specifies that the minimum wage is determined based on working hours, for the period of one (1) year, which is published in the Official Gazette of the Republic of Kosovo, while the minimum wage can be determined by agreement at the national level, in branch level and enterprise level, but which must not be lower than the minimum salary provided for in paragraph 1, of this article, namely the level of the minimum salary determined by the Government according to the proposal of the Economic-Social Council.

202. The Court recalls that Article 6 of the contested Law amends and supplements only paragraph 1 of Article 57 of the Law on Labor, keeping the Government's obligation to determine the minimum wage according to the proposal of the Economic-Social Council, but adding the possibility that the Government itself determines the minimum wage, in the absence of such a proposal.
203. In the context of the allegations and counter-arguments of the parties related to the constitutionality of the aforementioned article, the Court initially recalls that based on (i) Article 7 [Values] of the Constitution, the constitutional order of the Republic of Kosovo, among other things, is based on the principles of equality, respect of human rights and freedoms and the rule of law, non-discrimination, property rights and social justice; while based on (ii) Article 51 [Health and Social Protection] of the Constitution, (a) health care and social insurance are regulated by law; and (b) basic social insurance, relating to unemployment, illness, disability and old age, is regulated by law.
204. The aforementioned constitutional articles delegate social protection to the level of legal regulation, always under the condition of respecting the fundamental values of the Republic of Kosovo, including social justice. According to the clarifications above, the Court emphasizes that the issues related to the minimum wage are regulated at the level of the law, namely the Law on Labor, while they are further specified at the level of the sub-legal act, namely the Administrative Instruction no. 09/2017 on Setting a Minimum Wage in the Republic of Kosovo.
205. The Court concluded that the relationship between the Government and the Social-Economic Council in setting the minimum wage in the Republic of Kosovo is essential in the circumstances of the present case. According to the Law on Labor, in setting the minimum wage, the Government is conditional on the proposal of the Economic and Social Council. In the context of the latter, the Court notes that based on Article 5 (Economic-Social Council) of Law no. 04/L-008 on the Economic-Social Council, the latter is a national-level body, which leads consultations and makes proposals to the competent bodies for issues from the employment relationship, social welfare and other issues related to economic policies in the Republic of Kosovo. The Council, based on the aforementioned article, consists of (i) five (5) representatives who are appointed by the employees' organizations; (ii) five (5) representatives appointed by employers' organizations; and (iii) five (5) representatives appointed by the Government of Kosovo. Further and based on Article 17 (Taking of decisions in SEC) of the aforementioned law, the decisions of the Council are adopted by two-thirds (2/3) of the votes of the permanent members of the Council. The Court notes that such a composition, including such a decision-making method that requires a qualified majority, aims to achieve a broad consensus between the Government and organizations of employers and employees related to the determination of the level of the minimum wage in Republic of Kosovo.

206. The changes proposed by Article 6 of the contested Law affect this condition, determining that while the Government determines the minimum wage based on the proposal of the Economic-Social Council, in the absence of such a proposal, the relevant Minister for Finance, after informing the Economic-Social Council Social, can submit such a proposal to the Government of Kosovo.
207. Based on the aforementioned provision, the Court notes that the Government can independently set the level of the minimum wage, only when the Economic-Social Council fails to make such a proposal. In this context, the Court cannot but emphasize the way of decision-making in the Economic-Social Council, in the composition of which the representatives appointed by the Government make up one third (1/3) of the Council and in case of their opposition in favor of the Government's independent decision-making, the Economic-Social Council could propose the setting of the minimum wage to the Government, making it impossible for the Government to act independently, only when the representatives who are appointed by the employees' organizations and those who are appointed by employers' organizations, would agree in relation to the minimum wage level in the Republic of Kosovo. However, their positions can often be contradictory due to the opposing interests they may represent. Such a situation puts the members of the Economic-Social Council appointed by the Government at an advantage in relation to other members of the Economic-Social Council. Such a relationship of the members of the Social-Economic Council, in the context of the possibility of the Government to set the minimum wage itself, does not necessarily favor the goal of reaching a general consensus related to the minimum wage in the Republic of Kosovo.
208. Having said this, the Court reiterates that beyond social justice as a value of the Republic of Kosovo, the issues related to the mechanisms that determine the minimum wage are regulated at the level of law. The same position is shared by the applicants and the interested parties before the Court. In the aforementioned context, the Court emphasizes that the adoption of laws is the competence of the Assembly of the Republic of Kosovo, and that in the event that they are contested before the Court, it is not within the competence of the latter to assess the selection of public policy by the representatives of the people, but only to assess whether the provisions of the Constitution have been violated. As explained above, the latter does not contain the norms that regulate the issue of the necessary mechanisms for setting the minimum wage in the Republic of Kosovo.
209. Furthermore, the Court notes that the Republic of Kosovo is not a member of the ILO, nor has its conventions been ratified. Consequently, they are not part of the internal legal order of the Republic of Kosovo. However, the Court notes that in the introduction to the Law on Labor, it is emphasized that "*Taking into account Conventions of the International Labour Organisation [...] the aim of establishing a comprehensive, functional and sustainable legal basis on employment relationship*". This means that the legislator, in drafting the Law on Labor, has incorporated and taken into account the international standards established in the ILO conventions, which regulate the rights and obligations arising from the employment relationship.
210. Based on the above, the Court emphasizes that during the interpretation of whether Article 6 of the contested Law violates social justice, as far as they are relevant, it will also refer to the views of the ILO and its relevant Conventions, namely the ILO Minimum Wage Fixing Convention. In this context, the Court notes that, according to the standards of the ILO, the determination of the minimum wage is one of the mechanisms that states must use to fulfill social justice. The purpose of setting the minimum wage seems to be to protect workers who have very low wages, and to provide conditions for a dignified life. The ILO Convention obliges state authorities in each country to determine the groups of workers covered by the minimum wage, after agreement or full consultation

with representatives of workers and employers. Thus, the emphasis is on full consultation with all relevant actors.

211. More specifically, the Court emphasizes that the ILO Minimum Wage Fixing Convention, among other things, and as far as it is relevant in the circumstances of the present case, in its article 1, stipulates that (i) each member of the ILO, which ratifies this Convention undertakes to establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate; and (ii) the competent authority in each country shall, in agreement or after full consultation with the representative organizations of employers and workers concerned, where such organizations exist, determine the groups of wage earners to be covered.
212. In addition, Article 3 of the aforementioned Convention stipulates that the elements that must be taken into account in determining the level of minimum wages, as far as possible and appropriate in relation to the practice and conditions of the country, include (i) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social insurance benefits and the relative living standards of other social groups; and (ii) economic factors, including the demands of economic development, productivity levels and the desire to achieve and maintain a high level of employment.
213. The Court also notes that with regard to the mechanism through which the minimum wage is set, Article 4 of the Convention stipulates that (i) each member which ratifies this Convention shall create and/or maintain machinery adapted to national conditions and requirements whereby minimum wages for groups of wage earners covered in pursuance of Article 1 thereof can be fixed and adjusted from time to time; (ii) provision should be made, in connection with the establishment, operation and modification of such machinery, for full consultation with representative organizations of employers and workers concerned or, where no such organizations exist, representatives of employers and workers concerned; and (iii) wherever it is appropriate to the nature of the minimum wage fixing machinery, provision shall also be made for the direct participation in its operation of (a) representatives of organizations of employers and workers concerned or, where no such organizations exist, representatives of employers and workers concerned, on a basis of equality; and (b) persons having recognized competence for representing the general interests of the country and appointed after full consultation with representative organizations of employers and workers concerned, where such organizations exist and such consultation is in accordance with national law or practice.
214. The Court notes that based on the aforementioned provisions of the Minimum Wage Fixing Convention, the emphasis is on the full consultation of the organizations that represent employers and employees and, of course, reaching a full consensus in determining the level of the minimum wage, as one of mechanisms that ensure social justice.
215. Based on the aforementioned principles, the Court notes that the Law on Labor until now determined that the Government will set at the end of each calendar year the minimum wage according to the proposal of the Economic and Social Council. Meanwhile, the contested Law changes such wording and gives the opportunity to the Ministry of Finance, in the absence of a proposal from the Economic and Social Council for the minimum wage, to submit a proposal to the Government. In other words, the contested Law, same as before, foresees that the Government of Kosovo determines the minimum wage according to the proposal of the Economic-Social Council, but allows the possibility that in cases where the Economic-Social Council does not give a proposal, then such a thing can be done the Ministry of Finance. In this context, the Court emphasizes that while Article 6 of the contested Law avoids conditioning the proposal of the Social-

Economic Council, for determining the minimum wage, it does not necessarily affect the obligation of full consultation with the organizations that represent the employees and employers within the Economic-Social Council, because the latter always has the primary role in deciding on the proposal to determine the minimum wage in the Republic of Kosovo, and only in case of failure to reach this consensus, decision-making powers within one calendar year, passes to the Government of the Republic of Kosovo. Moreover, the Court notes that the contested Law does not change the criteria that must be taken into account when setting the minimum wage, as established by the Law on Labor and the standards of the ILO Convention.

216. In such circumstances, and taking into account, that (i) the Constitution delegates issues related to social insurance at the law level; (ii) The Minimum Wage Fixing Convention has not been ratified by the Republic of Kosovo; and (iii) that Article 6 of the contested Law affects the competence of the Economic-Social Council for the proposal of the minimum wage, only in case of failure of its decision-making within one calendar year, and does not avoid the obligation of the authorities to consult with all the relevant actors, nor does it exclude the possibility of a full agreement between the members of the Economic-Social Council for setting the minimum wage, the Court assesses that the abovementioned article is not in contradiction with the provisions of the Constitution.
217. Therefore, the Court finds that Article 6 of the contested Law is not in contradiction with Article 51 [Health and Social Protection] of the Constitution.

FOR THESE REASONS

The Constitutional Court, in accordance with paragraph (5) of article 113 and paragraph 2 of article 116 of the Constitution, articles 20, 27 and 42 of the Law and based on rules 48 (1) (a) and 72 of the Rules of Procedure, on 19 June 2024:

DECIDES

- I. TO DECLARE, unanimously, the referral admissible;
- II. TO HOLD, unanimously, that article 2 (Amending and supplementing Law No. 04/L-261 on War Veterans of the Kosovo Liberation Army, amended and supplemented by Law No. 05/L-141) of Law No. 08/L-142 on Amending and Supplementing the Laws that Determine the Amount of the Benefit in the Amount of the Minimum Wage, Procedures on Setting of Minimum Wage and Tax Rates on Annual Personal Income, is not in contradiction with article 24 [Equality Before the Law] and article 46 [Protection of Property] of the Constitution of the Republic of Kosovo in conjunction with article 1 of Protocol no. 1 of the European Convention on Human Rights;
- III. TO HOLD, with eight (8) votes in favor and one (1) against, that article 3 (Amending and Supplementing of Law No. 04/L-092 on Blind Persons) of Law No. 08/L-142 on Amending and Supplementing the Laws that Determine the Amount of the Benefit in the Amount of the Minimum Wage, Procedures on Setting of Minimum Wage and Tax Rates on Annual Personal Income, is not in contradiction with article 24 [Equality Before the Law] and article 46 [Protection of Property] of the Constitution of the Republic of Kosovo in conjunction with article 1 of Protocol no. 1 of the European Convention on Human Rights;

- IV. TO HOLD, unanimously, that article 4 (Amending and supplementing Law No. 05/L -067 on the Status and Rights of Paraplegic and Tetraplegic Persons) of Law No. 08/L-142 on Amending and Supplementing the Laws that Determine the Amount of the Benefit in the Amount of the Minimum Wage, Procedures on Setting of Minimum Wage and Tax Rates on Annual Personal Income, is not in contradiction with article 24 [Equality Before the Law] and article 46 [Protection of Property] of the Constitution of the Republic of Kosovo in conjunction with article 1 of Protocol no. 1 of the European Convention on Human Rights;
- V. TO HOLD, by eight (8) votes in favor and one (1) against, that article 6 (Amendment and supplement of Law No. 03/L-212 on Labor) Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons) of Law No. 08/L-142 on Amending and Supplementing the Laws that Determine the Amount of the Benefit in the Amount of the Minimum Wage, Procedures on Setting of Minimum Wage and Tax Rates on Annual Personal Income, is not in contradiction with article 51 [Health and Social Protection] of the Constitution of the Republic of Kosovo;
- VI. TO DECLARE, that, based on article 43 (Deadlines) of the Law no. 03/L-121 on the Constitutional Court of the Republic of Kosovo, the Law No. 08/L-142 on Amending and Supplementing the Laws that Determine the Amount of the Benefit in the Amount of the Minimum Wage, Procedures on Setting of Minimum Wage and Tax Rates on Annual Personal Income, is sent to the President of the Republic of Kosovo for promulgation;
- VII. TO NOTIFY this Judgment to the Parties;
- VIII. TO PUBLISH this Judgment in the Official Gazette, in accordance with paragraph 4 of Article 20 of the Law.

Judge Rapporteur

President of the Constitutional Court

Remzije Istrefi-Peci

Gresa Caka-Nimani

This translation is unofficial and serves for informational purposes only.