



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

Pristina, on 23 December 2024  
Ref. no.:AGJ 2597/23

*This translation is unofficial and serves for informational purposes only.*

## JUDGMENT

in

case no. KO283/23

Applicant

**Abelard Tahiri and 9 other deputies of the Assembly of the Republic of Kosovo**

**Constitutional review of Decision no. 08-V-668 of 15 December 2023, of the Assembly of the Republic of Kosovo, on dismissal of Mr. Agron Beka from the position of a member of the Kosovo Prosecutorial Council**

### 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 the deputies: Abelard Tahiri, Bekim Haxhiu, Eliza Hoxha, Enver Hoxhaj, Isak Shabani, Ferat Shala, Floreta Zenjullahu, Ganimete Musliu, Mergim Lushtaku, Hisen Berisha (hereinafter: the Applicants).

2. Applicants are represented in the proceedings before the Constitutional Court of the Republic of Kosovo (hereinafter: the Court) by the lawyer Faton Fetahu.

### **Challenged act**

3. The applicants challenge the Decision [no. 08-V-668] of 15 December 2023, of the Assembly (hereinafter: the contested Decision), on dismissal of Mr. Agron Beka from the position of a non-prosecutor member of the Kosovo Prosecutorial Council (hereinafter: the KPC).

### **Subject matter**

4. The subject matter of the referral is the constitutional review of the contested Decision, which the Applicants claim is not in compliance with paragraph 1 of Article 4 [Form of Government and Separation of Power], paragraphs 1 and 2 of Article 31 [Right to Fair and Impartial Trial], article 32 [Right to Legal Remedies], article 54 [Judicial Protection of Rights] as well as paragraphs 1 and 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution of the Republic of Kosovo (hereinafter: the Constitution).
5. The Applicants also request the imposition of interim measure regarding the present case, stating that they request: *“the imposition of an interim measure in order to avoid irreparable damage and the protection of the public interest, until the final decision regarding the basic referral.”*

### **Legal basis**

6. The Referral is based on paragraph 5 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, Articles 22 (Processing Referrals), 27 (Interim Measures), 42 (Accuracy of the Referral) and 43 (Deadline) of Law no. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter: the Law), as well as on Rules 25 (Filing of Referrals and Replies), 44 (Request for Interim Measures), 45 (Decision-making Regarding the Request for Interim Measure) 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 Constitutional Court of the Republic of Kosovo (hereinafter: the Rules of Procedure).

### **Proceedings before the Court**

7. On 22 December 2023, the Applicants submitted the referral to the Court.
8. On 28 December 2023, the President of the Court, by Decision [No. GJR. KO283/23], appointed Judge Bajram Ljatifi as Judge Rapporteur, while by Decision [No. KSH. KO283/23] appointed the Review Panel composed of judges: Safet Hoxha (Presiding), Nexhmi Rexhepi and Enver Peci (members).
9. On 5 January 2024, the Court notified about the registration of the referral the Deputy Secretary General of the Assembly (hereinafter: Dep. Secretary of the Assembly) and requested that by 29 January 2024, submit to the Court all relevant documents related to the contested Decision.
10. On the same date, the Court notified about the registration of the Referral (i) the Applicant; (ii) the President of the Assembly, who was required to submit a copy of the Referral to all deputies of the Assembly; and (iii) the KPC. The Court notified the interested parties mentioned above that their comments, if any, will be submitted to the

Court within fifteen (15) days, respectively by 29 January 2024, at the Court's electronic address or by personal submission.

11. Also, on the same date, the Court notified about the registration of the referral (i) the President of the Republic of Kosovo (hereinafter: the President); as well as (ii) the Prime Minister of the Republic of Kosovo (hereinafter: the Prime Minister).
12. On 16 January 2024, Deputy Secretary of the Assembly submitted to the Court the following documents: (i) the Minutes of the Committee on Legislation, Mandates, Immunities, the Rules of Procedure of the Assembly and the Supervision of the Anti-Corruption Agency (hereinafter: the Committee on Legislation ) of 28 September 2023; (ii) the Report with Recommendations of the Committee on Legislation regarding the dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC, of 28 September 2023; (iii) excerpts of the minutes of the Plenary Session of the Assembly, held on 19 October 2 and 9 November 2023; (iv) excerpts of the transcript of the Plenary Session, review of the recommendation of the Committee on Legislation regarding the dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC, held on 19 October 2 and 9 November 2023; (v) excerpts of the transcript of the Plenary Session, the vote of the recommendation of the Committee on Legislation regarding the dismissal of Mr. Beka from the position of the non-prosecutor KPC member, held on 23, 30 November and 15 December 2023; as well as (vi) the contested Decision.
13. On 16 January 2024, the KPC submitted to the Court comments regarding the referral.
14. On 26 January 2024, Mr. Besnik Tahiri, on behalf of the Parliamentary Group of the Alliance for the Future of Kosovo (hereinafter: AAK Parliamentary Group), submitted to the Court comments regarding the referral.
15. On 29, January 2024, comments regarding the referral were also submitted by (i) Rrezarta Krasniqi, deputy of the Democratic League of Kosovo (hereinafter: LDK); (ii) Committee on Legislation; as well as (iii) Saranda Bogujevci on behalf of the Parliamentary Group of the VETËVENDOSJE Movement!
16. On 2 February 2024, the Court notified (i) the Applicants; (ii) the President; (iii) the President of the Assembly; (iv) the Prime Minister; (v) the Deputy Secretary of the Assembly; and (vi) the KPC regarding the comments received from (i) the KPC; (ii) the AAK Parliamentary Group; (iii) Rrezarta Krasniqi; (iv) the Committee on Legislation; and (v) the VETEVENDOSJE Parliamentary Group, with the possibility to submit comments by 9 February 2024.
17. On 11 March 2024, Judge Jeton Bytyqi took the oath in front of the President of the Republic of Kosovo, in which case his mandate at the Court began.
18. On 25 July 2024, the Court, after considering the Report of the Judge Rapporteur, decided to postpone its review for a next session after additional supplementations
19. On 26 November 2024, the Court decided (i) unanimously, to declare the referral admissible; and to hold (ii) unanimously that Decision [No. 08-V-583 of 13] of 15 December 2023 of the Assembly, is not contrary to paragraph 9 of Article 65 [Competencies of the Assembly] as well as paragraph 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution; (iii) to reject the request for interim measure; (iv) to notify this Judgment to the parties; (v) to publish this Judgment in the Official Gazette in accordance with paragraph 4 of Article 20 of the Law; (vi) to hold

that this Judgment is effective on the day of publication in the Official Gazette of the Republic of Kosovo in accordance with paragraph 5 of Article 20 of the Law.

20. In compliance with Rule 57 (Concurring Opinions) of the Court's Rules of Procedure Judge Radomir Laban has prepared his concurring opinion, which is to be published together with the present Judgment.

### **Summary of facts**

21. Based on the case file, it turns out that on 4 March 2020 and 16 June 2020, the Committee on Legislation asked the law faculties of the Republic of Kosovo to submit proposals for candidates to be non-prosecutor members of the KPC.
22. On 28 July 2020, the Committee on Legislation, in the meeting held, reviewed the proposals of the law faculties for non-prosecutor members of the KPC. After the preliminary review and verification, the Committee on Legislation presented to the Assembly the report with recommendations for the candidates proposed by the law faculties.
23. On 13 August 2020, at the plenary session started on 7 August 2020, the Assembly organized the secret voting process for the election of the KPC member, from among the law faculties.
24. In the first round of voting, none of the candidates managed to receive the necessary votes for the election of a KPC member from the law faculties of the Republic of Kosovo.
25. As none of the candidates managed to get the sufficient number of votes to be elected a member of the KPC from the legal faculties of the Republic of Kosovo, the second voting process was held. Further from the case file it results that during the second voting process, with participation of eighty-seven (87) deputies, Mr. Beka, in his position as a professor at the Faculty of Law of the University of Mitrovica "Isa Boletini" (hereinafter: UMIB), was elected by the Assembly with a majority of votes to be a member of the KPC for a five (5) year term.
26. From the case file, it results that the Chairman of the Committee on Legislation presented to the members of the aforementioned Committee some of the key information that was summarized in a letter, notifying the latter regarding "*violations of Mr. Agron Beka*". In the above-mentioned letter, the Chairman of the Committee on Legislation states that after receiving "*information published in various media*", the Committee on Legislation considered that the procedure of dismissal of the non-prosecutor KPC member, Mr. Beka, should be initiated pointing out that the respective member of the KPC, "*by his actions, has seriously violated the integrity, independence and impartiality of the prosecutorial system of Kosovo*", and also considered that "*further stay in the KPC, arouses uncertainty and violates the basic principles of the KPC activity*".
27. On 28 September 2023, the Committee on Legislation, in the meeting initiated the procedure of dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC recommending to the Assembly that the latter be dismissed from the position of a non-prosecutor member of the KPC.
28. In the Recommendation [No. 08/4446/Do/1944] of 28 September 2023 of the Committee on Legislation, the reasons on which the latter bases its recommendation to the Assembly are listed, with the proposal for the dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC. Among other things, as a reason for

dismissal it is mentioned that (i) there were facts that evidenced the influence of Mr. Beka at the Faculty of Law of UMIB, which had nothing to do with his role in the KPC and that the chairman of the KPC supported Mr. Beka, sending two letters to the Faculty of Law of UMIB, where it was emphasized that any action to challenge the mandate of Mr. Beka would be considered an interference with the independence of the KPC. In the above statement, it is emphasized that Mr. Beka had used the authority of the KPC chairman against his colleagues at UMIB, abusing his position in this institution. That said, from the case file, it turns out that Mr. Beka, was subject of various court proceedings several times and that these letters were attached to the file of the Recommendation [no. 08/4446/Do-1994] of the Committee on Legislation; (ii) regarding the second reason, namely, that the non-prosecutor member of the KPC, Mr. Beka had also exercised the function of chairman and authorized representative in two non-governmental organizations and that the Agency for Prevention of Corruption (hereinafter: APC) by the Decision [AKM-DPKI-06-1173/20] of 29 July 2020 held that Mr. Beka, in addition to the position of dean at the UMIB law faculty, also had functions in two non-governmental organizations, from which he resigned after the reaction of the APC. The Police of Kosovo filed a criminal report against Mr. BeKa under the suspicion of abuse of office while he was dean and professor of law at UMIB; (iii) the finding of the Committee on Legislation that the unlawful taking of above the norm by Mr. Beka, the APC by Reply [AKK-3419/22] of 9 September 2023 confirmed that Mr. Beka submitted empty lists of students for the subject *“Criminalistic Tactics”*, pointing out that *“it is noted that there is no data on any students who may have selected the subject in question”*, and that although there was no student in the lecture, he was compensated for these lectures. As a result, it turns out that the APC proved that Mr. Beka had submitted empty lists of students for the subject *“Criminalistic Tactics”* and *“he was paid for lectures that were not held”*. In the reasoning of the above-mentioned Recommendation of the Committee on Legislation, it is added that *“For all these reasons, the legal requirements for the dismissal of Mr. Beka from the position of non prosecutorl member of the KPC have already been met, as set out in Article 13.2 of Law no. 06/L-056 on Kosovo Prosecutorial Council.”*

29. From the Minutes of the meeting of the Committee on Legislation dated 28 September 2023, it results that the members of the latter discussed the procedure for dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC and requested from the Chairman of the Committee on Legislation more time for the detailed analysis and verification of the evidence. The members of the Committee on Legislation stressed the importance of completing the file with documents and basing the decisions on accurate evidence. Further, from the above-mentioned minutes, it results that the Chairman of the Committee on Legislation stated that every possible document is to be attached to the aforementioned recommendation to ensure that the decision is based on accurate facts.
30. After the end of discussion, the Committee on Legislation consisting of ten (10) deputies, two (2) of whom did not participate in the voting, consequently, by seven (7) votes for, one (1) vote against, on 28 September 2023, approved the recommendation of the Chairman of the Committee on Legislation, to initiate the dismissal of Mr. Beka from the position of the KPC member.
31. On 18 October 2023, Mr. Beka addressed the President of the Assembly with a letter in which he presented responses/counter-arguments to the Recommendation [no. 08/4446/Do-1994] of the Committee on Legislation, for his dismissal from the position of non-prosecutor member of the KPC. In his letter to the Assembly, Mr. Beka denied all the findings of the Committee on Legislation. In the aforementioned letter to the Assembly, Mr. Beka attached a considerable number of documents, such as: (i) the response to the request for consideration of the possible situation of conflict of interest

of 5 August 2020, of the APC, which was offered on the basis of his request before his election as a non-prosecutor member of the KPC, in order to ensure compliance with the function of Dean of the Faculty of Law of UMIB at the same time with the function of non-prosecutor member of the KPC; (ii) his request, addressed to the Chairman of the KPC, regarding the review of the legality of the payment that the KPC makes as a member of it, in the name of engaging in this function; (iii) the decision of the KPC of 26 July 2018, by which the KPC had determined the value of compensation for its members, for their monthly activities, including permanent committees and KPC auxiliary bodies; (iv) the official letter of the Acting Director General of the KPC Secretariat of 3 December 2023, confirming that based on the KPC Decision of 26 July 2018, he is also entitled to compensation according to this decision, confirming that this payment means compensation for engagement in committees and not regular payment; (v) his reaction, in the capacity of a member of the KPC, of 25 February 2023, for the broadcast of a media of 18 February 2023 and writings of 24 February 2023; (vi) the notification of 27 October 2022, of the Chairman of the KPC to the Chairman of the Senate of UMIB and the Dean of the Faculty of Law, whereby he emphasized that after he, as a non-prosecutor member of the KPC, had officially informed the KPC that *“in September and October 2022, some UMIB officials initiated procedures creating completely unreasonable dilemmas that he could be a professor with primary salary at UMIB and a member of the KPC”*, he confirmed that the compensation is not salary because it is a temporary engagement and therefore there is no need to contest the issue of KPC payment, as an attempt to obstructing the latter's member who had a regular working relationship with UMIB; vii) his lawsuit that in the capacity of professor he filed against UMIB in the case of non-payment of salary as a professor of 30 September 2022, the submission for withdrawal of the lawsuit of 17 October 2023, as well as the Decision [C. no. 1643/2022] of the Basic Court in Mitrovica, whereby it was ascertained the withdrawal of the lawsuit by the claimant Mr. Beka; viii) the public announcement of a media for public apology against him, by which this portal had publicly apologized for the published writings which contained inaccurate information in relation to him, as a university professor; ix) the submission for the withdrawal of the claimant's lawsuit, in the case C. no. 729/2023, against a media, following a public apology against him; x) the criminal report against the Officer of the Department for Prevention of Corruption of the APC of 24 April 2023.

32. As a result of the lack of a quorum, at the session held on 19 October 2023, the Assembly did not review the above Recommendation of the Committee on Legislation for the dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC.
33. On 2 November 2023, the Assembly reviewed the above recommendation but as a result of the lack of a quorum, the voting related to it was postponed for another session.
34. Based on the case file, it turns out that on 15 December 2023, in the session of the Assembly, among the items on the agenda was the voting of Recommendation [no. 08/4446/Do-1994] of the Committee on Legislation, since as noted above the review of the recommendation was made on 2 November 2023, but as a result of the lack of quorum the latter was not voted. The Court notes that in the first voting process, the administration found that sixty-one (61) deputies in total had voted, sixty (60) deputies voted in favor and one (1) abstained. Further, from the case file it follows that as a result of some technical problems with vote calculation by the administration it was requested to be verified through the results of the VAR system. Consequently, based on these results, the President of the Assembly stated that sixty-one (61) deputies voted in favor of the dismissal of Mr. Beka from the KPC.
35. Further, based on the case file, the Court notes that after the request of some deputies, the voting was repeated for the second time, where it was found by the administration

of the Assembly that there were seventy-one (71) deputies present, out of whom sixty-two (62) voted in favor of the dismissal of Mr. Beka, no votes against and no abstentions.

36. On 15 December 2023, the Assembly adopted Recommendation [no. 08/4446/Do-1994] of the Committee on Legislation, through its Decision [08-V-668], pursuant to paragraph 10 of Article 65 [Competences of the Assembly] of the Constitution, as well as paragraph 10 of Article 10 (Procedure of proposal, election and dismissal of members elected by the Assembly) of the Law on KPC, with the content of the enacting clause included in two (2) points:

*“1. Mr. Agron Beka is dismissed from the position of a member of the Kosovo Prosecutorial Council.*

*2. This decision enters into force on the day of approval.”*

### **Applicants’ allegations**

37. The Applicants consider that, in the circumstances of the present case, the Assembly, by terminating the constitutional mandate of the non-prosecutor member of the KPC, has acted in an unconstitutional and arbitrary manner, violating paragraph 1 of Article 4 [Form of Government and Separation of Power], paragraphs 1 and 2 of Article 31 [Right to Fair and Impartial Trial], article 32 [Right to Legal Remedies], article 54 [Judicial Protection of Rights] as well as paragraphs 1 and 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution. According to the Applicants, this violated the institutional and functional independence of the KPC, which, as a constitutional institution, as foreseen in Chapter VII [Justice System] of the Constitution.

38. With regard to the above allegations, the Applicants, in addition to the admissibility of the Referral, presented arguments regarding the following issues: (i) whether the dismissal of the non-prosecutor member of the KPC meets the foreseen legal requirements and whether the non-prosecutor members are representatives of the Assembly in the KPC; and (ii) whether the Assembly has implemented the constitutional rights under paragraphs 1 and 2 of Article 31 [Right to Fair and Impartial Trial] of the Constitution, including whether the non-prosecutor member of the KPC has been deprived of the right to use legal remedies in accordance with Article 32 [Right to Legal Remedies] and to judicial protection guaranteed by Article 54 [Judicial Protection of Rights] of the Constitution. In what follows, the Court will present the Applicants' allegations for all of these categories.

*(i) whether the dismissal of the non-prosecutor member of the KPC meets the foreseen legal requirements and whether the non-prosecutor members are representatives of the Assembly in the KPC*

39. The Applicants emphasize that based on the Constitution, the Assembly, which represents the legislative power, has no authority to terminate the constitutional mandate of a member of the KPC and that such an action would undermine the constitutional independence of the KPC, exceeding the legal and constitutional competencies of the Assembly in relation to the procedures for dismissal of KPC members. Furthermore, the Applicants challenge the contested Decision, arguing that the reasons for dismissal do not comply with the requirements provided for in paragraph 2 of Article 13 (Termination of the term) of the Law on KPC, according to which the KPC members can be dismissed only if they do not perform their duties according to the Constitution and the law, and not for reasons related to other activities outside this context.

40. The applicants emphasize that the manner in which the request for dismissal of Mr. Beka from the KPC and the reasons on which this dismissal is based are a serious abuse of the mandate of the deputy and in the present case the role of the Committee on Legislation. They argue that the report with a recommendation of the Committee on Legislation is almost identical to the letter of the President of the latter *“which, based on untrue and unfounded conclusions, has led to the conclusion that the Assembly, by its contested decision, violates the constitutional responsibilities of the Council under Article 110 (paragraph 1 and 4) of the Constitution and manifestly ill-founded exceedance of the constitutional mandate and responsibility of the Assembly, by rendering such a decision.”*
41. Further, the Applicants emphasize that: *“Such a way of initiating the request for dismissal, and in particular the reasons on which such allegations have been filed, which have led to the dismissal of the non-prosecutor member of the KPC, represents an extreme abuse of the mandate of the deputy, on the one hand, and an abuse of the role of the Committee on Legislation, on the other. Because, it is easily verifiable that the Report with recommendations of the Committee on Legislation presents almost completely identical content of the initiating letter of the Chairman of this Committee Mr. Rrustemi, who based on untrue and baseless findings, led to the conclusion that the Assembly, by its contested decision, violates the constitutional responsibilities of the Council by Article 110, (paragraphs 1 and 4) of the Constitution and manifestly ill-founded exceedance of the constitutional mandate and responsibility of the Assembly by taking such a decision.*

*We consider that the termination of the mandate arbitrarily and prematurely of the non-prosecutor member of the KPC is unfounded, due to the fact that the applicable legal criteria are exceeded by Article 13 of the Law in force, according to which the termination of the mandate of the current members may occur for the following reasons: death; loss of capacity to act; continuous failure to participate in the activities of the Council for more than three (3) months, without a valid reason; termination of the status on which the appointment is based: expiry of the mandate; resignation, providing the Council with prior notice of thirty (30) days; reaching retirement age; has been convicted of a criminal offense committed by negligence.*

*As above, the termination of the mandate of the members of the KPC can be done naturally or if one of the above criteria is met and this arbitrary termination of the mandate is contrary to the case law the Constitutional Court, which in cases KO29/12 and KO 48/12 on the issue of the mandate of the holders of constitutional positions, respectively according to paragraph 268 states that “mandate is inviolable so as to ensure adherence to the principle of the separation of powers and to preserve certainty in the legal and constitutional order”. Based on this Judgment, the shortening of the mandate diminishes the rights and freedoms established in Chapter II of the Constitution.*

42. Further, the Applicants emphasize that the KPC, where Mr. Beka was a member, has never had any criticism about his work. On the contrary, Mr. Beka has been praised for his positions in protection of the independence and impartiality of the KPC. The applicants emphasize the fact that the dismissal of Mr. Beka *“was not made because the latter did not perform the duties and responsibilities set out in Article 7 of the Basic Law, nor was it made on the basis of facts or articulable evidence regarding the fact that he did not perform the function of being a member of the KPC in compliance with the Constitution and the law”*.
43. Further, the Applicants emphasize that the conclusion of the Committee on Legislation, that the non-prosecutor member of the KPC, Mr. Beka, would represent a *“bad image”*



for the Assembly is unfounded. This finding, according to them, is outside the legal criteria for dismissal, as the integrity in relation to the public and the media is not a criterion for dismissal under the law. Moreover, they argue that this finding is an abuse of the constitutional responsibilities of the Assembly, which has no right to affect the independence and impartiality of KPC members. The Applicants emphasize that the non-prosecutor members of the KPC, including Mr. Beka, are independent and do not represent the Assembly in the exercise of their duties. Further, the Applicants emphasize that the dismissal is politically motivated and that the political assessments and perceptions of the government and the parliamentary majority on the work and image of the KPC cannot be converted into legal norms. If a practice of arbitrary termination of the constitutional mandate of a KPC member were allowed, it would open a dangerous precedent, allowing the Assembly to dismiss all institutional functionaries only on the basis of political perceptions or unfounded claims, without ensuring the fulfillment of the legal requirements for such termination.

(ii) *if the Assembly has implemented the constitutional rights under paragraphs 1 and 2 of Article 31 [Right to Fair and Impartial Trial] of the Constitution and if, according to the contested decision, the non-prosecutor member of the KPC has been deprived of the right to use legal remedies and judicial protection*

44. The Applicants highlight that even in a “hypothetical” situation when the Assembly would have the right to dismiss non-prosecutor members of the KPC for issues unrelated to their function in the KPC, the Assembly has failed to respect the constitutional standards guaranteed by Article 31 [Right to Fair and Impartial Trial] of the Constitution, which includes the right to equal protection and a fair trial.
45. The Applicants emphasize that the Law on the KPC, respectively paragraph 10 of Article 10 (Procedure of proposal, election and dismissal of members elected by the Assembly), requires the dismissal of non-prosecutor members of the KPC to be done by the Assembly at the proposal of the respective committee or the KPC itself, adding that on the other hand Article 19 (Disciplinary procedures for Council members) of the same law, has clearly provided for disciplinary procedures for members of the KPC, according to which the latter determines the disciplinary rules and procedures for all members including those for investigation, suspension or recommendation for dismissal of each member of the KPC. Further, they emphasize that in the second paragraph of this article, respectively Article 19 of the Law on KPC, the KPC decides that a committee should be established composed of three (3) members, one of whom should be a prosecutor member of the KPC, and two (2) others from the ranks of prosecutors to decide on disciplinary measures and sanctions, including suspension and dismissal of KPC members and that: *“On the recommendation of the Committee, a member of the Council may be dismissed by two-thirds (2/3) of the votes of the members of the Council. On the other hand, par. 4 of the same article, expressly stipulates that “One (1) member of the Council who has been dismissed has the right to appeal against the Council’s decision directly to the Supreme Court within fifteen (15) days from the decision to dismissal”.*
46. Further, the Applicants emphasize: *“Therefore, the circumstances of legal uncertainty in relation to the dismissed non prosecutor member are evident while in the basic law, par. 10 of Article 10, is clearly contrary to Article 19 of this law, placing it in a situation of effective impossibility to ensure the constitutional right to exercise legal remedies contrary to Article 32 of the Constitution, according to which it is foreseen that: “Every person has the right to pursue legal remedies against judicial and administrative decisions which infringe on his/her rights or interests, in the manner provided by law”, as well as the provision of judicial protection by Article 54 of the Constitution, according to which it is expressly stated that “Everyone enjoys the right of judicial*

*protection if any right guaranteed by this Constitution or by law has been violated or denied and has the right to an effective legal remedy if found that such right has been violated."*

47. The Applicants argue that the contested Decision violates the constitutional independence of the KPC under Article 110 [Kosovo Prosecutorial Council] of the Constitution, and also violates the constitutional right of the dismissed non-prosecutor member of the defence, which has been denied by this Decision. Further, the Applicants emphasize that the process for electing a non-prosecutor member of the KPC is built according to the standard of simple majority of votes of all deputies present in the Assembly. The Applicants argue that this process gives KPC members the assurance to do their job impartially and independently, helping them escape from the fear of being dismissed by a simple majority from the Assembly.
48. Further, the Applicants emphasize that the contested Decision has no constitutional and legal basis, by "violating *and undermining the independence of independent justice institutions*", while its enacting clause has an arbitrary character and is in contradiction with the two opinions of the Venice Commission, as regards the issues raised in the case of Law no. Law no. 08/L-136 on Amending and Supplementing the Law no. 06/L-056 on KPC, "*declared unconstitutional by Judgment KO100/22 and KO101/22 of the Court.*"
49. The Applicants request the Court to approve the interim measure, adding that it is necessary to keep a non-prosecutor member in the KPC to maintain the balance of representation, as the KPC is acting with a lack of representation from civil society and the Kosovo Chamber of Advocates. They emphasize that the dismissal of this member will severely damage the functioning and image of the KPC, blocking the processes of recruitment and appointment of prosecutors. The dismissal may also be detrimental to the professional career of Mr. Beka in the present case and will prevent the possibility of being reinstated if the decision is declared contrary to the Constitution.
50. Finally, the Applicants request the Court: (i) to declare this referral admissible; (ii) to declare the contested Decision contrary to the Constitution; (iii) to declare invalid the contested Decision for the dismissal of Mr. Beka from the position of a member of the KPC.

### **Comments of the parties**

51. In the following, the Court will submit the comments of the parties in the Applicants' referral, respectively, (i) the comments of the KPC submitted to the Court, on 16 January 2024; (ii) the comments of Mr. Besnik Tahiri, on behalf of the AAK Parliamentary Group submitted to the Court, on 16 January 2024; (iii) the comments of the Committee on Legislation; (iv) the comments of Ms. Rrezarta Krasniqi, deputy of the LDK parliamentary group, submitted to the Court, on 29 January 2024; (v) the comments of Ms. Saranda Bogujevci on behalf of the Parliamentary Group of VETEVENDOSJE! Movement, submitted to the Court on 29 January 2024.

### **KPC comments**

52. The KPC, in their comments submitted to the Court, initially expresses its agreement with all the arguments of the Applicants, emphasizing that (i) the decision to terminate the constitutional mandate of the non-prosecutor member of the KPC is unfounded and arbitrary, essentially violating the fundamental guarantees of constitutional independence of the KPC, the Law on the KPC and the jurisprudence of the Court. The KPC further adds that by the contested decision, the Assembly not only violated the

constitutional principle of separation of powers set out in Article 4 [Form of Government and Separation of Power] of the Constitution, but also violated paragraphs 1 and 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution, creating concrete circumstances of “interference”, “dependency” and “subordination”, as constitutional concepts that enable the implementation of the fundamental principle of separation of powers. The *KPC in their comments describes this decision as a “brutal violation of constitutional concepts”* in relation to the KPC, stressing that there was never any dissatisfaction with the work of Mr. Beka, because from his election as a non prosecutor member of the KPC until the day of his dismissal, “*has followed an affirmative approach to the independence and impartiality of the KPC, engaging in the protection of values and principles on which the Prosecutorial System of the Republic of Kosovo is organized and functions”*.”

53. Further, the KPC, in its assessment, emphasizes that the alleged grounds for the dismissal of the non-prosecutor member of the KPC have not been fulfilled within the meaning of paragraph 2 of Article 13 (Termination of the term) of the Law on the KPC because according to them, the allegations on which Mr. Beka was dismissed have not been fulfilled, neither related to “performing” nor related to “exercising” the function of a member of the KPC contrary to his duties and responsibilities.
54. In support of their arguments, the KPC refers to the Court's cases, namely cases KO100/22 and KO101/22, Applicants KI100/22, *Abelard Tahiri and ten (100 deputies of the Assembly* and 101/22 *Arben Gashi and ten (10) deputies of the Assembly*, Judgment of 24 March 2023, adding that the Court in the above-mentioned cases addressed, *inter alia*, the importance of the independence of the KPC and that the jurisprudence of the Court in this case provided a valuable summary of the role and independence of the KPC and the jurisprudence of the ECtHR and the CJEU. Further, the KPC emphasizes that Article 13 (Termination of the term) of the Law on KPC clearly defines the circumstances that may lead to the early termination of the mandate of a KPC member. At the same time, Article 19 (Disciplinary procedures for Council Members) of the Law on KPC regulates disciplinary procedures for KPC members, including the manner and procedure for accountability or dismissal, not excluding non-prosecutor members of the KPC. The KPC, based on the above-mentioned Judgments of the Court, respectively case KO100/22 and KO101/22, states that through the latter the basic principles for the treatment of KPC members have been established, which include the security of constitutional and legal mandates, prohibiting their early termination without proper legal basis.
55. The KPC further reiterates: “*Furthermore, the Venice Commission, in its first Opinion on the above Draft Law on the KPC, in its paragraph 54, explicitly stated that “The Venice Commission reiterates that the early termination of the mandate of a member of a council (where it is not due to the voluntary resignation, abolition of the whole institution, or to other similar reasons) should always be related to an identifiable violation or the failure to perform his or her duty. Members of the KPC should not be “dismissed” simply because the parliamentary majority or their colleagues disapprove of the decisions they take.”*”
56. The KPC adds that a similar position of the Venice Commission was also promoted in its Opinion regarding the Draft Law on the State Prosecutor and the Draft Law on the Prosecutor's Office for Organized Crime and Corruption of Montenegro (2021), which in its paragraph 30 has explicitly defined: “*It is legitimate to replace ministers or other holders of political offices following elections. But if in the domestic system an institution is defined as autonomous or even independent, replacing key office holders in such an institution on account of the change in the political majority and under the pretext of a legislative reform appears to run counter to the Constitution and the Rule*”

*of Law. If every new parliamentary majority in Parliament were entitled to do this, that would be contrary to the very idea of the “tenure” and to the stability of mandate of the officeholders, and the “independent” – namely apolitical – nature of those bodies. It would also impede provisions on the disciplinary liability. Disciplinary liability is imposed for specific misbehaviour by a disciplinary body, which, in the case of judicial and prosecutorial councils, enjoys independence or at least a high degree of autonomy. Since the parliamentary majority does not have control of those procedures, it may be tempted to use legislative amendment in order to ignore the disciplinary liability provisions. ”*

57. Further, the KPC states: “Also, the Constitutional Court, in its above-mentioned judgment, has also brought to the attention the Opinion of the Venice Commission on the Draft Law on the State Prosecutorial Council of Serbia (2014), which in its paragraph 53, expressly stated that “A disciplinary procedure can only be applied in cases of disciplinary offences and not on grounds of “lack of confidence”. Article 41 clearly defines the reasons that can lead to a dismissal of the SPC members. The disciplinary procedure must therefore only focus on the question whether the SPC member failed to perform his or her duties “in compliance with the constitution and law. This question must not be confused with the question whether said member still enjoys the confidence of the public prosecutors and deputy public prosecutors who participated in his or her election. The disciplinary procedure has to guarantee the SPC member a fair trial. While a reference to a fair trial is made under Article 46a, details on related guarantees should be provided.”
58. Expressing agreement with all the allegations of the Applicants, the KPC in their comments adds that the dismissal of Mr. Beka had nothing to do with the exercise of his function as a member of the KPC but because of the allegations regarding his behavior as a professor at the Faculty of Law of UMIB, and not for the non-implementation of his duties as a member of the KPC.
59. The KPC also considers it important that the referral that is subject to review in the Court be declared grounded and as such, protect not only the constitutional, organizational and functional independence of the KPC, on the one hand, but also provide legal certainty for the holders of constitutional mandates so that they behave and act without fear of dismissal by the parliamentary majority and, as a consequence, the temporary termination of the constitutional mandate does not serve as a vote of no confidence in the independent constitutional institution or its member, in order to prevent the creation of such precedents where each parliamentary majority had the opportunity to influence on the early termination of the mandates of the members of constitutional institutions, thus preventing political influence on these institutions.
60. The KPC argues that it is critical to impose an interim measure in order to ensure the constitutional independence of the KPC by referring to previous judgments of the Court, to emphasize that the premature termination of the mandates of constitutional institutions, as in the case of the KPC, constitutes a violation of legal certainty and independence of institutions. Also, the KPC emphasizes the importance of continuing the work of the dismissed non-prosecutor member, Mr. Beka, to fulfill the duties of the KPC, including the processes of recruitment and election of state prosecutors and to prevent possible damages that may be caused in connection with this case, including the process of appointing the new non-prosecutor member of the KPC.

### **Comments of the AAK Parliamentary Group**

61. The AAK Parliamentary Group, in their comments submitted to the Court, expresses its full agreement with all the arguments of the Applicants.

62. The AAK Parliamentary Group considers that the imposition of the interim measure is not only in the public interest, but is also of an urgent character, stressing that it is based on the fact that only one (1) week after the dismissal of Mr. Beka, the Committee on Legislation, at its last meeting for 2023, has initiated procedures for the replacement of Mr. Beka as a non-prosecutor member from the ranks of the Law Faculties of Public Universities, where among other things, the committee voted the proposal to address with request to public universities to propose candidates for the KPC member, and on 29 January 2024, as an agenda item it was also proposed “*Review of proposals for KPC members from the ranks of the Law Faculties*”.

### **The comments of Ms. Rrezarta Krasniqi, deputy of the LDK**

63. As a deputy of the Assembly, Ms. Rrezarta Krasniqi, emphasized that at the meeting of the Assembly of 15 December 2023, the recommendation for the dismissal of Mr. Beka from the position of the KPC member was approved . Ms. Rrezarta Krasniqi emphasizes that this was done after a consecutive vote, where at first the President of the Assembly found that sixty-one (61) deputies had participated in the vote, of which sixty (60) were for dismissal and one (1) abstained. Ms. Krasniqi further adds that “*Despite the fact that the President of the Assembly had concluded that this recommendation had not passed because it did not receive the necessary majority, there was a harsh intervention by Ms. Mimoza Kusari-Lila who, in her capacity as the chairwoman of the LVV Parliamentary Group, had argued and exerted public pressure that such recommendation had passed and received 61 votes in favor.*” According to deputy Ms. Rrezarta Krasniqi, this action violates the mandate and free will of the deputies of the Assembly of Kosovo, guaranteed by the Constitution and the Law No 03/L-111 on Rights and Responsibilities of the Deputy and it could set a dangerous precedent for Kosovo's democracy and legal certainty.
64. Ms. Krasniqi in her comments emphasizes that the contested decision has also highlighted the issue of the inequality between the dismissal of KPC members made by the Assembly or KPC. While according to paragraph 4 of Article 19 (Disciplinary procedures for Council members) of the Law on KPC, all members of the KPC are permitted and allowed to exercise the legal remedy in the Supreme Court, the latter does not apply to members of the KPC who can be dismissed by the Assembly. This according to Ms. Rrezarta Krasniqi, in addition to presenting a situation of inequality, also raises the issue of denial/inability to exercise the legal remedy, despite the fact that the exercise of the legal remedy is a right guaranteed by Article 32 [Right to Legal Remedies] of the Constitution.

### **Comments of the Committee on Legislation**

65. The Committee on Legislation, in their comments, argued that based on paragraph 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution, which stipulates that the composition and rules of appointment, reappointment and dismissal of KPC members are defined by a law issued by the Assembly, as the only “*body that has the constitutional right to materialize the above-mentioned norm.*” According to them, the decision on dismissal of Mr. Beka is in full compliance with the Constitution and the Law on KPC. According to the Committee on Legislation, the Assembly has the right to dismiss the non-prosecutor member if he violates the legal provisions and becomes unworthy of his function.
66. Further, the Committee on Legislation states that in each case, it has argued that Mr. Beka, as a non-prosecutor member of the KPC, has exercised his influence before each process. Despite this, the Committee on Legislation emphasized that without prejudice to the further course of proceedings, whether disciplinary or criminal against Mr. Beka,

considered that the latter's further stay in the KPC, arouses uncertainty and violates the basic principles of the KPC activity, defined by the Law on the KPC.

67. The Committee on Legislation argues that the Constitution and the Law on the KPC determine principles on the basis of which the function of the member of the KPC is exercised, principles that have been continuously violated by Mr. Beka. Emphasizing paragraph 1.5 of Article 3 (Basic principles of the activities of the Council) of the Law on KPC, and on the case "*Decision A. no. 148/2022 of the Deputy Chief State Prosecutor, Mr. Agron Qalaj, through which, case PPS no. 53/2022, passes to the jurisdiction of the Basic Prosecution in Gjilan;*". Therefore, according to the Committee on Legislation, the Assembly has also assessed as a decisive fact, the way the case pertaining to Mr. Beka, within the prosecutorial system was dealt with. Therefore, it is in the Assembly's assessment to state what fact affects a non-prosecutor KPC member to have exercised his/her function, contrary to the law and the Constitution, endangering the normal functioning of the KPC, as well as the violation of the principle of public trust.
68. Further, the Committee on Legislation highlights that the Applicants' attempt to interpret paragraph 1 in conjunction with paragraph 2 of Article 13 is wrong and a deliberate attempt to mislead the Court, but it can easily be seen that Article 13 (Termination of the term) as a whole speaks about several situations and it is not required to cumulatively meet the conditions for dismissal of the member, because according to the Committee each circumstance set out in Article 13 (Termination of the term) of the Law on KPC constitutes a reason for termination of the member's mandate.
69. The Committee on Legislation further argues that the connection that the Applicants make with the present case and the Court's cases KO 29/12 and KO 48/12 are unfounded, as these cases are not related to each other, because according to them, the mechanism of dismissal of the President is a constitutional mechanism, while the dismissal of the KPC non-prosecutor member is provided by law.
70. The Committee on Legislation argues that the Applicants' allegations regarding the lack of reasoning and legal advice in the contested Decision are unfounded, as the procedure was conducted by the Assembly, which is not obliged to give a reasoning for its decisions according to the Assembly's rules. The reasons for the decision are included in the report of the Functional Committee, approved by the Assembly.
71. Therefore, based on the above findings, the Committee on Legislation considers that the procedure followed for the dismissal of Mr. Beka, is in full compliance with the constitutional and legal mandate of the Assembly.

### **Comments of the Parliamentary Group of the VETËVENDOSJE! Movement!**

72. Parliamentary Group of the VETËVENDOSJE! Movement in their comments before the Court, initially emphasize that the dismissal of KPC members by the Assembly is not a constitutional issue.
73. Subsequently, the Parliamentary Group of VETËVENDOSJE! Movement states that according to the Law on KPC, the guarantee for the dismissal of KPC members by the Assembly is higher than the constitutional guarantee. This is in line with the opinions of the Venice Commission, respectively in an opinion on Bulgaria, the Venice Commission stressed that a constitutional court usually interferes when a guarantee is lacking, not when the ordinary law provides for a stricter guarantee. Analogously, this positive approach has also been confirmed by the case law of the Court in case KO100/22 and KO101/22, cited above. Further on this line, in the circumstances of the

present case in the case of the dismissal of Mr. Beka, based on the Law on KPC, the Assembly based on the Law on KPC has followed a procedure that guarantees even higher standards than those established by the Constitution, where a total of 62 deputies of the Assembly voted for his dismissal.

74. Parliamentary Group of the VETËVENDOSJE! Movement emphasizes that the applicants' claims that the dismissal of Mr. Beka from the KPC has violated the institutional independence of the KPC and has been an arbitrary interference by the Assembly, are not based on the Constitution and the jurisprudence of the Court. According to the Parliamentary Group of VETEVENDOSJE! Movement, paragraph 9 of Article 65 [Competencies of the Assembly] and paragraph 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution, clearly define the competence of the Assembly to supervise the work of public institutions, including the KPC. Further, in the comments of the Parliamentary Group of the VETEVENDOSJE! Movement!, it is noted that the dismissal of Mr. Beka is based on circumstances involving the use of his influence as a non-prosecutor member of the KPC in the affairs of the Faculty of Law, where he was in the position of dean. Also, the Parliamentary Group of VETËVENDOSJE! Movement emphasizes to the APC, found that Mr. Beka was in a conflict of interest. In its report, the agency confirmed that Mr. Beka had submitted blank lists for lectures that he had not held, for which he was compensated.
75. Parliamentary Group of the VETËVENDOSJE! Movement emphasized that the Court also recalled that the Venice Commission has also addressed the supervisory role of the Assembly, in particular the work of the committees and in its opinion, has emphasized that the standing committees should exercise effective control in their area of competence, which should not be limited to the review of reports submitted by state bodies and officials, but should also include a more active control of the actions of the executive and independent agencies referring to Opinion no. 845/2016 of the Venice Commission entitled "*Parameters in the Relationship between the Parliamentary Majority and the Opposition in Democracy*", CDL-AD (2019) 015 of 24 June 2019, paragraph 92 and the case of the Court KO127/21, Applicant *Abelard Tahiri and 10 other deputies of the Assembly of the Republic of Kosovo*, respectively paragraph 96, also emphasizing: "*Thus, the Court established the supervisory competence of the Assembly. Normally, this was done in accordance with the Constitution and the relevant laws which materialize the constitutional provisions. (See case KO127/21, Applicant Abelard Tahiri and 10 other deputies of the Assembly of the Republic of Kosovo, par. 98)*".
76. Parliamentary Group of the VETËVENDOSJE! Movement states that, according to paragraph 2 of Article 13 (Termination of the term) of the Law on KPC, the KPC members can be dismissed before the end of the mandate if they do not fulfill the function according to the Constitution and the law, or act contrary to their duties. Parliamentary Group of the VETËVENDOSJE! Movement reiterates that Mr. Beka has violated the Code of Ethics, using his authority to threaten the dean of the UMIB Faculty of Law, and these actions have damaged his and the KPC integrity and negatively affected the institution's image.
77. In other words, the VETËVENDOSJE! MOVEMENT states that all of these reasons have been met for the dismissal of Mr. Beka from the position of non-prosecutor member of the KPC, the conditions set out in paragraph 2 of Article 13 (Termination of the term) of the Law on KPC. According to the Parliamentary Group of VETEVENDOSJE! Movement, unlike in the past, the way the Assembly acted in this case is in full compliance with its authorizations in such cases. This is because in this case, the Assembly exercised its supervisory role, to the extent allowed by the Constitution and the Law on KPC, in a proactive manner.

78. Parliamentary Group of the VETËVENDOSJE! Movement states that there is no constitutional provision that limits the Assembly from its supervisory role or from dismissal when the legal requirements of the KPC member elected by the Assembly itself are met. The dismissal or not is not and cannot be a constitutional issue, it is just a legal issue.
79. The Parliamentary Group of VETEVEN DOSJE! Movement, emphasizes: *“Unfortunately, in paragraph 25, without any relevance, the Applicants also insult the media, which was unfairly attacked by the member already dismissed by the Assembly. This underlining the same with the expressions “...of unilateral political perceptions or on the basis of unfounded or unsubstantiated claims of any portal or media...”. This case, as stated, is about the reporting of two entities, a civil society NGO in the field of the rule of law, and the Association of Journalists of Kosovo. This insult is given in abstract terms by hiding the fact that for the cases which are part of the file drafted by the Assembly, Mr. Agron Beka has filed numerous lawsuits in the courts, none of which have been proven so far.”*

*Regarding violation of Articles 31, 32 and 54 of the Constitution*

80. Parliamentary Group of the VETËVENDOSJE! Movement argues that the claims of the applicants that the rights of Mr. Beka under Article 31 [Right to Fair and Impartial Trial] of the Constitution and Article 6 of the ECHR have been violated, the Parliamentary Group of VETËVENDOSJE! Movement emphasizes that based on the ECtHR practice, the latter are not grounded, as the Assembly is not a court and has no obligation to implement those guarantees in the manner provided. They emphasize that Mr. Beka was able to defend his rights before the regular courts. Also, the allegations that he was denied the right to legal remedies, under Articles 32 [Right to Legal Remedies] and 54 [Judicial Protection of Rights] of the Constitution, are unfounded, as he had the opportunity to challenge the decision of the Assembly at the Basic Court in Prishtina through an administrative conflict.
81. Regarding the allegation of violation of Article 4 [Form of Government and Separation of Power] of the Constitution, the Parliamentary Group of VETEVEN DOSJE! Movement states that from paragraph 2 to paragraph 7 of this article, the constitutional institutions that form the separation of powers are listed and that in this article, in none of its paragraphs, the KPC is included. Thus, in this case, the Applicants confuse the judicial power as a classical power within the separation of powers under Article 4 [Form of Government and Separation of Power] of the Constitution with the KPC as an institution within the justice system, as defined in Chapter VII [Justice System] of the Constitution. This confusion, according to the Parliamentary Group of VETËVENDOSJE! Movement of the applicants does not imply the fact that the KPC does not have the constitutional guarantees of an independent constitutional institution. This case has been specified also in the jurisprudence of the Court .
82. Parliamentary Group of the VETËVENDOSJE! Movement argues that the decisions of the Constitutional Court cited by the applicants are not analogous to the case of dismissal of non-prosecutor members of the KPC. They emphasize that the decisions KO100/22 and KO101/22, cited above, which prohibited collective shortening of mandates through the law, are unrelated to the current case. Also, they argue that judgments in cases KO29/12 and KO48/12, cited above related to constitutional amendments and human rights, are not applicable in this case. According to them, none of the decisions cited is analogous to the contested decision.



## **Relevant constitutional and legal provisions**

### **CONSTITUTION OF THE REPUBLIC OF KOSOVO**

#### **Article 4 [Form of Government and Separation of Power]**

*“1. Kosovo is a democratic Republic based on the principle of separation of powers and the checks and balances among them as provided in this Constitution.”*

#### **Article 31 [Right to Fair and Impartial Trial]**

*“1. Everyone shall be guaranteed equal protection of rights in the proceedings before courts, other state authorities and holders of public powers.  
2. Everyone is entitled to a fair and impartial public hearing as to the determination of one’s rights and obligations or as to any criminal charges within a reasonable time by an independent and impartial tribunal established by law.  
[...].”*

#### **Article 32 [Right to Legal Remedies]**

*“Every person has the right to pursue legal remedies against judicial and administrative decisions which infringe on his/her rights or interests, in the manner provided by law.”*

#### **Article 54 [Judicial Protection of Rights]**

*“Everyone enjoys the right of judicial protection if any right guaranteed by this Constitution or by law has been violated or denied and has the right to an effective legal remedy if found that such right has been violated.”*

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

*“The Assembly of the Republic of Kosovo:  
(1) adopts laws, resolutions and other general acts;  
[...]  
(10) elects members of the Kosovo Judicial Council and the Kosovo Prosecutorial Council in accordance with this Constitution;  
[...]  
(14) decides in regard to general interest issues as set forth by law.”*

#### **Article 110 [Kosovo Prosecutorial Council]**

*“1. The Kosovo Prosecutorial Council is a fully independent institution in the performance of its functions in accordance with law. The Kosovo Prosecutorial Council shall ensure that all persons have equal access to justice. The Kosovo Prosecutorial Council shall ensure that the State Prosecutor is independent, professional and impartial and reflects the multiethnic nature of Kosovo and the principles of gender equality.*

2. *The Kosovo Prosecutorial Council shall recruit, propose, promote, transfer, reappoint and discipline prosecutors in a manner provided by law. The Council shall give preference for appointment as prosecutors to members of underrepresented Communities as provided by law. All candidates shall fulfill the selection criteria as provided by law.*

3. *Proposals for appointments of prosecutors must be made on the basis of an open appointment process, on the basis of the merit of the candidates, and the proposals shall reflect principles of gender equality and the ethnic composition of the relevant territorial jurisdiction.*

4. *The composition of Kosovo Prosecutorial Council, as well as provisions regarding appointment, removal, term of office, organizational structure and rules of procedure, shall be determined by law.*”

## **LAW NO. 06/L –056 ON KOSOVO PROSECUTORIAL COUNCIL**

### **Article 3**

#### **Basic principles of the activities of the Council**

*“1. The Council:*

*[...]*

*1.5. in exercising duties and competencies, the Council acts in a manner that respects and preserves the independence of prosecutors while they perform their prosecution functions. The Council shall not order or influence, attempt to influence or otherwise undertake any action or make any statement which could reasonably be considered as an interference or attempt to interfere with the independence of the prosecution function in relation to any person, investigation or subject.”*

### **Article 4**

#### **Independence and impartiality of Council members**

*“The Chair, the Vice-Chair and the Council member exercise their duties independently, professionally and impartially.”*

### **Article 5**

#### **Personal liability of Council members**

*“Members of the Prosecutorial Council shall not hold criminal or civil liability for the opinions expressed within their scope, as members of the Council.”*

### **Article 7**

#### **Duties and responsibilities of the Council**

*“1. The Council exercises the following duties and responsibilities:*

*[...]*

*1.14. approves the Code of Professional Ethics for members of the Council, whose violation constitutes a basis for sanctions, including dismissal from the Council;*

*[...]*

*1.22. determines procedures for hearings and the conduct of disciplinary hearings;*

*[...]*

*1.25. establishes committees which the Council deems as necessary;*

*[...]*

- 1.31. adopt sub-legal acts in the function of the implementation of its duties and responsibilities in accordance with the legislation in force;
- 1.32. performs other duties as defined in the law.”

## **Article 9**

### **Composition of Council members**

- “1. The Council shall consist of thirteen (13) members in the following composition:
  - 1.1. ten (10) members from among the prosecutors as follows:
    - 1.1.1. Chief State Prosecutor;
    - 1.1.2. seven (7) members, prosecutors from basic prosecution offices, represented by one (1) member each, elected by prosecutors of that prosecution office;
    - 1.1.3. one (1) member, prosecutor of the Appellate Prosecution, elected by prosecutors of that prosecution office;
    - 1.1.4. one (1) member, a prosecutor from the Special Prosecution Office, selected by the prosecutors of that prosecution office;
  - 1.2. one (1) member, lawyer from the Kosovo Bar Association;
  - 1.3. one (1) member, university professor of law;
  - 1.4. one (1) member representative of civil society;
2. Members of the Council from paragraph 1.1 of this Article, except the Chief State Prosecutor, cannot simultaneously exercise the duty of the chief prosecutor of any prosecution office.
3. Three (3) non-prosecutor Council members, elected by the Assembly, pursuant to Article 65 (10) of the Constitution, shall be elected by secret voting, by a majority votes of the members of the Assembly who are present and vote, based on a list of two (2) candidates for each position proposed by the relevant bodies, which shall include:
  - 3.1. one (1) member from the Kosovo Bar Association;
  - 3.2. one (1) professor from the law faculties of the Republic of Kosovo;
  - 3.3. one (1) representative from civil society. The civil society representative is selected through a public vacancy announcement by the Assembly, who must have a high professional background, evidenced knowledge in the area of law, knowledge in the field of human rights, work experience in legal issues of five (5) years and the support of at least five (5) civil society organizations in the field of justice.
4. Members of the Council reflect the multi-ethnic nature and principles of gender equality in the Republic of Kosovo.
5. During the exercise of the function of a member of the Council, the same cannot be promoted to the prosecutorial system.
6. Full-time Council members cannot exercise the duty of a prosecutor in any of the prosecution offices.
7. The Council shall adopt a special regulation for the implementation of this Article.”

## **Article 10**

### **Procedure of proposal, election and dismissal of members elected by the Assembly**

- “1. The procedure for the election of members of the Council by the Assembly begins six (6) months before the expiry of the mandate of the member.
2. Notwithstanding paragraph 1 of this Article, when the mandate expires prematurely, as determined by this law, the procedure for the election of the member begins within thirty (30) days from the day the position is vacated.
3. The Assembly opens the vacancy announcement for the election of Council members in written and electronic media and in the official languages.

4. The relevant Assembly Committee (hereinafter: the Committee) shall set out the vacancy announcement requirements for the election of members. The vacancy announcement cannot be shorter than fifteen (15) days or longer than twenty (20) days.
5. After the expiration of the vacancy announcement provided for in paragraph 4 of this Article, the Committee shall, within a period of fifteen (15) days, assess whether candidates meet the requirements to be elected members of the Council, and shall reject candidatures that do not meet the requirements defined in the vacancy notice.
6. The Committee conducts an interview with each candidate who meets the requirements for being elected member of the Council, on the basis of the received information and the results of the interview, prepares a shortlist of candidates.
7. The Assembly elects the Council members through a secret voting.
8. The list for the Assembly session consists of two (2) candidates for one (1) position.
9. If in the first round the candidates proposed by the respective Committee of the Assembly do not receive the majority of votes of all members of the Assembly that are present and vote, then in the second round the candidate with the highest number of votes shall be considered as elected.
10. Dismissal of non-prosecutor members of the Council shall be done by the Assembly with the majority of votes of all members of the Assembly, upon the proposal of the respective Committee or Council.”

### **Article 13 Termination of the term**

- “1. The mandate of a member of the Council ends upon:  
[...]
- 1.5. expiration of the mandate;
  2. Members of the Council shall be dismissed from office before the expiry of the mandate they have been elected for, if:
    - 2.1. he/she fails to perform the function of the Council member in accordance with the Constitution and the law;
    - 2.2. he/she exercises the function contrary to the duties and responsibilities.
- [...]”

### **Article 19 Disciplinary procedures for Council members**

- “1. The Council shall determine and publish the rules and disciplinary procedures applicable to its members, including the procedures governing the investigation, suspension or recommendation for dismissal of any Council member.
2. A committee established by the Council composed of three (3) members, one of whom shall be a prosecutor member of the Council, and two other prosecutors, shall decide on disciplinary measures and sanctions, including suspension and dismissal of any member of the Council.
3. On the recommendation of the Committee, a member of the Council may be dismissed by two-thirds (2/3) of the votes of the members of the Council.
4. One (1) member of the Council who has been dismissed has the right to appeal against the Council’s decision directly to the Supreme Court within fifteen (15) days from the decision to dismissal.”

## **LAW No. 06/L –057 ON DISCIPLINARY LIABILITY OF JUDGES AND PROSECUTORS**

### **Article 1 Purpose and scope**

*“This Law defines the disciplinary offences, the procedure of initiating the investigation of alleged disciplinary offenses of judges and prosecutors, the disciplinary procedure before the Kosovo Judicial Council and the Kosovo Prosecutorial Council, disciplinary sanctions, and legal remedies related to disciplinary offenses before the Supreme Court.”*

## **CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR MEMBERS OF THE KOSOVO PROSECUTORIAL COUNCIL**

### **Article 2 General Principles**

- “3. A Member of the Council:*
- a) Respects high standards of professional and personal conduct,*
  - b) Respects and adheres to the law,*
  - c) Performs the duties of the Council impartially and diligently,*
  - d) Avoids any conduct or situation that may call into question the integrity or impartiality of the Council,*
  - e) Carries out duties in accordance with internationally recognized standards and principles of human rights,*
  - f) Holds the public interest as the basis for action, and*
  - g) Promotes these principles while exercising his/her competencies and responsibilities.*
- 4. The above-mentioned provisions apply not only to professional activities of the members of the Council but also to their private life (or possibly other professional life), when the actions of the member of the Council harm the image of the Council in the public eye, thereby affecting the entire institution.”*

### **Article 3 Specific Ethical Rules and Activities**

- “9. A Member of the Council:*
- a) Shall not initiate or participate in any proceedings that has no legal basis; [...].”*

### **Admissibility of the Referral**

83. The Court first examines whether the referral has met the admissibility criteria, established in the Constitution, and further specified in the Law and foreseen in the Rules of Procedure.
84. Initially, the Court refers to paragraph 1 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, which establishes:
- “The Constitutional Court decides only on matters referred to the court in a legal manner by authorized parties”.*
85. In addition, the Court also refers to paragraph 5 of Article 113 of the Constitution, which stipulates:
- “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”.*

86. The Court recalls that the Applicants challenge the constitutionality of the contested decision only in relation to its content.
87. Also, the Court recalls that the referral was submitted by 10 (ten) deputies of the Assembly, which is more than the minimum threshold set by paragraph 5 of Article 113 of the Constitution.
88. The Court considers that 10 (ten) or more deputies of the Assembly are legitimized to be an “*authorized party*” within the meaning of paragraph 5 of Article 113 of the Constitution to challenge the constitutionality of any law or act adopted by the Assembly, both in terms of content and procedure followed. In this case, 10 (ten) deputies of the Assembly are legitimized as being an authorized party, and consequently based on paragraph 5 of Article 113 of the Constitution, have the right to challenge the constitutionality of the Decision [no. 08-V-668] of the Assembly, of 15 December 2023.
89. The Court further assesses whether the referral was submitted within the time limit of “*8 (eight) days from the date of adoption*” as set out in paragraph 5 of Article 113 of the Constitution. In this regard, the Court finds that the contested Decision was adopted on 15 December 2023, while the Referral was submitted to the Court on 22 December 2023. In this case, the Court finds that the referral was submitted within the time limit.
90. In addition, the Court also takes into account Article 42 (Accuracy of the Referral) and 43 (Deadline) of the Law governing the submission of the Referral under paragraph 5 of Article 113 of the Constitution, which requires the following information to be submitted:

Article 42  
(Accuracy of the Referral)

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

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

*1.2. provisions of the Constitution or other act or legislation relevant to this referral; and*

*1.3. presentation of evidence that supports the contest.”*

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”.*

91. The Court also refers to Rule 72 (Referral Pursuant to Paragraph 5 of Article 113 of the Constitution and Articles 42 and 43 of the Law) of the Rules of Procedure, which provides:

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:*

*1.1. 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.”*

92. The Court notes that the Applicants: (i) noted their names and signatures in the Referral; (ii) specified the contested Act, respectively Decision [No. 08-V-668], of 15 December 2023 of the Assembly for the dismissal of Mr. Beka and submitted his copy; (iii) referred to specific constitutional provisions, by which they claim that the contested Act is not in compliance; (iv) presented evidence and testimonies to support their claims; and submitted the referral, within the time limit of eight (8) days, as set forth in paragraph 5 of Article 113 of the Constitution.

93. Therefore, the Court declares the referral admissible and will then examine its merits.

### **Merits of the referral**

94. The Court first recalls the essence of the referral, which, based on the case file, it turns out that; (i) the Chair of the Committee on Legislation, presented to the members of the

aforementioned Committee a letter with some summarized information, informing the latter of “*violations of Mr. Agron Beka*” in his mandate as a non-prosecutor member of the KPC, as well as the reasons related to the proposal to dismiss Mr. Beka from the position of non-prosecutor member of the KPC; (ii) then on 28 September 2023, the Committee on Legislation approved Recommendation [No. 08/4446/Do-1994] for the dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC, and consequently the aforementioned Committee forwarded the recommendation for dismissal to the Assembly for voting; (iii) on 15 December 2023 the Assembly by Decision [No. 08-V-668] decided to approve the Recommendation of the Committee on Legislation by dismissing Mr. Beka from the position of non-prosecutor member of the KPC.

95. The Court recalls that the Applicants claim that the contested Decision in its substantive aspect is contrary to paragraph 1 of Article 4 [Form of Government and Separation of Power], paragraphs 1 and 2 of Article 31 [Right to Fair and Impartial Trial], Article 32 [Right to Legal Remedies], Article 54 [Judicial Protection of Rights] as well as paragraphs 1 and 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution.
96. The essence of the Applicants’ claims is related to the following issues; (i) whether the dismissal of the non-prosecutor member of the KPC meets the foreseen legal conditions and whether the non-prosecutor members are representatives of the Assembly in the KPC, pointing out the fact that on the occasion of the dismissal of Mr. Beka, the Assembly has exceeded its constitutional authorizations, because it has no authority to terminate the constitutional mandate of a non-prosecutor member of the KPC; (ii) if the Assembly has respected the constitutional rights under paragraphs 1 and 2 of Article 31 [Right to Fair and Impartial Trial] of the Constitution, emphasizing that in this case the Assembly has failed to respect the constitutional standards that include the right to equal protection and fair trial; (iii) the non-prosecutor member of the KPC has been deprived of the right to use legal remedies and judicial protection.
97. The Court notes from the case file that the allegations filed by the Applicants are based on principle by the KPC and the AAK Parliamentary Group. On the other hand, the Committee on Legislation and the Parliamentary Group of the VETËVENDOSJE! Movement in their comments have expressed their objections in relation to the allegations of the Applicants. The deputy of the Assembly, Ms. Rezarta Krasniqi in her comments expressed her position that in this case the voting procedures in the Assembly were not respected, regarding the dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC.
98. The Court will be now dealing separately with the Applicants' claims, regarding (i) the claim whether the dismissal of the non-prosecutor member of the KPC meets the foreseen legal requirements and whether the non-prosecutor members are representatives of the Assembly in the KPC; (ii) the applicants' claims for violation of Article 31 [Right to a Fair and Impartial Trial], Article 32 [Right to Legal Remedies], and Article 54 [Judicial Protection of Rights] of the Constitution; and (iii) regarding the claims of Ms. Rrezarta Krasniqi pertaining to the procedure pursued by the Assembly on the occasion of the dismissal of Mr. Beka from his position of non-prosecutor member of the KPC.
  - (i) *whether the dismissal of the non-prosecutor member of the KPC meets the foreseen legal requirements and whether the non-prosecutor members are representatives of the Assembly in the KPC*
99. The Court recalls once again the allegations of the Applicants relating to the fact that, if the dismissal of Mr. Beka meets the foreseen legal conditions and if the non-prosecutor



members are representatives of the Assembly in the KPC. In essence, the Applicants claim that (i) the Assembly has exceeded its constitutional authorizations, because according to them, in the circumstances of the case at hand, the Assembly has no power to terminate the constitutional mandate of a non-prosecutor member of the KPC; and that (ii) such an action as in the present case would undermine the constitutional independence of the KPC. Furthermore, the Applicants challenge the contested Decision, arguing that the reasons for dismissal of Mr. Beka from his position of a non-prosecutor member of the KPC, do not comply with the requirements provided for in paragraph 2 of Article 13 (Termination of the term) of the Law on KPC, according to which the KPC members can be dismissed only if they do not perform their duties according to the Constitution and the law, and not for reasons related to other activities outside this context. The Applicants emphasize that the findings of the Recommendation of the Committee on Legislation, a recommendation that preceded the contested Decision, relate to the actions of Mr. Beka as dean of the Faculty of Law and not by his actions as a non-prosecutor member of the KPC. Further in this regard, the Applicants emphasize that the finding of the Committee on Legislation that the member of the KPC, Mr. Beka, would represent a “*bad image*” for the Assembly is unfounded and outside the legal criteria for dismissal. According to them, the non-prosecutor members of the KPC, including Mr. Beka, are independent and do not represent the Assembly in the exercise of their duties.

100. The Court, initially, notes that it has elaborated the principles related to the prosecutorial system in cases KO100/22 and KO101/22, cited above (paragraphs 153-175). Furthermore, the fundamental principles of the separation and balance of powers and the guarantees for independent constitutional institutions, the Court, since its establishment, has elaborated in its judgments, based, among others, on international good practices, relevant Opinions of the Venice Commission as well as the case law of the ECtHR and the Court of Justice of the European Union (hereinafter: CJEU), to the extent necessary and applicable to the cases under consideration before it.. More precisely, the Court has elaborated the principles regarding the separation and balancing of powers and the independence of independent constitutional institutions, by Judgments that include but are not limited to (i) the Judgment of the Court in the case [KO73/16](#), with the Applicant the *Ombudsperson*, in which the Court assessed the constitutionality of the Administrative Circular no. 01/2016, issued by the Ministry of Public Administration of the Republic of Kosovo; (ii) Judgment of the Court in case [KO171/18](#), with the Applicant the *Ombudsperson*, in which the Court had made the constitutional review of the Law no. 06/L-048 on the Independent Oversight Board for the Civil Service of Kosovo; (iii) Judgment of the Court in case KO203/19, with the Applicant the *Ombudsperson*, in which the Court made the constitutional review of Law no. 06/L-114 on Public Officials; (iv) Judgment in case [KO219/19](#), submitted by the *Ombudsperson*, in which the Court assessed the constitutionality of Law no. 06/L-111 on Salaries in the Public Sector; and (v) Judgment in case [KO127/21](#), with Applicant *Abelard Tahiri and 10 other deputies of the Assembly of the Republic of Kosovo*, regarding the constitutional review of Decision no. 08-V-29 of the Assembly of the Republic of Kosovo of 30 June 2021, on the dismissal of five (5) members of the Independent Oversight Board for the Civil Service of Kosovo.
101. In this context, the Court recalls that Article 108 [Kosovo Judicial Council] and 110 [Kosovo Prosecutorial Council] of the Constitution specify that (i) the KJC is a fully independent institution in the exercise of its functions; and (ii) the KPC is a fully independent institution in the performance of its functions, in accordance with the law. Despite the differences in the competencies and functions of these institutions, the use of the same terminology in terms of their independence, describing them as fully independent, reflects the intention of the constitution maker to accord the highest level of constitutional independence to these institutions.

102. Through its case law, the Court has consistently emphasized that in the constitutional order of the Republic of Kosovo, the prosecutorial system is “*completely independent*”. More specifically, the KPC is an integral part of Chapter VII of the Constitution regarding the Justice System and, together with the Judicial Council, has the competence to administer the judicial and prosecutorial system. In addition, the Court has also specified that despite the respective similarities and differences, in the exercise of their functions, the Constitution accords both full constitutional independence, which is also embodied in Article 4 [Form of Government and Separation of Power] of the Constitution regarding the separation and balancing of powers, which is also subject to balancing and interaction with other powers, always in accordance with democratic values as defined in Article 7 [Values] of the Constitution (see the cases of the Court, KO100/22 and KO101/22, cited above, paragraph 167; and [KO55/23](#), Applicant the *President of the Assembly of the Republic of Kosovo*, Assessment of proposed constitutional amendments, referred to by the President of the Assembly of the Republic of Kosovo on 2 March 2023, Judgment of 22 December 2023, paragraphs 157-162). The Court emphasizes that despite the fact that based on the relevant Opinions of the Venice Commission, while there is a consolidated and uniform standard regarding the full independence of judicial powers and that this is not necessarily the case with the prosecutorial systems, the Constitution intended to provide the same independence to the prosecutorial system in order to exercise its functions as to the judicial system (see, the Court case KO219/19, Applicant *Ombudsperson*, Judgment, of 30 June 2020, paragraphs 209 and 210 and cases KO100/22 and KO101/22, cited above, paragraph 174).
103. The Court also emphasized that from the joint reading of the constitutional provisions, in the context of the KPC, the interaction of the KPC with the Assembly is important, according to the definitions of Articles 65 [Competencies of the Assembly] and 110 [Kosovo Prosecutorial Council] of the Constitution. The interaction of these provisions, in essence, determines the exercise of the competence of the Assembly in accordance with paragraph 10 of Article 65 [Competences of the Assembly] of the Constitution to determine the composition of the KPC and to elect the members of the KPC, always in function of maintaining the full independence of the KPC in the exercise of its constitutional functions, as defined in paragraph 1 of Article 110 [Kosovo Prosecutorial Council] of the Constitution and at the same time, of respecting the separation and balance of powers, as defined in paragraph 1 of Article 4 [Form of Government and Separation of Power] of the Constitution (see, case of the Court KO100/22 and KO101/22, cited above, paragraphs 168, 230 and 231).
104. In the present case, the Court based on the arguments of the Applicants notes that the Applicants essentially relate this claim to the way the Assembly has exercised its competence defined in Article 65 [Competencies of the Assembly] of the Constitution, on the occasion of the dismissal of Mr. Beka from the position of non-prosecutor member of the KPC.
105. In this regard, the Court first recalls that paragraph 10 of Article 65 [Competencies of the Assembly] of the Constitution determines the competence of the Assembly to elect members of the KPC.
106. Further, paragraph 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution stipulates that the composition of the KPC as well as the provisions defining the appointment, dismissal, organizational structure and rules of procedure are regulated by law.

107. The Court emphasizes that despite the fact that the Constitution, through paragraph 4 of Article 110 [Kosovo Prosecutorial Council] thereof, has stipulated that the composition of the KPC is determined by law, leaving to the Assembly the competence to adopt this law and elect members of the KPC in the manner prescribed by the Constitution and law, this competence of the Assembly should always be exercised in accordance with paragraph 1 of Article 110 [Kosovo Prosecutorial Council] of the Constitution and which guarantees the KPC full independence in the exercise of its constitutional function. Consequently, and as already explained, while the Constitution also refers to the law on the KPC, in the context of, among other things, the composition of the KPC, the guarantee of full independence of the KPC, granted by the Constitution, certainly cannot be diminished through legal provisions.
108. In the context of the aforementioned clarifications and taking into account (i) paragraph 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution in conjunction with paragraph 1 of Article 65 [Competencies of the Assembly] of the Constitution, namely, the determination of the Constitution that the composition of the KPC be determined by a law approved by the Assembly; and (ii) the standards and principles in the context of the composition of the prosecutorial councils deriving from the relevant Reports and Opinions of the Venice Commission, including the two Opinions on Kosovo regarding the Law on the KPC, the Court initially emphasizes that it is not disputed that the Assembly has the constitutional competence to determine the composition of the KPC, always in accordance with paragraph 1 of Article 110 [Kosovo Prosecutorial Council] of the Constitution, namely without prejudice to the full independence in the exercise of the constitutional function of the KPC and the principles of separation and balance of powers and values of the Republic, as defined in articles 4 [Form of Government and Separation of Power] and [7 Values] of the Constitution, respectively.
109. The Court will continue to elaborate on whether the Assembly in dismissing a non-prosecutor member of the KPC has exercised its competence under paragraphs 1 and 9 of Article 65 [Competencies of the Assembly] as well as paragraph 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution, which stipulates that the composition, appointment, dismissal, mandate, organizational structure of the KPC and rules of procedure are regulated by law.
110. In this regard, regarding the termination of the mandate of the members of the KPC and the respective bases, the three KPC laws, respectively the laws of 2012, 2015 and 2019, by Articles 8 (Termination of the term), 8 (Termination and dismissal from the function of the member of the Council) and 13 (Termination of the term), respectively, had determined that the mandate of the member of the KPC ends (i) with death; (ii) with the loss of the capacity to act for more than three (3) months due to proven medical reasons; (iii) with the continuous failure to participate in the activities of the KPC for more than three (3) months; (iv) with the termination of the status on which the appointment is based, if the appointment is based on a certain status; and (v) with resignation, informing the KPC with prior notice of thirty (30) days. Whereas, contrary to the common grounds of termination of the above-mentioned mandate, (i) the Law on the KPC of 2010, as a basis for termination of the mandate, had also defined the punishment for a criminal offense, with the exception of the offense as defined by law, while despite the fact that in its Article 11 (Disciplinary Procedures for Council Members) it provided for the possibility of dismissing a member of the KPC, it had not explicitly defined the same as one of the grounds for termination of his mandate, enumerated in Article 8 (Termination of the term); (ii) The Law on the KPC of 2015 added as a basis for the termination of the mandate the expiry of the mandate, while it had specified the dismissal as a basis for the termination of the mandate in three circumstances, namely when a member of the KPC does not perform the respective function in accordance with the Constitution and the law, exercises the function

contrary to his duties and responsibilities and when he was convicted of a criminal offense, respectively; while (iii) The Law on the KPC of 2019 added as a basis for the termination of the mandate also the reaching of the retirement age of and conviction for a criminal offense, with the exception of criminal offenses committed by negligence, while limiting the possibility of termination of the mandate as a result of dismissal in only two circumstances, namely when a member of the KPC does not perform the respective function in accordance with the Constitution and the law and when exercising the function contrary to his duties and responsibilities.

111. Further, the Court states that based on paragraph 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution, respectively in the Law on KPC, it notes that two categories of KPC members are recognized, a) prosecutor members and b) non-prosecutor members. According to the Law on the KPC, the manner of proposing, electing and dismissing is different, as a result of this premise, the procedures subject to these two categories of KPC members in the context of proposing, electing and dismissing are different.
112. The Court notes that there are special procedures regarding the manner in which members of the KPC are dismissed. Explicitly, the Court notes that Article 19 (Disciplinary procedures for Council members) of the Law on KPC defines disciplinary procedures for members of the KPC, and in particular defines i) the first manner on how can any member of the KPC be dismissed. In addition to this provision, the Court notes that based on paragraph 10 of Article 10 (Procedure of proposal, election and dismissal of members elected by the Assembly) of the Law on the KPC, the second manner of dismissing non-prosecutor members of the KPC is foreseen.
113. Further, based on Article 19 (Procedure of proposal, election and dismissal of members elected by the Assembly) of the Law on KPC, disciplinary procedures for KPC members are provided, including how each KPC member can be dismissed. In this article, clear mechanisms are specified for dealing with disciplinary cases and imposing sanctions, including the dismissal of KPC members. From the content of paragraph 2 of Article 19 (Disciplinary procedures for Council members) of the Law on KPC, it results that the KPC establishes a disciplinary committee which is composed of three (3) members, where one of these members must be a prosecutor who is a member of the KPC and the other two (2) members of the committee must be from the ranks of prosecutors who are not members of the KPC. The above-mentioned committee has the responsibility to impose disciplinary measures against KPC members, including suspension and dismissal of any member. Regarding the decision on dismissal, paragraph 3 of Article 19 (Disciplinary procedures for Council members) of the Law on KPC explains that, upon the recommendation of the Disciplinary Committee, a KPC member can be dismissed through a vote within the KPC itself. The Court further notes that in order to carry out the dismissal, it is required that two-thirds (2/3) of the KPC members vote in favor of the dismissal and that this qualified majority ensures that the decision to dismiss is the result of a broad consensus within the KPC.
114. The Court notes that based on paragraph 10 of Article 10 (Procedure of proposal, election and dismissal of members elected by the Assembly) of the Law on the KPC, it is foreseen that: *“Dismissal of non-prosecutor members of the Council shall be done by the Assembly with the majority of votes of all members of the Assembly, upon the proposal of the respective Committee or Council”*. That said, the Court concludes that within paragraph 10 of Article 10 (Procedure of proposal, election and dismissal of members elected by the Assembly) of the Law on KPC are foreseen two different forms of proposal in the Assembly, for dismissal of the non-prosecutor member, as follows:

- a) Proposal from the relevant Committee of the Assembly : The Court notes that one of the ways to initiate the process of dismissal of a non-prosecutor member is through a committee appointed by the Assembly itself. This committee is tasked with reviewing and evaluating the performance or conduct of the non-prosecutor member and, if it deems it appropriate, may propose his dismissal. The relevant Committee has a key role as the initiator of the process. After the Committee makes its proposal, it is handed over to the Assembly. The Assembly then holds a voting where, in order to carry out the dismissal, a majority of the votes of all deputies is required. If the required majority of votes is secured, the non-prosecutor member is removed from office.
  - b) Proposal from the KPC: Another way for non-prosecutor members to be dismissed is for the KPC itself, the institution they serve, to make a proposal for their dismissal. This proposal may come if the KPC deems that a non-prosecutor member is not fulfilling his/her duty in accordance with his/her responsibilities or if he/she has acted inappropriately. Following this proposal, the KPC submits it to the Assembly, where, as in the first case, the Assembly decides on the dismissal through a vote. Dismissal can only take place if the Assembly manages to secure the majority of the votes of all its deputies.
115. In both ways, the Court notes that both in the case when the proposal comes from the relevant Committee of the Assembly, and when it comes from the KPC, the final decision on the dismissal of the non-prosecutor member lies with the Assembly and that the majority of the votes of all deputies is a necessary condition to formalize this decision.
116. Returning to the present case, the Court notes that the dismissal of Mr. Beka, as a non-prosecutor member of the KPC, falls in paragraph 10 of Article 10 (Procedure of proposal, election and dismissal of members elected by the Assembly) of the Law on the KPC, namely his dismissal has come as a result of the Recommendation of the Committee on Legislation, with the proposal that as a result of the findings reflected in the above recommendation the latter should be dismissed.
117. Accordingly, the dismissal of the non-prosecutor member, Mr. Beka took place through the first proposal procedure, namely on the proposal of the Committee on Legislation, through Recommendation [No. 08/4446/Do-1994] of the aforementioned Committee, by a majority vote, the latter has approved the recommendation of the Chairman of the Committee. Then, on 15 December 2023, the Assembly with 62 votes in favor approved the Recommendation [no. 08/4446/Do-1994] of the Committee, adopting the contested Decision.
118. The essential claim of the Applicants consists in assessing the substantive aspect of the contested Decision, namely whether the conditions of paragraph 2 of Article 13 (Termination of the term) of the Law on the KPC are met, essentially claiming that the KPC members are dismissed from office before the expiry of the mandate for which they were elected, only if they do not perform their duties in accordance with the Constitution and the law, as well as if they perform their duties contrary to their duties and responsibilities. According to the Applicants, the contested decision did not meet these conditions and furthermore, according to them, the allegations raised by the Chairman of the Committee on Legislation, ascertain that the cases raised against the member of the KPC, namely Mr. Beka are not related to his duties as a member of the KPC, but to his work at the university.
119. In this regard, the Court once again recalls the content of subparagraphs 2.1 and 2.2 of paragraph 2 of Article 13 (Termination of the term) of the Law on KPC, which stipulates that *Members of the Council* shall be dismissed from office before the expiry of the

mandate they have been elected, if: “2.1. he/she *fails to perform the function of the Council member in accordance with the Constitution and the law*; 2.2. he/she *exercises the function contrary to the duties and responsibilities*”.

120. Addressing the allegations of the applicants regarding the fact that if the dismissal of the non-prosecutor member of the KPC meets the requirements of paragraph 2 of Article 13 (Termination of the term) of the Law on the KPC, namely the claim that the dismissal is not related to the “*performance*” of the function as a member of the KPC, nor “*exercising*” the function is considered contrary to his duties and responsibilities, according to subparagraphs 2 and 3 of paragraph 2 of Article 13 (Termination of the term) of the Law on the KPC, the Court points to subparagraph 2 of paragraph 2 of Article 13 (Termination of the term) of the Law on the KPC, with the exercise of the function contrary to his duties and responsibilities. In the context of this subparagraph, the Court also recalls subparagraph 1.14 of Article 7 of the Law on KPC provides that the KPC: “1.14 *approves the Code of Professional Ethics for members of the Council, whose violation constitutes a basis for sanctions, including dismissal from the Council*”. The Court emphasizes that the exercise of the function, namely the responsibilities that non-prosecutor members have, are complemented by the Code of Ethics, and that the meaning of this subparagraph, is also clarified by Article 2 of the Code of Ethics, which explicitly foresees the general principles of responsibilities and duties that KPC members have, namely, in addition to these principles, paragraph 4 of Article 2 states: “*The above provisions apply not only to the prosecutor's professional life but also to certain aspects of his/her private life (or perhaps to the other professional life), when the action of the Council member may impair the prosecutor's image in the public eyes, thus affect the institution of the prosecutors' service as a whole.*”
121. As it has been extensively elaborated in the fact section, Recommendation (no. 08/4446/Do-1994] of the Committee on Legislation, through which the latter proposed to the Assembly the dismissal of Mr. Beka from the KPC had explicitly listed the violations found by the Committee on Legislation, on which the latter bases its recommendation to the Assembly for the dismissal of Mr. Beka from the position of a member of the KPC, assessing that the actions of Mr. Beka constitute a violation of the law, namely sub-paragraph 2.2 of paragraph 2 of Article 13 (Termination of the term) of the Law on KPC, which specifically states that the KPC member is dismissed in case “2.2 *he/she exercises the function contrary to the duties and responsibilities*”. The reasons given in the above recommendation result as follows (i) there were facts that evidenced the influence of Mr. Beka at the Faculty of Law of UMIB, which had nothing to do with his role in the KPC and that the chairman of the KPC supported Mr. Beka, sending two letters to the Faculty of Law of UMIB, where it was emphasized that any action to challenge the mandate of Mr. Beka would be considered an interference in the independence of the KPC and that Mr. Beka had used the authority of the KPC chairman against his colleagues at UMIB, abusing his position in this institution. That said, from the case file, it turns out that Mr. Beka, was subject of various court proceedings several times and that these letters were attached to the file of the Recommendation [no. 08/4446/Do-1994] of the Committee on Legislation (ii) regarding the second reason, respectively, that the non-prosecutor member of the KPC, Mr. Beka had also exercised the function of chairman and authorized representative in two non-governmental organizations and that the APC by the Decision [AKK-DPKI-06-1173/20] of 29 July 2020 had ascertained that Mr. Beka, in addition to the position of dean, also had functions in two non-governmental organizations, from which he resigned after the reaction of the APC. The Police of Kosovo filed a criminal report against Mr. Beka under the suspicion of abuse of office while he was dean and professor at the Law Faculty at UMIB; (iii) the finding of the Committee on Legislation that the unlawful taking of above the norm by Mr. Beka, the APC, by Reply [AKK-3419/22] of 9 September 2023 confirmed that Mr. Beka submitted empty lists of students for the subject “*Criminalistic*

*Tactics*”, pointing out that “*it is noted that there is no data on any students who may have selected the subject in question*”, and that although no students attended those lectures, he was still compensated for them.

122. The Court, however, recalls that Mr. Beka on 18 October 2023, addressed the President of the Assembly by a letter in which he presented answers/counter-arguments to the Recommendation [no. 08/4446/Do-1994] of the Committee on Legislation, for his dismissal from the position of a non-prosecutor member of the KPC. Mr. Beka has denied all findings of the Committee on Legislation, attaching to the aforementioned letter a considerable number of documents, which are widely reflected at paragraph 31 of the present Judgment.
123. From all of the above, respectively from the reasoning given in the Recommendation [no. 08/4446/Do-1994] of the Committee on Legislation, it is noted that the latter has listed the reasons on which it bases the proposal for the dismissal of Mr. Beka, for whom he considered that they constitute a violation of the law, namely sub-paragraph 2.2 of paragraph 2 of Article 13 (Termination of the term) of the Law on KPC, specifically states that the KPC member is dismissed if “*2.2 he/she exercises the function contrary to the duties and responsibilities*”.
124. In the circumstances of the concrete case, the Court deems that the Contested Decision of the Assembly that was preceded by the Recommendation [no. 08/4446/Do-1994] of the Committee on Legislation, whose reasoning presents the factual situation and lists the reasons for the dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC, are in accordance with the requirements set out in paragraph 2 of Article 13 of the Law on the KPC. Consequently, the Court considers that, in the event of the dismissal of Mr. Beka from the position of a non-prosecutor member of the KPC, the Assembly has exercised its role in compliance with the procedure and grounds for dismissal pursuant to the provisions of the Law on the KPC as well as on the basis of a reasoning, which does not result to be significantly arbitrary. The Court cannot determine the factual situation, namely the relationship between the arguments of the Assembly and the counter-arguments of Mr. Beka. With respect to this issue, and as will be explained below, there is a legal remedy before the regular courts. In assessing whether the Assembly has exceeded its authorizations when dismissing Mr. Beka, the Court focuses on whether (i) there is a legal basis for such a dismissal, both in terms of procedure and content; and (ii) the Assembly's reasoning does involve significant arbitrariness which may violate other constitutional provisions, including the full constitutional independence of the KPC.
125. In this context, the Court recalls that the latter has dealt with cases when before it, based on paragraph 5 of Article 113 [Jurisdiction and Authorized Parties] of the Constitution, the decisions of the Assembly to dismiss members of independent institutions, both those defined by the Constitution and those established by law, have been challenged. Through its case law, the Court has clarified the limitations of the Assembly's authorizations for the dismissal of members of independent institutions whom it has also elected, pointing out that, in exercising this function, the Assembly is obliged to respect and implement the specific provisions of the relevant laws that it has adopted. These principles have been established, inter alia, by (i) case [KO127/21](#), regarding the dismissal of (5) five members of the Independent Oversight Board of the Civil Service collectively; (ii) case [KO134/21](#), regarding the collective dismissal of all members of the Board of the Radio Television of Kosovo; (iii) case [KO157/23](#), regarding the dismissal of the member of the Board of the Procurement Review Body; and (iv) case [KO139/21](#), regarding the dismissal of 5 (five) members of the Board of the Railway Regulatory Authority. According to the clarifications given in the aforementioned Judgments, the Court found a violation of the constitutional provisions in the first three cases, based on

the wording of the provisions of the applicable laws, including the fact that the respective dismissals were collective, the relevant decisions for their dismissal did not include proper reasoning and moreover, it was the decision-making of the dismissed members that had resulted in their dismissal. Whereas in the fourth case, namely the dismissals related to the members of the Board of the Railways Regulatory Authority, the Court did not find constitutional violation, because the provisions and wording of the provisions of the applicable law, allowed the Assembly wider discretion in dismissing the respective members.

126. In the context of the specific circumstances of the case, the Court recalls that Mr. Beka was dismissed by the Assembly based on the recommendation of the Committee on Legislation, which listed the reasons for exercising his function “[...] *contrary to his duties and responsibilities*”, based on a procedure for the dismissal of non-prosecutor members of the KPC that is expressly defined by the Law on KPC, and on a legal basis that is also expressly defined by the above law. In such circumstances, in which the Assembly has exercised its role in relation to non-prosecutor members of the KPC, and has dismissed a non-prosecutor member based on the procedure and grounds of dismissal according to the provisions of the Law on KPC, including on the basis of a reasoning that does not appear to be manifestly arbitrary, the Judgment finds that the Assembly, by the contested Decision, has not exceeded the constitutional and legal authorizations in the context of paragraph 9 of Article 65 [Competencies of the Assembly] and paragraph 4 of Article 4 [Form of Government and Separation of Power] of the Constitution.
127. Therefore, the Court considers that the contested Decision does not involve significantly arbitrary reasoning, in the sense of Article 110 [Kosovo Prosecutorial Council] and paragraph 9 of Article 65 [Competencies of the Assembly] and that the Assembly with the adoption of the contested Decision had not transferred its constitutional competencies and those provided by the Law on the KPC.
  - (ii) *Regarding the Applicants’ allegations of violations of Article 31 [Right to Fair and Impartial Trial], Article 32 [Right to Legal Remedy] and Article 54 [Judicial Protection of Rights] of the Constitution*
128. Regarding the claim of the Applicants related to Article 32 [Right to Legal Remedies] and 54 [Judicial Protection of Rights] of the Constitution, the Court recalls that the Applicants reiterated that *“the circumstances of legal uncertainty in relation to the dismissed non prosecutor member are evident until, in the basic law, par. 10 of Article 10 is manifestly contrary to Article 19 of this Law, placing the latter in a situation of effective inability to ensure the constitutional right to exercise legal remedies contrary to Article 32 of the Constitution [...] as well as providing judicial protection from Article 54 of the Constitution.*
129. In addressing this claim, the Court, based on the constitutional norms, in its practice, and referring to the principles established by the ECtHR, recalls that our legislation does not explicitly foresee the exclusion of this category of individuals who exercise public functions in order not to seek judicial protection of their rights before the regular courts. Furthermore, their right to effective access to justice derives from the Constitution, even if this is not expressly defined by law (see, analogously, the ECtHR , case [Vilho Eskelinen and others v. Finland](#), no. 63235/00, Judgment of 19 April 2007, paragraph 62, and the case of Court KI214/21, with Applicant *Avni Kastrati*, Judgment of 7 December 2022, paragraph 125).
130. The Court also recalls that the Law no. 03/L-202 on Administrative Conflicts (hereinafter: LAC) provides effective legal remedies for resolving the case



of this category of public officials. In this regard, the Court first points out that the very purpose of LAC as a law, as defined in Article 2 [Purpose] is to provide judicial protection of the rights and interests of natural and legal persons and other parties whose rights and interests have been violated by: (i) individual acts; or (ii) actions of public administration bodies. Further, Article 3, paragraph 1.1 of the LAC stipulates that public administration bodies are central administration bodies, while paragraph 1.2 of the same defines as an administrative act any decision of the administrative body issued after the administrative procedure in the exercise of public authorizations and which directly or indirectly violates the rights, freedoms or interests of legally recognized natural and legal persons. In addition, the provision by which the purpose of the law is defined, more specifically Article 10 of the LAC, *inter alia*, provides for the possibility of initiating an administrative conflict against acts for which a natural or legal person considers that a legal right or interest has been violated (see, KI214/21, cited above, paragraphs 115 and 116).

131. Therefore, as above, the Court considers that the allegations of the Applicants, that Mr. Beka has no effective remedies to exercise his civil rights are ungrounded, because no constitutional and legal provision prohibits KPC members from the right to seek legal protection of their rights in a regular court procedure, as defined by Article 54 of the Constitution.
132. Thus, with respect to the allegations of violation of the individual rights of Mr. Beka as a non-prosecutor member of the KPC, guaranteed by Articles 32 and 54 of the Constitution, the Court has concluded that in the present case these issues can be raised by Mr. Beka before the regular courts.

(iii) *Regarding the issue of the voting procedure of the contested Decision in the Assembly*

133. Related to the allegations of Ms. Rrezarta Krasniqi that in this case the procedures for the dismissal of the non-prosecutor member were not respected, namely the allegation that on the occasion of the vote of the Recommendation of the Committee on Legislation, the President of the Assembly *had ascertained that 61 deputies had participated in the voting, of which 60 were for and 1 abstention for the dismissal of Mr. Beka [...] Despite the fact that the President of the Assembly found that this recommendation was not passed because he had not received the necessary majority, the harsh interference of Mrs. Mimoza Kusari, who in the capacity of the Vetevendosje Parliamentary Group, raised the claim and pressured the public that this recommendation passed and had received 61 votes for.* Ms. Rrezarta Krasniqi further adds before the Court that all this according to her *“represents a violation of the mandate and free will of the deputies”*.
134. The Court, in addressing this allegation, recalls that based on the case file, it results that at the session of the Assembly, of 14 December 2023, one of the items on the agenda was the vote on Recommendation [No. 08/4446/Do-1994] of the Committee on Legislation, a recommendation which was reviewed at another session of the Assembly but due to the lack of a quorum was not voted. In the initial voting process, the Court notes that the administration found that a total of 61 deputies had voted, 60 of whom voted for and one abstained, further, some deputies requested that this case be closed and declared by the President as a proposal that did not pass. However, based on the competence of the President of the Assembly to repeat the vote if any deputy declares that he has made a mistake in his voting and that after using the VAR system, the President announced that 61 deputies voted for the dismissal of Mr. Beka. Based on case file, it turns out that at the request of several deputies, the vote was repeated for a second

time, where the administration found that there were 71 deputies in the hall, 62 of whom voted in favor of dismissing Mr. Beka, with no votes against or abstentions..

135. In this regard, the Court, based on paragraph 10 of Article 10 (Procedure of proposal, election and dismissal of members elected by the Assembly) of the Law on the KPC, it follows that the dismissal of non-prosecutor members of the KPC is done by the Assembly with a majority vote of all deputies of the Assembly.
136. Therefore, the Court concludes that the number of votes needed for dismissal was reached, respectively, based on the above elaboration, that there were 71 deputies present, 62 of whom voted for the dismissal of Mr. Beka, there were no votes against and no abstentions.
137. In conclusion, regarding the formal aspect of the contested Decision, namely whether the procedures for dismissal of the non-prosecutor member were respected, based on the above, the Court finds that the contested Decision meets the formal requirements and that the procedures have been followed in accordance with the Law on KPC and the Constitution.

### **Request for interim measure**

138. The Court notes that the applicants request the Court to impose an interim measure to suspend the implementation of the contested Decision, until the final decision of the referral. However, the Court considers that the issues raised in the referral have already received an epilogue by the fact of deciding on the merits of the referral. That said, the Court does not consider it necessary to deal separately with the Applicants' allegations of imposing an interim measure (See the case of the Court [KO134/21](#), Applicant, *Ramush Haradinaj and nine (9) other deputies of the Assembly of the Republic of Kosovo*, cited above, paragraph 182).
139. Accordingly, the request for the imposition of an interim measure is rejected, in accordance with Rules 44 (Request for Interim Measures) and 45 (Decision-making Regarding the Request for Interim Measure) of the Rules of Procedure:

## **FOR THESE REASONS**

The Court, in accordance with paragraph 5 of Article 113 and paragraph 2 of Article 116 of the Constitution, Articles 20, 27, 42 and 43 of the Law and based on Rules 48 (1) (a) and 72 of the Rules of Procedure, on 26 November 2024,

### **DECIDES**

- I. TO DECLARE the Referral admissible;
- II. TO HOLD unanimously that Decision [no. 08-V-583 of 13] of 15 December 2023 of the Assembly, is not contrary to paragraph 9 of Article 65 [Competencies of the Assembly] as well as paragraph 4 of Article 110 [Kosovo Prosecutorial Council] of the Constitution;
- III. TO REJECT the request for interim measure;
- IV. TO NOTIFY this Judgment to the parties;
- V. TO PUBLISH this Judgment in the Official Gazette in accordance with paragraph 4 of Article 20 of the Law;
- VI. TO HOLD that this Judgment is effective on the date of its publication in the Official Gazette of the Republic of Kosovo, in accordance with paragraph 5 of Article 20 of the Law.

**Judge Rapporteur**

**President of the Constitutional Court**

Bajram Ljatifi

Gresa Caka-Nimani

***This translation is unofficial and serves for informational purposes only.***