



REPUBLIKA E KOSOVËS – РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

**GJYKATA KUSHTETUESE  
УСТАВНИ СУД  
CONSTITUTIONAL COURT**

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**Pristina, 9 September 2013  
Ref. No.: MKM 472/13**

in

**Case No. KO108/13**

Applicants

**Albulena Haxhiu and 12 other deputies of the Assembly of the Republic of  
Kosovo**

**Constitutional review of the Law, No. 04/L-209, on Amnesty**

**THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO**

composed of

Enver Hasani, President  
Ivan Cukalovic, Deputy-President  
Robert Carolan, Judge  
Altay Suroy, Judge  
Almiro Rodrigues, Judge  
Snezhana Botusharova, Judge  
Kadri Kryeziu, Judge  
Arta Rama-Hajrizi, Judge

**CONCURRING AND DISSENTING OPINION OF  
Judge Almiro Rodrigues**

1. I agree with the decision of the Majority that the draft Law No. 04/L-209 on Amnesty is compatible with the Constitution and that the procedure in adopting it was compatible with the Constitution too.

2. However, I respectfully disagree with the Majority in its conclusion that Articles 1.1.10; 1.1.11; 1.1.15.10;1.1.15.11; 1.2.5; 1.2.9.7; 1.3.1; 1.3..5.6 and 1.3.5.7, granting amnesty to persons who may have committed the crimes of destruction to property, arson and falsifying documents, are incompatible with the Constitution.
3. I follow the reasoning presented by Judge Robert Carolan in its concurring and dissenting opinion.
4. Therefore, pursuant to Rule 58.1 of the Rules of Procedure, I join the dissenting opinion of Judge Robert Carolan.
5. In addition, the Majority conclusion on that the abovementioned Articles of the Law are incompatible with the Constitution is not grounded on a relevant and pertinent factual basis.
6. In fact, the Court states that it is “aware of the public and notorious fact that this Law has raised concerns in civil society and among certain sectors of the professional and business communities”, namely, in relation “to the substantial amount of destruction of private property” (see all paragraph 86 of the Judgment)
7. However, I consider that this awareness, including the more general socio-political context (paragraphs 82-88 of the Judgment) is not enough factual ground to found a different conclusion on the incompatibility with the Constitution of Articles 1.1.10; 1.1.11; 1.1.15.10;1.1.15.11; 1.2.5; 1.2.9.7; 1.3.1; 1.3.5.6 and 1.3.5.7.

Respectfully submitted

**Almiro Rodrigues**  
**Judge**

