



CONSTITUTION OF THE ASSEMBLY AFTER THE EXPIRY OF THE CONSTITUTIONAL DEADLINE

Between the need for functioning institutions
and respect for the constitutional order

SEPTEMBER 2026



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“POLICY BRIEF”

1. BACKGROUND AND CHRONOLOGY OF THE CONSTITUTIVE PROCESS

Early parliamentary elections in the Republic of Kosovo were held on 7 June 2026. Following the completion of counting and verification, the Central Election Commission announced the final results on 27 June, and they were certified on 8 July 2026.

Following certification, Acting President Albulena Haxhiu scheduled the constitutive session for 6 August 2026, in a decision taken on 24 July. The session began with the procedures prescribed for constituting the new legislature. A temporary committee to verify the quorum and mandates was established, its report was adopted, and the members of the Assembly took their oath.⁴

The difficulty arose at the agenda item concerning the election of the Speaker of the Assembly, as no candidate was nominated for the position. Instead of completing the Assembly's constitution, additional time was requested for political consultations on the election of the President of the Republic. This request, made by the leader of Lëvizja Vetëvendosje, Albin Kurti, was justified by the need to reach agreement on the President before the 60-day period for the presidential election began.⁵

In the absence of a nomination for Speaker, the presiding member, Avni Dehari, adjourned the session and stated that members would be notified of its resumption. The constitutional deadline expired on 7 August; the continuation held on 8 August also failed to complete the procedure.

In early September, LVV and LDK announced an agreement to nominate Bekim Sejdiu for President. However, at least six LDK members of the Assembly had publicly opposed the agreement, making the election of the President uncertain. The obligation to constitute the Assembly continued regardless of the outcome of the negotiations.⁶

On 9 September 2026, 32 calendar days after the continuation of 8 August, Albulena Haxhiu was elected Speaker of the Assembly. The process continued on 11 September with the election of Deputy Speakers. At that sitting, only the Deputy Speaker from VV was elected; the PDK candidate was not, and PDK was asked to nominate another candidate. Before the sitting of 13 September, PDK had suspended its nomination of Vlora Çitaku and announced that it would challenge the process before the Constitutional Court. On 13 September, following the election of the Deputy Speakers from LDK and the communities, the Speaker declared the Assembly constituted. The position allocated to PDK remained vacant, as the party refused to attend the sitting.⁷

This development, however, turns an ordinary political disagreement into an issue requiring constitutional and procedural assessment. In particular, the question arises whether a session opened on 6 August and resumed on 9 and 13 September can be regarded as a continuation of the same constitutive session and, if so, whether such an interruption complies with the procedural limit under which interruptions during the constitutive session may not exceed 48 hours.

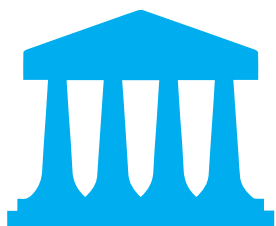
4 Office of the President, announcement of 24 July 2026 scheduling the session for 6 August. [Official announcement](#).

5 Radio Free Europe/Radio Liberty, reporting on the session of 6 August 2026 and Albin Kurti's statement requesting additional time for talks. Report. [Report](#).

6 Radio Free Europe/Radio Liberty, 3 September 2026, on the agreement on the presidential candidate and opposition from six LDK members of the Assembly. [Report](#).

7 Coverage of the sitting of 13 September 2026, reporting the declaration that the Assembly was constituted and the absence of the Deputy Speaker from PDK. The declaration is not presented here as judicial confirmation of the regularity of the process. [Report from the sitting](#).

4. THE 48-HOUR RULE AND THE ABSENCE OF A DEFINED CONSEQUENCE



The Court should be asked to clarify what means members have to secure resumption when the presiding member fails to act, and whether and how this breach affects the subsequent procedure. Its constitutional significance lies in the obstruction of the Assembly's constitution and of the exercise of the representative mandate. On the basis of this standard, the Assembly can regulate advance notification of resumption, responsibility for convening the session, and the procedure triggered when the obligation is not fulfilled.

Article 12(5) of the Rules of Procedure provides that interruptions during the constitutive session may not exceed 48 hours. The rule is intended to prevent a pause for consultations from becoming an indefinite suspension. The interruption from 8 August to 9 September was a clear breach of this procedural limit.

The practical consequence was that members remained waiting for notification from the presiding member even after the permitted interruption period had elapsed. The Rules of Procedure establish the limit, but this provision does not expressly state who initiates the resumption when it is disregarded. It is not enough to repeat that the session must be held; there must be clarity on how its resumption is secured.

The Rules of Procedure contain several mechanisms that merit examination. Article 7 provides for the Assembly to meet on the thirtieth day without being convened by the President, while Article 9 allows the presiding member to be replaced in the event of absence or refusal to preside. The first regulates the opening of the session; the second regulates its conduct. However, neither provision expressly provides for automatic resumption once the 48-hour period has elapsed.

Article 122 also provides for interpretation of the Rules of Procedure by the presiding member and review by the relevant committee. However, this mechanism does not offer a clear solution during the constitutive process, when the Assembly's regular bodies have not yet been established. In K0124/25, paragraph 178, the Court noted that the chapter on the constitutive process does not refer to Article 122 or the ordinary rules on motions.

The expiry of the 48-hour period therefore cannot be treated as giving the presiding member unlimited discretion to choose the date of resumption. In the circumstances at issue, the procedural obligation remains unfulfilled. Nevertheless, it does not automatically follow that any member may convene the session or that every subsequent decision is invalid. Constitutional clarification is needed on how the rule is to be implemented and on the consequences of its breach.

5. THE TEMPORARY ROLE OF THE PRESIDING MEMBER AND ITS LIMITS

Under Article 9 of the Rules of Procedure, proceedings are chaired by the oldest member, assisted by the youngest, until the Speaker is elected. This role serves solely to carry out the agenda for the constitutive process. The Rules of Procedure assign the presiding member specific tasks relating to verification of mandates, the oath, and the processing of the nomination for Speaker.

The Court has already established important limits. In K0119/14, it emphasised the presiding member's duty to conduct the session. In K0193/25 and K0196/25, it linked the role to the purpose of constituting the Assembly and found that the presiding member's actions examined in that case exceeded the formal and ceremonial powers of the role. The remaining uncertainty therefore concerns how to proceed when the presiding member disregards the limits established by the Rules of Procedure or the Court's judgments.¹³

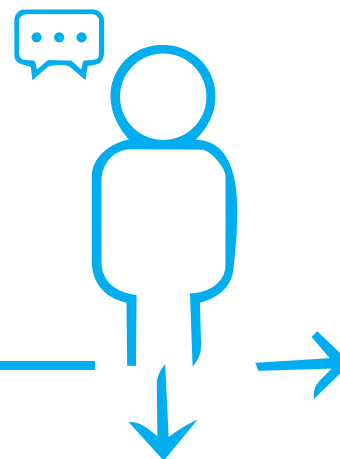
The experience of August 2026 took this problem beyond theoretical debate. By failing to resume the session for weeks, the presiding member made the conduct of the procedure dependent on his notification and, in effect, his willingness to proceed. It is crucial, however, that a temporary role should not be interpreted in a way that allows one member to prevent the other 119 from completing the Assembly's constitution. The absence of an agreed candidate does not legally justify an indefinite suspension of proceedings.

Article 9(2) provides that, where the members designated to preside are absent or refuse to chair the proceedings, other members take their place according to the same age criterion. A replacement mechanism therefore exists. The uncertainty is whether prolonged failure to resume proceedings constitutes a refusal to preside even without a formal finding to that effect, and who determines that this situation exists and notifies members of the resumption.¹⁴

This is a plausible interpretation that merits consideration, since refusal could also be assessed on the basis of documented inaction. Otherwise, the rule could be bypassed simply by not responding. However, replacement must be governed by a procedure and safeguards, so that a majority cannot remove the presiding member merely because it dislikes a decision or finds it politically inconvenient.

Before any such action, the request to resume proceedings, the time elapsed, and the presiding member's response or inaction should be documented, and all members should be notified. These are safeguards to be considered for the implementation of Article 9. In K0119/14, the members' arguments that they could replace the presiding member must be distinguished from the Court's conclusion, which found the contested sitting and the election of the Speaker incompatible with constitutional requirements.¹⁵

The election of the Speaker on 9 September ended Avni Dehari's role as temporary presiding member in this process. The issue now is not his replacement in that role, but the assessment of his actions and omissions and the definition of a mechanism for future cases. The Court should be asked to clarify the application of Article 9 when the person performing the role becomes an obstacle to resumption.



¹³ K0119/14, paragraph 110; K0193/25 and K0196/25, paragraphs 124–128, on the limits and duties of the presiding member. [K0193/25 dhe K0196/25](#).

¹⁴ Rules of Procedure of the Assembly, Article 9(1)–(2). The assessment of inaction as refusal and the safeguards suggested below are presented as matters requiring clarification, not as an established procedure. [Rules of Procedure](#).

¹⁵ K0119/14, paragraphs 55–56 set out the arguments of 67 members of the Assembly; paragraphs 119–122 contain the Court's assessment. This distinction is important when relying on the precedent. [Judgment](#).



6. CONCLUSIONS

Political crises, a lack of consensus, and political parties' inability to reach agreement are part of democratic reality. They cannot be eliminated by a constitution, nor should they be eliminated through mechanisms that restrict political pluralism. What the Constitution must guarantee is that a political crisis does not turn into a crisis of the constitutional order.

In the current case, the fact that the constitutive session opened on 6 August does not in itself settle the legal question if the steps necessary to constitute the Assembly were not completed within the constitutional deadline. The Constitutional Court's interpretation in KO124/25 makes clear that constitution of the Assembly is not merely a formal gathering of members, but a process that must be completed through the prescribed constitutional steps.

This is why the debate should not be framed as an artificial choice between 'the Constitution' and 'functionality'. Both are essential. Kosovo needs neither an Assembly operating outside the Constitution nor a system that remains dysfunctional in the name of a formal interpretation of it. Kosovo needs a solution that guarantees respect for the constitutional order and the functioning of institutions.

7. RECOMMENDATIONS

KDI calls on members of the Assembly and other authorised parties to bring the issues identified in this analysis before the Constitutional Court by challenging specific acts and procedures within the relevant deadlines. The declaration that the Assembly has been constituted and the election of the Government should not close the examination of the breaches that preceded these developments. Referral should seek to establish the consequences for the current process and the standards applicable to future legislatures.

1. Seek a determination of the legal consequences of breaching the 30-day deadline.

The deadline for constituting the Assembly has been breached. Building on the obligation clarified in K0124/25, applicants should seek answers to the unresolved questions: on what basis and subject to what obligations the process continues after the deadline expires, how the breach is addressed when the constitutive process is completed later, and whether it affects the validity of subsequent acts. Clarification should prevent the emergence of a practice whereby delayed completion of the procedure is sufficient to leave the breach of the constitutional deadline unaddressed.

2. Seek clarification of the limits of the right of nomination and the consequences of failing to exercise it.

The Court should be asked whether, and in what circumstances, the largest parliamentary group's right to nominate the Speaker may be considered exhausted, who may determine this, and how the procedure continues. The examination should distinguish failure to nominate from candidates' failure to be elected. It should also assess the declaration that the Assembly was constituted without the Deputy Speaker from PDK, taking account of the differences between the positions of Speaker and Deputy Speaker. A standard is needed that protects the right of nomination and defines the consequences when its exercise or non-exercise prevents completion of the constitutive process..

3. Seek clarification of the mechanism for resuming the session when the 48-hour limit is breached.

The interruption from 8 August to 9 September showed that the procedural limit can be disregarded

while members remain waiting for notification from the presiding member. The Court should be asked to clarify who is responsible for securing resumption, what members may do when the presiding member fails to act, and whether the breach affects the subsequent procedure. The aim is to establish how the exercise of members' mandates is protected when failure to observe a procedural deadline prevents the institution from being constituted.

4. Seek clarification of the replacement of a presiding member who fails to resume the session.

Article 9(2) of the Rules of Procedure provides for replacement in the event of absence or refusal to preside. The Court should be asked to clarify whether prolonged and documented failure to resume proceedings may constitute refusal even without an express declaration, who may determine this, and what safeguards are required to activate the replacement mechanism. The end of the temporary presiding member's role on 9 September does not remove the need to assess his inaction. The standard should prevent blockage by the presiding member and protect the procedure from arbitrary replacement of that member.

5. The Assembly should translate constitutional standards into concrete rules to prevent recurring blockages.

Following clarification by the Court, the Assembly, through the committee responsible for the Rules of Procedure, should prepare amendments governing resumption of the session and replacement of the presiding member. The Rules of Procedure should require the date and time of resumption to be set at the moment of adjournment, within the 48-hour limit. They should also specify how members' requests are submitted and handled when the presiding member fails to act, how refusal is documented, and how replacement under Article 9 is carried out, including notification of all members. These procedures must also function before the Assembly's regular bodies have been established.



