

Non-implementation of Court Decisions

*THE ILLEGALITY OF THE KURTI GOVERNMENT AND
THE ABUSE OF ACTING OFFICIALS*



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1. Executive summary

The Constitution of the Republic of Kosovo explicitly prohibits any individual from simultaneously holding the position of Member of Assembly and member of the Government. This prohibition is also enshrined in the Law on Government, sponsored by the current Government itself and adopted at the time when it held a parliamentary majority. Despite this, most acting members of the Government continue to serve concurrently as MAs in the Assembly of the Republic of Kosovo. This results in the same individuals being members of both the oversight body, the Assembly and the body subject to oversight, the Government.

The incompatibility of holding both positions – acting government member and MA – has also been confirmed by the Supreme Court. Yet, instead of complying with the standards set by the Court, the Government in office chose to attack its judges.

The refusal of acting government officials, which are also MA's, to vacate their offices has had far-reaching consequences. Beyond undermining the rule of law in Kosovo, this situation has damaged Kosovo's reputation among international partners. Several have stated they will not meet with the Acting Prime Minister or ministers within the Government building until a fully mandated government is in place. Moreover, under the Supreme Court ruling, all decisions taken by the government members who also serve as MAs are unlawful. Since it is practically impossible to contest each individual decision, this situation has flooded the legal order with unlawful acts. It also entails criminal liability, which is currently being examined by the Special Prosecution Office of the Republic of Kosovo (SPRK). Furthermore, the situation risks having implications for the election of the new Speaker of the Assembly.

In addition, the Kurti II Government has been characterized by extensive reliance on “acting” officials. For years, a large number of positions have been held in an acting capacity, without new office-holders being appointed through regular, merit-based recruitment processes. The Supreme Court has also clarified that no position may be held in an acting capacity beyond legal deadlines, even if the individual occupying the post is replaced. Should this occur, all decisions issued under such circumstances are deemed unlawful.

International standards stress that acting appointments must remain an exception. In every case, good governance in public administration requires merit-based recruitment, not prolonged holding of offices by acting officials. The opposite occurred under the Kurti II Government, which treated acting appointments as the rule rather than the exception.

The consequences of this practice are profound. It undermines the meritocracy of the recruitment processes, weakens the effective administration of public institutions and given the lack of clear procedures for appointing and removing acting officials, creates a high potential for corruption.

PART I

Unlawful Government

2. Introduction

The Kurti II Government of the Republic of Kosovo was elected on 22 March 2021. According to the Constitution of the Republic of Kosovo, its mandate lasted until 22 March 2025. From that date onward, the Kurti II Government became caretaker government.

Meanwhile, parliamentary elections in the Republic of Kosovo were held on 9 February 2025.¹ The results were certified on 27 March 2025,² and the president of the Republic of Kosovo called the constitutive session for 15 April 2025.³ Members of the Assembly took their oaths on 19 April 2025.⁴ At that time, the government consisted of the Prime Minister, 13 ministers and one deputy minister. Among them were also the former Minister of Justice, Albulena Haxhiu, and the former Third Deputy Prime Minister, Emilja Redžepi. Both resigned from their government posts after being elected Deputy Speakers of the Assembly.

Following the MA's swearing-in, the constitution of the Assembly became entangled in a political crisis. As of the date of this report's publication, the Assembly has still not fully constituted, despite the Speaker acknowledging this fact.

Thus, although certified and sworn in as MAs, government members did not resign from their executive posts. In violation of both the Constitution and the Law, they continued to hold dual positions. The illegality of this practice was confirmed by the Supreme Court.⁵ Yet, instead of meeting the minimum standard of legitimacy by implementing the Supreme Court's ruling, members of the Government attacked the Court and failed to comply with its decision.

At the same time, the issue of dual office-holding is under review by the Special Prosecution Office of the Republic of Kosovo.⁶

¹ "Parliamentary elections are taking place in Kosovo". Deutsche Welle. 9 February 2025. (See: <https://www.dw.com/sq/në-kosovë-po-zhvillohen-zgjedhjet-parlamentare/a-71552060>)

² "CEC certified the final results of the Elections for the Assembly of Kosovo, 9 February 2025." Central Election Commission, 27 March 2025. (See: <https://kqz-ks.org/kqz-certifikoi-rezultatet-perfundimtare-te-zgjedhjeve-per-kuvendin-e-kosoves-9-shkurt-2025/>)

³ "President Osmani convenes the constitutive session of the ninth Legislature of the Assembly of the Republic of Kosovo for 15 April." 1 April 2025. (See: <https://president-ks.gov.net/presidentja-osmani-therret-seancen-konstituive-te-legjislatures-se-nente-te-kuvendit-te-republikes-se-kosoves-per-daten-15-prill/>).

⁴ "New MAs take the oath after the verification of mandates." Betimi për Drejtësi. 19 April 2025. (See <https://betimiperdrejtesi.com/deputetet-e-rinj-betohen-pas-verifikimit-te-mandateve/>).

⁵ Judgment of the Supreme Court of the Republic of Kosovo (P.A. no. 09/2025), issued on 15 June 2025. (See: https://supreme.gjyqesori-rks.org/wp-content/uploads/verdicts/SUP_09-2025_SQ.pdf).

⁶ "LDK files 17 criminal complaints against Kurti and the ministers who became MAs". Betimi për Drejtësi. 8 May 2025. (See: <https://betimiperdrejtesi.com/ldk-ja-dorezon-17-kallezime-penale-ndaj-kurtit-dhe-ministrave-ge-u-bene-deputete/>).

<i>No.</i>	<i>Name</i>	<i>Position</i>
1	Albin Kurti	<i>Prime Minister</i>
2	Donika Gërvalla – Schëarz	<i>Second Deputy Prime Minister and Minister of Foreign Affairs and Diaspora</i>
3	Hekuran Murati	<i>Minister of Finance, Labour, and Transfers</i>
4	Ejup Maqedonci	<i>Minister of Defence</i>
5	Xhelal Sveçla	<i>Minister of Internal Affairs</i>
6	Arben Vitia	<i>Minister of Health</i>
7	Arbërie Nagavci	<i>Minister of Education, Science, Technology, and Innovation</i>
8	Hajrulla Çeku	<i>Minister of Culture, Youth, and Sports</i>
9	Elbert Krasniqi	<i>Minister of Local Government Administration</i>
10	Faton Peci	<i>Minister of Agriculture, Forestry, and Rural Development</i>
11	Artane Rizvanolli	<i>Minister of Economy</i>
12	Rozeta Hajdari	<i>Minister of Industry, Entrepreneurship, and Trade</i>
13	Nenad Rašić	<i>Minister for Communities and Returns</i>
14	Fikrim Damka	<i>Minister of Regional Development</i>
15	Liza Gashi	<i>Deputy Minister of Foreign Affairs and Diaspora</i>
16	Emilja Redžepi	<i>Deputy Prime Minister (until 26 August 2025)</i>
17	Albulena Haxhiu	<i>Minister of Justice (until 26 August 2025)</i>

Table 1: Names of the current ministers and deputy minister who are simultaneously also MAs.

3. Constitutional and Legal Incompatibility

The Constitution of the Republic of Kosovo explicitly prohibits any individual from simultaneously holding the position of Member of Assembly and member of the Government. In this regard, the Constitution states that: “*The mandate of the deputy of the Assembly comes to an end or becomes invalid when: the deputy becomes a member of the Government of*

Kosovo” and “a member of the Assembly of Kosovo shall neither keep any executive post in the public administration or in any publicly owned enterprise nor exercise any other executive function as provided by the law”.⁷

For years, Kosovo did not have a Law on Government. The draft Law on Government was adopted on 29 December 2021 during the 52nd session of the Kurti II Government,⁸ and later passed by the Assembly of Kosovo on 27 October 2022, coming into force in December 2022.⁹

Law No.08/L-117 on the Government of the Republic of Kosovo stipulated that: *“in case the incumbent member of the Government is elected a member of the Assembly of the Republic of Kosovo, he/she must resign from the position of a member of the Government before the day of the certification of the election results”*. The law also explicitly states that: *“the term of the member of the Government shall end if: ...he/she is elected a Member of the Assembly”*.¹⁰

Thus, both constitutional and legal provisions clearly prohibit the simultaneous holding of these two positions – the member of the Government and the MA.

The Government publicly argues that the acting government should continue to function until a new government is elected, claiming that: *“...the acting or ongoing government remains in place until a new government is elected”*.¹¹

However, this argument has no basis in either the Constitution and the law. Legal provisions clarify that the Government’s claim conflated the concept of the acting government as an institution with that of an individual government member.

As noted, Law No.08/L-117 on the Government of the Republic of Kosovo, refers specifically to the *“government member”*, not the government as an institution. Article 4 defines the composition of the Government: *“The Government shall be composed of the Prime Minister, Deputy Prime Ministers and Ministers”*. Therefore, when discussing incompatibility, such as holding two positions simultaneously, the Constitution and the law refer to each individual member, not the government as a whole. For this reason, Article 26.1 of the Law No.08/L-117 requires the resignation of the acting government member, not the removal of the acting government.

Conversely, when the law refers to the government in resignation, it addresses the institution, not individual members. This is evidenced by the fact that under this law, the government is considered to be in resignation even if only the Prime Minister resigns. In other words, the

⁷ Article 70.3. (3) and Article 72. Constitution of the Republic of Kosovo. June, 2008.

⁸ "The last government meeting of the year, all decisions that were made ". Ekonomia Online. 29 December 2021. (See: <https://ekonomiaonline.com/mbledhja-e-fundit-e-qeverise-per-kete-vit-te-gjitha-vendimet-qe-u-moren/>).

⁹ "The Assembly approves in principle the Draft Law on Support for Public Works ". Indeksonline. 27 October 2022. (See: <https://indeksonline.net/kuvendi-miraton-ne-parim-projektligjin-per-mbeshtetjen-e-puneve-publike-1/>).

¹⁰ Article 26.1 and Article 29.1.3 of Law No. 08/L-117 on the Government of the Republic of Kosovo. October 2022.

¹¹ "Betimi për Drejtësi 418: Kurti Government in a Conflict of Interest ". Betimi për Drejtësi. 6 September 2025. (See: <https://betimiperdrejtesi.com/betimi-per-drejtesi-418-qeverisja-kurti-ne-konflikt-interesi/>).

concept of the acting government refers to the government as an institution, not to individual members, who are in incompatibility if they simultaneously hold the position of an MA in the Assembly of the Republic of Kosovo.

In this context, based on constitutional and legal provisions, it is not required for the acting government to cease functioning: rather, it is required that no individual holding a parliamentary mandate remain in the government's composition. Government members elected as MAs must resign from their executive positions. Their roles may be filled by deputy ministers who do not hold a parliamentary mandate. According to Law No. 08/L-117, this action should have been taken prior to the certification of their election as MAs.¹²

Beyond specific legal norms, simultaneously holding the mandates of MA and government member contradicts the institutional design of the Constitution. According to the Constitution, the Assembly supervises the work of the Government of Kosovo.¹³ If the same person holds both the parliamentary and government positions, they simultaneously belong to both the oversight institution (the Assembly) and the overseen institution (the Government).

In addition to the incompatibility, Article 26 of Law No. 08/L-117 on the Government addresses conflict of interest. It states: *"In addition to the restrictions of this Article, members of the Government shall also be subject to the restrictions set out in the relevant legislation for the prevention of conflict of interest in the exercise of public office"*. The aim of this law is to strengthen public sector integrity and ensure that public duties are performed objectively, impartially, and transparently in the public interest, through the identification, prevention, management and resolution of conflicts of interest. Performing duties in accordance with the law, maintaining the authority of the official and institution, acting in public interest and avoiding conflicts of interest are among the core principles outlined in this law.¹⁴ In certain cases, conflicts of interest may constitute a criminal offense.¹⁵

For these reasons, it is entirely clear that simultaneously holding the positions of MA and government member constitutes a blatant violation of both the Constitution and the law.

4. Supreme Court Decision

The incompatibility of simultaneously holding the positions of Member of Assembly (MA) and government member was also examined by the Supreme Court in a specific case. Initially, two businesses filed a lawsuit with the Supreme Court, seeking to annul and declare unlawful an administrative instruction, specifically, Administrative Instruction No. 01/2025 on the Use of Fiscal Electronic Devices, Fiscal Systems, and Fiscal Software. This instruction had been issued by the Minister of Finance, Labour, and Transfers (MFLT) and published in the Official Gazette on 16 April 2025.

¹² Article 26.1, Law No. 08/L-117 on the Government of the Republic of Kosovo. October 2022

¹³ Article 65(9), Constitution of the Republic of Kosovo. June 2008

¹⁴ Articles 1 and 5, Law No. 06/L-011 on the Prevention of Conflict of Interest. March 2018.

¹⁵ Article 417, Criminal Code No. 06/L-074 of the Republic of Kosovo. November, 2018.

This lawsuit was upheld as well-founded, and the administrative instruction issued by the MFLT was declared unlawful and annulled.¹⁶ The primary reason for this illegality was that Minister Hekuran Murati, at the time of issuing the administrative instruction, was simultaneously serving as an MA in the Assembly. The Supreme Court noted that the instruction had been issued by someone who was not only an acting minister but also a parliamentarian participating in the Assembly's constitutive process.

The Supreme Court stated in its decision: *"It is indisputable for the Court that, based on the official certification of election results on 27 March 2025, MFLT Minister Hekuran Murati is listed as a deputy of the Assembly of the Republic of Kosovo. According to Article 71 of the Constitution, holding the positions of deputy and minister simultaneously is prohibited. Consequently, issuing an administrative instruction by a person simultaneously exercising the duties of deputy and minister is unlawful and violates constitutional provisions... The Minister of Finance was in a position of functional incompatibility at the time of signing, being certified as a deputy in violation of Articles 70.2 and 71 of the Constitution, which prohibit the parallel exercise of executive and legislative functions, as well as the principle of separation and control of powers established by the Constitution. The Court did not consider other claims, deeming that the lack of legal authorization in this specific case, as well as the conflict of interest in signing a normative sub-legal act, were sufficient to uphold the plaintiffs' request, declare the act unlawful, and annul the contested instruction..."*¹⁷

Beyond this particular case, the Supreme Court confirmed that acting government members are not legally considered members of the government if they simultaneously hold the position of MA.

Despite the Supreme Court's ruling, the Kurti II Government did not reflect or take corrective action. On the contrary, following the confirmation of constitutional and legal incompatibility, the acting Government immediately reacted by describing the Supreme Court decision as "legally unfounded" and "arbitrary".¹⁸ In addition, the acting minister Hekuran Murati posted on Facebook, calling the Supreme Court ruling "absurd" and personally criticizing the judges.¹⁹ On 16 July 2025, the Supreme Court issued a counter-response, labeling the Governments' statements as *"an unacceptable interference with the independence of the judiciary"*.²⁰

¹⁶ Ruling of the Supreme Court of the Republic of Kosovo (P.A.nr.09/2025), rendered 15 June 2025. (See: https://supreme.gjyqesori-rks.org/wp-content/uploads/verdicts/SUP_09-2025_SQ.pdf).

¹⁷ Ibid. Page 9.

¹⁸ "The Government Calls the Supreme Court's Decision Arbitrary: Unfounded in Law and a One-Sided Interpretation". Betimi për Drejtësi. 15 July 2025. (See: <https://betimiperdrejtesi.com/qeveria-e-quan-arbitrar-vendimin-e-supremes-i-pabazuar-ne-ligj-dhe-perben-interpretim-te-njeanshem/>).

¹⁹ "Hekuran Murati Attacks the Supreme Court After It Annuls His Instruction on Fiscal Cash Registers, Naming the Judges Individually". Gazeta Express. 15 July 2025. (See: <https://www.gazetaexpress.com/hekuran-murati-sulmon-gjykatën-supreme-qe-ia-rrezoi-udhezimin-per-arkat-fiskale-permend-gjyqtaret-me-emër/>).

²⁰ "The Supreme Court Responds to the Government: Interference in Judicial Decisions Is Unacceptable". Radio Evropa e Lirë. 16 July 2025. (See: <https://www.evropaelire.org/a/gjykata-supreme-i-reagon-qeverise/33475582.html>).

These statements by the Government, besides representing interference in the judicial system,²¹ also undermine Kosovo's path toward membership in the Council of Europe. A report by eminent legal experts on the alignment of Kosovo's legal system with Council of Europe standards notes that politicians in responsible positions sometimes criticize judicial decisions in sensitive cases using inappropriate language, in ways that may undermine judicial independence.²² This report recommends that Kosovo authorities fully respect judicial independence, including refraining from excessive criticism that erodes public trust in the judiciary.²³

Even after the Supreme Court ruling, acting government members who also hold parliamentary position have not resigned, continuing to hold both positions simultaneously. This constitutes an open violation of both the Constitution and the law, as well as a non-compliance with the Supreme Court decision. In this situation, Kosovo is being governed by a caretaker government whose composition is unconstitutional and unlawful, a fact confirmed by the Supreme Court.

According to the Supreme Court's interpretation, all decisions made by the Government or by its members who simultaneously hold the position of MA are unlawful. This is because, in the context of the Supreme Court ruling, merely holding the position of government member does not legalize the simultaneous holding of the parliamentary mandate.

5. Consequences of Failing to Implement the Supreme Court's Decision

As elaborated above, this situation has resulted in Kosovo being governed by an unconstitutional and unlawful Government, one that refuses to enforce a judicial decision.

According to the Venice Commission, the prompt and effective execution of judicial decisions is one of the crucial indicators of the rule of law.²⁴ In this case, the Kurti II Government refused to comply with the decision of the Supreme Court, instead publicly criticizing both the judiciary and the Supreme Court judges. The Government limited itself to fulfilling only the formal criterion of implementing the Court's ruling, annulling the specific administrative instruction, while continuing the unlawful practice identified by the Supreme Court. When such conduct comes from the Government of the Republic of Kosovo, it sends a deeply troubling signal regarding the state of the rule of law in the country.

²¹ Jakaj, N. and Zekaj, E. " *Interference in the Justice System Through Public Statements* ". Kosovo Law Institute. December 2023. (See: <https://kli-ks.org/wp-content/uploads/2023/12/Nderhyrjet-ne-sistemin-e-drejtjesise-permes-deklaratave-publike-1-1.pdf>).

²² "Application for membership set out in the letter of 12 May 2022 addressed to the Secretary General of the Council of Europe, in line with Statutory Resolution (51) 30 (Report by the eminent lawyers appointed by the Bureau on 25 May 2023)". Page 15, paragraph 89. Council of Europe. 27 November 2023. (See: <https://rm.coe.int/application-for-membership-set-out-in-the-letter-of-12-may-2022-addres/1680ad7750>).

²³ Ibid.

²⁴ "THE RULE OF LAW CHECKLIST". Page 46. Venice Commission. Venice, 11-12 March 2016. (See: https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Laë_Check_List.pdf).

The Supreme Court confirmed that a government member cannot legally remain part of the Government if, at the same time, he or she has been certified as a Member of the Assembly. Holding both positions simultaneously, in defiance of the Court's ruling, amounts to a usurpation of governmental office.

This situation has generated negative consequences for Kosovo in several directions. According to a letter made public in the media, following the Supreme Court's ruling, the EU Office in Kosovo wrote to Prime Minister Kurti stating that: *"in line with this judgment and in the interest of institutional stability and respect for the rule of law, high-level visitors from EU Member States and EU institutions will temporarily refrain from holding meetings with the Acting Prime Minister and ministers inside the Government building, until a fully mandated Government is in place."* This measure, the letter stressed, *"underscores the EU's commitment to the rule of law, democratic accountability, and institutional integrity."*²⁵

As the Supreme Court highlighted, decisions issued by its members of the Acting Government who simultaneously serve as Members of the Assembly are unlawful. Despite this, the Government and its members continue to adopt decisions even after the Court's ruling.²⁶ This has flooded the legal order with unlawful decisions, undermining both constitutionality and legality in Kosovo's governance.

Every such decision could in theory be challenged in court and, based on the Supreme Court ruling, annulled without even examining the merits of the particular decision. However, the possibility of challenging these acts does not mitigate the harm caused by unlawful governance, as it is unrealistic to expect that every single decision will be contested in court. In many, cases, there are no directly affected parties, and in others, the cost of litigation may be prohibitive.

For all these reasons, the damage caused by unconstitutional governance, composed of members simultaneously serving as ministers and MAs, is multidimensional. This conduct has harmed Kosovo's international image with its partners and fundamentally undermined the rule of law by filling the legal system with unlawful acts.

Such behavior represents a highly negative precedent for Kosovo's young democracy. Both citizens and international partners have a legitimate expectation that Kosovo's institutions will enforce judicial decisions, an expectation that the Kurti II Government failed to meet in this case.

Finally, it must be emphasized that this conduct also risks undermining the process of electing the new Speaker of the Assembly. On 26 August, the Assembly of Kosovo elected a new Speaker with 73 votes in favor. Among these were the votes of 17 MAs who simultaneously held positions as Government members at the time of voting. If their votes were excluded, the

²⁵ "EU Suspends Meetings with Kosovo's Caretaker Government Following Supreme Court Ruling ". Telegrafi. September 2025. (See: <https://telegrafi.com/pezullon-takimet-qeverine-ne-detyre-te-kosoves-pas-vendimit-te-gjykates-supreme/>)

²⁶ "Betimi për Drejtësi 418: Kurti's Government in Conflict of Interest ". Betimi për Drejtësi. 6 September 2025. (See: <https://betimiperdrejtesi.com/betimi-per-drejtesi-418-qeverisja-kurti-ne-konflikt-interesi/>).

election of the Speaker would not have been valid due to lack of sufficient votes. This matter may ultimately be addressed by the Constitutional Court, which could determine the validity of the election process, including the election of the Assembly's Speaker.

6. Criminal Liability

Under the Criminal Code No. 06/L-074 of the Republic of Kosovo, failure to execute judicial decisions constitutes a criminal offense, according to this Code, "*The official or responsible person who refuses to execute any final order, ruling, decision or judgment of any court in the Republic of Kosovo or who fails to execute the decision pursuant to the time frame provided by law or the time frame specified in the decision shall be punished by a fine or imprisonment of up to two (2) years*". Furthermore, if such an offence results in a severe violation of human rights or substantial material damage, the perpetrator shall be punished by imprisonment of six (6) months up to five (5) years.²⁷

In this context, the actions of the caretaker government, continuing to hold government positions even after the Supreme Court decision, constitute a criminal offense under the Criminal Code.

Regarding the execution of the Supreme Court decision, the public stance of the caretaker government was that the decision had been implemented. According to the government, the Supreme Court ruling concerned only a specific administrative instruction and did not carry the weight of precedent²⁸. In this manner, the government attempted to avoid criminal liability for non-compliance by claiming that compliance applied only to that specific administrative instruction.

This argument is not valid. While the Supreme Court decision addressed a specific administrative act, the Court's interpretation forms part of the decision itself. The Supreme Court specifically emphasized that a government member who simultaneously holds the position of a Member of Assembly cannot be considered a member of the government. This is the reason the contested administrative instruction was declared illegal and annulled.

Limiting implementation to a formal compliance with the Supreme Court ruling cannot be considered proper execution of the decision. Even if criminal liability for failing to implement a judicial decision is technically avoided, officials may still incur criminal responsibility for abuse of position or authority. According to the Criminal Code, "*An official person, who, by taking advantage of his office or official authority, exceeds the limits of his or her authorizations or does not execute his or her official duties with the intent to acquire any benefit for himself or another person or to cause damage to another person or to seriously violates the rights of another person, shall be punished by imprisonment of one (1) to eight (8) years.*"²⁹

²⁷ Article 394, Criminal Code No. 06/L-074 of the Republic of Kosovo. November, 2018.

²⁸ "Betimi për Drejtësi 418: Kurti's Government in Conflict of Interest ". Betimi për Drejtësi. 6 September 2025. (See: <https://betimiperdrejtesi.com/betimi-per-drejtesi-418-qeverisja-kurti-ne-konflikt-interesi/>).

²⁹ Article 414.1, Criminal Code No. 06/L-074 of the Republic of Kosovo. November, 2018.

Decisions issued by the government affect various stakeholders. The Supreme Court emphasized that decisions made by government members who simultaneously hold parliamentary seats are illegal. In this situation, the illegality identified by the Supreme Court continues as these individuals retain their government positions while serving as MAs, which may, in certain cases, trigger criminal liability for abuse of office or authority.

Given that the caretaker government shows no willingness to implement the Supreme Court ruling, it is crucial that the State Prosecutor act to clarify criminal liability in this matter. This issue is currently being addressed by the Special Prosecutor's Office of the Republic of Kosovo (SPRK). Regarding the illegal holding of government positions, the Democratic League of Kosovo (LDK) submitted 17 criminal complaints on 8 May 2025 against the acting Prime Minister, Albin Kurti, and acting ministers who became Members of Parliament. To date, the SPRK has not announced the outcome of these complaints.³⁰

³⁰ "Betimi për Drejtësi 418: Kurti's Government in Conflict of Interest ". Betimi për Drejtësi. 6 September 2025. (See: <https://betimiperdrejtesi.com/betimi-per-drejtesi-418-qeverisja-kurti-ne-konflikt-interesi/>).

Part II

Acting Appointments in Governance

7. Acting Appointments in Governance

When analyzing the appointment of acting officials, particularly in the context of court presidents, the Venice Commission, emphasized that such appointments should be an exception, not the rule. According to the Commission, acting appointments should occur only under extraordinary and unforeseen circumstances.³¹ Similarly, the Organization for Economic Cooperation and Development (OECD) notes that acting appointments are sometimes necessary to ensure the uninterrupted functioning of public bodies and to allow time for recruitment processes to be properly completed.³²

International standards therefore stress that acting appointments should not be treated as standard practice, but solely as exceptions. In exceptional circumstances that cannot be predicted, acting officials may be appointed to ensure that public institutions continue to function until a merit-based selection of a permanent officeholder can take place.

The opposite occurred under the Kurti II Government. During this administration, an unusually large number of positions were held by acting officials for extended periods, meaning that new permanent officeholders were not appointed through regular and merit-based recruitment processes.

According to the 2024 European Commission Report on Kosovo, *“European integration activities were negatively affected by weak administrative capacity and the fact that a significant number of key positions in public administration are held by officials serving as acting appointees”*.³³ Similarly, the 2023 report by the same Commission highlighted this issue, noting that *“The extensive use of acting positions in the civil service, particularly at senior management levels, combined with inefficient external recruitment procedures for senior management, has undermined the quality of institutional management”*.³⁴

The SIGMA monitoring report found that as of September 2024, only 15 positions were filled by permanent appointees, while the remainder continued to be occupied by acting managers.

³¹ "MONTENEGRO URGENT FOLLOW-UP OPINION ON THE REVISED DRAFT AMENDMENTS TO THE LAW ON THE JUDICIAL COUNCIL AND JUDGES". Venice Commission. Page 25. Strasbourg, 24 June 2024. (See: [https://www.venice.coe.int/ebforms/documents/default.aspx?pdffile=CDL-AD\(2024\)012-e](https://www.venice.coe.int/ebforms/documents/default.aspx?pdffile=CDL-AD(2024)012-e)).

³² "ANALYSIS OF THE PROFESSIONALISATION OF THE SENIOR CIVIL SERVICE AND THE WAY FORWARD FOR THE ÈESTERN BALKANS SIGMA Paper No. 55". Organization for Economic Cooperation and Development, p. 62. 19 July 2018. (See: [https://one.oecd.org/document/GOV/SIGMA\(2018\)1/en/pdf#:~:text=The%20institution%20of%20acting%20senior,Balkan%20legislations%20except%20the%20FBiH](https://one.oecd.org/document/GOV/SIGMA(2018)1/en/pdf#:~:text=The%20institution%20of%20acting%20senior,Balkan%20legislations%20except%20the%20FBiH)).

³³ "Kosovo 2024 Report". European Commission. Page 22. Brussel, 30 October 2024. (See: https://enlargement.ec.europa.eu/document/download/c790738e-4cf6-4a43-a8a9-43c1b6f01e10_en?filename=Kosovo+Report+2024.pdf).

³⁴ "Kosovo 2023 Report". European Commission. Page 13. Brussel, 8 October 2023. (See: [SÈD_2023_692 Kosovo report 0.pdf](#)).

According to the report, the proportion of senior officials serving in an acting capacity was extraordinarily high, reaching 85%. Only 7 out of 16 secretaries-general had been appointed through an open external recruitment process.³⁵

The 2024 annual audit report published by the National Audit Office also flagged the prolonged use of acting positions as problematic. Among the deficiencies identified regarding salaries and allowances was the continued coverage of positions by acting officials beyond the legal term limits. The report noted: *“Weaknesses were identified in the processes of recruitment, appointments, and acting assignments contrary to legal requirements, including exceeding the legal terms for acting officials...”*³⁶

For years, the Kosovo Law Institute (KLI) had raised concerns in various publications about the high number of acting appointments. However, contrary to legal requirements and international standards, the Kurti II Government treated the holding of acting positions as a standard practice rather than as an exception.

8. Legal Framework

The **Law No. 08/L-197 on Public Officials** also addresses the issue of acting appointments. According to this law: *“In the event of a vacant position within the organizational structure of the institution, the high-level executive officer of that institution shall appoint an acting officer for the vacant position by decision”*.³⁷

The law also places limits on the duration a position can be held by an acting official. Specifically: *“A public official cannot be appointed as an acting officer for longer than six (6) months. When the position cannot be filled within the six (6) month deadline, this deadline can be extended for a maximum of six (6) more months”*. The law further clarifies that a vacant position cannot be held by an acting official beyond this period, and any appointment made outside this timeframe is considered illegal.³⁸

Regarding the time limits, in June 2025, **Law No. 08/L-294 on Amending and Supplementing Law No. 08/L-197 on Public Officials** came into effect. This law extended the legal period for holding a position in an acting capacity. According to the amended law: *“A public official may not be appointed as an acting official for more than twelve (12) months, except in cases where a recruitment procedure has been announced but the position has not been filled for objective reasons.”* *“A vacant position may not be held by an acting official for more than a period of two (2) years.”*³⁹

³⁵ "Public administration in Kosovo* 2024". Page 58. SIGMA Monitoring Reports. 2025. (See: https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/01/public-administration-in-kosovo-2024_d9378da9/a53fce6b-en.pdf).

³⁶ "Annual Audit Report 2024". National Audit Office, pp. 61–62. Prishtina, August 2025. (See: https://zka-rks.org/cms/ReportFiles/2025_f55bfd12-deb7-4182-a525-d74fdb2a25fe.pdf).

³⁷ Article 35.1, Law No. 08/L-197 on Public Officials. December, 2022.

³⁸ Article 35, paragraphs 3-5. Ibid.

³⁹ Article 9, paragraphs 2 and 3. Law No. 08/L-294 on supplementing and amending Law No. 08/L-197 on Public Officials.

Thus, rather than focusing on filling vacant positions through merit-based recruitment processes, the Kurti II Government sponsored a law that extended the period during which positions could be held by acting officials. This approach runs contrary to international standards and undermines the integrity of the public administration.

9. Supreme Court Decision

Although a law had been passed limiting the duration that positions could be held by acting officials, the practice was different. In many institutions, public officials were acting officials, the practice was different. In many institutions, public officials were not appointed through merit-based recruitment even after the 12-month period had expired. In such cases, the common practice was simply to replace the name of the acting official whenever a position was not filled, despite the statutory time limit having been exceeded.

The adoption of a regulation by the Civil Aviation Authority (CAA) and its subsequent challenge prompted the Supreme Court to assess its legality. This regulation had been issued by the acting Director of the CAA, a position that had been held in an acting capacity for more than 12 months.

Interpreting the legality of issuing this regulation in the context of Article 35 of Law No. 08/L-197 on Public Officials, the Supreme Court emphasized that any legal act issued by a leader serving as an acting official beyond the one-year limit is fundamentally invalid due to the lack of legal authority to exercise the functions of that position. In this specific case, the Court noted that it was uncontested and documented fact that the leadership position of the CAA had been continuously held by an acting official for over a year without a regular appointment. Furthermore, the contested regulation was issued precisely during this exceeded period. The Supreme Court clarified that the law refers to the position as an institutional function, not the individual holding it: *“Changing the individual does not interrupt or reset the six-month or one-year period for temporarily holding the position. This approach aligns with the spirit of the law, which requires stability, professionalism, and institutional responsibility in public leadership”*.⁴⁰

For these reasons, the Court concluded that the regulation was illegal: *“The claims of the plaintiff regarding the exceeded term are grounded in explicit legal provisions and aim to protect the legitimacy of the act and the legal certainty in institutional functioning. Respecting time limits is essential for the lawful and transparent operation of public institutions. Any violation of these norms produces negative consequences for the proper application of the law and may create harmful precedents. Thus, the plaintiff’s claims are supported by principles of legality and constitutional order, as confirmed by the Court.”*⁴¹

⁴⁰ Judgment of the Supreme Court of the Republic of Kosovo (P.A. no. 07/2025), issued on 10 June 2025. Page 10. (See: https://supreme.gjyqesori-rks.org/wp-content/uploads/verdicts/SUP_07_2025_SQ.pdf).

⁴¹ Ibid.

This Supreme Court decision established that acting appointments cannot exceed the legally prescribed term, even if the acting official is replaced by another person. If this occurs, all acts issued by the acting official are considered illegal. Consequently, this ruling confirms that in all cases where positions are held by acting officials beyond the statutory limit, those positions are being occupied illegally, and any decisions issued by these officials are likewise unlawful.

10. Consequences of Governance Through Acting Officials

As noted, international standards emphasize that the appointment of acting officials should be treated solely as an exception, not as the rule. In every case, good governance standards in public administration require recruitment based on merit rather than the prolonged use of acting positions.

To avoid the need for acting appointments, institutions must carry out recruitment processes in a timely manner. Proper and regular filling of positions ensures that the number of senior civil servants serving in acting capacities is minimized, their mandate is strictly limited, and appointees come from existing civil service ranks. Acting appointments should never circumvent merit-based recruitment but should serve only as a temporary solution to address a vacancy until a permanent, merit-based appointment can be made.⁴² However, as highlighted, the Kurti II Government has been characterized as a government operating through acting officials. Available data show that this government treated acting appointments as a principle rather than as an exception.

The practice of holding positions in an acting capacity has multidimensional consequences. Under Law No. 08/L-197 on Public Officials and the Supreme Court's ruling regarding the Civil Aviation Authority (AAC), holding a position beyond the legally permitted timeframe constitutes illegal exercise of that role. This approach creates institutional paralysis, as it prevents the regular functioning of the institution. Any decision issued by an acting official beyond the legally permitted timeframe is considered unlawful.

Acting appointments also undermine proper administration within institutions. Acting officials hold their positions temporarily and typically lack a clear vision or plan for advancing the institution. Therefore, acting appointments hinder the development and professional growth of public administration institutions.

Additionally, acting appointments are often a source of corruption. They can be exploited to bypass merit-based recruitment processes. Regular recruitment procedures are generally more rigorous, and circumventing them can facilitate the appointment of relatives or allies to acting positions. Lack of formalized procedures also allows unqualified individuals to assume these

⁴² "ANALYSIS OF THE PROFESSIONALISATION OF THE SENIOR CIVIL SERVICE AND THE WAY FORWARD FOR THE ĒESTERN BALKANS SIGMA Paper No. 55". Organization for Economic Cooperation and Development, p. 28. 19 July 2018. (See: [https://one.oecd.org/document/GOV/SIGMA\(2018\)1/en/pdf](https://one.oecd.org/document/GOV/SIGMA(2018)1/en/pdf)).

roles. Consequently, the very process of appointing acting officials carries a significant potential for corruption.⁴³

A 2025 report by the National Anti-Corruption Council analyzed this issue in the context of state capture and abuse of temporary appointments in South Africa. It found that appointing senior managers as acting officials was deliberately used to protect corrupt officials and remove those attempting to hold them accountable. A common tactic involved placing individuals in temporary positions so they could be easily removed if they failed to follow political superiors' orders, thereby fostering political dependency, lack of professionalism, and a toxic institutional culture.⁴⁴

Thus, the issue of acting appointments is not merely a question of public administration management. Treating what should be an exceptional measure as the standard created a serious source of corruption due to the lack of procedures for appointment and insufficient legal protection for acting officials against arbitrary removal.

For all these reasons, governance through acting officials represents the opposite of good governance. This approach, as followed by the Kurti II Government, must be avoided. Instead, institutions should strictly adhere to merit-based recruitment processes for permanent appointments rather than relying on acting officials.

⁴³ "Acting appointments open door to abuse". Sunday Times. 10 August 2014. (See: <https://www.timeslive.co.za/sunday-times/business/2014-08-10-acting-appointments-open-door-to-abuse/#:~:text=As%20you%20suggest%2C%20they%20can.It%20defines>)

⁴⁴ "Final Report To the President, the Cabinet, and the Country". National Anti-Corruption Advisory Council. Page 57. August 2025. (See: <https://thepresidency.gov.za/sites/default/files/2025-09/National%20Anti-Corruption%20Advisory%20Council%20Final%20Report%202025.pdf#:~:text=they%20hold,and%20interfere,nce%20in%20their%20jobs>).