

ELECTION OF PRESIDENT BY PEOPLE: NECESSITY OF TIME OR COMMON RHETORIC?

COMPARISON OF MODELS AND CITIZEN POLLS (DISCUSSION PAPER)

JULY 2015, PRISHTINË.









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1. INTRODUCTION

Election system in Kosovo was designed by the international community with a minor role played by locals. The primary goal of the system was to protect and advance community rights through granting them with the relevant role for constitutional changes and reserved seats, as well as to ensure broader participation of women in policy-making by introducing gender quota. Changes that occurred in the election system in the meantime, where locals played a larger role, did not take into consideration citizens' will, furthermore, the latter were not even informed about changes being introduced. The debate on direct election of the President in Kosovo never took place in a structured way. Initiatives taken, either institutional or individual, were more reactive, just to overcome situations produced by political crisis.

There is a conviction that with direct election of the President, increase of his/her competences should follow, since otherwise the efforts and cost incurred by organizing such election would be meaningless. Also, it is thought that by changing the model from the parliamentarian to people one, the shift from the parliamentarian system to presidential or semi-presidential system also takes place. This paper aims to clarify these dilemmas by comparing practices in other countries.

The paper chronologically analyses political processes and procedures for electing Presidents during the post-war period in Kosovo. It also analyses results of the work of the committee on constitutional changes for direct election of the president, and it elaborates envisioned procedures in the Draft-bill on Presidential Elections, including judgement of the Constitutional Court. The remaining part is focused on comparison of competences and ways in which Presidents are elected in countries with a parliamentary system of governance, with the focus on regional countries, mandates, and candidacy requirements. Meanwhile, in the final section of the paper, we have interpreted survey data conducted with citizens with regard to their preferences about the format of election of President in Kosovo.

1.1. METHODOLOGY

In this paper, adequate literature for elections systems were reviewed, competences of presidents and their mandates in 27 different country constitutions, laws, and international standards were compared. The analysed data were collected into a database, and they served later for comparisons. To better understand citizens' preferences, a professional company (UBO consulting) was contracted to conduct public opinion polls. Public opinion polls were conducted in 38 municipalities of Kosovo, utilizing a quantitative research method. To determine the sample for the research, "the stratified random sampling" technique was applied, where the general population was divided into smaller groups known as strata – based on the common characteristics of the members of these strata. The first stratification was applied considering ethnic background; the second stratification was based on location (urban and rural), and the third stratification was based on the number of surveys collected in each location (starting point). Starting points for this research were randomly assigned. The field research was conducted from June 26 to July 6 2015. This research has a reliability rate at 95%, and

error margin of $\pm 3.1\%$. A total number of 1000 citizens of Kosovo over 18 were surveyed for this research, including: Albanians (750), Serbs (150) and members of other communities (100). Sample was later weighted to reflect the ethnic structure in Kosovo.

Opinion of experts and representatives of political parties was also sought, knowing that the topic had not been comprehensively addressed in Kosovo. Consultations with experts were focused on advantages and disadvantages of direct election of president, while the discussion with representatives of political entities was focused on their positions regarding this format of election.

Following the presentation of the first draft of the paper, a discussion meeting was organized. Representatives of political parties, experts of legal and constitutional issues, public policy researchers, and civil society organizations attended the meeting. Comments and suggestions obtained during the meeting were analysed and addressed in the paper.

2. ELECTION OF PRESIDENT IN KOSOVO

2.1. BACKGROUND TO ELECTION OF PRESIDENTS

Since the first post-war parliamentary elections (2001) until now, Kosovo had four presidents. Their election was accompanied with institutional crisis and numerous political bargains, while Constitutional Court "took care" for termination of the mandate of two of them, whose judgements continue to be debated to date.

Initially Kosovo was under interim international administration and a Constitutional Framework was in force. Kosovo's President had limited competencies, while to exercise the function the President needed to coordinate with the Special Representative of the Secretary General (SRSG)¹. Nomination for Kosovo's President required support of the party that won the majority of seats at the Assembly or at least has 25 members of parliament. The Assembly elected the President with the majority of two thirds (2/3) of votes of members of parliament. If after two voting rounds, the two-thirds of votes would not be reached, in the third round, the majority of votes of all members of parliament were required. The mandate of the President lasted for three years, while in addition to resignation, President's mandate could be terminated with dismissal through votes of not less than 2/3 of all members of the Assembly.

Upon declaration of independence in 2008 and adoption of the Constitution of the Republic of Kosovo, President continued to be elected by the Assembly. Any Kosovo citizen who has turned 35 and ensures the support of at least 30 members of the parliament may be nominated as a candidate for President². President is elected through secret voting with 2/3 of votes of all members of Parliament. If no candidate receives the majority of 2/3 during the first two voting rounds, a third round between the two most voted candidates is organized, and the candidate who wins the largest number of votes of all members of parliament is elected as President of the Republic of Kosovo.³ President's mandate lasts for five years, with only one possibility for re-election.

The first voting for Kosovo's President took place in December 2001, with a single candidate, then LDK chairman Ibrahim Rugova. Upon failure to elect Kosovo's President in the first round, since votes of 2/3 of members of the parliament were not obtained, the second voting took place a month later on 10 January 2002, where the same candidate was not successful to be elected. Recognizing that Kosovo's President could not be elected in the third voting either, even though only the majority of the votes of members of the parliament were needed, LDK entered into coalition with PDK and AAK, keeping President's post for itself. On 4 March 2002, Kosovo's Assembly elected Ibrahim Rugova as Kosovo's President, and voting took place in package that included Prime Minister and the Government Cabinet⁴.

After second parliamentary elections, Kosovo's Assembly in its constitutive session held on 3

¹ Constitutional Framework for Interim Self-Government of Kosovo, Chapter 9.2.1.

² Constitution of the Republic of Kosovo, Article 86.3.

³ Ibid, Article 86.5.

⁴ Mbi 10 vjet parlamentarizëm në Kosovë. (2013). *Instituti Demokratik i Kosovës*. Prishtinë: Forumi 2015.

December 2004 elected Ibrahim Rugova for Kosovo's President for the second time. This time Ibrahim Rugova was not the only candidate for President since PDK had proposed Ramë Buja as its candidate. Since the competition included a counter candidate, then Assembly speaker Nexhat Daci proposed breach of the rules for election of the President so that after the first voting, the candidate who won the majority of votes would be elected President. The proposal was opposed by opposition political parties, and the decision was made to proceed with election based on applicable rules. This time there was no voting "in package" as was the case the first time Kosovo's President was elected. Kosovo's President was elected in the third round of voting⁵. The second mandate of Mr. Rugova was cut in half due to his death on 21 January 2006.

On 10 February 2006, Fatmir Sejdiu from LDK was elected as new President of the country. Mr. Sejdiu was elected after the third round of voting as well, and when he needed only 61 votes of present members of parliament to be elected, he got 80 votes. Even though the legal basis at the time was not very clear with regard to whether Mr. Sejdiu had to continue the Rugova's cut in half mandate or initiate a full mandate, based on the coalition agreement between PDK and LDK it was decided that the post of Assembly speaker would also be voted on. In the session held on 9 January 2008, Fatmir Sejdiu initially resigned from his post as President of the country, and rerun again for office for a new mandate. AAK Member of Parliament Naim Maloku, who had collected 25 signatures required to run for President, was counter-candidate to Fatmir Sejdiu. Introduction of the counter-candidate silenced the voices that asked for voting in package for President, Prime Minister, and Government Cabinet. Kosovo's President was elected after the third round of voting when he received 68 votes of members of parliament.

The judgement from the Constitutional Court confirmed that Mr. Sejdiu as President of the country had violated the Constitution by holding the post of LDK chairman simultaneously, and he offered his resignation on 27 September 2010. The decision was followed with his party LDK leaving the government coalition, which was followed with the counter-response from PDK, which supported by AKR, put forth a successful no-confidence motion against the Government that was led by PDK itself. With this step, the government fell, and the country had early elections on 12 December 2010.

After parliamentary elections of 2010, two political parties, PDK and AKR reached the agreement for co-governance. According to the coalition government, two main political posts of the country were shared between the two parties, where the post of Prime Minister belonged to PDK chairman Mr. Hashim Thaçi, while President's post belonged to AKR chairman Mr. Behxhet Pacolli⁶. On 22 February 2011, The Assembly elected Behxhet Pacolli as President with 64 votes pro, 4 against, and 1 abstained⁷. After only 37 days in President's post, Mr. Pacolli was forced to resign since the Constitutional Court judges that his election without a

⁵ Mbi 10 vjet parlamentarizëm në Kosovë. (2013). *Instituti Demokratik i Kosovës*. Prishtinë: Forumi 2015.

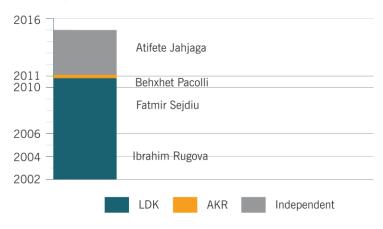
⁶ PDK arrin marrëveshje me AKR-në, Pacolli President. *Ekonomia*. Accessed on 20 May 2015, http://www.ekonomia-ks.com/?page=1,20,11266

⁷ Gjykata kushtetuese: Zgjedhja e Pacollit jo kushtetuese. DW. Accessed on 21 May 2015, http://www.dw.de/gjykata-kushtetuese-zgjedhja-e-pacollit-jo-kushtetuese/a-14951079

counter-candidate was a violation of requirements set in the Constitution⁸.

Behxhet Pacolli's resignation from President's post resulted with an institutional crisis, since in case of failure to elect President within the Constitutional timeline of 60 days, the Assembly would be dissolved and the country would have to hold extraordinary elections. On 6 April 2011, three political leaders, Hashim Thaçi - PDK, Isa Mustafa - LDK and Behgjet Pacolli – AKR, with mediation of the then US ambassador Mr. Christopher Dell, reached an agreement to overcome the institutional crisis ¹⁰. The reached agreement envisioned that Ms. Atifete Jahjaga be a joint candidate for President for a transitory period of time, until the required constitutional changes would take place to elect the President directly by the people ¹¹.

On 7 April 2011, Kosovo's Assembly in an unusual session elected Ms. Atifete Jahjaga as new President, who until then served as deputy director general of Kosovo Police. Ms. Jahjaga, for the first time in the history of parliamentarianism in Kosovo, managed to be elected in the first round of voting with 2/3 of votes of members of parliament. She was also the first woman President in Kosovo, and the first President that did not come from political parties. Despite the fact that Jahjaga was elected to serve for a transitory period of time, until the required constitutional changes to elect the president directly were introduced, the Constitutional Court judged that early termination of President's mandate, caused by introduction of a new election system, reduced rights and freedoms defined in Chapter II of the Constitution¹². Constitution's judgement made it possible for Jahjaga to keep her regular mandate of five years.



Graph 1: Timelines of Kosovo Presidents since 2002

Source: Website of President's Office of the Republic of Kosovo

⁸ Aktgjykim në Rastin Nr. KO 29/11. (30 March 2011). Gjykatat Kushtetuese e Republikës së Kosovës. http://www.gjk-ks.org/repository/docs/ko 29 11 agj om shq.pdf

⁹ Kushtetuta e Republikës së Kosovës, Neni 82.1

¹⁰ Kosovë, arrihet marrëveshja për tejkalimin e krizës, ABC News. Qasur më 20 maj 2015, http://www.abcnews.al/lajme/rajoni/7/4878

¹¹ Kryeministri Thaçi: Ne që të tre liderë të tri partive tona, të PDK-së, LDK-së dhe AKR-së kemi arritur një marrëveshje për Kosovën e reformave, për Kosovën evropiane. *Zyra e Kryeministrit të Republikës së Kosovës*. Accessed on 21 May 2015, http://www.kryeministri-ks.net/?page=1,9,1942

¹² Aktgjykim në Rastet K.O. 29/12 dhe K.O. 48/12. (20 July 2012). Gjykatat Kushtetuese e Republikës së Kosovës.

2.2. COMPETENCIES OF THE PRESIDENT OF THE REPUBLIC OF KOSOVO

Since Kosovo is a parliamentary republic, according to the power-sharing principle President is the head of state and represents the unity of the people, while Prime Minister is the head of government. Currently, the constitution defines 30 competencies for the President¹³, for the majority of which President must have 'mandatory consultations' with the prime minister r other institutions. In essence, President's competencies for appointments are mainly limited to approval of appointments proposed by other bodies. President has a minor official role on legislative agenda, besides the veto that may be exercised once against a proposed law. Although the President has the power to lead foreign policy, she/he however has to exercise this right in cooperation with the Minister of Foreign Affairs. While President is the Supreme Commander of Armed Forces, Prime Minister chairs Kosovo's Security Council that is responsible for drafting security policies. The President has broader competencies to announce state of emergency, but the Assembly ultimately may impose limitations to those competencies. Constitution, deliberately forces President to work closely with the Prime Minister; therefore President has relatively limited power to act independently from government¹⁴. President's competencies cover foreign policy, defence, security, judiciary, legislation, and communities. Annex A includes President's competencies as defined by constitution and divided according to areas of competencies and proposals from other institutions.

2.3. INITIATIVES TO ELECT PRESIDENT DIRECTLY

A. AGREEMENT AMONG THREE POLITICAL LEADERS TURNS INTO AN ASSEMBLY RESOLUTION

As a result of the Memorandum of Agreement among three political leaders (PDK, LDK and AKR), that envisions direct election of President, on 7 April 2011 4th Legislature of the Kosovo Assembly approved a resolution which expressed support for the agreement and backed commitments and timelines it contained ¹⁵. The second point of this resolution envisioned establishment of a special committee that would deal with the proposals about required constitutional and legal changes pertaining to the direct election of President by people. The mandate of this committee was thought to last for six to nine months, while first presidential elections would be held not later than six months after constitutional and legislative changes would enter into force.

¹³ Constitution of the Republic of Kosovo, Article 84.

¹⁴ Judge John R. Tuhheim, Memorandum #5 addressed to the Committee on Constitutional Reform, 9 July 2011

¹⁵ Resolution in support of Memoradnum of Agreement among Mr. Behgjet Pacolli, Mr. Isa Mustafa and Mr. Hashim Thaçi. 4th Legislation of the Assembly of the Republic of Kosovo. http://www.kuvendikosoves.org/common/docs/Rezoluta Pacolli Mustafa Thaci shq.pdf

B. AD-HOC COMMITTEE ON CONSTITUTIONAL CHANGES AND JUDGEMENT OF CONSTITIONAL COURT

On 22 April 2011, the Assembly made the decision to establish the Committee on Constitutional Changes (Committee), and drafting of draft-bill on Presidential Elections¹⁶. For more than 9 months, the Committee was not successful on delivering the work it was required and thus three additional months were granted to it.

On 20 March 2012, the Committee submitted proposals for constitutional changes related to direct election of the President, while on 23 March Assembly Speaker submitted the constitutional package for review to the Constitutional Court. On 4 May 2012, a new package of constitutional changes was submitted by 30 members of the parliament to the Constitutional Court. Changes address the power of the President to appoint and reject candidates for Director of Intelligence Agency post, Ombudsperson, and the veto right related to approval of laws. The Assembly may over-vote (overrule) President's veto against an approved law with majority of votes of all members of the parliament plus ten per cent other additional votes and then that law is deemed promulgated. President's competencies in leading foreign policy were reduced, since she/he has to cooperate with the Government in this sector, and establishment of diplomatic and consular missions is completed upon proposal of the Government.

Full opinion of the Court was released on 20 July 2012, where the conclusion was reached that the majority of provisions of constitutional amendments did not reduce human fundamental rights and freedoms, however eight of those amendments were considered to reduce those rights and thus were considered not to be in compliance with the Constitution.

Following proposed amendments were considered to reduce human rights:

- 1. On limitation of right to be a candidate for President only for citizens who have been permanent resident of the Republic of Kosovo for five years;
- 2. On proposals for post of Kosovo's President because it had to do only with the parliamentary political parties that have passed the electoral threshold in last elections;
- 3. On limitation of competencies of Acting President to announce the state of emergency;
- 4. On limitation of competencies of Acting President to appoint judges and prosecutors;
- 5. On limitation of competencies of Acting President to grant pardons;
- 6. On suspending veto of the President to appoint judges to regular courts;
- 7. On suspending veto of the President to appoint judges to the Constitutional Court;
- 8. On interim termination of the mandate of the Republic of Kosovo President.

C. PROCEDURES ENVISIONED FOR DIRECT ELECTION OF PRESIDENT BY PEOPLE

In March 2012, Committee on Constitutional Changes finalized draft-bill on Election of President of the Republic of Kosovo. This draft-bill aims to regulate direct election of President, from the moment of announcing elections to taking the oath. Next, the procedures for election

¹⁶ U mbajt mbledhja konstituive e Komisionit për Ndryshime Kushtetuese. Kuvendi i Republikë së Kosovës. Accessed on 25 May 2015, http://www.assembly-kosova.org/?cid=1,128,3689

of the President as stipulated in the draft-bill are provided:

2015 2016 Elections Beginning of the Election Campaign Candidatures submitted to the CEC After taking the oath before the President of the Constitutional Court Announcement of Presidential The second round of elections From the President of the Assembly The President's term begins The first round of elections Certification of results If necessary 29 March **April** September October **November December** January **February** May

Graph 2: Calendar of presidential elections 2016 – in case of direct elections

Source: Draft-bill on Election of President of the Republic of Kosovo

Election announcement date - Draft-bill envisions that Assembly Speaker announces the date for presidential elections six months prior to termination of the regular President's mandate. First round of elections must be held not later than 60 days prior to termination of regular President's mandate, and if it is necessary to have a second round of elections, it must be held not later than 21 days after the first round of elections.

Candidate qualifications – All Kosovo citizens may qualify to be certified, as candidates for President if at the moment of candidacy are at least 35 years old.

All citizens that meet the requirements may run for President's office in one of the three following ways:

- i. By lawful political entities registered in Kosovo;
- ii. By entities that hold reserved seats at the Assembly; or
- iii. By submitting a petition to CEC that contains at least 15,000 signatures of citizens who are eligible voters.

Collection of signatures starts only after elections have been announced. An eligible voter may support the candidacy of only one candidate for President by signing only one petition for a candidacy. The form for candidacy of candidates is submitted to CEC not later than 70 days prior to election date.

Rules of **election campaign** defined in the Law on General Elections also apply to presidential elections, and duration of the campaign is 30 days, while funds for financing the campaign can

be raised from the day when candidacy procedure starts. None of the candidates may spend more than 0.001% of the total Kosovo's budget for election campaign activities.

President's Election takes place if a candidate receives more than 50% of valid votes. If none of the candidates wins more than 50% of total votes, then a second round of elections with two candidates that won the most votes in the first round takes place.

President's Oath takes place in the morning at 11am when the mandate of outgoing President terminates. President takes the oath in front of the Chair of Constitutional Court in Kosovo's capital.

President's Mandate lasts for 5 years and starts at the moment when oath is taken. President may be re-elected for another mandate only. Certification of final results is completed not later than ten days before termination of regular President's mandate.

According to proposed constitutional changes, President's mandate may be terminated if:

- 1. She/he resigns by submitted the letter of resignation to the Chair of Constitutional Court. Resignation is valid at the moment when resignation letter is received by Chair of Constitutional Court and it is irrevocable.
- 2. A Consilium of Doctors states that the President is not able to exercise her/his competencies for a period longer than six months, Assembly, with votes of 2/3 of all members of parliament, announces President's post as vacant.

While, **President's dismissal** occurs if she/he is sentenced for perpetrating a serious crime while in office, or if the Constitutional Court states that she/he seriously violated the Constitution, or if she/he commits an act of treason against the country. For these cases, the procedure to dismiss the President may be initiated by 1/3 of members of parliament or 30,000 signatures of eligible voters. Prior to submission to the Constitutional Court for review, petition must be approved with 2/3 of votes of all Assembly members. For a President to be considered dismissed, at least votes of seven judges of the Constitutional Court are required.

President's Election by people is accompanied with the **financial costs** that are charged to Kosovo's budget. Central Election Commission is responsible to administer presidential elections process, while the costs to be incurred are difficult to be estimated at this point since the cost depends on the number of eligible voters, number of polling stations, etc. An estimation about the cost, considering the cost of last parliamentary elections – since administration operation is similar – turns out to be about 6.3 million Euros¹⁷, without including the second round of elections as envisioned by the draft-bill on Election of President, as well as funds that are allocated by Kosovo's budget to cover the expenses of election campaigns of candidates.

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¹⁷ Telegrafi, 'Zgjedhjet 'kushtojnë' 6.3 milionë euro'. Accessed on 26 June 2015, http://www.telegrafi.com/lajme/zgjedhjet-kushtojne-6-3-milione-euro-2-44718.html

PDK-LDK AGREEMENT ON ELECTION OF PRESIDENT 2.4.

After parliamentary elections held in June 2014, PDK was the party with the largest number of Assembly members (37 members), but it could not find a coalition partner to establish the Government. On the other hand, parties which were in opposition in the previous legislation, LDK, AAK and newest political entity Nisma (Initiative - as a splinter faction of PDK) reached an agreement for co-governance¹⁸. According to the agreement, Prime Minister's post would belong to AAK, while LDK would take the Assembly Speaker and President's post after mandate of Ms. Jahjaga would end. Later Vetëvendosje Movement also joined the bloc of three parties¹⁹, that otherwise became known as VLAN.

Despite the fact that VLAN had the required votes to establish the government, PDK insisted that it had the right to nominate their candidate for Prime Minister, and blocked the process through the session chair that came from PDK and she was in the position as the oldest member of the parliament. PDK position was supported by the Constitutional Court, which recognized the right for the party that came out as first in the election to propose its candidate for Assembly speaker, and for Prime Minister in the first round of voting. In the second round of voting, the proposal for the nominee for Prime Minister was left to the discretion of the President by the Court. Events that followed resulted with the largest institutional crisis that Kosovo experienced since the end of the war. For about six months the country did not have operational institutions, while in December 2014 LDK returned to PDK with the agreement for co-governance. Among else, the agreement assigns specific names to senior state posits. Based on the agreement, Isa Mustafa, the LDK chairman, was elected Prime Minister, Kadri Veseli, PDK deputy chairman, was elected Assembly speaker, while for President's post it was agreed that PDK Chairman Hashim Thaci would be voted, upon termination of current President's mandate and in compliance with the Constitution.²⁰

When there is less than a year until completion of current President's mandate, the President hopeful to replace her in the post, Mr. Thaci, unexpectedly has reintroduced the idea for direct election of the president. Through intensification of public statements, he stated that he prefers this election model²¹. Furthermore he has announced that he will soon initiate his campaign to present his platform, and he has spoken about a new presidential model and election transparency that would be achieved through a reform for the country 22, which implies constitutional changes that need to be introduced to open the path for direct election of the president. He stated that citizens should not be surprised by ad-hoc ideas that emerge from political elite, alluding to the manner in which the decision was made to elect Ms. Jahjaga in President's post.

¹⁸ Ja çfarë thotë marrëveshja LDK-AAK-NISMA. *Telegrafi*. Accessed on 21 May 2015. http://www.telegrafi.com/lajme/ja-cfare-thote-marreveshja-ldk-aak-nisma-2-46129.html

¹⁹ Marrëveshia LAN – Vetëvendosje. Koha. Accessed on 21 May 2015. http://koha.net/?id=27&l=24797

²⁰ Ja Marrëveshja e Plotë PDK- LDK. Kallxo.com. Accessed on 21 May 2015, http://live.kallxo.com/sq/MTL/Ja-Marreveshja-e-Plote-PDK-LDK-Dokument-3525

²¹ Thaçi thotë se preferon të bëhet president përmes votës së popullit të Kosovës. *Lajmi*. Accessed on 21 May 2015. http://lajmi.net/thaci-thote-se-preferon-te-behet-president-me-voten-e-popullit-te-kosoves/

²² Ibid.

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The PDK deputy chairman Kadri Veseli has supported the idea of PDK chairman, and Mr. Veseli has announced 'a historic competition for President'²³. Of course, Mr. Veseli did not refer to election of President by the Assembly here, since there would be nothing historic if the election model remains the same, and it would be even less of a "historic competition" if two largest political parties at the Assembly agreed to vote for a candidate as it has happened in the past.

In case of direct elections, LDK members of parliament want to have their own candidate²⁴, despite the fact that their chairman has reiterated he will respect the agreement reached with PDK²⁵, without specifying whether the support applies to direct elections. On the other hand, PDK expects LDK support irrespective of the model applied for President's election²⁶. Furthermore, in case support is not provided, PDK has announced they will end agreement for co-governance with LDK²⁷.

Current President's competencies seem to be insufficient for PDK chairman, if he manages to be elected for the post. He has asked for more executive competencies as future President and at the same time to respect constitutional and legal frameworks of power sharing²⁸, irrespective of the fact that adding more executive competencies for the President in parliamentary republics causes conflicts in exercising duties between President and Prime Minister. Thus, adding executive competencies for the President violates Kosovo's constitutional frameworks and principles of power sharing. This does not apply to the election model since in parliamentary republics too President may be elected directly, but she/he may have only ceremonial competencies and not be a source of pure power.

Constitutional changes that include definition of President's election model require 2/3 of votes of all members of parliament, including 2/3 of the votes of members of parliament from national minorities that hold guaranteed seats. On the other hand, numeric power of opposition parties represented at the Assembly is low and often disregarded by government coalition parties. PDK chairman, despite the fact that he has highlighted the need for involvement of al parliamentarian parties in the process, disregarded the opposition relying on all the votes of the governing coalition, which according to him 'has the power to push forward important processes for entire country'²⁹. However, for now, opposition parties are against direct election

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²³ Veseli: Do ta fitojmë garën për president, http://www.indeksonline.net/?FaqeID=2&LajmID=160544

²⁴ LDK MP Armend Zemaj, in his statement to Rrokum TV, see: http://rrokum.tv/3/zemaj-nese-thaci-bahet-president-me-vote-popullore-ldk-s039duhet-me-perkrahe-17140, and statement of LDK MP Arben Gashi, in Klan Kosova's Infomagazinë show, on 21 May 2015. Other LDK MPs who stated that LDK must have its own candidate for president include: Vjosa Osmani, Adem Salihaj, Doruntinë Maloku and Sadri Ferati: See: http://www.rtklive.com/?id=2&r=31288

²⁵ Hashim Thaçi president në vitin 2016. Zëri. Accessed 22 May 2015, http://zeri.info/aktuale/21367/hashim-thaci-president-ne-vitin-2016-foto/

²⁶ Thaçi, president në të dy variantet. Lajmi.net. Accessed 23 May 2015, http://lajmi.net/thaci-president-ne-te-dy-variantet/#sthash.ocmfJ6vP.dpuf

²⁷ Musmurati: Thaçi president ose prishet marrëveshja me LDK-në. RTK Live. Accessed 22 May 2015. http://www.rtklive.com/?id=2&r=31288

²⁸ Bashkimi sipas tyre. *Politiko*. Accessed 21 May 2015. http://politiko.net/bashkimi-sipas-tyre/#sthash.ybi3USvB.dpuf

²⁹ http://lajmi.net/thaci-po-manipulohet-me-shifrat-e-emigranteve-ilegal/

of President³⁰ and their reluctance relies more on 'executive competencies' that the future President may exercise, which according to them would shift the country to a presidential system³¹. Vetëvendosje Movement, even though it is organized according to the principle of direct democracy, it is against this principle when it comes to election of President by people³². Vetëvendosje prefers election of President by the Assembly, i.e. through representative democracy, but through the qualified majority and not through simple majority, as is possible now in the third round of voting³³. Alliance for the Future of Kosovo is against changing the system, which according to them, is being demanded because of interests of certain persons³⁴. For the other opposition party – Initiative for Kosovo – election model is not important³⁵.

Table 1: Positions of political parties for election of the President

Election model	PDK	LDK	VV	AAK	NISMA
Direct	X	X			X
Assembly			X	X	X

Source: Statements for media of political party entities

In case of re-designing of election model and revision of President's competencies, individual persons should never be taken into account while doing so. Election model and President's competencies should be defined so that the institution is operationalized and the political pillar of the system is maintained. When changing the President's election model is considered, two core questions must be addressed:

- i. Is the seating President managing to fulfil competencies in the current election system?
- ii. Does direct election of President by the people make President's institution less party-oriented?

If we state that election model is the problem for operationalization of President's competencies and maintaining political impartiality, then another solution-model needs to be found so that more competencies are added or removed or election model is changed. If adding more competencies is needed, that should be done with the purpose to assist not to increase the power but to make possible counterbalance of Prime Minister's power more effectively.

In Kosovo, the election reform became a current topic either in the eve of elections or after elections, which mainly was highlights as a justification of political parties in front of their membership for poor election results, where election system or weaknesses in the election law in general are blamed. Furthermore, statements of political parties for a President that is elected

 $^{^{30}}$ Gazeta Zëri. Thaçi i frikësohet votës së Kuvendit. Thursday, 21 May 2015. Page 3.

³¹ http://lajmi.net/grabovci-me-vote-te-popullit-apo-te-deputeteve-thaci-do-te-jete-president/

³² Norë Shabani, "Demokracia e brendshme e subjekteve politike vetëm në statutet e tyre". Koha Ditore, 9 June 2015, p. 7

³³ Norë Shabani, "Demokracia e brendshme e subjekteve politike vetëm në statutet e tyre". Koha Ditore, 9 June 2015, p. 7

³⁴ Grabovci: Prej popullit a prej Kuvendit Thaçi bëhet president. *Gazeta Tribuna*. Accessed 28 May 2015, http://gazetatribuna.com/lajme/grabovci-prej-popullit-a-prej-kuvendit-thaci-behet-president/

³⁵ Norë Shabani, "*Demokracia e brendshme e subjekteve politike vetëm në statutet e tyre*". Koha Ditore, 9 June 2015, p. 7

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by the people are considered more as populist statements even though they clearly don't prefer this model. The majority have calculated that it would be better if they state something that citizens prefer with intentions to win votes or show off as reformers³⁶. Citizen's disappointment with political elite have pushed them to seek salvation to an imaginary super-person, who will resolve all problems in the country. Such an expectation is considered naive and unrealistic since chances are that the President will be elected according to the will of political parties and chances that a fresh leader may enter from outside and challenge the established elite are extremely thin.³⁷

Venice Commission - whose member is Kosovo as well - recommends that changes into election systems must be made at least a year before the elections are held.³⁸ On the other hand, for constitutional and legal changes to take place according to regular procedures it takes a period of time of at least two months. In case of changing the model of President's election in Kosovo according to the procedures explained in Graph 2, all legal changes must enter into force by September 2015 at latest.

³⁶ Malazogu, L. dhe Kllokoqli, S. "*Deforma Zgjedhore*". (2013). Demokraci për Zhvillim: Prishtinë, p. 15

³⁷ Ibid

³⁸ Kodi i praktikës së mirë në çështjet zgjedhore. (2002). Komisioni i Venecias: II.2.B

3. ELECTION OF PRESIDENTS IN EUROPE

Head of state is the highest constitutional post in sovereign states that has the power to represent the state. In the majority of countries, the head of state is a physical person, but it may also include a number of persons as is the case in Switzerland and Presidency of Bosnia and Herzegovina. In two other countries, President's post is held by two persons simultaneously: Principality of Andorra and San Marino. Role and functions of the office of head of state may change from clear ceremonial or symbolic competencies to real executive competencies.

In parliamentary systems such as Germany or in constitutional monarchies such as the United Kingdom, for example, president and monarch are known as heads of state while the chancellor and Prime Minister are known as heads of government. Usually if the prime minister has more executive power, then the role of the president is mainly ceremonial. However, in republics with a presidential system, such as in the Unites States of America and Brazil, their presidents are known as both as heads of state and heads of Government. When the constitution guarantees larger executive power for the Presidency, then the president enjoys a more significant role in the government and the role of the prime minister is weaker.

GOVERNING SYSTEMS
Parliamentary system
Semi-presidential system
Constitutional Monarchies

ELECTION MODEL
Parliament
Inherited

Graph 3: Way to elect President/Head of State according to governing systems

Source: International Institute for Democracy and Election Assistance (IDEA)

Among different models for organizing states, which produce varied political systems, there are four main models when it comes to heads of states, including:

2. **Parliamentary system**, with two sub-types:

- a. Standard model, where the head of state, in theory, possesses key executive competences, but exercising those competencies takes place in mandatory consultation with the head of the government.
- b. Non-executive model, in which the head of state does not have any executive competency, or has very limited competencies, and they mainly have a ceremonial or symbolic role.

The way to elect the President in parliamentary systems is direct by the people, or by members of the parliament. President serves for a time-limited mandate, where the mandate may last from three to seven years. Depending from the country, President may serve for one mandate only (Malta), for two consecutive mandates without right to re-election (Croatia), or may serve beyond the second mandate if she/he rests for one mandate (Austria). But, there are also places where there are no limitations to President's mandate at all (Italy and Iceland).

- 3. **Semi-presidential system**, where the head of state shares key executive competencies with the Prime Minister or Government Cabinet. Usually, President deals with foreign affairs, while the Prime Minister with internal affairs. In cases when these two posts are exercised by representatives that come from different political parties the situation is known as cohabitation. The way to elect the President in semi-presidential republics is direct by the people and it applies for a mandate with a limited period of time.
- 4. **Presidential system**, where the head of state is also the head of the government and she/he has all executive competencies. The way to elect the President in presidential republics is direct by the people and it applies for a mandate with a limited period of time.
- 5. **Constitutional Monarchies,** where the head of state is the monarch, and she/he has ceremonial and symbolic competencies. Their mandate is permanent and the post is inherited by members of the same family. In constitutional monarchies, executive competencies are exercised by the Prime Minister as head of the government.

3.1. ELECTION SYSTEMS FOR DIRECT ELECTION OF THE PRESIDENT

Election system for the President must be distinguished from election system for parliamentary elections. A country may apply a different election system for the President and another one for parliamentary elections. Three branches of election systems include the majority system, proportional representation, and a mixed system with elements of the majority system and that of proportional representation. President's election in presidential and semi-presidential

systems is done directly by the people due to executive competencies they enjoy, while in parliamentary systems President's election may take place either directly by the electorate or by members of the parliament. Furthermore, cases of president's election by the Assembly in parliamentary republics are more seldom. In parliamentary systems President cannot have executive competencies, but only ceremonial and symbolic ones.

For direct election of the President by the electorate, usually a majority system with varied voting variants is applied. Three of the most used systems for President's election include the following:

A. FIRST-PAST-THE-POST (FPTP)

A First-past-the-post is the simplest form for President's election. The winning candidate is the one who wins most votes compared to all other competing candidates, even if this does not mean the absolute majority of valid votes.

Such a system is less costly and more efficient, but it leaves the opportunity open for President to be elected with very few votes, while the majority of the electorate might have voted against her/him³⁹.

B. TWO-ROUND SYSTEM (TRS)

Two-round System is a majority system in which a new round of elections takes place if none of the candidates wins the absolute majority of the vote in the first round (50 per cent plus one). Usually, the two candidates that won most votes in the first round run for office in the second round. The candidate that wins the majority of votes out of two is declared the winner⁴⁰.

The two-round system is more costly financially and certification of elections takes a long time, but it provides the opportunity to the voters to choose between the two most voted candidates in the run-off voting.

C. SINGLE TRANSFERABLE VOTE (STV)

Single Transferable Vote is a preferential system in which voters select their preferred candidates, thus ranking all candidates according to their preference. But, they can elect only one candidate. If one candidate wins the absolute majority of votes, she/he is elected immediately. If none of the candidates wins the absolute majority of votes, then the candidate with least number of votes is removed from the competition, and her/his votes are distributed to other candidates according to voter's preference. This goes on until one of the candidates reaches the required quota of votes.

Single transferable vote model is applied in few countries (Ireland is the only country in Europe that applies this system for election of President), since it is very complex to administer by

³⁹ Reynolds, A. Reilly, B. dhe Ellis A. (2008). "Projektimi i Sistemit Zgjedhor". IDEA: Stokholm.

⁴⁰ Reynolds, A. Reilly, B. dhe Ellis A. (2008). "*Projektimi i Sistemit Zgjedhor*". IDEA: Stokholm.

election managing bodies, especially with regard to distribution of preferential votes, and it is more difficult to be understood by voters.

ELECTION SYSTEM

First past-the-post (FPTP)
Two-Round System (TRS)
Single Transferable Vote (STV)

IRELAND

LIT.

POLAND

CZECH R.
SLOVAKIA
AUS.
SLOCRO.
BH. SER.
MON.
MAC.

TURKEY

Graph 4: Election systems for direct election of President per country

Source: International Institute for Democracy and Election Assistance (IDEA)

As can be seen from graph 4, countries with a parliamentary system in Europe mainly apply a two-round system for election of the President is also applied in six other countries with a presidential or semi-presidential system in Europe. Two other systems, the First Past The Post and Single Transferable Vote are less used, in two and one country respectively⁴¹.

3.2. CANDIDACY REQUIREMENTS

Since from President as the head of state is required to represent unity of the people and play the role of the arbiter, which means being impartial, many countries apply different requirements to elect the President from those applied election of members of parliament. One of the most common requirements is age, where usually it is required that candidates are at least 35 and 40 years old. In Italy, it is required that the President is at least 50 years old as it

⁴¹ See: http://www.idea.int/esd/field.cfm?field=158®ion=50

assumes a type of political maturity, and considering that the president is older and in the middle or at the end of the political career, they will try to leave good deeds at the end⁴². When candidates are at the peak of their political career, they may be biased due to political ambitions. But there are also countries such as Croatia where the candidates need to be only at least 18 years old, which implies that a person without a university degree may be elected for the post. Besides age requirement, another necessary requirement is that of citizenship, but in the majority of countries, it is required that the candidates for presidents have lived in the country for a certain period of time. Usually, this period includes a period of 10 last years. In Moldavia, one of the requirements is to speak the local language, while in Turkey to have completed a university degree. The requirement for collection of a certain number of signatures to support a candidacy is also applied in most countries. Usually, 10 thousand signatures are required from among eligible voters, or to be proposed by a certain number of members of the parliament (1/3 of them).

3.3. COMPETENCIES

To have a clearer picture of Presidents' competencies in parliamentary systems, their competencies in 27 countries were analysed, while competencies of regional countries were analysed in more detail, where in four of them (Macedonia, Croatia, Slovenia and Turkey) presidents are elected directly by the people, and in two countries (Albania and Greece) the Presidents are elected by members of the parliament (See Annex B).

What is common for all cases, and irrespective of the way of selection, has to do with competencies of the President to determine the nominee for establishing the government, the function of supreme commander of armed forces since the Ministry is considered a political body, leadership over foreign policy, and appointment and reception of foreign diplomatic representatives in the country. President's competency to appoint diplomats to foreign missions originates from the periods of monarchies, when the king sent his representatives abroad, while in modern times ambassadors represent the President⁴³. Granting awards and titles of gratitude is a competency of presidents, while granting pardons for those sentenced in some countries is exercised in consultation with the line ministry.

Competencies of Macedonia's and Slovenia's Presidents, who are elected directly by the people, are symbolic and quite limited. Besides basic competencies that are standard practices in other countries as well, in Macedonia, the President has competencies in judiciary, including the right to propose two judges to the Constitutional Court, and two members to the Judicial Council. Slovenia's President has least competencies compared to other presidents in the region and she/he does not enjoy any additional competence to those that are included as basic competencies.

The Constitution of the Republic of Albania was approved in 1998 through a nationwide referendum. Presidential system applied until then had experienced shocks during 1997 turmoil

⁴² Interview with Hektor Ruci, Public Law Lecturer, Tiranë, 20 June 2015.

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and powerful presidency exercised by Berisha till then came to an end, and a parliamentary system was introduced. President's competences were reduced, and she/he only serves as a ceremonial figure. Competencies of Albania's President include appointment of judges to the Constitutional Court⁴⁴ upon proposals that come from the Assembly, and members to Supreme Court⁴⁵ with consent of the Assembly, while other judges are appointed by the President upon the proposal from the High Justice Council⁴⁶. Among other powers of the President of Albania is announcing laws and the right to return laws to the Parliament only once⁴⁷. Another feature of Albania's President as well as Turkey's President is appointment of rectors of universities, which is not a practice of other countries.

In Greece as well, the President is elected by the Parliament and she/he is an emblematic figure. In this country, there is a practice in place where the President's post belongs to the party that is not in power, in order to establish stability in the system⁴⁸. Greece's President does not have competencies in the judicial sector; furthermore, none of her/his acts can enter into force if they are not signed by the line minister⁴⁹. It is worth mentioning that for constitutional changes to enter into force in Greece, then must be approved by the future legislature, which in addition to serving as a type of people's referendum, it makes it impossible for the parties to introduce constitutional changes for the benefit of personal privileges. Turkey is a parliamentary republic that has changed the way to elect the President. A national referendum in 2007 decided for constitutional changes in Turkey, while the first president elected directly by the people took place in 2014⁵⁰. Turkey's President is a ceremonial figure, but she/he has some important functions, including those in legislative, executive, and judicial branches. In parliamentary elections in 2015, current President had announced changes to the parliamentary system to shift it to a presidential system, but poor election results made it impossible for his party to have enough votes at the parliament to introduce required constitutional changes for the shift. Parliamentary elections were also seen as a type of referendum for changes to the governing system.

Contrary to competencies of other presidents in parliamentary systems, who are generally considered as main political figures, President of the Czech Republic has considerable role on political issues. This is so because many competencies may be exercised only by co-signing of the President and Prime Minister, where responsibility over certain political issues is effectively shared between the two offices. President of the Czech Republic has the authority to act independently on a number of key issues. One of the strongest powers of the office is the use of veto, where the President has the right to return a passed law to the Parliament⁵¹, with exception of acts that amend the Constitution⁵². Even though the veto can be overruled by the

⁴⁴ Constitution of the Republic of Albania, Article 125.1

⁴⁵ Ibid, Article 136.1

⁴⁶ Ibid. Article 136.4

⁴⁷ Ibid, Article 85.1

⁴⁸ Interview with Hektor Ruci, *Public Law Lecturer*, Tiranë, 20 June 2015.

⁴⁹ Constitution of Greece, Article 35.1

⁵⁰ World Bulletin, "How Turkey changed the way it elects its president". Accessed on 23 June 2015. http://www.worldbulletin.net/turkish-presidential-elections/142283/how-turkey-changed-the-way-it-elects-its-president

⁵¹ Constitution of Czech Republic, Article 50

⁵² Ibid. Article 62

Parliament, the possibility to reject signing of a legislation act is a form of control over the power of the legislature.

Despite the fact that developers of the Constitution of the Czech Republic aimed at setting up a parliamentary system with the president as a ceremonial head of state, the authority enjoyed by the first President Vaclav Havel was such that the office gained larger influence than it was initially ascribed to it. An authoritative President may be more powerful even when fewer competencies are ascribed to the office by the Constitution, and vice versa.

3.4. ACTING PRESIDENT

Acting President is a person who temporarily exercises the role of the President of the country, either when President is not temporarily able to exercise his post (for example, she/he is ill or on vacation) or when the post remains vacant, which may be the case due to death, resignation, or dismissal of the President. Almost in all countries with a parliamentary system of governance, if president's post becomes vacant, Parliament Chair serves as Acting President, with exception of Bulgaria, which also has a vice-president. The interim president serves for a certain period of time, until holding new elections. The majority of constitutions determine a period of time within which new elections must be held. Besides, constitutions sometimes limit the presidential power of the acting president. For example, in Poland and Russia, interim president does not have the right to dissolve Parliament.

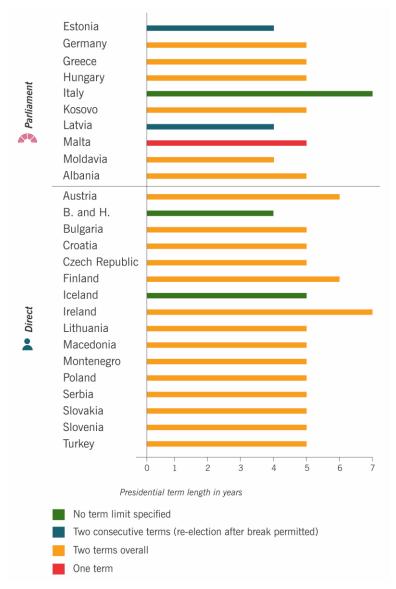
In countries with a presidential system, vice-president is common. In these countries, the mandate also has the same coverage of constitutional roles: to tale over President's office in case it remains vacant; to serve in President's cabinet or in an advisory body, and to assist President in executing her/his duties⁵³. The majority of vice-presidents are elected together with the President in the same election. Cyprus has a unique system, which was designed to share the power between ethnic Greeks (who elect the President) and ethnic Turks (who elect the vice-president). Currently, the position of the vice-president is vacant since ethnic Turks refuse to participate in the government of the Republic of Cyprus.

3.5. MANDATE LIMITATION

Limitation of the President's mandate is another important element aiming to avoid autocratic regimes and power rotation. Even if there are no autocratic tendencies, holding a post for a long time consumes leaders and does not bring new energies.

⁵³ Judge John R. Tuhheim, Memorandum #4 addressed to Committee on Constitutional Reform, 9 July 2011





Since Bosnia and Herzegovina has a federation system of governance, Presidency consists of a body of three persons. Presidents, and two other vice-presidents that from come other two constituting ethnicities of the federation: one Bosniak and one Croat elected by Federation of Bosnia and Herzegovina, and one Serb elected by Republika Srpska. Together, they serve a fouryear mandate⁵⁴. The member with the largest number of votes becomes the chair, except if she/he was a chair during the election period, but the chair is exercised on eight-month rotation basis, to ensure equality. In Bosnia and Herzegovina, same as in Iceland, there is no mandate limitation for President's post. The majority of other countries that elect the President directly limit the mandate of the President in five years, and they may serve a maximum of two mandates without the right to re-election. In Finland and Austria, President's

mandate lasts for six years, with the right to re-election after suspension of the second mandate, while the country with the longest mandate is Ireland with seven years, without a right to re-election after the second mandate.

⁵⁴ Constitution of Bosnia and Herzegovina, Article 21, B.1

3.6. ELECTION TURNOUT

One of the reasons that is most often heard from supporters of President's direct election model is that it increases legitimacy. For one candidate to have full legitimacy, she/he must be voted at least by the majority of the eligible voters. If this right is not exercised by the majority, then the majority of the voters who turn out is required. As long as there is no requirement that determines the minimum turnout threshold to announce valid results, the President may be elected with a quite low number of supporters, which does not necessarily increase citizens' legitimacy.

Turnout in latest presidential election in Presidential Republics in Europe was 86.12 per cent, in semi-presidential republics it was 63.41 per cent, while in parliamentary republics it was 56.43 per cent. It is normal that citizens' turnout in elections with presidential and semi-presidential systems is higher due to executive competencies that are held by President's post, and since the direction of the country in the next mandate is based on her/his platform.

Table 4: Comparison of latest turnout in presidential and parliamentary elections

Country	Difference	Turnout in presidential elections (%)	Turnout in parliamentary elections (%)
Austria	-21.34	53.57	74.91
Bosnia and Herzegovina	= 0	54.54	54.54
Bulgaria	-2.8	48.25	51.05
Croatia	4.88	59.05	54.17
Czech Republic	-0.4	59.08	59.48
Finland	2.01	68.86	66.85
Iceland	-12.12	69.32	81.44
Ireland	-13.94	56.11	70.05
Lithuania	-5.56	47.37	52.93
Macedonia	-8.6	54.38	62.98
Montenegro	-6.66	63.9	70.56
Poland	▲ 6.39	55.31	48.92
Serbia	-6.83	46.26	53.09

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Slovakia	•	-8.63	50.48	59.11
Slovenia	•	-9.32	42.41	51.73
Turkey	•	-13.46	74.13	87.59
Average:		-6.02	56.43	62.46

Source: International Institute for Democracy and Election Assistance (IDEA)

From comparison of countries with parliamentary systems of governance where the president is elected directly, we see that citizen turnout in latest presidential elections was lower for 6.02 per cent compared to last parliamentary elections. The largest difference is in Austria with -21.34 per cent, while in Poland there was the highest turnout in presidential election with an increase of 6.39 per cent compared to parliamentary elections in the country.

If we consider the overall citizen turnout rates in presidential elections, we see that Turkey has the highest turnout with 74.13 per cent, mainly because voting is mandatory, while Slovenia has the lowest turnout in presidential elections with 42.41 per cent.

3.7. STRENGTHS AND WEAKNESSES

Selection of the election system is one of the most important institutional decisions for any democracy. Almost in all cases, decision on a certain election system has deep effects in the political life of a country, and the election system, once it is selected, remains in force for a long time, since political interests strengthen around it. To a large extent, selection of the election system is more a political than a technical process⁵⁵. Since there is no perfect election system, every country tries to adjust the system to its own needs, in this case, to the format of President's election. In this case, the compromise to be made stands between establishment of the stability in the system and stronger legitimacy of the President.

Each format of President's election has its strengths and weaknesses. One of the strengths of direct election of the President is that politicians are more accountable to voters that elected them. If they share hopes for re-election, they will listen to and respond to their voters. Direct democracy advances the right of the citizens more than representative democracy. Direct election increases stability of the government since the Assembly is not dissolved, as is the case when the president is elected through the Assembly. Considering the other side of the note, if all vote in direct elections, then the majority rules. This may result into suppression of minorities. Often, the rates of minority and women members of parliament is not proportional to the population demographics. In direct election by people, one candidate may theoretically win without having broad support nationwide. For example, if one candidate was popular in larger municipalities, she/he does not have to win votes in other municipalities in the country. Election of a president that does not have a broad regional support, may lead to a divided and

⁵⁵ Reynolds, A. Reilly, B. and Ellis, A. (2005). "Handbook on Designing Election System". International Institute for Democracy and Election Assistance: Stockholm.

less cohesive country. Businessmen and other rich persons are more privileged, since they can afford campaign costs. In young and not well-consolidated democracies tendencies for authoritarianism rise.

Irrespective of the format of election, the challenge remains for the President's institution to be less political. More than the format of election, it is important who proposes the candidate for president. In direct election either, there is no consensual candidate, if they are proposed by political parties, and are supported by parties during the election campaigns, the President may feel she/he owes to the party that supported her/him⁵⁶.

⁵⁶ Interview with Hektor Ruci, *Public Law Lecturer*, Tiranë, 20 June 2015.

4. RESULTS OF CITIZEN POLLS ON FORMAT OF PRESIDENT'S ELECTION IN KOSOVO

Considering that the mandate of the current President will expire in April 2016, and that current governing coalition partners PDK and LDK have an agreement that includes President's post, while on the other hand, there are increased calls for changing the format of President's election to direct election by people, we have conducted a survey with citizens to better understand their preferences on these issues.

The survey was conducted with 1,000 respondents, where 51.35 per cent were men and 48.65 per cent were women. Error margin, as noted in the methodology section of this paper, is \pm 3.1 per cent. Since this is a discussion paper, we will not analyse survey results but we will only present them.

4.1. PREFERENCES OF CITIZENS ABOUT THE FORMAT OF

On the question related to the citizens' preferences about the format of President's election, 89.7 per cent of those surveyed stated they are in favour of direct election of the President by the people, while only 10.3 per cent stated that the current election system of President through Assembly should be maintained.

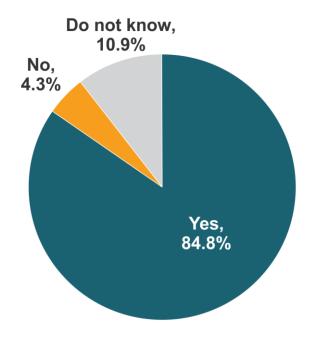
Which system of election of the President do you prefer?



4.2. ELECTION TURNOUT

With regard to election turnout in case of direct election of President by the people, 84.8% of those surveyed stated that they would turn out, which is a higher turnout that the official rate of the latest parliamentary election at 42.63 per cent. Meanwhile, only 4.3 per cent of those surveyed stated that they would not turn out. A total of 10.9 per cent of voters do not know whether they would turn out in presidential elections.



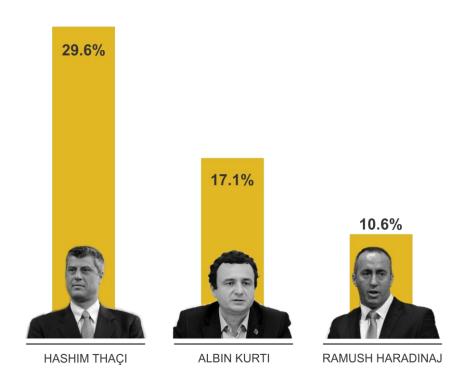


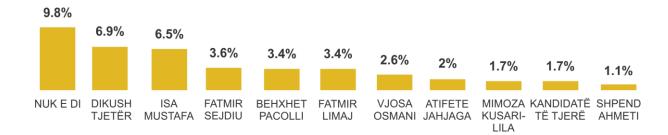
4.3. PREFERENCES FOR THE NEXT PRESIDENT

The third question addressed to citizens was about their preference for the individual they would want to see as next President of the country. The question was open and respondents were free to express their preference. Based on survey results, there is no consensual person that would win the majority of votes, which implies that in case of direct elections and as per election system envisioned in Draft-bill for Election of the President, the second round of elections between the two most voted candidates would be inevitable.

However, the most preferred person by surveyed citizens for the President's post is the PDK chairman Hashim Thaçi with 29.6 per cent, who is the joint candidate of PDK and LDK for the post based on their co-governing agreement. The second most preferred candidate of citizens was former Vetëvendosje Movement chairman Albin Kurti with 17.1 per cent, while AAK chairman Ramush Haradinaj was the third most preferred person for the post with 10.6 per cent. A total of 9.8 per cent of those surveyed responded that they don't have a preferred candidate, while 6.9 per cent stated that would prefer someone outside the current political scene. Current president of the country Atifete Jahjaga seems to not enjoy support of citizens for a second mandate, since only 2 per cent of those surveyed stated that they would prefer her for the post.

Who do you think should be the next President of Kosovo?





ANNEX A: COMPETENCES OF THE PRESIDENT OF THE REPUBLIC OF KOSOVO DIVIDED ACCORDING TO AREAS

Competencies
(1) represents the Republic of Kosovo, internally and externally; (7) signs international agreements in accordance with this Constitution; (10) leads the foreign policy of the country; (11) receives credentials of heads of diplomatic missions accredited to the Republic of Kosovo; (24) decides on the establishment of diplomatic and consular missions of the Republic of Kosovo in consultation with the Prime Minister; (25) appoints and dismisses heads of diplomatic missions of the Republic of Kosovo upon the proposal of the Government;
 (12) is the Commander-in-Chief of the Kosovo Security Force; (20) appoints the Commander of the Kosovo Security Force upon recommendation of the Prime Minister; (21) with the Prime Minister, jointly appoints the Director, Deputy Director and Inspector General of the Kosovo Intelligence Agency; (22) decides to declare a State of Emergency in consultation with the Prime Minister;
(23) may request meetings of the Kosovo Security Council and chairs them during a State of Emergency;
 (2) guarantees the constitutional functioning of the institutions set forth by this Constitution; (3) announces elections for the Assembly of Kosovo and convenes its first meeting; (8) proposes amendments to this Constitution; (4) issues decrees in accordance with this Constitution; (5) promulgates laws approved by the Assembly of Kosovo; (6) has the right to return adopted laws for re-consideration, when he/she considers them to be harmful to the legitimate interests of the Republic of Kosovo or one or more Communities. This right can be exercised only once per law; (9) may refer constitutional questions to the Constitutional Court; (14) appoints the candidate for Prime Minister for the establishment of the Government after proposal by the political party or coalition holding the majority in the Assembly; (15) appoints and dismisses the President of the Supreme Court of the Republic of Kosovo upon the proposal of the Kosovo Judicial Council; (16) appoints and dismisses judges of the Republic of Kosovo upon the proposal of the Kosovo Prosecutor of the Republic of Kosovo upon the proposal of the Kosovo Prosecutorial Council; (18) appoints and dismisses prosecutors of the Republic of Kosovo upon the

	proposal of the Kosovo Prosecutorial Council;
	(19) appoints judges to the Constitutional Court upon the proposal of the
	Assembly;
	(26) appoints the Chair of the Central Election Commission;
	(28) grants medals, titles of gratitude, and awards in accordance with the law;
	(29) grants individual pardons in accordance with the law;
	(30) addresses the Assembly of Kosovo at least once a year in regard to her/his
	scope of authority.
Communities	(13) leads the Consultative Council for Communities;
Financial	(27) appoints the Governor of the Central Bank of the Republic of Kosovo who
	will also act as its Managing Director, and appoints the other members of the
System	Bank's Board;

Note: Text in bold indicates "mandatory consultations" of the president

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ANNEX B: COMPARISON OF ELECTIONS AND COMPETENCIES OF PRESIDENTS IN PARLIAMENTARY SYSTEMS

Country	Macedonia	Croatia	Slovenia	Turkey	Albania	Greece
Election system:	Directly by the people – a two-round system. (If there is only one candidate, and she/he does not win the majority of the vote, there is a rerun).	Directly by the people – a two-round system.	Directly by the people – a two-round system.	Directly by the people – a two-round system.	Members of the Parliament at the Assembly - Elections in the first three rounds with 3/5 of votes of all members of parliament. In the fourth and fifth round, the candidate that wins the majority of the vote of all members of parliament is elected.	Members of the Parliament at the Assembly - A qualified majority (2/3) of votes are required to be elected in the first round. In the second and third rounds, 3/5 of the total vote of members of parliament are required.
Requirements:	- To be at least 40 years old To be a resident of Macedonia for at least 10 years in past 15 years.	To be over 18 years old.To be a citizen.	- To be a citizen.	 To be at least 40 years old. To have completed a university degree. To be a citizen. 	 To be at least 40 years old. To be a citizen and resident of Albania for at least 10 past years. 	-To be at least 40 years old. - To be a Greek citizen for at least 5 years, and to be a Greek lineage from the father's side.
Proposal:	10,000	10,000 signatures	-//-	20 signatures of	20 signatures of	Caucuses.

	signatures of electorate, or 30 signatures of the members of parliament.	of the electorate.		members of parliament.	members of parliament.	
Oath:	In front of members of parliament.	In front of the Chair of the Constitutional Court.	In front of members of parliament.	In front of members of parliament.	In front of members of parliament.	In front of members of parliament.
Mandate:	No more than two consecutive five-year mandates.	No more than two consecutive five-year mandates.	No more than two consecutive five-year mandates.	No more than two consecutive five-year mandates.	No more than two consecutive five-year mandates.	No more than two consecutive five-year mandates.
Dismissal:	Constitutional Court with 2/3 of the votes of all judges.	Constitutional Court with 2/3 of the votes of all judges.	Constitutional Court with 2/3 of the votes of all judges.		Constitutional Court.	Members of the parliament with 3/5 of total number of votes.
Acting president:	Parliament Chair	Parliament Chair	Parliament Chair	Parliament Chair	Parliament Chair	Parliament Chair
Key competencies:	 assigns the nominee for establishing the Government; appoints and dismisses with a decree ambassadors and 	- entrusts the mandate to establish the Government to an individual, who, based on the distribution of seats at the Parliament,	- announces laws; - appoints state officials whenever envisioned by the law; - appoints and	- announces laws, returns laws to Assembly for review, presents laws to referendum in relation to amendments of the Constitution;	- addresses messages to the Parliament; - exercises the right of pardons in accordance with the law; - grants Albanian	 no President's act is valid and can be executed unless it has been co-signed by the miniter in charge. as an exception, for the following

all members of parliament; credentials of foreign diplomatic representatives; - proposes two judges to the Constitutional Court; - proposes two members to the Judicial Council; - appoints three members to the Security Council; - proposes members to the Interethnic Relations Counci; - appoints and dismisses other - proposes members to the Interethnic Relations Council; - appoints and dismisses other - receives credentials from foreign diplomatic representatives; and receives credentials from foreign diplomatic representatives; appoints and dismisses ministers with the proposal of the Prime Altieve for foreign countries; and titles of foreign countries; and titles of foreign countries; and titles of foreign countries; and council the law; appoints and dismisses ministers and titles	rep	epresentatives	enjoys the trust	dismisses	- decides about	citizenship and	acts, no second
receves credentials of foreign diplomatic representatives; - proposes two judges to the Constitutional Court; - proposes two members to the Judicial Council; - appoints three members to the Security Council; - proposes members to the Interethnic Relations Council; - appoints and dismisses other - appoints and dismisses other - receves credentials from foreign diplomatic representatives; redentials from foreign diplomatic represe	abr	ibroad;	of the majority of	ambassadors and	announcing	allows waving it	signature will be
redentials of foreign diplomatic representatives; - proposes two judges to the Constitutional Court; - proposes two members to the Judicial Council; - appoints three members to the Security Council; - proposes members to the Interethnic Relations Council; - appoints and dismisses other parliament; - and receives credentials from foreign diplomatic representatives; resignation; - issues instruments of ratification; - decides about pardons; - decides about pardons; - decides about pardons; - appoints three members to the Security Council; - proposes members to the Interethnic Relations Council; - appoints and dismisses other proposes members to the Interethnic Relations Council; - appoints and dismisses other parliament; - appoints Prime Minister, with the Prime accordance with the law; - appoints and dismisses ministers with the proposal of the Prime and titles of honour; - aproints and dismisses ministers with the proposal of the Prime and titles of honour; - accredits representatives of honour; - accredits and dismisses lawful representatives of the Republic of Albania to other countries and international treaties; - accredits representatives of honour; - accredits and dismisses lawful representatives of the Republic of Albania to other countries and international representatives of honour; - accredits and dismisser and dismisser and dismisters with the l	_ re	receives	all members of		elections for	in accordance	required:
foreign diplomatic representatives; - proposes two judges to the Constitutional Court; - proposes two members to the Judicial Council; - appoints three members to the Security Council; - proposes members to the Interethnic Relations Council; - appoints and dismisses other Appoints and dismisses other			parliament;		Parliament;	with the law;	* appointment of
holders of state and public functions as fun	for dip rep - pi jud Co Co Co - pi me Sec Co - pi me Into Rei Co - aq dis hol and fun	liplomatic representatives; proposes two udges to the Constitutional Court; proposes two members to the fudicial Council; appoints three members to the Security Council; proposes members to the nterethnic Relations Council; appoints and dismisses other molders of state and public functions as	- makes decisions to appoint the Prime Minister, with the signature of the Parliament Chair; - appoints a non-party caretaker government in cases defined by the Constitution; - dissolves the Parliament in cases defined by the Constitution; - may propose to the Government to hold a thematic session that it considers a special issue; - may attend any Government session and participate in	credentials from foreign diplomatic representatives; - issues instruments of ratification; - decides about pardons; - grants awards and titles of honour; - completes other duties as defined by the Constitution; - when requested from the President, she/he has to express her/his opinion on an individual	 appoints Prime Minister and accepts her/his resignation; appoints and dismisses ministers with the proposal of the Prime Minister; accredits representatives of foreign countries; ratifies and announces international treaties; on behalf of the Parliament, represents the Office of the Armed Forces Supreme Commander; decides about use 	- grants awards and titles of honour in accordance with the law; - grants highest military ranks in accordance with the law; - upon proposal of the Prime Minister, appoints and dismisses lawful representatives of the Republic of Albania to other countries and international organisations; - receives credentials and withdrawal letters of diplomatic mission	* appointment of the Prime Minister; * dissolution of the Parliament; * return of a passed or proposed draft-law to the Parliament; - decree to announce a referendum on a draft-bill must be also signed by the Parliament Chair President represents the state abroad, may declare war, enter peace treaties, allegiances, economic cooperation and participation in international organisations or trade unions and will notify the Parliament about necessary

law;	- proposes to the	- invites and chairs	countries and	clarifications.
	Parliament	National Security	international	
- grants titles of	appointment and	Council;	organisations	- President appoints
gratitude and	dismissal of the	Council,	accredited in the	the Prime Minister
medals in	Chief Justice of	- announces state	Republic of	and upon her/his
accordance with	the Supreme	of emergency;	Albania;	recommendations
the law;	Court, in	- adopts decrees	Albailla,	appoints and
grants pardons	accordance with	that have the power	- enters	dismisses other
- grants pardons in accordance		of law;	international	members of the
with the law.	the Constitution;	or law,	agreements in	Government
with the law.	- calls for a	- signs decrees;	accordance with	cabinet.
	referendum in	- reduces sentences	the law;	Dungidant mar
	accordance with	of certain		- President may
	the Constitution;	individuals due to	 upon proposal of the Prime 	suspend a
	1			parliamentary
	- grants pardons	a chronic disease,	Minister, appoints	session only once,
	in accordance	handicap or older	the director of	or may delay its
	with the law;	age above 52 years	national	commencement or
	- grants medals	old;	information	postpone it.
	and awards as	- appoints	service;	- President will
	defined by law;	members and chair	- appoints Chair	adopt and publish
		of the National	of the Academy	approved laws by
	- decides about	Supervisory	of Sciences and	the Parliament
	establishment of	Council;	rectors of	within a month after
	diplomatic	ŕ	universities in	the voting.
	missions and	- instructs National	accordance with	C
	consular offices	Supervisory	the law;	- President returns
	abroad;	Council to conduct	Ť	an approved law of
	- decides about	investigations;	- assigns date for	the Parliament by
	appointment and	- appoints	Parliamentary	presenting her/his
	dismissal of	members of the	elections, for	rationale for the
	heads of	Higher Education	local government	return.
	diplomatic	Council, and	institutions, and	- issues general
	uipioinane	Council, and	for organization	- issues general

missions abrouved receives credentials are withdrawal letters from heads of foreid diplomatic missions; - represents Armed Force abroad; - adopts Milit Strategies; - may declare war and peace based on a decision from Parliament; - appoints and dismisses the Chief of Gene Staff of Arme Forces and military commanders; - may order engagement of armed forces case of potentidanger to	of universities; - appoints members of the Constitutional Court, one fourth of members of the National Council, Chief Public Prosecutor and Deputy Public Prosecutor of the High Military Court of Appeals, members of the High Military Administrative Court, and members of the Supreme Council of Judges and Prosecutors.	of referendum; - requests opinion and data in writing from state institution leaders on issues pertaining to their scope of duties.	regulatory decrees, based on the special delegation granted by the statute and within limits of such delegation, will be allowed upon the proposal of the line minister. - in unusual circumstances of an urgent and unpredictable need, President may, upon proposal of the Government cabinet, adopt acts with legislative content. Such acts must be submitted to Parliament for ratification. - President, with a decree, may announce a referendum for an important national issue, followed by a resolution voted by absolute majority of the total number of members of
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	independence, integrity, and existence of the country, and even if state of war was not declared, this may take place upon a second signing of the Prime Minister.		parliament, upon proposal of the Cabinet. - President is the supreme commander of Armed Forces, whose command will be exercised by the Government. - President has the right, upon recommendation of the Minister of Justice and upon consultation with a Council comprised of a majority of judges, to grant pardons, or reduce sentences decided by the Court.
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Source: Constitutions and laws on presidential elections in respective countries

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