

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

COMPARISON OF MODELS AND CITIZEN POLLS
(DISCUSSION PAPER)

JULY 2015, PRISHTINË.

|||||

CONTENTS

CONTENTS 2

- 1. INTRODUCTION 3
 - 1.1. Methodology 3
- 2. ELECTION OF PRESIDENT IN KOSOVO 5
 - 2.1. Background to election of presidents 5
 - 2.2. Competencies of the President of the Republic of Kosovo 8
 - 2.3. Initiatives to elect president directly 8
 - a. Agreement among three political leaders turns into an assembly resolution 8
 - b. Ad-Hoc committee on constitutional changes and judgement of Constitutional Court 9
 - c. Procedures envisioned for direct election of President by people 9
 - 2.4. PDK-LDK Agreement on Election of President 12
- 3. ELECTION OF PRESIDENTS IN EUROPE 16
 - 3.1. Election systems for direct election of the President 17
 - a. First Past the post (FPTP) 18
 - b. Two-round system (TRS) 18
 - c. Single transferable vote (STV) 18
 - 3.2. Candidacy requirements 19
 - 3.3. Competencies 20
 - 3.4. Acting President 22
 - 3.5. Mandate Limitation 22
 - 3.6. Election turnout 24
 - 3.7. Strengths and weaknesses 25
- 4. RESULTS OF CITIZEN POLLS ON FORMAT OF PRESIDENT’S ELECTION IN KOSOVO 27
 - 4.1. Preferences of citizens about the format of election of president 27
 - 4.2. election turnout 27
 - 4.3. PreferenceS FOR THE NEXT PRESIDENT 28

ANNEX A: COMPETENCES OF THE PRESIDENT OF THE REPUBLIC OF KOSOVO DIVIDED ACCORDING TO AREAS 30

ANNEX B: COMPARISON OF ELECTIONS AND COMPETENCIES OF PRESIDENTS IN PARLIAMENTARY SYSTEMS 32

BIBLIOGRAPHY 38

|||||

|||||

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.

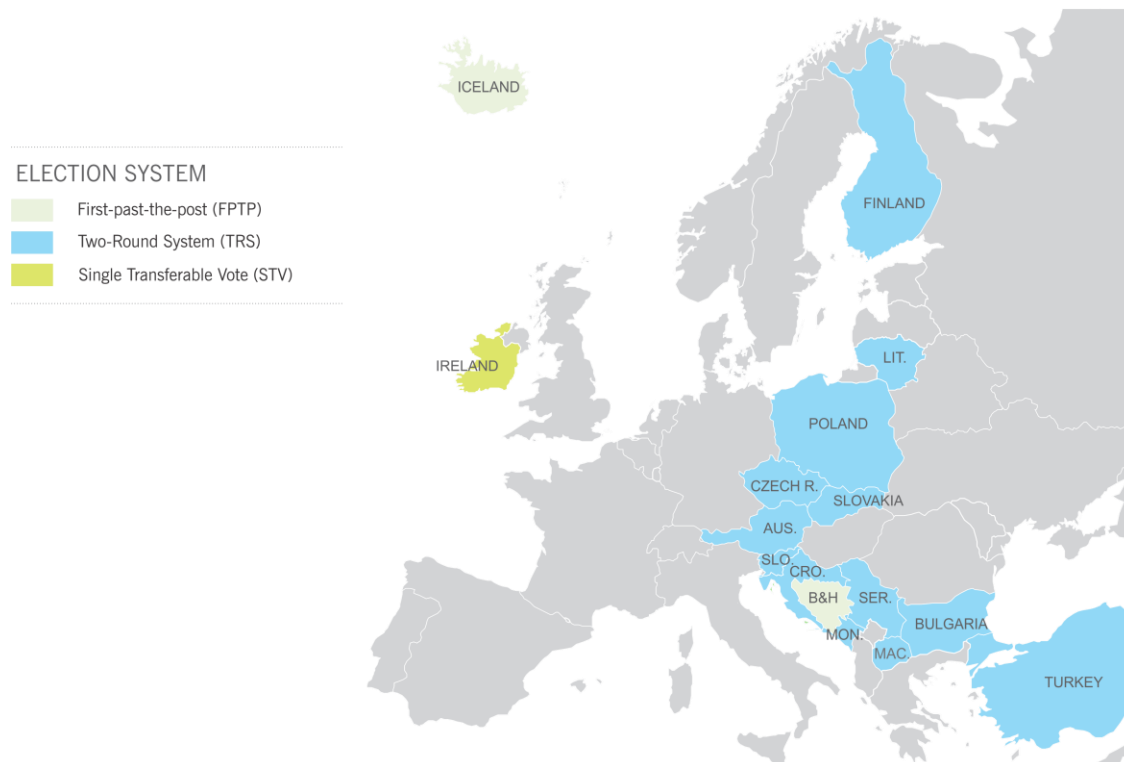
³⁸ Kodi i praktikës së mirë në çështjet zgjedhore. (2002). Komisioni i Venecias: II.2.B

|||||

|||||

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

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>

|||||

|||||

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

|||||

|||||

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

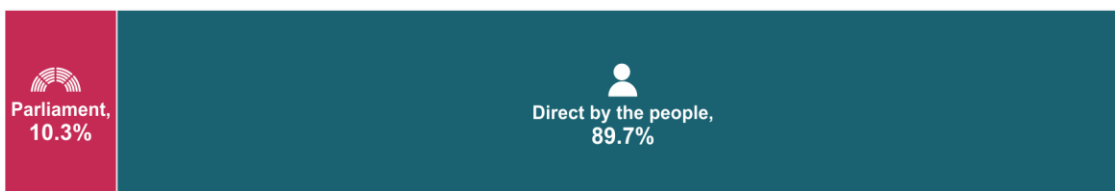
Considering that the mandate of the current President will expire in April 2016, and that current governing coalition partners PDK and LDK have an agreement that includes President's post, while on the other hand, there are increased calls for changing the format of President's election to direct election 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 ± 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 ELECTION OF PRESIDENT

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?

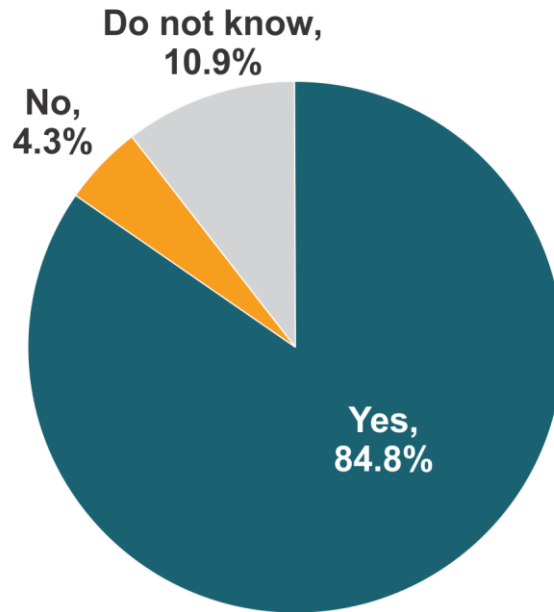


4.2. ELECTION TURNOUT

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 than 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.

|||||

In case of direct election of the President, will you take part in elections?



4.3. PREFERENCES FOR THE NEXT PRESIDENT

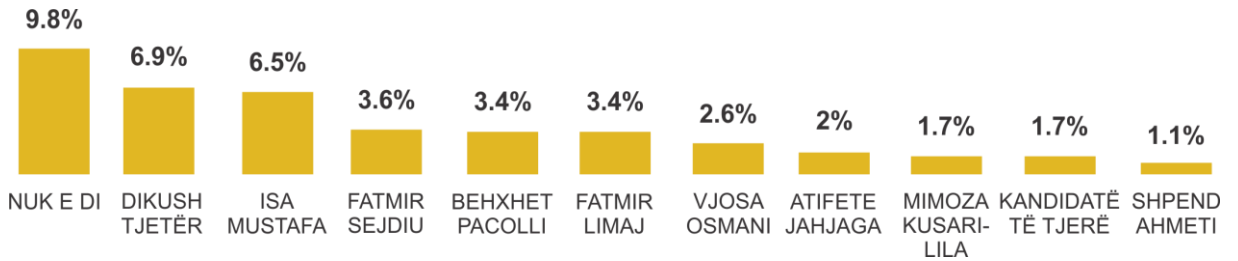
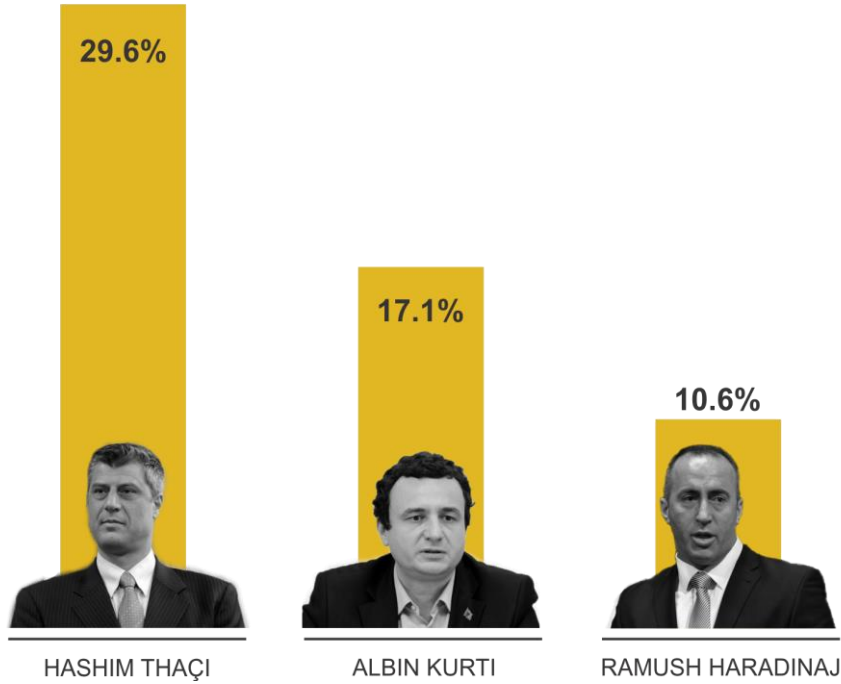
The third question addressed to citizens was about their preference for the individual they would want to see as next President of the country. The question was open and respondents were free to express their preference. Based on survey results, there is no consensual person that would win the majority 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

Sector	Competencies
Foreign Affairs	(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;
Defence and Security	(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;
Judiciary and Legislative Branch	(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 Judicial Council; (17) appoints and dismisses the Chief 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

|||||

|||||

	<p>representatives abroad;</p> <ul style="list-style-type: none"> - receives 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 holders of state and public functions as defined by the Constitution and 	<p>enjoys the trust of the majority of all members of parliament;</p> <ul style="list-style-type: none"> - 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 discussion; 	<p>dismisses ambassadors and chargé d'affaires, and receives credentials from foreign diplomatic representatives;</p> <ul style="list-style-type: none"> - 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 issue. 	<ul style="list-style-type: none"> - decides about announcing elections for Parliament; - 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 of Armed Forces; 	<p>citizenship and allows waving it in accordance with the law;</p> <ul style="list-style-type: none"> - 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 representatives from other 	<p>acts, no second signature will be required:</p> <ul style="list-style-type: none"> * 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
--	---	--	--	---	--	---

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

|||||

		<p>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.</p>			<p>parliament, upon proposal of the Cabinet.</p> <ul style="list-style-type: none"> - 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.
--	--	---	--	--	--

Source: Constitutions and laws on presidential elections in respective countries

((((((BIBLIOGRAPHY

Legislation:

1. Constitutional Framework for Provisional Self-Government in Kosovo.
2. Constitution of the Republic of Kosovo.
3. Constitution of Bosnia and Herzegovina.
4. Constitution of the Republic of Albania.
5. Constitution of Greece.
6. Constitution of Czech Republic.
7. Draft-bill on Election of President in Kosovo.
8. Judgement on Case No. KO 29/11. (30 March 2011). Constitution Court of the Republic of Kosovo.
9. Judgement on Cases K.O. 29/12 and K.O. 48/12. (20 July 2012). Constitutional Court of the Republic of Kosovo.
10. Resolution in support of Memorandum of Agreement among Mr. Behgjet Pacolli, Mr. Isa Mustafa and Mr. Hashim Thaçi. 4th Legislation of the Assembly of the Republic of Kosovo.

Reports:

1. Over 10 years of parliamentarianism in Kosovo. (2013). Kosova Democratic Institute. Prishtinë: Forum 2015.
2. Judge John R. Tuhheim, Memorandum #5 addressed to Committee on Constitutional Reform.
3. Judge John R. Tuhheim, Memorandum #4 addressed to Committee on Constitutional Reform.
4. Thompson, Wayne C. (2008). The World Today Series: Nordic, Central and Southeastern Europe. Harpers Ferry, West Virginia: Stryker-Post Publications.
5. Reynolds, A. Reilly, B. and Ellis, A. (2005). “Handbook for Projecting an Election System”. International Institute for Democracy and Election Assistance: Stockholm.

Interview:

1. Personal interview with Hektor Ruci, Lecturer of Public Law, Tiranë, 20 June 2015.

Newspapers:

1. Gazeta Zëri. Thaçi i frikësohet votës së Kuvendit. Thursday, 21 May 2015.

2. Shabani, Norë. “Demokracia e brendshme e subjekteve politike vetëm në statutet e tyre”.
Koha Ditore, 9 June 2015.

Internet resources:

1. PDK arrin marrëveshje me AKR-në, Pacolli President. Ekonomia. Accessed on 20 May 2015,
<http://www.ekonomia-ks.com/?page=1,20,11266>
2. 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>
3. Kosovë, arrihet marrëveshja për tejkalimin e krizës, ABC News. Accessed on 20 May 2015,
<http://www.abcnews.al/lajme/rajoni/7/4878>
4. 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>
5. 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>
6. 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>
7. Ja çfarë thotë marrëveshja LDK-AAK-NISMA. Telegrafi. Accessed on 21 May 2015.
<http://www.telegrafi.com/lajme/ja-çfare-thote-marreveshja-ldk-aak-nisma-2-46129.html>
8. Marrëveshja LAN – Vetëvendosje. Koha. Accessed on 21 May 2015.
<http://koha.net/?id=27&l=24797>
9. 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>
10. 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-](http://lajmi.net/thaci-thote-se-preferon-te-behet-president-me-voten-e-popullit-te-)
[voten-e-popullit-te-](http://lajmi.net/thaci-thote-se-preferon-te-behet-president-me-voten-e-popullit-te-)
11. Veseli: Do ta fitojmë garën për president,
<http://www.indeksonline.net/?FaqeID=2&LajmID=160544>
12. LDK MP Armend Zemaj in his statement for Rrokum TV, See: [http://rrokum.tv/3/zemaj-nese-](http://rrokum.tv/3/zemaj-nese-thaci-bahet-president-me-vote-popullore-ldk-s039duhet-me-perkrahe-17140)
[thaci-bahet-president-me-vote-popullore-ldk-s039duhet-me-perkrahe-17140.](http://rrokum.tv/3/zemaj-nese-thaci-bahet-president-me-vote-popullore-ldk-s039duhet-me-perkrahe-17140)

Cataloguing in Publication – (CIP)

Kosovo's National Library "Pjetër Bogdani"

32(047)

Election of president by people: necessity of time or common rhetoric?
Comparison of models and citizen polls: (discussion paper) / Prepared by: Albert
Krasniqi. – Prishtinë: Kosova Democratic Institute, 2015. – 41 p. ; 21 cm.

1. Krasniqi, Albert

ISBN 978-9951-8901-6-8

KDI is a Non-Governmental Organization (NGO) engaged in support of development of democracy through citizen involvement in public policy-making and empowerment of civil society sector with the goal to influence increase of transparency and accountability of public institutions.

For more information on KDI please see www.kdi-kosova.org



ISBN 978-9951-8901-6-8



9 789951 890168

