

ADEM BEHA

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BETWEEN  
**STABILISATION**  
&  
**DEMOCRATISATION**

ELECTIONS, POLITICAL PARTIES AND  
INTRA-PARTY DEMOCRACY  
IN KOSOVO

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PRISHTINA  
2017

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FRIEDRICH  
EBERT  
STIFTUNG

CPC  
Center for Political Studies



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**BETWEEN STABILISATION AND DEMOCRATISATION**  
Elections, Political Parties and Intra-Party Democracy in Kosovo

CPC & FES  
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## INTRODUCTION

As the XX-th century drew to a close, during the 90s and under the conditions of Serbia's patronage over Kosovo, the emergence of the first political parties established *simulated pluralism* in the Kosovo political scene. Until 1996, as Yugoslavia was disintegrating and the communist system was crumbling, 15 different political parties were introduced and organised in Kosovo.<sup>1</sup> This great schism between political groupings suited Milošević's policy, since Belgrade believed such divisions between Albanians would make it easier to control the tense situation in Kosovo. Despite these divisions, the Democratic League of Kosovo (LDK) remained the largest political grouping in Kosovo, against the backdrop of other political entities, like the Parliamentary Party of Kosovo, Youth Parliament of Kosovo, Christian Democratic Party, Peasant Party of Kosovo etc.

Shkelzen Maliqi has argued that pluralism was simply a façade during the rule of Milosevic's Yugoslavia over Kosovo, and that political entities were not true political parties.<sup>2</sup> Despite the establishment of this kind of pluralism, Oliver Schmitt notes that "[...] between 1992 and 1998, the LDK ruled almost unchallenged

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<sup>1</sup> International Crisis Group, 'Unifying the Kosovo Factions: The Way Forward' (ICG Balkan Report no 58, Brussels - Tirana, 12 March 1999), p. 3.

<sup>2</sup> See Shkelzen Maliqi, *Kosovo: Separate Worlds* (Dugagjini PH, MM, Prishtina 1998), p.16.

over the Kosovar society"<sup>3</sup> casting its shadow over most of the other parties.

After NATO's intervention in 1999, followed by the establishment of the UNMIK administration and removal of Serb forces and authorities from Kosovo, the political scene heated up between the LDK and the political forces that had organised the armed struggle. This ostensible political polarisation condensed into the fog created by the lack of political accountability of the two major political forces in the country. On one hand, after organizing the 1991 referendum on Kosovo's declaration of independence (which had no international effects) the LDK established a government in exile led by Prime Minister Bujar Bukoshi. He launched the so-called "Three Percent Fund", used by the Albanian diaspora to contribute to the organisation of a parallel life in Kosovo, to finance education and health as the two main pillars of support of the Albanian civil resistance and demographic cohesion in Kosovo. On the other hand, KLA representatives in the diaspora, who would later would become key figures in the Democratic Party of Kosovo (PDK), established another fund, known as the "Motherland is Calling". This fund was also raised by the diaspora in support of the KLA armed struggle. Neither of these parties, nor the administrators of these two funds have ever reported exactly on what, how and where these resources were spent.

As of late, some light has been shed on the issue - between 2006 and 2011, over half a million euros have been withdrawn from the "Three Percent Fund". According to the investigation of the news portal Insajderi, it appears that the Republic of Kosovo Fund was registered as an NGO and it possessed bank accounts in

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<sup>3</sup> Oliver Jens Schmitt, "*Kosova: Histori e Shkurtër e Një Treve Qendrore Ballkanike*" (Kosovo: A Brief History of a Central Balkan Territory) (KOHA, Prishtina, November 2012), p. 250.

Germany, Italy, Albania and Belgium. In late 2000, Mr. Isa Mustafa, former Minister of Finance in the government of the Republic of Kosovo led by Bukoshi, now LDK president and Kosovo's prime minister, declared that the fund still carried around 50 million German Marks.<sup>4</sup> Likewise, very little light was shed on the "Motherland is Calling" fund, managed by current PDK leaders. Both main parties, the LDK and PDK, have mitigated public debates about the respective responsibilities for the management of the parallel institutional life in Kosovo and the organisation of the struggle for the liberation of Kosovo.

With the end of the war, UNMIK established the legal infrastructure for the operation of political pluralism in Kosovo. The Democratic League of Kosovo continued to have the upper hand in post-war Kosovo. However, the newly-established parties, whose leadership rose from the ranks of the KLA, especially the PDK and AAK, managed to collect a considerable number of votes in the post-war elections.

One of the major misconceptions of the UNMIK international administration of Kosovo, according to King and Mason, was the fact that in UNMIK's eyes, Kosovo's political parties were "treated as if they resembled their Western counterparts – a group of civic minded people bound together by a shared commitment to certain ideological principles. In reality, they were personally driven patronage networks, some of them rooted in the KLA."<sup>5</sup> In other words, during this period, same as today, political parties were not guided by ideological principles, but by clientelistic and patrimonial reasoning.

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<sup>4</sup> Vehbi Kajtazi, 'Suspicious transactions from the 3% fund - cash withdrawals until 2012', Insajderi, February 19, 2016. Web link <http://www.insajderi.com/hulumtime/transaksionet-e-dyshimta-nga-fondi-i-3-shit-terheqje-parash-deri-ne-vitin-2012/> (June 2, 2016).

<sup>5</sup> Iain King and Whit Mason, *Peace at any Price: How the world failed Kosovo* (Ithaca, New York, Cornell University Press, 2006), p. 244.

UNMIK did not care much about the internal organisation of political entities in Kosovo. This mission was interested to know "who is who" in the main regions of Kosovo and follow the strategy of cooperation only with party leaders. Through them, on the one hand it legitimized the exercise of power in the eyes of Kosovars and, on the other hand it controlled most of the territory of Kosovo, meaning that it was able to preserve peace in Kosovo's main regions controlled by these leaders. UNMIK viewed the organisation of elections before Kosovo's independence as an instrument for stability and buying time, in the absence of an exit strategy from Kosovo, and not as part of the process of democratisation of the society. This paradigm of "elections as a stability instrument" was followed until February 2008, when Kosovo declared its independence. Since neither the general democratisation of the society, nor the internal democracy of political parties were among UNMIK's priorities, party leaders gained power well beyond their parties.

The political disputes of the first local and general elections organised in Kosovo echoed with harsh rhetoric. Political parties, especially the LDK and PDK, would label each other "friend-enemy" in Schmitt-like fashion.<sup>6</sup> PDK representatives labelled as traitors some of the key figures of the LDK, because, according to them, the LDK had not supported the liberation war of the KLA. In a political environment where parties treated each other as

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<sup>6</sup> For Schmitt, politics is a flow of new groups that identify with the friend-enemy dichotomy. Schmitt notes that being a political enemy does not necessarily require being morally evil or aesthetically ugly, economically powerful and so forth. For Schmitt, the enemy is, in an especially intense way, "existentially something different and alien, so in extreme cases, conflicts are possible. See Carl Schmitt, *The Concept of the Political* (University of Chicago Press, Expanded Edition, 2007). On the use of this concept in contemporary political theory, see Chantal Mouffe, *On the Political* (Routledge; New Ed edition, 2005); Chantal Mouffe, *The Return of the Political* (Verso Books; Revised edition, 2005); Chantal Mouffe, *Agonistics: Thinking the World Political* (Verso, 2013).

“enemies”, the problem of internal democratisation was not a subject of priority. The internal democratisation of the party, branch and sub-branch autonomy, plurality of views and approaches towards party politics, meritocratic selection of candidates of political parties, were not part of the political agenda of political parties. Since the model of democracy installed in Kosovo was “consociational democracy”, none of the parties, including the LDK, was able to lead the government on its own. Thus, by way of larger coalitions, in one form or another, the repertoire of “enemy”, “traitor”, “sell-out” labels was gradually “softened” and “brushed aside”.

Seventeen years after the war, the political polarisation created after 1999 has almost melted away. Nowadays, it is possible to talk about the establishment of a *moderate pluralism*, due to the fact that most of the major parties in Kosovo, excluding the recently established VV (Lëvizja Vetëvendosje - Self-Determination Movement), have jointly governed the country. Joint governance through grand coalitions without political opposition, with each party becoming a stakeholder in the construction of the central institutions in proportion to the number of votes won, has kept the LDK, PDK and AAK free from the pressure of modernisation, reform or internal democratisation of the party. This is why political parties in Kosovo enjoy bad reputations and are perceived as corrupt and untrustworthy organisations.<sup>7</sup> To this day, they have failed to genuinely democratise themselves and Kosovo.

This study is divided into eight chapters. Chapter 1 provides a theoretical framework and defines the concepts of political party, intra-party democracy and system of electoral rules. Chapter 2 analyses the first local and general elections organised in

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<sup>7</sup> Transparency International, 'Shining a light on Financing Political Parties. Albania, Croatia, Kosovo, FYR Macedonia, Serbia', 2011.

post-war Kosovo and investigates how elections were seen as an instrument for the preservation of stability and the *status quo*. Chapter 3 analyses the 2004 elections and the reconfiguration of power in Kosovo and the region, in light of the opening of the negotiations on Kosovo's political status. Chapter 4 analyses the role of political parties in the state-building process, the lack of party ideological profiling, and their electoral rise and fall. Chapter 5 analyses the 2010 general elections, electoral manipulations, and outlines the options provided for electoral reform. Chapter 6 analyses the 2014 election, election promises, the institutional gridlock in Kosovo and the political doctrines of the opposition political parties. Chapter 7 provides an overview of how the paradigm of stability, under which UNMIK operated in Kosovo from 1999, delayed the process of democratic consolidation. This chapter does not focus on the doctrines of the opposition political parties, but on citizens' daily problems, including the lack of economic development, endemic corruption in Kosovo and citizens' disappointment by the new mission of rule of law in Kosovo EULEX, established after the independence. Chapter 8 analyses intra-party democracy. Conclusions are presented in the final section of this study.

BETWEEN STABILISATION  
AND DEMOCRATISATION

CHAPTER I

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# *CHAPTER 1:*

*POLITICAL PARTIES, INTRA-PARTY DEMOCRACY  
AND ELECTORAL SYSTEM*

## **CHAPTER 1: POLITICAL PARTIES, INTRA-PARTY DEMOCRACY AND ELECTORAL SYSTEM**

### **1.1 Political Parties**

According to the Code of Good Practice in the Field of Political Parties of the Venice Commission (Council of Europe), political parties are defined as non-profit associations that receive their power from their elected representatives and exercise it for the general good. This code states that political parties play two essential roles to representative democracy: a social role, contributing to the political socialisation of citizens and articulation of their ideological pluralism, and an institutional role, controlling the government and introducing alternative policies and candidates.<sup>8</sup> The role of political parties in modern democracies is so great that scholars of political parties conclude that without them there would be no democracy in the form we know today.

Political parties connect society with politics through party election programs and policies aimed at aggregating and representing the interests of citizens in state institutions. To accomplish this function, political parties build comprehensive structures for citizens to channel their interests and needs, either as

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<sup>8</sup> Council of Europe, 'Code of Good Practice in the Field of Political Parties', European Commission for Democracy Through Law (Venice Commission), Study No. 414/2006. See [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2009\)002-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)002-e), p. 14 (May 14, 2015).

members of political parties, or as elected representatives that address these interests and needs.

Consequently, political parties seek to extend the reach of their social structures as much as possible by mobilizing members, in order to receive more support, votes and decision-making autonomy. The process of electing internal party structures, from the chair of a sub-branch, branch, to the party president, is known as the party selectocracy process. If there's a comprehensive process of inclusion of voters and members of political parties in decision-making, initiating ideas, program and party policies, and the selection of party structures, from the local ones to the highest body of the party (Congress or Council), it is assumed that such parties have more internal democracy compared to other parties that are exclusive, centralised and shaped after their leaders.

However, this difference is not quite so stark. Nowadays, the theory and studies of political parties recognize the concept of “presidentialization of politics”,<sup>9</sup> which means that political parties in the modern world are becoming more centralised and are identifying themselves with their presidents. The rising trend of centralisation of modern political parties, known as “presidentialization of politics”, is caused by a variety of factors, including the need of political parties to be effective in partisan competitions in the democratic system. The use of social media, deployment of ultra-modern and focused campaigns, development of programs by a narrow group of experts, reveal that today, the power within political parties is anchored by the party president and the group close to him, and that the vast majority of party structures are excluded from decision making. In her theoretical studies, Pateman identified this phenomenon as pseudo-

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<sup>9</sup> Thomas Poguntke, Paul Webb (ed.) *The Presidentialization of Politics: A Study in Comparative Politics* (Oxford University Press, Oxford, 2005); Gideon Rahat, Tamir Sheafer, ‘The personalization(s) of politics: Israel, 1949–2003. *Political Communication* 24 (1), 2007, 65–80.

participation:<sup>10</sup> citizens participate in political parties, but have no influence on decision-making.

There are innumerable theoretical considerations for typologies of political parties, party ideology and function of political parties.<sup>11</sup> Gunther and Diamond have developed a typology of political parties by dividing them into five categories: elitist, mainstream, electoralist, ethnic and movement. Charles S. Mack succinctly typifies political parties in six categories: elitist or cadre parties; mainstream parties, catch-all parties; cartel parties, business parties, service parties. Other authors, like Katz and Mair, discern between three subcategories or facets of political parties: the political party on the ground (party base); the political party in central office (party centre); and the political party in public office (the party in the state/institutions).

However, for practical purposes, this study shall only consider the electoralist, (*catch-all*) parties and anti-system parties. The definitions of these parties are useful to construct a typology of political parties in Kosovo. “Catch-all party” was coined as a term in 1966 by political parties' scholar Otto Kirchheimer. These parties are known as centralised organisations, characterized by the de-ideologization of party life. As the status of working classes rose and Western industrialization and modernisation gained more traction, mainstream parties, underlines Charles S. Mack, “became

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<sup>10</sup> Carole Pateman, *Participation and Democratic Theory* (Cambridge: Cambridge University Press, 1970).

<sup>11</sup> On the typology of political parties see Richard Gunther & Larry Diamond, "Species of Political Parties: A New Typology", *Party Politics*, Vol.9, No.2. On other typologies, see Giovanni Sartori, *Parties and Party Systems: A Framework for Analysis* (Cambridge University Press, 1976); Grigorri V. Golosov, 'Party system classification: A methodological inquiry', *Party Politics* 2011, 17:539; Colin Leys, 'Models, theories, and the theory of political parties', *Political Studies*, Vol. 7, Issue 2, 1959; Maurice Duverger, *Political Parties: A Behavioural Analysis* (Rand McNally, 1964); Sigmund Neumann, "Towards a Comparative Study of Political Parties", in Sigmund Neumann (ed.) *Modern Political Parties* (Chicago: University of Chicago Press, 1956).

a victim of their own success; the welfare state they built contributed to the ever increasing merger of the interests of workers and the middle class". Mack argues that this gave rise to catch-all parties, which erased strong ideological lines, and began to expand their electoral base with power being the ultimate goal. Such parties are now found throughout North America, Europe, Canada, etc., and they deploy professional staff, are able to seek funding and possess good communication skills.<sup>12</sup> Gunther and Diamond see the catch-all parties as tolerant, without a clear ideology, but totally electorate-oriented through the central leadership of the party, in order to maximize votes.<sup>13</sup> What distinguishes anti-system parties from *catch-all* parties is not only the ideological distance with other parties, but also with the overall system. In 1976, noting the ideological characteristics of an anti-system party, Sartori narrows the definition of these political parties as follows: "an anti-system party would not change – if it could – the government but the very system of government. Its opposition is [...] an opposition of principle".<sup>14</sup>

## 1.2. Intra-Party Democracy

Since the focus of this study is not simply on political parties *per se*, it will suffice to discuss two views that bind political parties to democracy and intra-party democracy. Since 1942, political parties'

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<sup>12</sup> Charles S. Mack, *When Political Parties Die: A Cross-National Analysis of Disalignment and Realignment* (Praeger, 2010).

<sup>13</sup> Richard Gunther & Larry Diamond, 'Species of Political Parties: A New Typology', *Party Politics*, Vol.9, No.2.

<sup>14</sup> Giovanni Sartori, 'European Political Parties: The Case of Polarized Pluralism', in Joseph La Palombara & Myron Weiner (ed.) *Political Parties and Political Development* (Princeton University Press), pp. 137-176; For a reassessment of anti-system parties, see Giovanni Capocchia, 'Anti-system parties', *Journal of Theoretical Politics* (2002); 14, 9, pp. 9-35.

scholar Schattschneider argued that "political parties have created modern democracy and democracy is inconceivable without political parties".<sup>15</sup> Another scholar, Giovanni Sartori argues that the main role of political parties is connecting citizens with government.<sup>16</sup> Sartori defines a political party as a "political group that present at elections, is capable of placing through elections, candidates for public office." However, G. Sartori, R. Michels, M. Duverger, all renowned researchers of political parties, did not pay proper attention to intra-party democracy, often viewing it as an obstacle to political parties to be effective and capable to compete in a tough political market. Following the argument of Sartori, William P. Cross and Richard S. Katz argue that political parties are, first of all, teams of politicians rather than citizens' associations, and that "the essence of democracy is more free choice among parties rather than direct participation within parties".<sup>17</sup> Such a pessimistic perspective on intra-party democracy is also presented by Schattschneider, who argues that "democracy is not to be found in the parties, but between the parties".<sup>18</sup>

A classic scholar of political parties, Robert Michels asserts that democracy necessarily leads to oligarchy and denies any opportunity for intra-party democracy. Michels sees parties as organisations engaged in political struggle among themselves, which is why he supports the centralising approach within the political parties, since, according to him, centralised political parties are able to provide faster solutions. This means that the

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<sup>15</sup> Elmer Eric Schattschneider, *Party Government* (New York: Rinehart and Company, 1942) p. 1.

<sup>16</sup> Giovanni Sartori, *Parties and Party Systems: A Framework for Analysis* (Colchester, ECPR 2005), p. 11.

<sup>17</sup> William P. Cross & Richard S. Katz, 'The Challenges of Intra-Party Democracy', in William P. Cross & Richard S. Katz (ed.), *The Challenges of Intra-Party Democracy* (Oxford University Press, 2013), p.5.

<sup>18</sup> Elmer Eric Schattschneider, *Party Government* (New York: Rinehart and Company, 1942), p.60.

most important decisions within political parties are made by a handful of people who, above all, come from the urban setting of the organisation. Michels claims that political parties are organisations, and whenever the term “organisation” is used it implies oligarchy, according to what Michels recognizes as the “iron law of oligarchy”.<sup>19</sup> Another renowned scholar, M. Duverger, argues similarly to Michels:

Democratic principles demand that leadership at all levels be elective, that it be frequently renewed, collective in character, weak in authority. Organized in this fashion, a party is not well armed for the struggles of politics.<sup>20</sup>

In other words, the argument of efficiency offered by Duverger claims that parties organised in a democratic manner are not effective in political battles with competing parties. Above all, this implies that political parties compete to win as many votes in the political market. Duverger's argument about the effectiveness of political parties actually treats voters in the same manner that private companies and businesses treat consumers. Political parties are not interested only in their own party members, just as private businesses are not interested only in their employees. Both types of organisations want more customers, to be more profitable and more efficient.<sup>21</sup>

In summary, the opponents of intra-party democracy offer two types of arguments when criticizing intra-party democracy: the first is the argument of efficiency, and the second is the argument

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<sup>19</sup> Robert Michels, *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy* (Kitchener, Ontario: Batoche Books, 2001), p.224.

<sup>20</sup> Maurice Duverger, *Political Parties: Their Organization and Activity in the Modern State*. (London: Methuen, 1954), p. 134.

<sup>21</sup> Jan Teorell, ‘A Deliberative Defence of Intra-Party Democracy’, *Party Politics* (1999) 5, 363-382, p. 364.

of unequal treatment of citizens' interests. The first argument suggests that intra-party democracy is a threat to the efficiency of the party, political competition, decision-making autonomy, and leads to the eventual loss of the elections. The second argument claims that parties are responsible not only for members, but for all citizens and their voters.<sup>22</sup>

Jan Teorell, in "A deliberative defence of intra-party democracy", taking into account the arguments of Ware and Habermas, offers a deliberative approach towards the above mentioned arguments. Teorell argues that, in economic terms, there is no perfect competition between political parties. The preferences of the electorate often fluctuate, and a political party that does not reflect and react to these fluctuations may incur losses and new parties can be established. The proposed solution is intra-party democracy, through which leaders are held accountable before the membership and the electorate in general. Thus, according to Teorell, political parties have to provide that deliberative democratic space to all people, because neither the media nor the Internet can exercise this function in full. Therefore, Teorell sees intra-party democracy as an additional mechanism of general elections, as it establishes deliberative procedures for the exchange of arguments between leaders and members and mitigates intra-party extremism. Here, Teorell refers to Habermas, who argued that "political parties would have to participate in opinion-and-will formation from the public's own perspective, rather than patronizing the public sphere for the purposes of maintaining their own power".<sup>23</sup>

Susan Scarrow, in "Political Parties and Democracy in Theoretical and Practical Perspectives", notes a decline in political

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<sup>22</sup> Ibid, p. 365.

<sup>23</sup> Jan Teorell, 'A Deliberative Defence of Intra-Party Democracy', *Party Politics* (1999) 5, 363-382, p. 374.

activism and rise of antidemocratic forces, as a result of the disenfranchisement of citizens by political parties and their inability to represent and to provide solutions to citizens. She defines internal democracy as follows:

Intra-party democracy is a very broad term describing a wide range of methods for including party members in intra-party deliberation and decision-making. Some advocates for intra-party democracy argue, on a pragmatic level, that parties using internally democratic procedures are likely to select more capable and appealing leaders, to have more responsive policies, and, as a result, to enjoy greater electoral success.<sup>24</sup>

Scarrow argues that political parties “should practice what they preach”, in other words: democracy. However, she notes that sceptics see democratisation as a “Trojan horse” that only strengthens the national party leadership. She dissects three dimensions of party organisation to measure intra-party democracy. These dimensions are: inclusiveness, centrality of decision making and institutionalisation. Regarding these three dimensions, Scarrow analyses three indicators of the implementation of intra-party democracy. These indicators are the selection of party candidates, the selection of party leaders and the definition of policy positions. Initially, in Scarrow's own words, the primary concepts are defined as follows:

**Inclusiveness** tells us about how wide the circle of party decision makers is [...] In the most inclusive parties, all party members, or even all party supporters, are given the opportunity to decide on important issues, such as the choice

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<sup>24</sup> Susan Scarrow, ‘Political Parties and Democracy in Theoretical and Practical Perspective: Implementing Intra-Party Democracy’, (National Democratic Institute for International Affairs, 2005), p. 3.

of party leader or the selection of party candidates. **Centralization** describes the extent to which decisions are made by a single group or decision body [...] The notion of party **institutionalization** may be invoked to cover a wide range of features, including a party's autonomy from other actors, the extent of its internal organizational development, and the extent to which supporters identify with the party and view it as an important actor. In a more narrowly organizational sense, two key features defining the level of party institutionalization are the degree to which internal decision procedures are formalized, and the extent to which the party has coordinated structures throughout its target constituency.<sup>25</sup>

### 1.3 Electoral rules and electoral system

Electoral systems are products of different political circumstances of different societies. These include political histories and cultures of different countries, political elites' preferences for one or another electoral system, the structure of society, social divisions and their heterogeneous or homogeneous composition.<sup>26</sup> There are so many studies on electoral systems and their representative effects, that it

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<sup>25</sup> Susan Scarrow, 'Political Parties and Democracy in Theoretical and Practical Perspective: Implementing Intra-Party Democracy', (National Democratic Institute for International Affairs, 2005), p. 6.

<sup>26</sup> Gianfranco Baldini dhe Adriano Pappalardo, *Elections, Electoral Systems and Volatile Voters* (Palgrave Macmillan, 2009), p. 4. Likewise, Andrew Reeve and Alan Ware argue that objections to electoral systems were at the centre of political debate in the late '50s. "Certainly until the late 1950s, many political scientists (and practising politicians too) believed they could get the political results you wanted simply by providing the appropriate institutional framework. (The British government in the 1950s seemed to believe that it would create liberal democracies in its ex-colonies of African by setting up Parliamentary institutions there; the attempt largely failed)." Andrew Reeve & Alan Ware, *Electoral Systems: A comparative and theoretical introduction* (Routledge, 2011), p. 8.

would be almost impossible to summarize them all. It would be sufficient to say that tens of thousands of studies on the forms and effects of representation and the electoral system have been published. According to a listing by one of the most renowned scholars of political parties, Richard S. Katz, only in 1989 there were over 1,500 studies in this field, and three years later the number rose to 2,500. The intensity of studies on electoral rules and systems increased dramatically after World War II, especially after what Samuel Huntington calls the 'Third Wave of Democratisation'. The transition from authoritarianism to the opening and democratisation of different political and social systems was associated, first of all, with the debate of political reorganisation, in other words, the debate on electoral rules and electoral system, which would later determine the content and operation of the political system. Here is a mention of a few eminent scholars: Michael Gallagher, Arendt Lijphart, Donald Horwitz, Giovanni Sartori, Mathew Shugart, Rein Tagapera, among many others, have made significant contributions to the study of electoral rules and systems.<sup>27</sup>

According to scholars of electoral systems, electoral rules differ from the electoral system. For Gary W. Cox, the electoral system should be understood as a "set of laws and party rules that regulate electoral competition between and within parties." Furthermore, according to him "[...] those laws and rules regulating how parties make their nominations; how citizens vote and how those votes are counted; what the district structure of the polity will be; and how counted votes are translated into seats."<sup>28</sup> Thus, according to Cox, states apply different practices to regulate the above mentioned aspects: in some countries, many of the aspects

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<sup>27</sup> David M. Farrell, *Comparing Electoral Systems* (Macmillan Press Ltd, 1998), p. 2.

<sup>28</sup> Gary W. Cox, *Making Votes Count: Strategic Coordination in the World's Electoral Systems* (Cambridge University Press, 1997), p. 38.

mentioned above are regulated by party regulations, while in others through their respective laws. The electoral system has more to do with the method of translation of the votes of candidates/lists into seats allocated to the respective candidates and party lists. This is known as the 'electoral formula'.

Other researchers have further narrowed the definition of the electoral system. According to Gianfranco Baldini and Adriano Pappalardo, "the electoral system can be defined as the set of laws which regulate the transforming of preferences into votes and of the votes into seats". This definition underlines the coexistence of two elements in the course of political representation: the possibility the ballot paper gives to the elector to express choices and the consequences of these choices in terms of the assignation of the offices voted for".<sup>29</sup> Even other renowned scholars, like Michael Gallagher and Paul Mitchell, define the electoral system as "a set of rules that structures how votes are cast in the elections for a representative assembly and then how those votes are converted into seats in the assembly. Taking into account the number of votes, an electoral system determines the composition of the parliament".<sup>30</sup> According to them, the electoral system is, by definition, narrower when compared with electoral rules, which include the right to vote, the impartiality of the election administration, the transparency of the vote counting, etc.

Giovanni Sartori, one of the most prominent scholars in the field of democracy and electoral systems, has argued that the electoral system is the "most specific manipulative instrument of politics".<sup>31</sup> The consequences of the electoral system are always

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<sup>29</sup> Gianfranco Baldini dhe Adriano Pappalardo, *Elections, Electoral Systems and Volatile Voters* (Palgrave Macmillan, 2009), p. 17.

<sup>30</sup> Michael Gallagher & Paul Mitchell, 'Introduction to Electoral Systems', in Michael Gallagher & Paul Mitchell, *The Politics of Electoral Systems* (Oxford University Press, 2005), p. 4.

<sup>31</sup> Giovanni Sartori, 'Political development and political engineering', p. 261-

political. The operation and character of a political system depends entirely on the electoral system. Setting the rules of the political game through the electoral system directly affects the formation of governmental institutions, in their unitary or federal character, the number of political parties, the size of electoral districts, the electoral competition and political coalitions, the exclusion or inclusion of certain groups, the composition of government, as well as the model of democracy that a country decides to pursue - consensus-based or majoritarian. As stated by Andrew Reeve and Alan Ware, the selection of an electoral system is so important that, for example, a party or a candidate who could be elected in a proportional system might become a losing party or candidate in a majoritarian system. As argued by these scholars, "changing the electoral rules can change the 'shape' of electoral politics."<sup>32</sup> Taking into account the huge effects of electoral systems, argues Sarah Birch, political actors in post-communist countries have realized that the content and form of an electoral system can also determine their own political destiny and these actors have been very keen to manipulate electoral institutions for their own benefits. Birch studied electoral reforms in 20 countries of Central and Eastern Europe to come to the conclusion that most of these systems are characterized by common features. First, the shift from

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98 in J. D. Montgomery & A.O. Hirschman (eds.), *Public Policy*, Vol. 17. (Cambridge, MA: Harvard University Press, 1968).

<sup>32</sup> Andrew Reeve & Alan Ware, *Electoral Systems: A comparative and theoretical introduction* (Routledge, 2011), p. 8. Reeve and Ware illustrate this assertion through the reduction of the influence of the Communist Party in France between the Fourth and Fifth Republic (1946-58). According to them, "during the Fourth Republic (1946-58), the Communists regularly polled about a quarter of the total votes and returned a similar number of deputies to the French Parliament. The existence of this large group opposed to the regime was an important cause of the governmental crisis that regime continually faced. Under the electoral rules adopted by the Fifth Republic, it became much more difficult for the Communists to translate their share of the vote into Parliamentary seats. This under-representation of Communists was one of the factors contributing to much greater stability of the regime."

a single district majoritarian system towards the gradual increase of barriers to enter the institutions, through the electoral threshold, of an average value of 4.25% in the 20 analysed countries, compared with 1.23% in most proportional systems in Western Europe. Secondly, mixed electoral systems are the most popular in these countries. Thirdly, in most post-communist countries, the electoral system is embodied in the Constitution of the state itself, as in Poland, Czech Republic, Georgia, Slovenia, Hungary, etc.<sup>33</sup>

Specific electoral systems produce specific political effects. Therefore, the government may be more stable and more effective or ineffective and unstable depending on the type of electoral system. However, crucial to any electoral system is the concept of representation. Electoral systems provide the means for representation of diverse groups and interests, often antagonistic with public institutions.<sup>34</sup> Machover draws a distinction between two different meanings of the term 'representation' and its derivatives. "The dichotomy hinges on a distinction between two quite different senses of the verb represent and its derivatives. Who or what is being 'representative', and whom or what are they supposed to 'represent'."<sup>35</sup> According to Gianfranco Baldini and Pappalardo Adriano, representation theories distinguish between the composition of the government and its decisions. While proportional electoral systems emphasize the composition of the government, the majoritarian ones focus on the efficiency of the government that has won the elections to make effective decisions. Those who advocate proportional systems consider that this system

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<sup>33</sup> Sarah Birch, *Electoral Systems and Political Transformation in Post-Communist Europe* (Palgrave Macmillan, 2003), pp. 31-40.

<sup>34</sup> Pietro Grilli di Cortona, Cecilia Manazi, Aline Pennisi, Federica Ricca, Bruno Simeone, *Evaluation and Optimization of Electoral Systems* (SIAM Monographs, 1998), p. 5.

<sup>35</sup> Mosh'e Machover, 'The Underlying Assumptions of Electoral Systems', in Dan S. Felsenthal & Mosh'e Machover (ed.), *Electoral Systems: Paradoxes, Assumptions, and Procedures* (Springer, 2012), p. 5.

guarantees the best representation. Here, the government and parliament are understood as microcosms or reflections of the society. In other words, all present social divisions in the society - including classes, religions, ethnicities and different languages - should be reflected/represented in these institutions.<sup>36</sup> This is the 'microcosmic' concept of representation, where the parliament and the government represent the society in miniature. David M. Farrell makes a distinction between the concept of 'microcosmic' representation, and another concept called 'principal agent of representation'. Under the second concept, the social, democratic, geographical, or ethnic composition of the Parliament is less important. Under this concept, what matters is that the people elected to lead their respective institutions in government and parliament makes decisions that protect the interests of citizens.<sup>37</sup>

Scholars of electoral systems have developed typologies of several electoral systems depending on their characteristics. Some authors divide electoral systems into proportional and non-proportional types, which are further divided in subtypes.<sup>38</sup> Others divide electoral systems into three types: majoritarian, proportional and mixed electoral system. The majoritarian electoral system prevailed in almost all European countries at the beginning of the 20th century, whereas nowadays most European countries apply some form or another of the proportional electoral system. As argued by Stein Rokkan, universal suffrage produced two immediate effects: on the one hand, the working classes sought

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<sup>36</sup> Gianfranco Baldini & Adriano Pappalardo, *Elections, Electoral Systems and Volatile Voters* (Palgrave Macmillan, 2009), pp. 18-19.

<sup>37</sup> David M. Farrell, *Comparing Electoral Systems* (Macmillan Press Ltd, 1998), p. 7.

<sup>38</sup> David M. Farrell, for example, divides electoral systems into five types. See *Comparing Electoral Systems* (Macmillan Press Ltd, 1998), p. 4; in their study, Richard W. Doudriette and Andrew Ellis divide majoritarian systems into 4 subtypes and proportional systems into two subtypes. See 'A Global Snapshot', in Larry Diamond & Marc F. Plattner (ed.), *Electoral Systems and Democracy* (The Johns Hopkins University Press: Baltimore, 2006).

representation in parliament, and on the other, the old parties demanded proportional representation to protect their position in the political system.<sup>39</sup> Belgium was the first to apply the proportional electoral system in 1899, followed by the Netherlands (1906), Sweden (1907), and today the majority of European countries. Meanwhile, the number of countries using the majoritarian system is incomparably smaller, to name but a few advanced democracies such as the UK, USA, Canada, Australia and France.<sup>40</sup>

The majoritarian electoral system is simpler compared to the proportional electoral system. The majoritarian system is also known as the plurality system, in which the territory is divided into several, winner-take-all electoral areas/districts, regardless of the number of votes received by the opponent. This system promotes a political contest with clear winners and losers of the elections. Scholars of electoral systems have listed the pros and cons of this system. Proponents of this system argue that it: a) is a simple system, with a direct vote for the winner and accountability towards voters; b) favours a direct link between members of parliament and voters. According to critics, this system is unfair and unrepresentative. Special emphasis is placed on the underrepresentation of women and minorities. In majoritarian systems, the percentage of citizens who come to the polls is low compared with proportional systems. And last, but not least, is the criticism that under this system electoral areas or districts can be shaped to produce predetermined electoral results, which is known as "gerrymandering."

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<sup>39</sup> Stein Rokkan, *Citizens, Elections, and Parties: Approaches to the Comparative Study of the Process of Development* (Oslo: Universitetsforlaget, 1970), p. 157.

<sup>40</sup> Gianfranco Baldini & Adriano Pappalardo, *Elections, Electoral Systems and Volatile Voters* (Palgrave Macmillan, 2009), pp. 20-39.

On the other hand, the proportional electoral system is more complex, depending on the degree of proportionality or proportional formulas (i.e. d'Hont, Sainte-Laguë). The general formula of this system is that the number of votes translates into the number of seats for candidates or lists of political parties, which are represented in institutions, depending on their electoral power to overcome the election threshold. Meanwhile, the mixed electoral systems share the characteristics of the two systems mentioned above.

The recent debate over electoral systems has to do with their impact on the form of democracy. International state-builders and researchers in societies emerging from war face the dilemma of which electoral system is best suited to their societies. There are two authors, among many, whose names are associated with this debate: Arendt Lijphart and Donald Horwitz. While proportional electoral systems are inextricably linked with consensual democracy, majoritarian electoral systems are tied to majoritarian democracies. Lijphart thinks the proportional electoral system is best suited for societies with ethnic, regional, religious or other diversity, since this kind of system enables these social groups to be represented in the institutions. This is referred to as consensual and consociational, multiparty democracy, in which governments are built through broad coalitions and different ethnic, cultural groups enjoy significant autonomy. If there is something that does not fit with these societies, Lijphart argues, this is the majoritarian electoral system, since under the rules of the exclusionary contest, there is a clear winner and loser of the elections. Horwitz, on the other hand, argues that majoritarian electoral systems are more suited to societies emerging from war, since the president plays a unifying role in the society and stands as a unifying figure above

the parties; the system does not allow for single-ethnic parties and politicians must appeal for the votes of other ethnic groups.<sup>41</sup>

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<sup>41</sup> For more, see Donald Horowitz, 'Democracy in divided societies'. *Journal of Democracy* (1993) 4 (4), 18–38; Arend Lijphart, 'Consociational Democracy', *World Politics*, Volume 21, Issue 2, January 1969, pp. 207-225; Arend Lijphart, 'Constitutional design for divided societies', *Journal of Democracy* (2004), Volume 15, Number 2, April 2004, pp. 96-109.





BETWEEN STABILISATION  
AND DEMOCRATISATION

**CHAPTER II**

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# *CHAPTER 2:*

*ELECTIONS TO 'BUY' STABILITY - UNMIK's  
STRATEGY OF STATUS QUO-ism*

## **CHAPTER 2: ELECTIONS TO 'BUY' STABILITY - UNMIK's STRATEGY OF STATUS QUO-ism**

*Peace builders should proceed with elections only when there is evidence that 'moderate parties' [...] have sufficient popular support [...] to prevail over 'immoderate parties' at the polls.<sup>42</sup>*

After the end of the war in Kosovo, despite the establishment of separate civil and a military administrations (UNMIK and KFOR), both aiming at building a peaceful multi-ethnic society, the legal grounds of such international administration did not answer the question of Kosovo's final political status. The absence of an exit strategy and the uncertainty of the political status of Kosovo have increased frustration among the citizens of Kosovo and have fuelled ethnically exclusive policies, as seen in the violent events of March 2004, which almost overturned all the reasoning behind the international intervention to build a peaceful and multi-ethnic Kosovo.

Since UNMIK was an international mission with complex administration, in which all the power was embodied in the Special Representative of the Secretary General (SRSG), its governance in Kosovo was accompanied by three dilemmas. The first was the dilemma of internal legitimacy. The SRSG exercised all executive powers in Kosovo. In order for such omnipotent and omnipresent

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<sup>42</sup> Roland Paris, *At War's End: Building Peace after Civil Conflict* (Cambridge University Press, 2004), p. 189-190.

power to not appear as direct administration of a post-conflict society from a post-colonial administration, UNMIK built quasi-governmental mechanisms, through which it aspired to receive the approval of the political leaders of Kosovo - be they Albanians or Serbs - for its policies in Kosovo. However, UNMIK was aware that the political representatives of the KLA enjoyed solid support in Kosovo and sought to reduce this support and thus create opportunities for moderate political forces to win the first elections to be organised in post-war Kosovo.

The second was the security dilemma. The SRSG and UNMIK had the dilemma of what kind of elections should be held in Kosovo and when. A government led by KLA figures, as perceived by UNMIK, could affect the displacement of the remaining Serbs in Kosovo. Another fear was that such a government would declare Kosovo an independent and sovereign state, without consultations with UNMIK.

The third dilemma was that of an exit strategy. Since UNMIK did not have an exit strategy from Kosovo, governing the transfer of competencies from UNMIK to the Provisional Institutions was constantly delayed. This approach not only jeopardized the mission's presence in Kosovo, but also inter-ethnic relations.

Thus, in order to address the first dilemma and appear legitimate in the eyes of Kosovars, UNMIK built the first consultative mechanisms involving representatives of political parties and civil society. Since the Provisional Government of Hashim Thaçi had appointed most of the ministers in the cabinet and the majority of municipal mayors (27 mayors out of a total of 29 municipalities), and had seated its men on the boards of the Socially Owned Enterprises, UNMIK's SRSG at the time, Mr. Bernard Kouchner, was presented with the *fait accompli* of the existence of these institutions. Direct opposition to them could

raise political tensions with the representatives of the KLA, who from UNMIK's perspective could threaten the stability of the country.<sup>43</sup> To avoid this scenario, Kouchner began co-opting the representatives of these institutions *de facto* installed in Kosovo through consultative mechanisms.<sup>44</sup>

One of these mechanisms was the Kosovo Transitional Council, which had three aims: first, to increase cooperation between UNMIK, Albanian political parties and Serb political parties; second, to create an opportunity for dialogue between the Albanian and Serb leaderships and to increase trust between them; and third, test UNMIK policies on Kosovo and identify potential collaborators and opponents.

In February 2000, in order to address the second security dilemma, UNMIK initiated the replacement of the Albanian parallel structures created after the war by Hashim Thaçi's Provisional Government and the LDK, such as the institutions of the Parliament or the 'President of Kosovo', which was led by Ibrahim Rugova since the 1998 elections. In January 2000, UNMIK issued Regulation 2000/1 on the 'Joint Administrative Structure in Kosovo', which stated explicitly that: "The establishment of the Joint Interim Administrative Structure shall start on the entry into force of the present regulation. Current Kosovo structures, be they executive, legislative or judicial (such

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<sup>43</sup> According to King and Mason, "in the name of 'stability', the mission betrayed many of the sincere and idealistic people in Kosovo in favour of gangsters". Iain King, Mason, *Peace at any Price: How the world failed Kosovo* (Koha, Prishtina, April 2007), p. 77.

<sup>44</sup> Nicolas Lemay-Hébert, 'Coerced transitions in Timor- Leste and Kosovo: managing competing objectives of institution-building and local empowerment', *Democratization* (2012), 19:3, p. 470; Tonny Brems Knudsen and Carsten Bagge Lausten (ed.) *Kosovo between War and Peace: Nationalism, Peacebuilding and International Trusteeship* (London and New York, Routledge, 2006). Also, see Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo [S/1999/1250] of 23 December 1999.

as the Provisional Government of Kosovo, Presidency of the Republic of Kosovo), shall be transformed and progressively integrated, to the extent possible and in conformity with the present regulation, into the Joint Interim Administrative Structure, which should be operational by 31 January 2000 by which time these and all other Kosovo structures of an executive, legislative or judicial nature shall cease to exist".<sup>45</sup> According to the same regulation, Kosovo municipalities would were to be included within the same structure.

To address the third dilemma of the exit strategy and begin the transfer of competencies to Kosovo institutions, UNMIK initially planned to establish a type of provisional institutions through free, fair and democratic elections. This third dilemma, the political uncertainty for Kosovo, was the hardest for UNMIK. This dilemma hung over the elections. The OSCE, as one of the four UNMIK pillars, deliberately postponed the date of the elections. This occurred due to two reasons: first, the perception that immediate elections would pervert the very purpose for which UNMIK was deployed in Kosovo - which had to do with the creation of a multi-ethnic, peaceful society and the prevention of the recurrence of the conflict; and second, the inter-party and inter-ethnic antagonisms and tensions in Kosovo. Since Hashim Thaçi, who had already established the PDK as a political party, had turned into a real political player while extending his influence over a substantial part of Kosovo's society, the purpose of the OSCE was to delay the date of elections as much as possible. The OSCE believed that were the election to be held immediately, former political representative of the KLA, who established the PDK, would likely win and take power in Kosovo.

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<sup>45</sup> See, Roger f. M. Lorenz, 'The Rule of Law in Kosovo: Problems and Prospects', *Criminal Law Forum* (2000) 11: 127-142, p. 131. Also, UNMIK/REG/2000/01, 'On the Joint Interim Administrative Structure in Kosovo', January 14, 2000.

Meanwhile, political tensions in Kosovo multiplied: at first, between the LDK (perceived as more moderate) and the PDK (perceived as more radical); secondly, between UNMIK and the PDK; thirdly, between the PDK and the Serbian minority in Kosovo; fourthly, amidst the northern Kosovo Serb minority, whose actions in Kosovo followed Serbia's direct instructions; and fifthly, amidst the Serb minority scattered around enclaves in southern Kosovo, which pursued a more collaborative and moderate approach to cooperation with UNMIK.<sup>46</sup>

Taking into account these tensions, Kosovo's international statebuilders viewed snap elections with scepticism. Unlike the Dayton Accords, which stipulated that elections in Bosnia were to be held 6 to 9 months after the signing of the peace agreement, the Rambouillet Accords envisaged elections in Kosovo 9 months after its signing.<sup>47</sup> The lessons learned from the elections held in Bosnia

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<sup>46</sup>Jens Narten, 'Post-Conflict Peacebuilding and Local Ownership: Dynamics of External-Local Interaction in Kosovo under United Nations Administration', *Journal of Intervention and Statebuilding* (2008), 2:3, 369-390, p. 376.

<sup>47</sup> According to the Rambouillet Accords, Article II. The role of the OSCE: "In accordance with Article IV of Chapter 5, the first elections shall be held within 9 months after the entry into force of this Agreement". Likewise, under Article IV: The process of implementation: "Within 9 months after the entry into force of this Agreement, there shall be elections in accordance with and pursuant to the procedure described in Chapter III of this Agreement for authorities established herein, in accordance with the voters' list prepared according to international standards by the Central Election Commission. The OSCE shall supervise those elections to ensure that they are free and fair". On the other hand, it should be noted that unlike the Rambouillet Accords, Resolution 1244 remained silent about the time when elections should be organized. Item 11c foresaw "Organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections", while item 11f foresaw "In a final stage, overseeing the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement". According to the 'Starting from Scratch in Kosovo' Report of the International Crisis Group, before Bernard Kouchner took office as UNMIK's SRSG, the international community recommended that elections should be

pushed Kosovo's first elections to 16 months after the establishment of the international administration in Kosovo, meaning fall 2000. In Bosnia's case, the International Community realized that elections are not inherently a better solution, as it was precisely the political parties that spun the war that won the post-war elections. Thus, politics became a boiled-down version of war in the 'electoral arena'.

## **2.1 Democratic institutions, elections and stability**

In 1997, in a paper on illiberal democracy, Fareed Zakaria began his argument with an issue had raised by US diplomat Richard Holbrook on the eve of elections in Bosnia in September 1996. Holbrook raised a legitimate dilemma faced by almost all transition countries in Asia, Latin America, Africa and even Eastern Europe. This is how the dilemma presents itself: what if free and fair elections are held in Bosnia, but the winners are racist, fascist or separatists who publicly oppose the peace agreement. To this day, this remains the dilemma of liberal democracy. According to this statement, elections (even when considered free and fair) are an insufficient criterion for a country to be considered a liberal democracy. For Zakaria, what the West considers as liberal democracy is characterized not only by free and fair elections, but first of all with the separation of powers and the protection of basic liberties of speech, assembly, religion and property.<sup>48</sup>

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held after two years. See International Crisis Group, "Starting from Scratch in Kosovo" (Balkans Report No 83, 13 December 1999), p. 9.

<sup>48</sup> Fareed Zakaria, 'The rise of illiberal democracy', *Foreign Affairs*; Nov/Dec 1997; 76, 6; f. 22; For a sophisticated treatment of illiberal democracies, see Fareed Zakaria's book, *The Future of Freedom, Illiberal Democracy at Home and Abroad* (W. W. Norton & Company, 2007).

What today is called illiberal democracy regards a minimalist definition of democracy. According to this definition, democracy is reduced to organizing free and fair elections. Furthermore, in some countries that fall under this definition, elections are neither completely free nor completely fair. On the other hand, liberal democracy is characterized by constitutional liberalism, which does not reduce democracy to just a method for selecting a government, but sees democracy as content delivered through government goals. Constitutional liberalism, Zakaria says, is rooted in Western tradition and history and "seeks to protect an individual's autonomy and dignity against coercion, whatever the source - state, church, or society."<sup>49</sup> Western liberal democracy and constitutional liberalism is based on two simple ideas, one grounded on the Hellenistic civilization (individual freedom), the other on the Roman (rule of law). Based on the Kantian tradition of republicanism (which deals with the separation and balance of powers, rule of law, protection of individual rights, etc.), Michael W. Doyle, a renowned researcher in the field of peace-building, argued against democratic majoritarianism, and that it is constitutional liberalism, not necessarily democracy, that leads a country to peace.<sup>50</sup> This argument is best illustrated by a hypothetical scenario: let's assume that the majority of citizens vote for a political party or its leadership, whose political agenda is ethnic cleansing, deportation or purging of a certain group. The question arises: can we call this a *liberal democracy*? It seems that a similar argument is followed by the thesis of institutionalisation before liberalization presented by Roland Paris, a peace-building

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<sup>49</sup> Fareed Zakaria, 'The rise of illiberal democracy', *Foreign Affairs*; Nov/Dec 1997; 76, 6; p. 26.

<sup>50</sup> Michael W. Doyle, *Ways of War and Peace: Realism, Liberalism and Socialism* (New York: W. W. Norton, 1997). For a similar discussion, see Alexandra Ghenciu, 'International Norms, Power and the Politics of International Administration: The Kosovo Case', *Geopolitics* (2005), 10:1, pp. 121-14.

strategy followed by foreign state builders in societies emerging from the torment of conflict.

The best way to understand Roland Paris' approach to international peacebuilding is asking what his approach does not agree with. Paris re-modifies the Wilsonian approach. He disagrees with those who think that liberalization values should be removed from international peace-building and, rather than follow those values, authoritarian regimes should be supported with strong international military presence and financial support. This approach does not promote division as a strategy to resolve conflict, which means physical separation between warring parties and creation of new states. Roland Paris tries to find a middle ground between these two extreme macro-approaches to international conflict resolution. According to him, peace-builders must transform countries and societies shattered by conflict into liberal democracies. In order for this transition not to produce unpredictable consequences, Paris thinks peace-builders should not rush into organizing elections and pursuing market policies before the establishment of a genuine institutional basis. This institutionalist approach emphasizes institutions as guarantors of peace, and not necessarily immediate liberalization.<sup>51</sup>

Having learned from the mistakes of the UN in Bosnia and Herzegovina, UNMIK (i.e. the OSCE) initially put in place a minimalist institutional base in Kosovo, issuing a host of regulations before it was time to organize the elections. Chesterman notes that tension arose between the local population and the interests of the international community about the time elections should be held in Kosovo.

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<sup>51</sup> Roland Paris, *At War's End: Building Peace after Civil Conflict* (Cambridge University Press, 2004).

The first tension concerns the impact elections will have on emerging political structures and personalities. In some circumstances, as in Bosnia, early elections may have the effect of turning generals into politicians, formalizing ethnic divisions into political fault lines. In less developed states lacking adequate bureaucratic institutions, elections held before those institutions can be created may hinder long-term democratic practices and stability.<sup>52</sup> In other situations, however, early elections may lock in a peace process and provide tangible political gains to stakeholders in the peace. Kosovo's elections were delayed, in part because of concerns about the impact that they had had in Bosnia.<sup>52</sup>

UNMIK was aware that the issue of independence would be the number one topic of Kosovo Albanian political parties during the election campaign. Shifting as far away as possible the announcement of the election date was expected to minimize the success of the political forces emerging from the KLA.<sup>53</sup> UNMIK did not want the generals of the KLA to become politicians and lead the country, as it happened in the case of Bosnia. Their erroneous calculation was based on their perception of the PDK as more radical party, and of the LDK as a more moderate party. While this classification may have had some value in terms of the background, manner of establishment, programmatic and rhetoric approaches of both parties, when it came to the independence of Kosovo all Albanian political parties in Kosovo were at least as

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<sup>52</sup> Simon Chesterman, *You, The People: The United Nations, Transitional Administration, and State-building* (Oxford University Press, 2004), p. 208; Simon Chesterman, 'Ownership in Theory and in Practice: Transfer of Authority in UN Statebuilding Operations', *Journal of Intervention and Statebuilding* (2007), 1:1, pp. 3-26.

<sup>53</sup> Oisín Tansey, *Regime-building: Democratization and International Administration* (Oxford University Press, 2009) f .131; See also Ian R. Mitchell, 'The ambiguities of elections in Kosovo: Democratisation versus human rights?', *The International Journal of Human Rights* (2000), 4:3-4, 246-262

'nationalist' as the PDK itself. All political parties in Kosovo, including Ibrahim Rugova's LDK, demanded Kosovo's full independence as a compromise option. Rightly, Roland Paris noted that the concept of political moderation in Kosovo is a relative concept.<sup>54</sup> However, it appears that UNMIK was more afraid of the means that could be used for the realization of this political demand of Kosovo Albanians, the allegedly peaceful LDK or non-peaceful PDK.

Before organizing the elections, UNMIK built a minimalist institutional basis. Through Special Regulation 2000/16<sup>55</sup> on [Registration and Operation of Political Parties in Kosovo (March 21, 2000), Regulation 2000/21 on the Establishment of the Central Election Commission (issued on April 18 2000), and Regulation 2000/39 on the Municipal Elections in Kosovo<sup>56</sup> (8 July 2000), UNMIK put in place the legal infrastructure for the conduct of elections. UNMIK's Regulation on Municipal Elections in Kosovo specified that "the elections for municipal assemblies will be held under the system of proportional representation based on lists of candidates of political parties, citizens' initiatives and coalitions and independent candidates" and that "each list of candidates must include at least 30% women candidates within the first 15 candidates."<sup>57</sup> From May until July, for two consecutive months,

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54 Roland Paris, *At War's End: Building Peace after Civil Conflict* (Cambridge University Press, 2004), p. 216.

55 UNMIK/Reg/2000/16, 'On the Registration and Operation of Political Parties in Kosovo', March 21, 2000.

56 UNMIK/Reg/2000/39 'On Municipal Elections in Kosovo', July 8, 2000.

57 UNMIK/Reg/2000/39 'On Municipal Elections in Kosovo', July 8, 2000, Article 4. Simon Chesterman has argued that women took 28% of the seats of the Assembly elected in the first general elections in Kosovo. Such representation, according to him, was more than double the representation of women in Congress or the Senate of the United States, and such representation went beyond the standards of political correctness. Chesterman develops the topic of the women representation quota to argue on the imposing nature of electoral rules, constitution and constitutionalism in post-conflict countries. Chesterman says "higher representation of women can

discussions about the electoral system were held between OSCE representatives and Kosovo political parties. In July 2000, the Central Election Commission, headed by UNMIK, unilaterally imposed the proportional representation electoral system. The LDK and PDK had different preferences regarding the electoral system. The PDK backed a pure majoritarian electoral system for Kosovo, calculating that with such a system it would win the election and acquire more influence, while the LDK proposed a mixed electoral system (with features from both majoritarian and proportional systems). LDK and PDK calculations were based on different grounds. The PDK proposed the majoritarian electoral system believing it would be able to capitalize on the support it enjoyed in the population as a political force that emerged from the war of the KLA, believing it would win a majority in Kosovo as the main political force. On the other hand, the LDK feared the loss of political influence on the ground and hoped that such a proposal would put the LDK in a better position in the political scene. UNMIK imposed a proportional electoral system with closed lists.

There are four main reasons why this electoral system was established in Kosovo: first, it was the instrument for the protection and representation of minorities and women in Kosovo; secondly, it gave small parties the opportunity to be represented in the institutions; thirdly, the financial cost of this system were small and its management easier; fourthly, this electoral system was expected to produce higher levels of participation in elections, and it would legitimize the provisional institutions of self-government of Kosovo, but also UNMIK's presence. Beyond these reasons, this electoral system would prevent any political party from running the

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better reflect the desire and aspirations of women in a territory like Kosovo. But it is also clear that such decisions are taken not only from the standpoint of being responsive to local expectations." See Simon Chesterman, 'Imposed Constitutions, Imposed Constitutionalism, and Ownership', *Connecticut Law Review* (2004), Vol 37, p. 951.

country on its own. In accordance with Arendt Lijphart's idea for consociational democracy after elections, political parties would be forced to sit down, to build post-election coalitions and cooperate among themselves, willingly or unwillingly. In other words, the proportional electoral system was one of the methods (keys) that UNMIK used to engineer political representation, political culture and institution building.

Organizing the first elections was probably the most important political UNMIK activity after its deployment in Kosovo. Scholars Juan J. Linz and Alfred Stepan<sup>58</sup> argue that general elections should precede local elections in post-conflict societies. This did not happen in the case of Kosovo. Holding general elections in Kosovo was not on UNMIK's agenda. From UNMIK's perspective, as observed by Andrew Taylor, the organisation of local elections before the general ones was perceived to carry five advantages: first, these elections would serve as a 'pilot project' to test electoral governance procedures, infrastructure and institutions; secondly, a counterbalance to the political legitimacy of political structures emerging from the KLA; thirdly, Serb participation would help change their political perspective in Kosovo after 1999; fourth, local government would become functional and would begin to deliver services; and, fifthly, the local elections would enable UNMIK to assess the configuration of power after the conflict in Kosovo.<sup>59</sup>

The first local elections were held taking into account the political uncertainty over the status of Kosovo. 16 months after its deployment in Kosovo, in October 2000, UNMIK organised local

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<sup>58</sup> Juan J. Linz and Alfred Stepan, 'Political Identities and Electoral Sequences: Spain, the Soviet Union and Yugoslavia', *Daedalus*, 121, Spring 1992, pp. 123–139.

<sup>59</sup> Andrew Taylor, 'This election was never going to be perfect: The Kosovo Municipal election of October 2000 as post-conflict election', *Civil Wars* (2002), Vol. 5 Issue 3, p. 71.

elections to diminish the level of political demands in Kosovo. Although the election platforms of the political parties were supposed to deal with economic development and local democracy, the platforms of all Albanian political parties taking part in municipal elections were dominated by foreign policy, namely the demand for independence. Despite pessimistic international projections of a PDK victory, the local elections of October 2000 were won by the LDK. 58% of the electorate voted LDK, 27% PDK, and 7.7% AAK. The turnout rate was very high: 79% of citizens participated in the first local elections. Although the Central Election Commission registered 49 political parties to compete in the elections, the real political competition took place between the LDK, PDK and AAK. That would be the highest degree of citizen participation in elections and the largest number of political parties registered for the race compared to all elections to be organised later in Kosovo. Even after the elections, UNMIK retained all discretionary powers in accordance with Regulation 2000/45 on Self-Government of Municipalities in Kosovo.

Serbs boycotted en block the first local elections organised in Kosovo, eroding even further and for the second time UNMIK's legitimacy, after the displacement of a substantial portion of them in Serbia and northern Kosovo. In other words, from UNMIK perspective, elections were seen as an instrument of stability that would bring different ethnic communities in Kosovo to joint exercise of power, rather than as an instrument of democratic legitimacy. In 'Elections are what we do', Simon Chesterman argued that UNMIK designed elections as an activity that would engage both Albanians and Serbs in political life, taking into account the fact that Kosovo's independence was not on the table.

'Elections will buy us three years of stability', stated one of the senior officials of the OSCE.<sup>60</sup>

## 2.2 Electoral system for 'multi-ethnic democracy'

UNMIK, prior to the general elections and through the OSCE as one of its main pillars, designed the electoral system in Kosovo. The Constitutional Framework for Provisional Self-Government in Kosovo already stated that 20 of the 120 seats in the Kosovo Assembly were reserved for minority communities. Since Kosovo was a post-conflict society divided on ethnic grounds, the electoral system intended to build - if we may use the terminology of Arendt Lijphart - a multi-ethnic democracy<sup>61</sup>, in which the executive power would be jointly exercised by representatives of different ethnic groups. This is otherwise known as 'power-sharing' or consociationalism.<sup>62</sup>

Scholars agree that ethnic divisions threaten stability and democracy, but the approaches they propose to institutionally address these ethnic divisions and stabilize democracy in countries with deep ethnic divisions, are different. There are two theoretical approaches on engineering a society emerging from war and fragmented on ethnic grounds: the centripetalist approach and the centrifugalist one. According to the centripetalist approach, argue by Donald Horwitz (1993), the rules of the electoral system should be designed in ways that create incentives for politicians, who are

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<sup>60</sup> Simon Chesterman, 'Elections Are What We Do', *The World Today*, Vol. 57, No. 11 (Nov., 2001), p. 20.

<sup>61</sup> Arend Lijphart, 'Multiethnic Democracy' in Seymour Martin Lipset, *The Encyclopedia of Democracy* (Washington, 1985), p. 864.

<sup>62</sup> This concept was introduced by Arendt Lijphart in 1969. In 1994, Lijphart modified it to consensual democracy.

forced to seek votes outside their own ethnic group.<sup>63</sup> Researchers who support this approach, such as Timothy Sisks (1993)<sup>64</sup>, Benjamin Reilly (1995), Pippa Norris (1997)<sup>65</sup> argue that when applying the centripetalist (integration) approach in societies emerging from war, the factors to be taken into account are demographics, geography and alignment of minorities or national communities, and if a given minority is integrated and has another parent state.

For example, when Benjamin Reilly discusses ethnic divisions in societies emerging from war, he notes three models: the Fiji model, with bipolar balance between the two groups; the Bosnia-Herzegovina model, with multipolar balance between groups; and the Rwanda model, with one dominant minority.<sup>66</sup> However, Kosovo's demographic composition and geographic layout of ethnic communities is different from the above cases. Given that the majority of Kosovo's population is ethnic Albanians and only 10% is made up of other ethnic communities, no electoral system could overturn this demographic ratio.

Consequently, Albanian political parties had no incentive to seek votes beyond their ethnic group. Similarly acted the parties of other ethnic communities, such as Serb, Roma, Ashkali, Egyptian, Turk and Gorani parties. Dan Everts, head of the OSCE in Kosovo, responsible for the design of the electoral system in Kosovo, argued that the selection of the proportional electoral system intended to prevent the formation of a bipolar political reality and

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<sup>63</sup> Donald Horowitz, 'Democracy in divided societies'. *Journal of Democracy* (1993) 4 (4), 18–38.

<sup>64</sup> Timothy Sisk, 'Choosing an electoral system: South Africa seeks new ground rules', *Journal of Democracy*, 1993, 4 (1), 79–91.

<sup>65</sup> Pippa Norris 'Choosing electoral systems: proportional, majoritarian and mixed systems'. *International Political Science Review*, 1997, 18 (3), 297–312.

<sup>66</sup> Benjamin Reilly, *Democracy in Divided Societies. Electoral Engineering for Conflict Management*. (Cambridge University Press, Cambridge, 2001), p. 185.

to ensure the representation of minority parties.<sup>67</sup> The 2000 local elections and the 2001 general elections were dominated by the LDK, PDK and AAK, but there was bitter rivalry between them. In fact, especially before the elections, the PDK and LDK assumed polarized positions. Since most political friction and tension arose between Albanian political parties, the electoral system intended to make it impossible for any party to govern alone in Kosovo. The creation of broad coalitions for all post-war governments was intended to prevent bipolar political antagonism.

Andrew Taylor argues convincingly on the reasons for the selection of the electoral system in Kosovo. According to Taylor, "no electoral system could alter the demographic fact of the Albanian dominance", therefore the purpose of this system was, on one hand, to reflect this demographic reality and, on the other, to assure representation of non-Albanian communities through power-sharing mechanisms.<sup>68</sup> The centripetalist approach, as described in a study by Benjamin Relly, promotes a majoritarian system with multi-ethnic parties seeking votes across ethnic groups, which must meet two criteria. First, the post-conflict countries where this system is promoted have extremely high numbers of ethnic groups and extremely high geographic distribution of these groups. In the case of Kosovo, the number and size of ethnic groups was smaller and most of the Serb minority was geographically concentrated in northern Kosovo. In the 2000 local elections, UNMIK tested the proportional system with open lists and drew some lessons from this system.

The approval of the Constitutional Framework for Provisional Self-Government in Kosovo internalized the

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<sup>67</sup> Dan Everts, 'Review of the OSCE Mission in Kosovo's Activities 1999–2001'. Pristine/Prishtinë, 2001, OMiK.

<sup>68</sup> Andrew Taylor, 'Electoral systems and the promotion of 'consociationalism' in a multi-ethnic society. The Kosovo Assembly Elections of November 2001, *Electoral Studies* 24 (2005) 435-463, p. 441

proportional electoral system in its letter and spirit, starting from the preamble calling for the protection of the rights of communities up to the content, which guaranteed representation in the Parliament, the Government and all other institutions to the ethnic communities in Kosovo Andrew Taylor argues that the purpose of the Constitutional Framework was "the establishment of a party system in Kosovo that would keep a balance between creating manageable coalitions, effective government and a multi-ethnic governance."<sup>69</sup>

There are three fundamental aspects of the proportional electoral system in Kosovo that were given considerable attention in Taylor's analysis. These are: district size, ballot structure and rules for the allocation of seats. UNMIK adopted a single constituency in Kosovo. This aspect of the electoral system has remained unchanged in all elections organised in Kosovo until 2014, although political parties and civil society would occasionally offer different options for more electoral districts. Although this system was criticized for the fact that it eroded the legitimacy of the political system and was not establishing bridges between elected representatives in Parliament and voters in geographic regions throughout Kosovo, the purpose of choosing this system of proportionality was to engineer the system of multi-party government, in which neither party could lead on its own the central institutions of Kosovo. Likewise, the single electoral zone for the election of the 120 members of parliament, offered the option of guaranteed representation in the newly established political system of political parties of ethnic groups. Unlike the first local elections, the general elections ran closed lists, also due to the fact that the 2000 local elections marked a lack of

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<sup>69</sup> Andrew Taylor, 'Electoral systems and the promotion of 'consociationalism' in a multi-ethnic society. The Kosovo Assembly elections of November 2001, *Electoral Studies* 24 (2005) 435-463, p. 456.

representation of women in institutions. In the general election of 2001, every third candidate on the electoral lists of political parties was a woman, which guaranteed the representation of women in institutions.

This legal regulation of women's representation in Parliament remained unchanged in the 2004, 2007, 2010 and 2014 elections, with the distinction that in 2010 the lists were open once again. The closed lists in the 2001 elections were criticized due to the fact that such a system could enable greater intra-party control by leaders when selecting their favourites in the electoral list. Given that citizens and members of political parties would not have any impact on the drafting of these lists, it was thought that this would erode confidence in political parties and discourage citizen participation in elections. UNMIK's argument for closed lists and the single district is based on the following: Kosovo was a small territory and this system would enable higher proportionality. 'Sainte-Laguë' was selected as a method of translating votes into seats of the Assembly.<sup>70</sup>

Although this system over-represented the Serb community in Kosovo, as we shall see from the results of the general elections of 2001, it still did not diminish the rights of the majority population in Kosovo. Although such a system of representation has been criticized by scholars that promote centripetalism, according to which such an electoral system institutionalizes ethnic politics in societies emerging from war, Andrew Taylor argued that in practice this criticism is meaningless. Taylor asserts that "a culturally and ethnically divided society will remain culturally and ethnically divided whatever electoral system is adopted and any

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<sup>70</sup>Andrew Taylor, 'Electoral systems and the promotion of 'consociationalism' in a multi-ethnic society. The Kosovo Assembly elections of November 2001, *Electoral Studies* 24 (2005) 435-463, p. 449-453.

attempt to over-ride these divisions by majoritarian mechanisms is extremely dangerous."<sup>71</sup>

Kosovo's electoral system took into account, to a high degree, almost all contextual factors in Kosovo. A large part of the Serbs displaced from other parts to northern Kosovo contested both the legitimacy and legality of UNMIK. This dispute was materialized with the boycott of the local elections. On the other hand, Serbia's requirements from Kosovo Serbs to boycott Kosovo's institutions were clear. Although the war had already stopped and a negative peace was installed, inter-ethnic tensions were still alive and Serbs felt afraid of a possible revenge of the Albanians, who already were *de facto* demographically and politically the majority in Kosovo. Under these circumstances, an appeal for multi-ethnic parties and a majoritarian system would completely exclude Serbs from Kosovo's institutions, which would also delegitimize the UNMIK administration, installed to build a multi-ethnic democracy. This incentive for Serb representation through reserved seats, under the Constitutional Framework, especially after the democratic changes in Serbia after Milošević's fall from power, was one of the few options on the 'table'.

Kosovo's political and electoral system contains almost all the consultative and decision-making mechanisms of power-sharing discussed at length by Arendt Lijphart. These mechanisms were embedded in the Constitutional Framework and after the declaration of independence, in accordance with the Ahtisaari Plan, would be ingrained in the Constitution of Kosovo as legal mechanisms to protect the rights of communities in independent Kosovo. Minority communities shall have guaranteed representation at central and local level, parliamentary and governmental level, judiciary and public administration level. Consultative mechanisms were also set up at the level of the

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<sup>71</sup> Ibid, p. 461.

institution of the President of Kosovo, such as the Consultative Council for Communities; decision-making mechanisms, such as the Parliamentary Commission for the Rights and Interests of Communities and Returns in the Kosovo Assembly; and coordination mechanisms, such as the Office for Community Affairs at the Office of the Prime Minister.<sup>72</sup>

### **2.3 'Landmark elections'**

International organisations qualified the first general elections in Kosovo as 'landmark elections'.<sup>73</sup> UNMIK saw the general elections of 2001 as another twofold opportunity to legitimize itself. On the one hand, by negotiating the participation of Serbs in the general elections of 2001 and, on the other hand, by creating the opportunity for the establishment of the provisional institutions of self-government in Kosovo and the gradual transfer of competencies from UNMIK to those institutions. Since Serbs boycotted the local elections of 2000, the fall of the regime of Milošević opened the possibility to cooperate with Serbia, so that it would not appeal to the Kosovo Serbs to boycott the elections to be organised in 2001. Serbs had deep disagreement about participation in these elections. Those who were displaced in northern Kosovo were more rigid, since they had already created *de facto* several 'parallel institutions' that enjoyed direct support

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<sup>72</sup> See on this, Adem Beha, 'Minority Rights: An Opportunity for Adjustment of Ethnic Relations in Kosovo?' *Journal on Ethnopolitics and Minority Issues in Europe*; Vol 13, No 4, 2014, 85-110 ; Gëzim Visoka and Adem Beha, 'Minority Consultative Bodies in Kosovo: A Quest for Effective Emancipation or Elusive Participation?', *Journal on Ethnopolitics and Minority Issues in Europe*, Vol 10, No 1, 2011, 1-30.

<sup>73</sup> International Crisis Group, 'Kosovo: Historic Elections' (Prishtina, November 21, 2001).

from Serbia. Serbs from Gracanica were more pragmatic about participation in the elections.<sup>74</sup>

Serb participation in the general elections became possible after an agreement was signed on November 5, 2001 between the UNMIK SRSG Hans Haekkerup, and President of the FRY Coordination Centre for Kosovo Nebojša Čović. Through this agreement, Serbia outlined three requirements for UNMIK: a) the institutions that would emerge from the elections, in particular the Parliament, were not to take any step towards the declaration of independence of Kosovo, b) UNMIK should commit to improving safety for Serbs and the return of Serb refugees, and c) some units of the Yugoslav Army were to return to Kosovo. In fact, the nature of Serbia's demands changed constantly, due to the fact that the coalition partners that ousted Slobodan Milošević from power, the Democratic Party of Serbia (DSS)<sup>75</sup> led by Vojislav Koštunica and the Democratic Party of Zoran Djindjić, did not have a common position on Kosovo. In order for these political parties to flee responsibilities over Kosovo, after listing several requirements that UNMIK was to fulfil for Kosovo Serbs, Belgrade agreed on the participation of Serbs in Kosovo's general elections.<sup>76</sup>

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<sup>74</sup> Jens Stilhoff Sørensen, 'International Statebuilding in Kosovo', in David Chandler and Timothy D. Sisks (ed.) *Routledge Handbook of International Statebuilding* (Routledge, 2013), p. 275.

<sup>75</sup> According to the ICG, "The reluctance of Koštunica and his party, the Democratic Party of Serbia (DSS), to approve Serb participation can be explained by various factors, including the continued connection with the "Greater Serbia" project. Secondly, it was feared that the creation of new institutions risked weakening Serb parallel structures in parts of Kosovo still under Serb control in the north of the Ibar River, where DSS was strong. Thirdly, DSS leaders feared offending the party core, the nationalist constituency, in the interest of other parties in the Serbian political scene." See full reasoning at the International Crisis Group, 'Kosovo: Historic Elections' (Prishtina, November 21, 2001), p. 7

<sup>76</sup> Besides the fact that Haekkerup had signed a cooperation agreement with Nebojša Čović, he stated that Kosovo was part of the Federal Republic of Yugoslavia. His undiplomatic behaviour, such as shutting the microphone of the PDK president during the inauguration of the Assembly, gave him an

The Constitutional Framework for Provisional Self-Government in Kosovo of May 15, 2001, describes "institutions, which will be put in the hands of Kosovo's leaders and civil servants after general elections, on 17 November 2001".<sup>77</sup> 26 political parties competed in the general elections of November 2001, with a general turnout of 64%, i.e. 14% lower compared to the local elections one year earlier. As noted by the International Crisis Group:

[T]he campaign failed to raise as much enthusiasm as the campaign for the October 2000 municipal elections may in part have reflected the difficulty in distinguishing among the parties on substantive issues. While all three main parties assert their commitment to sound, democratic government, the rule of law, a market economy and so forth, given that none has any record of government there is no basis on which to assess their claims. On the key issue of the future status of Kosovo, all are committed to independence. To a considerable degree, preferences among the electorate are based on habit or regional factors, combined with the personalities of the party leaders.<sup>78</sup>

The LDK emerged as the winner of the election with 45.7% of the total vote. Compared with the 2000 local elections, when the LDK garnered 58% of the vote, it marked a drop in the general support for the LDK. The PDK ranked second, with 25.7% of the vote,

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unfriendly image. See on this, James Ker-Lindsay, 'From Autonomy to independence: the evolution of international thinking on Kosovo, 1998-2005', *Journal of Balkans and Near Eastern Studies*, 2009, 11:2, p. 149.

<sup>77</sup> UNMIK REG/2001/9, "Constitutional Framework for Provisional Self-Government in Kosovo", May 15, 2001. Accessed at [http://www.assembly-kosova.org/common/docs/FrameworkPocket\\_ENG\\_Dec2002.pdf](http://www.assembly-kosova.org/common/docs/FrameworkPocket_ENG_Dec2002.pdf) (April 4, 2015)

<sup>78</sup> International Crisis Group, 'Kosovo: Historic Elections' (Prishtina, November 21, 2001), p. 8

while AAK was third, with 7.8% of the total vote. Serbs participated in the elections through a large coalition of several political parties (coalition "Povratak"). The coalition managed to win 11.3% of the total vote. Since the Constitutional Framework guaranteed 10 seats for the Serb minority, to them were added the 12 seats emerging from election results, increasing the representation of Serbs in Kosovo with 22 seats in the Assembly.<sup>79</sup>

The announcement of the election results opened the possibility for the creation of the Provisional Institutions, as envisaged in the Constitutional Framework. The LDK and the PDK harboured disagreements over the division of management positions and both negotiated for the seats of president and prime minister. Hans Haekkerup's patronizing approach to unlock this situation<sup>80</sup> failed to provide a remedy for the delay in the establishment of institutions. After signing the agreement with Čović', without any consultation with Kosovo's political leadership, Haekkerup lost his credibility with the Albanian political parties, and gradually was seen as an obstacle to the realization of the aspirations of the Albanians for the independence of Kosovo. Despite the fact that the country held elections in November 2001, Kosovo would wait until February 2002 for the establishment of the provisional institutions. Following Haekkerup's resignation and

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<sup>79</sup> Oisín Tansey, 'Democratization Without a State: Democratic Regime-building in Kosovo, Democratization'. 14:1 (2007), p. 139; Jens Narten, 'Post-Conflict Peacebuilding and Local Ownership: Dynamics of External-Local Interaction in Kosovo under United Nations Administration', *Journal of Intervention and Statebuilding* (2008), 2:3, 369-390, p. 379; Iain King, Mason, *Peace at any Price: How the world failed Kosovo* (Ithaca, New York, Cornell University Press, 2006).

<sup>80</sup> Regarding the role of UNMIK's leadership, when analysing the leadership of UNMIK SRSs, Yeshe Choedon praises Kouchner, Steiner and Jessen Petersen for their involvement in Kosovo, excluding the other SRSs. According to Choedon, "the personality factor and lack of commitment have contributed to the lack of coordination within the UNMIK". See Yeshe Choedon, 'The United Nations Peacebuilding in Kosovo: The Issue of Coordination', *International Studies* 47 (1), 2010, p. 52.

his replacement in January 2002 by the new UNMIK SRSG Michael Steiner, the path was open for the establishment of the central institutions and allocation of governing positions between the PDK and the LDK, thanks to Steiner's energetic leadership. Since Quint member states and UNMIK representatives and ambassadors held the "keys of power" and were interested in a moderate political leadership, they intervened and issued clear instructions on who could lead the government of Kosovo.<sup>81</sup> In UNMIK's assessment, the PDK leader, as former KLA Political Director and Prime Minister of the 'Provisional Government', could not contribute to building a democratic, tolerant and multi-ethnic society, due to the fact that Serbs regarded him as a 'KLA man'. Likewise, the LDK, the largest party and winner of the elections, could not easily accept a deal with Thaçi as prime minister, given the latter's criticism of the LDK and its leader. On the other hand, the international community held Thaçi responsible, as stated in the report of the ICG on "chaos, corruption and criminality in the period immediately after the war".<sup>82</sup> In one way or another, the first stage of democratic transition in Kosovo tarnished Hashim Thaçi's image. As observed by Oisín Tansey, "after a period of intense negotiations with political leaders, he proposed a compromise candidate for the prime minister position, PDK politician Bajram Rexhepi, and sealed agreement on the new government, with Rugova as President, after a lengthy negotiation session at his private residence that ended in the early hours of 28 February 2002".<sup>83</sup> On the other hand, King and Mason argue that one of the other names discussed for the position of prime minister proposed

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<sup>81</sup> Oisín Tansey, *Regime-building: Democratization and International Administration*. (Oxford University Press, 2009), p. 121.

<sup>82</sup> International Crisis Group, 'Kosovo: Historic Elections' (Prishtina, November 21, 2001), p. 5.

<sup>83</sup> Oisín Tansey, 'Democratization without a State: Democratic Regime-building in Kosovo', *Democratization*, 2007, 14:1, p. 139, p. 140.

by the PDK was Fatmir Limaj, but the name was rejected by Steiner, since Limaj was expected to be indicted by the Hague Tribunal for war crimes. In fact, a year after the conclusion of the grand coalition and the establishment of the government, in February 2003 the Hague Tribunal passed an indictment against Fatmir Limaj, the second most influential PDK politician, and three of his war associates.<sup>84</sup>

According to the February 2002 agreement, the LDK, PDK and AAK built a grand coalition<sup>85</sup>, in which the PDK received the position of the Prime Minister, the LDK that of the President of Kosovo, while the AAK and Povratak Coalition became stakeholders in government. The scope of such a large coalition was built in accordance with the principles of "consensual democracy". This coalition was expected to decrease the political polarity between the LDK and PDK and build a broad consensus to govern post-war Kosovo. On the other hand, given that the majority of these parties were built on ethnic grounds, with loyalty obtained and held through family and clan alliances in regions where the party had its electoral base, by making all parties share power UNMIK aimed to increase control over the territory of Kosovo, to expand its internal legitimacy base and, consequently, maintain the *status quo*. In other words, "the need for effective government came after the need for stability".<sup>86</sup> The lack of clarity

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<sup>84</sup> On the day of The Hague Tribunal indictment, Limaj was skiing in Slovenia with PDK leader Hashim Thaçi, and was handed over to Slovenian police. Iain King, Mason, *Peace at any Price: How the world failed Kosovo* (Koha, Prishtina, April 2007), p. 152.

<sup>85</sup> During the negotiation process for the allocation of posts and the establishment of institutions, the LDK promised 5 of 10 ministries of the Kosovo Government to the PDK. Of the 10 ministries, 3 were assigned to minorities, and according to this proposal the LDK would lead with only 2 ministries. However, the LDK would accept the agreement only if Thaçi was not appointed prime minister.

<sup>86</sup> International Crisis Group, "Two to Tango: An Agenda for the SRSG in Kosovo (ICG, Europe Report No 148, September 3, 2003), p. 5.

on the status of Kosovo still jeopardized inter-ethnic relations within Kosovo and the regional stability. On the other hand, even though UNMIK had announced that the Provisional Institutions of Self-Government in Kosovo (PISG have) the emerged from general elections of 2001 did not have a mandate to proclaim the independence of Kosovo, the AAK had initiated a motion for the unilateral declaration of the independence of Kosovo.

However, this grand coalition lacked cohesion and strong leadership that would coordinate internal actions. Prime Minister Bajram Rexhepi was not PDK president and his every action had to be agreed with Hashim Thaçi. Also, LDK, PDK, AAK and Povratak Coalition MPs elected to the Kosovo Assembly lacked experience. Thus, UNMIK still played the lead role in all initiatives taken in Kosovo. Immediately after the establishment of the institutions, frictions arose between UNMIK and the PISG, influenced by three important events.

In April 2002, UNMIK signed the border agreement between Yugoslavia and Macedonia on behalf of Kosovo. This agreement was signed before the establishment of the Union of Serbia-Montenegro, in November 2002, brokered by the European Union.<sup>87</sup> Under this agreement, Kosovo lost part of its territory to Macedonia. The Kosovo Assembly, on 23 May 2002 rejected this agreement with a special resolution called "Territorial Integrity of Kosovo". The SRSG Michael Steiner declared the resolution void. The Union of Serbia and Montenegro included Kosovo in its

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<sup>87</sup> For Montenegro's transition to independence, see the book edited by Florian Bieber (ed.), *Montenegro in Transition: Problems of Identity and Statehood* (Nomos Verlagsgesellschaft, Baden-Baden, 2003). Shih paper by Srđa Pavlović, 'Who are Montenegrins? Statehood, identity and civil society', pp. 83-1-7 and paper by Florian Bieber, 'Montenegrin politics since the disintegration of Yugoslavia', pp. 7-11.

preamble<sup>88</sup> and the Kosovo Assembly, for the second time, on November 7, 2002, passed a resolution, condemning Serbia's actions. Even this resolution was declared null. Since UNMIK had already launched investigations on some KLA members, and since UNMIK policies, in the eyes of political parties, were maintaining the sovereignty of Yugoslavia over Kosovo, the Kosovo Assembly on May 15 2003 adopted the third resolution on the 'Liberation War of Kosovo's People for Freedom and Independence'. Even this resolution was declared null and was considered divisive for inter-ethnic relations. The third resolution on the 'Liberation War of Kosovo's People for Freedom and Independence' produced unintended consequences, lowering the tone of conflict between the LDK and the PDK, since the resolution acknowledged the armed struggle of the KLA and the peaceful resistance of the LDK.<sup>89</sup>

Three months before the first general elections in Kosovo, on September 11, 2001, Al-Qaeda attacked the twin towers in New York. This event shifted US attention from Kosovo to the Middle East, first to Afghanistan and then Iraq and beyond.<sup>90</sup> Even after

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<sup>88</sup> See State Union of Serbia and Montenegro, 'Constitutional Charter of the State Union Serbia and Montenegro', 2002. Accessed at [http://www.worldstatesmen.org/SerbMont\\_Const\\_2003.pdf](http://www.worldstatesmen.org/SerbMont_Const_2003.pdf) (5 July 2015).

<sup>89</sup> International Crisis Group, "Two to Tango: An Agenda for the SRSG in Kosovo (ICG, Europe Report No 148 , September 3, 2003), p. 5.

<sup>90</sup> Foreign policy of the United States after September 11, see Simon Chesterman, 'Just war or Just Peace After September 11: Axes of Evil and War Against Terror in Iraq and Beyond', *International Law* (2004-2005) Vol. 37, pp. 281-301; Dirk Nabers, 'Filling the Void of Meaning: Identity Construction in U.S. Foreign Policy After September 11, 2001', *Foreign Policy Analysis*, Vol. 5, Issue 2, pp. 191-214; Christopher Hill, 'Renationalizing or Regrouping? EU Foreign Policy Since 11 September 2001', *Journal of Common Market Studies*, Vol.41, Issue 1, pp. 143-163; Stephen M. Walt, 'Beyond bin Laden: Reshaping U.S. Foreign Policy', *International Security* (2001/2), Vol. 26, No. 3, pp. 56-78; James M. McCormick, *The Domestic Sources of American Foreign Policy: Insights and Evidence* (Rowman & Littlefield Publishers, Inc. 2012); Joseph S. Nye, 'U.S. Power and Strategy After Iraq', *Foreign Affairs* (2003).

the first general elections, UNMIK still did not have an exit strategy from Kosovo.

On November 15, 2001, through an open debate, the Security Council made an assessment of its peacekeeping missions in conflict zones. According to this report, the 'exit' or change of mandate of the peace-building operations depended on three factors: successful completion of the mandate, failure or partial success. "The purpose of Peace Operations", the report stressed, "is the achievement of lasting peace." The report finds that peace be established when social conflicts are resolved by peaceful means through the exercise of national sovereignty and democratic governance. In order to achieve this, the warring parties must shift their conflict from the field to the institutional framework. "To facilitate such a transition, a mission's mandate should include peace-building and incorporate such elements as institution-building and the promotion of good governance and the rule of law, by assisting the parties to develop legitimate and broad-based institutions".<sup>91</sup> According to the report, successful and comprehensive peace-building depends on meeting three objectives: a) the consolidation of internal and foreign security; b) the strengthening of political institutions and good governance; c) the promotion of rehabilitation and economic and social transformation.

The report "No exit without a strategy ', in the case of Kosovo stressed that "the exit of UNMIK is tied to a determination of the final status of the territory", and in accordance with this mandate "the operation has begun to devolve increasing autonomy and self-government of Kosovo, while avoiding any actions that would prejudice the outcome on final status." Although the report

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<sup>91</sup> United Nations Security Council, 'No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations', S /2001/394, 20 April 2001, p. 2.

observed "unavoidable tension between the aspirations of people in Kosovo and the mandate given by the Security Council, there seems no alternative, in these circumstances [...] until such time as an agreement on final status can be reached".<sup>92</sup>

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<sup>92</sup> Ibid, pp. 7-8.



A graphic consisting of four vertical bars of varying heights, arranged to resemble the Roman numeral III. The bars are dark gray and have a slight shadow effect.

BETWEEN STABILISATION  
AND DEMOCRATISATION

**CHAPTER III**

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# *CHAPTER 3:*

*POWER RECONFIGURATION IN KOSOVO AND BEYOND -  
2004 GENERAL ELECTIONS*

### **CHAPTER 3: POWER RECONFIGURATION IN KOSOVO AND BEYOND - 2004 GENERAL ELECTIONS**

Since 1999, Kosovo's empirical sovereignty is limited by four factors: a) Resolution 1244 of the UN Security Council, b) parallel Serb institutions, c) the inability of the Kosovo government to exercise control over the territory of Kosovo, and d) the lack of capacities to implement public policies.<sup>93</sup> Analysing these factors, Dominik Zaum underlines that Kosovo's empirical sovereignty was related to a lack of clarity regarding the political status of Kosovo. Since Kosovo's political status remains undefined, UNMIK invented the so-called 'standards before status' as a tool to buy time. UNMIK presented Kosovo with 8 standards that were to be met: 1) functioning of democratic institutions; 2) rule of law; 3) freedom of movement; 4) sustainable returns and rights of communities and their members; 5) economy; 6) property rights; 7) Belgrade-Prishtina dialogue; 8) Kosovo Protection Corps.<sup>94</sup> Any

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<sup>93</sup> Dominik Zaum, *Sovereignty Paradox: Norms and the Politics of International Statebuilding* (Oxford, New York: Oxford University Press, 2007), p.141.

<sup>94</sup> See Joseph Marko, 'Independence without standards? Kosovo's Interethnic Relations Since 1999', *European Yearbook of Minority Issues Online* (2007), Vol. 5, Issue 1, pp. 219-241. Also, see UNMIK 'Standards for Kosovo', Prishtina, December 10, 2003. Accessed at <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20Standards.pdf> (26 July 2016).

progress towards the final status hinged on the fulfilment of 'standards before status'/'standards of civilization'. However, Zaum notes that the transfer of political authority from UNMIK to local institutions did not depend on meeting the standards or Kosovo's inability to do so, but first and foremost on the inability of UNMIK technocrats to cooperate with local institutions in Kosovo.

The purpose of these standards was to build a phased sovereignty in Kosovo. The first phase meant that sovereignty would be exercised jointly (shared sovereignty) between UNMIK and provisional institutions, while in the second phase this power would be delivered gradually to local institutions (phased sovereignty).<sup>95</sup> As Knoll argues, the policy of standards before status was framed under the influence of the idea of 'earned Sovereignty'. The idea of these standards was to establish some indicators of good governance - a policy of conditionality - through which to measure progress in Kosovo during the transition period. Although this set of indicators was assigned to a transitional period in order to enable the opening of negotiations on the final status of Kosovo, Knoll noted that by 2003, standards before status were considered a management tool of Kosovo's internal stability, rather than a policy adopted and internalized by its interim institutions.

The fulfilment of the third objective of UNMIK, which dealt with the full transfer of powers from UNMIK to Kosovo institutions, was blocked precisely by UNMIK due to the

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<sup>95</sup> According to Hooper and Williams, "Kosovo represents the most comprehensive example of the use of phased sovereignty to manage the transfer of sovereign authority and functions. In accordance with Resolution 1244, the UN adopted the Interim Constitutional Framework which will make sure that the UNMIK and Kosovo entities shall exercise most of the functions typically associated with an independent state, including foreign relations". See James R. Hooper & Paul R. Williams, 'Earned Sovereignty: The Political Dimension', *Denv. J. Int'l. & Pol'y*, Vol 31, pp. 365-367.

unresolved status.<sup>96</sup> Thus, two paradigms accompanied international administration in Kosovo: for UNMIK, progress in Kosovo was linked with the so-called standards of civilization (standards before status), whereas for Kosovars to the principles of self determination.<sup>97</sup> Nicolas Lemay-Hebert notes that two antagonistic objectives clashed in the case of Kosovo's international administration. According to him: "the initial focus on institution building in Kosovo and Timor Leste, and the centralisation of authority in the hands of international officials, has led these officials to marginalize empowerment imperatives and the local population in the governance framework, creating new problems on the ground and fuelling a specific wave of popular contestation toward international administration".<sup>98</sup> According to him, the policy of "standards before status" frustrated the local political leadership, who viewed them as "standards to prevent status".

Although the 'standards before status' were considered standards of good governance<sup>99</sup>, this patronizing policy and approach treated Kosovo's provisional institutions as 'pupils' that should mature before dealing with the final status of Kosovo. Delays in the transfer of competencies from UNMIK to Kosovo's

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<sup>96</sup> Jens Narten, 'Post-Conflict Peacebuilding and Local Ownership: Dynamics of External-Local Interaction in Kosovo under United Nations Administration', *Journal of Intervention and Statebuilding* (2008), 2:3, 369-390, p. 379.

<sup>97</sup> Dominik Zau, *Sovereignty Paradox: Norms and the Politics of International Statebuilding* (Oxford, New York: Oxford University Press, 2007), p.152.

<sup>98</sup> Nicolas Lemay-Hébert, 'Coerced transitions in Timor-Leste and Kosovo: managing competing objectives of institution-building and local empowerment, *Democratization*, (2012), 19:3, p. 467.

<sup>99</sup> Carsten Stahn, *The Law and Practice of International Territorial Administration: Versailles to Iraq and Beyond*, (Cambridge: Cambridge University Press, 2008), p. 313; Osin Tansey, *Regime-building: Democratization and International Administration*. (Oxford University Press, 2009), p. 139.

institutions - required to meet standards for which they did not have full powers - produced unintended consequences. Claiming that Kosovo's future was in Serbia and intervening in the territory of Kosovo through the instrumentalization of parallel structures in the Serb enclaves, especially in northern Kosovo, the Serbian Government provoked the Albanian population of Kosovo and contributed to the loss of patience of the Albanian political leadership and population. Delays in addressing the status of Kosovo began to erode the most basic relationships and trust between Albanians and Serbs.

As long as Albanian fears and Serb hopes of Kosovo's eventual re-incorporation into Yugoslavia are left unanswered, efforts to develop normal, constructive relations between the two communities, either within Kosovo and between Kosovo and Serbia, are unlikely to bear fruit.<sup>100</sup>

On March 17 and 18, 2004, after an incident in Mitrovica where some Albanian children, allegedly chased by dogs and adult Serbs, drowned in the Ibar River, the situation got out of control across Kosovo. This event was used as an excuse to vent all the anger and frustration of the local population over four years of political stalemate and lack of economic prospects and Serbia's ongoing interference in Kosovo. In a matter of days, 33 rallies with nearly 51,000 participants turned to riots, 19 people were killed, and 954 more were injured.<sup>101</sup> After these violent March events, the

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<sup>100</sup> International Crisis Group 'Kosovo Roadmap (I): Addressing Final Status' (ICG Balkans Report 125, March 1, 2002, Prishtina/Brussels, March 1, 2002), p. 5.

<sup>101</sup> OSCE Mission in Kosovo, Department of Human Rights and Rule of Law, 'Human rights challenges following the March riots, 2004', p. 4; See, also, Elizabeth Pond 'Kosovo and Serbia after the French *non*', *The Washington Quarterly* (2005), 28:4, pp. 19-36.

Secretary General of the UN appointed a Special Charge, Kai Eide, to assess the overall situation in Kosovo.

Kai Eide stated that *the status quo* was unsustainable and that the international community should take steps to initiate dialogue to determine the final status of Kosovo. However, he and Kosovo's international partners were concerned with Kosovo's internal management for the sake of maintaining stability. The international message was clear: any other act of violence of the magnitude of the March 2004 events would prevent the opening of the negotiations. On the other hand, the events of March accelerated the need to address the unresolved political status of Kosovo. As a result of these events, the UNMIK administration under Harri Holkeri was close to collapse.<sup>102</sup> Holkeri resigned and was succeeded by Søren Jessen-Petersen. Aware that the International Tribunal for the Former Yugoslavia was probing war crimes charges against Ramush Haradinaj, President of the Alliance for the Future of Kosovo, the first issue Jessen-Petersen and diplomatic missions accredited in Kosovo had to deal with was managing the stability in Kosovo in case of indictment by the Hague Tribunal. The 'Right Time' to open negotiations on Kosovo's status would depend on the political dynamics inside of Kosovo, which would be produced by the next elections.

On October 23, 2004, Kosovo organised its second general elections. Taking into account the lack of accountability of MPs towards voters, the lack of connectivity of the MPs with specific geographical areas and the over-representation of minorities, these elections brought no change to the electoral system, although the public debate on reforming the electoral system had been launched since 2003. During this time, it was argued that "the closed list

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<sup>102</sup> Jens Stilhoff Sørensen, 'International Statebuilding in Kosovo', in David Chandler & Timothy D. Sisks (ed.) *Routledge Handbook of International Statebuilding* (Routledge, 2013), p. 276.

election system has reinforced the three hierarchical and hermetic party structures, helping lock into power the leaders who emerged from the ward period and dulling the potential for evolution".<sup>103</sup> Approximately 1.4 million Kosovo eligible voters cast their ballots, i.e. around 13% less than in the first general elections. Considered free and fair by Freedom House, the elections, still organised by the OSCE, were rated 5.25.<sup>104</sup> Since in 2003 UNMIK had transferred most of the powers of Chapter 5 of the Constitutional Framework to local institutions and the institutions that emerged from these elections had more powers and enjoyed more autonomy.

33 political entities were certified in these elections. Even in the 2004 elections LDK was still in the lead with 313,437 votes and 47 seats in Parliament, compared with 199,112 votes or 30 seats of the PDK, 579,311 votes or 9 seats of the AAK, and 43,017 votes or 7 seats of the ORA.<sup>105</sup> Following the announcement of these results, led by Ibrahim Rugova the LDK built a coalition with the AAK, led by Ramush Haradinaj, leaving out of the ruling coalition the second largest party, the PDK. As the time drew near for determining Kosovo's final status, none of the parties and their leaders had taken any initiative to build relations with Kosovo's neighbouring countries. The first such initiative was undertaken

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<sup>103</sup> International Crisis Group, 'Kosovo after Haradinaj' (European Report 163 of Crisis Group, May 26, 2005), p. 13.

<sup>104</sup> Alexander J. Motyl, Amanda Schnetzer, *Nations in Transit 2004: Democratization in East Central Europe and Eurasia* (New York, Washington D.C, 2004), p. 523.

<sup>105</sup> OSCE, 'Kosovo Assembly Elections 2004 – CRS Results', Prishtina, November 3, 2004. Accessed at <http://www.osce.org/kosovo/25332?download=true> (June 27, 2016); NDI, 'Kosovo 2004 Central Assembly Elections'. Accessed at [https://www.ndi.org/files/1761\\_ksv\\_assembly\\_102604.pdf](https://www.ndi.org/files/1761_ksv_assembly_102604.pdf) (June 27, 2016); Bjørg Hope Galtung, 'Kosovo: Assembly Elections October 2004', Nordem Report 02/2005. Accessed at <http://www.jus.uio.no/smr/english/about/programmes/nordem/publications/2005/0205.pdf> (June 27, 2016).

during the 2004 election campaign, when Veton Surroi visited Macedonia, Montenegro, Croatia, Slovenia and Albania. This was an important step to show the ability of the Kosovar leadership to build good neighbourly relations.

Three features were distinguished during the electoral and post-election process in the 2004 elections. First, the introduction of several new civic initiatives and independent candidates<sup>106</sup>, then the boycott of the elections by the Serbs, and finally the remaining of the PDK in opposition. Veton Surroi's civic list ORA and Edita Tahiri's Democratic Alternative of Kosovo ran in these elections. Both Surroi and Tahiri had valuable political experience, having participated in the political processes of the 90s in Kosovo. ORA managed to garner 6.23% of the general vote, seating 7 members in the Assembly. The second feature was the low turnout of Serbs compared with the 2001 elections, as Serb parties and Kosovo Serb citizens<sup>107</sup>, with the exception of the Serb 'Kosovo and Metohija List' led by Slaviša Petković, boycotted the elections on grounds of the March 2004 events. As Serbs excluded themselves from Kosovo institutions through their boycott, the institutions that emerged from the elections faced major problems in implementing the standards before the status. At the time, Belgrade was imposed as an even more powerful actor in the table of negotiations on the Kosovo status. The third feature of these elections was that the runner-up, the PDK, was left outside the coalition. The PDK was

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<sup>106</sup> The independent candidates who ran in the 2004 elections were: Behlul Beqaj, Fuad Ramiqi, Ramë Dreshaj, Riza Lluka. However, all these candidates failed to win enough votes to enter the parliament.

<sup>107</sup> As the International Crisis Group argued, "Given the unwillingness of Albanian politicians to deal with these concerns and the UNMIK's failure to provide a safe environment, this community is holding to what it believes is the last branch: Belgrade. The boycott of the October 2004 elections marginalized Kosovo Serbs who sought electoral legitimacy. Extremist leaders outside the institutions, who lead the boycott, claim that they represent the community". See International Crisis Group, 'Kosovo: Toward Final Status' (Crisis Group Report 161, 24 January 2005), p. 15.

being eclipsed: "the Serb boycott, a new decisiveness from the LDK and the AAK, and UNMIK's refusal to shield it from the consequences of electoral defeat, all combined to keep the the PDK out of prime minister's office, upon which it felt, it had a special claim, whatever the election results."<sup>108</sup> For the first time, Kosovo was facing a powerful parliamentary opposition.

Unlike the former PDK Prime Minister Bajram Rexhepi, who was not president of the party and was not capable to exert his full influence on the Government, the new Prime Minister and concurrently AAK president was more energetic in his short period of governance. Since European heads of state were notified in advance of a potential indictment for war crimes against Haradinaj, Kosovo's Prime Minister and the PISG were isolated by the international community.<sup>109</sup> Despite this, Prime Minister Haradinaj and the new UNMIK SRSG Soren Jessen-Petersen continued to engage in a correct relationship. Petersen pursued a much more realistic policy than his predecessor by declaring, once he took office in Prishtina, that the stability of the Balkans is inextricably associated with the solution of the Kosovo status.

Since the 'standards before status' were operationalized in 109 actions, in his short period of governance Prime Minister Haradinaj contributed enormously to the implementation of these standards. Elizabeth Pond offers the following description of the figure of Ramush Haradinaj:

After the war, he had taught himself English, attended day-long EU seminars that no other politician bothered with, and compensated for his educational deficits by studying law at University of Prishtina. He was the one party leader who was

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<sup>108</sup> International Crisis Group, 'Kosovo after Haradinaj' (European Report 163 of Crisis Group, May 26, 2005), p. 17.

<sup>109</sup> International Crisis Group, 'Kosovo: Toward Final Status' (Crisis Group European Report 161, 24 January 2005), p. 4.

trying to modernize his organization away from an autocratic, top down patronage nexus by means of significant grass-roots participation. As prime minister, he grasped the importance of decentralization, implemented it enthusiastically, and took, unprecedented local "ownership" of this and other policies.<sup>110</sup>

In March 2005, the International Criminal Tribunal for the former Yugoslavia filed an indictment for war crimes against Prime Minister Ramush Haradinaj. Attentive international observers feared that the indictment could destabilize Kosovo and the region with a potential repeat of the violence of a year ago. However, although this was a legitimate concern, Haradinaj showed all the necessary caution at the time of resignation and self-surrender to the Hague Tribunal. Given that Serbia still harboured two of the most wanted war criminals, Bosnian Serb leaders Radovan Karadžić and Ratko Mladić, Ramush Haradinaj's surrender to The Hague Tribunal showed that Albanians had "developed a responsible political leadership".<sup>111</sup> The UNMIK SRSJ Søren Jessen-Petersen<sup>112</sup> considered Haradinaj a close collaborator and friend, stating that "Kosovo today is closer than ever to realize its aspirations for the future status settlement." He also related to reporters that, if requested by the Hague Tribunal, UNMIK would provide the necessary assurance for Haradinaj to be released on bail to prepare his defence.<sup>113</sup> Civil society organisations issued a joint statement that Kosovo needed its Prime Minister Haradinaj, with the slogan 'Our Prime has a job to do here'.

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<sup>110</sup> Elizabeth Pond, 'Kosovo and Serbia after the French *non*', *The Washington Quarterly*, 28:4, 19-36, p. 31.

<sup>111</sup> Fred Cocozelli, 'Critical junctures and local agency: how Kosovo became independent', *Southeast European and Black Sea Studies*, (2009) 9:1-1, p. 204.

<sup>112</sup> Currently, Petersen is Professor of International Relations at the Johns Hopkins School of Advanced International Studies.

<sup>113</sup> International Crisis Group, 'Kosovo after Haradinaj' (European Report 163 of Crisis Group, May 26, 2005), p. 3.

On December 28, 2003 Serbia held its parliamentary elections, but its parliament was not inaugurated until January 27, 2004. In March 2004, the Democratic Party of Serbia, led by Koštunica, established a minority government in Serbia together with Vuk Drašković's Serbian Renewal Movement, Veljimir Ilić's New Serbia party and the G17 + technocrat group led by Miroljub Labus. This government had not shown proper readiness to cooperate with the Hague Tribunal. This would become a positive circumstance in favour of Kosovo, whenever its final status would be discussed. Presidential elections were also organised in Serbia. 53% of voters cast their second ballots for Boris Tadić as President, against Tomislav Nikolić of the Serbian Radical Party. Tadić's election was viewed with optimism in terms of domestic reform in Serbia, but there was no hope that he would provide a clear course of cooperation with The Hague Tribunal and a change of course regarding the future of Kosovo.<sup>114</sup> On the contrary, Serbia began drafting a plan for the partition of Kosovo.

On April 29, 2004, Aleksandar Simić and Slobodan Samardžić, two counsellors of the now former Prime Minister of Serbia Vojislav Koštunica, drafted a plan for Kosovo. Its title was "The plan for a political settlement of the situation in Serbia's Kosovo and Metohija". Visibly, the plan made no mention of the word *status*. It foresaw "territorial autonomy for five districts where Serbs live and where the religious monuments are located, consolidated to form a Region", all built on the premise that the March riots had shown the impossibility of integration with the Albanians. The scope of devolved powers - including the police and judiciary - would create an almost completely separate system

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<sup>114</sup> Fred Cocozelli, 'Critical junctures and local agency: how Kosovo became independent', *Southeast European and Black Sea Studies*, (2009) 9:1-1, pp. 191-2008; International Crisis Group, 'Serbia's Changing Political Landscape' (ICG Europe Briefing, 22 July 2004).

of governance and would reduce to a minimum the 'reach' of any central Kosovo government on the 'regions'.<sup>115</sup>

Despite this and other later proposals, whether for Kosovo's cantonization or partition, Kosovo could never again return to Serbia. By then, Serbia and Montenegro agreed to negotiate a Stabilisation and Association Agreement without the inclusion of Kosovo in this agreement. In this spirit, in November 2005, in the progress report on Western Balkan countries path towards the European Union the European Commission issued three documents, legally addressing Kosovo separately from Serbia and Montenegro. The approach was similar to that of December 2005, when Serbia and Montenegro signed the European Partnership Document.<sup>116</sup> Offering Serbia a European perspective and the Partnership for Peace was expected to be traded with Serbia's cooperation during the upcoming negotiating process, when the issue of the political status of Kosovo would be settled.<sup>117</sup>

### **3.1 Vienna Negotiations and the 2007 elections**

The Survey of the UNDP Early Warning Report 2005 asked Kosovo citizens on the best possible solution for Kosovo's final status. According to the report, 90.2% were of the opinion that the independence of Kosovo within the present borders was the best option for them.<sup>118</sup> Support for UNMIK, whose performance in

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<sup>115</sup> International Crisis Group, 'Kosovo: Toward Final Status' (Crisis Group European Report 161, 24 January 2005), p. 18.

<sup>116</sup> International Crisis Group, 'Kosovo: The Challenge of Transition' (Crisis Group European Report 170, February 17, 2006), p. 4.

<sup>117</sup> Bernhard Knoll, 'Fuzzy Statehood: An International Legal Perspective on Kosovo's Declaration of Independence', *Review of Central and East European Law* 34 (2009) 361-402, p. 369.

<sup>118</sup> UNDP, Early Warning Reports, Kosovo, October-December 2005, p. 8. Accessed at [http://www.kosovo.undp.org/repository/docs/ewr12\\_eng.pdf](http://www.kosovo.undp.org/repository/docs/ewr12_eng.pdf) (23 mars 2013).

2002 was considered satisfactory by 64% of Kosovars, decreased dramatically in 2004 when the satisfaction rate scored only 21%. Thus, UNMIK's legitimacy was irreversibly eroded in the eyes of the Kosovars and, as a consequence of this deficit of legitimacy, the once-friendly UNMIK administration turned hostile. UNMIK's acronym, pronounced /'ənmɪk/ in English, sounded identical to the local pronunciation of the Albanian word for enemy (anmik).<sup>119</sup>

With the Kosovars' negative disposition towards UNMIK, the Contact Group was aware that “few in Contact Group ministries believe Kosovo can be returned to Belgrade’s rule without re-igniting an armed rebellion from the province’s near-90 per cent Albanian majority”<sup>120</sup> Kai Eide's recommendation that *the status quo* was unsustainable produced a new phase and political dynamics for Kosovo - the launch of negotiations on Kosovo's final status. However, taking into account the fact that the events of March 2004 put Kosovo in an unfavourable position in relation to the protection and respect of minority rights, negotiations were held in Vienna, under the leadership of former Finnish prime minister and later winner of the Nobel Peace Prize, Martti Ahttisaari. Negotiations focused more on the content of the status (how were minorities in Kosovo to be protected, how would their municipal self-governance be organised, how would their representation at local and national level be guaranteed), rather than just in the form of this status.

The Vienna negotiations, if viewed from the perspective of the game theory<sup>121</sup>, can be seen as a zero-sum game. Serbia and

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<sup>119</sup> Simon Chesterman, ‘Kosovo in Limbo: State-building and “Substantial Autonomy”’, (International Peace Academy, August 2001).

<sup>120</sup> International Crisis Group, 'Kosovo: Toward Final Status' (Crisis Group European Report 161, 24 January 2005), p. 3.

<sup>121</sup> For more on the game theory, see Karl Wolfgang Deutsch, *The Analysis of International Relations* (Prentice Hall College, 1988); Robert D. Putnam ‘Diplomacy and domestic politics: the logic of two-level games’, *International Organization*/ Volume 42/ Issue 03/ Summer 1988, pp. 427-460;

Kosovo had diametrically opposed stances. Change their positions was as improbable as converting squares to circles. As argued by Mark Weller, the Vienna negotiations were conditioned by a number of structural factors<sup>122</sup>. Serbia had repeatedly used the argument of unity and territorial integrity of states, which was the foundation of the classic international system. Acceptance of Kosovo's statehood would imply acceptance of the principle of self-determination and secession outside the restricted colonial context. The second structural factor was the principle of "consent of the state". According to this argument, states cannot be forced into international obligations against their will, especially those dealing with territorial integrity. However, as noted by Weller, there has been a re-evaluation of these 'strong principles' of state integrity and territorial unity and state acceptance to any eventual change to borders, and the focus had begun to shift on the rights of the people and the population. Kosovo's case, whose population suffered massive violations of human rights summarized by Weller in his studies, was addressed within this context.<sup>123</sup> Likewise, the deportation of half the Albanian population of Kosovo by Serb military and paramilitary forces, the prolonged international administration, the fear of repetition of violent events like in March 2004, the lack of a vision for the Kosovo status and the aspirations of the majority of the Albanian population for full independence, were some of the elements taken into consideration to find the formula for the resolution of Kosovo's status.

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Jame Morrow, *Game theory for political scientists*, (Princeton University Press, 1994); Ken Binmore, *Game Theory: A Very Short Introduction* (Oxford University Press, 2007).

<sup>122</sup> Mark Weller, 'The Vienna negotiations on the final status for Kosovo', *International Affairs* 84: 4 (2008) pp. 659–681.

<sup>123</sup> Marc Weller, *The Crisis in Kosovo, 1989–1999* (Cambridge: Documents and Analysis Publishing, 1999), pp. 120-183; Marc Weller, *The Kosovo Conflict* (Cambridge: Documents and Analysis Publishing, 2001), pp. 160–319; Marc Weller, *Peace Lost: The Failure of Conflict Prevention in Kosovo* (Martinus Nijhoff, 2008).

In October 2005, the Security Council authorized the former Finnish President Martti Ahtisaari as Special Charge to lead the negotiations on Kosovo's status. As noted by the International Crisis Group: "Although not explicitly stated, the main purpose of Vienna process has been to find a viable future for Kosovo Serbs within an independent Kosovo."<sup>124</sup> After 17 rounds of talks over the 14 months, the potential for further negotiations was exhausted.<sup>125</sup> After this stage, Martti Ahtisaari followed an innovative approach, combining the strategy of mediation with arbitration, an approach that James Ker-Lindsay called 'meditation'. Under the meditation approach - which differs from mediation, in which the mediator plays an active role in the process, proposing ideas and solutions that can be infinitely examined by the parties - the mediator goes a step further and proposes a finalized plan.<sup>126</sup> On March 26, 2007, Marti Ahtisaari unveiled his plan.<sup>127</sup> It was accompanied by a separate

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<sup>124</sup> International Crisis Group, "Kosovo Status: Delay Is Risky" (Crisis Group European Report 177, November 10, 2006), p. 4; the same argument was presented by Shkelzen Maliqi in an interview conducted by Shkelzen Gashi, "Kosovo lacks the compelling power for self-determination", p. 29. See this interview in Shkelzen Gashi, 'Statusi pa Pardon' (PrintingPress, Prishtinë, 2006).

<sup>125</sup> Denisa Kostovicova, 'Legitimacy and International Administration: The Ahtisaari Settlement for Kosovo from a Human Security Perspective', *International Peacekeeping* (2008), Vol. 15, No. 5, 631-647, p. 635.

<sup>126</sup> James Ker-Lindsay, 'The Emergence of 'Meditation' in International Peacemaking', *Ethnopolitics: Formerly Global Review of Ethnopolitics* (2009), 8:2, 223-233, p. 231.

<sup>127</sup> Explaining that the delay in determining the status would increase uncertainty and fear among Albanians, Pettifer argued that "Ahtisaari's report was intended to quell these fears and to provide a framework for a political solution". He attempted to do this by providing totemic 'sovereignty' to the Albanians, while maintaining the taboo of full independence with full sovereignty and a seat at the United Nations for the new state. However, as demonstrated in the world of academic anthropological discourse by Levi Strauss, the structure of taboo is associated with fear, in this case the fear of a truly independent Kosovo. For an excellent analysis of the Ahtisaari Plan, see James Pettifer, 'The Ahtisaari Report - Totem & Taboo', (Conflict Studies Research Centre, Balkan Series 07/08, February 2007), p. 7.

recommendation, which proposed supervised independence for Kosovo, but the recommendation was not initially presented publicly.

After the violent events of March 2004, Kai Eide's 2004 and 2005 reports, assessing the situation in Kosovo, clearly articulated that *the status quo* in Kosovo could not be managed any further. To move towards independence, Eide recommended the domestic and regional factors had to be taken into consideration. In other words, internal political dynamics in Serbia, Kosovo and the region would be key indicators to move in this direction.

During 2007 and 2008 both Serbia and Kosovo held elections. The elections of 17 November 2007 were won, for the first time, by the PDK (in coalition with several small parties) led by Hashim Thaçi, with 196,207 ballots or 34.3% of the vote, followed by the LDK with 129,410 ballots or 22.6% of the vote, in third place the AKR, with 70,165 ballots or 9.6% of the vote, fourth the LDD-PShDK with 57,992 ballots or 10% of the vote, fifth the AAK with 54,611 ballots or 9.6% of the vote, sixth ORA with 23,722 ballots or 4.1% of the vote, and seventh the PD with 9,890 ballots or 1.7% of the vote. Although Nexhat Daci left the LDK to establish the LDD party, thus leaking votes away from the LDK, the latter remained in power and built a coalition with the PDK. This coalition found support even in the diplomatic missions in Kosovo. The international support for this coalition was justified by the fact that the PDK and LDK were two major political parties in the country, which would generate political stability in Kosovo and would share political responsibility in relation to the negotiations that were taking place in Vienna. Since the Ahtisaari Plan had already been disclosed, the international community feared that the new government, led by the new Prime Minister and President of the PDK Hashim Thaçi, would immediately declare Kosovo's independence. During this period, the Vetëvendosje

Movement intensified its action against the decentralisation process, under the slogan: "No negotiations, self-determination!"

However, any possible delay in Kosovo's declaration of independence undermined peace in Kosovo and the region. Tim Judah lays out this dilemma: if at a given point in time Thaçi were to play the "Kurti card", the result would be unpredictable and potentially a new wave of anti-Serb violence similar to March 2004 could be unleashed in Kosovo.<sup>128</sup>

The Serbian presidential elections were scheduled for January 20, 2008. The presidential race was disputed between Boris Tadić of the Democratic Party (DS) and Tomislav Nikolić of the Serbian Radical Party. While the first was considered a pro-European leader and was supported by Western forces, the second was considered a nationalist leader. Tadić won the second ballot by 51%. The Assembly of Kosovo declared the independence on February 17, just a day after Tadić inaugurated as President for the second time.<sup>129</sup>

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<sup>128</sup> Tim Judah, 'Kosovo's Moment of Truth', *Survival*, Vol. 47, No. 4 Winter 2005–06, pp. 73–84, p. 82.

<sup>129</sup> Fred Cocozelli, 'Critical junctures and local agency: how Kosovo became independent', *Southeast European and Black Sea Studies*, (2009) 9:1-2; 191-208, p. 191.

**BETWEEN STABILISATION  
AND DEMOCRATISATION**

# **CHAPTER IV**

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# *CHAPTER 4:*

*ROLE OF POLITICAL PARTIES IN KOSOVO'S  
STATE BUILDING*

## CHAPTER 4: ROLE OF POLITICAL PARTIES IN KOSOVO'S STATE BUILDING

Three conflicting approaches to solving the problem of Kosovo existed in the 80s and 90s. The first can be termed as the *militaristic* approach.<sup>130</sup> Established in 1982, the Popular Movement of Kosovo that would later be organised as the KLA followed a historicist approach, according to which Kosovo's discriminatory political status under Serbian administration should be addressed by military means. The second can be termed as the *reformist* approach. Leading this approach was the 'Yugoslav Democratic Union' (UJD), founded by Ante Marković. After the abolition of Kosovo's autonomy and empowerment of the authoritarianism of Slobodan Milošević, there was still hope that

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<sup>130</sup> Henry H. Perrit makes another valid categorization. Perrit divides political resistance and organization in Kosovo into three categories: "peaceful road institutionalists", "planners in exile", and "home defenders". For more, see Henry H. Perrit, *Ushtria Clirimtare e Kosovës: Rrëfimi prej brenda për një kryengritje* (Kosovo Liberation Army: The Inside Story of an Insurgency) (KOHA, Prishtinë, September 2008), p. 16. Stephanie Schwandner-Sievers argues, in her analysis of the Underground Legacy in Kosovo, that "memories of pre-war militant activism are symbolically codified, ritually formalized, and occupy the public scene in today's Kosovo [...] on the one hand this process reproduces common cultural references which idealize ethno-national solidarity, unity and pride, which have already served for militant mobilization before 1990". See Stephanie Schwandner-Sievers, 'The bequest of Ilegalja: contested memories and moralities in contemporary Kosovo', *Nationality Papers: The Journal of Nationalism and Ethnicity* (2013), Vol.41, Issue 6, pp. 953-970.

Yugoslavia could be democratised and Kosovo Albanians could contribute to the democratisation, taking part in elections and voting for this party. Proponents of this approach in Kosovo were few alternative intellectuals of the time, who did not enjoy popular support, such as Shkëlzen Maliqi and Veton Surroi. The third approach qualifies as the *pacifist* approach of rejection of institutions and elections that would be organised within Yugoslavia. The Democratic League of Kosovo, established in 1989, followed an approach under which the Kosovo problem should be resolved in a peaceful and pragmatic way, same as an independent republic within the Yugoslav Socialist Federation. However, the LDK also refused to participate in elections organised in Yugoslavia, trying to delegitimize the Serbian regime in Kosovo. Thus, the solution of the Kosovo problem was initially sought with the third approach, but it continued with the first, in other words it transitioned from peaceful to armed resistance. As Yugoslavia disintegrated, the intermediate approach, the reformist one, was already plagued by bias and rejection by the majority of Kosovo's population.

NATO's intervention in Kosovo and the deployment of the UN administration saw the rise of various registered political parties that began to compete with the LDK led by Ibrahim Rugova. The founders of these political parties were recognized for their contribution in the KLA. They are the PDK and the AAK. Later, the lack of political clarity on Kosovo's status and UNMIK's ubiquitous authority set the stage for the emergence of a new political movement - the VV (Lëvizja Vetëvendosje / Self-determination movement).

Eight years after the declaration of independence, what characterizes most of these political parties, except the VV, is lack of ideological and political coherence, leaderism and undemocratic practices, as well as the patrimonial basis of organisation. The

following sections analyse the ideological profile of these political parties, compare their total votes, examining their electoral ups and downs in all general election organised by 2014. That is followed by a blueprint of the typology represented by these political parties and a window on political dynamics within and between them.

#### **4.1 Ideological Barrenness**

The political debate between political parties in Kosovo is characterized by ideological infertility. With the exception of the VV, Kosovo's main parties are not distinguished for any clear ideological profile. In fact, the political debate in Kosovo is almost de-ideologized. While the LDK and the PDK defined in their respective charters as centre-right parties, the AAK and VV charters remain silent on ideological orientation. Although not explicitly mentioned in their charters, senior AAK members define themselves as a centre-right party<sup>131</sup>, while VV members see themselves as "a movement that represents an ideological profile that belongs to the European social-democracy."<sup>132</sup> With the exception of the VV, which since its establishment has never governed the country, all the political parties that have governed in Kosovo since 2000, including the PDK, LDK and AAK, can be considered 'catch-all', pragmatic type parties.

As noted in the 'Ideological Compass in Kosovo' study, the PDK supports the privatization of enterprises in Kosovo, which is a policy of the right, while it also supports a large public administration, which is a policy of the left. It is also visible that

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<sup>131</sup> Interview with Mr Ali Berisha, the Alliance for the Future of Kosovo, Prishtina, April 7, 2016; Interview with Mr Pal Lekaj, the Alliance for the Future of Kosovo, Prishtina, April 7, 2016.

<sup>132</sup> Interview with Mr Glauk Konjufca, Self-Determination Movement, Prishtina, April 1, 2016.

the PDK has no ideological clarity and consistency within the party structure, since "regarding economic issues, more than half of the PDK leans to the left of the centre and less than half to the right of the centre." The lack of consistency within PDK members is also noticed in their social values, as half of them appear to be conservative and the other half liberal.

Even the LDK, while supporting privatization - a policy of the right - it also supports state intervention for free health services, a leftist policy. The "Ideological Compass in Kosovo" study concluded that the LDK structure is composed of the so-called conservative leftists and free market liberals. The politically leftist VV, as the third political organisation by share of votes in Kosovo, demonstrates a greater ideological consistency within its organisational structure: a) holding an unchanged position against the heavy presence of the international community in Kosovo, b) rejecting the forms and models of privatization of enterprises in Kosovo, and c) promoting a greater intervention of the state in pensions, social assistance, market regulation, subsidies in agriculture, etc. Meanwhile, the ideological values of the AAK, according to the study in question, lean more towards the right. However, even within the AAK, as in the LDK, there are two groupings both on social and economic issues. One group leans more towards the conservative Left and the other has more liberal attitudes.<sup>133</sup>

Consequently, as stated above, political parties in Kosovo do not consistently follow ideological principles. They are "less interested on political principles and more interested to secure or

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<sup>133</sup> D4D, 'Ideological Compass in Kosovo: Mapping of political parties', Political Parties Series, No. 8, Prishtina, 2014. Two previous studies by other authors and institutes also note that political parties in Kosovo have no clear ideological profile. See Jeton Zulfaj at al., 'Political Parties in Kosovo: Profile and Ideology', Çelnaja, Prishtinë, 2008 and Kushtrim Shaipi & Agon Maliqi, 'Party Attitudes Towards the Society: Values, Religion, State and Individuality', FES, Prishtinë, 2009.

retain power for its leaders and for the distribution of revenues to those who manage and work for them. Interests are central, not ideologies".<sup>134</sup>

## 4.2 The rise and fall of political parties

Political Parties	PDK	LDK	VV	AAK	Ruling coalitions	Turnout
No. of ballots cast in 2001	202,622 ballots 26 seats in the Assembly 25.70% of total vote	359,851 ballots 47 seats in the Assembly 45.65% of total vote	/	61,668 ballots 8 seats in the Assembly 7.83% of total vote	LDK + PDK + AAK + minorities	64.30%
No. of ballots cast in 2004	199,112 ballots 30 seats in the Assembly 28.85% of total vote	313,437 ballots 47 seats in the Assembly 45.42% of total vote	/	579,311 ballots 9 seats in the Assembly 8.39% of total vote	LDK + AAK + minorities	53.57%
No. of ballots cast in 2007	196,207 ballots 37 seats in the Assembly 34.3% of total vote	129,410 ballots 25 seats in the Assembly 22.6% of total vote	/	54,611 ballots 10 seats in the Assembly 9.6% of total vote	PDK + LDK + minorities	40.10%
No. of ballots cast in 2010	224,339 ballots 34 seats in the Assembly 32.22% of	172,552 ballots 27 seats in the Assembly 24.69 % of	88,652 ballots 14 seats in the Assembly 12.69 % of	77,130 ballots 12 seats in the Assembly 11.04 % of	PDK + AKR + minorities	45.30%

<sup>134</sup> David Jackson, 'Clientelism: The alternative dimension to Kosovo's governance' (Kosovo Local Government Institute, Prishtina, February 2014), p. 18.

	total vote	total vote	total vote	total vote		
No. of ballots cast in 2014	222,181 ballots	184,594 ballots	99,398 ballots	69,793 ballots	PDK + LDK + minorities	42.63 %
	35 seats in the Assembly	33 seats in the Assembly	17 seats in the Assembly	8 seats in the Assembly		
	30.38% of total vote	25.24% of total vote	13.95% of total vote	9.54% of total vote		

The following table, based on excerpts of Central Election Commission (CEC), summarizes the votes of political parties divided in elections years.

In general, between 2001 and 2014, PDK votes increased by 9.65%, LDK votes decreased by 48.7%, while AAK votes increased by 13.17%. Meanwhile, VV votes increased by 12.12% in the period 2010-2014.

In the first general elections of 2001, the PDK collected 202,622 ballots, while in the early general elections of 2014 it collected 222,181 ballots. The PDK share has increased by only 19,556 ballots. In the first general elections of 2001, the LDK collected 359,851 ballots, while in the early general elections of 2014 it collected 184,594 ballots. The LDK has shrunk and lost 175,257 ballots, or more than half the total ballots in the first election. In the first general elections of 2001, the AAK collected 61,668 ballots, while in the early general elections of 2014 it collected 69,793 ballots. The AAK share has increased by only 8,125 ballots. The VV ran its first campaign in the general elections of 2010, earning 88,652 ballots. In the early general elections in 2014, the VV collected 99,398 ballots. Thus, in only four years, the VV share rose by 10,746 ballots, despite being in opposition.

Based on these data, although the PDK has led the Government of Kosovo since 2007, it has not marked any significant progress in enhancing its electoral share; the LDK, being a stakeholder in most government coalitions after the war,

from 2001 to 2014 has marked the greatest loss of votes among all political parties; the AAK electoral share, unlike the 77,130 ballots in 2010, which constitute their largest numbers at the central level in all elections in Kosovo, continued to stagnate; while the VV is the political entity that has marked the greatest progress in increasing its vote share in comparison with other political parties.

### **4.3 Towards a party typology**

The PDK, LDK and AAK are 'catch-all' type political parties that tend to capture everything. These parties are known as centralised organisations and are not characterized by clear political ideologies. Researchers of political parties see the catch-all parties as tolerant, without a clear ideology, totally electorate-oriented through the central leadership of the party, in order to maximize votes. On the other hand, the VV is a "relatively anti-system" party. Among other differences between this type of ideological and political organisations and catch-all parties, researchers of political parties distinguish the ideological distance not only from other parties, but also from the overall system. The VV's development trajectory moves from a social movement "absolutely against the system" to a political entity "relatively against the system". The PDK, LDK and AAK are characterized by dominant leadership and lack of inclusiveness of party membership in decision making processes, and lack of autonomy of the branches. On the other hand, the VV has a non-dominant leadership and is characterized by higher inclusion of members in decision-making processes.

Empirical studies of researchers of political parties provide evidence that 'catch-all' electoralist parties are more unfriendly towards internal democratisation of the party, and parties against

the system are considered more inclusive, more decentralised and more friendly towards transparency and intra-party democratisation. The VV is defined as a party relatively against the system, because it originally stood against the Ahtisaari Plan and all its products, refusing to participate in elections, due to the limitations on decision-making and the autonomy of Kosovo institutions. Later, the VV's development trajectory shifted from a movement absolutely against the system to a movement relatively against the system, getting involved in elections and accepting the institutional format which organised the elections and consequently Kosovo's institutions.

#### **4.3.1 Democratic Party of Kosovo - PDK**

*The Democratic Party of Kosovo is a popular party founded on traditional and national values, liberation war values and the universal values of civic democracy.*<sup>135</sup>

The Democratic Party of Kosovo was established on October 10, 1999. The PDK originates from the war of the Kosovo Liberation Army, itself established after the disappointment of Kosovars with the Dayton Conference, where the international community did not address the Kosovo issue.<sup>136</sup> This conference was organised with the aim of halting the war being waged in Bosnia -Herzegovina.

Until 1995, Kosovo was not following a policy of confrontation in the process of the breakup of Yugoslavia. Kosovo Albanians took the lesson that the international community would reward the peaceful approach led by LDK's Ibrahim Rugova as long as there was no open war in Kosovo. Two renowned

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<sup>135</sup> Charter of the Democratic Party of Kosovo, article 1.

<sup>136</sup> See Miranda Vickers, *Between Serb and Albanian: A History of Kosovo*, (Columbia University Press, 2001), p. 292.

personalities in Kosovo, Adem Demaçi and Rexhep Qosja, sharply criticized the soft approach of the LDK and argued the need for Kosovo to change its course of action, even militarily. In 1999, after the deployment of NATO and UNMIK in Kosovo, some of the political representatives of the KLA established the PDK. Until the organisation of the First Electoral Assembly held in October 2000, the party was known as the Party for Democratic Progress of Kosovo.<sup>137</sup>

In the First Electoral Assembly, the party changed its name and is now known as the Democratic Party of Kosovo. The Democratic Party of Kosovo was established by representatives of the Political Directorate of the Kosovo Liberation Army. Hashim Thaçi, as Director of the Political Directorate of the KLA, led the Kosovo delegation at the Rambouillet conference, which aimed to end the war in Kosovo. Since the Rambouillet Agreement was not signed by Milošević, but only by the international community and the Kosovo delegation, the last opportunity for NATO to bomb Serbia remained open. After the war, Hashim Thaçi headed a Kosovo Provisional Government until the organisation of the first elections. The legitimacy of this government was contested even within Kosovo, mainly from the LDK. Until 2006, the PDK lost all elections on the national level as the second political force since the war.

In all Electoral Assemblies organised by 2010 by the PDK, Hashim Thaçi has been elected president, uncontested by any candidate. In conceptual terms, under the current charter, the PDK is defined as a centre-right party. In its infancy, the PDK had a

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<sup>137</sup> For a discussion on the birth of the KLA and profiles of personalities who would later become part of the PDK, see Henry H. Perrit, *Ushtria Clirimtare e Kosovës: Rrëfimi prej brenda për një kryengritje* (Kosovo Liberation Army: The Inside Story of an Insurgency) (KOHA, Prishtinë, September 2008); Kosovo Stability Initiative, 'A Power Prime: A Handbook to Politics, People, and Parties in Kosovo', December 2011, p. 35-43.

relatively leftist ideological orientation, even cultivating contacts with the UK Labour Party. Earlier, a part of the PDK leaders were participants and organizers of illegal movement in Kosovo, such as the Marxist-Leninist Organisation, the Movement for the Liberation of Kosovo, the Kosovo People's Movement, etc. The Kosovo People's Movement and the Movement for the Liberation of Kosovo, established under such names after 1992, followed a hard approach by supporting the idea of organizing the war in Kosovo, although they lacked weapons and funding. The Kosovo People's Movement, which exercised the bulk of its activity in the Diaspora, founded the KLA, which made its first public appearance in 1997, three years after its establishment. The Diaspora had established the "Homeland Calling Fund", through which the Albanian diaspora funnelled financial contributions to help the KLA struggle. In March 1998, Hashim Thaçi was appointed KLA information director. Since the war in Kosovo had become inevitable, due to the presence and severe brutality of Serbian forces in Kosovo, the mass killings associated with the burning of villages and the displacement of Kosovo citizens from their homes, the international community begun to legitimize the KLA.

As a result of the failure of international negotiations to force Milošević to stop the war in Kosovo, in March 1999, NATO waged an offensive campaign, making the Serbian military and police forces withdraw from Kosovo. In June 1999, international administration was established on Kosovo. Until the elections, several consultative mechanisms were established between political forces in Kosovo and UNMIK. The PDK still did not enjoy a good reputation among urban Kosovo, although it had established 32 regional branches. PDK's not very high popularity was as a result of the authoritarian behaviour of some of the figures

of this entity, but also as a result of uncivil behaviour of some former members of the KLA after the war.

Unlike other countries, such as Slovenia, Croatia, Bosnia-Herzegovina, where people linked to the war had managed to win the elections, the opposite happened in Kosovo. The LDK would win the largest number of votes, both at municipal and central level. Due to the polarized political tension between the PDK and the LDK, the international community supported the formation of a broad coalition PDK-LDK-AAK, in order to prevent the formation of a bipolar political reality in Kosovo.

According to a study by the International Crisis Group, after the war in Kosovo, Thaçi had established almost complete control over municipalities and social enterprises.

Subsequently the PDK and Thaçi were widely held responsible for the chaos, corruption and criminality of the immediate post-war period...The party has since tried to improve its image, to re-invent itself as a responsible party that can be trusted with political power. To this end, it recruited Flora Brovina, a human rights activist, former political prisoner in Serbia, paediatrician, poet and president of the Albanian Women.<sup>138</sup>

After Rugova's death, which was followed by the LDK breakup, the PDK managed to win the 2007 elections. To redesign its public image, eight years after its establishment the PDK began to open up to new people and included in its ranks a number of academicians and civil society activists. The PDK entered into coalition with the LDK, whose leader, Fatmir Sejdiu, received a less executive position, the President of Kosovo. Hashim Thaçi received the position of Prime Minister of Kosovo and a year later,

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<sup>138</sup> International Crisis Group, 'Kosovo: Historic Elections' (Prishtina, November 21, 2001), p. 5.

in February 2008, became the main political protagonists in the country, reading the Declaration of Independence. Even in the 2010 the PDK managed to win the general elections in Kosovo, although relevant local and international actors assessed these elections as the worst to be organised since the war in Kosovo, because of their manipulation. The US Ambassador in Kosovo at the time, Christopher Dell, qualified the voting process as "industrial theft of votes". Despite this, Thaçi's PDK managed to build a coalition with the LDK and several other small parties, by providing Thaçi with another term in the position of prime minister.

The early general elections of 2014 produced new political dynamics. As a result, the PDK and LDK built a joint coalition government. For the first time, the position of prime minister went to the LDK, while the position of President of the Assembly to the PDK. Upon the completion of Atifete Jahjaga's term, according to the coalition agreement between the PDK and LDK, this post would go to the PDK. In the 2014 elections, two of the key figures in the PDK, Fatmir Limaj and Jakup Krasniqi split from the PDK and established their political organisation NISMA (INITIATIVE for Kosovo). The latter criticized the PDK for the authoritarian approach of its leadership. The split came as a result of a tapping affair, now known as "pronto affair". Today, the PDK faces the problem of internal reform and the blemishing international image due to the so-called "Dick Marty Report", which claims that its leaders were involved in war crimes and organised crime.

### 4.3.2 Democratic League of Kosovo - LDK

*The LDK is a centre-right political party of free and responsible members, acting on the basis of the Charter, to achieve the targets set in its political program.*<sup>139</sup>

The Democratic league of Kosovo was established on December 23, 1989. Its establishment was the direct result of the abolition of Kosovo's autonomy by Milošević. As explained by Mehmet Kraja, initially there were dilemmas on how to name this initiative: club, association or political party. An appropriate formulation had to be found to be able to register with the Federal Secretariat of Jurisprudence. Kraja does not remember who decided to name the initiative a "League", since other intellectuals were also involved, but he recalls that no one liked the name because of the proximity to the Communist League. In his memoirs, Jusuf Buxhovi writes that he came up with the name the Democratic League of Kosovo for the party, since the name related to the Albanian League of Prizren.<sup>140</sup> However, for Mehmet Kraja it was important that the label included the term "democratic" and the denomination "of Kosovo". The LDK's program was soft and with long phrases, but as noted by Kraja, "Kosovo's political subjectivity was somewhat pinned down... so it was a weak program and probably this was best" because otherwise the party couldn't be registered.<sup>141</sup>

This was the period of the beginning of the breakup of Yugoslavia. With the rise of Milošević to power, Kosovo's autonomy, guaranteed by the Constitution of 1974, was abolished and a state of emergency was declared in Kosovo, installing a

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<sup>139</sup> Charter of the Democratic League of Kosovo, article 2.

<sup>140</sup> Jusuf Buxhovi, *Kithesa Historike: Vitet e Gjermanisë dhe epoka e LDK-së* (Faik Konica, Prishtinë, 2008), p. 184.

<sup>141</sup> Mehmet Kraja, *Vitet e humbura*, (Shoqata Botuese e Lidhjes së Shkrimtarëve të Shqipërisë, Tiranë, 1995), p. 167.

military and police regime with elements of apartheid. 215 intellectuals signed an appeal called "Appeal 215", which opposed the abolition of Kosovo's autonomy. This appeal was ignored by the Assembly of the Republic of Serbia.<sup>142</sup> As a result of the abolition of Kosovo's autonomy, three journalists from the culture section of the daily "Rilindja", Mehmet Kraja, Ibrahim Berisha and Xhemajl Mustafa, had initially discussed the need for the establishment of a political entity to articulate the political demands of Kosovo Albanians. This idea was later shared with Jusuf Buxhovi, Ali Aliu, Zenel Kelmendi and Bujar Bukoshi.

In Kosovo, power was held by the Communist League of Kosovo, which operated under the guidance of Milošević's Communist League of Yugoslavia. Trepça miners decided to enter into hunger strike and demanded the resignation of the head of the Communist League of Kosovo. Even this request went unheard. Rilindja daily reporters, dissatisfied with Kosovo's political position and the disregard towards the demands of the miners and intellectuals, issued a public letter which expressed their disappointment and resigned from the Communist League, and the idea for the establishment of a resistance front began to crystallize.

Milazim Krasniqi was tasked to talk with Ibrahim Rugova, to request him to lead this initiative. Rugova refused to lead this initiative, being already engaged as President of the Association of Writers of Kosovo. However, he accepted to sign this initiative. On the other hand, Jusuf Buxhovi was assigned to discuss with Rexhep Qosja his leadership of the LDK, but even Qosja refused. Although no one knew who would become LDK President, Kraja proposed Rugova in the Founding Assembly. The proposal, although it was opposed by Rugova, was voted by the Assembly. Within a short

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<sup>142</sup> See Zekeria Cana, *Apeli i 215 intelektualëve shqiptarë*, (Rilindja, Prishtinë, 2001), pp. 111-144; also, Jusuf Buxhovi, *Kthesa Historike: Vitet e Gjermanisë dhe epoka e LDK-së* (Faik Konica, Prishtinë, 2008), pp. 154-164.

period of time, all the members of the Communist League gave up their registrations and joined the LDK. Ibrahim Rugova himself recalled that "within a month, the LDK garnered almost 200,000 members."<sup>143</sup> The massive enrolment in the LDK is considered a "political declaration for the refusal front" by Mehmet Kraja. On July 2, 1990, 111 deputies declared the Constitutional Declaration on the Independence of Kosovo; on September 7, 1990 they adopted a new constitution for Kosovo; and a year later, in September 1991, a referendum on the declaration of the Republic of Kosovo as a sovereign and independent state was organised. Although these actions did not have direct international consequences and Kosovo was not internationally recognized as independent, they instilled the idea of the demand for independent and free political subjectivity for Kosovo.

The LDK became a national political movement to resist Milošević's regime. In Kosovo, local elections were held in 1992 and 1995 in almost clandestine form. Jusuf Buxhovi justifies the logic of holding these elections in Kosovo under occupation. According to him, this was done in order to legitimize Kosovo's parallel institutions and their legitimate representatives, who could potentially represent Kosovo at an international conference, which would address the settlement of the issue.<sup>144</sup> The LDK won an almost absolute majority in these elections (574,755 ballots or 76.44% of the total vote). Later, it built a network of educational and health institutions, which were supported financially by the "3 per cent fund", which collected funds to support parallel institutions in Kosovo. The LDK leader Ibrahim Rugova enjoyed

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<sup>143</sup> Ibrahim Rugova, *Çështja e Kosovës: Biseda me Marie-Francoise Allain dhe Xavier Galmiche* (Dukagjini, Pejë, 1995), p. 85; Kosovo Stability Initiative, 'A Power Prime: A Handbook to Politics, People, and Parties in Kosovo', (Prishtinë, December 2011), pp. 23-33.

<sup>144</sup> Also, Jusuf Buxhovi, *Kthesa Historike: Vitet e Gjermanisë dhe epoka e LDK-së* (Faik Konica, Prishtinë, 2008).

massive popular support. The LDK, if we speak in terms of political parties, until 1995 was a predominant party<sup>145</sup> that enjoyed the confidence of the absolute majority of Kosovo citizens. After the Dayton Conference in 1995, when it was decided that after the war Bosnia-Herzegovina would be recognized as an independent and sovereign state, Kosovo citizens gave the first signs of disappointment at the removal from the international agenda of the issue of Kosovo and the unrewarded peaceful strategy led by the LDK. Henry H. Perrit described Rugova as such:

Rugova was Kosovo's political face, dominating even after the war. Rugova is loved by all those who saw him keep the torch lit for a long time. But Rugova's images are also images of a distant and enigmatic man, with his strange silk scarf, standing outside the fence at the Dayton Air Force base, largely ignored by Richard Holbrooke and Slobodan Milošević, who engaged in negotiations to end the war in Bosnia, paying no attention to Kosovo.<sup>146</sup>

The LDK had a maximalist demand: the organisation of a sovereign and independent state, which was supposed to be achieved through the application of minimalist tools<sup>147</sup>, a peaceful approach and the rejection of violence. This approach, although internationally accepted, maintained the political *status quo* in Kosovo. As Miranda Vickers writes, after Dayton, "for the

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<sup>145</sup> This term is used by Giovanni Sartori, in the chapter 'numerical criterion', in the book *Parties and Party Systems: A Framework for Analysis* (Colchester, ECPR 2005).

<sup>146</sup> Henry H. Perrit, *Ushtria Clirimtare e Kosovës: Rrëfimi prej brenda për një kryengritje (Kosovo Liberation Army: The Inside Story of an Insurgency)* (KOHA, Prishtinë, September 2008), p. 27.

<sup>147</sup> See: Dejan Guzina, Kosovo or Kosova – Could it Be Both? The Case of Interlocking Serbian and Albanian Nationalism, in Florian Bieber & Zidas Daskalovski (ed.), *Understanding the War in Kosovo*, (Franc Cass, London, 2003), p. 39.

majority of Kosovars *the status quo* could not be maintained any further."<sup>148</sup> The Dayton Accords temporarily dampened the non-violent approach of the LDK, and there were rumours that the LDK could disappear as a political organisation. As noted in an ICG study:

Many thought that the party and its leader were politically dead in the aftermath of the NATO bombing campaign in 1999. During the campaign, Rugova was televised in the company of former Yugoslav President Slobodan Milosevic in Belgrade, and was accused by some of being an appeaser. Following the campaign, the KLA moved swiftly to fill the vacuum left by the departing Serb forces, while Rugova remained abroad for some weeks. However, only a minority of Kosovo Albanians actively participated in the KLA. Loyalty to the LDK and Rugova was rekindled by widespread revulsion at the perceived arrogance of the KLA in seeking to take over all the reins of political and economic power in the chaos before UNMIK established itself. The LDK's strong performance in the October 2000 municipal elections re-established it as the dominant political force in Kosovo.<sup>149</sup>

The LDK, although not yet reorganised as a modern political party, from 1999 until 2007 managed to win all the national and local elections in the country. After Rogova's death, the LDK held an electoral assembly and Fatmir Sejdiu was elected its new President. The assembly ran into tensions as delegates supporting both candidates, Fatmir Sejdiu and Nexhat Daci, failed to manage the smooth running of the assembly. At the assembly, the two fractions

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<sup>148</sup> Miranda Vickers, *Between Serb and Albanian: A History of Kosovo*, (Columbia University Press, 2001), p. 290.

<sup>149</sup> International Crisis Group, 'Kosovo: Historic Elections' (Prishtina, November 21, 2001), p. 4.

even engaged in a physical clash. Consequently, Nexhat Daci quit the LDK and founded his own party, the Democratic League of Dardania, followed by segments of LDK members. In the 2010 LDK internal elections, Isa Mustafa ran against the former LDK president Fatmir Sejdiu. Mustafa was elected the new President. In March 2012, the LDK approved its new charter, bringing more modernity into the party organisation and structure. However, the LDK is at the initial stage of its internal reform. In May 2015, the LDK organised internal elections. So far, the LDK has organised eight electoral assemblies, and elected three presidents. In the last elections at the national level, the LDK emerged as the second largest party in Kosovo. Nowadays, it is in coalition with the PDK, and the LDK leader, for the first time since 1999, is the Prime Minister of Kosovo. The LDK's ideological trends lean towards the conservative right. It is affiliated to the EPP family. Nowadays, the LDK is faced with the problem of capacity building, internal reform and transformation from a movement-party to a modern political party.

#### **4.3.3 Lëvizja Vetëvendosje (Self-Determination Movement)!**

*VETËVENDOSJE! Is a political movement that aims factoring the people in political decision-making through grass-roots organisation and mobilization. VETËVENDOSJE! Is committed to profound social and political changes, relying on the principle of equality, democracy, political freedom and social justice of every citizen. VETËVENDOSJE! Seeks a sovereign Kosovo, meaning a Kosovo that has control over its natural resources and has the right to have its own independent military force, as well as the right to unite with Albania.<sup>150</sup>*

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<sup>150</sup> Charter of the Self-Determination Movement, Section 1.

Originally known as KAN (Kosovo Action Network), established in 1997 by Alice W. James and a group of other international activists, the network aimed at promoting universal values, such as freedom, equality and justice. The KAN supported the Independent Student Union of the University of Prishtina in their peaceful protests for the right to use the university buildings, following the expulsion from its facilities of Albanian students and staff by Serb forces. Later, it led the advocacy campaign for the release of war hostages, otherwise known as the APAL campaign (Albanian Prisoner Advocacy List). On June 12, 2005, following the rally by the UNMIK headquarters, where the banner "No negotiations, self-determination!" was unveiled, the KAN was transformed into the Self-Determination Movement.<sup>151</sup>

VV's establishment came as a result of international administration and political uncertainty over the status of Kosovo. This UN administration was deployed in Kosovo to administer peace and build institutions that would enjoy a relative autonomy until the final resolution of Kosovo's status, although none of the basic documents of this mission clarified what the settlement would be. UNMIK's approach was that it needed an exit strategy to get out of Kosovo. Simon Chesterman criticized the lack of an UNMIK exit strategy, arguing that there is no strategy without an exit.<sup>152</sup> In 2003, the international community conditioned the

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<sup>151</sup> For the history of the Self-Determination, see Lëvizja Vetëvendosje, 'Historiku i Lëvizjes Vetëvendosje!'. Accessed at [http://www.vetevendosje.org/wp-content/uploads/2013/09/Historik\\_i\\_Levizjes\\_VETEVENDOSJE.pdf](http://www.vetevendosje.org/wp-content/uploads/2013/09/Historik_i_Levizjes_VETEVENDOSJE.pdf) (February 15, 2015); See also Kosovo Stability Initiative, 'A Power Prime: A Handbook to Politics, People, and Parties in Kosovo', December 2011, pp. 51-53.

<sup>152</sup> Simon Chesterman, *You, The People: The United Nations, Transitional Administration, and State-building* (Oxford University Press, 2004), p. 204.

political leadership of Kosovo institutions through the 'standards before status'.<sup>153</sup>

Frustration among the citizens of Kosovo with this UNMIK policy was beginning to grow and perceptions of Kosovo citizens showed the decline in support for UNMIK. In March 2004, as a result of an incident in Mitrovica, Kosovo faced the gravest riots since the end of the war. Consequently, Kai Eide was tasked by the UN Secretary to assess the implementation of standards and, in 2004 and 2005, his reports recommended the opening of negotiations on Kosovo's status, stating that *the status quo* could not be maintained any further. Martti Ahtisaari, former President of Finland, was appointed to mediate the negotiations for the settlement of Kosovo's status. The negotiations were conducted in 2006 and 2007.

The VV Movement's slogan was "No negotiations, self-determination!". VV's stance<sup>154</sup> was that self-determination is a universal right and that Kosovo should enjoy the right to decide its political destiny. To the VV, UNMIK was an anti-democratic regime that constrained the resolution of Kosovo's status through negotiations and compromises. The VV presented its stance against negotiations in its 14 points, including Kosovo's unequal position at these negotiations, the dissolution of parallel structures, the lack

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<sup>153</sup>UNMIK, 'Standards for Kosovo', Prishtina, December 10, 2003. Accessed at <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20Standards.pdf> (July 26, 2016).

<sup>154</sup> For an analysis of the methods followed by the VV, see Stephanie Schwandner-Sievers, 'Democratisation through Defiance? The Albanian Civil Organisation 'Self-Determination' and International Supervision in Kosovo', in V. Bojicic-Dzelilovic et al. (eds.), *Civil Society and Transitions in the Western Balkans* (Palgrave Macmillan, 2013); On Albin Kurti's positions, see David Chandler interview of Albin Kurtin, 'JISB Interview: Kosova in Dependence: From Stability of Crisis to the Crisis of Stability', *Journal of Intervention and Statebuilding*, 5: 1, 2011, 89 — 97; Gëzim Visoka, 'International Governance and Local Resistance in Kosovo: the Thin Line between Ethical, Emancipatory and Exclusionary Politics', *Irish Studies in International Affairs*, Vol. 22 (2011), 99 p. 125.

of Serbian compensation for the killings, rapes, convictions and destruction of properties in Kosovo, etc.<sup>155</sup> Between 2005 and 2007, the VV continuously organised protests against the negotiations. In February 2007, in Prishtina, UNMIK riot police used rubber bullets against protesters after the escalation of the VV rally against the negotiations of the Kosovo delegation with Serbia, killing Mon Balaj and Arben Xheladini.

Since the VV opposed the legal basis of UNMIK, Resolution 1244 and the Rambouillet Accords, documents which had made enabled the conclusion of the war and the establishment of civil and military administration in Kosovo, the VV has argued consistently<sup>156</sup> that Kosovo cannot become a state through these documents, because they guarantee the territorial integrity of Yugoslavia over Kosovo. Thus, the VV was the only political initiative posing a double challenge to the policy-making process in Kosovo: on the one hand criticizing the political leadership in Kosovo for engaging in the Vienna negotiations on Kosovo's status and, on the other hand, criticizing UNMIK as an undemocratic and unaccountable regime for the people of Kosovo. After the proclamation of independence and deployment of the mission for the rule of law and oversight of the implementation of the Ahtisaari

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<sup>155</sup> Lëvizja Vetëvendosje, 'Jo negociata, sepse' (Self-Determination Movement, "No negotiations, because"). Accessed at [http://www.vetevendosje.org/wp-content/uploads/2013/09/jo\\_negociata\\_sepse.pdf](http://www.vetevendosje.org/wp-content/uploads/2013/09/jo_negociata_sepse.pdf) (February 12, 2015).

<sup>156</sup> Vetëvendosje Movement, 'Vetëvendosje Manifest!'. This document reads: "Self-determination is the cornerstone of citizen status. Meanwhile, the basic document that fully supports Kosovo's administration (Resolution 1244), treats each individual only as a resident, a status that can also be enjoyed by a refugee. Self-determination implies self-proclamation of citizenship. There is no substitute for self-determination. It provides individual roots in socio-political processes. Only freedom can turn us from ethnic communities to political communities. To determine ourselves our identities as citizens, and not be separated and collectively categorized by the powers that be." Accessed at <http://www.vetevendosje.org/ëp-content/uploads/2013/09/Manifesti-1.pdf> (February 15, 2015).

in Kosovo, the VV did not change its course of action and criticism to these missions, considering them UNMIK surrogates that prevent Kosovo's full independence.

In an interview with David Chandler, Albin Kurti argued:

The international presence in Kosova is international domination based upon the paradigm of stability. It ensures that the situation remains stable. Over €5 billion has been poured into Kosova in less than 10 years. Stability is therefore an expensive thing... [I]n Kosova, there is no contradiction between stability and crisis - it is the crisis which is stable...[T]he international rule in Kosova is doubly undemocratic. First, it is undemocratic in itself; it consists only of top-down commands, with no internal democracy in the decision-making. Second, it is undemocratic for Kosova; domestic institutions are normatively and politically subordinated to internationals in an inclusive and absolute way. At most, the internationals have allowed Kosova's institutions to deal with what Pierre Bourdieu (1999) calls 'the left hand of the state' (education, health care, culture) but the internationals always keep control of 'the right hand of the state' (army, police and judicial system).<sup>157</sup>

The VV participated in elections for the first time in the 2010 national elections, coming out the third political force in the country. The list of VV candidates that ran in the elections was drawn in alphabetical order, a method not applied by other political

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<sup>157</sup> Albin Kurti, 'JISB Interview: Kosova in Dependence: From Stability of Crisis to the Crisis of Stability', *Journal of Intervention and Statebuilding* (2011), 5: 1, pp. 89 — 97. In this interview, Kurti further develops his argument on stability. According to him: "The paradigm of stability suspends history. History would have made the International Mission (which considers the local population immature) itself immature: like an 11 year-old child. What is more, history is seen to able to disturb an apparent peace."

parties. From 2010, when the VV was registered as a civic initiative in the CEC, until 2015, the VV was led by Albin Kurti. In February 2015, the VV held internal elections. Visar Imeri, unopposed by any other candidate, was elected VV president. Imeri received 96.42% of the ballots of VV members. VV detractors viewed Kurti's lack of candidacy for the position of VV president as an internal VV strategy voices to have Kurti run for the next elections. Nowadays, the VV is confronted with its rigorous approach against entering into coalitions with parties that have governed Kosovo so far. Recruitment of experts in various fields of governance, who have the technical capacity to deal with the country's government at the central level, will also remain a challenge for the VV. Such a challenge arose in the municipality of Prishtina, under VV administration since the 2013 local elections.

#### **4.3.4 Alliance for the Future of Kosovo - LDK**

The Alliance for the Future of Kosovo was established on May 2, 2000. Ramush Haradinaj, AAK's founder, was not part of the Kosovo delegation at the Rambouillet Conference. However, as KLA commander in the Dukagjin region, Haradinaj participated in international meetings and discussions that determined the transformation of the KLA. Given the extreme political polarisation between the PDK and the LDK, the AAK's involvement in the political scene in Kosovo contributed to alleviating the antagonism between the so-called 'war wing' and 'peace wing'. The PDK promoted itself as sole and uncontested KLA descendant, although this military formation for Kosovo's liberation had no political character.

In Bardh Hamzaj's book, *General's Peace: Dialogue with Ramush Haradinaj (Paqja e Gjeneralit: Dialog me Ramush*

*Haradinaj*), Haradinaj gives details how the AAK was established. Haradinaj explains that after the war, the people of Kosovo were left in confusion due to the fact that political parties were involved in dealing with the past and who did what, rather than setting priorities for Kosovo's reconstruction efforts. The establishment of the AAK, in his opinion, did not divide KLA politics, since, as he says, "the policy of the KLA was not a policy of groups, of those who fought the war. But it was a policy of war spirit. [T]he Liberation War" and the KLA did not belong to one group, but it was a value of the Albanian people.<sup>158</sup> Haradinaj was unhappy with the way politics were run after the war.<sup>159</sup>

Ramush Haradinaj also explains how the name Alliance for the Future of Kosovo was chosen. According to him, since words like 'movement' and 'league' were obsolete, he thought the name should reflect Kosovo's recent history, the North-Atlantic Alliance, recognizing that people had respect for the notion of 'alliance', which was also seen as a moderate expression. The purpose of this alliance was, according to Haradinaj, the construction of the future of Kosovo. Haradinaj's opposed the insistence of political parties to deal with the past, who did what, because it created antagonism and prevented the future of Kosovo. Profiling the AAK, the ICG praised the organisation and energetic leadership of Ramush

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<sup>158</sup> Bardh Hamzai, *Paqja e Gjeneralit: Dialog me Ramush Haradinaj* (Zëri, Prishtinë, 2001), p. 145.

<sup>159</sup> *Ibid*, p. 149. In conversations with Sokol Dobruna, senior KLA officer in the Dukagjini area, who was serving in the Provisional Government of Kosovo led by Hashim Thaçi, Haradinaj had expressed his reservations at the performance of this government and the lack of space for new people. According to Haradinaj, Hashim Thaçi and Xhavit Haliti had requested a meeting with him in September 1999, but Haradinaj refused it. Haradinaj explains the reason for his refusal with the fact that he had reservations about PDK people, such as Xhavit Haliti and Kadri Veseli, but after Ethem Çeku's insistence he met Thaçi and Haliti. The latter had sought support for the PDK and the purpose of the meeting was to ease the incorporation of "all Haradinaj people" in the PDK.

Haradinaj, presenting the AAK as a party of the centre. However, the ICG emphasized that:

There is a certain ambiguity in the international community's attitude towards Haradinaj and the AAK. There is respect for the party's professional approach and effective organisation, and for Haradinaj's energy, as well as appreciation for the party's moderate, pragmatic and cooperative stance. On the other hand, questions have been raised about his connections with alleged criminal and extremist elements. Like Thaci and the PDK, Haradinaj has adapted to changing circumstances, acknowledging that Kosovo's leaders have to prove they can run an administration, promote the rule of law, respect minorities etc. However, given his record, he will be expected to prove himself.<sup>160</sup>

Although originally established as a coalition of several smaller parties like the LPK, LKÇK, Parliamentary Party of Kosovo, UNMIKOMB, etc., by 2004 the AAK was separated from these parties and ran as a single party in the 2004 national elections. At these elections, the LDK came in first, and the AAK that came third with 8.3% of the total vote entered into coalition with the LDK. Ramush Haradinaj would take the helm as Prime Minister of Kosovo, while Ibrahim Rugova would be President of Kosovo. AAK's coalition with the LDK was not welcomed by the PDK, which considered itself the successor of the KLA. This PDK attitude, among other things, can be explained by the fact that the electorate of the AAK and PDK was relatively the same. This contributed to the reduction of political polarisation between those who had fought (the KLA, later the PDK) and those who followed

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<sup>160</sup> International Crisis Group, 'Kosovo: Historic Elections' (Prishtina, November 21, 2001), p. 5.

the approach of negotiation and dialogue for resolving the issue of Kosovo (the LDK). 100 days into the position of Prime Minister of Kosovo, the International Criminal Tribunal for the former Yugoslavia (Hague Tribunal) filed an indictment for war crimes against Ramush Haradinaj. Haradinaj resigned and in 2005 he appeared before the Hague Tribunal. From 2005 to 2010, Haradinaj was tried for war crimes at the Hague Tribunal and, in the end, was acquitted. Following the resignation of Ramush Haradinaj, despite public expectations, the government coalition between the LDK and the AAK survived. Bajram Kosumi, one of the vice presidents of the AAK, was elected prime minister of Kosovo until 2006. After him, the AAK proposed a new Prime Minister, Agim Çeku. After being replaced by Çeku, Kosumi resigned from the AAK, while Çeku finished his term and later quit the AAK to establish his own Social-Democratic Party of Kosovo. In April 2008, Çeku joined the PDK.

Unlike other parties, one of the main obstacles to the consolidation of the AAK was the absence of its leader from Kosovo. A slogan had been launched in Kosovo for his return from The Hague: "Our Prime has a job to do here". From 2005 to 2008, the party was led by Ahmet Isufi. In 2008, Blerim Shala is appointed vice president of the AAK and committed to lead the AAK for two years, until 2010 when Haradinaj is acquitted by the Hague Tribunal. After Haradinaj's return to Kosovo, Blerim Shala resigned from the AAK and was appointed Political Coordinator for the dialogue taking place between Kosovo and Serbia in Brussels. Shala had already occupied a similar position in the period 2006-2007, when he was appointed by the President of Kosovo, Ibrahim Rugova, as coordinator of the working groups for the negotiations to be held in Vienna. Unlike other parties, the AAK lost part of the cadres who had joined it. This damaged the

reputation of the AAK, due to the unstable policy of staff management.

In the 2014 general election, the AAK came in fourth. Although the PDK managed to win these elections, none of the opposition parties preferred to enter into a coalition with the PDK, as it was demonized for being a party that bore all the sins of the misrule of the country, corruption and organised crime. A broad post-electoral coalition was established between the LDK, AAK, VV and Nisma, called the VLAN, which refused to collaborate with the PDK. The stance of the VLAN was that the leader of AAK was to be nominated for prime minister. After six months of institutional deadlock, the Assembly failed to perform its functions. Upon the VLAN's request, the Constitutional Court issued a decision explaining that according to the laws on the organisation of elections in Kosovo, the concept of a post-election coalition was inconsistent with the constitutional principles and laws on elections in Kosovo. Nowadays, the Alliance is an opposition party. Its main challenges are its extension throughout the territory of Kosovo, electorate growth and recruitment of high-level cadres.



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BETWEEN STABILISATION  
AND DEMOCRATISATION

**CHAPTER V**

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# *CHAPTER 5:*

*"MISUNDERSTANDING DEMOCRACY" IN INDEPENDENT  
KOSOVO - ELECTORAL FRAUD AND "DELL-OCRACY"*

## CHAPTER 5:"MISUNDERSTANDING DEMOCRACY" IN INDEPENDENT KOSOVO - ELECTORAL FRAUD AND "DELL-OCRACY"

One year before the declaration of independence, Oisín Tansey wrote a study titled "Democratisation without state: democratic regime-building in Kosovo". Tansey argued that although Kosovo was not yet recognized as a state, it had built a hybrid democratic regime, led partly by locals and partly by internationals. Analysing developments in elections and institution building, Tansey wrote that Kosovo had made significant strides in building a democratic regime.<sup>161</sup> Tansey's paper was an attempt to oppose the thesis of Juan Linz and Alfred Stepan, under which a sovereign state is a prerequisite of democracy. Linz and Stepan argue that there can be no democracy without citizens, and there can be no stateless citizens. Meanwhile, the state itself should be internationally recognized. These two researchers argue that when a part of the population does not agree with the boundaries of the state, and does not consider it legitimate, this presents a serious problem in the consolidation of democracy in that country.<sup>162</sup>

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<sup>161</sup> Oisín Tansey, 'Democratization without a State: Democratic Regime-building in Kosovo', *Democratization* (2007), 14:1, 129-150.

<sup>162</sup> Juan J. Linz & Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe* (Baltimore, MD: The Johns Hopkins University Press, 1996), pp. 5-20.

Besides the contested statehood of Kosovo from the Serb minority in Kosovo, another serious problem that hinders the consolidation of democracy in Kosovo is the lack of political elites, capable to build a functioning state. Two years before the declaration of independence of Kosovo, a report by the International Crisis Group noted:

Some doubt whether Kosovo has a sufficient political and social elite with which to create and maintain a functional state. Weak internal party democracy, together with UNMIK's decisions on the election system, have limited the accountability of politicians to voters. The closed-list election system facilitates ossification of party hierarchies and their monopolisation by back room operators to capture government revenues and rent-seeking opportunities. Perhaps more importantly, the failure to use the last six years to get Kosovo closer to a modern economy has kept politics locked into patron-client systems, which undervalue ideas and policies. UNMIK's final year must be used to reverse poor decisions favouring closed lists, in order to create at least a little more democratic space, limit the entrenchment of kleptocracy, and encourage incorporation into the system of new political blood, including relatively marginalised groups such as women and youth.<sup>163</sup>

Although the democratisation process in Kosovo started in the 90s and especially after 1999 with the holding and organizing of elections under UNMIK tutelage<sup>164</sup>, since Kosovo was not a state

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<sup>163</sup> International Crisis Group, 'Kosovo: The Challenge of Transition' (Crisis Group European Report 170, February 17, 2006), p. 4.

<sup>164</sup> Fred Cocozzelli, 'Between Democratisation and Democratic Consolidation: The Long Path to Democracy in Kosovo', *Perspectives on European Politics and Society* (2013), 14:1, 1-19.

with citizens, but an internationally administered territory without a defined political status, it missed the initial prerequisite for the consolidation of democracy. After 17 February 2008, the opportunity to consolidate democracy in Kosovo was open. However, serious problems that arose immediately were hampering this democratic consolidation. On the one hand, the Serbs in the northern area immediately disputed Kosovo's nascent state by undemocratic means, burning down the border crossings in northern Kosovo, and this constituted a real obstacle to the consolidation of democracy throughout the territory of Kosovo. On the other hand, Kosovo had not fully completed the process of international recognition and membership in international organisations. Leaving aside these two factors, Kosovo had a setback in terms of democratisation, when the general elections held in 2010 were irreparably manipulated.

A minimalist democracy was installed in Kosovo since the organisation of the first elections after the war. Joseph Schumpeter has defined democracy as a method or procedure through which politicians are elected to public office.<sup>165</sup> Robert D. Putman, on the other hand, wrote that a “good government is, however, more than a forum for competing viewpoints or a sounding board for complaints; in actually get things done. A good democratic government not only considers the demands of its citizenry (that is, is responsive), but also acts efficaciously upon these demands (that is, is effective).”<sup>166</sup>

According to Fareed Zakaria, democracy should not be equated only with the organisation of elections, considering the latter as an insufficient criterion for a country to be considered a liberal democracy. For Zakaria, what the West considers as liberal

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<sup>165</sup> Joseph Schumpeter, *Capitalism, Socialism and Democracy* (New York: Harper & Brothers, 1947), pp. 250-252.

<sup>166</sup> Robert D. Putman, *Making Democracy Work: Civic Tradition in Modern Italy* (Princeton University Press, 1993), p. 63.

democracy is characterized not only by free and fair elections, but also with the separation of powers, the protection of basic liberties of speech, assembly, religion and property.<sup>167</sup>

Many scholars, journalists, policy analysts and senior party officials share almost the same thoughts related to the level of democratisation of Kosovar society.<sup>168</sup> Thus, for example, political scientist Artan Mustafa argues that Kosovo has taken successful steps in democratisation, such as holding elections, plurality of political parties, interest groups, overall peace, wide and lively media market, strengthening of institutions, etc. However, Mustafa wants more: "Kosovo needs significant freedom, beyond public safety concerns. This requires... strengthening of material equality between classes and genders."<sup>169</sup> While sociologist Gëzim Selaci argues that one of the obstacles to the democratisation of Kosovo remains the international intervention in internal political processes in Kosovo. In Selaci's words: "[in Kosovo] there is a certain paradox, because we created this level of democracy that we have through international intervention, but on the other hand there are forms of international intervention that are hindering the development of democracy. Thus, a certain supervision relationship has been established and the correlation between external and internal political factors is stronger than the link between domestic political actors and citizens."<sup>170</sup>

For the political scientist Bekim Baliqi, the democratisation process in Kosovo should not be viewed only on the procedural

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<sup>167</sup> Fareed Zakaria, 'The rise of illiberal democracy', *Foreign Affairs*; Nov/Dec 1997; 76, 6; p. 22.

<sup>168</sup> I am grateful to Arben Sylejmani, journalist and political science researcher at the Department of Political Science, for conducting the interviews.

<sup>169</sup> Interview with Mr Artan Mustafa, political scientist and journalist, Prishtina, April 5, 2016.

<sup>170</sup> Interview with Mr Gëzim Selaci, sociologist and lecturer at the Department of Sociology (University of Prishtina), Prishtina, April 6, 2016.

level. Baliqi believes that the obstacles to further democratisation of Kosovo are the lack of rule of law and lack of economic development. According to him: "The lack of rule of law subjects voters to a patronage system. This challenges further democratisation of the country."<sup>171</sup> Likewise, the analyst Halil Matoshi argues that "Kosovo is a nominal democracy[...], as it is hindered by the leaderist spirit or the heroism of leaders, clans and nationalist ideology."<sup>172</sup>

Agron Demi, political scientist, classified Kosovo as an illiberal democracy, which reduces the whole democratic process to elections. According to him, Kosovo lacks a democratic culture of governance, which implies accountability, rule of law, freedom of expression etc.<sup>173</sup> Meanwhile, for the sociologist and analyst Dukagjin Gorani "democracy in Kosovo is electoral democracy, which means that democracy is the product of an almost arithmetic commitment of political parties. Whoever wins most votes, actually takes power, and the struggle of parties is reduced to the technical interpretation of the definition of democracy. That technical interpretation brings the Kosovar democracy at the level of electoral democracy... [T]hus, Kosovo is an electoral democracy system that produces a clientelistic relationship between government and citizens (voters). One of the obstacles to the development of democracy is the elimination of the possibility of deliberation, or what Jurgen Habermas calls deliberative democracy".<sup>174</sup>

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<sup>171</sup> Interview with Mr Bekim Baliqi, political scientist and professor at the Political Science Department, University of Prishtina, Prishtina, March 31, 2016.

<sup>172</sup> Interview with Mr Halil Matoshi, analyst, Prishtina, March 28, 2016.

<sup>173</sup> Interview with Mr Agron Demi, political scientist and executive director at GAP Institute, Prishtina, April 5, 2016.

<sup>174</sup> Interview with Mr Dukagjin Gorani, sociologist and analyst (interview conducted with him as analyst and sociologist, before he adhered to the Self-Determination Movement), Prishtina, April 5, 2016.

On the other hand, political party officials believe that Kosovo has not yet consolidated its democracy. They add different adjectives to democracy in Kosovo, such as "embryonic democracy",<sup>175</sup> "incomplete democracy",<sup>176</sup> "partially democratic country",<sup>177</sup> "fragile democracy",<sup>178</sup> "not fully democratic country".<sup>179</sup>

Even in the first elections organised after independence, stability remained the top priority of international partners. Thus, it was clear they preferred a government, which would be formed after the elections, and that enjoyed significant support in the Kosovo Assembly, in order to manage the 'great themes' such as the coordination of efforts to obtain new international recognitions for Kosovo and the normalization of relations between Kosovo and Serbia. The PDK, for the second time, built a post-electoral coalition with the LDK.

The prior PDK-LDK coalition managed the political transition until the declaration of independence of Kosovo. At this time, one of the main concerns was the fear that the remaining Serbs could leave Kosovo after the declaration of independence, like they had done in the case of Sarajevo, where after the signing of the Dayton Accords, extremist Serb leaders called on local Serbs to flee Sarajevo, which under the Dayton Accords would belong to

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<sup>175</sup> Interview with Mr Glauk Konjufca, Self-Determination Movement, Prishtina, April 1, 2016.

<sup>176</sup> Interview with Mr Basri Musmurati, Democratic Party of Kosovo, Prishtina, 31 March 2016.

<sup>177</sup> Interview with Ms Ajnishale Halimi, former member of the Self-Determination Movement, now a member of the PDK, Prishtina, May 22, 2016.

<sup>178</sup> Interview with Mr Shpejtim Bulliqi, Democratic League of Kosovo, Prishtina, April 1, 2016.

<sup>179</sup> Interview with Mr Ali Berisha, Alliance for the Future of Kosovo, Prishtina, April 7, 2016.

the Bosnian Federation.<sup>180</sup> A similar action would undermine the legitimacy and immediate recognitions of Kosovo's newly declared state. However, this scenario did not occur in Kosovo. The burden of coordinating the lobbying for obtaining the first recognitions, and for the preparation of opinions and legal defence of the declaration of Kosovo's independence contested by Serbia before the International Court of Justice, fell on the PDK-LDK ruling coalition. This court, by September 10, 2010 issued the opinion that the declaration of independence did not violate international law.

After the declaration of independence, political antagonisms and clashes between the PDK and the LDK begun to come to the surface. The seeds of this coalition's rift could possibly be found in the so-called "Zanzi Bar affair". This affair takes its name from a nightclub of the same name in Prishtina. The club is located near the headquarters of the PDK and there, on the night of November 15, 2009, senior members of the PDK declared the coalition with the LDK was over. Ironically, the next day, PDL officials denied this news. PDK's release of the news of the end of the coalition in the basement of nightclub was totally inconsiderate and non-institutional for a number of reasons. First, because the President of Kosovo coming from the LDK had a 5-year term and he could be potentially impeached by two thirds of members of parliament, which the PDK did not control. Second, the grounds for impeachment of the President of Kosovo should be constitutional, meaning the conviction for committing a serious crime, the inability to exercise the responsibility of the office of President, or a serious illness.<sup>181</sup> Thirdly, the vote of confidence on the

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<sup>180</sup> International Crisis Group 'Kosovo Roadmap (I): Addressing Final Status' (ICG Balkans Report 125, March 1, 2002, Prishtina/Brussels, March1, 2002), p. 6.

<sup>181</sup> The Constitution of the Republic of Kosovo Article 91 [Dismissal of the President].

government could be required by Prime Minister Thaçi in the hall of the Assembly no later than 5 days from the date of its submission, and not from the basements of night clubs. This incident, in fact showed the fragile and unstable nature of this coalition.

Nine months later, the LDK-PDK coalition collapsed after a group of 31 MPs, led by Naim Rrustemi, former PDK MP and later independent MP, raised an issue that had to do with the positions of the President of the state, who simultaneously exercised the function of LDP president. The coalition between the Democratic Party (PDK) and the Democratic League (LDK) was at loggerheads when Kosovo's Constitutional Court observed that the President of the LDK, simultaneously President of the Republic of Kosovo, had committed serious constitutional violations by occupying both positions at the same time.<sup>182</sup> The Constitutional Court verdict of September 2010, demanded from the President of the country to choose one of these positions. Fatmir Sejdiu resigned from the position of Kosovo's President, remaining the party leader of the LDK. The crisis could have been avoided easily if, after the verdict of the Constitutional Court, Fatmir Sejdiu would have remained in the position of President of the State, not by "freezing" the position of LDK President, but by completely resigning from this position in writing and thus opening the possibility for internal elections in the LDK. Two months later, at the LDK Election Convention, Fatmir Sejdiu lost even second position - that of the President of the LDK, against another candidate, Isa Musfata.

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<sup>182</sup> The Constitutional Court of Kosovo, "Judgment Case No. KI 47/10 Naim Rrustemi and 31 other Deputies of the Assembly of the Republic of Kosovo vs. His Excellency, Fatmir Sejdiu, President of the Republic of Kosovo. Accessed at [http://www.gjk-ks.org/repository/docs/ki\\_47\\_10\\_eng\\_2.pdf](http://www.gjk-ks.org/repository/docs/ki_47_10_eng_2.pdf) (January 11, 2015).

Finding a pretext in the botched privatization of the Post and Telecom of Kosovo, which the other coalition partner had placed on the agenda of the Assembly, the LDK came out of the coalition with the PDK in October 2010. Obviously, this was not the real reason of the dissolution of the coalition. Since the LDK had consumed a 3-year term in coalition with the PDK, its tactics changed to keeping the PDK at arm's length and getting ready for early elections. Although the LDK followed completely pragmatic tactics by keeping the PDK at arm's length and competing against it in the next elections, the manner in which LDK ministers abandoned their government offices, without any process of transition and handover to ministers that could have come as a result of a new electoral process, was a completely non-institutional policy in terms of Kosovo's institutional stability and international obligations, totally unlike the policies the LDK claims to promote.

The PDK wanted quick and extraordinary elections, in order to reduce the chances of electoral organisation of its main rival, the LDK. Following the request of the New Kosovo Alliance for the no-confidence vote against the PDK government, the President of the Assembly announced new extraordinary elections. "Public Pulse", a public opinion survey of November 2010, suggests that respondents blamed almost equally both the PDK and the LDK for the political crisis that led Kosovo to early elections: 30% of respondents blamed the PDK and 28% the LDK. Survey data showed that 50% of citizens, regardless of residence or ethnicity, would consider joining political character protests, while 72% were not satisfied with Kosovo's economic direction.<sup>183</sup> Despite the public concern for the political and economic situation in Kosovo, massive protests in Kosovo would not take concrete form until 2014. Even when organised, the protests were not related to such

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<sup>183</sup> UNDP and USAID, "Public Pulse" Report 1, March 2011, Prishtina.

issues, but to completely different ones, and were not organised by the civil society or citizens, but by the opposition political parties, which in a way or another shared the responsibility for the culture of impunity and misrule from 2000 onwards.

The 2010 elections were the first general elections organised by Kosovo's national institutions after the independence. In these elections, the PDK managed to earn 224,339 ballots and 34 seats, the LDK 172,552 ballots and 27 seats, the VV 88,652 ballots and 14 seats, the AAK achieved its best results ever in general elections with 77,130 votes and 12 seats, while the AKR-PD-PSD-PPI-PPK-PNDSh-PGjK Coalition, led by Behgjet Pacolli's Alliance for New Kosovo (AKR) gathered 50,951 ballots, translated into 8 seats. The PDK formed a government with the coalition of smaller parties led by the AKR. Under the agreement, Hashim Thaçi was again Prime Minister, the office of the President of Kosovo would go to the AKR, and ministerial positions were divided according to their political share.

ENEMO, a network of European organisations that monitored the elections, concluded that they were accompanied by serious problems.<sup>184</sup> Christopher Dell, then the US ambassador accredited in Kosovo, described the 2010 elections as "industrially fraudulent". Despite the fact that the civil society was strongly engaged with 5,000 observers to monitor the elections, political parties were even better organised at manipulating and harming the integrity of the vote. The degree of distortion and manipulation of the vote was so high that the Central Election Commission was forced to reorganize elections in some municipalities.<sup>185</sup>

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<sup>184</sup> European Union Election Expert Mission to Kosovo, 'Final Report', 25 January 2011, p. 60.

<sup>185</sup> See KIPRED, "Actual causes of the institutional crisis in Kosovo," Political Analysis 2010/6, Prishtina, November 2010; KIPRED, "Parliamentary Elections in Kosovo 2010: Overview and trends", Prishtina, April 2011.

Also, the elections were monitored by "Democracy in Action", a Kosovo network of election monitoring organisations. The commissioners of political parties, who were expected to safeguard the electoral process at polling stations, were blamed for manipulating the elections. As the KIPRED study notes:

As a result of numerous abuses, the Election Complaints and Appeals Commission (ECAC) received a total of 454 complaints related to irregularities and manipulation of the elections held in December 2010 and the re-voting in January 2011. Following the ECAP decisions on some of these complaints, the CEC was forced to call for re-voting in Skënderaj, Drenas and Deçan, and at two polling stations, one in Lipjan and one in Malisheva.<sup>186</sup>

The deformation of election results, the incitement, intimidation and threatening of citizens to vote against their will by political parties, as well as threats and intimidation between political parties are prohibited by law. The Law on General Elections in Kosovo regulates the Code of Conduct of political parties. Among the prohibited activities of political parties, Article 33 of this Law, among other things, prohibits political entities from engaging in the following actions: "promising any financial reward for the purpose of gaining support of voters", "threatening or attempting to threaten other political entities", "encouraging to vote any person who does not have the right to vote", "encouraging a person to vote more than once in the same election, or to vote on behalf of another person",<sup>187</sup> etc. Despite regulations on the conduct of political

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<sup>186</sup> KIPRED, "Election Crimes: An analysis of the prosecution and trial of cases of election crimes in Kosovo" Prishtina, October 2011, p. 6.

<sup>187</sup> Law on General Elections, Chapter V, Article 33: Prohibited Actions by Political Parties: Among other things, "d) disturbing meetings of other Political Entities or inciting others to do so; e) preventing or attempting to prevent journalists from carrying out their professional functions; f) promising

parties, 890 polling stations were manipulated in the 2010 electoral process.

The more Kosovo institutions became independent of the OSCE and undertook obligations to manage the elections themselves, the more was growing the trend of election fraud. A year before the independence of Kosovo, the OSCE had begun to gradually transfer the powers to organize elections to the Kosovo institutions. Although the general and local elections, held simultaneously in 2007, were deemed "elections with international standards", violations were reported and the Electoral Complaints and Appeals Commission filed over 100 cases at the State Prosecutor. However, the latter did not address these cases, by pursuing a policy of tacit impunity.

Adam Przeworski has defined democracy as a system of institutionalized uncertainty.<sup>188</sup> According to this definition, no one is certain of victory. Election results are not predetermined and electoral mechanisms give everyone a chance. Politicians and political parties that want to minimize this uncertainty, which is an

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any financial reward for the purpose of gaining support of voters; g) threatening, or attempting to threaten, other Political Entities or their supporters or candidates; h) encouraging any person to register to vote in an election who has no legal right to register; i) encouraging any person to vote in an election who has no legal right to vote; j) encouraging a person to vote more than once in the same election, or to vote in the name of another person; k) abusing the right to complain, or making false, frivolous or vexatious complaints or submissions to the ECAC; l) using language, in oral or written form, which incites or provokes, or is likely to incite or provoke, another person to commit an act of violence against other persons or property, or which incites or is likely to incite hatred towards others, or publishing or using pictures, symbols or any other material that has or is likely to have such effects; or m) for the purpose of promoting a Political Entity or its candidates using pictures, symbols or any other material which refers to a person who: (i) is serving a sentence imposed by the International Criminal Tribunal for the Former Yugoslavia; or (ii) is under indictment by the Tribunal and has failed to comply with an order to appear before the Tribunal”.

<sup>188</sup> Adam Przeworski, 'Democracy as the contingent outcome of conflicts', in J. Elster & R. Slagstad (eds.), *Constitutionalism and Democracy*, (Cambridge, UK: Cambridge University Press, 1988), pp. 59-80.

essential part of democratic elections, aim to reach positive results by manipulating the electoral system. This electoral misconduct destroys the mechanism within which democracy works - secret ballot, honest and without pressure. Sarah Birch argues that politicians often risk losing legitimacy by engaging in electoral fraud, being sure that fraud will be rewarded with good results. Electoral misconduct involves a range of activities, from using unfair tactics in election campaigns to obstruction of voting on election day (i.e. removing a ballot box from a polling station), voter intimidation, corruption etc.<sup>189</sup>

There are several reasons why the December 2010 general elections were massively rigged. Firstly, the political race was complicated by the participation of the Self-Determination Movement in these elections. The VV's presence in the race, as a more dynamic political formation, increased the uncertainty of other political parties, especially the PDK and the LDK. Secondly, the Alliance for the Future of Kosovo featured a joint election list with a number of high officials that quit the LDK, led by Ukë Rugova, son of the former President of Kosovo. As the results will show, in these elections the AAK got the best electoral results since its establishment. Thirdly, following Fatmir Sejdiu's resignation from the seats of President of State and President of the LDK, one month before the election, the LDL held the Electoral Convention, and elected a new President, Isa Mustafa. The latter had pointed constant criticism towards the PDK and Hashim Thaçi, especially in terms of corruption and organised crime. The PDK feared a potential new momentum in the LDK with the new president. Given these factors of uncertainty of losing power and with that the possibility to dominate the public sphere, the PDK, being in government, was mostly interested to minimize the

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<sup>189</sup> Sarah Birch, 'Electoral Systems and Electoral Misconduct', *Comparative Political Studies*, Vol.40, 2007, p. 5.

unpredictability through massive manipulations of the vote. The rest of the parties with leadership experience, whether the LDK or the other smaller parties, were also interested in doing the same, although at a lower intensity.

## **5.1 Unconstitutional electoral reform in Kosovo**

After the extraordinary elections in 2010<sup>190</sup> - although their legitimacy and integrity was widely disputed - the PDK won the elections and built a coalition with Behgjet Pacolli's AKR and the minorities' parties. Under the agreement, the position of Prime Minister was given to the PDK, whereas the President to the AKR. On February 22, 2011, the Kosovo Assembly elected Behgjet Pacolli as President of Kosovo. Pacolli's election was challenged immediately. Sabri Hamiti, together with a group of deputies, on March 1, 2011, challenged in the Constitutional Court Pacolli's election procedure and the decision of the Kosovo Assembly No. 04-V. On March 30, 2011, the Constitutional Court found that procedurally Pacolli's election was in violation of the Constitution of Kosovo. Its verdict stated that procedures were violated during Pacolli's election as President of the country.<sup>191</sup>

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<sup>190</sup> 55 political entities were certified in the 2010 general elections: 23 Albanian, 11 Serb and 21 from other minorities.

<sup>191</sup> In the case Pacolli's election, according to the verdict of the Constitutional Court, there was no quorum vote (2/3) of all deputies of the Assembly (80 seats). The lack of quorum incapacitated the voting proceedings for the President. In the third round, Pacolli was elected with 62 votes out of 65 present in the hall, although 81 MPs were present before the start of the first round, but 4 left in the second round and 2 others in the third round. Article 86 of the Constitution of Kosovo, regarding the voting procedure for the President, requires the nomination of at least two candidates. See Constitutional Court, "Case No. Ko 29/11 Applicants Sabri Hamiti and other Deputies of the Kosovo Assembly no. 04-V-04 Regarding the election of the President of the Republic of Kosovo on 22 February 2011. Ref. No.: 108/11

The very next day after this verdict, the Constitutional Court received several requests for clarification from the three institutions: the Speaker of Parliament, the Office of the President of Kosovo and the Kosovo government. The questions sought clarification whether the country should go to new elections or not, whether the country had an acting President, whether there were institutional vacuum, etc. The Constitutional Court stated in its explanation that the verdict entered into effect on the date of publication, on March 31, 2011, which in technical terms meant that Behgjet Pacolli had been President of Kosovo since February 22. Regarding the announcement of new elections, the court explained that its decision did not impose such a thing and that from the date of publication of this verdict Kosovo had an Acting President.<sup>192</sup>

After the deeply manipulated elections of 2010, with the mediation of former US Ambassador Mr. Christopher Dell, in April 2011, the three leaders of the major political parties, Hashim Thaçi, Isa Mustafa and Behgjet Pacolli signed a 5-point agreement. On the first point, the leaders appointed Mrs. Atifete Jahjaga as President of the Republic of Kosovo. On the second point, they agreed to form a Commission for Presidential Election Reform. On the third point, they envisaged the formation of a Commission for the Reform of the Law on General Elections, while the fourth and fifth points envisaged the reform of the Law on General Elections and the organisation of elections 18 months after the date when

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OM, 30 March 2011, Prishtina. Accessed at [http://www.gjk-ks.org/repository/docs/ko\\_29\\_11\\_agj\\_om\\_shq.pdf](http://www.gjk-ks.org/repository/docs/ko_29_11_agj_om_shq.pdf) (19 April 2016).

<sup>192</sup> See Constitutional Court, "Clarification of Judgment in Case No. KO 29/11 Sabri Hamiti and other MPs: Constitutional Review of the Decision of the Assembly of the Republic of Kosovo No. 04-V-04 of 22 February 2011 concerning the election of the President of the Republic of Kosovo", Prishtina, on April 1, 2011, Ref. No. SQ 111/11. See [http://www.gjk-ks.org/repository/docs/aktgjykimi\\_ko\\_29\\_11\\_shq.pdf](http://www.gjk-ks.org/repository/docs/aktgjykimi_ko_29_11_shq.pdf) (accessed on April 19, 2016).

these amendments would enter in force.<sup>193</sup> Given that this agreement on the nomination of Mrs. Atifete Jahjaga was managed by the former US ambassador Christopher Dell, the Vetëvendosje movement criticized it, noting that the agreement was proof of "Dell-ocracy" in Kosovo.<sup>194</sup>

Later, this political agreement was materialized in the Assembly through a resolution dated April 7, 2011. On the same day of its approval, Atifete Jahjaga was elected President of Kosovo with 80 votes. According to the resolution, changes to the election legislation were proposed, in order for the President of Kosovo to be elected directly by the people. Under the agreement of party leaders, the presidential elections would be organised no later than six months from the date on which the necessary constitutional changes and legislation would enter into force. In order to immediately initiate the legal amendments, the Parliament supported the establishment of a reform commission, which would be led by the opposition and would perform its work within 6 to 9 months from the date of its establishment. Point 3 of the resolution contains its essence:

The Assembly of the Republic of Kosovo supports the commitments and deadlines contained in the Memorandum dealing with the need for amending the Constitution of the Republic of Kosovo, the Law on General Elections and related legislation, which among others will support the creation of more many electoral districts in Kosovo.<sup>195</sup>

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<sup>193</sup> See the agreement of the leaders of political parties in Kosovo on election reform, D4D, "Electoral Deform: Two years on, reform at point zero". Series 5, Elections. Prishtina, September 2013, p. 45.

<sup>194</sup> Petrit Collaku, 'Kosovo Elects New President ', *Balkan Insight*, April 7, 2011. Accessed at <http://www.balkaninsight.com/en/article/kosovo-elects-new-president> (July 12, 2016).

<sup>195</sup> Kosovo Assembly, "Resolution in support of the Memorandum of Agreement between Mr Behgjet Pacolli, Mr Isa Mustafa and Mr Hashim

According to the political agreement of the political leaders of Kosovo, Jahjaga should have served in the position of President of the country for only 9 months, until the completion of the constitutional and electoral reforms. On March 23, 2012 and, later, on May 4, 2012, the Speaker of the Assembly sent the proposed amendments for constitutional and electoral reform to the Constitutional Court, to assess whether they reduced human freedoms and rights. In its judgment, the Constitutional Court referred to the political agreement of political leaders, under which Kosovo's president would be elected directly by the people, after the reform of the Law on General Elections. In a long, precise and well-argued decision of 67 pages, the Constitutional Court found that the proposed amendments would scale back human rights and freedoms, particularly the new proposed article (162.1) "regarding the early termination of the mandate of the President of the Republic of Kosovo".<sup>196</sup> In other words, the Constitutional Court held that the constitutional reform could not affect the full 5-year term of President Jahjaga.

In fact, the premises on which to base the electoral reform were problematic. The massive manipulations of the vote in the 2010 elections had nothing to do with the election of the President of Kosovo. Concentrating on the election of the President, and not in substantial reform to the Law on General Elections, shows clearly the lack of readiness of the leaders and main parties in

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Thaçi. No. 04-R-01, Prishtina, April 7, 2011. Accessed at <http://elibraria.org/assets/Rezoluta-Marreveshja.pdf> (January 10, 2014).

<sup>196</sup> Constitutional Court Judgment in Cases KO29/12 and KO488/12 Proposed constitutional amendments, submitted by the Speaker of the Assembly of Kosovo on March 23, 2012 and May 4, 2012. See [http://www.gjks.org/repository/docs/Aktgjykim%20KO29\\_48\\_12\\_Anex%20A%20&%20B\\_SHQ.pdf](http://www.gjks.org/repository/docs/Aktgjykim%20KO29_48_12_Anex%20A%20&%20B_SHQ.pdf) (June 9, 2015).

<sup>196</sup> Tanjug, 'EU dissatisfied with electoral reform in Kosovo', 20 April 2012. Accessed at [http://www.b92.net/eng/nees/politics.php?yyyy=2012&mm=04&dd=20&nav\\_id=79861](http://www.b92.net/eng/nees/politics.php?yyyy=2012&mm=04&dd=20&nav_id=79861)

Kosovo to reform the electoral system. The Commission's work to reform the electoral system was prevented precisely by political parties appearing as key reforms. As this study is being written, it is six years from the time when the leaders of the political parties signed an agreement to initiate the electoral and constitutional reforms, but so far, no measurable result has been achieved. Samuel Zbogar, the EU Special Representative in Kosovo, expressed disappointment with political parties in Kosovo due to the lack of progress regarding the electoral reform. On the other hand, the D4D Institute noted that "big parties are not concerned to find solutions to 'industrial' manipulations of the free vote, because they have already elaborated their own system to be part of this manipulative industry and see no other powers that would disturb this situation".<sup>197</sup>

A memo of the Office of the European Union and the Member States in Prishtina sent to leaders of political parties in Kosovo, contained the road map to be followed to draft the electoral reform, in parallel with the organisation of local elections in Kosovo, to be held in November 2013. The EU memorandum on electoral reform, addressed to officials of political parties, contained 5 principles involving cooperation with civil society and other stakeholders, transparency and simplicity of the electoral system, and representation of minorities and women. In order to implement these principles, the memo drafted, inter alia, the following recommendations:

- i) Reduction to the minimum of the number of preferential votes. It is preferable that voters have a single preference for a candidate. This would enable the management bodies of the vote to count votes faster and reduce the possibilities of intra-party abuses.

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<sup>197</sup> D4D, "Electoral Deform: Two years on, reform at point zero". Series 5, Elections. Prishtina, September 2013, p. 9.

- ii) The electoral threshold must not apply to parties representing minority communities.
- iii) Elimination of conditional ballots for all elections, because of the potential for manipulation of conditional ballots.
- iv) Clarify which documents are acceptable to vote.
- v) Replace invisible colour with visible colour.
- vi) Remove collective sanctions.
- vii) More transparency for the appeals process, making public complaints. Extend the deadline for the submission of complaints.
- viii) Continue the practice of counting at polling stations and in a centralised location.<sup>198</sup>

In Kosovo, voter lists remain out-dated. Electoral rules are not well specified. The legal vacuum has to do with the fact that the Law on General Elections does not regulate in detail the election process and lacks guidelines for its implementation. Also, the composition of the CEC continues to be problematic. The CEC consists of 10 members, 6 members from the main Albanian political groups and 4 members from minority groups, who have consistently voted according to the preferences of the ruling coalition. School directors, as managers of polling stations, continue to play a decisive role on election day. Given the fact that a large part of school directors are party members and often recruit in those positions by the ruling parties, the management of these polling stations by these directors prevents a fair and neutral election process. Likewise, photographing the ballot, which casts doubt on corruption or vote buying, is a widespread phenomenon in Kosovo with worrying proportions, although it is prohibited by law. Proxy

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<sup>198</sup> See Memorandum of the EU Office in Kosovo sent to political leaders in Kosovo, "Memo to Party Leaders on Kosovo's Electoral Reform Process from the EUSR/Head of European Union Office and EU Member States represented in Prishtina". See <http://elibraria.org/assets/General-Principles-for-Electoral-Reform.pdf> (January 12, 2014).

voting, group voting, in which family members enter the ballot box together and happens in many polling stations, especially in the peripheral parts, are also contrary to the rules of the elections.<sup>199</sup> Courts, prosecutors, and even political parties do not yet effectively address these and other problems.

## **5.2 Why would political parties accept changes to voting rules?**

If we remain loyal to the definition of the electoral system as a mechanism whereby votes cast are translated into seats in parliament, there has been no authentic debate in Kosovo about what electoral system best suits the country's socio-political circumstances. The proportional electoral system was imposed by UNMIK. After the declaration of independence, in accordance with the Ahtisaari Plan, the electoral system was originally internalized in this plan and, subsequently, the Constitution of Kosovo as an instrument for the representation of minorities and women in the Kosovo society. So far, the debate over electoral reform in Kosovo has been more focused on changing the electoral rules, rather than the electoral system. Part of this debate has been the structure of the ballot, the partition of Kosovo in electoral districts and the electoral threshold, but not the electoral formula by which ballots are translated into seats in Parliament.

The debate on the reform of electoral rules started since 2006 and it intensified especially after the 2010 general elections, which were rated as the elections with least integrity after the war in Kosovo. The initiative to reform the electoral rules is influenced

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<sup>199</sup> Memorandum of the EU Office in Kosovo sent to political leaders in Kosovo, "Memo to Party Leaders on Kosovo's Electoral Reform Process from the EUSR/Head of European Union Office and EU Member States represented in Prishtina". See <http://elibraria.org/assets/General-Principles-for-Electoral-Reform.pdf> (January 12, 2014).

by endogenous factors (criticism of civil society in Kosovo), as well as exogenous ones (constant criticism from international organisations for massive irregularities, fraud, collective voting, voting photography, etc.). The key question is: why would political parties decide to reform the electoral game rules that bring them victory in elections? Richard S. Katz lists six reasons why parties may change or allow changes to the rules of an electoral game. According to him, there are 6 reasons:

- i. The winners may believe that their continued victory is seriously threatened within the existing rules.
- ii. The winners are not entirely in control of the situation, and can have reforms imposed upon them.
- iii. There is a division of interests among the members of the winning coalition;
- iv. Those able to adopt electoral reforms are overly optimistic about their own prospects under the new system, or misperceive its probable consequences.
- v. Parties may value long-term change in the competitive system over short-term electoral advantage.
- vi. Parties may be willing to trade electoral advantages for other goals.<sup>200</sup>

There may be multiple reasons behind the issues of the electoral reform after 2010. It would be sufficient here to shortlist few of them. Since the PDK was certified as the winning party of the 2010 general elections, the legitimacy of its victory was eroded irreparable. Consequently, the PDK had no control of the whole situation and in order not to face repeated challenges to this legitimacy, together with the LDK and the AKR agreed to initiate the electoral reform. PDK was interested in trading the electoral

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<sup>200</sup> Richard S. Katz, 'Why are there so many (or so few) electoral reforms?', in Michael Gallagher & Paul Mitchell (ed.), *The Politics of Electoral Systems* (Cambridge University Press, 2005), p. 63.

reform with governing stability after the massively disputed elections by local organisations as well as international ones. On the other hand, in November 2010, the LDK elected a new president at its Electoral Convention, Mr. Isa Mustafa, who constructed all his political agenda against the figure of the former Prime Minister and President of the PDK, Hashim Thaçi. Although the LDK under the direction of Isa Mustafa grew by 43,142 ballots, or 24.69% of the votes compared to the 2007 elections, it still did not come out as winning party. Given that the new LDK president did not fulfil his electoral promise to lead the LDK to victory in the election, Mustafa accepted to take part in electoral reform, in order to evade the political responsibility for the loss of the elections. On the other hand, the PDK coalition partner, the AKR, was also interested to become part of the electoral reform and impose its idea that Kosovo's president should be elected by the people, a proposal that the AKR had promoted since its establishment as a political party.

### **5.3 Reserved seats for minorities in the Kosovo Assembly: two more terms**

The work on electoral reform was displaced from the Electoral Reform Commission to informal meetings between leaders of political parties in Kosovo. These meetings were attended by leaders of the PDK, LDK, VV, AAK, SLS, KDTP and the ambassadors in Kosovo of international powers. From 2010 to 2014 several meetings were held between the leaders of political parties, but there was no consensus on the electoral system and the system components. Political parties disagree about electoral districts, the threshold chosen, minority and gender representation, CEC powers and composition, the preservation of open lists or

closed lists. However, three issues remain as contentious in the electoral reform process: open or closed lists; CEC composition; and seats reserved for minorities. The continuation of seats reserved for minorities in the Kosovo Assembly, which was not contested by the PDK and other minority parties, has faced clear political resistance from Albanian opposition parties.

In this debate, the now former Kosovo Prime Minister and former PDK President, Hashim Thaçi, proposed to invite the Venice Commission to assist in the completion of the electoral reform.<sup>201</sup> Opposition parties opposed this proposal. LDK representatives argued that the Reform Commission also included international experts. From the other side, the AAK, through its Vice President, Mr. Ahmet Isufi, stated: "The request of the Prime Minister to invite the Venice Commission to complete the electoral reform is a pretext through which he tries to justify the request of minority communities to increase the reserved terms."<sup>202</sup> This meant that in addition to reforming the electoral system, it was necessary to also change the Constitution of Kosovo.

According to the Constitution of Kosovo, the rules for the 20 guaranteed seats plus the seats won by vote for the representation of minorities in the Kosovo Assembly will be valid only for the first two electoral terms.<sup>203</sup> Article 64 of the Kosovo Constitution states that ""parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing Serb community shall have the total number of seats won through the open election, with a minimum ten (10) seats guaranteed if the

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<sup>201</sup> "Electoral reform in the hands of political parties, not the Venice Commission", Telegrafi, January 6, 2014. See <http://www.telegrafi.com/lajme/reforma-zgjedhore-ne-doren-e-partive-politike-jo-te-komisionit-te-venedikut-2-39857.html> (January 15, 2014).

<sup>202</sup> Ibid.

<sup>203</sup> Constitution of the Republic of Kosovo Article 148.

number of seats won is less than ten (10)".<sup>204</sup> Ten (10) seats are guaranteed for other minorities such as Roma, Ashkali, Egyptians, Gorani, Turks and Bosniaks. Political parties in Kosovo did not oppose Article 64, but did not agree that minorities have more than 20 seats in the Assembly. They refused the continuation of reserved seats, where minorities would have 20 guaranteed seats and, depending on the number of votes received, increase the number of seats in the Assembly after the first two electoral terms.

The LDK was against the continuation of reserved seats for minorities in the Kosovo Assembly, on the grounds that it reopened the Ahtisaari Plan and the Constitution of Kosovo. Vjosa Osmani from the LDK had argued that if minorities would have 20 guaranteed seats and also win over 10 seats, the minorities could be considered as the first or second political force in the Assembly and such disproportionate representation would amount to discrimination of the Albanian majority. According to her, the electoral reform should not touch the Constitution of the Republic of Kosovo and that any amendment to the Constitution would require a double majority in the Kosovo Assembly. Such a change could not be brought, given the LDK's opposition to reserved seats for minorities.<sup>205</sup>

Representatives of Serbian political parties did not agree with the change of the status of reserved seats in the Assembly (20 guaranteed seats plus seats won by vote). Representatives of civil society opposed the proposal for the continuation of reserved seats for minorities, arguing that it defunctionalised democracy in Kosovo.

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<sup>204</sup> Constitution of the Republic of Kosovo, Articles 64 and 148.

<sup>205</sup> KTV, Interaktiv. Electoral Reform, December 19, 2013.

## 5.4 Civil society proposals for electoral reform

The 2015 European Commission Report on Kosovo underlined that "the Kosovo Assembly has yet to undertake overdue electoral reforms. Kosovo's membership of the Venice Commission can help in this regard. The Assembly also needs to initiate and independent audit of political party financing and party electoral campaigning, as provided in the law on financing of political parties."<sup>206</sup>

So far, Kosovo has faced continuing problems in electing the President of the country. In its two judgments, the Constitutional Court found that Fatmir Sejdiu violated the Constitution of Kosovo by holding the seats of Head of State and LDK president, and that the election of Behgjet Pacolli did not follow the proper procedures.

Supporters of the idea that the President should be elected by the people reasoned their proposal by the fact that an elected President represents the unity of the people and his/her direct election removed the institution of the President of the country from political parties' calculations. In a newly published study, Enver Hasani argued on the role of the President of the country in relation to the Constitution, following the academic debate between Carl Schmitt and Hans Kelsen. According to Schmitt, the head of state (*Führer*), who is on the top of the pyramid, is inextricably linked with the sociological and political unity of the people he represents. Under this legal doctrine, power is embodied and unified in the institution of the Head of State and cannot be shared with the parliament, dominated by particular interests of different political forces. Hans Kelsen, on the other hand, considered that the Head of State cannot represent the sociological

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<sup>206</sup> European Commission 'Staff Working Paper of the Commission: 2015 Report on Kosovo', Brussels, 10:11, 2015, SED (2015) 215 final, p. 6.

and political unity of the people, but the constitutional, legal unity of the people, and this constitutional unity is expressed in the Constitution. Thus, Schmitt's concept sees the *Führer* on top of the pyramid, while Kelsen's, on top of the pyramid sees the Constitution, to which even the president is subject.<sup>207</sup>

From the above discussion we can see that a President elected by the Assembly of Kosovo is not less representative of the unity of the people. Once elected, regardless of the way - from the Assembly or the people - the Kosovo President is not less representative of the constitutional unity of Kosovo. No president, even elected by the people, can claim to represent the 'metaphysical or sociological unity' of the people of Kosovo.

Independent analysts, a number of civil society organisations and political parties have different opinions whether the President of Kosovo should be elected by the people or not. Analyst Halil Matoshi argues his support for the direct election of the President of Kosovo. According to him, if the method of electing the President of Kosovo would change, "it would be possible to choose a nonpartisan President, acceptable for most people, who will play the role of a moral authority, above parties and ethnicities [and] in case of institutional and political crisis would keep the society unified."<sup>208</sup> Political scientist Artan Mustafa, on the other hand, submits two arguments for and against the direct election of the President: "[T]he election of the President by the Assembly facilitates the formation of a coalition government, since the President has relatively symbolic powers. However, direct voting would be justified taking into account the practicalities of the situation in Kosovo, where political parties' reform is difficult. Without direct elections, Prishtina would have never had Ahmeti as

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<sup>207</sup> Enver Hasani, 'Constitutional Protection of the Head of State: The Case of Kosovo' *ICL Journal* (2013), Vol. 7, pp. 128-149.

<sup>208</sup> Interview with Mr Halil Matoshi, analyst, Prishtina, March 28, 2016.

mayor. Thus, in the context of the blocking of reforms, the popular vote could create innovation space".<sup>209</sup>

Dukagjin Gorani, sociologist and analyst, argues that the direct election of the President of Kosovo will also implicate amending the powers. Since the president's seat is rather ceremonial, Gorani highlighted: "The direct vote of the President means the President has executive powers".<sup>210</sup> However, political scientist Agron Demi, in his analysis claims that the election of the President has become one of the highlights of the political deadlock in the country, and proposes that the President of Kosovo should be elected by the people, but without changing the current powers exercised by the President under the Constitution of Kosovo. Demi argues: "Seeing that it has become difficult to achieve a majority of 80 votes in the Assembly, which would bring a consensual president, but aware that lowering the threshold for election of the President shall mean the election of a president who does not represent the majority, the best solution would be direct elections, but without changing the current powers of the President. Kosovo needs to maintain the system of parliamentary government and not turn into a country with a presidential system."<sup>211</sup>

On the other hand, representatives of political parties have different attitudes about the direct election of the President. Ali Berisha and Pal Lekaj from the Alliance for the Future of Kosovo stated that the AAK's stance is that the President should be elected by the people. According to Berisha, "The AAK's attitude, from the beginning, has been that the President must be elected by the

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<sup>209</sup> Interview with Mr Artan Mustafa, political scientist and journalist, Prishtina, April 5, 2016.

<sup>210</sup> Interview with Mr Dukagjin Gorani, sociologist and analyst (interview conducted with him as analyst and sociologist, before he adhered to the Self-Determination Movement), Prishtina, April 5, 2016.

<sup>211</sup> Interview with Mr Agron Demi, political scientist and executive director at GAP Institute, Prishtina, April 5, 2016.

people and not be a representative of a political caste".<sup>212</sup> Berisha's attitude was identical with that of his fellow party member Pal Lekaj.<sup>213</sup> Shpejtim Bulliqi and Arben Gashi of the Democratic League of Kosovo also underlined that the citizens should elect the President. However, according to Bulliqi, "some of the powers of the president should be reduced in advance, in order to clarify some of the powers that are mixed with those of the Prime Minister"<sup>214</sup>; while according to Gashi, "Kosovo's President should be elected by the ballots of citizens. The reason is simple: that person must be representative, must represent the majority of the citizens of Kosovo".<sup>215</sup> Basri Musmurati, from Democratic Party of Kosovo, declared: "We [PDK] do not have this problem. It is best to change the law so that the President is elected by the people."<sup>216</sup> Glauk Konjufca of the Vetëvendosje Movement has not given a definitive answer whether in the future this movement would support the direct election of the President. According to him: "The Self-Determination Movement thinks that the President can also be elected by the people, but we currently favour a President elected by the Assembly, because we believe in a parliamentary republic, where the Parliament is the key to decision-making and representation of the interests of citizens and people. [D]emocratic life should be concentrated in the Assembly and the President should come from Assembly".<sup>217</sup>

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<sup>212</sup> Interview with Mr Ali Berisha, Alliance for the Future of Kosovo, Prishtina, April 7, 2016.

<sup>213</sup> Interview with Mr Pal Lekaj, Alliance for the Future of Kosovo, Prishtina, April 7, 2016.

<sup>214</sup> Interview with Mr Arben Gashi, Democratic League of Kosovo, Prishtina, 29 March 2016.

<sup>215</sup> Interview with Mr Shpejtim Bulliqi, Democratic League of Kosovo, Prishtina, April 1, 2016.

<sup>216</sup> Interview with Mr Basri Musmurati, Democratic Party of Kosovo, Prishtina, 31 March 2016.

<sup>217</sup> Interview with Mr Glauk Konjufca, Self-Determination Movement, Prishtina, April 1, 2016.

As observed in the above arguments, the reasoning behind the direct election of the President by the people is based on pragmatism, due to the ongoing problems Kosovo faces in electing Presidents in the Assembly of Kosovo. However, any change in the direct election of the President should not change the parliamentary character of the Republic of Kosovo, and a President elected by the people should exercise the same powers as provided by the Constitution of Kosovo.

Regarding the electoral system, political parties have different views. Basri Musmurati from the PDK prefers an electoral system with many districts where elected members of parliament would have their electoral base.<sup>218</sup> Glauk Konjufca stressed that the VV prefers a system with one electoral district. According to Konjufca, "the Kosovo Assembly addresses universal issues dealing with the state of Kosovo in general. These are not local issues, and there is no reason why, voters, let's say, should be related only to the MP who comes from their district".<sup>219</sup> Pal Lekaj of the AAK stated that "we are for open lists and... elections to be held in districts."<sup>220</sup> Shpejtim Bulliqi of the LDK stated that "this topic is not discussed in party structures", while Arben Gashi of the LDK considers "the election system is in order".<sup>221</sup>

Since we presented the preferences of political parties and attitudes of independent analysts on the manner of electing the President and the electoral system, the following section will

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<sup>218</sup> Interview with Mr Basri Musmurati, Democratic Party of Kosovo, Prishtina, 31 March 2016.

<sup>219</sup> Interview with Mr Glauk Konjufca, Self-Determination Movement, Prishtina, April 1, 2016.

<sup>220</sup> Interview with Mr Pal Lekaj, Alliance for the Future of Kosovo, Prishtina, April 7, 2016.

<sup>221</sup> Interview with Mr Shpejtim Bulliqi, Democratic League of Kosovo, Prishtina, April 1, 2016; Interview with Mr Arben Gashi, Democratic League of Kosovo, Prishtina, 29 March 2016.

present 5 models with different features of the electoral system, presented by different think-tanks in Kosovo.

#### *5.4.1 Model 1: KIPRED*

The KIPRED Institute, in its research "Elections for the Citizen" proposed an electoral system with 5 features, which according to them would best suit the people of Kosovo. According to the study in question, first, Kosovo must pass from one district to seven electoral districts, in order to increase the representation of all regions of Kosovo in the Assembly of Kosovo and create a new link of accountability between MPs and the electorate. Secondly, the research concludes that the best option for citizens to elect their regional MPs is not preferential voting for five candidates, as it is now, but voting for only one candidate, which would prevent the manipulations perpetrated through preferential voting. Thirdly, the lists must be open, in order to increase legitimacy. Fourth, the threshold should be reduced from 5% to 1%, in order to create greater opportunities for small parties and independent candidates to participate in elections. Fifth, the study recommends that the prosecution of past electoral crimes is indispensable for a new electoral process.<sup>222</sup>

#### *5.4.2 Model 2: D4D*

The D4D Institute, in its study "Electoral Deform", provides recommendations for reforming the electoral system in Kosovo. According to this research, Kosovo should be divided into electoral

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<sup>222</sup> KIPRED, "Elections for the Citizen: Assessment of the Electoral System of Kosovo and recommendations for the upcoming elections", 2012, p. 6.

districts, which should be based on the current division of Kosovo, and not any political agreement on the allocation of new districts. Separation into districts produces better representation in the Assembly for the areas, links the electorate with MPs, weakens party hierarchies and increases the democratisation of political parties. In order to ensure gender representation and the representation of minorities in the Kosovo Assembly, the study recommends a 70/30/20 formula for the allocation of seats - 70 seats for seven districts, 30 seats for women and 20 seats for minorities. Further on, the study recommends keeping open lists, but instead of voting for 5 candidates, voters should vote for a single candidate, making it impossible to manipulate ballots. The electoral threshold should be 3%, but this threshold should not apply to independent candidates and minority parties.<sup>223</sup>

#### *5.4.3. Model 3: IPOL*

Regarding the electoral districts, IPOL provides two options: one, maintaining one electoral district with proportional representation due to the simplicity of the system; two, a mixed electoral system, in which 30 of the 100 MPs would be elected from the current 7 districts in Kosovo, and the other 70 MPs would be elected through a single district throughout Kosovo. This would ensure greater representation of regions, as each region would be able to send 5 to 8 MPs to the Assembly. IPOL opposes the current electoral system, in which voters can vote for 5 candidates on the ballot, because this had been the source of fraud in the 2010 elections. In this regard, IPOL proposes the "one voter - one vote for one candidate" option, assuming that this could prevent irregularities. According to IPOL,

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<sup>223</sup> D4D, "Electoral Deform: Two years on, reform at point zero". Series 5, Elections. Prishtina, September 2013, p. 42.

the threshold should be 7% for coalitions, 4% for individual political parties and 1% for independent candidates. The gender representation quota of 30% should remain unchanged. Regarding the representation of minorities, IPOL argues that the current electoral system breeds the passivity of minorities through the 20 reserved seats in the Assembly and it does not help the integration of minorities, but rather solidifies their marginalization. Further on, IPOL prefers the streamlining of electoral procedures in accordance with the Code of the Venice Commission and also recommends changing the composition of the CEC, in which half the political members of the Commission must be from the ruling coalition, and the other half from opposition parties.<sup>224</sup>

#### *5.4.4 Model 4: INDEP*

Another study on the electoral reform, entitled "Options for Electoral Reform in Kosovo", is provided by the INDEP Institute. Initially, the study argues that the reform of the electoral system is not intended for the democratisation of political parties, but to address electoral fraud and the technical problems encountered in the 2010 elections. About the partition of Kosovo in electoral districts, the study analyses several proposals from political parties and civil society institutions. One of the proposals submitted by a Kosovo political party (the study refers to the AAK proposal) is for Kosovo to be divided into 100 electoral districts, with 100 members of the Assembly elected in 100 districts, and 20 MPs of the minority communities would have guaranteed seats. Although this majoritarian model strengthens accountability, it is problematic, since this system cannot ensure the gender quota of

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<sup>224</sup> INPOL, 'Evaluation of the Kosovo Electoral System and Electoral Reform Recommendations ', Prishtina, 2012 pp. 24-29.

30% for women's representation and this would cause problems in the allocation of guaranteed seats for minorities, because in districts where the communities are in the minority (whether Albanians in Serb areas, or Serbs in Albanian areas), they would not vote because their candidate would not have great chances to win.

Another proposal that is analysed in this study is the division of Kosovo into 37 electoral districts allocated on the basis of existing municipalities in Kosovo. This proposal does not clarify whether the 100 members of the Assembly should be elected in 37 municipal districts, or whether this will be accomplished through a mixed system in which 70 MPs will be elected in 37 districts and 30 more in a general district throughout Kosovo, in order to preserve the gender quota and the representation of minority communities. On the other hand, the division in municipal districts carries the danger that local leaders of municipal assemblies will run for the Kosovo Assembly and consequently municipal elections will lose their importance. Another proposal analysed in this study is the separation of Kosovo in more than 20 electoral districts, with 70 members of the Kosovo Assembly elected directly from constituencies and 30 other MPs on the basis of proportionality, whereby preserving the gender quota. Another proposal is the division of Kosovo into 7 electoral districts, based on the current system of regions in Kosovo (Prishtina, Ferizaj, Mitrovica, Prizren, Gjilan, Peja, Gjakova), where the total number of voters in Kosovo will be divided by the number of voters in the district to get the number of Kosovo MPs for each district. After analysing all options, INDEP recommends that Kosovo should continue to maintain the current system with one electoral district, with open lists (while voting for a single candidate on the ballot) and the electoral threshold should be lowered to 1% from the current 5%. The advantages of a single-district electoral system

ensure that ballots are equal throughout Kosovo, since the division into districts would privilege some municipalities on the national level, and one district would ensure the representation of minorities and women in the Kosovo Assembly. On the other hand, the 1% threshold would provide opportunities for small parties, citizens' initiatives and independent candidates to represent the interests of their social and political groups in the Kosovo Assembly.<sup>225</sup>

#### *5.4.5 Model 5: PIPS*

The PIPS Institute, in its analysis of the electoral system reform, considers that the division of Kosovo in many electoral districts is one of the greatest dangers for Kosovo. According to the PIPS, the partition of Kosovo - a small country - into many electoral districts would increase "regionalism and the gap between regions". Knowing the level of consolidation of political parties in Kosovo, PIPS argued that the division of Kosovo in many districts would strengthen political parties in areas they have traditionally been dominant, and would prevent the penetration of other parties in these areas. According to PIPS: "Maybe the LDK would close its offices in the Skënderaj and Drenas region. It would focus on Llapi. The PDK would wipe the Dukagjini Plain from its radar, with other political parties following a similar course of action".<sup>226</sup> PIPS provides some arguments against the partition of Kosovo in electoral districts. The MPs elected from those districts would deal more with narrow interests, introducing a new form of clientelism in Kosovo. Regarding the electoral lists, PIPS recommends their closure. Closing the list would prevent intra-party manipulations,

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<sup>225</sup> INDEP, "Options for Electoral Reform in Kosovo", 2012/2, Prishtina.

<sup>226</sup> PIPS, 'Electoral Reform: Democracy in lists and districts?' January 2012, Prishtina, p. 5.

as well as between political parties, and would enhance internal party democracy. During the compilation of lists, political parties would make efforts to present their best candidates. Regarding the electoral threshold, this institute recommends that the electoral threshold should remain 5% for political parties and 3% for independent candidates.



# **BETWEEN STABILISATION AND DEMOCRATISATION** | **CHAPTER VI**

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# *CHAPTER 6:*

*THE 2014 ELECTIONS' SIMULACRUM - PROMISES,  
CRISES AND CAMPAIGNS*

## **CHAPTER 6: THE 2014 ELECTIONS' SIMULACRUM - PROMISES, CRISES AND CAMPAIGNS**

The international community, namely the Contact Group, has had a decisive influence in shaping all the post-election coalitions from 2000 to 2007. After the declaration of independence, although preferences for coalitions between specific parties were evident, a withdrawal of direct interventions in local political processes was observed. The form of influence has already been remodelled. For example, instead of direct influence, countries that supported Kosovo's independence exert their influence through their political rhetoric, classifying some parties as more or less radical and supporting or not the direction of government policies.

Although foreign policy is usually a reflection of domestic politics, Kosovo's case proves the opposite. Foreign policy and the agenda set by the member states of the Contact Group have had a direct impact on the internal politics of Kosovo. In 2014, Kosovo again faced a number of "big issues" that require stable government and strong political leadership to be tackled. After the "standards before status", the Vienna Dialogue, Kosovo's declaration of independence, the beginning of the normalization of relations between Kosovo and Serbia, the next topic turned out to be the establishment of the Special Court.

The early general elections were announced to be held on June 8, 2014. The President of the Republic of Kosovo, Atifete Jahjaga, in accordance with her constitutional powers, announced the early general elections as a result of the dissolution of the Kosovo Assembly. The Assembly had become totally inoperative because the ruling coalition lacked the votes needed to pass the key decisions of the Government of Kosovo. The lack of consensus on the continuation of reserved seats for minorities in the Kosovo Assembly was deepened because the LDK, the largest party in opposition, rejected the continuation of reserved seats for the minorities, arguing that they had consumed the two terms of reserved seats in accordance with the Ahtisaari Plan. On the other hand, the PDK, as a major stakeholder of the Government of Kosovo, has proposed the establishment of the Kosovo Armed Forces, a decision that the Serb minority conditioned with the continuation of reserved seats.

Since the last parliamentary elections were accompanied with problems, President Jahjaga invited European observers to observe them. In an interview, she emphasized the regular process of voting: "The early parliamentary elections should demonstrate our willingness to guarantee the free vote of the citizens of Kosovo. These elections should be monitored closely to ensure a fair process. In the coming days I will ask the European Union to send an observer mission to follow closely developments in the process of early elections in the country."<sup>227</sup>

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<sup>227</sup> "On June 8 parliamentary elections in Kosovo", May 8, 2014. See [http://time.ikub.al/a3917afd30/5b3c73bf63abd9366493df2b358a9f6d/Lajm\\_Me-8-qershore-mbahen-zgjedhjet-parlamentare-ne-Kosove.aspx](http://time.ikub.al/a3917afd30/5b3c73bf63abd9366493df2b358a9f6d/Lajm_Me-8-qershore-mbahen-zgjedhjet-parlamentare-ne-Kosove.aspx) (accessed on 22 June 2014); 'Elections to be held on June 8'. "Jeta në Kosovë" newspaper, 8 May 2014. See '<http://gazetajnk.com/?cid=1,1018,8174>' (accessed on 22 June 2014); 'Elections in Kosovo on June 8'. Voice of America, June 8, 2014. See: <http://www.zeriamerikes.com/content/kosovo-president-elections/1910244.html> (22 June 2014).

The local elections, held in November 2013, were conducted in a fair and democratic spirit, despite the fact that the political stakeholders, meaning the political parties, had not yet reached a 'common denominator' regarding the electoral reform. Despite the fact that the 2013 local elections and the 2014 parliamentary elections were held under the current election law, in both these elections Kosovo marked progress in achieving democratic standards for the organisation of democratic elections. In the 2014 elections, the civil society's proposals for reforming the electoral system, division of Kosovo into several electoral districts, dropping preferential ballots, lowering the threshold and changing the composition of the CEC, were not taken into consideration. Despite this, the 2014 early general elections were held in a fair and democratic spirit. On the other hand, the organisation of general elections in four municipalities in northern Kosovo marked a positive event in the integration of Serbs from the northern area in post-independence Kosovo.

The elections were monitored by local and international observers. Democracy in Action, a coalition of Kosovar NGOs monitoring the elections, besides the repeated problems in all elections organised in Kosovo, such as family voting, not finding the names of voters in the voters' list and the presence of unauthorized persons near polling stations, did not report any major incidents or rigging that would question the credibility and legitimacy of the legislature derived from these elections.<sup>228</sup> Likewise, the Democracy for Development Institute (D4D) deployed 9 mobile teams to observe the electoral process in

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<sup>228</sup> "Press Release", June 8, 2014, Democracy in Action. See [http://www.demokracioneveprim.org/al/index.php?subaction=showfull&id=1402268182&archive=&start\\_from=&ucat=1](http://www.demokracioneveprim.org/al/index.php?subaction=showfull&id=1402268182&archive=&start_from=&ucat=1) (24 June 2014).

Kosovo.<sup>229</sup> Apart from local organisations, the EU, at the request of the President of Kosovo, sent an observer mission to monitor the elections in Kosovo. The European Union Election Observation Mission, in a report published on June 9, a day after the elections in Kosovo, wrote that the elections were transparent, without incidents, well organised, and comprehensive.

Although Kosovo has not reformed its election system yet, the European observers report notes that the current legislation provides a sufficient basis for the organisation of democratic elections in accordance with international standards. The aforementioned report also notes that these elections were of high importance, since they restored the lost confidence of the 2010 elections and, for the first time, they were organised throughout the territory of Kosovo, including the north of the country.<sup>230</sup>

The early general elections were held in 38 municipalities in Kosovo. 1 million 782 thousand eligible voters had the opportunity to choose their legitimate representatives to the Assembly, in an election race between 2,000 candidates from 19 political parties, 7 citizens' initiatives, 4 coalitions and 1 independent candidate. The Central Election Commission had certified 31 political entities. The elections were monitored by 100 European Union monitors,<sup>231</sup> and civil society in Kosovo. According to the Central Election Commission, the total number of polling stations in the 2014 early

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<sup>229</sup> "D4D observes the 2014 parliamentary elections 2014", June 8, 2014, D4D. See <http://d4d-ks.org/aktivitetet/d4d-vezhgon-zgjedhjet-parlamentare-2014/> (accessed on 26 June 2014).

<sup>230</sup> "Parliamentary Elections in Kosovo: Press release. European Union Election Observation Mission Prishtina, June 9, 2014 See [http://www.eueom.eu/files/pressreleases/other/eueom-kosovo2014-preliminary-statement\\_sq.pdf](http://www.eueom.eu/files/pressreleases/other/eueom-kosovo2014-preliminary-statement_sq.pdf) (accessed on 24 June 2014).

<sup>231</sup> "Early Parliamentary Elections in Kosovo", DW, June 8, 2014. See <http://www.dw.de/zgjedhjet-e-parakohshme-parlamentare-në-kosovë/a-17691895> (accessed on 23 June 2014).

general elections was 2,374, while the percentage of voters who exercised their right to vote was 43.16%.<sup>232</sup>

## 6.1 Slogans and promises as "simulacra"

For the first time since the first general elections in Kosovo, political entities addressed economic development and creation of new jobs in their party platforms. The 2013 Progress Report of the European Commission stated that 73% of young people aged 15 to 24 are unemployed, and this level of unemployment remains a serious problem for Kosovo's socio-economic development.<sup>233</sup> The PDK's slogan "New Mission", the LDK one "Only we can", AAK's "New direction", VV's "Are you fed up", AKR's "We get it done", cantered the electoral platforms on economic development and creation of new jobs. Unlike previous elections, a feature of the 2014 elections was that the political parties tried to shape these slogans into written party programs.

Most political parties offered a catalogue of promises for the early parliamentary elections. The PDK promised to open 200,000 new jobs through the "Development Fund" (1.5 billion euros), while the LDK found it sufficient to promise 120,000 jobs. For the first time the promises of political parties could be explained through Jean Baudrillard's "simulacra" concept.<sup>234</sup> The hyper-reality of promises and big electoral words had no real basis of

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<sup>232</sup> "Turnout". Central Election Commission. See <http://rezultatet.kqz-ks.org/NightResults/Results.aspx?RaceID=1&UnitID=1&IsPS=0&Turnout=3&LangID=2> (on 24 June 2014).

<sup>233</sup> Kosovo 2013 Progress Report Brussels, 16.10.2013. SWD (20130 416). See [http://www.mei-ks.net/repository/docs/1FINAL-ALB\\_MIE-Kosovo\\_Progress\\_Report\\_2013\\_\(alb\)\\_2.pdf](http://www.mei-ks.net/repository/docs/1FINAL-ALB_MIE-Kosovo_Progress_Report_2013_(alb)_2.pdf) (accessed on 22 June 2014).

<sup>234</sup> Jean Baudrillard, *Simulacra and Simulation* (University of Michigan Press, 1995).

calculation. Economy experts commented that, in order to achieve these electoral promises economic growth in Kosovo should be up to 15%. They were inconsistent with all forecast parameters for economic growth in Kosovo.<sup>235</sup>

## **6.2 Institutional gridlock and unprincipled coalitions**

The pre-election coalition led by the PDK emerged as the winner of the 2014 elections.<sup>236</sup> The PDK managed to regain the municipalities and regions it lost in the local elections of November 2013. On the other hand, Opposition political parties, the LDK, the Initiative and the AAK signed a memorandum in which they pledged to establish the government, since the PDK did not have the required number of MPs (61) in the Kosovo Assembly. Under this plan, the seat of Prime Minister would go to the AAK, that of the Speaker of the Assembly to the LDK and, upon the completion of the term of President Atifete Jahjaga, the office of President would go to the LDK. However, the LDK-AAK-Initiative post-electoral coalition lacked the necessary majority of votes in the Assembly. This coalition depended on the VV's support. Since the VV's position of termination of talks with Serbia had long been articulated, embassies accredited in Kosovo, the Office of the European Union and other international stakeholders viewed with scepticism this format of the coalition.

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<sup>235</sup> "Demi: Uncertainties in the economic development promises" Lajmi.net. June 7, 2014. See [http://lajmi.net/demi--paqartesi-ne-premtimet-per-zhvillim-ekonomik\\_100069106.html](http://lajmi.net/demi--paqartesi-ne-premtimet-per-zhvillim-ekonomik_100069106.html) (accessed on 25 June 2014).

<sup>236</sup> According to the Central Election Commission, the PDK won 214,533 ballots, or 30.71% of valid ballots, the LDK won 179,848 or 25.74% of valid ballots, the VV won 94,483 or 13.52% of valid ballots, the AAK won 36,570 or 5.23% of valid ballots, while the AKR did not pass the threshold (5%) gaining 32,543 ballots or 4.66% of valid ballots. Regarding minority parties, the Serb List was the entity with the best results, with 29,124 ballots or 4.17% of valid ballots.

Given that the main contest in the 2014 elections took place between the PDK and all other parties (LDK, VV, AAK and the Initiative), which had run negative campaigns against the PDK, the main problem, after the certification of the results by the CEC on July 4, 2014, was the building of coalitions and the formation of institutions. The opposition parties, the LDK, VV, AAK and the Initiative built a post-election opposition coalition called the VLAN. Although such a coalition of major opposition parties had significant ideological and programming differences, the formula of their union was based on opposition to the PDK. The VLAN coalition claimed to have the majority, and that the Government and the Assembly should be run by it. The PDK insisted the other hand to build a coalition and to form institutions with one of these parties, since they came out on top in the elections. The PDK had actually established a pre-election coalition with several small parties in Kosovo.

Although the PDK received the largest number of ballots at the national level, the problem appeared from the outset, at the constitution of the fifth legislature. The former Speaker of the Assembly, Jakup Krasniqi, had already split from the PDK party and was co-founder of the Initiative (Nisma për Kosovën), part of the VLAN coalition. Krasniqi was charged with drafting the agenda for the constitutive session of the fifth legislature. Part of the agenda of the session of July 17, 2014, before electing the Speaker and deputy speakers of the Assembly, were the formation of committees for verification of quorum and mandates, the MPs' oath and the formation of parliamentary groups. The former Speaker of the Assembly considered that the LDK-AAK-Nisma group was the largest parliamentary group, which was opposed by PDK.

The main issue of discussion was which parliamentary group had the right to nominate the first candidate for Speaker of the

Assembly. The PDK insisted that on this right as the winning party in the election with 37 seats, while the LDK-AAK-Initiative insisted that this right belonged to them because they had most MPs in the Assembly (47), to which were to be added the 16 VV MPs and of the 9 Lista Srpska. VLAN had informed the former Speaker of the Assembly, Jakup Krasniqi, that the LDK-AAK-Initiative had decided to establish a single parliamentary group. The July 17 session, chaired by the oldest MP of the Assembly who came from the PDK, took place in a tense atmosphere. The Chairperson of the Assembly, Flora Brovina, asked the political parties to nominate candidates for Speaker. The PDK proposed Agim Aliu, while the LDK Isa Mustafa. After the start of the voting process, the VLAN and Lista Srpska left the hall, making it impossible to reach a quorum for decisions. The chair of the session was obliged to adjourn the session in the absence of a quorum. The same day, the VLAN and List Srpska returned to the hall, dismissed the PDK Chair of the Assembly and elected a new Chair (Milka Vulić from Lista Srpska). Thus, the path was open for Isa Mustafa's election to the seat of Speaker of the Assembly with 64 votes of 83 MPs present.

Led by Xhavit Haliti, 30 members of the PDK, the next day, on July 18, contested the election of the Speaker of the Assembly by the VLAN. The PDK contested the form and also the content of the manner of electing the Speaker of the Assembly, Isa Mustafa. On August 21, 2014, the Constitutional Court brought two arguments on the unconstitutional election of Isa Mustafa to the seat of Speaker of the Assembly. The Constitutional Court argued that the continuation of the session, after it was adjourned by the Chair of the Assembly due to lack of quorum, was an unconstitutional decision, and that the decision of the Assembly to elect Isa Mustafa was unconstitutional in terms of procedure and content, since the LDK-AAK-Initiative group was not the largest

parliamentary group. Although the Constitutional Court's decision was contested by the LDK, AAK and Initiative, which considered it a "political decision", the Constitutional Court ascertained that the July 17 session was not closed.<sup>237</sup>

The six-month delay in the formation of institutions in Kosovo, referred to as "political deadlock", was also expected to affect the business environment in Kosovo. This was also reflected in the World Bank report "Doing Business" in 2014, which ranked Kosovo 81st. As a result of the simplification of business registration procedures and shortening waiting times, Kosovo had advanced in this ranking in the 2015 report.<sup>238</sup>

After the judgment of the Constitutional Court, the LDK split from the coalition with the AAK, Nisma and VV (VLAN), joining the coalition with PDK in the formation of institutions.<sup>239</sup> For six months, the LDK stood united with the AAK, VV and Nisma in the opposition bloc, as the overall LDK campaign was built as an anti-PDK campaign. The LDK had publicly pledged several times that it would never enter into a coalition with the PDK. However, on December 8, the fifth legislature was formally constituted, thanks to the coalition established between the PDK (with 35 seats), LDK (33 seats), Lista Srpska (11 seats) and the non-Serb minority group 6+ (with 6 seats). The immediate entry of the LDK into coalition with the PDK was considered unprincipled by the civil society, opposition parties and even members of the

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<sup>237</sup> Constitutional Court, "Judgment in case no. Ko 119/14 Constitutional Review of Decision no. 05-V-001, voted by 83 MPs of the Assembly of the Republic of Kosovo to elect the Speaker of the Assembly of Kosovo, dated 17 July 2014", Prishtina, August 26, 2014. Accessed at [http://www.gjks.org/repository/docs/gjk\\_ko\\_119\\_14\\_shq.pdf](http://www.gjks.org/repository/docs/gjk_ko_119_14_shq.pdf) (13 March 2016).

<sup>238</sup> World Bank, 'Doing Business 2015: Going Beyond Efficiency', (International Bank for Reconstruction and Development / The World Bank, 2014).

<sup>239</sup> "Behold Entire PDK-LDK Agreement", Kallxo.com. 18 December, 2014. See <http://kallxo.com/ja-marrevshja-e-plote-pdk-ldk-dokument/> (23 July 2016).

LDK. Obviously, this was not a programmatic, but a pragmatic coalition. Under the coalition agreement, besides its share of government departments, the LDK got the seat of Prime Minister and Isa Mustafa was elected prime minister of Kosovo, while Hashim Thaçi's PDK took the seat of Speaker of the Assembly and first vice-premier. According to the coalition agreement between the LDK and PDK, after the end of the term of Atifete Jahjaga as president of the country, the office of President of Kosovo would go to Hashim Thaçi. On February 26, 2015, Hashim Thaçi was elected to the seat of President of the country, in the third round of voting with 71 votes, by a quorum of 2/3 of all members present in the Assembly Hall.<sup>240</sup>

Although the PDK-LDK coalition had the majority of votes (PDK - 37 seats, LDK - 30 seats) needed in the Assembly to pass most laws, without depending directly on the votes of the Lists Srpska (which won 9 seats in the 2014 elections), since the moment the LDK walked out of the VLAN coalition, the remaining opposition parties - VV, AAK and Nisma - haven't ceased contesting any action of this coalition. Initially, the establishment of the PDK-LDK coalition was described as "the end of a political era", a "disaster for Kosovo", or a coalition "to silence the KIA and Mustafa files". Ilir Deda of the VV, while criticizing the unprincipled PDK-LDK coalition as a coalition for state capture, recalled that Isa Mustafa became LDK president promoting a thoroughly anti-PDK. AAK president Ramush Haradinaj, viewed the PDK-LDK coalition as a disaster for Kosovo and a mixture of two failed government schools. Former VV

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<sup>240</sup> In the case of Hashim Thaçi's election to the seat of President of Kosovo, the Kosovo Assembly was careful not to repeat the mistakes made in the voting procedure of Behgjet Pacolli for President Kosovo. In the case of Thaçi's election, there were 81 MPs present in the Assembly Hall, while in the case of Pacolli only 65 MPs were present in the third round. Pacolli had no opposing candidate, while the PDK assigned a formal opposing candidate to Thaçi (Rafet Rama).

president Albin Kurti, saw the PDK-LDK as a coalition of silence for the mutual crimes of these parties, in which the LDK pardons the PDK and KIA for their crimes and corruption, while the PDK pardons the LDK for the crimes committed at the Municipality of Prishtina when Mustafa was on the mayor's seat, against which the VV filed 70 charges for prosecution. The metaphor used by Albin Kurti to describe the PDK-LDK coalition was the following: "These were two bodies, one chair, not a single brain".<sup>241</sup>

### 6.3 Opposition Campaigns

Despite the rational criticism of Kosovo political parties and civil society against the fledgling PDK-LDK coalition as an unprincipled coalition, the international community, namely the USA and EU countries that supported Kosovo's independence, followed a pragmatic approach. They were interested in institutional stability, namely a grand coalition would have the votes needed to pass the tough decisions that awaited Kosovo in 2015. The first difficult decision to be faced by the coalition was the establishment of the Special Court, expected to prove the claims of the report of the Senator of the Council of Europe Dick Marty, about the involvement of former members of the KLA in war crimes.<sup>242</sup>

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<sup>241</sup> "Kurti: PDK-LDK coalition to silence KIA and Mustafa files", Kohanet, 20 November 2014. Accessed at <http://koha.net/?id=27&l=33985> (13 July 2015); 'Ramush Haradinaj: PDK-LDK coalition, disaster for the country', Kohanet, 20 November, 2014. Accessed at <http://koha.net/?id=27&l=33954> (13 July 2015); 'Kurti: PDK-LDK coalition to silence KIA and Mustafa files', Kohanet, 20 November, 2014. Accessed at <http://koha.net/?id=27&l=34003> (13 July 2015).

<sup>242</sup> Parliamentary Assembly, "Inhuman treatment of people and illicit trafficking in human organs", (Committee on legal Affairs and Human Rights, 12 December 2010)/ Accessed at

Thaçi, for instance, on the one hand viewed the establishment of the court as an injustice and imposition to Kosovo, and on the other as a necessity to maintain the partnership with the US and European Union, which earnestly sought the establishment of this mechanism.<sup>243</sup> Despite legitimate concerns that the Special Court will further worsen the already not so positive image of Kosovo in the international arena, Kosovo did not have many options. Kosovo's international partners were clear in their position that if Kosovo were to fail in the establishment of this court, the Special Court would be established by the United Nations Security Council. This option would be the worst for Kosovo, because Kosovo's independence opponents, especially Russia, would try to degrade Kosovo's international subjectivity.

In April 2014, members of the Assembly, with 89 votes in favour and 22 against, ratified the agreement between Kosovo and the EU to open the way for the establishment of the Special Court. To enable its establishment, the Constitution of Kosovo had to be amended. The Government proposed one amendment to the Assembly on March 7. On March 9, 2015, the Speaker of the Assembly, Kadri Veseli, sent the same amendment to the Constitutional Court to assess its constitutionality. Under this amendment, Article 162 would be added to the Constitution of Kosovo. Article 162 established the Specialized Chambers and the Specialized Prosecutor's Office. Despite the fact that the Self-Determination Movement, in its comments sent to the Constitutional Court, argued that the amendment intended to create a parallel judicial system in Kosovo, the Constitutional Court

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[http://assembly.coe.int/CommitteeDocs/2010/20101218\\_ajdoc462010provamended.pdf](http://assembly.coe.int/CommitteeDocs/2010/20101218_ajdoc462010provamended.pdf) (5 November 2015).

<sup>243</sup> Bekim Shehu, "Kosovo Assembly approves establishment of Special Court", DW, April 23, 2014. Accessed at <http://www.dw.com/sq/kuvendi-i-kosovës-miraton-themelimin-e-gjykatës-speciale/a-17587510> (5 November 2015).

argued that the proposed amendment had 4 structural elements, which are related to the justice system in Kosovo: 1) establishment of specialized chambers within the Kosovo justice system; 2) creation of the Specialized Prosecutor's Office; 3) establishment of a specialized chamber within the Constitutional Court and 4) appointment of a special Ombudsman for the specialized chambers.

On April 15, 2015, the Constitutional Court, in its 18-page judgment, held that the amendment does not diminish the rights and freedoms set forth in Chapter II and III of the Constitution of Kosovo.<sup>244</sup> The constitutional amendment was inserted in the agenda of the June 26 session by the PDK-LDK coalition, but it failed to get the approval of the MPs in the Kosovo Assembly. The VV, AAK and Nisma were against constitutional changes through this amendment and the paving of the way for the establishment of the Special Court. On the other hand, nearly two months later, on August 3, 2015, the PDK-LDK coalition secured the 82 votes necessary for the constitutional amendment and, on the same day, the Assembly adopted the Law No. 05/L-053 on Specialized Chambers and Specialized Prosecutor's Office.<sup>245</sup>

The principal seat of the Special Court is expected to be established in The Hague after the signing of an agreement between Kosovo and the Netherlands. One of the main reasons for

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<sup>244</sup> Constitutional Court, "Judgments in Case no. Ko26/15 Evaluation of the amendment of the Constitution of the Republic of Kosovo, proposed by the Government of the Republic of Kosovo and, on March 9, 2015, referred to by the Speaker of the Assembly of Kosovo, with the Letter no. 05-433/ DO-318", Prishtina, April 15, 2015. Accessed at [http://www.gjk-ks.org/repository/docs/KO26-15\\_SHQ.pdf](http://www.gjk-ks.org/repository/docs/KO26-15_SHQ.pdf) (31 July 2016).

<sup>245</sup> Law No. 05/L-053 on Specialized Chambers and Specialized Prosecutor's Office. 31 August 2015. Accessed at <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=11036> (25 July 2016); On the operation of this court, see Marija Ristic, "Kosovo's Special Court: How will it work?", BIRN, August 6, 2015. Accessed at <http://www.balkaninsight.com/al/article/gjykata-speciale-e-kosovës-si-do-të-funksionjë-ajo--08-05-2015> (25 July 2016).

the establishment of such a court and its deployment abroad was the lack of capacities for witness protection in Kosovo, both from EULEX and domestic institutions. In fact, in earlier court proceedings in Kosovo, both domestic justice mechanisms and EULEX have failed in terms of witness protection - although the latter had all the necessary capacities to protect witnesses. The dilemma confronted by the citizens of Kosovo after the approval of the Special Court was this: if previous international missions in Kosovo (UNMIK and EULEX) have failed to bring justice to victims since 1999, why should we believe now that the international community is indeed pursuing the alleged perpetrators?

Besides the Special Court, there are two campaigns through which the VV-AAK-Nisma coalition of opposition parties rejects by all means the government and the ruling coalition PDK-LDK. These campaigns are against the establishment of the Association of Serb-majority Municipalities and the demarcation with Montenegro. On August 25, 2015, the Kosovo government signed a document called the "Association/Community of Serb-majority Municipalities in Kosovo - General Principles/Key elements", which set the principles to further implement the first political agreement of 19 April 2013 for the establishment of the Association of Serb-majority municipalities. Although the document did not have the form of an international agreement and was designed as a preceding document to the drafting of the charter of the Association of Serb-majority municipalities, opposition political parties contested both its form and content.

In order to prevent the adoption of these agreements, the VV-AAK-Nisma opposition coalition prevented the normal proceedings of Assembly sessions by launching tear gas in the Assembly Hall. At the request of the President of Kosovo, the document on the principles of the Association was sent to the

Constitutional Court. The latter, in its judgment KO 130/15 delivered an abstract evaluation and found that the document called "Association/Community of Serb majority municipalities in Kosovo - General principles/Key Elements", is not entirely in accordance with the constitutional spirit. The Constitutional Court concluded that the document violates the equality of citizens before the law in Kosovo, fundamental rights and freedoms, and the rights of communities and their members.<sup>246</sup>

Apart from this campaign, the VV-AAK-Nisma opposition coalition has also criticized the August 2015 agreement establishing the demarcation between Kosovo and Montenegro, signed in Vienna by the now former Minister of Foreign Affairs of Kosovo Hashim Thaçi. While the VV's primary campaign was the Association of Serb-majority municipalities, the AAK from the beginning had raised the issue of demarcation. Both agreements, according to the opposition, seriously infringe Kosovo's territorial integrity and sovereignty: the association defunctionalizes the state of Kosovo with a "Republika Srpska" inside, while the demarcation gives away thousands of hectares to Montenegro.<sup>247</sup> The Constitutional Court highlighted the red dots and listed the unconstitutional articles of the document for the Association of

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<sup>246</sup> Constitutional Court, "Judgment in case no. KO 130/15 concerning the assessment of compliance of the principles contained in the document entitled "Association/Community of Serb majority municipalities in Kosovo - General principles/Key elements" with the spirit of the Constitution, Article 3 [Equality Before the Law], paragraph 1, Chapter II [Fundamental Rights and Freedoms] and Chapter III [Rights of Communities and their Members] of the Constitution of the Republic of Kosovo", Prishtina, December 23, 2015. Accessed at [http://www.gjk-ks.org/repository/docs/gjk\\_ko\\_130\\_15\\_shq.pdf](http://www.gjk-ks.org/repository/docs/gjk_ko_130_15_shq.pdf) (5 April 2016).

<sup>247</sup> For a scientific perspective demarcation agreement between Kosovo and Montenegro see: Friedrich Ebert Stiftung, "Kosovo - Montenegro demarcation (international, geographical, political and historical aspects)", Prishtina, 2015. Accessed at <http://www.fes-prishtina.org/wb/media/2015/Studimi%20per%20demarkacionin%20Kosove%20Mali%20i%20zi.pdf> (12 July 2016).

Serb-majority municipalities. Along with this document, the judgment of the Constitutional Court is a reference document, whenever the Charter of the Association of Serb-majority municipalities will be drafted. However, the Constitutional Court did not find that the Association of Serbian-majority municipalities should not be established. On the other hand, although the agreement on demarcation with Montenegro has not been ratified by the Assembly of Kosovo, and as such does not represent an international obligation for Kosovo, opposition parties point out that Kosovo is losing territory through this agreement. While in the case of the establishment of the Association of Serb-majority municipalities the Constitutional Court assessed the unconstitutional aspects of the document, the method used for demarcation appears to have been an elementary mistake of the Kosovo party, according to the international practice of border demarcation.

Besides tear-gassing the Assembly steadily since October 2015<sup>248</sup>, the opposition launched a petition and gathered 200 thousand signatures of citizens against the association agreement and the demarcation, as well as holding several mass protests in Prishtina.

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<sup>248</sup> The first tear gas canister was launched on October 8th. On October 12, during a clash with Kosovo police, Albin Kurti (VV MP) was arrested. On October 15, tear gas canisters are again launched in the Assembly. On November 30, several opposition MPs were arrested for launching tear gas. On December 14, gas canisters are released again, as the Assembly adopted the budget. For more information see "Kosovo parliament hit by fresh protest tear-gas", BBC News, December 14, 2015. Accessed at <http://www.bbc.com/news/world-europe-35096489> (15 June 2016).

## 6.4 Attempts to remedy the 'crisis'

The Speaker of the Assembly and the President of Kosovo were critical of the tear-gas tactics on the Assembly floor. The EU office in Kosovo also reacted against the launching of tear gas.<sup>249</sup> According to UNDP public opinion surveys, only 9.7% of citizens approved the violent actions of protesters, like throwing stones, damaging public property, etc., while 72.9% of citizens approved peaceful protests against the government. According to the same survey, 70% of people were dissatisfied with Kosovo's political direction.<sup>250</sup>

US Ambassador Greg Delawie also condemned the launching of gas from the opposition in the Assembly of Kosovo. In a statement on December 14, 2015, Delawie stated that the launching of gas in the Kosovo Assembly by some of its members was disheartening. He recalled the message of Secretary of State John Kerry, who visited Kosovo to encourage leaders to engage in dialogue and not use violence in the Assembly. Two months earlier, on October 2, 2015, Delawie stated that the US embassy did not favour any political party in Kosovo, and it worked with Kosovo's elected representatives. He emphasized that there were 23 laws, which aimed to advance the economy, pending in first or second reading in the assembly. Kosovo's opposition, according to ambassador Delawie, should understand that the parties that form the majority coalition define policies, and if these policies are not

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<sup>249</sup> "The EU Office in Kosovo, the Special Representative of the EU has called on the opposition to show respect for the institutions and people of Kosovo, to refrain from violence that threatens the safety of people and the normal functioning of schools and public services". For more see "German Ambassador asks for dialog instead of violence in Kosovo", Accessed at <http://www.telegrafi.com/ambasadorja-gjermane-kerkon-dialog-ne-vend-te-dhunes-ne-kosove/> (18 June 2016).

<sup>250</sup> United Nation Development Programme, "Public Pulse XI" (Prishtina, May 2016), p. 10.

deemed satisfactory, the parties have to convince their electorate on their agenda in the upcoming 2018 elections.

In connection with the August 2015 document on the establishment of the Association of Serb-majority municipalities, Delawie stated, "the language of the agreement is direct. One does not have to be a lawyer to understand it. It is clear to us that this agreement is in accordance with the laws and Constitution of Kosovo".<sup>251</sup> Despite this explicit statement of Ambassador Delawie, the Constitutional Court found that the document "Association of Serb-majority municipalities - general principles" was not fully in accordance with the Constitution of Kosovo. On the other hand, despite ambassador Delawie's warning that opposition parties should be getting ready for the 2018 elections, the coalition of opposition parties repeatedly insisted to organize early election, precisely because of the signing of this document.

Besides the US ambassador, the German Ambassador in Kosovo Angelika Viets cast doubt on whether there was an opposition block, or a block of interest. In view of Ambassador Viets, blocking the work of the Kosovo Assembly did not resemble an institutional crisis, since the elected government was stable, with 82 seats in the Assembly. The opposition, according to Ambassador Viets' stance, should adhere to the rules of democracy. She considered unreasonable the calls of the opposition coalition for snap elections. According to her, "any parliamentary minority may oppose all democratic procedures; this is completely unacceptable."<sup>252</sup> Ambassador Viets had alleged that the protests organised by opposition parties were attempts to block the Special Court. Her statement read: "This may be an attempt to take the

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<sup>251</sup> Embassy of the United States Prishtina – Kosovo, 'Ambassador Delawie's Interview with Koha Ditore', 2 October 2015. Accessed at [http://pristina.usembassy.gov/interview\\_kd\\_2015.html](http://pristina.usembassy.gov/interview_kd_2015.html) (5 June 2016).

<sup>252</sup> Arbana Xhara, "No opposition block", Zëri, October 16, 2015. Accessed at <http://zeri.info/aktuale/56582/s-ka-blok-opozitar-ka-interesa/> (17 July 2016).

country to new elections, to prove that the government is unsuccessful, attempt to engage in power or attempt to delay some processes, such as operationalization of the Special Court; retaliation against the prime minister or all of these together."<sup>253</sup>

As a remedy for the crisis, the German ambassador proposed a 'Mediation Commission'.<sup>254</sup> There had also been earlier initiatives to end the crisis. In November 2015, Ilir Deda and Vjosa Osmani, MPs from the VV and LDK, proposed a five-points political agreement to end the crisis, which envisaged the formation of an investigative committee led by the opposition to review the demarcation with Montenegro, the evaluation of the constitutionality of the Association of Serb-majority municipalities by the Constitutional Court and, if the latter left unresolved dilemmas, they proposed that the Kosovo Assembly should address the Venice Commission, and this agreement should be overseen by the President of Kosovo.<sup>255</sup> The Rapporteur for Kosovo in the European Parliament supported the five-points proposal of Deda and Osmani, considering it as a starting point for the functioning of the Assembly through political dialogue between party leaders. She had stated that "the escalation of further violence would make it very difficult for friends of the Republic of Kosovo to argue for further integration of the newest European state in the EU, particularly when we have to convince Interior Ministers next year

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<sup>253</sup> "German Ambassador: Protests may be an attempt to block the Special Court", Zëri newspaper, November 18, 2015. Accessed at <http://zeri.info/aktuale/62740/ambasadorja-e-gjermanise-protestat-mund-te-jene-tentative-per-bllokimin-e-gjykates-speciale/> (5 March 2016).

<sup>254</sup> "Interview with German Ambassador: Establish a Mediation Commission to overcome crisis", Gazeta Express, March 9, 2016. Accessed at <http://www.gazetaexpress.com/intervista/interviste-me-ambasadoren-gjermane-te-themelohet-nje-komision-ndermjetesues-per-tejkalimin-e-krizes-video-174615/> (10 March 2016).

<sup>255</sup> "Agreement proposed by Deda and Osmani to end crisis", Zëri newspaper, November 20, 2015. Accessed at <http://zeri.info/aktuale/63101/kjo-eshte-propozim-marreveshja-e-propozuar-nga-deda-dhe-osmani-per-dalje-nga-kriza-dokument/>

- since the [European] Commission will likely give the green light to the [European] Council in December - to give the green light for visa liberalization".<sup>256</sup>

The 2015 European Commission Report on Kosovo noted increasing polarisation between the government and opposition. The report also indicates that "the delay on the constitution of the Assembly after the 2014 elections has slowed the reform process in Kosovo. The violent obstruction of the latest plenary sessions by opposition MPs has negatively affected the functioning of the Assembly. Such actions are contrary to European values."<sup>257</sup>

The five-point proposal of MPs Osmani and Deda to overcome the political crisis and restore dialogue wasn't even taken into consideration by Deda's and Osmani's party leaders or the heads of other political parties. So far (at the moment of writing of this paper, October 2016), neither the proposal of the German Ambassador Angelika Viets has been considered seriously by political parties. However, the elements mentioned by the proposal of MPs Deda and Osmani, that the crisis be resolved through dialogue in a roundtable with leaders of political parties, and the elements referred to in the proposal of Ambassador Viets, namely that the minority opposition should not overturn the procedures and rules of the game of democracy, can be found in a study report of the Venice Commission (the European Commission for Democracy through Law).

The Role of the Opposition in a Democratic Parliament Report of the Council of Europe, adopted in October 2010, stressed that the principle of majority government is one of the formal and legal requirements of democracy. In this report, the term "opposition" has two meanings. By function, the opposition offers

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<sup>256</sup> 'Lunacek mirëpret propozimin e Osmanit e Dedës'.

See: <http://koha.net/?id=27&l=85365> (10 march 2016).

<sup>257</sup> European Commission, "Working Paper of the Commission Staff: Kosovo 2015 Report", Brussels, 10.11, 2015, SWD (2015) 215 final, p. 6.

all the arguments that oppose the policies of the majority and the government, while in terms of entity the opposition encompasses one or several parties that do not lead the government. Although in a parliamentary system the parties or coalitions that usually form the government have a majority in parliament, securing support from this majority, there are other cases in Europe when “minority” governments, which did not have a majority in parliament, have led countries. These governments have been forced to cooperate with one of the opposition parties, in order to ensure a stable majority for decision-making in parliament.

Parliamentary opposition is considered a minority, under this definition, and it cannot govern. However, the opposition has eight other vital functions. If precluded from exercising those functions by the opposition, then such a system cannot be considered a democracy. These functions, according to the Council of Europe report "The role of the opposition in a democratic parliament", are:

- i. To offer political alternatives
- ii. To articulate and promote the interests of their votes (constituents)
- iii. To offer alternative to the decisions proposed by the government and the majority representatives
- iv. To improve parliamentary decision-making procedures by ensuring debate, reflection and contradiction
- v. To scrutinise the legislative and budgetary proposals of the government
- vi. To supervise and oversee the government and the administration
- vii. To enhance stability, legitimacy, accountability and transparency in the political processes.<sup>258</sup>

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<sup>258</sup> European Commission for Democracy Through Law, ‘Report on the role of the opposition in a democratic parliament’, Strasbourg, 15 November 2010, Study no. 497/2008. Accessed at

According to the aforementioned report, the lack of a strong opposition can lead different countries towards a form of opposition out of parliament. This form of opposition out of parliament can be expressed through violent protests, thus making parliamentary debate irrelevant. One way to prevent this trend of opposition out of parliament is to reduce the threshold to enter parliament. Although some member states of the Council of Europe have very high thresholds, Turkey (10%), Liechtenstein (8%), Russian Federation (7%), Georgia (7%), Kosovo has a threshold of 5 %. Since the ruling coalition has a majority in parliament, the opposition in Kosovo has chosen both the path of parliamentary opposition and opposition out of parliament to government policies.

The Venice Commission Report notes that the opposition has a fundamental obligation and responsibility. Its actions should take place within the legal framework, the constitution, civil and criminal codes, and it is obliged to comply with them as long as they are in force. On the other hand, the ruling coalition should be aware that without opposition there could be no parliamentary democracy.<sup>259</sup> Resolution 1601 (2008), approved by the Council of Europe, specifically regulates the rights and responsibilities of the opposition in democratic parliaments. According to this resolution, the parliamentary majority and the government should be mature and ready to compromise for the benefit of the governance of the country, recalling that parties in government can lose and go into opposition, and vice versa.<sup>260</sup>

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[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2010\)025-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2010)025-e) (16 May 2016).

<sup>259</sup> Ibid.

<sup>260</sup> Council of Europe, "Parliamentary Assembly Doc. 11465 Procedural guidelines on the rights and responsibilities of the opposition in a democratic parliament". 3 January 2008. Accessed at <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-VieëHTML.asp?FileID=11792&lang=en> (16 May 2016).

Analysts and political scientists have different opinions regarding the opposition protests. Political scientist Agron Demi argues:

In a system of democratic governance, the rule of the majority does not mean ignoring the parliamentary minority. The VV-AAK-Nisma protests originate from their inability to influence through the parliamentary process. As such, the protests are legitimate, especially when government decisions jeopardize the constitutional order, as is the case with the Association of Serb Municipalities. But, the approach of the opposition, that the government should be stopped at any cost and without compromise, is the same as the government's approach, that there is no need to compromise because they have the majority.<sup>261</sup>

Political scientist Artan Mustafa, on the one hand, raised the need for maturation of Vetëvendosje to take leadership responsibilities and work systematically for an equal and free society in Kosovo and, on the other hand, mentioned the structural violence exerted by political parties, such as the PDK, LDK, AAK and Nisma founders. According to him:

It should not be forgotten that the tear gas in the Assembly and all related arrests and convictions, are a thin sting. Because the structural violence of the establishment of the PDK, LDK, AAK and Nisma, has been incomparably greater and more damaging to Kosovo, its image, employment, the freedom of its citizens. We all know that while the VV "threatens" with force, the establishment is

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<sup>261</sup> Interview with Mr Agron Demi, political scientist and executive director at GAP Institute, Prishtina, April 5, 2016.

laughing, as they know who actually has the power.<sup>262</sup>

Both sides - the opposition and the government - conditioned mutual political dialogue with maximalist demands. Since the June 2014 elections were rated as free, fair and democratic, the parties that form the ruling coalition consider themselves legitimate to govern Kosovo, while opposition parties want extraordinary elections, because, according to them, the government has violated the Constitution of Kosovo with the unconstitutional "demarcation and association" agreements. Opposition parties argue that the PDK-LDK governing coalition has no legitimacy to sign such agreements. Although these claims are politically legitimate, since the opposition always intends to challenge government policies, to offer alternatives to government and win the next elections, opposition parties have so far not offered any governance alternative. There is a dilemma whether opposition campaigns carry significant weight for citizens to redirect their electoral ballots from the PDK-LDK towards opposition parties.

Beyond the "major issues" of the association and demarcation, there are the high rate of unemployment, hospitals with outdated equipment, lack of health insurance, social justice for marginalized groups, lack of rule of law, corruption and the high degree of informality, all "minor issues" that affect all Kosovo citizens. While these issues may not be worthy of the major political parties - they determine democratic development and general welfare of Kosovar society.

Regardless how one considers the last crisis, real or artificial, it is primarily a crisis of political parties; of those who seek to hold on to power by any means and those who seek power at any cost. The lack of governance alternatives, the "capture" of

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<sup>262</sup> Interview with Mr Artan Mustafa, political scientist and journalist, Prishtina, April 5, 2016.

parties by party leaders and the lack of circulation of ideas and intra-party leadership, have produced and are producing institutional gridlock and are harming the public sphere.



**VII**  
BETWEEN STABILISATION  
AND DEMOCRATISATION

**CHAPTER VII**

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# *CHAPTER 7:*

*ECONOMIC DEVELOPMENT, CORRUPTION AND  
DISAPPOINTMENT FROM EULEX*

## CHAPTER 7: ECONOMIC DEVELOPMENT, CORRUPTION AND DISAPPOINTMENT FROM EULEX

*Based on Max Weber's classification of states in patrimonial (states governed by personal interests) and modern (states that separate governance from personal interest), Fukuyama would classify states like Kosovo as neo-patrimonial – or countries with institutions of a modern state formally in place, but used for personal interests in practice.<sup>263</sup>*

### 7.1 Rule of Law paradigm shift from UNMIK to EULEX

Over the last decade, UNMIK had decided that stability in Kosovo was the top priority, not economic development and rule of law. Since Kosovo's political status was pending, the primary considerations in the UNMIK administration on Kosovo (1999-2008) were guided by the premise of stability. Guided by these premises, UNMIK was concerned not with the democratisation, transparency and accountability of the political leadership of Kosovo towards their citizens. This produced a "corrupt peace", whereby *the status quo* in Kosovo was maintained at the price of legitimizing Kosovo's political class, which was increasingly involved in corruption affairs and organised crime. It is sufficient to remind ourselves that the domestic political leadership benefited from the privatization process of the socially owned enterprises in

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<sup>263</sup> Interview with Mr Agron Demi, political scientist and executive director at GAP Institute, Prishtina, April 5, 2016.

Kosovo, a process initially led by UNMIK and, after independence, by local institutions, taking ownership and buying agricultural land, social enterprises or factories with suspicious money. While UNMIK was aware of these abuses, its officers traded their mission's stability with a negative peace in Kosovo. As noted by Denisa Kostovicova, UNMIK is constantly criticized for ineffective economic governance in Kosovo. UNMIK did not manage to fight criminal and clandestine structures among Albanians or Serbs. According Kostovicova, "UNMIK bought political stability by tolerating local criminal structures. The unhindered existence of shadow intelligence operations controlled by Albanian political parties and shadow security structures set up by Belgrade in Kosovo communities illustrates this."<sup>264</sup>

For Seymour Lipset, there is an inseparable link between the legitimacy, democracy and stability of a political system.<sup>265</sup> A political system that bases its legitimacy in free and democratic elections, but also in its performance, being successful in meeting the needs of its citizens, is a stable system. If we measure the UNMIK administration in Kosovo by this criterion, it lacked domestic legitimacy, because the mission was not voted by the citizens of Kosovo, and it was unsuccessful in addressing the needs of the citizens of Kosovo. Ironically, the political leadership did not consider the economic development of the country as a top priority either. Since the primary and last priority of the political leadership was the unresolved political status of Kosovo, paradoxically they become partners in the maintenance of stability and *status quo* in the country. While *de jure* the political leadership was elected with free elections and votes of citizens, their

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<sup>264</sup> Denisa Kostovicova, "Legitimacy and International Administration: The Ahtisaari Settlement for Kosovo from a Human Security Perspective.", *International Peacekeeping* (2008), Vol. 15, No. 5, 631-647, p. 637.

<sup>265</sup> Seymour Lipset, *Political Man: The Social Bases of Politics*, (Heinemann Educational Books, London, 1983), p. 64.

legitimacy depended on how acceptable they were for UNMIK, which bore the "keys" of power and negotiated post-election coalitions in Kosovo.

Although stability is very important and especially so in societies emerging from war, what should have been further operationalised was the line between negative and positive stability. By negative stability I mean the stability maintained by the international community, not the result of real confrontation of interests and needs of different social forces, but is an imposition of international administration, which is not accountable towards locals and the country's political leadership. By positive stability I mean stability guaranteed by local political forces in cooperation with international state-builders, built on the principles of good governance, rule of law and liberal democracy. Lacking an exit strategy from Kosovo, and in order to maintain both the stability and the *status quo*, UNMIK cooperated only with the local political leadership, whom it "controlled" by giving or not the power to form and run institutions in Kosovo. The latter felt accountable only to UNMIK, not to local voters. Given that only UNMIK, not the citizens of Kosovo, could politically or legally prosecute the Kosovo political leadership, it allowed this political leadership to misuse political power for private gains, in exchange for maintaining the stability. The lack of clarity on the status contributed much to tolerating the political elite in Kosovo that did not even have either the sense of accountability to the citizens, or that of economic and democratic development of the country.

This paradigm of stability has delayed the establishment of a system of rule of law in Kosovo and addressing the real concerns of the citizens of Kosovo - employment and overall development. In the first report of November 2004, Kai Eide wrote about the need to reduce the presence of UNMIK, transfer powers to Kosovo institutions, and the parallel increase in the presence of the

European Union.<sup>266</sup> According to him, the status quo was unsustainable and it was time for the opening of negotiations on the future status of Kosovo. Whereas, in the second report in 2005, "A Comprehensive Review of the Situation in Kosovo", among other things, Kai Eide wrote that organised crime and corruption are the main factors that threaten the stability of Kosovo. Both UNMIK and the provisional self-government institutions failed in fighting them. "Solidarity within the clan, codes of silence, language problems and lack of experience of local institutions of law enforcement, all have contributed to this failure,"<sup>267</sup> wrote Eide. The essence of Eide's criticism regarding the development of Kosovo's new institutions was as follows:

The development of new institutions is undermined by a strong tendency among politicians to see themselves as accountable to their political parties rather than to the public they serve. Political parties tend to consider new institutions and the civil service as "their" domain. Appointments are, therefore, regularly made on the basis of political or clan affiliation rather than competence. Many civil servants are concerned about this inability to distinguish between political authorities and civil service and the effect it has on hampering the development of a durable and stable institutions.<sup>268</sup>

Aware that these elements can erode the legitimacy of the institutions of an independent Kosovo, the international community, namely the Contact Group, had a dilemma on the type of international mission to succeed UNMIK. Since UNMIK had effectively failed to fight corruption and crime in Kosovo, their

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<sup>266</sup> United Nations Security Council, "A Comprehensive Review of the Situation in Kosovo", October 2005. p. 4

<sup>267</sup> Ibid, p. 8.

<sup>268</sup> Ibid, p. 4.

minimalist consensus was that the mission that would replace UNMIK had to be a European mission for the rule of law.<sup>269</sup>

## 7.2 [Un]employment, clientelism and public administration

Seventeen years after the war and the establishment of the UNMIK administration in Kosovo and eight years after independence, poverty, unemployment and corruption remain three of the major problems that concern citizens.<sup>270</sup> The latest data show that 145,776 persons, or between 32.9% and 37.6% of the economically active Kosovo population, are considered unemployed. Unemployment among women is higher than men. Women's employment rate in Kosovo is 11.5%, while men's 37.5%. Besides gender differences, another indicator is in the employment age. Young Kosovars are less employed compared to older groups. 57.7% of young people aged 15-24 are unemployed. In general, the total unemployment rate in Kosovo in 2015 was 32.9%.<sup>271</sup>

INDEP, a *think tank-type* organisation in Kosovo, based on these data, proposed 4 measures to decrease unemployment in Kosovo. Given that unemployment among young people aged up to 25 is higher compared with older groups, this institute proposed lowering the retirement age in the public sector from 65 to 60 years. According to this institute, "based on the data of the Kosovo Pension Trust, 14,479 employees in public institutions were over 60 years old in 2014. Such a measure would provide the means to

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<sup>269</sup> International Crisis Group, 'Kosovo: The Challenge of Transition' (Crisis Group European Report 170, February 17, 2006), p. 14.

<sup>270</sup> Kosovo Agency of Statistics, "The results of the Labour Force Survey 2015 Kosovo (Prishtina, June 2016), pp. 6-10.

<sup>271</sup> United Nation Development Programme, "Public Pulse XI" (Prishtina, May 2016), p. 10. According to the UNDP survey, 57.1% of Kosovo citizens think unemployment is the main problem in the country, 21.4% think it is poverty, and 4.6% corruption.

employ a young labour force, creating employment opportunities for approximately 17,000 people who are active and unemployed".<sup>272</sup> Other proposed measures were banning multiple employment contracts in the public sector, increasing income tax for second jobs from 10 to 40%, pay grades, etc.

While INDEP proposes measures, whose major impact would be increasing youth employment in the public sector (17,000 young people, thus reducing the retirement age), GAP institute proposes the reduction of employees in public administration. Kosovo has 21 ministries, 34 independent institutions and agencies, and over 91 thousand employees in the public sector (47,555 at the central level, and 43,726 at the local level). This institute recommended to the Kosovo Government "to apply a policy of reducing the number of public servants, which would be implemented through their regular retirement after the age of 65, based on the Law on Civil Service and Labour Law."

International organisations have repeatedly recommended to restructure the Kosovo government, namely to reduce the number of ministries and civil servants. As noted by GAP, Sweden (with 23 ministries) and the UK (with 24 ministerial departments) have a bigger number of ministries compared to Kosovo, in spite of the incomparable sizes of their populations. At the regional level, the comparison is negative too. Bosnia and Herzegovina has 16 ministries, Macedonia 14, Montenegro 16 and Serbia 16. GAP proposed reducing the number of ministries from 21 to 13, which would decrease the size of the public administration.<sup>273</sup>

In another study on restructuring the Government, the same institute recommended the closing of the Ministry of Diaspora and assigning its operations to the Ministry of Foreign Affairs, Ministry

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<sup>272</sup> INDEP, "Unemployment in Kosovo: 3 measures for over 20,000 jobs" (Policy Analysis, Prishtina, 2013), p. 2.

<sup>273</sup> GAP, 'Size of Public Administration in Kosovo', (Prishtina, July 2015), p. 9.

of Education, and Ministry of Culture, as the scope of the Ministry of Diaspora falls within the scope of these ministries. Likewise, instead of the two existing ministries, one of Public Administration and the other of Local Government, GAP proposed closing down the latter and strengthening the Ministry of Local Government Administration. Also, in order to increase efficiency and coordinate economic development, it was proposed to integrate the powers of the Ministry of Finance, Ministry of Trade and Industry and Ministry of Infrastructure into a single ministry, i.e. a Ministry of Economic Development. Under this proposal, if these six ministries would to be substituted by a more efficient restructuring of powers and scopes of the ministries, "on average, 3.6 million euros would be saved during one governing term only from ministerial posts and cabinets".<sup>274</sup>

The progress reports of the European Commission have repeatedly pointed out that the Kosovo has a problem regarding the efficiency of public administration. In the 2015 Kosovo report, the European Commission identifies the problems of inefficiency of public administration, its continuous politicization and overlapping responsibilities between different government agencies. The European Commission recommended in its report the public administration reform, which should focus on increasing productivity and reducing costs.<sup>275</sup> Likewise, *think tank* organisations in Kosovo have repeatedly noted that Kosovo has problems with the politicization of administration, patronage, and patrimonialisation and clientelism.

According to the D4D study on patronage in Kosovo, the majority of "respondents consider it unlikely that an individual may enter the civil service or rise through its ranks based on merit

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<sup>274</sup> GAP, 'Government Restructuring Analysis' (Prishtina, July 2014), p. 28.

<sup>275</sup> European Commission, 'Commission Staff Working Document: Kosovo 2015 Report' (Brussels, 10, 11. 2015) SWD (2015) 215 final), pp. 4-33.

alone. Conversely, political or personal connections are *sine qua non*".<sup>276</sup> This study stressed that clientelism, patronage and corruption are the three strategies used by political parties to gain political support. In this study, the above concepts are defined as follows: "Clientelism is the general diversion of public resources to build political support, patronage is the specific use of public sector employment for political gains, and corruption is the use of power to extort funds from the private sector".<sup>277</sup>

Even the Kosovo Centre for Investigative Journalism had listed a number of 250 senior public officials employed in public institutions, who came to those positions from political parties. This study reveals the physiognomy of this patronage from 1999 to 2014, making a direct connection between these officials and the ruling political parties. According to this research, the PDK leads in hiring the largest number of officials affiliated with the party, followed by the LDK and the AAK.<sup>278</sup>

Also, a study by David Jackson reveals the phenomenon of clientelism as an alternative dimension of governance in Kosovo. According to this study, the decentralisation of powers in Kosovo, a strategy proposed by Martti Ahtisaari to increase the political stability in Kosovo and to integrate minorities, has also produced side effects, as it has created opportunities for nepotism and encouraged clientelism. According to this study, there is a dominant perception in Kosovo that the client-patron relationship (clientelism) characterizes the dominant relationship between citizens and political leaders. Political parties are considered as the main cause of clientelism, due to the fact that these parties do not

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<sup>276</sup> Democracy in Development, 'Class of Its Own: Patronage and its impact on social mobility in Kosovo' (Series: Public Interest, No. 2, Prishtina, 2011), p. 9.

<sup>277</sup> Ibid p. 17.

<sup>278</sup> Besnik Boletini and Besa Kalaja, 'the Labour Party: Physiognomy of political patronage in Kosovo' (PrEPORT, No. 10, Centre for Investigative Journalism, December 2014).

have a clear ideology that could convince the masses and, on the other hand, they have a hierarchical organisational structure. The study tries to find the reasons of clientelism, not in the traditional culture in Kosovo, but in the economic uncertainty faced by the citizens of Kosovo, forced to enter into clientelist relationships with politicians. The survey reveals that 43% of Kosovo citizens strongly believe that road constructions follows a clientelist logic; they are built in regions where the governing parties have political support. Also, 51% strongly believe that employment follows a logic of clientelism, and 60% of citizens<sup>279</sup>, always according to the survey, strongly believe that voting is also clientelistic, of the type "I vote for you, and you employ me".

### **7.3 Insufficient economic growth in Kosovo**

A World Bank report noted that Kosovo was one of the four economies in Europe that recorded economic growth after the economic crisis in Europe. Kosovo's economic growth during the years 2011-2014 was 3.5%.<sup>280</sup> However, due to the low base of economic development, this increase is not significant for the overall development of the society in Kosovo. In January 2016, the Kosovo government drafted the "National Development Strategy 2016-2021". As can be seen from the table below, in all economic indicators Kosovo is below the average of Southeast Europe countries that are not part of the EU. While the pro capita Gross Domestic Product in Kosovo is 2,935 euros, the average GDP in the countries of Southeast Europe is 3,504 euros; while the poverty

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<sup>279</sup> David Jackson, 'Clientelism: The alternative dimension to Kosovo's governance' (Kosovo Local Government Institute, Prishtina, February 2014), p. 11.

<sup>280</sup> The World Bank Group in Kosovo, 'Country Snapshot "(WB, October 2015), p. 2.

rate in Kosovo is 29.9%, the average poverty rate in Southeast European countries is 19.7%. Kosovo has the weakest standing among European countries when it comes to the ratio between exports and imports. While these countries export 46.5% of their products, Kosovo's exports amount to only 12%.<sup>281</sup>

Comparison of five selected indicators

<b>Indicator</b>	<b>Kosovo</b>	<b>Average value of Eastern European countries that are not members of the EU</b>
Gross domestic product per capita	€ 2,935	€ 3,504
Unemployment rate	30.1%	20.8%
Participation in the labour market	40.5%	49.7%
Percentage of population living in poverty	29%	19.7%
Ratio between exports and imports	12%	46.5%

Kosovo economic indicators. Source: National Development Strategy, 2016-2021

In order to address the above problems, the 2016-2021 Strategy has identified a number of problems that must be addressed by the Kosovo government. As analysed in this document, one of the problems why investors are reluctant to invest in Kosovo has to do with the human capital, or the unskilled labour force. This problem is related with the low quality of the Kosovo labour force education, which does not orient people towards the labour market. Likewise, the lack of rule of law and of efficiency of the courts to ensure effective implementation of contracts, contribute to this unattractive environment for foreign investors. The public procurement sector remains one of the main problems. Given that 40% of Kosovo's budget is spent through public procurement

<sup>281</sup> Office of the Prime Minister, "National Development Strategy 2016-2021" (Prishtina, January 2016), p. 4.

procedures, the lack of transparency and corruption that accompany this sector directly affect the economic underdevelopment, as well as the misuse of public money. Another major problem remains the informal economy. Around 26-34% of the total GDP of Kosovo is estimated to be informal. Considering that the principal budget revenues are collected at Kosovo's borders, most informality takes place at its borders. According to a RIINVEST study on informality in Kosovo, tax evasion, undeclared workers, as well as unfair competition, which is listed amongst the main problems of businesses, are among the 22 barriers reported by businesses.<sup>282</sup>

Likewise, the steady supply of energy is considered one of the problems that affect foreign or domestic investors and, consequently, the economic development of Kosovo. Although it is estimated that Kosovo has 12 billion tons of coal reserves, it still continues to import electricity. The road and railway infrastructure in Kosovo continues to be insufficient to provide efficient and fast transport, which would enable rapid circulation at low costs for goods and people in Kosovo and the region. During the period 2008-2010, the Government of Kosovo has allocated nearly a third of the budget to investments in infrastructure. In 2008, 28.9% of Kosovo's budget, or 99,812,595 euros, was earmarked for road infrastructure, while in 2009, 31,3% or 102,916,485 euros were allocated to infrastructure from the state budget.<sup>283</sup> Despite this investment, it is estimated that Kosovo's road infrastructure still is not fully paved. Kosovo has asphalted only 56% of the road infrastructure, while the antiquated rail network extends for 330 km. Besides many other aspects, the 2016-2021 Strategy identifies

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<sup>282</sup> Riinvest, "To pay or not to pay: Informality from the perspective of businesses in Kosovo", (Prishtina, FES and KFOS, 2013), p. 8.

<sup>283</sup> FOL Movement, "Transparency of Public Investment in Road Infrastructure: Promoting Transparency and Public Accountability in Infrastructure", (Prishtina, 2010), p. 6.

the challenge of reducing administrative procedures to facilitate business performance. Although there are many services offered to businesses by central and local institutions in Kosovo (629 services at the central level and 100 at the local level), the cost of these services is considered high. As the 2016-2021 Strategy states, "the annual costs incurred by Kosovo businesses for all processes amount to 130 million euros".<sup>284</sup>

However, the World Bank "Doing Business" report estimates that in recent years, Kosovo has made progress in easing the procedures for doing business. Out of 189 countries, Kosovo is ranked 75th. Likewise, Kosovo is ranked 67th when it comes to fiscal payments, 71st in foreign trade facilities (incomparably worse than the region), 48th when it comes to enforcing contracts (which is much better than Albania, which ranks 96th, while Bosnia and Herzegovina is ranked 66th and Slovenia 117th).<sup>285</sup> Although Kosovo has made significant advances in the ease of doing business, international surveys measuring the perception of corruption in the country have not changed. Corruption ranks very high in the global corruption index.

#### **7.4 Corruption between perception and reality**

Kosovo is ranked 103rd in the 2015 Corruption Perception Index Report of Transparency International. This corruption perception index compares Kosovo with Ethiopia, the Dominican Republic and Moldova, also ranked 103rd. According to the report, Kosovo has the worst standing at the regional level. Montenegro is ranked

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<sup>284</sup> Office of the Prime Minister, "National Development Strategy 2016-2021" (Prishtina, January 2016), p. 21.

<sup>285</sup> World Bank Group, "Economic Profile 2016 Kosovo: Doing Business 2016 Measuring Regulatory Quality and Efficiency", (The World Bank, 2016).

61st, Macedonia 66th, Serbia 71st and Bosnia-Herzegovina 76th.<sup>286</sup> Since Transparency International measures only the subjective perception of corruption by citizens, lately, the Centre for Political Courage published an analysis through which it tries to measure the level of corruption in Albania and Kosovo in the mining industry and licensing sector. In order to empirically measure corruption, the number of mining licenses and permits issued during the period of the elections was used as an indicator for measuring corruption. Econometric measurements showed that one year before the elections, the number of licenses issued in Kosovo was 38% higher compared to the long term average number issued during other years. It is assumed that this increase is the result of corruption and clientelistic relationships between companies and political parties, as the latter provide favours in the form of licenses and permits in exchange for the financing of election campaigns by companies close to them.<sup>287</sup>

The Kosovo 2015 "Freedom House Report" classifies the political regime in Kosovo as a "semi-consolidated authoritarian regime", giving 5.14 points to the general degree of democratisation. Freedom House evaluates democratic progress with values from 1 (highest level of democratic progress) to 7 (lowest democratic progress). According to this report, Kosovo's public procurement corruption is systematic. The report notes that there was a lack of political will in the political elite to combat corruption and that "the influence of politicians on the judiciary

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<sup>286</sup> Transparency International, "Corruption Perceptions Index 2015" (TI, 2016), p. 7.

<sup>287</sup> Centre for Political Courage, 'Clientelism and Growth: How to better channel anti-corruption efforts "(Draft policy, Prishtina, June 2016).

significantly hinders investigations and prosecutions". The corruption rating remains unchanged at 6 points.<sup>288</sup>

In the 2015 Kosovo Progress Report, the European Commission noted that there are political interferences in the judiciary and that Kosovo is still at an early stage in its fight against corruption. The European Commission notes that some measures have been taken in the fight against corruption in 2015, including the approval of the Code of Ethics for civil servants. The report recommends to the Kosovo government to prioritize the fight against high-profile corruption cases, especially in public procurement. Also, in the spirit of the fight against corruption, it is recommended to have better cooperation between police and prosecutors during investigations of high-profile corruption cases and to review the law on conflict of interest. Also, a lack of cooperation between the State Prosecutor and the Anti-Corruption Agency has been observed. Claiming that it did not find sufficient evidence to continue investigating, the Office of the Chief State Prosecutor dismissed over 70% of the cases of alleged corruption brought by the Anti-Corruption Agency.

## **7.5 Strategies and struggle against corruption**

In cooperation with foreign state-builders, Kosovo has adopted numerous mechanisms to fight corruption and organised crime, but the Kosovar leadership has always lacked the political will to support these mechanisms. The justice sector has come under continuous political interferences to prevent full implementation of the law, when it comes to high-profile cases. Likewise, the

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<sup>288</sup> Freedom House, 'Kosovo | Nation in Transit, 2015'. Accessed at [https://freedomhouse.org/sites/default/files/NIT2015\\_Kosovo.pdf](https://freedomhouse.org/sites/default/files/NIT2015_Kosovo.pdf) (10 July 2016).

established mechanisms and developed strategies, whether for combating corruption (2013-2017 Anti-Corruption Strategy) or for combating the informal economy, money laundering and financing of terrorism (2014-2018 National Strategy of the Republic of Kosovo for the Prevention and Combating of Informal Economy, Money Laundering, Terrorism Financing and Financial Crimes)<sup>289</sup>, have not been fully implemented due to lack of allocation of sufficient financial resources.<sup>290</sup> Kosovo researchers have tried to explain the causes and origins of corruption and organised crime in Kosovo "with a culture of conspiracy, which served the survival tactics in a hostile environment, characterized by poor relationship with authorities. These authorities, whether Ottoman, Yugoslav or Serbian, were perceived as oppressive and foreign colonial rulers, against which the extended family, clan and ethnic group served as defence".<sup>291</sup> However, 8 years after Kosovo was declared an independent and sovereign state, corruption continues to be an obstacle to the development and democratisation of the Kosovo society.

In Kosovo, there are four institutions that deal with combating corruption (Anti-corruption Agency, Anti-Corruption National Coordinator appointed by the Chief State Prosecutor, National Anti-Corruption Council, a consultative mechanism led by the President of Kosovo, the Directorate for Investigation of

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<sup>289</sup> Office of the Prime Minister, "2014-2018 National Strategy of the Republic of Kosovo for the Prevention and Combating of Informal Economy, Money Laundering, Terrorism Financing and Financial Crimes"(Prishtina, January 2015). Accessed at [http://www.kryeministri-ks.net/repository/docs/Strategjia\\_Kombetare\\_e\\_Republikes\\_se\\_Kosoves\\_per\\_Parandalimin\\_dhe\\_Luftimin\\_e\\_Ekonomise\\_Joformale,\\_Pastrimin\\_e\\_Parave,\\_Financimin\\_e\\_Terrorizmit\\_dhe\\_Krimeve\\_Financiare\\_2014-2018.pdf](http://www.kryeministri-ks.net/repository/docs/Strategjia_Kombetare_e_Republikes_se_Kosoves_per_Parandalimin_dhe_Luftimin_e_Ekonomise_Joformale,_Pastrimin_e_Parave,_Financimin_e_Terrorizmit_dhe_Krimeve_Financiare_2014-2018.pdf) (29 July 2016).

<sup>290</sup> European Commission, 'Commission Staff Working Document: Kosovo 2015 Report' (Brussels, 10, 11. 2015) SWD (2015) 215 final), p. 17.

<sup>291</sup> Wolfgang Koeth, 'State Building Without a State: The EU's Dilemma in Defining Its Relations with Kosovo' *European Foreign Affairs* 237 (2010), p. 244.

Economic Crimes and Corruption within the Kosovo Police), but corruption remains endemic. According to a KIPRED study, one of the sectors with the highest propensity for corruption remains the public procurement sector. Only in 2014, 488 million euros of the Kosovo budget were spent through public procurement procedures. Through this sector, political parties in power provide public contracts to businesses and companies close to them during election campaigns, by compensating these companies for bankrolling their campaigns.<sup>292</sup> On the other hand, as noted by an analysis of the procurement law by FOL organisation, this does not comply with European Union legislation.<sup>293</sup> One of the main shortcomings of the Procurement Law has to do with full transparency. Article 3 of this law exempts certain activities from full transparency during the procurement process. According to this article: "notwithstanding any other provisions of this law, the contracting authorities shall not be required to act in accordance with any special procedure of procurement and respect the provisions of this law on transparency to the extent that such observance would compromise the legitimate secrecy or security when conducting procurement activities leading to the award of a public contract."<sup>294</sup> Thus, according to the law, the government has the right to classify certain contracts as confidential. Reasonable doubts have been expressed that, under the "banner" of secrecy,

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<sup>292</sup> KIPRED, 'Impunity in Kosovo: Fight against high profile corruption' (Policy Analysis, No.1/16, January 2016), p. 10.

<sup>293</sup> FOL Movement, "Analysis of the Public Procurement Law in the context of the principle of transparency", (Prishtina, 2012). According to the analysis, the Kosovo Public Procurement Law contradicts some of the principles of European legislation, such as Council Regulation (EC, Euratom) No. 1605/2002, 25 June 2002; Commission Regulation (EC, Euratom) No. 2341/20002, 23 December 2002; Directive 2004/17/EC of the European Parliament and the European Council, 31 March 2004, etc. For an analysis of abuses in public procurement, see also: FOL Movement, "Abuses in Public Procurement: Analysis of embezzling public authority in the field of public procurement, (Prishtina, 2012).

<sup>294</sup> Ibid, p. 8.

some of the contracts signed were either harmful to the Kosovo budget and did not follow the logic of market prices, or were signed with companies related to the ruling parties.

Neither the prosecution nor the local courts have proven effective in the fight against crime and corruption. The KIPRED Institute study on the fight against high profile corruption notes that, despite the fact that the Kosovo Prosecutorial Council (SPO) had approved the Action Plan to combat corruption, the results are still not optimistic. In 2014, the Special Prosecution Office completed only 18 cases against 121 persons, despite the fact that 55 corruption cases against 322 persons had been filed.<sup>295</sup> Furthermore, unlike the Kosovo Police and the Anti-Corruption Agency, which brought most cases, prosecutors lacked the initiative to report cases of corruption. In 2013, only 4 cases of corruption were reported by prosecutors on their own initiative, whereas in 2014 only 11 cases. Another problem remains the proper investigation of corruption cases and the conclusion of the cases. Despite the fact that 1,011 criminal charges for corruption were pressed in 2014, 54% of the cases were dismissed. Also, despite the fact that in 2014 the courts have worked on 655 corruption cases, only 35% of these cases were tried.<sup>296</sup>

## **7.6 EULEX, expectations and disappointments**

After the declaration of independence of Kosovo in February 2008, which was accompanied by the reduction of the presence of UNMIK and the delayed EULEX deployment throughout Kosovo, there was a general expectation that EULEX would begin

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<sup>295</sup> KIPRED, 'Impunity in Kosovo: Fight against high profile corruption' (Policy Analysis, No.1/16, January 2016), p. 11.

<sup>296</sup> KIPRED, 'Impunity in Kosovo: Fight against high profile corruption' (Policy Analysis, No.1/16, January 2016), pp. 13-14.

strengthening local capacities, reducing the influence of politics in the judiciary, fighting corruption and organised crime, addressing the old cases of war crimes, and extending control throughout the territory of Kosovo, including the northern part of the country. Seven years after the deployment of EULEX in Kosovo, this mission's results still remain minimal.

Kosovo institutions, which invited and legitimized EULEX through the Declaration of Independence, have pursued a dual approach - on the one hand, criticizing the inefficiency of law enforcement throughout the territory of Kosovo, especially in the north, and at the same time being uncooperative when EULEX acts to enforce the law, especially in fighting organised crime and corruption among the political leadership in Kosovo. In 2013, EULEX indicted on corruption charges the former Transport Minister Fatmir Limaj and former Minister of Health Bujar Bukoshi.

*Think tank* organisations in Kosovo have criticized EULEX for its inefficiency in combating organised crime and corruption. Such criticism against EULEX has also been voiced by the European Court of Auditors. IPOL, in a December 2009 study, notes that EULEX failed to fully deploy its mission by December 9, 2008, exactly the International Day Against Corruption. It remained to be seen whether this was an ironic coincidence or something deliberate.<sup>297</sup> Seven years after its launch, one has to admit that EULEX's deployment on the International Day Against Corruption was simply a coincidence. In January 2013, KIPRED Institute published a comprehensive analysis of EULEX. According to this institute's research, despite the fact that until January 2013 the EU had invested 613.8 million euros on EULEX,

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<sup>297</sup> Balkan Policy Institute, 'EULEX: In Search of an Identity' (Prishtina, Kosovo, December 27, 2009), p. 5.

it did not fulfil its mission to fight corruption and organised crime in Kosovo.

Organised crime and corruption remain worrying problems in Kosovo. Since UNMIK failed to build a proper legal system in Kosovo, expectations were high that the EU would help Kosovo to establish the rule of law. These expectations were also fed by statements of EULEX officials that they would combat corruption within the local political leadership, going after the "big fish". As noted in a 2013 KIPRED study:

EULEX has treated a fair deal of criminal cases; however, the number and quality of cases that have to do with "high profile" organized crime and corruption remain at disappointing levels. About 380 verdicts have already been handed down, of which there are about 306 verdicts on criminal justice, including 51 verdicts in high level organized crime and corruption cases. This means that since its deployment in 2008, EULEX judges have, on average, handed down 78 verdicts per year (or around 2.1 yearly verdicts per judge), of which only around 10 verdicts were on high profile organized crime and corruption cases (or around 0.29 yearly such verdicts per judge). EULEX prosecutors have been involved in more than 2,078 cases.<sup>298</sup>

From 2009 to 2013, Kosovo has allocated an average of 151 million euros annually for all state structures in the field of rule of law. On the other hand, EULEX, with 5 times less judges dealing with criminal offenses and annual budget of 114 million euros (1.3 times lower than the Kosovo budget), has issued 3 times less verdicts than Kosovo judges. While on average, each of the 192 Kosovo judges dealing with criminal cases has issued 44 verdicts,

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<sup>298</sup> Kosovar Institute for Policy Research and Development, 'A Comprehensive Analysis of EULEX: What Next', (Policy Paper No.1/13 – January 2013, p. 16.

each of the 36 EULEX judges has issued, on average, 2.1 verdicts, i.e. 21 times less. Regarding judgments in high profile cases, despite the fact that EULEX has 5 times less judges than the Kosovo justice system, EULEX judges have issued 3 times less verdicts (0.29 verdicts per judge ) than Kosovo judges (0.94 verdicts per judge). This shows that Kosovo judges are still reluctant to deal with "high profile" corruption and organised crime cases. Although EULEX has been criticized for lack of sufficient financial means to fight crime and corruption in Kosovo, in its comprehensive analysis of EULEX, KIPRED estimates that "the EULEX budget is high enough to meet the initial expectations, which were not met, while the Kosovo budget is low enough to meet the conditions relating to the wider rule of law, which has not been achieved. It is clear that there is generally indifference in both sides' parties to seriously address the shortcomings in the judiciary".<sup>299</sup>

Also, a recent report published by FOL movement reveals the limited EULEX efforts to fight corruption. Since its deployment in 2008, EULEX has issued 70 verdicts on corruption and organised crime. Of these judgments, 47 dealt with corruption cases and 23 with cases of organised crime. Despite the small number of judgments, the exact number of convictions for corruption and organised crime is not known. Even in this report shows that EULEX, like UNMIK, did not sufficiently pursue high profile cases of corruption and organised crime. The reason behind the lack of attention for high profile cases of corruption and organised crime is found in the political context of Kosovo, namely

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<sup>299</sup> Kosovar Institute for Policy Research and Development, 'A Comprehensive Analysis of EULEX: What Next', (Policy Paper No.1/13 – January 2013, pp. 15-16.

the need to ensure stability in one form or another, by maintaining the credibility of corrupt politicians.<sup>300</sup>

It seems like UNMIK and EULEX prioritized stability over the democratic development of Kosovo. Even the preamble of the Joint Action of the Council of the EU, one of the legal bases on which EULEX was deployed in Kosovo, read that EULEX aims to strengthen stability in Kosovo and in the region<sup>301</sup>. EULEX detractors argue that one of the reasons for the withdrawal of EULEX from effectively fighting corruption and organised crime, especially in high profile cases related to ministers, MPs, mayors and heads of departments, is precisely the fear that such an action could cause instability in Kosovo after its independence. In a column for the daily Koha Ditore, commentator Augustin Palokaj argues that "EULEX cannot escape responsibility for its failures in Kosovo". Palokaj noted that almost every European Commission progress report on Kosovo highlighted problems with corruption, organised crime and interventions in the judiciary. While criticizing Kosovo's security structures at the same time, Palokaj raised the question: "why is Kosovo in such a state despite the hundreds of millions of euros that the European Union has spent on this mission." Palokaj argues that:

The EU has always given priority to political stability over democratic development. Where there is no development of democracy there is no accountability, no political responsibility and therefore there can be no proper rule of law. In order not to break the political stability, the EU has not given enough political support EULEX to strike against organised crime and corruption at high levels. The

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<sup>300</sup> FOL Movement, "EULEX: Anti-Corruption and the limits of a quantitative assessment (Prishtina, 2016), pp. 7-19.

<sup>301</sup> Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo. Points 1.3 and 7.

consequences of such a policy will be felt for years to come.<sup>302</sup>

The trajectory of political priorities, of both the international partners and Kosovo's political parties, needs to shift from the current negative stability to the rule of law, economic development and democratisation of the country. This shift of priorities cannot succeed if the "happy marriage", between short-term maintenance of stability, currently promoted by EULEX, and tolerance of corrupt and opaque politicians, is endlessly extended in Kosovo. On the other hand, setting the rule of law in Kosovo as a top priority not necessarily produces instability. In fact, this is the best way to guarantee long-term stability and democratisation. In order for these priorities to be rethought and reordered, the initial premise is that the political parties must democratise. If party leaders govern political parties in an authoritarian and opaque manner, and make decisions without consulting their members, there is no reason to believe that these political parties will not lead the government, parliament and other state mechanisms with the same logic, whenever they are part of them. If the vision of political parties is a democratic society of free and equal members in Kosovo, in order for this vision to be credible, first of all it must be tested and implemented within the political parties themselves. In this way the "preaching" of political democratisation and development of the Kosovo society becomes more credible.

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<sup>302</sup> Augustin Palokaj, "EULEX cannot escape responsibility for failures in Kosovo. Kohanet. (September 28, 2014).

A large, stylized Roman numeral 'VIII' is rendered in a light gray color. The 'V' is on the left, and the 'III' consists of three vertical bars on the right. The text 'BETWEEN STABILISATION AND DEMOCRATISATION' is centered over the 'III' portion.

BETWEEN STABILISATION  
AND DEMOCRATISATION

**CHAPTER VIII**

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# *CHAPTER 8:*

*INTRA-PARTY DEMOCRACY*

## **CHAPTER 8: INTRA-PARTY DEMOCRACY**

So far, political parties have not given proper attention and time to their internal democratisation. Concerned for seventeen consecutive years with the agenda of "liberation", "independence", "recognitions" for Kosovo, the establishment of the Special Court, the approval of the Association of Serb-majority municipalities, the border demarcation with Montenegro, etc., all the energy of political parties was spent in foreign policy. Thus, the democratisation of the Kosovo society and sustainable economic development did not constitute primary priorities. In order for the democratisation of the society and sustainable development to turn into genuine priorities of political parties in Kosovo, the latter, as organisations for aggregating, articulating and representing public interests of citizens, must be capable, transparent and visionary to fulfil these priorities. The democratisation of Kosovar society is closely related to the democratisation of political parties.

Before reviewing and comparing the charters of political parties in Kosovo, it must be noted that the Kosovo Constitution in no way regulates the internal democratic character of political parties. In other words, the Kosovo Constitution does not explicitly prohibit the establishment, organisation and participation in public life of political parties that potentially aim at destroying the constitutional and democratic order in Kosovo. The Law on General Elections in the Republic of Kosovo does not regulate the

internal organisation of the party. The law defines political parties in functionalist terms as: "an organization of individuals who voluntarily associate on the basis of common ideas, interests and interests or views, for the purpose of obtaining influence and having their representatives elected to public office".<sup>303</sup> On the other hand, we have the example of the German Basic Law of 1949, which expressly governs the internal party democracy of political parties in Germany. Articles 21.1 and 21.2 regulate as follows: "Political parties... may be freely established. Their internal organization must conform to democratic principles... [P]arties which, by reason of their aims or the behaviour of their adherents, seek to impair or destruction the free democratic basic order or endanger the existence of the Federal Republic of Germany are unconstitutional".<sup>304</sup>

Scholars Ingrid va Biezen and Daniela Rome Piccio explain that the constitutions of Croatia, Germany, Spain and Portugal, explicitly regulate internal party democracy, whereas in other countries, such as Greece, Italy and France, it is implicitly requested from political parties to respect democratic principles.<sup>305</sup>

In Kosovo there is no law on the functioning of political parties and their internal organisation. Political parties, coalitions and citizens' initiatives are registered under Regulation 01/2013 on the Registration and Operation of Political Parties. The regulation specifies that political parties should have their symbol, charter, leadership, signatures of 500 party members, shall pay 500 euros for registration and shall sign the Code of Conduct of Political Parties. The regulation (Article 15) requires from political parties

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<sup>303</sup> 'Law Nr. 03/L-073 on General Elections in the Republic of Kosovo, June 15, 2008. Article 3: Definitions.

<sup>304</sup> Ingrid van Biezen, Daniela Romee Riccio, 'Shaping Intra-Party Democracy: On the Legal Regulation of Internal Party Organizations', in William R. Cross & Richard S. Katz (ed.) *The Challenges of Intra-Party Democracy* (Oxford University Press (2013), p. 32.

<sup>305</sup> Ibid, p. 33.

to hold the assembly (election convention) six months from the date of registration and then every 48 months. Likewise, Article 5 of the Regulation provides that the CEC has the right to refuse the request of a political party to be registered, if the charter and other required documents are inconsistent with the Constitution and the laws in force and if, according to the CEC, the party applying for registration may incite hatred, ethnic or religious through its acronym or symbols. Another aspect regulated by this regulation is the suspension of registered political parties that have not held the party assembly, or have not filed the annual financial report, or whose charter and program do not comply with CEC rules, or did not repay debts to the CEC, etc. According to the regulation, once political parties fulfil these obligations, the CEC may validate their registration.

Article 14 of the Regulation for Registration of Political Parties requires from political parties to include in their charters norms that regulate:

- i. procedures through which citizens can become members and cease to be members of the party, and the rights and responsibilities of members;
- ii. procedures to be followed for amending the charter or political program of the party;
- iii. procedures to be followed by the party for entry into an electoral coalition;
- iv. procedures to be followed in the selection of the president, members of the highest executive body or other elected officials of the party;
- v. procedures to be followed for the selection of party candidates in elections for the Kosovo Assembly and municipal assemblies;
- vi. the possibility of exercising internal financial control;

- vii. the rights of members to be informed of all revenues and expenditures of a political entity and the responsibility of the respective body for the financial transactions;
- viii. the establishment of a dispute settlement body within the party regarding the interpretation of the charter.<sup>306</sup>

However, none of 8 the prerogatives of this regulation explicitly mentions internal party democracy. The only section it is implicitly referred to is Article 16, under which political parties should ensure "democratic participation of party members in the selection of electoral candidates of the party". The Law on General Elections in Kosovo regulates ballot rights and secrecy for all citizens, without discrimination, and obliges political parties to engage in competition within a culture of democratic tolerance. Likewise, it regulates the eligibility of candidates that can be certified to run in elections, since political parties have not explicitly regulated in their charters who can and who can't run within the electoral lists presented by political parties.

The Law on General Elections specifies that "any person whose name appears on the Voters List is eligible to be certified as a candidate unless he or she is: a) judge or prosecutor in Kosovo or elsewhere; b) member of the Kosovo Security Force; c) a member of the Kosovo Police; d) member of the Kosovo Customs Service; e) member of the Kosovo Intelligence Agency; f) head of an independent agency; g) diplomatic representative; h) chairperson or member of the CEC; i) member of the ECAC; j) a member of the Municipal Election Commission; k) member of the armed forces of any country; l) member of any police force or similar body; m) serving a sentence imposed by the International Criminal

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<sup>306</sup> Central Election Commission, "Regulation No. 01/2013 on the Registration and Operation of Political Parties. July 2006. Accessed at [www.kqz-ks.org/Uploads/Documents/Rregulla%20\\_123072013\\_agalzvuxxn.pdf](http://www.kqz-ks.org/Uploads/Documents/Rregulla%20_123072013_agalzvuxxn.pdf) (4 August 2016).

Tribunal for the former Yugoslavia; n) under indictment by the Tribunal and has failed to comply with an order to appear before the Tribunal; o) by way of a court decision, including the decision of the ECAC, is deprived of the right to be a candidate; p) by the decision of the court, was deprived of the right to be a candidate; q) found guilty of a criminal offense by a final court decision in three (3) years; r) has failed to pay a fine imposed by the ECAC or the CEC; or s) has failed to obey an order of the ECAC".<sup>307</sup> Points *p*, *q* and *r* of this article, indirectly contribute to intra-party democratisation, making it impossible to run in elections for members of political parties who have violated the law in one way or another. These articles have added relevance in Kosovo, due to the fact that a number of candidates of political parties have used political parties as "protective umbrellas" to avoid criminal responsibility.

The law obliges the political parties to have at least 30% women in the lists of candidates, which guarantees gender representation quotas in institutions. As the analysis of charters of political parties in Kosovo will reveal, they do not regulate gender quotas in intra-party governing bodies, which further proves the necessity of quotas for gender representation in central institutions, guaranteed by this law. Also, the signing by political entities of the Code of Conduct, regulated with this law, aims to prevent undemocratic practices of exercising influence in the voting process. According to this code, political parties should inform members and supporters that the law prohibits the exercise of violence, intimidation and threats against political opponents. As organisations involved in election monitoring have identified cases of members and supporters of political parties intimidating and telling citizens at polling stations for whom and which party to

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<sup>307</sup> Law Nr. 03/L-073 on General Elections in the Republic of Kosovo, June 15, 2008. Article 29.

vote for, this legal prerogative should be implemented in full by all political parties in Kosovo.

Another aspect regulated by this law is the financial reporting for electoral campaigns organised by political parties. Article 40 of this law requires political parties to submit financial reports of their election campaigns, no later than 45 days after the election, and if these are not submitted or are incomplete, they should be resubmitted, on the contrary political parties are fined.<sup>308</sup> This legal prerogative aims to increase the transparency and accountability of political parties towards the citizens of Kosovo for the costs of political parties during their election campaigns, however, political parties have continued to not comply in full with this legal aspect.

The Law on Financing of Political Entities regulates the financial transparency of political parties. According to this law, political parties are funded through the budget of the Republic of Kosovo, from the Fund for support of political parties. The total amount of budgetary resources gathered by this Fund cannot exceed 0.17% of the Kosovo Budget. This fund governs the allocation of funds to political parties represented in the Parliament, depending on their number of seats. Also, 0.5% of this Fund (which cannot exceed 0.17% of the Kosovo budget) is allocated for the financing of election campaigns at central and local level, with 90% of the funds allocated according to the number of seats won in the last elections by political parties, and 10% allocated to newly registered and certified political parties.

The law also provides limitations on obtaining contributions from natural or legal persons. While political parties are allowed to accept values up to 2,000 euros from individuals and 10,000 euros

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<sup>308</sup> Law No. 03/L-174 on Financing of Political Entities. September 16, 2010. [http://www.gazetazyrtare.com/e-gov/index.php?option=com\\_content&task=view&id=157&Itemid=56&lang=sq](http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=157&Itemid=56&lang=sq) (2 April 2015).

from legal persons for one calendar year, when political parties receive a financial contribution, whether from natural or legal persons, and the origin of that contribution cannot be proven, they must notify the competent authorities within 2 weeks. According to this law, "Political entities shall clearly define, in the Charter, the rights of members to be informed of all revenues and expenditures of the political entity and the responsibility of the respective body for the financial transactions".<sup>309</sup> However, this aspect of the law is not integrated in the charters of political parties in Kosovo.

Article 21 of this law governs punitive policies as follows:

- Political subject will be penalized with three thousand (3.000) to ten thousand (10.000) Euro, whereas the deputy, advisors and other independent deputies will be imposed a fine from five hundred (500) to three thousand (3.000) Euro, for violation of provisions of this Law, if:
- receives funds in violation with provisions of this Law and other applicable legislation.
- maintains records in its files in violation with provisions of this Law and other applicable legislation.
- they do not comply with provisions of this Law and other applicable legislation related to central and local elections.
- A political subject, that does not submit the annual financial report to the CEC within the term defined by this law, shall lose the right to receive benefits from the fund for coming year.
- Responsible person within political subjects will be penalized for more than three hundred (300) Euro to one thousand (1.000) Euro for violation of provisions of this Law.<sup>310</sup>

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<sup>309</sup> Ibid, see articles 7, 10, 17.

<sup>310</sup> Law No. 03/L-174 on Financing of Political Entities. 29 October 2010. Article 21.

However, these punitive provisions are insufficient to regulate financial transparency. Punitive policies and low fines do not contribute to the growth of intra-party transparency. Thus, political parties in Kosovo continue to behave as hermetically sealed organisation with no accountability towards voters. As noted by the KDI report "Dismantling political financing":

The current penalties are symbolic and do not encourage political parties to implement the law. The total amount of fines imposed in 2011 was 2,700 euros, on average 451 euros per [political] party. Although violations of the law are numerous, as noted in the auditor's report for 2010, the CEC has not issued any penalty for non-compliance with accounting rules (except for overdue reports). The CEC rarely makes decisions on penalties for minor violations, allowing political parties to not feel the pressure to improve their administrative staff's capacity and resources to prepare their financial reports.<sup>311</sup>

In line with local critics, the 2014 Progress Report of the European Commission on Kosovo underlined that "political parties, in general, do not meet their obligations under the Law on Financing of Political Parties. The implementation and enforcement of the law is weak. The Office of the Central Election Commission, which is tasked with monitoring the implementation, lacks capacities and resources".<sup>312</sup>

In June 2014, Kosovo became a member of the Venice Commission. With Kosovo, the Venice Commission counts 60 members. Otherwise known as the European Commission for Democracy Through Law, the commission works in three areas:

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<sup>311</sup> Kosovo Democratic Institute, "The dismantling of Political Financing" (Prishtina, June 2013), p. 8.

<sup>312</sup> Ibid, p. 16.

democratic institutions and fundamental rights, constitutional and common justice, as well as elections, referendums and political parties. The third field of this Commission is of particular importance to Kosovo. In December 2008, the Commission approved the Code of Good Practice in the Field of Political Parties. The explicit purpose of this code is: "Strengthening of internal democracy within political parties and increasing their credibility in the eyes of citizens, thus contributing to the legitimacy of the democratic process and institutions as a whole, and supporting the participation in political life, and promoting democratic principles such as equality, dialogue, cooperation, transparency and the fight against corruption".<sup>313</sup>

The Code of Good Practice in the Field of Political Parties provides four guiding principles for political parties. These principles are: rule of law, democracy, non-discrimination and transparency. These principles are considered as pillars of the European constitutional heritage. The Code states that political parties must be guided by the principle of representation, accountability and transparency. The first principle means that the structures and procedures within the party must represent the opinion of members. The second principle implies that the policies and actions of party bodies should be accountable to the membership, and the last principle, that of transparency, means that political parties must disclose their charter, program and financial reports. Since Kosovo is now member of the Venice Commission, the above principles should be fully embedded in the documents and actions of political parties' bodies in Kosovo.

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<sup>313</sup> European Commission for Democracy (Venice Commission), 'Code of Good Practice in the Field of Political Parties', adopted by the Venice Commission at its 77th Plenary Session', (Strasbourg, 20 January 2009), p. 2. Accessed at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2009\)002-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)002-e) (5 July 2016).

## 8.1 Measurement of intra-party democracy

Scholars of political parties, like Benjamin von dem Berge, Thomas Poguntke, Peter Obert and Diana Tipei, in their book *Measuring Intra-Party Democracy: A Guide for the Content Analysis of Party Statutes With Examples from Hungary, Slovakia and Romania*, have compiled a list of standard questions to measure internal party democracy. We analysed party charters through this list of questions. Some questions have been shortened for practical purposes, while the comparative and encoding section, as designed in this table, has been added for the practical needs of this study. Since the analysed party charters differ from each other in terminology and organisational hierarchy, we used these authors' guidelines to analyse these questions. If the charter had no explicit answer to any of the questions, these answers were coded as No-1, meaning a negative response with negative impact on intra-party democracy. The evaluation criteria of the survey questions are inclusiveness and decentralisation. Answers with positive impact on inclusion and decentralisation of the political party are graded + (plus), while answers with negative impact on these two aspects of party democracy are graded - (minus). Yes + (plus) means that there is a form of party organisation as required in the question, with positive impact on internal party democracy. No + (plus) means that there is no form of party organisation as required in the question, but the absence of this mechanism has positive effects on intra-party democracy. The same formula applies to Yes - (minus) and No - (minus). Yes - (minus) means that there is a form of party organisation as required in the question, with negative impact on internal party democracy. No - (minus) means that there is no form of party organisation as required in the question, with negative impact on internal party democracy.

<b>THE CODING SCHEME</b>	<b>PDK</b>	<b>LDK</b>	<b>VV</b>	<b>AAK</b>
<b>Rights/responsibilities</b>				
<i>General members' rights</i>				
1. Is intra-party democracy explicitly mentioned in the charter?	Yes +	No -	No -	No -
2. Are members' rights explicitly mentioned in the charter?	Yes +	Yes +	Yes +	Yes +
3. Do members have the right to form factions within the party?	No -	No -	No -	No -
<i>Women and minority rights?</i>				
4. Are minority quotas in party organs explicitly referred to?	No -	No -	No -	No -
5. Are women quotas in party organs explicitly referred to?	Yes -	No -	No -	No -
<b>Organisational structure</b>				
<i>Party Convention/Assembly</i>				
6. Does the charter mention the existence of a convention/assembly or equivalent?	Yes +	Yes +	Yes +	Yes +
7. Does it mention that the convention is the highest body in the party?	Yes +	Yes +	No +	Yes +
8. Does the charter mention that the party convention/assembly must meet at least once every three years?	Yes +	Yes +	Yes +	Yes +
<i>Conflict resolution agencies</i>				
9. Is there any agency/mechanism for conflict resolution explicitly mentioned in the statute?	Yes -	Yes -	Yes -	No -
10. Does it mention the existence of any independent body of the party (e.g. party court) that decides on disciplinary measures?	Yes -	Yes -	Yes -	No -
11. Does it explicitly mention that the court's jurisdiction includes the executive officers and president of the party?	No -	No -	No -	No -
<i>Executive Committee/Board</i>				
12. Does the charter mention the responsibilities of the executive committee?	Yes +	Yes +	Yes +	Yes +
13. Is there any explicitly mentioned body/mechanism specifically tasked	Yes +	Yes +	No -	Yes +

with controlling the executive committee?				
<b><i>Party president</i></b>				
14. Does the charter mention that the president of the party can be challenged in his position?	No -	Yes +	No -	Yes +
15. Does the charter mention the rights (obligations) of the president, as follows:				
16. Block the execution of decisions and other acts of the executive body?	No +	Yes -	No +	No +
17. Exclude a member from the party?	No +	No +	No +	No +
18. Discharge a member from the party's executive body?	No +	No +	No +	No +
19. Act against the provisions of the charter in special occasions?	No +	No +	No +	No +
20. Establish or close branches and sub-branches of the party?	Yes -	No +	No +	No +
<b><i>Relations between the national and municipal level?</i></b>				
21. Does the charter mention branches and sub-branches, or their equivalent?	Yes +	Yes +	Yes +	Yes +
22. Does the charter mention the rights of branches and sub-branches?	Yes +	Yes +	Yes +	Yes -
22. Does the charter mention that branches and sub-branches influence the highest bodies of the party?	No -	No -	Yes +	No -
23. Does the charter explicitly mention that branches and sub-branches enjoy autonomy?	No -	No -	No -	No -
<b>Decision-making – Recruitment</b>				
<b>Nomination of candidates</b>				
24. Does the charter mention the right to suggest/nominate candidates for public office?	Yes -	Yes -	Yes +	Yes -
25. Are the nomination of candidates made by the central executive body?	Yes -	Yes -	No +	Yes -
26. Are the nomination of candidates made by the party convention?	No -	No -	No +	No -
27. Are the nomination of candidates made by the branches?	No -	No -	No -	No -
<b><i>Selection of candidates – Assembly</i></b>				

28. Does the charter mention who has the right to choose candidates for the Assembly?	No -	Yes -	No -	Yes +
29. Do registered party members select candidates for elections?	No -	No -	No -	No -
30. Do delegates select candidates for elections?	No -	Yes +	Yes +	No -
31. Are candidates selected by the national executive board or a respective committee?	Yes -	Yes -	Yes -	Yes -
32. Are candidates selected by an executive committee, the president or a committee set by him?	Yes -	Yes -	No +	Yes -
<b><i>Selection of candidates – President</i></b>				
33. Does the charter explicitly mention who has the right to choose candidates for party president?	Yes +	Yes +	No -	Yes +
34. Can the president of the party select himself as candidate for president?	No +	No +	No +	No +
35. Do registered party members (voters) select the candidate through elections?	No -	No -	No -	No -
Do delegates select candidates through elections?	No -	Yes -	No +	No -
<b><i>Relations between central and local levels</i></b>				
36. Does the party centre completely control the selection of candidates?	No +	No +	No +	No +
37. Do party units (branches and sub-branches) propose candidates, while party central authorities make the final decision?	Yes -	Yes -	Yes +	Yes -
38. Do party units provide a list of names from which the party's central party select the final list?	Yes -	Yes +	Yes +	Yes -
39. Do party units have veto power regarding the selection of candidates for public office?	No -	No -	No +	No -
40. Do party units (branches, sub-branches) control in full the process and do they make the final decision on candidates for public	No -	No -	No +	No -

office?				
<b><i>Intra-party offices - Central Level</i></b>				
<b><i>Elections to the central executive body</i></b>				
41. Does the charter explicitly mention rules concerning the election of the leadership/central executive body?	Yes -	Yes +	Yes +	Yes +
42. A party members directly involved in electing the party's central executive body?	No -	No -	No -	No -
43. Are delegates elected at the party convention or in central boards/committees directly involved in the election of the central executive body?	Yes +	Yes +	Yes +	Yes +
44. Is the central convention directly involved in the selection of the central executive body?	Yes -	Yes +	No +	Yes +
45. Is the party president directly involved in the selection of the party's executive body?	Yes -	Yes -	No +	Yes -
<b>2. Election of the party president</b>				
46. Does the charter mention any rule on the election the party president?	Yes +	Yes +	No -	Yes +
47. Are all members directly involved in electing the party president?	No -	No -	No -	No -
48. Are delegates to the party convention directly involved in electing the party president?	Yes +	Yes +	Yes +	Yes +
49. Is the central executive body directly involved in electing the party president?	No +	No +	No +	No +
50. Is the executive committee directly involved in electing the party president?	No +	No +	No +	No +
<b>4. Procedures - Voting Procedures</b>				
51. Does the charter contain any information about intra-party voting?	Yes +	Yes +	Yes +	Yes +
52. Is secret ballot used when selecting candidates for intra-party position or public office?	Yes +	Yes +	No -	Yes +
52. Is it explicitly mentioned that the voting results shall be presented to all party members to justify and legitimize the candidates?	Yes +	No -	No -	No -
<b>4. Relations between central and local party units</b>				

53. Is it explicitly specified that the units (branches, sub-branches, etc.) elect candidates for public office?	No -	Yes +	Yes +	No -
54. Do party units enjoy autonomy when electing candidates for public office?	No -	No -	Yes +	No -
55. Is it explicitly mentioned that party units cooperate with central branches when electing candidates for public office?	No -	No -	No -	No -
56. Do the party's central bodies control in full the election of the candidates of party units?	Yes -	No +	No +	No +
<b>5. Relations between central and local units - intra-party positions at units</b>				
57. Is it explicitly mentioned that party units elect their leadership?	Yes +	Yes +	Yes +	Yes +
58. Do party units cooperate with the party centre when electing their leadership?	No -	Yes -	No +	No +
59. Do party units control in full party the election of their leadership?	Yes +	Yes +	Yes +	Yes +
<b>Program issues</b>				
60. Does the charter specifically mention who is in charge of developing the program?	No -	No -	Yes +	No -
61. Do party members have the right to vote on the program?	No -	No -	Yes +	No -
62. Is the party convention entitled to vote on the program?	Yes +	Yes +	Yes +	Yes +
63. Can the party executive body vote on the program?	Yes +	No -	No +	Yes -
64. Can the party president vote on the program?	No +	No +	No +	No +
65. Can local party units have a split vote on the program?	No -	No -	No -	No -
<b>TOTAL</b>	<b>- 37</b>	<b>- 33</b>	<b>- 22</b>	<b>- 33</b>

Of the four parties encoded herein, the VV has a relative lead in intra-party democratisation due to higher inclusion of its members in internal processes and the chartered autonomy enjoyed

by branches. The LDK and the AAK have an average intra-party democratisation, because the internal party structures of the two parties are still centralised, while branches and sub-branches do not enjoy a complete intra-party decentralisation. The PDK is estimated to be the party with the highest degree of centralisation, lack of involvement of members in decision-making processes and lack of autonomy of its party units.

## **8.2 Intra-party democracy: inclusiveness and decentralisation in the PDK, LDK, VV and AAK**

Intra-party democracy concerns the internal distribution of power, the autonomy of party units and bodies, and the degree of inclusion of the membership of political parties in decision-making processes. A group of researchers of political parties, Benjamin vo dem Berge, Thomas Poguntke, Peter Obert and Diana Pipei, point out that "ideally, in a democratic party, the will should be formed 'bottom-up' and (...) the internal distribution of power should be marked by dispersion at different levels, bodies and individuals rather by the concentration in one organ."<sup>314</sup> According to these researchers, intra-party democracy has to do with the involvement of the membership in internal party decision-making. This aspect is known as inclusiveness. Another aspect of internal party democracy is decentralisation, which means that party decision-making is not centralised in a single body, and the party units (branches, sub-branches, sections) enjoy a certain level of decision-making autonomy. In other words, inclusiveness has to do with the rights of members, sympathizers, supporters of political parties,

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<sup>314</sup> Benjamin vo dem Berge, Thomas Poguntke, Peter Obert and Diana Pipei, *Measuring Intra-Party Democracy: A Guide for the Content Analysis of Party Statutes with Examples from Hungary, Slovakia and Romania* (Springer, 2013), p. 2.

and decentralisation has to do with the rights of branches and sections in the decision-making process. However, scholars of political parties draw attention to the difference between the rights of members and decision-making mechanisms, determined in party charters, and the real distribution of power within political parties.<sup>315</sup>

In general, these are some of the key problems that accompany the lack of intra-party democracy in the four parties analysed in this study.

*Party charters and internal regulations.* Party charters and internal organisation regulations are not written in a democratic spirit. The charters of political parties are not products of wide, internal political debate. Although some sections of the charters display serious anomalies for the democratic functioning of political parties, the lack of enforcement of these charters is most disturbing when it comes to the level of intra-party democracy.

*Leaderism* Uncontested leader powers to execute decisions without consulting the membership and decision-making structures, as defined by the charter, have extremely weakened the influence of party organs in decision-making.

*Lack of autonomy of action of party units.* Party units, meaning offices, sub-branches, branches or sections, do not enjoy full autonomy in choosing their candidates. Central structures exert constant interference to select their favourites in local party units.

*Lack of freedom of expression and freedom of opinion of party members.* Sanctioning and disciplining of free thought within political parties is regulated by the charters of most political parties in Kosovo, with the exception of the AAK. The intra-party arrangements of western parties (in the form of the Arbitration Court, as is the case with political parties in Germany or Austria)

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<sup>315</sup> William P. Cross and Richard S. Katz (ed.), *The Challenges of Intra-Party Democracy* (Oxford University Press, 2013).

provide for "conflict resolution mechanisms". Party arrangements in Kosovo label such mechanisms as "disciplinary".

*Lack of financial transparency.* Clientelist connections have been established between political parties and private businesses in Kosovo. As ruling parties control the majority of the boards of the so-called independent regulatory authorities, the latter favour and reward private businesses that fund political parties during elections. The physiognomy of clientelism and patronage has various forms in Kosovo. One of them is this: companies finance political parties, which reward these companies with licenses and permits for the use of public assets in Kosovo or to import certain goods. Therefore, the lack of transparency in financial reporting on election campaigns of political parties, directly contributes to a culture of irresponsibility and lack of accountability towards their voters about their financial resources, their costs and auditing of those costs.

However, in order to avoid subjective assessments, we will try to shed some light on the assessment analysts and researchers make of intra-party democracy, then the assessment political parties make of each other, followed by the comparison of the charters of these parties. This approach allows a more comprehensive assessment of intra-party democracy. The approach would carry added weight if political parties were fully transparent and enabled "participatory observation", through which the researcher would be able to observe the practice of intra-party decision-making and power relations between party organs, leaders and members, etc. Since the decision-making process within political parties is considered a "*black box*", this aspect is not covered in this study.

Analyst Halil Matoshi emphasized the lack of internal democracy in all the political parties in Kosovo. According to him: "None of the political parties of Kosovo meets democratic criteria,

because they suffer under the leadership crisis, and members are there to serve the cult of the leader, not the leader to be of service to the membership. Also, Kosovar political parties suffer from the syndrome of regional and clan parties."<sup>316</sup> Bekim Baliqi, political scientist, estimates that all party leaders were elected undemocratically. According to him: "The LDK had a single candidate for President, and the PDK, VV, and AAK have done the same. However, I think that Vetëvendosje has somewhat of a higher level of democracy, perhaps due to the fact that it has not yet been in power [central level]."<sup>317</sup> On the other hand, political scientist Artan Mustafa, despite his criticism of the recent elections with only one candidate for President of the Self-Determination Movement, listed a number of reasons why he considers the Self-Determination Movement as the most democratic, compared with other parties. According to him, "the VV [has greater internal democracy] because of their clear ideological position, their structure that currently strives for activism on the ground, the many personalities that speak in public, the direct elections in which all the members vote... [L]ikewise, it should be credited as the first party that manages to mobilize a new popular movement without relating to extraordinary events, such as the war".<sup>318</sup> The same is believed by political analyst Agron Demi, who argues that: "If one takes into consideration the method of selection of party governance structures and that of preparation of electoral lists, it seems that the VV has greater intra-party democracy".<sup>319</sup>

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<sup>316</sup> Interview with Mr Halil Matoshi, analyst, Prishtina, March 28, 2016.

<sup>317</sup> Interview with Mr Bekim Baliqi, political scientist and professor at the Political Science Department, University of Prishtina, Prishtina, March 31, 2016.

<sup>318</sup> Interview with Mr Artan Mustafa, political scientist and journalist, Prishtina, April 5, 2016.

<sup>319</sup> Interview with Mr Agron Demi, political scientist and executive director at GAP Institute, Prishtina, April 5, 2016.

On the other hand, political parties have different perceptions of each other. Since each of the four political parties analysed here boast on the level of intra-party democracy and criticizes other parties for its absence, we tried to address this issue through one question. To capture the perceptions of political parties on each other, among the questions of the in-depth interviews, the following question is raised: Which of the three largest political parties has greater intra-party democracy, except your party? Asked which of the political parties (LDK, VV and AAK) has greater democracy, with the exception of the PDK, Basri Musmurati of the PDK stated that: "Based on what we see, the Democratic League of Kosovo has a greater democracy than the other two. In the VV however, there is total centralisation, which has no future."<sup>320</sup> Asked the same question, Arben Gashi of the Kosovo Democratic League, criticized the PDK, VV and AAK for the absence of intra-party democracy: According to him, "the PDK is a party which has not gone through a genuinely democratic internal process, because it has had a single leader since its establishment, and now it remains to be seen how it will operate. Whereas, the VV runs an internal dictatorship, as disclosed by people who left it. Meanwhile, the AAK has the characteristics of a family party."<sup>321</sup> Glauk Konjufca of the VV praised the formal democracy that exists in the LDK, but criticized the substantive aspect of this democracy. According to him:

[I]n the formal sense of the word, the Democratic League of Kosovo seems democratic. So, in formal terms, the Democratic League of Kosovo seems to satisfy the aspect of democracy for several reasons: for example, the first

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<sup>320</sup> Interview with Mr Basri Musmurati, Democratic Party of Kosovo, Prishtina, 31 March 2016.

<sup>321</sup> Interview with Mr Arben Gashi, Democratic League of Kosovo, Prishtina, 29 March 2016.

reason is that the LDK has had changed more presidents since the times of President Rugova, having had three different party presidents. This is a formal condition, but in terms of its content, the Democratic League of Kosovo does not look that different from the Democratic Party of Kosovo. Regarding the Alliance for the Future of Kosovo, in terms of content, it seems to have forums which discuss the direction of to be followed by the party, but we have a President who not only wants to keep his seat, but even uses statutory amendments to extend his rule, turn it into a permanent presidential seat and so on, which does not contribute to democracy in the country.<sup>322</sup>

Pal Lekaj from the Alliance for the Future of Kosovo, has given this rating for the rivals' intra-party democracy.

I think they do not differ from each other. The VV seems to have [it] internally, but even they have a chain structure. Orders are given top-down along a vertical command line, and I think we are still far from democratisation. The LDK may be more democratic, since they have gone through changes lately. But not so democratic, because whenever they elect a President it leads to splits in the LDK, which has weakened the LDK. Therefore, I think that the political parties in Kosovo are not democratic, because there is still the unquestioned leader. Insofar there is no internal competition, we cannot talk about democratisation.<sup>323</sup>

Based on the charters of political parties, decision-making practices and interviews with some of the officials of political parties, in this study we made an assessment of the degree of

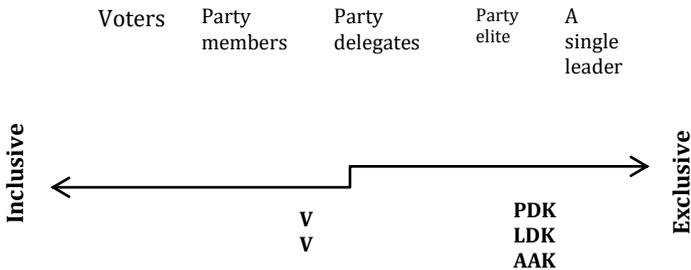
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<sup>322</sup> Interview with Mr Glauk Konjufca, Self-Determination Movement, Prishtina, April 1, 2016.

<sup>323</sup> Interview with Mr Pal Lekaj, Alliance for the Future of Kosovo, Prishtina, April 7, 2016.

inclusiveness and decentralisation in four political parties in Kosovo. Based on the model of Reuven Y. Hazan and Gideon Rahat<sup>324</sup>, the reach of political parties in Kosovo, in terms of the vector of inclusiveness and decentralisation, is evaluated as in the following table. In formal terms, with the exception of the PDK, whose charter expressly emphasizes internal party democracy (Article 10), the charters of the three other parties do not explicitly mention intra-party democracy. This does not mean that the PDK is the most advanced in the intra-party democratisation process in comparison to the LDK, VV and AAK. In fact, by comparing the charters of the four parties, it is clear that the PDK has the most problems with intra-party democracy compared to the VV, LDK and AAK.

Using the model developed by Hazan and Rahat, what was stated above on the reach of political parties in the vector of democratisation, graphically takes the following form.



**Source:** Model of scheme from Hazan and Rahat (2010).  
Author's estimates.

<sup>324</sup> Reuven Y. Hazan and Gideon Rahat, *Democracy within Parties: Candidate Selection Methods and Their Political Consequences* (Oxford University Press, 2010), p. 35.

### **8.2.1 The rights of members**

The PDK, LDK, VV and AAK have set different eligibility criteria and requirements to be met by citizens of Kosovo to join these parties. While in the PDK, VV and AAK, a written application for membership must be personally submitted by the candidate for membership, the LDK charter does not require the physical presence of the applicant when submitting the membership application. In terms of age, all Kosovo citizens over 16 years old, at the moment of accession, can join the PDK; the age threshold to join the LDK is not defined by the charter; and to join the VV citizens must meet the following five criteria: older than 16, membership fees, voluntary acceptance of VV documents, familiarization with the VV charter articles dealing with the rights and obligations of members, and the candidate must not be a member of any other political entity. Any Kosovo citizen who at the moment of accession is 18 years old can join the AAK. The following analyses the rights and obligations of members and the formal criteria required for membership in the PDK, LDK, AAK and VV.

<b>Manner of accession to the party</b>	<b>PDK</b>	<b>LDK</b>	<b>VV</b>	<b>AAK</b>
	Membership applications shall be submitted individually.	Membership applications must be sent in writing (it is not necessary that the applicant be present at the time of submission of the application).	Membership applications shall be submitted in writing. The application is signed and submitted by the candidate.	Membership applications must be in writing. The application is submitted by the candidate.
<b>Age and other criteria</b>	All citizens of the Republic of Kosovo who have turned 16 at the moment of accession.	Not mentioned in the charter.	To become a VV member (Article 16), one must fulfil the following 5 criteria: age over 16, the membership fee, voluntary acceptance of VV documents, familiarization with the VV charter articles dealing with the rights and obligations of members, and the candidate must not be a member of any other political entity.	Any Kosovo citizen who at the moment of accession is 18 years old.

Membership forms of political parties in Kosovo.

### PDK

Intra-party democracy is explicitly mentioned in the PDK charter. Under this charter, members have the right to express their views, but party decisions are taken by majority and are binding for all

members.<sup>325</sup> The general principle of membership in this party is conditional upon the age threshold, which applies to all citizens of Kosovo who have turned 16 at the moment of accession. Membership is individual. Membership procedures start after submission of the form in one of the PDK structures, whether a section, sub-branch, branch or the headquarters. The Section or Sub-branch Chair shall decide on accepting the member within two weeks.<sup>326</sup> Also, the PDK charter clarifies the rights and obligations of members and the conditions under which PDK members may potentially lose their membership status.

PDK members have the right to undertake political initiatives and to present them to decision-making bodies; they have the right to be proposed as candidates in electoral lists and to be informed about the work of PDK organs. However, the charter does not specify the nature of the political initiatives that members can undertake or how they will be informed about the work of the central bodies of the PDK. PDK members lose their membership status in case of resignation from the party, expulsion from the party or in the event of death. Thus, always under the charter, an ordinary member's status within the party is not suspended in case of a criminal investigation against him/her, or if accused of corruption or organised crime. The PDK charter regulates only the loss of status of member of the Governing Council in case of serious violations of the PDK charter, or if there is a final court verdict and the member is sentenced to over a year in prison.<sup>327</sup> However, prominent PDK figures, respectively mayors like Mr. Ramadan Muja (Prizren), Mr. Xhabir Zharku (Kaçanik), or Mr. Sokol Bashota (Kline), despite being accused of corruption, illegal possession of firearms etc., have continued to be protected by the

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<sup>325</sup> Charter of the Democratic Party of Kosovo, article 10.2.

<sup>326</sup> Charter of the Democratic Party of Kosovo, article 15.

<sup>327</sup> Charter of the Democratic Party of Kosovo, article 41.

PDK, because of their status as members of the PDK has not been suspended.<sup>328</sup> Besides members, the PDK charter<sup>329</sup> regulates the participation of supporters and sympathizers without voting rights in PDK activities.

## LDK

The LDK charter does not explicitly mention intra-party democracy. The rights and obligations of LDK members are governed by Article 8 of its charter. LDK members have the right to elect and be elected in LDK bodies; they have the right to express their opinions freely and to provide initiatives and proposals in accordance with the LDK charter, program and positions, and be informed about the activities of the LDK. In accordance with the charter, LDK members have an obligation to adhere to the program, charter and decisions of the LDK, to pay membership fees and "protect the honour, prestige and interests of the LDK... and strive for the success of the LDK in election campaigns."<sup>330</sup> Both these final obligations are very general to be concrete obligations for LDK members. Another problem regulated by the charter are LDK's values. The LDK charter explicitly states that "the criterion of LDK values is the contribution and dedication of every member to increase membership and votes at all levels".<sup>331</sup>

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<sup>328</sup> Genc Nimoni, 'Confirmed sentence against Zharku, Kaçanik in elections', *Gazeta Jeta në Kosovë*, 08.05.2012. Accessed at <http://gazetajnk.com/?cid=1,1018,2105> (23 March 2015); 'VV: Muja, fourth municipal chief (from the PDK) accused of corruption', *Kohantet*, 27.02.2013. Accessed at <http://koha.net/?id=8&arkiva=1&l=136749> (20 mars 2015); Jeton Musliu 'Medical report that keep Xhemajli out of prison', *Gazeta Jeta në Kosovë*, 24.10.2012. Accessed at <http://gazetajnk.com/?cid=1,3,3344> (20 March 2015).

<sup>329</sup> Charter of the Democratic Party of Kosovo, article 19.

<sup>330</sup> Charter of the Democratic League of Kosovo, article 8.2.

<sup>331</sup> Charter of the Democratic League of Kosovo, article 9.

LDK's measurement of values through the numerical criterion of membership and vote growth, is incomplete and problematic. At face value, this criterion establishes that members who are committed to providing ideas, strategies and programmatic and sectoral policies within the LDK, have no "value" according to the numerical, measuring criterion of the LDK. Besides members, the LDK charter (Article 15) notes that supporters and sympathizers of the party can participate in LDK activities, but the charter does not regulate their right to vote. Thus, always under the charter, ordinary members' status or function within the party is not suspended in case of criminal investigations against them, or if accused of corruption or organised crime.

## VV

To become a VV member (Article 16), one must fulfil 5 criteria: age over 16, the membership fee, voluntary acceptance of VV documents, familiarization with the VV charter articles dealing with the rights and obligations of members, and the candidate must not be a member of any other political entity. The VV charter does not explicitly mention intra-party democracy (within the Movement), but only direct democracy. According to this principle, each member has one vote. VV's membership is regulated in accordance with Chapter 3 of the charter. Article 17 of the charter specifies who cannot be a member of the VV, and that includes cooperation with foreign intelligence services, involvement in misuse of funds and corruption, as well as involvement in activities that promote fascist and Nazi ideology. This explicit arrangement is not found in the PDK, LDK or AAK charters. VV supporters are divided into two sub-categories - members and sympathizers. The latter may participate in VV actions and meetings, but do not enjoy the right to vote. If VV

members, for example, unjustifiably do not attend three consecutive meetings of the section, or violate statutory obligations, their status can be changed from member to sympathizer (Article 21), but this change can also occur on a voluntary basis, and members can choose to become sympathizers. VV members are also required to participate in VV meetings, actions and activities, to respect fundamental documents, to pay a membership fee and accept the decisions of the majority. The rights of members are regulated by Article 22, which states that members contribute to the design of VV attitudes and policies, they vote for VV's decision-making bodies, as well as run, are proposed and elected to leadership positions in the VV. Also, they can appeal the various VV decisions

### AAK

Any Kosovo citizen who at the moment of accession is 18 years old can join the AAK.<sup>332</sup> AAK members have the right to elect and be elected to the governing bodies of the AAK, to run for municipal and central government institutions, assume obligations for the implementation of the program, adhere to AAK's program, charter and decisions, and to preserve "the honour, prestige and interests" of the party. The AAK charter stipulates that membership status in the AAK may cease at the request of the member himself/herself, or via expulsion due to actions that are contrary to AAK's program, charter, attitudes and decisions, or if one becomes member of another political party.<sup>333</sup> Unlike resignations filed by members, expulsions are decided by the AAK Branch or Sub-branch Assembly, while the expulsion proposal is filed by the Presidency of the Branch or Sub-branch. Members

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<sup>332</sup> Charter of the Alliance for the Future of Kosovo, Article 5.

<sup>333</sup> Charter of the Alliance for the Future of Kosovo, Article 7.

have the right to appeal the expulsion decision in the Charter Committee within 15 days. The final expulsion decision is reviewed by the AAK Governing Council. Unlike other charters, the AAK charter regulates the status of honorary member<sup>334</sup> awarded to citizens with special merits. Honorary members are nominated by the Presidency, and the decision adopted by the AAK Governing Council. The AAK charter does not explicitly mention the membership's contribution to drafting policies, the program or the charter of the AAK. There is mention either of suspending the membership status of AAK members potentially involved in corruption or crime.

### **8.2.2 Quotas for representation of women, youth and minorities**

Of no less importance is another element of intra-party democracy; determining representation quotas of women, youth and minorities. Youth and women are represented in two PDK bodies: Democratic Youth (RD) and the Democratic Women (GD).<sup>335</sup> The LDK charter also provides for the representation of youth and women in LDK bodies at the central and local level, but does not establish representation quotas. According to the LDK charter, "when electing delegates to the Assembly, each branch ensures representation of women and young people"<sup>336</sup>. Also, the list of LDK forums includes the LDK Women Forum and the LDK Youth Forum (young people aged 16 to 26).<sup>337</sup> The VV does not provide any participation quotas for women or youth. In the AAK, youth

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<sup>334</sup> Charter of the Alliance for the Future of Kosovo, Article 8.

<sup>335</sup> Charter of the Democratic Party of Kosovo, article 57.

<sup>336</sup> Charter of the Democratic League of Kosovo, article 18.

<sup>337</sup> Charter of the Democratic League of Kosovo, article 38.

and women are represented in the Kosovo Women Alliance (AGK), and the Kosovo Youth Alliance.<sup>338</sup>

<b>Quotas for women, youth and minorities</b>	<b>PDK</b>	<b>LDK</b>	<b>VV</b>	<b>AAK</b>
	Not mentioned in the charter.			

Quotas for women, youth and minorities within political parties in Kosovo.

The fact that the charters of political parties in Kosovo do not precisely regulate the representation of women in party structures, says a lot about their lack of sensitivity towards building a free and equal society in Kosovo. Democracy is not a political regime of the rule of men, as it is often understood in Kosovo. The latest cumulative data show that women turnout at the 2013 local elections was 51%, while that of men 44%, showing an increased interest in political participation and representation.<sup>339</sup> In fact, for the first time in the 2013 local elections, Kosovars voted for a woman mayor, when Mimoza Kusari-Lila of the AKR party won the race against Pal Lekaj of the AAK in Gjakova. Being a society politically driven by "father figures", which extends patriarchy in the political sphere, the designers of the political system in Kosovo set proactive mechanisms, respectively the 30% quota through which women would be represented. Laws on local and general elections oblige parties to ensure that every third candidate on their lists for the elections is a woman.

Seventeen years after the establishment of the international administration, thanks to the guarantee of representation of women in institutions, Kosovo has made significant strides in increasing the number of women in political institutions at central and local

<sup>338</sup> Charter of the Alliance for the Future of Kosovo, Articles 35 and 37.

<sup>339</sup> NDI, "Kosovo: Overcoming Barriers to Women's Political Participation". NDI. February, 2015, p. 10.

level. The number of women MPs in general elections has increased from 34 in 2001 to 36 in 2004, then 37 in 2007, reaching the highest representation in the 2010 elections, when the number of women MPs in the Kosovo Assembly was 40, and then declining slightly in the 2014 elections, when 39 women were elected MPs in the Kosovo Assembly.

Although the implementation of the quota for women's representation in institutions has contributed to breaking down prejudices about women, the data show that, in addition to the quota, the number of preferential votes for women has also increased. In the last three general elections in Kosovo (2007, 2010 and 2014), the number of preferential votes for women has increased significantly. In the 2007 elections, the number of women elected without the quota is 16; in the 2010 elections this number dropped to 15; and in the 2014 elections the bar was set the highest, when 20 Kosovo Assembly women MPs earned their mandate without the quota.

At the level of political parties, according to the CEC, the number of LDK women MPs voted for their merit (i.e. outside the quota) is higher in comparison to other political parties. In the 2010 elections, the number of women MPs elected without the quota was 7 (compared with 2 women elected via the quota), whereas in the 2014 elections the number dropped to 5 (compared with 4 women elected through the quota). It is worth noting here that in the 2014 general election, Vjosa Osmani ranked second in the list of most voted LDK MPs, earning a total of 39,911 ballots, while Teuta Rugova had received 37,178 ballots, and Hykmete Bajrami 10,196 ballots.<sup>340</sup> Preferential voting for PDK women MPs has declined from the 2007 elections, when 7 women MPs were

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<sup>340</sup> Central Election Commission, "Final results of candidates", 2014 Elections. Accessed at [http://www.kqz-ks.org/Uploads/Documents/20140701%20Candidates%20Seats%20Allocation\\_bspfuqevtz.pdf](http://www.kqz-ks.org/Uploads/Documents/20140701%20Candidates%20Seats%20Allocation_bspfuqevtz.pdf) (23 April 2015).

elected without the quota, to the 2010 and 2014 general elections, when only two PDK women MPs were elected without the quota, compared with 9 (in 2010) and 10 (in 2014) women MPs elected through the quota. Sala Berisha-Shala of the PDK was ranked 33rd on the list, collected 14,179 ballots, while Labinota Demi-Murtezi of the Justice Party, who was included in the PDK list of candidates as a result of a pre-electoral agreement, received the highest number of votes within the PDK, i.e. 14,232 ballots. The VV has experienced growth of the preferential vote for women, reaching 40% from 2010 to 2014. While in the 2010 general elections, 4 women had won seats in the Kosovo Assembly based on the quota and 1 woman MP won on merit, in the 2014 general elections, only two VV women MPs received their mandates under the quota, while 3 others on merit.<sup>341</sup> In the 2014 general elections, Puhie Demaku of the VV ranked fourth with 15,765 ballots, while Aida Dërguti ranked ninth with 9,805 ballots. In the AAK there is a relative growth of the preferential vote for women from 2010 to 2014. In the 2010 elections, three women from the AAK list became MPs deputies thanks to the quota, and only one on merit; whereas in the 2014 elections, two AAK women earned their MP mandate under the quota and 2 more on merit. The two most voted women in the AAK in the 2014 elections were Donika Kadaj Bujupi with 6,143 ballots, who ranked fourth in the AAK list, and Time Kadrija, who ranked seventh with 5,749 ballots.

Although the proportion of Kosovars voting for women has increased, research shows that women feel less favoured by their parties for participation in media debates, as well as in terms of financial support provided to them by the party. According to the NDI survey, 77% of women are dissatisfied with media promotion

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<sup>341</sup> For more, see D4D, "Election Trends 2000-2014: Numerical Analysis of participation and representation" (Series: Elections and political parties, No. 9, Prishtina, 2015).

by their parties, and 49% of women think that they are less financially supported by their parties.<sup>342</sup>

Regarding the representation of minorities within party organisational structures, none of the four parties involved in this study provides any internal representation quota for minorities. In Kosovo, none of the political parties has a multi-ethnic structure or political vision. Although this study does not analyse the parties of ethnic minority groups in Kosovo, it must be said that these parties are registered as ethnic parties, and the Constitution and laws, in accordance with Lijpjjart Arendt's consensual democracy representation principles, regulate their representation. However, there are distinctions in the visions of the Albanian political parties in Kosovo, and the formulations and language used to describe minorities or communities. The PDK charter, for example, states that PDK is committed to "respect human freedoms and rights and minority rights guaranteed by the Constitution, laws and international conventions." The LDK charter doesn't even mention the terms *minority*, *ethnicity*, *ethnic community*, or *community*. The VV charter does not mention any of the terms describing minorities or communities in Kosovo either. The general provisions of the VV charter mention only *people* and *citizens*: "Factoring people in political decision-making through organisation and mobilization", and further is noted that the VV is erected on "the principle of equality, democracy, political freedom and social justice for every citizen". Thus, the term *citizen* and not *ethnic group* or *ethnic community* is used in the VV charter. The *people* is used 4 times in the VV charter. Three times in a general sense: "factoring the people", "will of the people", "people must be free", while the fourth in concrete terms: "sovereignty of the

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<sup>342</sup> NDI, "Kosovo: Overcoming Barriers to Women's Political Participation". NDI. February, 2015, p. 17.

Albanian people". The AKK charter, like the LDK one, makes no mention of minorities or terms related to minorities.

### 8.2.3 Central party bodies

The highest central body within the PDK is the General Convention, while the LDK has the Assembly. The highest decision-making body within the VV is the Presidency, while in the AAK the Central Assembly. The frequency of meetings and powers of these bodies in these political parties differ from each other. In the PDK, the Electoral Convention is held every two years; the LDK must call its Electoral Assembly every three to four years. The Central Electoral Assembly of the AAK meets at least once every three years, while the VV general elections are held at least twice a year. The frequency of intra-party electoral conventions/assemblies is assumed to directly affect internal debate and reform of party structures. The VV leads in this regard, followed by the PDK, AAK and finally the LDK.

<b>Electoral Convention/ Assembly</b>	<b>PDK</b>	<b>LDK</b>	<b>VV</b>	<b>AAK</b>
	Every two years	Every three to four years	At least twice a year	At least once every three years

Frequency of electoral conventions of political parties in Kosovo.

#### PDK

The PDK organisational structure is based on two levels, central and local. The PDK also conducts its activity outside the territory of Kosovo, in the Diaspora. The mandate of central PDK bodies is four years. The central bodies are: General Convention, President, Governing Council, Presidency, National Assembly, Democratic

Women Organisation, Democratic Youth Organisation and Volunteer Groups. At the local level, the PDK is organised in sections, sub-branches and branches. According to the PDK Charter, the General Convention is the highest PDK body. The convention holds working sessions and electoral sessions. The Convention's working sessions are held every two years, the electoral ones every four years. The composition of the General Convention is based on six categories: delegates selected proportionally to the number of ballots received in the last elections; PDK Presidency members; government ministers from PDK ranks; Kosovo Assembly members from the PDK; Presidency of Democratic Youth and Presidency of Democratic Women at central level. The General Convention of the PDK may also be convened in extraordinary session by 1/3 of the delegates to this Convention, 1/3 of the branches, the Governing Council or the President. The powers of the Convention include, inter alia, approval of the PDK program, election of the PDK President, election of the Governing Council, election of the Statutory Committee.<sup>343</sup> The highest body between the two conventions is the Governing Council, composed of 155 members plus 10 members from the Diaspora, all with a 4-year mandate. Half of the candidates elected to the Governing Council are proposed by the President, in consultation with the Presidency.<sup>344</sup> Under the charter, the Governing Council has 14 powers,<sup>345</sup> which among others include: initiatives to give proposals for the PDK program and charter, adoption of the Rules of Procedure, election of members of the Presidency, approving the budget, selection of electoral staff, adoption of the list of candidates for elections and deciding on entering into pre and post-electoral coalitions.

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<sup>343</sup> Charter of the Democratic Party of Kosovo, article 34.

<sup>344</sup> Charter of the Democratic Party of Kosovo, articles 38 and 39.

<sup>345</sup> Charter of the Democratic Party of Kosovo, article 42.

## LDK

The LDK organisational structure is based on two levels, central and local. The LDK also exercise its political activity outside the territory of the Republic of Kosovo and cooperates with other political and non-political organisations, domestically and abroad. The central bodies of the LDK are: Assembly; General Council; President and Presidency. The Assembly is the highest body within the LDK. The LDK charter regulates two types of assemblies - Electoral Assembly and Working Assembly. The Electoral Assembly is convened every four years, whereas the Working Assembly at least once between two electoral assemblies. The Assembly meeting is called by the President of the LDK, or at the request of one third of the delegates to the Assembly. The LDK Assembly comprises 355 delegates elected at assemblies of branches. The General Council decides the delegate selection criteria and number for branches and sub-branches. During selections, each branch and sub-branch ensures representation of women and youth. Members of the Presidency and the General Council, who are not elected delegates, are eligible to participate in the Assembly, but have no voting rights. The Assembly is the highest body within the LDK and it exercises 8 powers. Among other things, the Assembly is the body that adopts the program and the charter, elects the President, the General Council and members of the Statutory Committee. The LDK charter explicitly states that "LDK bodies are elected by secret ballot."<sup>346</sup> Between the two Electoral Assemblies, the LDK General Council, consisting of 99 members, is the highest organ of the party. The LDK Assembly elects 98 members of the Council, while the President of the LDK Assembly also chairs the General Council. The members of the General Council are proposed by the Nominations Commission in

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<sup>346</sup> Charter of the Democratic League of Kosovo, article 21.

consultation with the President. The LDK Council has 17 powers: proposing the program and charter for adoption by the Assembly; deciding on pre and post-electoral coalitions at the central level; electing and dismissing members of the Presidency; upon proposal of the President, approving the members of the governing cabinet proposed by the candidate for prime minister.

## VV

The VV Movement is organised on three levels. The VV is organised through points, centres and higher decision-making bodies. The highest decision-making body is the VV General Council, which has 16 powers. Among other things, the Council amends and adopts the charter with 2/3 of the vote of the members of the General Council; decides to dissolve the VV with 3/4 of the vote of all members of the Council; decides by simple majority to address through direct democracy issues not regulated by the charter; elects the Chair and deputy Chair of the General Council; oversees the VV Parliamentary Group; sets the date of internal elections; adopts the budget; approves the final list of VV candidates for the Kosovo Assembly elections; calls for interpellation of the VV President, at the request of 1/5 of the members of the Council. The General Council meets once every three months, while extraordinary meetings may be convened at the request of 1/5 of the members of the Council. The VV General Council is composed of delegates from the centres, the heads of centres, the VV MPs, the VV mayors, the VV ministers, the president, the presidency and members of honour.<sup>347</sup> The highest body between two meetings of the General Council is the VV Presidency.

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<sup>347</sup> Charter of the Self-Determination Movement, Section 66.

## AAK

Unlike the charters of the other parties, the AAK charter does not provide clear division of responsibilities between local and central authorities. For example, when mentioning the Assembly, the Council and the President, as well as when listing the responsibilities of these bodies, the powers of party organs are not completely clear, and it only states, "depending on the level of organisation." The AAK organisational structure is divided into sub-branches, branches, Albanian Diaspora branches, and central authorities. The highest decision-making body is the AAK Central Assembly, which has 8 powers. Among other things, this Assembly adopts and amends the AAK charter and political; evaluates the performance of the central bodies of the AAK; elects and dismisses the President of the AAK (selected through free competition); elects the Governing Council; may require a vote of confidence on the AAK President; approves financial reports and reviews and approves the Presidency report on the activities undertaken between the two Assemblies. The AAK statute recognizes three types of assemblies: Electoral Assembly, Working Assembly and Extraordinary Assembly. The Regular Electoral Assembly is held once every three years, and it can be convened only by the President. The AAK charter defines 8 criteria on how members are delegated to the Assembly.

According to the formula specified in the charter, each branch sends 2 delegates to the Assembly, with the exception of branches in areas with more than 100,000 people, which send 3 delegates to the Assembly. MPs, ministers, deputy/ministers, members of the current presidency and the 9 experts of the AAK National Council are delegated automatically. Likewise, the Youth and Women Alliances, each send 20 delegates to the Central Electoral Assembly, while the AAK diaspora branches are represented by 20 delegates. The extraordinary AAK assembly can be convened: in case of serious statutory violations of the leadership of the party; in case of

announcement of early elections, or constitutional and political crisis in the country; and in case of resignation or death of the AAK President. This type of assembly can be convened by 2/3 of the members or 1/3 of the Assembly delegates. The AAK Governing Council is the highest decision-making body between two Electoral Assemblies.

Unlike the PDK, LDK and VV, the AAK Governing Council is more inclusive and representative. The AAK Governing Council is composed of 6 categories. The Council consists of: Chair; deputy Chairs; Secretary General; 60 members elected by the Assembly; 5 representatives from the Women Alliance; and 5 representatives from the Youth Alliance.

The AAK Governing Council has 15 powers. Among other things, this Council approves the proposed draft program and charter of the party; upon proposal of the AAK President, elects the deputy Chairs, Secretary General and other members of the Presidency with 2/3 of the votes of the members of the Governing Council; upon proposal of the President, approves the "strategic line, policy and party duties" (although it is not specified what the "strategic line" is); upon proposal of the President, approves the list of candidates for the Kosovo Assembly and reviews coalitions at every level of organisation. According to the AAK charter, the party may be dissolved with 2/3 of the votes of all members in the Assembly session, whether regular or extraordinary.<sup>348</sup>

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<sup>348</sup> Charter of the Alliance for the Future of Kosovo, Article 47.

## 8.2.4 Disciplinary Committees

Disciplinary committees	PDK	LDK	VV	AAK
	<p>Disciplinary Committees may be established at the branches and centre.</p> <p>Commissions are established by the presidencies (branch or central government).</p> <p>"All PDK members, including those in senior leadership positions within the PDK, who violate the Charter, the decisions of the organs of the PDK, the program, and deviate from the PDK policy or otherwise violate the PDK principles and values, will be disciplined."</p> <p>5 disciplinary measures: verbal warning, reprimand, temporary suspension of the function, removal from function, and temporary exclusion</p>	<p>Disciplinary committees are formed only in the centre.</p> <p>The committee consists of 3 members. 2 members are elected by the LDK Central Presidency, and 1 is elected by the branch presidency that has filed the disciplinary case.</p> <p>Membership in the LDK can be revoked if one "abuses LDK's fundamental values and objectives, performs actions that discredit or embarrass the LDK, acts against LDK candidates in parliamentary, local or other level elections, and supports other political parties and their candidates in the elections."</p> <p>Disciplinary measures are not mentioned.</p>	<p>In the VV, disciplinary committees are established at centres and at the general level.</p> <p>The committee consists of five members.</p> <p>The charter foresees 8 disciplinary measures, as follows: 1) warning; 2) a written warning; 3) removal from any position within the VV bodies; 4) temporary or permanent suspension of the right to run for VV organisational positions; 5) probation; 6) temporary suspension of membership status; 7) requests for compensation of damages caused to the VV; and 8) complete expulsion.</p>	<p>The statute does not regulate any disciplinary committee.</p>

With the exception of the Alliance for the Future of Kosovo, all political parties analysed here have Disciplinary Committees in their charters. It is important to note that intra-party organisational practices in Europe label such organs as conflict resolution mechanisms and not as disciplinary mechanisms.

## PDK

Other bodies regulated by the PDK charter are the so-called disciplinary committees. These committees, according to the PDK charter<sup>349</sup>, are established on two levels. At the centre, disciplinary committees are established by the PDK presidency, while at the branches by the branch presidency. The committees are composed of six members, including the committee chair, deputy chair and four members. According to the PDK charter<sup>350</sup>, party discipline and the manner of voting are regulated as follows: "All PDK members, including those in senior leadership positions within the PDK, who violate the Charter, the decisions of the organs of the PDK, the program, and deviate from the PDK policy or otherwise violate the PDK principles and values, will be disciplined." The PDK charter foresees 5 disciplinary measures: verbal warning, reprimand, temporary suspension of the function, removal from function, and temporary exclusion. However, the charter does not expressly mention that the Disciplinary Committee may take disciplinary measures against the party president.

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<sup>349</sup> Charter of the Democratic Party of Kosovo, article 58.

<sup>350</sup> Charter of the Democratic Party of Kosovo, article 65.

## LDK

The Disciplinary Committee is among the 3 committees regulated by the LDK charter<sup>351</sup>. This committee consists of 3 members. 2 members are elected by the LDK Central Presidency, and 1 is elected by the branch presidency that has filed the disciplinary case under review. Under the charter, disciplinary measures may be imposed on all members who act against the LDK program and charter.<sup>352</sup> According to the LDK charter, there are six cases in which a member ceases to be a member of the LDK: member's death, resignation from membership, membership in another entity, running on the list of another political entity, and expulsion from the LDK.<sup>353</sup> The Disciplinary Committee may impose disciplinary measures against LDK members acting contrary to the LDK program and charter, and against the decisions and stances of central LDK bodies. Membership in the LDK can be revoked if one "abuses LDK's fundamental values and objectives, performs actions that discredit or embarrass the LDK, acts against LDK candidates in parliamentary, local or other level elections, and supports other political parties and their candidates in the elections." Obviously, Article 14 of the charter, which governs the causes for expulsion of members from the party and disciplinary measures, is too general. The use of terms such as "abuse of fundamental values", "embarrass the LDK" remains highly problematic, because the terms are abstract, not empiric and provide room for arbitrary and quite subjective definitions and evaluations of "embarrassing" situations. Another problematic element of intra-party democracy remains the treatment of LDK members who have different opinions or disagree with the

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<sup>351</sup> Charter of the Democratic League of Kosovo, article 16.

<sup>352</sup> Charter of the Democratic League of Kosovo, article 13.

<sup>353</sup> Charter of the Democratic League of Kosovo, article 11.

decisions of the LDK. According to the LDK charter, members who publicly reject the decisions of LDK bodies, cannot take leading positions in the LDK organs and forums. However, unlike the PDK charter, the LDK's does not envisage disciplinary measures, such as reprimand, verbal warning, temporary expulsion or removal from function.

## VV

The VV charter governs the disciplinary measures taken against VV members in case of violation of the charter or program. In the VV, disciplinary committees are established at centres and at the general level. At centres, the Disciplinary Committee consists of five members of the centre and is established by the Centre's Council. On the other hand, the General Disciplinary Committee is also composed of five members, who are nominated and elected by the VV General Council. The charter also regulates potential conflict of interests between the member against whom disciplinary measures may be imposed and Disciplinary Committee members; in case of conflict, the latter should be replaced. All VV members have the right to appeal the decisions of these committees. For members who are confirmed to have violated VV principles, decisions and founding documents, the charter foresees 8 disciplinary measures, as follows: 1) warning; 2) a written warning; 3) removal from any position within the VV bodies; 4) temporary or permanent suspension of the right to run for VV organisational positions; 5) probation; 6) temporary suspension of membership status; 7) requests for compensation of damages caused to the VV; and 8) complete expulsion.<sup>354</sup> Also, the charter envisages the Appeals Review Committee, where members, against whom disciplinary measures have been imposed, have the

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<sup>354</sup> Charter of the Self-Determination Movement, Section 88.

right to file their complaints. The latter shall examine the complaint and make a final decision within a period of 14 days. Unlike the other parties, the VV has exercised this prerogative of the charter. For example, based on Article 24 and Article 88, Ajnishahe Halimi and Arben Gecaj were expelled from the VV by decision of the Disciplinary Committee, arguing that they have abused the funds and tasks they were entrusted with by the VV when they installed the VV office in her property in breach of VV principles and founding documents.<sup>355</sup> Later, part of the VV Centre in Skënderaj issued a press release stating that the reasons for the dismissal of Ms. Halimi were not valid and that the VV offices in Skënderaj were used exclusively for VV purposes. In this statement, the VV leadership is accused as follows: "they are dictators by upbringing, leftist extremists, even Enverist, and they use Stalinist methods to eliminate anyone who does not think like them one hundred percent. They live in a bubble - their own little state, which they fanatically protect from the penetration of any other idea or any other person, even intellectuals, because it ruins their mood". However, another part of the Skënderaj VV Centre reacted in disagreement with this statement.<sup>356</sup>

### **8.2.5 Presidencies of political parties**

The presidencies of political parties are central organs of political parties. In the PDK and LDK, the party presidency is the main executive body, whereas in the VV and AAK, the presidency is the highest decision-making body. The VV presidency has the least

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<sup>355</sup> "VV expels Ajnishahe Halimi and Arben Gecaj" Telegrafi. Accessed at <http://www.telegrafi.com/vetevendosje-i-perjashton-nga-partia-ajnishaha-halimin-dhe-arben-gecajn/> (2 June 2016).

<sup>356</sup> "How many VVs in Skënderaj?", Telegrafi. Accessed at <http://www.telegrafi.com/sa-vetevendosje-ka-ne-skenderaj/> (2 June 2016).

number of members compared to the other parties. The LDK presidency has the most powers compared to the other parties. The PDK presidency has 25 members, LDK's has 23 members, AAK's has 17 members, and VV's 15 members. If inclusion in the presidency is considered as one of the criteria measuring intra-party democracy, then the PDK leads in inclusion in the presidency, followed by the LDK, the AAK and finally the VV. However, when analysing the width of the statutory powers the presidency has the formal right to exercise - following the logic: less concentration of powers in a party organ and more joint exercise and separation of powers within party bodies - then AAK's and VV's presidencies lead in democratisation, followed by the LDK and the PDK.

	<b>PDK</b>	<b>LDK</b>	<b>VV</b>	<b>AAK</b>
<b>Party presidency</b>	Main executive party.  Presidency consists of 25 members.  Has 14 powers.	Main executive party.  Presidency consists of 23 members.  Has 20 powers.	Highest decision-making organ.  Presidency consists of 15 members.  Has 11 powers.	Highest decision-making organ.  Presidency consists of 17 members.  Has 11 powers.

Powers and composition of party presidencies

## PDK

In addition to the Governing Council, the PDK Presidency, consisting of 25 members for a 4-year term, is the main executive body of PDK policies.<sup>357</sup> The Presidency consists of the president, vice-presidents, general secretary and other members. The regular

<sup>357</sup> Charter of the Democratic Party of Kosovo, article 43.

weekly meetings are called by the President or 1/3 of Presidency members and decisions are taken by majority vote. The vote of the President is crucial if the number of votes *for* and *against* is equal.<sup>358</sup> The presidency has 14 powers,<sup>359</sup> and among others: 1) proposes the list of candidates for national and local elections, which are approved by the Governing Council; 2) manages funds and assets at central level; 3) selects candidates for public office; 4) elects the members of the Audit Committee and the Disciplinary Committee; 5) issues the final consent of the list of candidates for ministers; 6) issues the final approval of PDK candidates for mayor; 7) establishes the Central Disciplinary Committee.

## LDK

The LDK Presidency, consisting of 23 members, is the body that executes the policies of the General Council. The President proposes 20 members of the Presidency for approval by the General Council, while the LDK President, the Women's Forum President and Youth Forum President are the remaining 3 members of the LDK Presidency. Unlike the PDK charter, where the vote of the president is decisive if the number of votes *for* and *against* is equal, the LDK charter stresses that the "LDK President, respectively the Presidency, have the right to suspend the execution of decisions of LDK organs, which are contrary to the Law and the LDK Program and Charter" (Article 32). The LDK presidency has 20 powers. Among other things, the Presidency 1) ensures the implementation of the decisions of the Assembly, the Council and the President, 2) elects the members of the Disciplinary Committee, 3) appoints the Chair of the LDK Parliamentary Group, 4) suspends the work of the presidency of branches or sub-

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<sup>358</sup> Charter of the Democratic Party of Kosovo, article 47.

<sup>359</sup> Charter of the Democratic Party of Kosovo, article 46.

branches in exceptional cases, and 5) presents an annual report on the work of the General Council.

## VV

According to the VV charter, between the two meetings of the General Council, the Presidency is the highest decision making body. Composed of 15 members, the Presidency members cannot be elected mayors, municipal councillors, MPs and members of the governing cabinet. Exempt from this rule are the VV president, the chair of the VV Parliamentary Group and the Prime Minister elected by the VV, which are part of the Presidency. The VV Presidency meets once every two weeks and is chaired by the President or any other member of the Presidency, authorized by the President. There are two procedures to call meetings of the Presidency: 1) at the request of the VV president, 2) at the request of 1/3 of the members of the Presidency. According to the VV charter<sup>360</sup>, the Presidency consists of: President, two Vice-Presidents, the Chair of the General Council, the Organizing Secretary, the Chair of the Parliamentary Group and the Secretary for Foreign Relations, the Committee Coordinator and 7 members nominated by the General Council of the Self-Determination Movement. The VV presidency has 11 powers. Among other things, the Presidency 1) implements the decisions of the General Council; 2) supervises the work of the executive and advisory bodies of the VV; 3) in exceptional cases, suspends the work of a centre, which acts in contradiction with the charter; 4) negotiates agreements with third parties; 4) makes decisions on all political actions of the VV; 5) decides to organize protests and demonstrations, 6) calls an extraordinary meeting of the General Council.

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<sup>360</sup> Charter of the Self-Determination Movement, Section 70.

## AAK

The AAK Presidency is the executive body of policy implementation at every level of the organisation of the party. Article 20 of the AAK Charter regulates the Expanded Presidency, while Article 21 regulates the functioning and organisation of the Presidency.<sup>361</sup> AAK's Expanded Presidency issues recommendations, forms working bodies and issues the work regulation. AAK's Presidency is responsible for organizing election campaigns, expanding membership and fundraising. It is the President who decides on the division of responsibilities among the members of the Presidency, which is quite unparalleled in the PDK, LDK or VV charters. AAK's General Presidency has at least 17 members, and is responsible for implementing the AAK program and charter. It is subject to the policies of the Assembly and the Governing Council of the AAK. The presidency has 11 powers. Among other things, it issues decisions on party activities, adopts by a simple majority vote the list of the Governing Council of candidates for mayors, councillors in Municipal Assemblies, and the list of candidates for MPs of the Kosovo Assembly. Once the list of candidates is approved by the party presidency, the AAK President sends it for approval to the Governing Council.

### **8.2.6 Party president**

The presidents of political parties are part of the central party organs. With the exception of the VV charter, none of the others limits the mandate of the party president. The political power of the heads of political parties in Kosovo goes beyond the powers foreseen by their charters; however, their statutory aspects are

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<sup>361</sup> Charter of the Alliance for the Future of Kosovo, Articles 20 and 21.

compared, for empiric reasons, in terms of how they are elected, breadth of powers they exercise and accountability mechanisms. The LDK president has more statutory powers compared to the PDK, VV and the AAK presidents. The LDK charter awards 20 powers to the president. The AAK president has 15 powers. The PDK president has 14 powers, while the VV president formally has 10 powers. Unlike other parties' secretaries, who have symbolic powers, according to the VV charter, the VV secretary is practically and formally one of the key figures in the VV. The VV secretary reports every two weeks to the VV president, jointly exercising executive powers. While the PDK charter requires neither a secret ballot nor multiple candidates to elect the president, the LDK charter requires a secret ballot and multiple candidates to elect the president. Despite this, the last LDK Assembly elected the current president without secret ballot and by simple roll call, contrary to this statutory provision. The AAK charter doesn't prescribe secret ballot and multiple candidates to elect the president either. The VV president is elected directly by VV members, and in terms of inclusion of members in the election process of this party organ is more democratic compared to other parties. However, the current VV president was also elected without any opposing candidate. Regarding accountability mechanisms, the PDK and VV charters do not foresee explicit procedure for the dismissal of the president, unlike the LDK and AAK charters, which provide for the vote of confidence of the president.

<b>Party president</b>	<b>PDK</b>	<b>LDK</b>	<b>VV</b>	<b>AAK</b>
	<p>Elected by the General Convention.</p> <p>No secret ballot or second candidate is required to elect the president</p> <p>Has 14 powers.</p> <p>Among other things, has the right to dissolve the branch and appoint new interim leadership.</p> <p>The PDK charter does not provide any procedure for dismissal of the PDK president, nor does it limit presidential terms.</p>	<p>Elected through secret ballot, between numerous candidates, by the LDK Assembly.</p> <p>The LDK president is elected through secret ballot, between numerous candidates, by the LDK Assembly.</p> <p>LDK presidential candidates are announced at the LDK Assembly and are approved by "50% plus one of present" (Article 25).</p> <p>Has 20 powers.</p> <p>Upon proposal of 1/3 of assembly members, a vote of confidence can be called on the president.</p> <p>Vote of confidence provided.</p>	<p>The VV president is elected directly by VV members with voting rights.</p> <p>The president has a three-year term.</p> <p>Unlike the LDK, PDK and AAK charters, the VV one regulates that upon election as prime minister, he/she shall resign from the seat of VV president.</p> <p>The president has 10 powers.</p> <p>However, the VV Secretary, who has executive powers, fortnightly reports to the President.</p> <p>Dismissal is not provided by the charter.</p>	<p>The AAK president is elected and can be dismissed by Assembly.</p> <p>Has 15 powers.</p> <p>In the event of election to the seat of Prime Minister, is released from the seat of AAK president.</p> <p>The president has the right, at any time and as required, members to the presidency, and "such proposals must be approved by the Governing Council".</p> <p>Vote of confidence on president provided.</p>

### Powers of presidents of political parties in Kosovo.

#### PDK

Two of the 10 powers of the General Convention (Article 34), are electing the Governing Council and the PDK president. However, the charter does not explicitly regulate the procedure of election of the president, whether by secret vote or by roll call, nor does it specify the number of candidates or the method of election. The president has a four-year term and answers to the General Convention. The PDK president has 14 powers. Article 37 of the PDK charter awards to the president the power to: 1) represent the

PDK in local bodies and international organisations; 2) call and conduct meetings of the Presidency and the Governing Council; 3) issue the final proposal, in cooperation with the Presidency, of the list of PDK candidates for the Assembly; 4) propose, by a special act and after consultation with the Presidency, the expulsion from the PDK of "all those who act contrary to PDK policies and do not adhere to party discipline"; 5) propose the members of the Presidency; 6) decide, in consultation with the Presidency, on pre or post-electoral coalitions.<sup>362</sup> The PDK charter recognizes the power of the PDK president to dissolve branches and appoint interim chairs, in case of "appearance of exceptional circumstances and disputes that impede the operations of the respective branch".<sup>363</sup> The PDK charter does not provide any procedure for dismissal of the PDK president, nor does it limit presidential terms.

## LDK

Two of the 8 powers of the LDK Assembly<sup>364</sup> are the election of members of the General Council and election of the president. According to the LDK charter "the LDK president is elected through *secret ballot*, between numerous candidates, by the LDK Assembly." LDK presidential candidates are announced at the LDK Assembly and are approved by "50% plus one of the delegates present".<sup>365</sup> The LDK president occupies three seats within the LDK - Assembly Speaker, General Council Chair and LDK Presidency Chair. The president is accountable to the Assembly of the LDK. LDK elected bodies, including the president, is 4 years. serve for 4 years.<sup>366</sup> The charter sets no

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<sup>362</sup> Charter of the Democratic Party of Kosovo, Article 37.

<sup>363</sup> Charter of the Democratic Party of Kosovo, Article 43.

<sup>364</sup> Charter of the Democratic League of Kosovo, Article 19.

<sup>365</sup> Charter of the Democratic League of Kosovo, Article 25.

<sup>366</sup> Charter of the Democratic League of Kosovo, Article 51.

limitation on the number of presidential terms. The LDK president has 10 powers. Article 26 of the LDK charter awards to the president the power to: 1) implement Assembly decisions 2) represent the LDK domestically and abroad; 3) make policy decisions in accordance with the program and charter; 4) call and conduct meetings of the Assembly, the Council and the Presidency of the LDK; 5) appoint the LDK administrator, etc. Unlike the PDK charter, which does not foresee any explicit procedure for the dismissal of the president, Article 27 of the LDK charter regulates that "upon proposal of 1/3 of assembly members, a vote of confidence can be called on the president. The confidence vote may also be called by the president." The mandate of the president is terminated upon dismissal or the president may resign before the end of the term.

## VV

VV applies direct democracy in the election of the president. Unlike the PDK, LDK and AAK ones, the VV president is elected directly by its members with voting rights. The VV president is the highest political representative, chairs the Presidency and is accountable to the General Council. The president has a three-year term. Unlike the LDK, PDK and AAK charters, the VV one regulates that upon election as prime minister, he/she shall resign from the seat of VV president. However, the VV charter does not explicitly provide procedures for the dismissal of the president, as is the case with the LDK charter. The charter specifies that mandates of senior VV officers may be terminated in case of: 1) resignation; 2) non-fulfilment of duties, and 3) violations of the fundamental VV documents.<sup>367</sup> The president has 10 powers. Among other things 1) coordinates VV activities; 2) convenes and

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<sup>367</sup> Charter of the Self-Determination Movement, Article 44.

chairs ordinary and extraordinary VV meetings; 3) determines the duties of the Presidency; 4) proposes the deputy president, organisational secretary, coordinator of the committees, and the secretary for foreign relations. VV members elected to the above posts cannot hold any other steering position within the VV. The VV secretary reports every week to the VV president, and in consultation with the latter proposes the heads of the secretariats of the centres. The committee's coordinator proposes the committees of other VV structures together with the VV president, while the secretary for foreign relations represents the VV at international level with the authorization of the president. In addition to these powers, the VV president proposes 1/4 of the VV electoral list (centres propose the remaining 3/4 of the list). Despite the fact that the VV organisational structure remains decentralised compared to other parties, the position, powers and authority of the VV president remain quite strong.

### AAK

The rights and obligations of the AAK president are governed by Article 23 of its charter. The AAK president is elected and can be dismissed by the AAK Assembly. The AAK president has 15 powers, among which 1) propose the composition of the AAK Presidency; 2) implement the program and charter; 3) manage and represents the party; 4) appoint advisers and members of his cabinet ("her" pronoun missing); 5) call the Regular Assembly; 6) propose and sign political coalition agreements, approved by the Governing Council; 6) propose Electoral Chief of Staff to the Presidency. The charter explicitly states that "in the event of election to the seat of Prime Minister, is released from the seat of AAK president". An ambiguous formulation, "the term of members of all AAK bodies lasts a certain period of time specified by the

applicable legislation in Kosovo", is used regarding the mandate of elected officials to AAK bodies, including the president. According to the AAK charter, the president has the right, at any time and as required, to co-opt members to the presidency, and "such proposals must be approved by the Governing Council", and it does not state that "the co-opting can take place after the approval of the Governing Council", but "shall be adopted".<sup>368</sup>

### **8.2.7 Party finances**

Political parties remain the least transparent organisations in terms of presentation and publication of their political activities, as well as their financing. It would be sufficient to mention that as this research was being conducted, with the exception of the VV, the PDK, LDK and AAK do not have websites where citizens can be informed about the activities, documents, programs and policies of these parties. Even in financial terms, unlike the VV that submitted its financial report for the 2014 elections, the other parties have not done so. Under their charters, the PDK is funded in three ways, the LDK in four ways, the VV in six ways, while the AAK charter does not explicitly regulate the financing of the party.

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<sup>368</sup> Charter of the Alliance for the Future of Kosovo, Article 42.

<b>Finances</b>	<b>PDK</b>	<b>LDK</b>	<b>VV</b>	<b>AAK</b>
	The PDK is funded in three ways – membership fees, Kosovo's budget and donations.	The LDK is funded in six ways – from the Kosovo budget, fees, donations of individuals or businesses, income from LDK promotional activities, and LDK publications and assets.	The VV funded through six sources: income from fees; state budget; donations from sympathizers and members; donations of partner organisations; economic activities.	The AAK charter does not specify the financing of this party.

Finances of political parties in Kosovo.

### PDK

Under its charter, The PDK is funded in three ways<sup>369</sup> - membership fees, Kosovo's budget and donations. Financial reports are only disclosed to members of the Governing Council and the Presidency, not to PDK members or sympathizers. The internal budget managed by the PDK Secretary General, who is obliged to inform the PDK Presidency on the party's financial situation every 3 months. However, the PDK has not published financial reports for the last general election of 2014, and does not show full transparency on donations and electoral expenses.

### LDK

Under its charter, the LDK is funded in six ways - from the Kosovo budget, membership fees, donations of individuals or businesses, income from LDK promotional activities, and LDK publications

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<sup>369</sup> Charter of the Democratic Party of Kosovo, Article 68.

and assets.<sup>370</sup> According to the charter, "once a year, the Presidency to the General Council on LDK finances and their use." However, the LDK has not published financial reports for the last local election of 2014, and does not show full transparency on donations and electoral expenses.

## VV

The charter regulates the five ways of financing of the Self-Determination Movement. The VV financial sources are: 1) income from membership fees; 2) state budget; 3) donations from sympathizers and members; 4) donations of partner organisations; and 5) VV economic activities.<sup>371</sup> VV finances are managed by the Organizing Secretary and Finance Secretary, and these mechanisms are supervised by the Presidency and the VV General Council. Unlike the PDK, LDK and AAK charters, the VV charter is explicit about the limitations and controls over sources of funding. Under the charter, the VV does not accept funding from legal and natural entities and individuals engaged in illegal economic activities and organised crime, not does it accept funding from legal and natural persons that "import commercial goods from countries that do not recognize the sovereignty of the Albanian people and have territorial claims on Kosovo and Albania". The VV shows complete transparency about its financial reports, by publishing all financial reports from 2011 to 2014.

## AAK

Unlike the PDK, LDK, VV charters, the AAK charter does not specify the financing of the party. According to the AAK

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<sup>370</sup> Charter of the Democratic League of Kosovo, Article 50 and 50.6.

<sup>371</sup> Charter of the Self-Determination Movement, Article 88.

charter,<sup>372</sup> the CFO proposes to the Presidency a regulation on AAK financial management and budget and creates a single financial system for all branches. Also, the CFO, who is appointed by the Presidency,<sup>373</sup> presents monthly and quarterly financial reports. Financial auditing is conducted by a commission consisting of five experts, and it examines AAK financial activities both in Kosovo and in the Diaspora. The AAK Assembly reviews and approves the financial report.<sup>374</sup>

### **8.2.8 Manner of voting within political parties**

Intra-party decision-making is one of the main indicators of intra-party democracy. Practically, in most political parties, major decisions are made by presidents, within closed groups, and most times without including the Presidency, the Council, the Assembly or other bodies in the decision making process. However, in statutory terms, the decision-making process is regulated in the four political parties analysed in this paper. The PDK charter provides that the members of the Presidency are elected by secret ballot, but does not specify the quorum and majority it refers to. The PDK charter partially regulates the voting procedures for the election of party structures, but does not regulate intra-party, political and programmatic decisions. Unlike the PDK charter, the LDK one specifies that decisions are taken by open vote in the Assembly (although this is not considered a very democratic procedure), and party structures are elected by secret ballot. In the LDK, party organs can be supplemented with new members by open vote, but there must be an advance decision for an open vote, by at least 50% of the members of the respective body. The VV practices direct and indirect democracy in internal decision

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<sup>372</sup> Charter of the Alliance for the Future of Kosovo, Article 26.

<sup>373</sup> Charter of the Alliance for the Future of Kosovo, Article 22.

<sup>374</sup> Charter of the Alliance for the Future of Kosovo, Article 13.

making. Under the charter, VV decisions are consensual, but in absence of consensus, decisions are made "with the will of the majority on the basis of the voting procedures of the relevant structures". Decisions not made by direct democracy, are retained by the General Council. The AAK charter stipulates that decisions on political and programmatic issues are voted openly and not by secret ballot, while voting in all AAK organs is considered valid if attended by a simple majority (50 + 1% of the vote).

<b>Method of voting</b>	<b>PDK</b>	<b>LDK</b>	<b>VV</b>	<b>AAK</b>
	<p>The PDK stipulates that Presidency members are elected by secret ballot.</p> <p>The charter does not specify what kind of majority vote is in question.</p> <p>According to the PDK charter, the manner and procedure of voting is regulated only for the election of party structures, from the central level to branches and sub-branches, but not how political and programmatic decisions are made within the party.</p>	<p>The LDK charter provides that decisions are made in the Assembly by open vote, while the bodies are elected by secret ballot.</p> <p>Assembly resolutions are considered valid if more than half of the elected Assembly members participate in the vote.</p> <p>The LDK president and branch presidents are elected by secret ballot.</p> <p>"Changes and additions to LDK bodies, between two electoral assemblies, based on the political program of the LDK, can also be made by open vote. The decision for open vote is made by at least 50% plus 1 vote of the members of the respective body".</p>	<p>The VV applies direct and indirect democracy.</p> <p>All leadership positions in the VV are elected by secret ballot.</p> <p>Decisions are made by consensus.</p> <p>In absence of consensus, decisions are made "with the will of the majority on the basis of the voting procedures of the relevant structures".</p> <p>Decisions not made by direct democracy, are retained by the General Council. Although the VV charter does not explicitly determine which decisions are made by direct democracy.</p> <p>Decisions are</p>	<p>According to the AAK charter, voting in all AAK organs is considered valid if a simple majority (50 + 1%) takes part in the voting within such bodies.</p> <p>Policy and program matters are voted openly, secret ballot, while the secret on personnel issues.</p>

			made by simple majority vote (50% +1) if the quorum is met (50% +1) in all decision-making bodies.	
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### 8.2.9 Local party organisation

The local party organisation and autonomy in decision-making of party bodies at the local level show the degree of intra-party decentralisation. The more autonomy in decision-making is enjoyed at the local level, the more democratic is a political party. The PDK, LDK, AAK and VV have different forms of local party organisation. While the PDK is organised in sections, sub-branches and branches, the LDK is organised in branches and sub-branches only. The VV is organised in points and centres, while the AAK is organised in assets, branches and sub-branches. If we compare VV centres with PDK and LDK branches, the former enjoy more autonomy and more powers compared to the LDK, which ranks second, and the PDK, which ranks third.

Local party organisation	PDK	LDK	VV	AAK
	<p>The PDK is organised in sections, sub-branches and branches.</p> <p>The branch presidency has 4 powers.</p> <p>The branch president has 6 powers.</p>	<p>The LDK is organised in branches and sub-branches.</p> <p>The branch presidency has 10 powers.</p> <p>The branch president has 9 powers.</p>	<p>The LDK is organised in points and centres.</p> <p>The centre council has 14 powers.</p> <p>The centre presidency is the highest decision-making body at the centre and has 7 powers.</p>	<p>AAK's local organisation is regulated at the level of sub-branches, branches and assets.</p> <p>The AAK charter does not explicitly divide the powers of central and local authorities.</p>

## PDK

Locally, the PDK is organised in sections, sub-branches and branches. The section bodies are: Assembly, Presidency and Chair. The section chair is elected by the presidency, while the latter must have at least 5 members. PDK sub-branches, under the charter, are referred to as medium -level PDK organisation units, aimed at connecting sections (small units) with branches (larger units). Sub-branch bodies are the Assembly, Presidency and Chair. Sections delegate the members of the PDK Sub-branch Assembly. The sub-branch chair is elected by the sub-branch presidency, which must have seven members. The branch is the highest form of PDK organisation locally. Branch bodies are the Assembly, Governing Council, Presidency and Chair. The branch president is not elected by the branch presidency, but by the branch Governing Council by secret ballot.<sup>375</sup> The PDK charter does not specify the powers of the bodies of sections and sub-branches, while it lists the powers of the bodies of the highest level of local organisation, the branch. The branch president has 6 powers, including PDK representation in that branch's territory, convening meetings, establishing working groups on professional "in coordination with the Presidency of the Branch, which keeps the branch active."<sup>376</sup> The branch presidency has four powers: organizing party activities; managing the electoral process in the branch; and reporting once a year on the progress of work to the branch governing council. Under the charter, branch presidencies are obliged to issue written reports for the Central PDK Presidency on quarterly basis. In case of malfunction of the branch, the Central PDK Presidency, after consultation with the party president, can dissolve the branch and appoint a temporary leadership until the election of the organs of the branch.

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<sup>375</sup> Charter of the Democratic Party of Kosovo, Article 24.

<sup>376</sup> Charter of the Democratic Party of Kosovo, Article 25.

## LDK

Locally, the LDK is organised in branches and sub-branches. LDK branches, as units of territorial organisation and action, are organised at the municipal level, according to the administrative territorial division of Kosovo. Besides the municipal level, branches may be established in other locations, or outside the territory of Kosovo, by special decision of the General Council. The highest number of branches at the municipal level is concentrated in Prishtina, where LDK has five branches. The branches' activity is coordinated the Branches' Collegium, but this mechanism has no voting rights. Branches have three bodies: Assembly; President; and branch Presidency. The Branch Assembly consists of 110 delegates. Among its five powers, among other things, it the power to elect the President and the Presidency of the branch.<sup>377</sup> Branch Assembly elections are held every 4 years, and Branch Assembly meetings may be called by 1/3 of the delegates who make up the Assembly. Candidacies for branch president are announced in branch assemblies and a nomination is approved when 50% plus 1 of the delegates present vote for the branch president. The branch president has 9 powers, among which: convene meetings of the branch; propose candidate members of the Presidency (the Branch Assembly has the right to add 1/3 of the candidates for the Presidency to this list). The internal organisation of the LDK sub-branches is similar to that of branches; the sub-branch has a president and the Presidency of the sub-branch, and all members participate if the sub-branch has less than 100 members. If the sub-branch has more than 100 members, the Assembly elects its composition.

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<sup>377</sup> Charter of the Democratic League of Kosovo, Article 42.

VV

Locally, the VV is organised in two levels - points and centres. Point feature Point Councils, in which the leading positions are President, Vice President and Secretary. The point president is elected by the members of the point. The point president has 5 powers. The vice-president is also elected by the members of the point and 4 powers. 1/5 of the Point Council members have the right to interpellate each of the delegates or persons in leading position at the point and can replace them before the end of his or her term of three years, demanding early elections for that position. The point council has 16 powers, including: identifying the problems in the territory where it operates; developing policies for the development of the point in that territory; following and implementing guidelines and policy decisions of the Centre Council and the Centre Secretariat of the Centre; organizing political action. The point council elects members as delegates to the VV Centre Council. In the VV charter, the formula for calculating the delegates for each point<sup>378</sup> is as follows: 1 delegate = 7 to 15 members; 2 delegates = 16 to 30 members; 3 delegates = 31 to 60 members; 4 delegates = more than 61 members. The issues of points are presented through their delegates to the Council of the Centre, following which the point delegates report on the decisions taken by the Centre Council.

The second level of VV organisation consists of the VV centres. The centres bring together at least three points on the municipal level, unless the General Council decides otherwise. The centre bodies are: Centre Council, the Presidency of the Centre, Secretariat of the Centre, the Centre Subcommittees and Disciplinary Commission. 1/5 of the members of the Centre Council have the right to interpellate persons exercising

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<sup>378</sup> Charter of the Self-Determination Movement, Article 39.

management functions at the centre and, with a simple majority of votes in the Council, may seek early elections for leadership positions. The centre council has 14 powers. Among others: 1) electing the Centre Disciplinary Commission; 2) drafting local development policies; 3) voting on delegated persons; 4) reporting to the General Secretariat; 5) approving and monitoring the annual budget of the Centre. At least once every three months, the Council of the Centre holds its ordinary meeting.<sup>379</sup> Internal elections at the Centre Council are conducted through open vote, unless 1/5 of the members requires a secret ballot. Under the charter, the centre presidency is the highest decision-making body at the centre.<sup>380</sup> The extraordinary meetings of the Presidency of the Centre may be called at the request of 1/3 of members of the Presidency, or at the request of the President of the Centre. Members of the Presidency of the Centre cannot be VV municipal councillors and Municipal Directors. If the President of the VV Centre is elected local mayor, he/she is required by the charter to resign from the position of Centre president.

## AAK

AAK's local organisation is regulated at the level of sub-branches, branches and assets. Branches are established at the municipal level and each branch must have at least 5 sub-branches. AAK's Central Presidency decides on the establishment of more than one branch at a municipality. The branch bodies are: Assembly; Governing Council; Extended Presidency; and the Branch Presidency. All branches make up the so-called "Branch Community". Sub-branches, as basic territorial units, are established at the level of neighbourhoods, towns or villages. By

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<sup>379</sup> Charter of the Self-Determination Movement, Article 48.

<sup>380</sup> Charter of the Self-Determination Movement, Article 54.

decision of the Branch presidency, branches have the right to establishes assets in villages or neighbourhoods. A sub-branch is led by the sub-branch presidency. Unlike local organisations of other parties, the AAK charter does not mention whether branches and sub-branches have presidents. AAK organizes its branches also in the Diaspora.

### 8.2.10 Selectorate and selectocracy

Decentralisation of power to select party candidates that will run in the parliamentary elections is essential for intra-party democracy. While in the PDK, the list of candidates running in the elections is proposed by the council in consultation with the president of the party, in the LDK, the branches and the president propose a list, which is adopted by the General Council. In terms of the selection of the list, the VV leads in terms of democratisation, since 3/4 of potential candidates are proposed by the local party units, while only 1/4 of the list is proposed by the VV president. The AAK charter also allows local party units to propose a list, similar to the LDK, but does not specify exactly how many candidates can be proposed by branches, sub-brunches and assets.

<b>Selectocracy – Establishment of a list of candidates for parliamentary elections.</b>	<b>PDK</b>	<b>LDK</b>	<b>VV</b>	<b>AAK</b>
	Governing Council in consultation with the President.	Branches propose a list, the party president proposes potential candidates to the General Council.	¾ of nominees from local party units, ¼ by the party president	Internal units propose a list, the president proposes the final list to the Governing Council.

Drafting of lists for parliamentary elections by the political parties in Kosovo.

While the PDK statute entitles members to nominate or be nominated as candidates for parliamentary elections, the LDK charter does not

explicitly mention that LDK members have the right to nominate or be nominated. In the PDK, the charter does not define the right of members to vote on the proposed list of candidates nominated for elections, but this right is reserved to two central bodies of the party, namely the Presidency and the President, as the latter issues the final proposal of the list of PDK candidates for the parliamentary elections, in cooperation with the Presidency. The PDK Governing Council gives the final approval to the final electoral list. In the LDK, branches and sub-branches are entitled to nominating potential candidates, the President makes the selection of candidates from this list, but the final approval is given by the LDK General Council. In the VV, on the other hand, the nomination of members for parliamentary elections and the drafting of the electoral list are organised in two levels - central and local. Three-quarters of the total electoral list are nominated by the local level, and only one quarter by the central level. Unlike PDK, LDK and AAK members, VV members have the right to select 3/4 of the candidates nominated for election. The AAK charter explicitly defines the right of members to be nominated for parliamentary elections, but does not mention the right to nominate members. The governing councils of AAK branches propose a list to the party president, who sends the list of candidates for final approval from the AAK Central Council. In terms of selectocracy, the VV leads in decentralisation, as centres and points have the right to select 3/4 of the candidates nominated for elections. The AAK ranks second in terms of decentralisation of selection of candidates, due to the fact that the Governing Council of branches (a more inclusive body) has the right to propose a list of candidates, and not the branch president. The LDK ranks third, due to the fact that branch presidents (less inclusive) have the right to propose a list of candidates. The PDK ranks fourth, due to the fact that the selection of candidates is done by the President, in "collaboration with the branches", and the role of branches or sub-branches in the selection of candidates is not explicitly specified in the charter.

### 8.2.11 Party programs

With the exception of the VV, in which the program is voted directly by the members and the latter have the right to contribute to the formulation of VV policies and attitudes, in all other parties, programs and priorities are set "top-down".

#### PDK

In the PDK charter, the word *program* is mentioned five times, but never in the context of participation and contribution of members in program policy design. The first time, the term "PDK program" is mentioned in the context of the obligations of PDK members to take initiatives in line with the PDK program (Article 16); the second time, it is used to determine that one is a PDK sympathizer if one agrees with the PDK program; the third time, it is used in the context of approval of the program by the General Convention;<sup>381</sup> the fourth time, in the context of the powers of the Governing Council, which among other things approves the program and election platform, and a fifth time in the context of party discipline, when PDK members violate the PDK program and are sanctions are issued against them. Thus, as seen here, the role of sections, sub-branches and branches is not mentioned in the context of designing the program, which is a central PDK document designed by central authorities and submitted to be implemented down to the local structures of the party - a "top-down" programmatic approach.

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<sup>381</sup> Charter of the Democratic Party of Kosovo, Article 34.

## LDK

In the LDK charter, the word *program* is mentioned eighteen times, but never in the context of participation and contribution of members in program policy design. First, the word *program* is mentioned in the clarification that the LDK is a centre-right party, acting in accordance with the objectives of its political program.<sup>382</sup> Secondly, it is mentioned in the context of the obligations of members, who must adhere to LDK's decisions and program goals.<sup>383</sup> Thirdly, it is mentioned in the context of the responsibilities of members if they act against the program and the disciplinary measures against them.<sup>384</sup> Fourthly, the charter mentions the word *program* when clarifying that the LDK Assembly approves, amends and supplements the program. Fifthly, the Presidency shall prepare the draft and propose it to the General Council.

## VV

According to the VV charter, members have the right to participate and contribute to the design of the VV attitudes and policies. Unlike the PDK, LDK and AAK, where members do not directly vote the program and do not participate actively in policy drafting, VV members vote through direct democracy on the VV political program ( Article 29).<sup>385</sup> The VV Political Programme is drafted by VV committees, as advisory and research bodies, and this process is guided by the VV General Council and the Presidency. Although the VV charter explicitly regulates the procedure for voting on the political program, it remains silent on the participation of the

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<sup>382</sup> Charter of the Democratic League of Kosovo, Article 2.

<sup>383</sup> Charter of the Democratic League of Kosovo, Article 8.

<sup>384</sup> Charter of the Democratic League of Kosovo, Article 13.

<sup>385</sup> Charter of the Self-Determination Movement, Article 29.

points and the centres, as well as their bodies, as two VV organisational levels in the discussion, review, and drafting of options and program policies before the VV political program is voted by the membership.

### AAK

In the AAK charter, the word *program* is mentioned nineteen times, but never in the context of participation and contribution of members in program policy design. First, the word program is mentioned in the context that the AAK its members freedom of expression and opinion regarding the implementation and improvement of the program. Secondly, in the context of the AAK founding documents. Thirdly, in the context of the Assembly's power to adopt, amend or supplement the program.

## CONCLUSIONS

Seventeen years after the war, the leadership and the political parties in Kosovo have been dealing with "major topics" of foreign policy, from the Rambouillet Accords to the Brussels Agreements. Being governed on the basis of the demands of stability, the democratic and economic development of Kosovo were the main priorities of political parties. Guided by these premises, UNMIK was not interested in seeking transparency or accountability to the citizens of Kosovo by party and institutional leaders. This produced a "corrupt peace", whereby *the status quo* was maintained in Kosovo. In order to maintain the *status quo* and stability of a territory without a defined political status in the period 1999-2008, UNMIK maintained peace in Kosovo by tolerating and not fighting crime and corruption.

After the declaration of independence of Kosovo and EULEX's deployment, organised crime and corruption continue to be issues of concern in Kosovo. Since UNMIK failed to build a proper legal system in Kosovo, expectations were high that the EU would help Kosovo to establish the rule of law. So far, EULEX has failed to build a society where law is equal for all. EULEX, like UNMIK before, prioritized stability over Kosovo's democratic development, continuing the same UNMIK mentality of tolerating crime and corruption in Kosovo. Kosovo has now two options: a) "forced democratisation" via the Special Court, where party hawks involved in crime and corruption and political murder could be tried, enabling the removal from the political scene in Kosovo of a corrupt political class that has no sense of minimal democratic accountability towards its citizens; b) "peaceful democratisation" through political reform. Since the first option has not worked in

Kosovo, due to the fact that eminent political figures who were arrested earlier by UNMIK or EULEX, instead of being punished by the citizens of Kosovo, have been rewarded by being considered heroes of Kosovo, the most normal way would be the democratisation of political parties, building new political profiles that would enable a change of elites, by recruiting young, well educated people, with political and economic vision for the country.

All elections organised after the war until 2008, have been seen as an instrument of stability and buying time towards addressing Kosovo's final political status. Kosovo's electoral system was built within this paradigm of stability maintenance. In the debate on the electoral system between political parties and UNMIK, the LDK had proposed a mixed electoral system. The PDK in turn, convinced of its absolute victory, had come up with a majoritarian proposal for the establishment of a majoritarian electoral system in Kosovo. Both these proposals were rejected by UNMIK, which imposed a proportional electoral system. Through the proportional electoral system, UNMIK intended to meet four objectives: a) ensure the protection and representation of minorities in Kosovo's institutions; b) render impossible for a single party to exclusively establish institutions; c) impose quotas for institutional representation for women; d) deploy an electoral system that was easy to manage and politically inclusive. The electoral system established in Kosovo was relatively based on Arendt Lijphart's ideas of consensual democracy. Political parties, under this system, are forced to build post-electoral coalitions to establish a government. In other words, the proportional electoral system was one of the methods (keys) that UNMIK used to engineer political representation, political culture and institution building.

Although researchers recommend that in societies emerging from war, general elections should precede local ones, in Kosovo,

the local elections initially replaced the general ones for political reasons. The first local elections were held taking into account the political uncertainty over the status of Kosovo. UNMIK organised local elections to diminish the level of political demands in Kosovo. However, the number electoral offer - although these were local elections - would not be economic development, education, health or public services - but the independence of Kosovo. These elections were boycotted by Serbs. Although the first local elections were won by LDK - achieving one UNMIK's objectives, as a moderate party took the helm of the institutions - a different objective was yet to be achieved: inclusion of Serbs in the general elections to be organised in 2001. With the fall of Milošević's regime in Serbia, the possibility opened for moderate forces in Serbia to support the participation of Kosovo Serbs in the elections.

In the first general elections of November 2001, Serbs participated through a large coalition of several political parties, called the "Povratak" Coalition. The coalition managed to win 11.3% of the total vote. Since the Constitutional Framework guaranteed 10 seats for the Serb minority, to them were added the 12 seats emerging from election results, increasing the representation of Serbs in Kosovo with 22 seats in the Assembly. The LDK emerged again as the winning party, but it could not establish institutions on its own. The PDK came in second, the AAK third. Since Quint and UNMIK representatives and ambassadors held the "keys of power" and were interested in a moderate political leadership, they intervened and issued clear instructions on who could lead the government of Kosovo. In UNMIK's assessment, the PDK leader, as former KLA Political Director and Prime Minister of the 'Provisional Government', could not contribute to building a democratic, tolerant and multi-ethnic society, due to the fact that Serbs regarded him as a 'KLA man'.

Likewise, the LDK that won the elections, resisted to the idea of Thaçi as prime minister in a joint government, because Hashim Thaçi had launched accusations on the LDK president, following his meeting with Milošević during the NATO bombing campaign.

After direct negotiations between UNMIK, the US diplomatic office in Kosovo and the leadership of the LDK, the PDK and the AAK, a compromise was reached. Under this compromise, Bajram Rexhepi was elected prime minister of Kosovo. In February 2002, the LDK, PDK and AAK built a joint coalition government. This coalition was expected to decrease the political bi-polarity between the LDK and PDK and build a broad consensus to govern post-war Kosovo. On the other hand, given that the majority of these parties were built on ethnic grounds, with loyalty obtained and held through family and clan alliances in regions where the party had its electoral base, UNMIK aimed to increase control over the territory of Kosovo, to expand its internal legitimacy base and, consequently, maintain the *status quo* by making all parties share power. However, this grand coalition government lacked strong leadership that would coordinate internal government actions and have a cohesive foreign policy. Prime Minister Bajram Rexhepi was not PDK president and his every action had to be agreed with Hashim Thaçi.

Clashes between UNMIK and the Provisional Institutions of Self-Government of Kosovo began immediately after the first general elections. There were three events that precipitated this clash. The first event was related to the signing of a border agreement between Yugoslavia, Macedonia and UNMIK, in April 2002. This agreement was contested by Kosovo's political leadership, as it was thought that the Republic of Serbia gave Macedonia a part of the territory of Kosovo. The second confrontational event between UNMIK and Kosovo's institutions took place in late 2002. After the signing of the agreement for the

establishment of the Union of Serbia-Montenegro, in November 2002, Serbia had taken over all rights and obligations for Kosovo under Resolution 1244. Under this agreement, Kosovo was considered part of Serbia. The Kosovo Assembly, both in the first case (on May 23 it approved the resolution on "the territorial integrity of Kosovo") and in the second (on November 7 it approved the resolution against the Treaty of the Union of Serbia-Montenegro) adopted a resolution and opposed these actions. The third event that marked the clash between UNMIK and the PISGs had to do with UNMIK's prosecutions of former KLA fighters. Since UNMIK, in early 2003, began to prosecute and imprison some of the KLA commanders, the Kosovo Assembly, on May 15, 2003, issued the third resolution on "the liberation war of the people of Kosovo for freedom and independence". This resolution, like the first two, was declared void and deemed divisive with regards to Serbs. The third resolution on the 'Liberation War of Kosovo's People for Freedom and Independence' lowered the tone of conflict between the LDK and the PDK, since the resolution acknowledged the armed struggle of the KLA and the peaceful resistance of the LDK. All three of these events led to the growth of unity and reduction of collisions and "political hostilities" between the LDK and the PDK.

The growth of this unity produced new political dynamics. The request for clarification of Kosovo's political status was intensified by political forces in Kosovo. UNMIK did not grant any response to this request as it had no exit strategy from Kosovo. Delays in addressing the unresolved political status of Kosovo had threatened to overthrow all international investments to build a multi-ethnic and peaceful society. In this political context, the frustration of the citizens of Kosovo had reached the zenith. Widespread unemployment, lack of economic development, rhetorical pressure from Serbia that it would return to rule in

Kosovo, the instrumentalization of Serb parallel structures by Belgrade, instead of softening the negative perception on interethnic relations in Kosovo, had given rise to exclusive and ethnic policies. The events of March 2004, when Kosovo Albanians rioted against UNMIK and local Serbs and their religious facilities, were the result of general frustration.

After these events, Kai Eide, the Special Charge of the Secretary-General, was appointed to assess the overall situation in Kosovo. Eide, in his report, underlined that *the status quo* in Kosovo was unsustainable and recommended the launch of negotiations on Kosovo's status. Although these events accelerated the opening of negotiations on the status of Kosovo, the international message was clear: another violent event of the scale of March 2004 would prevent the opening of negotiations. However, the opening and dynamics of these negotiations would depend on political circumstances in Kosovo and Serbia, and the respective configurations of power in these two countries. In October 2004, Kosovo organised its second general elections. The LDK was again in the lead and won the elections. The PDK came in second, the AAK third. After the announcement of the results of these elections, the LDK established a coalition with the AAK. Rugova was again President of Kosovo, while Haradinaj became Prime Minister. Due to the events of March, Serbs boycotted the 2004 elections.

There are several important elements that characterized the 2004 elections. For the first time in Kosovo, there would be a strong in Kosovo, since the PDK, despite coming in second, would remain in opposition. Secondly, the Citizens' List ORA, led by Veton Surroi, and the Democratic Alternative, led by Edita Tahiri, would also register and run in these elections. ORA managed to win 7 seats in the Assembly. Thirdly, during the elections, the civil society articulated the demand for electoral reform and opening up

of electoral lists, arguing that an electoral system with closed lists only favoured the strengthening of local leaders in the hierarchical and hermetic structure of political parties.

After the establishment of the LDK-AAK coalition, in March 2005, the International Criminal Tribunal for the former Yugoslavia filed an indictment for war crimes against Kosovo's Prime Minister Ramush Haradinaj. Given that Serbia, the principal aggressor of the former Yugoslavia wars, still harboured two of the most wanted war criminals, Bosnian Serb leaders Radovan Karadžić and Ratko Mladić, indicting Prime Minister Haradinaj one year after the events of March, could lead to more unrest in Kosovo. However, despite this fear, Haradinaj showed prudence and responsibility at the time of resignation from the position of Prime Minister and surrender to the court. This was a positive circumstance in favour of Kosovo, whenever its final status would be discussed.

Negotiations on Kosovo's final status could not begin without taking into account internal and regional factors. The political forces in power in Kosovo and in Serbia at the time of establishing this status, were among the leading indicators for the success of this process. During the year, Serbia and Kosovo would organize general elections. In Kosovo, for the first time, the PDK came in first and the LDK second. Being forced to lead the Kosovo status negotiation process, whose premises were set in Kai Eide's two reports, the PDK and the LDK would build a grand coalition in 2004 and 2005. According to the coalition agreement, the LDK would again take the seat of President of Kosovo, while the PDK would take the seat of Prime Minister. Such a coalition was supported by diplomatic missions in Kosovo, since the PDK and the LDK, as the two largest political parties in Kosovo, could generate more political stability in Kosovo, and could take more responsibility in relation to the negotiations that were taking place.

Since 2006, Kosovo and Serbia engaged in negotiations in Vienna on the form and content of the future status of Kosovo. In fact, most of these negotiations were conducted about the status of Serbs in Kosovo's state, which would be built on the Ahtisaari Plan. The Ahtisaari Plan, which never mentioned the word *independence*, but whose prerogatives led to it, was revealed during many rounds of negotiations.

The VV Movement, under the slogan 'No negotiations, self-determination!', organised protest in Kosovo against this plan, which they thought did not allow for self-determination of the people of Kosovo. There was a fear among the Contact Group whether Hashim Thaçi, former Prime Minister of Kosovo and former President of the PDK, at a certain moment would use the VV strategy and make pressure for the declaration of independence immediately after the disclosure of the Ahtisaari's Plan, regardless of international political dynamics, especially in the region and Serbia. Kosovo's coordinated declaration of independence would depend, in all likelihood, from the political dynamics and the results of the election that were to be organised in Serbia in 2007. However,, any possible delay jeopardized the process.

The Serbian presidential elections were held in January 2008. The country's presidential race was conducted between Vojislav Koštunica and Boris Tadić. After a very close result, in the second round of elections, Tadić had won with 51% of the vote against Koštunica's, who had received 49% of votes. The "Representatives of the people of Kosovo," declared the coordinated independence of Kosovo on February 17, 2008, one day after Tadić was inaugurated in the position of President of Serbia. Kosovo's independence was challenged by Serbia, which further strengthened its presence in northern Kosovo, hindering the deployment of EULEX in Kosovo, but also preventing the recognition of Kosovo as well as its membership in international

organisations. Part of this strategy was to present Kosovo as an unfinished state, whose status must be negotiated again. For this, Serbia had requested the International Court of Justice to issue an opinion on the declaration of Kosovo's of independence, which observed that the declaration of independence was not in violation of international law.

The first elections after the independence of Kosovo were held in 2010. The governing coalition between the PDK and LDK, which had managed the country up to the independence, hit a brick wall when a group of 31 MPs requested the Constitutional Court to issue its opinion on Kosovo's President Fatmir Sejdiu, who also occupied the seat of LDK President. Kosovo's Constitutional Court held that the LDK President, once President of the Republic of Kosovo had seriously violated the constitution by holding two seats simultaneously. As a result, President Sejdiu resigned from his position as President of Kosovo. Nine months later, using the botched privatisation of the PTK by its coalition partner, the LDK walked out of coalition with the PDK.

Unlike other elections held before independence, Kosovo had a setback in terms of democratisation when during these elections political parties directly involved in the manipulation of election results. The PDK formed a government with the coalition of smaller parties led by the AKR. Under the agreement, the position of Prime Minister was given to the PDK, whereas the President to the AKR. On February 22, 2011, the Assembly elected Behgjet Pacolli as President of Kosovo, but his election was challenged in form and content in the Constitutional Court. The Constitutional Court found that procedurally Pacolli's election was in violation of the Constitution of Kosovo.

After substantially disputing the legitimacy of the 2010 elections, the leaders of political parties reached an agreement on reforming the electoral system. Following the decision of the

Constitutional Court on the Pacolli case, the three leaders of political parties, Hashim Thaçi, Isa Mustafa and Behgjet Pacolli signed an agreement to reform the electoral system, agreeing to the appointment of Atifete Jahjaga to the seat of President, the establishment of a Committee on Reform of the Law on General Elections and another Committee on Presidential Election Reform. In fact, since 2010, this agreement was never implemented in its entirety, with the exception of the appointment of Atifete Jahjaga to the seat of President of the country.

The civil society and political commentators in Kosovo have offered different proposals on how to reform the electoral system. The division of Kosovo in electoral districts, reduction of the threshold, voting for only one candidate, direct election of the President of Kosovo, were some of the options it was thought could affect the growth of the level of representation of citizens in the Kosovo Assembly, increasing political accountability, providing for better management of political crises and increasing internal democracy. Although Kosovo has made successful steps in the democratisation process, in Kosovo democracy has not yet been consolidated. There are several factors that prevented and continue to prevent the consolidation of democracy, including continued international interventions in political processes, lack of equality between classes and genders, clientelism as a dimension of relations between rulers and citizens/business etc. Democracy in Kosovo remains a minimalist democracy. This type of democracy reduces democracy to electoral procedures and equals the legitimacy of institutions with fair and democratic elections, not the concrete results of these institutions to build a fair, equal and prosperous society.

The pre-election coalition led by the PDK emerged as the winner of the 2014 elections. However, the opposition political parties, the LDK, the Initiative and the AAK signed a

memorandum in which they pledged to establish the government, since the PDK did not have the required number of MPs (61) in the Kosovo Assembly. Under this plan, the seat of Prime Minister would go to the AAK, whereas the Speaker of the Assembly to the LDK. Upon completion of the mandate of President Atifete Jahjaga, the seat of the President was expected to go the LDK. However, the LDK-AAK-Initiative post-electoral coalition lacked the necessary majority of votes in the Assembly. The survival of the coalition depended directly on the potential support the VV could give to them. The VLAN coalition claimed to have the majority, and that the Government and the Kosovo Assembly should be run by it. The PDK insisted the other hand to build a coalition and to form institutions with one of these parties, since they came out on top in the elections. The PDK had actually established a pre-election coalition with several small parties in Kosovo. Following a decision of the Constitutional Court, the PDK earned the right to establish the Government of Kosovo, and after a delay of six months, the PDK and LDK again entered into a governing coalition, supported by the member states of the Group Contact, because the topics on the agenda for Kosovo, such as the establishment of the Special Court, the establishment of the Association of Serb-majority municipalities and the demarcation of the border line with Montenegro would require a stable government with a majority in the Assembly. The opposition parties, the VV, AAK and NISMA rejected all three political processes, launched gas in the Assembly, organised a popular petition and prevented the normal proceedings of the Assembly, arguing that these processes eroded and threatened the sovereignty of the state of Kosovo.

Over seventeen years since the war, Kosovo has lacked qualitative, accountable and democratic governance. The installation of the clientelist and neopatrimonial logic of political

parties in administration, business, voting, public and community engagement, has negatively affected the consolidation of the state of Kosovo. Lack of transparency and accountability has undermined the public credibility of political parties. So far, the recruitment, training and promotion of new elites in the political parties in Kosovo has succumbed to clientelist and undemocratic logic. Nowadays, it is hard to imagine democratic states without political parties, although it is not at all difficult to imagine political parties that call themselves democratic party, but lack intra-party democracy. With minor exceptions, almost the majority of political parties in Kosovo lack intra-party democracy.

From the empiric measurements conducted in this research through the comparison of party charters, the VV has a relative lead in intra-party democratisation due to higher inclusion of its members in internal processes and the chartered autonomy enjoyed by points and centres. In terms of scale, the LDK and the AAK have average intra-party democratisation, because the internal party structures of the two parties are still centralised, while branches and sub-branches do not enjoy complete intra-party decentralisation. The PDK is estimated to be the party with the highest degree of centralisation, lack of involvement of members in decision-making processes and lack of autonomy of its party units, namely branches and sub-branches.

There are many factors that hamper intra-party democracy. Five of them are listed below, and if addressed they would directly affect the reform of political parties. Leaderism is first. Intra-party democratic decision-making is overridden by the uncontested power of leaders to execute decisions without consulting the rank and file of their own parties. The lack of autonomy of action of party units comes second. Party units, whether points, sub-branches, sections or branches, do not enjoy full autonomy in their selection of candidates. The preferences of central party organs

directly impact the nominations of potential candidates competing for public office, especially those running for municipal seats. Third, is the arbitrary nature of party leaderships. The sanctioning and disciplinary measures on free thought within political parties are regulated by the charters of most political parties in Kosovo. The lack of clear procedures and rules on the circumstances that can lead to the expulsion of member from a political party, feeds into the arbitrary nature of central party organs, with special emphasis on the institution of the President. This undermines the democratic, intra-party discourse. Fourth, is the financial transparency, or rather the absence of transparency of political parties in financial reporting on election campaigns, which directly contributes to a culture of irresponsibility and lack of accountability towards voters on the financial resources of parties, their expenses and the auditing of such expenditure. Last, but not least, party charters and regulations do not uphold the democratic spirit to the letter.



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## **Interviews**

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2. Interview with Mr Gëzim Selaci, sociologist and lecturer at the Department of Sociology (University of Prishtina), Prishtina, April 6, 2016.
3. Interview with Mr Bekim Baliqi, political scientist and professor at the Political Science Department, University of Prishtina, Prishtina, March 31, 2016.
4. Interview with Mr Halil Matoshi, analyst, Prishtina, March 28, 2016.
5. Interview with Mr Agron Demi, political scientist and executive director at GAP Institute, Prishtina, April 5, 2016.
6. Interview with Mr Dukagjin Gorani, sociologist and analyst, April 4, 2016.
7. Interview with Mr Glauk Konjufca, Self-Determination Movement, Prishtina, April 1, 2016.
8. Interview with Mr Basri Musmurati, Democratic Party of Kosovo, Prishtina, March 31, 2016.
9. Interview with Ms Ajnishale Halimi, former member of the Self-Determination Movement, now a member of the PDK, Prishtina, May 22, 2016.
10. Interview with Mr Arben Gashi, Democratic League of Kosovo, Prishtina, 29 March 2016.
11. Interview with Mr Shpejtim Bulliqi, Democratic League of Kosovo, Prishtina, April 1, 2016.
12. Interview with Mr Pal Lekaj, Alliance for the Future of Kosovo, Prishtina, April 7, 2016.

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This research fills a major gap in the deficient literature on Kosovo's political system and democracy, as it helps in gaining an even more detailed understanding of the process of democratisation and the role of the main political actors in this process. Since the electoral and party systems have a considerable influence on the functioning of states and their democratisation, this research discusses their interconnections, analysing both the causal links and the changes they have gone through over these years. In particular, the chapter on intra-party democracy manages to successfully break down some of the key factors influencing the reform of political parties and the consolidation of democracy in the country.

**Assoc. Prof. Dr. Bekim Baliqi, University of Prishtina**

With this original research, Adem Beha completes the framework of research on political parties in Kosovo. This is one of the first scientific studies on this topic from a Kosovar political scientist. The study intersects a configurationalist approach with the analysis of aspects of the organisation of political parties. It analyses the specific dynamics of political parties, ranging from their genesis to the Kosovar political conjuncture and political competition between them, in order to understand the practical and symbolic interests of the parties and political leaders. This study analyses Kosovo's stalled transition to democracy. Clear and objective, enriched with detailed analyses and precious information, the study is welcome for Kosovar political science and political science in general.

**Assoc. Prof. Dr. Anton Vukpalaj, University of Prishtina**

Adem Beha's study on party democracy in Kosovo represents the first serious scientific study on this field from a Kosovar academic. Beha considers the dynamics within and between political parties as essential to the success of state-building in Kosovo. He argues strongly that political parties, as dominating local agents in transitional processes before and after independence, failed in intra-party democratisation, as well as the democratisation of Kosovar society and institutions. Therefore, the study provides a valuable contribution to the current academic debates on the role and impact of local agents in shaping peace and rebuilding their country after violent conflict. This scientific paper should be read carefully by representatives of political parties, civil society and the academic community in Kosovo and beyond.

**Dr. Gëzim Visoka, Dublin City University**

