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KOSOVO ELECTIONS:
OPPORTUNITIES AND
CHALLENGES**

Zora Popova

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MINORITY PARTICIPATION IN KOSOVO ELECTIONS: OPPORTUNITIES AND CHALLENGES

Voting is a fundamental democratic right that empowers people to exercise their civil control over the politics and politicians, over the different branches of power, over the development paths of their countries. Democratic electoral systems in Europe vary greatly. But the electoral systems alone, although contributing to the specific architectures of the national democracies, are not the only factors that determine the quality of the democracy in place. Focused on legislation, rules and procedures, policy analysts sometimes tend to look at voters as a “beneficiaries” and not as the active subjects who in fact have the power to change the status quo or to contribute to deformities of the political system in place, by NOT exercising their political and civil rights.

Based on findings gathered from the field¹, this paper will look at the concerns and issues raised by members of non-Albanian and non-Serbian minority communities in Kosovo and will assess those in the light of the weight of the minority vote as provided by the respective legislative framework. The analysis aims at focusing the attention of stakeholders, national and international organizations, and policy and decision makers, about the risks that the newly born democracy would face if no attention were to be paid to the “subjective” issues that challenge the participation of minorities in elections or census polls.

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I. INSTITUTIONAL SETTING & ELECTORAL FRAMEWORK

According to the Kosovo Constitution², which entered into force on June 15, 2008, independent Kosovo is a democratic Republic based on the principle of separation of powers and the checks and balances among them (Article 4.1). The President of the Republic as a Head of State represents the unity of the nations. He is elected by the Assembly in a secret ballot with the 2/3 majority of all deputies of the Assembly for a mandate of 5 years (with maximum of 2 mandates in office). The Prime Minister is the Head of the Government, elected together with the proposed Cabinet by the Assembly with a

majority vote. The mandate of the Cabinet is 4 years.

The legislative power of Kosovo lies with the unicameral Assembly of 120 deputies, elected by secret ballot on the basis of open lists for a mandate of 4 years. The composition of the Assembly is defined by the Constitution, Article 64:

1. *The Assembly has one hundred twenty (120) deputies elected by secret ballot on the basis of open lists. The seats in the Assembly are distributed amongst all parties, coalitions,*



citizens' initiatives and independent candidates in proportion to the number of valid votes received by them in the election to the Assembly.

2. *In the framework of this distribution, twenty (20) of the one hundred twenty (120) seats are guaranteed for representation of communities that are not in the majority in Kosovo as follows:*

(1) *Parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the Kosovo Serb Community shall have the total number of seats won through the open election, with a minimum ten (10) seats guaranteed if the number of seats won is less than ten (10);*

(2) *Parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the other Communities shall have the total number of seats won through the open election, with a minimum number of seats in the Assembly guaranteed as follows: the Roma community, one (1) seat; the Ashkali community, one (1) seat; the Egyptian community, one (1) seat; and one (1) additional seat will be awarded to either the Roma, the Ashkali or the Egyptian community with the highest overall votes; the Bosnian community, three (3) seats; the Turkish community, two (2) seats; and the Gorani community, one (1) seat if the number of seats won by each community is less than the number guaranteed.*

Apart from the Constitution, the Kosovo electoral system has been regulated also by the 2008 Law on General Elections³ (LGE), rules developed by the Central Election Commission (CES) and other pieces of legislation such as the Citizenship Law, Law on Languages and relevant sections of the Criminal Code, the Law on Financing of Political Parties (LFPP)⁴.

Kosovo is currently a single, multi-member electoral district⁵ (LGE, Article 10) with a proportional representation voting system using the Sainte-Laguë method for allocation of seats.

In order to run in elections political entities (parties, coalitions, independent candidates and citizens' initiatives) need to be certified by the CEC at least 60 days prior to elections. The reference legislation for the certification of political entities and candidates is the Law nr 03/L-073 on General Elections in Republic of Kosovo, Law nr 03/L-072 on Local Elections in Republic of Kosovo and CEC Electoral Rule 08/2009 On Certification of Political Entities and their candidates which foresees that every political entity wishing to run for the elections must apply for certification with the Central Election Commission (CEC)⁶. Registered parties are automatically certified, but they need to inform CEC about any changes in their legal status (LGE, article 15.3). Parties should also notify CEC in case they do not wish to be certified for elections (LGE, article 15.4). Certification fees are defined by CEC rules, which also specify the requirements for certification⁷.

Apart from setting in advance the formal frameworks of the political contest, the process of certification is in fact the moment when political parties re-assert the electorate they represent. According to LGE, Article 15.11:

"Each Political Entity shall indicate in its application whether it wishes to contest any of the seats guaranteed for the representation of Kosovo Serb and other non-majority communities under Article 64 of the Constitution."

The certified political entities appear on an "open list" ballot. A voter can cast their vote for a certified political entity only but may also indicate one preferred candidate of the respective list.

A person is eligible to vote in an election, if they are at least 18 years of age on the day of the elections and is registered as citizens of Kosovo in the Central Civil Registry, resides outside Kosovo (having left Kosovo on or after 1.01.1998) or has obtained a refugee status (LGE, Article 5)



The LGE Article 111.2 (a) sets an election threshold of 5% for political entities representing the majority community of Kosovo. There is no threshold for the seats reserved for the minority communities.

According to the transitional provisions of the Constitution (Article 148.1), that in the Assembly elections of 2010 the fixed number of reserved seats were allocated to communities in addition to the seats won as a result of the general vote surpassing the 5% threshold. Since this was the last period of validity of the transitional provisions, the seats won by a minority party surpassing the election threshold will be deduced from the number of seats reserved for the respective minority.

Law on Self-Government in Kosovo⁸ does not provide reserved seats in the Municipal Assemblies for member of minority political entities running for elections, but it stipulates that

In municipalities where at least ten per cent (10%) of the citizens belong to Communities not in the majority in those municipalities, a post of the Chairperson of the Municipal Assembly for Communities shall be reserved for a representative of these communities (LSG, Article 54.1), and

The post of the Deputy Chairperson of the Municipal Assembly for Communities shall be held by the non-majority community's candidate who received the most votes on the open list of candidates for election to the Municipal Assembly (LSG, Article 54.1)

In those municipalities, where at least 10% of the citizens belong to non-majority communities, there shall be also a Deputy Mayor for Communities in those municipalities (LSG, Article 61.1). The Law also guarantees representation of non-majority communities in the Communities Committee (LSG, Article 53).

II. THE WEIGHT OF MINORITY REPRESENTATION

One of the opening articles of the Constitution (Article 3), preceding even the *Form of Governance* provisions, stipulates that Kosovo guarantees equality before law to all citizens and provides specific rights to the members of the non-majority communities⁹.

The exercise of public authority in the Republic of Kosovo shall be based upon the principles of equality of all individuals before the law and with full respect for internationally recognized fundamental human rights and freedoms, as well as protection of the rights of and participation by all Communities and their members.

The rights of the non-majority Communities in Kosovo and the obligations of the State to implement and safeguard those are defined by the Constitution not only in the Chapter III: Rights Of Communities And Their Members (e.g. Article 57, Article 58, Article 59), but also in provisions concerning the institutional arrangements of the state and the structures of the executive (e.g. Article 60, Article 61, Article 96), legislative (e.g. Article 64) and judiciary powers (e.g. Article 103,104, 108), the local self-government (e.g. Article 62) or the use of languages (Article 5). The Constitution also ensures the gender equality as a fundamental value for the democratic development of the society (Article 7; Article 71) and regulates the representation in the public institutions.

Apart from the Constitution, the rights of communities in Kosovo are guaranteed also by a number of pieces of legislation. Among the most important laws are the Law on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo (LPPRC) with the amendments of December 2011, the Law on Languages, the Law on General Elections, and the Law on Self-Government in Kosovo. Directly applicable international agreements and instruments, and in the case of conflict, have priority over provisions of laws and other acts of public



institutions, as stipulated by Article 22 of the Constitution, are¹⁰:

- (1) *Universal Declaration of Human Rights*;
- (2) *European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols*;
- (3) *International Covenant on Civil and Political Rights and its Protocols*;
- (4) *Council of Europe Framework Convention for the Protection of National Minorities*;
- (5) *Convention on the Elimination of All Forms of Racial Discrimination*;
- (6) *Convention on the Elimination of All Forms of Discrimination against Women*;

The Law on Citizenship can be seen as having an indirect impact on the rights of the communities by not providing any restrictions to citizenship on the basis of origin and by allowing dual citizenship.

Although 20 reserved seats for the representatives of the Kosovo minority communities (10 for the Serbian community and 10 for the representatives of the other communities¹¹) out of 120 Assembly seats might seem a small proportion of the total number, in fact the weight of the minority seats should be evaluated against their role in the decision-making process in Kosovo and for in the structures of government and powers. The following examples illustrate the importance of the minority representation.

Assembly Level

Assembly Leadership: Two of these five Deputy Presidents of the Assembly represent non-majority communities in the Assembly - one Deputy President from the seats guaranteed for the Serb community, and one appointed from the deputies holding seats reserved for the other minority communities (Constitution, Article 67.4).

Assembly Committees: At least one vice chair of each parliamentary committee (permanent,

operational and ad hoc committees) shall be from the deputies of a Community different from the Community of the chair (Article 77.4). This means that even in a case when all Committee chairs are allocated to the representatives of the majority community, all of these Committees would have at least one vice-chair from the minority communities. The current standing, functional and sub-committees in the Kosovo Assembly (total of 13), there are 2 chair-persons from the minority communities and 13 vice-chair persons.

Particular provisions are in place with regard to the composition of the permanent Committee on Rights and Interests of Communities of the Assembly of Kosovo (Article 78). This committee is composed of one third (1/3) of members holding seats reserved for the Serbian Community, one third (1/3) of members holding deputy seats reserved for other the minority communities and one third (1/3) of members from the majority community representatives. Currently, the 12-member committee is in fact composed by 4 members representing the majority community in Kosovo, 4 members, representing the Serb community (one of which is chair) and 4 from the other communities (one of which – vice-chair).

The Committee on Rights and Interests of Communities is just one of the permanent committees of the Assembly, but in fact it is a very powerful mechanism, the functions of which are defined by the Constitution (Article 78). At the request of any member of the Presidency of the Assembly, a law may be submitted to the Committee for its consideration. On its own initiative or addressing concerns of Communities, the Committee may propose laws and other measures within the responsibilities of the Assembly. Members are also allowed to issue individual opinions. The Committee takes decision with a majority vote.

In summary, the total number of key positions in the present Assembly of Kosovo, allocated to deputies representing minority communities of Kosovo and holding reserved seats is 21: 5 of which specially designated to



the Serb representatives and 5 to the members of the other non-majority communities. Surely, in case of change of the number of Assembly committees, the total number would change accordingly.

Legislative Powers: The important role of the deputies occupying the seats reserved for the minority communities in Kosovo becomes clearer when taking into consideration the weight of their votes in the legislative procedures. According to Article 81 of the Constitution, the adoption, amendment or repeal of “legislation of vital interest” (listed below) require both the majority of the Assembly deputies present and voting and the majority of the Assembly deputies present and voting holding seats reserved or guaranteed for representatives of Communities that are not in the majority. This means that in the legislative procedures with respect to the:

- (1) Laws changing municipal boundaries, establishing or abolishing municipalities, defining the scope of powers of municipalities and their participation in intermunicipal and cross-border relations;
- (2) Laws implementing the rights of Communities and their members, other than those set forth in the Constitution;
- (3) Laws on the use of language;
- (4) Laws on local elections;
- (5) Laws on protection of cultural heritage;
- (6) Laws on religious freedom or on agreements with religious communities;
- (7) Laws on education;
- (8) Laws on the use of symbols, including Community symbols and on public holidays,

one deputy representing minority communities in Kosovo and occupying a reserved seat equals five representatives of the Albanian majority. In the present Assembly (due to the application of the transitional provisions and the higher

number of minority deputies the proportion is approximately 1 to 4).

Deputies holding reserved seats in the Assembly also have the possibility to control any amendments to the Constitution of Kosovo. As stipulated by Article 144 of the Constitution:

Any amendment shall require for its adoption the approval of two thirds (2/3) of all deputies of the Assembly including two thirds (2/3) of all deputies of the Assembly holding reserved or guaranteed seats for representatives of communities that are not in the majority in the Republic of Kosovo.

Hence, no amendment to the Constitution of Kosovo can be approved, unless such is supported by at least 14 of the deputies, representing the minority communities and holding reserved seats in the Assembly.

Presidential Level

The Community Consultative Council (CCC) under the auspices of the President is also an important instrument for protection of minority rights in Kosovo. According to LPPRC Article 12.6, the members of the Council, representing communities may also be Assembly representatives of the minorities as follows:

- The Serb community – five representatives, two of whom may be members of the Assembly of Kosovo
- The Roma, Egyptian and Ashkali communities - two representatives respectively, one of each of whom may be a member of the Assembly of Kosovo
- The Bosniak and Turk communities shall have three representatives respectively, one of each of whom may be a member of the Assembly of Kosovo
- Gorani community shall have two members, one of whom may be a member of the Assembly of Kosovo



Presenting the minority communities with the possibility to comment at an early stage legislative or policy initiatives of the Government of to suggest such initiatives and to seek the incorporation of their view in project or programs, the CCC is an important instrument for ensuring the minority participation and control over the decision making process in Kosovo.

In summary, at the Presidential level, a total of 13 positions may be allocated to the 20 reserved seats (currently 25, under the provisions of the transitional Article 148) for deputies representing the minorities in Kosovo, divided as follows:

- 6 positions for the Serb community (1 Deputy President and 5 members (optional) of the CCC)
- 7 positions for the members of the other communities (1 Deputy President and 6 members (optional) of the CCC)

Governmental Level

The Assembly members, representing minority communities, can have also a direct impact on the formation of the Government after elections. Articles 96.3 and 96.4 of the Constitution establish that there shall be at least one Minister from the Kosovo Serb Community and one Minister from another Kosovo non-majority Community (and a third one in case that the total number of Ministers in the Cabinet is more than twelve). At least two Deputy Minister seats should be allocated for representatives of the Kosovo Serb Community and two others – for the other Kosovo non-majority communities. In a Cabinet of more than 12 Ministers, two additional Deputy Minister seats should be allocated respectively to the Serb and other minority communities.

The selection of these Ministers and Deputy Ministers shall be determined after consultations with parties, coalitions or groups representing Communities that are not in the majority

in Kosovo. If appointed from outside the membership of the Kosovo Assembly, these Ministers and Deputy Ministers shall require the formal endorsement of the majority of Assembly deputies belonging to parties, coalitions, citizens' initiatives and independent candidates having declared themselves to represent the Community concerned (Article 96.3).

Judicial Level

Assembly members representing minority communities in Kosovo and holding reserved seats are in power to elect 4 members of the Kosovo Judicial Council (KJC) total of 13 members) – an independent institution to ensure that the Kosovo courts are independent, professional and impartial and fully reflect the multi-ethnic nature of Kosovo and follow the principles of gender equality. Apart from requiring that the Kosovo Judicial Council shall give preference in the appointment of judges to members of Communities that are underrepresented in the judiciary as provided by law (Article 108.2), the Constitution specifies that:

108.6 (3) two (2) members shall be elected by the deputies of the Assembly holding reserved or guaranteed seats for the Kosovo Serb community and at least one of the two must be a judge;

108.6 (4) two (2) members shall be elected by the deputies of the Assembly holding reserved or guaranteed seats for other Communities and at least one of the two must be a judge.

This selection of members of KJC has further impact on the representation of minority communities in the judicial system of Kosovo, since

108.9. Candidates for judicial positions that are reserved for members of



Communities that are not in the majority in Kosovo may only be recommended for appointment by the majority of members of the Council elected by Assembly deputies holding seats reserved or guaranteed for members of communities that are not in the majority in Kosovo...

108.10. Candidates for judicial positions within basic courts, the jurisdiction of which exclusively includes the territory of one or more municipalities in which the majority of the population belongs to the Kosovo Serb community, may only be recommended for appointment by the two members of the Council elected by Assembly deputies holding seats reserved or guaranteed for the Serb Community in the Republic of Kosovo acting jointly and unanimously...

Although there are no reserved seats for minority representatives in the 9-member Constitutional Court, the decision on the proposals of two judges requires the consent of the majority of the deputies of the Assembly holding seats reserved or guaranteed for representatives of the Communities not in the majority in Kosovo (Article 114.3)

Central Electoral Commission

As a permanent body of 11 members, the Central Election Commission manages the elections and referenda in Kosovo. The Chair of the Central Election Commission is appointed by the President of Kosovo¹². Six members are appointed by the largest parliamentary groups represented in the Assembly (one per parliamentarian group or proportionally if groups are less in number). The deputies holding seats reserved or guaranteed for the Kosovo Serb Community appoint one member and 3 members are appointed by the deputies holding seats reserved or guaranteed for other Communities that are not in majority in Kosovo (Article 13).

In summary, the representatives of the minority communities in Kosovo, holding reserved seats in the Assembly (20 out of 120), have an important role in and have a direct impact on:

- the legislative process, including amendments to the Constitution
- the decision-making process and the leadership of the Assembly
- the matters concerning the rights of the Communities
- the executive power (Government)
- the judicial system
- the electoral management and control

III. THE CONSTITUENCY BEHIND THE POWER OF THE RESERVED SEATS

The Kosovo paradox emerges from the fact that the democracy framework empowering significantly the minorities is still “seeking” its constituents!

The official census carried out by the Kosovo Agency of Statistics (KAS) in 2011 covered 34 of the 37 census areas¹³. In the predominantly Serb-inhabited northern municipalities (Zubin Potok, Zvečan/Zveçan, Leposavić/Leposaviq and northern Mitrovica/Mitrovicë) the lack of cooperation from local leaders and population blocked the data collection¹⁴. Furthermore, as ECMI Kosovo reports, stating their “ethnic/cultural background” was a sensitive issue to the population from different minority communities¹⁵.

Even these two factors alone explicate the discrepancies between the official census results and the preliminary estimates of the numbers of the minority communities in Kosovo. The census established a proportion of non-majority communities in Kosovo (7%), which is significantly lower to the previous estimates of around 10-12% (including northern Kosovo), made by ECMI Kosovo and the OSCE Mission in Kosovo.¹⁶



According to the 2011 KSA census data the total number of inhabitants is 1 739 825 people, 120 204 of which belonging to non-majority communities. These 7% of the Kosovo population with an ethnic/cultural background different from Albanian is consisted of:

- 1.6% or 27 533 Bosniaks
- 1.5% or 25 532 Serbs
- 1.1% or 18 738 Turks
- 0.9% or 15 436 Ashkali
- 0.7% or 11 524 Egyptians
- 0.6% or 10 265 Gorani
- 0.5% or 8 824 Roma
- 0.1% or 2 352 – other

It is also important to mention that further 912 people decided not to answer the census question and for another 1840 are indicated in the official results as “data not available”¹⁷. In general 2 752 people is a relevantly small number, but in the case of Kosovo it is of comparative importance scale.

Acknowledging the ambiguity of the unofficially collected ethnic data, ECMI Kosovo has established¹⁸ that the census results for Serbs and Roma differ significantly from previous estimates, which was mainly due to the non-inclusion of the largely Serb-inhabited northern municipalities (affecting also the census figures of other minority communities living in that area – Bosniaks and Roma) and the widespread boycott by the Serbs in southern Kosovo¹⁹. According to the ECMI Kosovo estimates,

Kosovo’s total Serb population amounts about 140,000 people (against 25 532 census data).

Discrepancies also have been established with regard to the numbers of other non-majority communities. The previous estimates of the Roma community in Kosovo of 21,300-27,000 people differ significantly with the census total figure of 8,824. Although the number of the Ashkali community (15,436), established by the census correspond to the preliminary estimations of ECMI Kosovo and the OSCE Mission in Kosovo, for Egyptians, there are discrepancies in all data from different sources. In general, the aggregated census figure for the three communities of Roma, Ashkali and Egyptians (35,784) is around 20-30% lower than that of previous estimates²⁰.

The census figures concerning the Bosniak population (27,533) are about 18% lower than previous OSCE estimates (33,524); slightly lower is also the total number of the Turks (18,738) , but those of the Gorani population (10,265) are higher than that of previous estimates (8,953).

Croat and Montenegrin population was not counted separately in the 2011 census.

In summary, according to the official census of 2011, the total number of the population belonging to the minority communities in Kosovo amounts about 155 988 people. Summing up the unofficial estimates, the non-majority population would amount to about 300 000 people.

	Estimates	Census	Reserved seats	Additional seats in 2010	1 deputy represents	
					estimated	census
Serbs	140 000	25 532	10	3	10 769	1 964
Roma	23-27 000	8 824	1	--	23-27 000	8 824
Egyptians	var.	11 524	1	--	var.	11 524
Ashkali	15 436	15 436	2	--	7 718	7 718
Total	50 000	35,784	3+ 1	--	12 500	8 946
Bosniaks	33 524	27 533	3	1	8 381	6 883
Turks	18 738	18 738	2	1	6 246	6 246
Gorany	8 953	10 265	1	--	8 953	10 265
Others		2352	--	--	n/a	n/a



Projecting these somewhat ambiguous figures against the 20 reserved seats for minority community representatives, it occurs that the Turkish and Ashkali communities enjoy the best political representation in the present Assembly of Kosovo (1 deputy representing in respectively 6 246 and 7718 constituents). In comparison, 1 deputy of the majority Albanian community represents approximately 16842 constituents.

As it becomes clear, the legislative framework in Kosovo guarantees a significant political representation for the non-majority communities. But the framework itself can guarantee neither the quality of representation, nor the quality of democracy in Kosovo. It is the constituents themselves who must be aware and must bear the responsibility for exercising their rights and for safeguarding the political and institutional accomplishments. This becomes clear when taking into account the minority participation in elections and the risks to democracy that their passiveness and refusal to exercise their political rights might bring about.

Prior to examine challenges to minority participation in elections, based on data collected by ECMI Kosovo in October and November 2012 during a project implementation, the legal framework regulating minority representation in the structure of the local governance will be presented briefly.

IV. REPRESENTATION OF MINORITY COMMUNITIES AT LOCAL LEVEL

Representation of minority communities in the Institutions of the local government is regulated by the Constitution and the Law on the local elections (LLE). The use of languages at municipal level is also regulated by the Law on Languages.

As stipulated by Article 61 of the Constitution:

Communities and their members shall be entitled to equitable representation in employment in public bodies and publicly

owned enterprises at all levels, including in particular in the police service in areas inhabited by the respective Community, while respecting the rules concerning competence and integrity that govern public administration.

According to Article 62, in municipalities where at least ten per cent (10%) of the residents belong to minority communities, the representation for minorities in the municipal executive body is guaranteed and the post of Vice President of the Municipal Assembly for Communities shall also be reserved for the minority candidate, who has received the most votes on the open list of candidates for election to the Municipal Assembly.

The Vice President serves as a focal point for addressing non-majority Communities' concerns and interests in meetings of the Assembly and its work and reviewing community members complaints against acts of the Municipal acts (in case of claims for violation of their constitutional rights). The particular powers of the position are that in the event the Municipal Assembly does not address properly an issue, act or decision that is considered a violation of a constitutionally guaranteed right, the Vice President may submit the matter directly to the Constitutional Court.

This measure provides a mechanism for minority control over the decisions of the Municipal Assemblies.

The 10% of registered minority population at municipal level, entitle communities to the right of having a Deputy Mayor for Communities (LLSG, article 61) and a Chairperson(s) of the Municipal Assembly for Communities (LLSG, article 54).

LLSG provides that the Mayor shall consult the Deputy Mayor for Communities about the matters related to non-majority communities and seek advice and guidance in connection to all relevant issues. The appointment and dismissal of the Deputy Mayor for Communities is proposed by the Mayor and needs the approval of the majority of the



municipal assembly members present and voting and the majority of the municipal assembly members, present and voting belonging to the non-majority communities (LLSG 61.3)

The Deputy Chairperson of a Municipality for Communities serves as formal focal point for addressing non-majority communities' concerns and interests in meetings of the Assembly and its work. Their responsibility is also to review claims by communities or their members against that acts or decisions of the municipal assembly violate their constitutionally guaranteed rights and to submit the matter directly to the Constitutional Court in case that the municipal assembly refuses to reconsider the act/decision in question (LLSG, Article 55)

Although the LLSG does not provide any reserved seats in the Municipal Assembly to members of non-majority communities, Article 53 regulates the composition of the Communities Committees and specifies that:

Any community living in the municipality shall be represented by at least one representative in the Communities Committee. The representatives of communities shall comprise the majority of the Communities Committee (LLSG 53.1)

The role of the Communities Committee is to ensure that all municipal policies, practices and activities protect the rights and interests of the Communities and to recommend respective measures to the Municipal Assembly.

V. ELECTION TURNOUT: THE VOTES BEHIND THE RESERVE SEATS

Do Kosovo minorities exercise their rights for representation and control? It is very challenging to address the issues of what percentage of the people belonging to non-majority communities in Kosovo execute their right to vote, especially

when at first place valid data about the real size of the minority communities is missing. Nevertheless, by analyzing the election turnout (taking the official results from the last Assembly elections, held in December 2010), it can be established how many voters elect a deputy holding a reserved seat representing people from the minority communities in Kosovo.

According to the Central Election Commission (CEC)²¹ the total number of the registered voters for the General Elections in Kosovo in December 2010 was 1,632,276. The election turnout was 45.29%, or 738 265 people has exercised their constitutional right to vote. The total number of valid votes was 698 751.

The votes of 643 704 people were divided among 7 political entities representing the majority Albanian community and since two of those did not passed the threshold of 5%, 95 seats of the designated seats were divided among 5 political entities proportionally following the Sainte-Laguë method: Democratic Party of Kosovo (Partia Demokratike e Kosovës) – 34 seats, Democratic League of Kosovo (Lidhja Demokratike e Kosovës) – 27 seats, Self-Determination (Vetëvendosje) – 14 seats, Alliance for the Future of Kosovo (Aleanca për Ardhmërinë e Kosovës) – 12 seats, New Kosovo Coalition (Koalicioni për Kosovë të Re) – 8 seats. Due to the transitional Article 148 of the Constitution, 5 seats out of the 100 were given to minority parties that have passed over the 5% threshold. Thus, a deputy representing the Albanian majority in 2010 was elected by 6 775 votes.

The official CEC statistics reveals that 55 047 votes supported the political entities representing the non-majority communities in Kosovo. They were distributed as follows:



Political entities representing Kosovo minorities (General elections, December 2010)	Votes	%	Main	Res. seats	Community
Independent Liberal Party (<i>Samostalna Liberalna Stranka</i>)	14 352	2.05	2	6	Serb
United Serbian List (<i>Jedinstvena Srpska Lista</i>)	6 004	0.86	1	3	
Serb Democratic Party of Kosovo and Metohija (<i>Srpska Demokratska Stranka Kosova i Metohije</i>)	1 008	0.14	—	1	
Turkish Democratic Party of Kosovo (<i>Kosova Demokratik Türk Partisi</i>)	8 548	1.22	1	2	Turk
Vakat Coalition (<i>Koalicija Vakati</i>)	5 296	0.76	1	1	Bosniak
Bosniak Party of Democratic Action of Kosovo (<i>Bošnjačka Stranka Demokratske Akcije Kosova</i>)	1 818	0.26	—	1	
New Democratic Party (<i>Nova Demokratska Stranka</i>)	2 478	0.35	—	1	
Democratic Ashkali Party of Kosovo (<i>Partia Demokratike e Ashkanlive të Kosovës</i>)	2 871	0.41	—	1	Ashkali
Ashkali Party for Integration (<i>Partia Ashkalinjëve për Integrim</i>)	1 386	0.2	—	1	
New Democratic Initiative of Kosovo (<i>Iniciativa e Re Demokratike e Kosovës</i>)	1 690	0.24	—	1	Egyptian
United Roma Party of Kosovo (<i>Partia Rome e Bashkuar e Kosovës</i>)	690	0.1	—	1	Roma
Civic Initiative of Gora (<i>Građanska Inicijativa Gore</i>)	787	0.11	—	1	Gorani
Lost votes ²²	8 119	1.17	—	—	Turk, Egyptian Serb, Gorani Montenegrin
Total	55 047	7.87	5	20	

Source: CEC, Rezultetet e përgjithshme/Opšte rezultati (2010) at <http://kqz-ks.org>

Taking into account that 8 119 votes were lost since the distribution of the reserved seats does not account for the general number of voters and there is no threshold for minority parties, the figures suggest that 46 928 voters elected 25 deputies in 2010. Hence, on average a seat of a deputy representing a minority community in the present Assembly of Kosovo weights 1 877 votes (or 2 346 in case if the transitional Article 148 had not been valid).

In fact, such an approach should not be applied to estimate the weight of the reserved seats, because the Constitution stipulates that communities will be represented in the Assembly regardless of the percentage of voters supporting a political entity that represents any

minority community. Looking at the number of votes behind the seats allocated for each community, it appears that in 2010:

- 4 274 votes elected a deputy, representing the Turk community
- 2 398 votes elected a deputy, representing the Bosniak community
- 2 128 votes elected a deputy, representing the Ashkali community
- 1 690 votes elected a deputy, representing the Egyptian community
- 1 643 votes elected a deputy, representing the Serb community
- 787 votes elected a deputy, representing the Gorani community



- 690 votes elected a deputy, representing the Roma community

The formal comparison between the number of votes behind a deputy seat representing the Albanian majority and a reserved seat for the minorities, or between the numbers of constituents that deputies represent, could mislead to the conclusion that minorities in Kosovo are overrepresented in the Assembly. The complex analysis of the situation, taking into account not only the statistics, but also the political and social discourse, would suggest that this is not the case. Although figures might seem unequal, the point is that ethnic grounds might present a strong basis for political support (Crawford & Lipschutz 1998) but it will always be limited to the community numbers. A political representation that does not transcend the rigidity of the factors-of-difference cannot gather supporters on the grounds of shared civic interests or common goals. Hence, the reserved seats of the Kosovo Assembly guarantee that the voice of the people belonging to the minority communities that cannot find another political entity to defend their interests will be heard through a deputy holding a reserved seat, which by no means reduces the rights of the majority population.

These figures however matter because of the significant powers are vested in these 20 Assembly seats reserved for representatives of the non-majority communities in Kosovo. The low election turnout would not reduce their number but the political passiveness and non-participation in elections of minority constituents can contribute to abuses of the democratic framework in place and could bring about deformities in the newly established democracy.

Before addressing some of the shortfalls that could result from the low level of minority participation in elections, it is important to consider the factors that create obstacles to the representatives on non-majority communities in Kosovo to exercise their democratic and constitutional rights and to cast their votes.

VI. CHALLENGES TO MINORITY PARTICIPATION IN ELECTIONS

In October and November 2012 ECMI Kosovo implemented a 2-month project ‘*Enhancing Minority Communities’ Understanding of Kosovo’s Electoral System*’²³ in partnership with the International Foundation for Electoral System (IFES) and 5 Kosovo NGOs²⁴. The overall goal of the project was to increase minority communities’ understanding of Kosovo’s electoral system. The information campaign “MERR PJESË/UÇESTVUJ” comprised three main activities targeting a wider public of minority communities as well as key stakeholders and potential multipliers:

- disseminating information on the Kosovo’s electoral system in minority inhabited areas through user-friendly leaflets, MERR PJESË website and social media
- organising and broadcasting four TV shows in minority languages and of promotional videos (in three languages - Turkish, Bosniak, and Roma)
- organising 20 public information meetings organized in 15 municipalities in all regions in Kosovo

To increase understanding of the electoral system and the importance of participation in the electoral process, ECMI Kosovo targeted local representatives, civil society and other stakeholders and potential multipliers of non-Albanian and non-Serb communities in Kosovo. According to the ECMI Kosovo estimates, the dissemination of information over the 2 months period through printed and electronic media reached directly and indirectly:

- Leaflets - 18 900 people
- Social media, YouTube and ECMI webpage – 3 453 people
- TV shows – 11 000 people
- Promotional videos – 15 000 people



ECMI Kosovo activities raised awareness of the rights and responsibilities of citizens, including voting rights, and practical information about the importance of participation in the elections, types of election, identification necessary to establish eligibility, voter registration requirements, and mechanisms for voting. In order to overcome the limitations of one-way line of communication provided by printed materials and mass media, ECMI Kosovo organized 20 public information meetings aimed at providing more detailed information to key minority stakeholders as well as allowing for interactive sessions of questions and answers.

A total of 376 community members were reached directly through the public information meetings. Although there is no accurate way to measure the number of people reached indirectly (i.e. informed by one of the minority community members reached directly), ECMI Kosovo has estimated that on average each person reached directly will discuss the information received with two (2) additional individuals. Thus, 1,128 community members were reached during the campaign where approximately 35% or converted in numbers 394 of participants were females.²⁵

Public Information Meetings		
Municipalities	Community/Communities	Participants
Gjilan/ Gnjilane	Roma, Ashkali, Egyptian	17
Kamenicë/ Kamenica	Roma, Ashkali, Egyptian	20
Mitrovicë/a	Roma, Ashkali, Egyptian	20
Mitrovicë/a	Bosniak	18
Fushë Kosovë/ Kosovo Polje	Montenegrin	15
Mamushë / Mamuša	Turk	15
Gjakovë/ Đakovica	Roma, Ashkali, Egyptian	16
Prizren	Turk	20
Prizren	Roma, Ashkali, Egyptian	23
Village Plemetina/Plemetin municipality of Obiliq/Obilić	Roma, Ashkali, Egyptian	22
Ferizaj/ Uroševac	Roma, Ashkali, Egyptian	24
Pejë/Peć	Bosniak	18
Pejë/Peć	Roma, Ashkali, Egyptian	17
Dragash/ Dragaš	Bosniak	19
Prizren	Bosniak	35
Janjevë/ Janjevo	Community/Communities	12
Fushë Kosovë/ Kosovo Polje	Roma, Ashkali, Egyptian	25
Gračanica/ Graçanicë	Roma, Ashkali, Egyptian	15
Village Priluzhje/ Priluzhë municipality of Vushtrri /Vuçitrn	Roma, Ashkali, Egyptian	10
Village Magurë municipality of Lipjan/ Ljipljan	Roma, Ashkali, Egyptian	15

The information gathered during these meetings with the representatives of non-Albanian and non-Serb communities throughout Kosovo enlightens some of the challenges that minorities face and that creates impediments to their participation in elections.

ADMINISTRATIVE CHALLENGES

▪ Civic and voter registration

In many localities throughout Kosovo Roma voters cannot register to participate in elections, partly due to failure of Roma to register their residence with the authorities and hence lack identity documents. In Mitrovicë/Mitrovica region for example 56% of Roma, Ashkali, and



Egyptian eligible voters were not register in the Voter list. Other groups, such as the Montenegrin women in Uglar/Ugljare village, also face problems with issuing of identity and other personal documents.

First time voters and people that live outside Kosovo face difficulties in controlling that their information is updated in the civil registry office and they will be able to vote (comments from Mamushe/Mamuša Municipality).

▪ **Voting locations**

In the last elections a polling station was located in 5 km distance of the location where minority community resides (Kamenice municipality/Berivojce Village), which created serious impediments to the participation of Roma voters.

SECURITY CHALLENGES

- Bosniak representatives in the public information meeting in Mitrovicë/Mitrovica openly showed their dissatisfaction with local and international institutions for the non-fulfilment of minimum security requirements in order to allow them to vote and be voted in the northern municipalities of Kosovo. In 2010 seven villages in northern Kosovo boycotted elections for security reasons.

POLITICAL CHALLENGES

▪ **Political parties**

Widespread perception of stakeholders is that the political parties do not represent their interests and do not defend their rights in reality. Elected political representatives cannot be rendered accountable to their stakeholders (no such mechanisms) and hence they are not much trusted.

▪ **Political apathy**

ECMI Kosovo has registered higher levels of political apathy and lack of knowledge

about the minority representatives both at both local and central level.

▪ **Dissatisfaction of current representation (lack of accountability)**

Stakeholders do not feel connected with their representatives and are dissatisfied with the level of protection of their rights and interests resulting from the political representation both at local and central level. Roma community in Kamenice municipality wanted to cast the Rome representative off. The lack of involvement of representatives with community problems and the lack of direct communication between deputies and stakeholders are also among the factors that hold back people from casting their votes in elections. The distance between the Assembly deputies and the local problems is perceived widely and leads to aspirations for claiming reserved seats at local level.

The lack of mechanisms to render the representatives accountable to the stakeholders community allows the deputies holding reserved seats to act “as individuals” and not as community representatives (comments from Bosniaks in Prizren).

▪ **Lack of representation**

The fact that the Constitution does not entitle Croat and Montenegrin communities to reserved seats, is perceived as a form of discrimination to these communities that need to seek political representation with other minority parties (comments from Janjeve/Janjevo Municipality).

Lack of political representation at Municipal level (since there are no reserved seats in the Municipal assemblies and in regions where the minority population is below 10% the Constitutional provisions for guaranteeing a post in the local self-government do not apply) also increases dissatisfaction with the political processes in Kosovo (comments from Bosniak community in Mitrovicë/Mitrovica Municipality).



Civil initiative is still underdeveloped – there are locations like Uglar/Ugljare village, where there is no forum, council or civic initiative and/or group dealing with communities concerns.

- **Manipulation of votes**

Election irregularities and manipulation of minority votes has a twofold negative impact on democratic processes. On one hand it changes the vote of the constituents and on the other hand it reduces the trust of the stakeholders in the system and in the political processes and hence decreases the turn out rates. Manipulation of vote from political parties' representatives at the polling station Committees (commented by the Roma community in Gracanica/Gracanica) or been cases of stuffed ballots upon the closure of voting (reported in Dragash/Dragaš Municipality) cannot increase participation in elections.

Acknowledging the corruption/pressure factors at local level during elections, representatives of the minorities in Mamushe/Mamuša Municipality have demanded to ECMI Kosovo that CEC shall include representatives of other municipalities during election processes with the purpose to ensure that irregularities are avoided and votes are protected.

The lack of awareness and information about how and whom to notify about detected election irregularities the polling stations eventually results in not reporting those to the respective authorities.

- **Voting culture**

Family voting has emerged as an issue. Minority voters and election officials need to obtain better understanding of the democratic rules and procedures in order to be able to exercise properly their rights overcoming culturally related predispositions.

- **Women participation**

Women still face challenges to participate in elections. ECMI Kosovo has established that there is a need for developing gender-sensitive voter and civic education messages that highlight the capacities of women as candidates and political leaders, encourage women to run for office, break down negative stereotypes of women, and promote women's full participation in the electoral process.

INFORMATION/EDUCATION CHALLENGES

- In almost all public information meetings held by ECMI Kosovo in October and November 2012 non-majority community members requested to have similar campaigns in the future, especially in periods prior to election campaigns in order to continue the awareness raising on the importance of participation in the elections and the weight of their votes.

In certain areas, members of non-majority communities do not have sufficient knowledge of the institutions responsible for administration of elections, e.g. the Election Panel for Complaints and Appeals.

The lack of proper pre-election education campaign result in a high number of non-valid ballots (about 40 000 in 2010)

SOCIAL CHALLENGES

- Although social issues are not challenges to political participation per se, these should be taken into account since the concerns with living conditions not only affects the political agenda and shift people's focus away from issues of political representation (and surely place it on the survival needs), but also can open door for negative practices that could deform and corrupt democracy.



The public meetings organised by ECMI Kosovo were used by a number of minority representatives as a platform for sharing their concerns with the high unemployment, poor infrastructure, poor living conditions, the property rights, economic migration, healthcare, segregation, education and schooling issues.

These concerns ought not to be ignored and rendered irrelevant to the political processes because problems that affect daily life of people could easily be transformed into political stakes and then trading votes for services might become a practice. The fact that these issues were brought about before or alongside the discussions about the minority political representation and voting indicates that people are currently more interested with their well-being than with exercising their constitutional and civil democratic rights.

VII. MINORITY PARTICIPATION IN ELECTIONS MATTERS

Low election turnout in general is a challenge to democracy since it might open the door to negative processes and phenomena. Political passiveness of citizens in the context of advanced and consolidated democracies might not bring about deformities, since there are mechanisms for checks and balances, established rules and procedures as well as institutional apparatus safeguarding the supremacy of the rule of law. New democracies however are exposed to the negative impacts resulting from low election turnout, resulting from disappointment with political processes and developments, following the initial enthusiasm that has driven democratic changes.

In the case of the Kosovo Communities, the low election turnout of minority voters might lead to serious deformities in the democratic processes and practices. As it was indicated in the first part of the analysis, the weight of the “small” number of 20 seats reserved or

guaranteed for representatives on the non-Albanian communities in the Assembly, is significant. The 20 deputies in facts have a direct impact on the:

- Constitutional amendments
- Legislative process, especially with regard to the legislation of vital interest:
 1. Laws changing municipal boundaries, establishing or abolishing municipalities, defining the scope of powers of municipalities and their participation in inter-municipal and cross-border relations;
 2. Laws implementing the rights of Communities and their members, other than those set forth in the Constitution;
 3. Laws on the use of language;
 4. Laws on local elections;
 5. Laws on protection of cultural heritage;
 6. Laws on religious freedom or on agreements with religious communities;
 7. Laws on education;
 8. Laws on the use of symbols, including Community symbols and on public holidays,
- Decision-making process and the leadership of the Assembly
- Matters concerning the rights of the Communities
- Executive power (Government)
- Judicial system
- Electoral management and control

At the same time, as the analysis unveiled, currently about 2 000 voters in average (starting from 690 for a Roma representative to 4 274 for a Turk community representative) appoint a deputy on a reserved seat. This small number of stakeholders casting their vote in elections is already a risk to the democratic process and the political representation of minorities *per se*.

Taking into account current negative political practices, a possible scenario can foresee the emergence of political entrepreneurs who aspiring for political power would aim at taking control of reserved seats. The Constitution of Kosovo regulates the minority representation, but it does not provide any legal



requirements about the quality of such representation, nor does it specify mechanisms for rendering such deputy accountable to their stakeholders. The legislation that regulates the political representation of communities in elections is the General Electoral Law, which requires that a political entity when applying for certification indicates:

...whether it wishes to contest any of the seats guaranteed for the representation of Kosovo Serb and other non-majority communities under Article 64 of the Constitution (GEL, 15.11)

Projecting such a possibility to the number of voters behind a reserved seat, it appears that in a negative scenario, buying votes for securing a seat in the Assembly is quite a feasible option. Other mechanisms for acquiring deputy positions in a non-democratic way is by “motivating” the limited number of voters by putting pressure upon their free choice, by altering the vote of the electorate or by dispersing the votes of the stakeholders.

The prospects for the first scenario of non-democratic acquisition of seats in the Assembly (buying votes) emerge from the testimonials of community members, summarised above in the section “challenges to participation”. As election experience from established democracies suggests (e.g. Bulgaria) trading votes has been an “established” practice for groups to secure services or to meet some basic needs. Hence, the expressed concerns of community representatives from Kosovo municipalities with social issues in the context of the discussions related to participation in election should be considered in the light of the possible shortfalls and addressed respectively.

Evidences from the field suggest that the second type of negative scenario – pressure upon voters – is also a risk before the political representation of minorities and the democracy in Kosovo in general. The reported “security concerns” are only one, although significant, aspect of the problem. While serious, these issues can be addressed by respective measures

in the areas of higher tensions. The other aspect, which is rather difficult to tackle once emerged, is the pressure that voters could experience at local level. Reported cases from the field are currently related to experience in local elections (e.g. at the second round of the local and at the Mayoral elections in Dragash/Dragaš municipality²⁶). Although an emerging problem in connection with local elections, this is still not such an issue with regard to the general elections because of the fact that Kosovo is currently a single electoral district while communities (despite locations of consolidated settlements) are dispersed throughout the country. Hence, as long as the vote of minority communities consolidates at a national basis, pressure on voters in local polling stations would have a minimum negative effect. In the case of multiple electoral districts, pressure upon communities there might become greater since the outcomes of the regional vote would have more weight against the final election results and it would be much easier to mobilise the needed number of people to elect a designated candidate from a party that has been certified as representing a minority community.

Reasons to consider the risks of altering the minority vote emerge from the testimonials related to irregularities detected during elections at local polling stations. The lack of knowledge about the procedures and institutions they could address their complaints to result in ‘silence’ about noticed irregularities which eventually affects the trust in the institutions, in the political system and in the value of participation in elections in general. In the case of the small number of voters electing a deputy for a reserved seat, ‘ballot thefts’ can change significantly the election outcomes.

The “family voting” is another type of pressure that eliminated the possibility for a democratic choice.

Fragmentation of the political representation of minorities can also be used by political entrepreneurs as a mechanism for taking a hold of reserved seats. The fact that there is no threshold for minority parties to enter



the Assembly on one hand provides a possibility to small parties to run in the elections. At the same time, the lack of a threshold is a factor for defragmentation of the minority parties. When any political entity, despite the number of the supporting stakeholders, can compete on equal grounds, this can easily result in swarming of political parties claiming to represent minority communities. As it could be seen from the results of the general elections in 2010, 1.7% or 8119 minority votes were lost since the parties that those were given for could not appoint a deputy. Projecting again to the average of 2000 votes behind a reserved seat, this appears to be a significant number. Surely, it does not mean that minorities would have more seats in the Assembly, but it means that the elected deputies are more likely to represent a local group of the minority community, than the community at large. This problem has been illustrated by the complaints of the stakeholders, recorded by ECMI Kosovo, that people do not feel that they are being represented at local or central level.

Hence, a mechanism for dispersing the minority vote can be the registration of numerous smaller parties that might attempt to divert the local vote of the constituents in order that a consolidated group of voters elect a designated candidate to “represent” the particular community. In this context, a very low, but existing threshold could have a positive effect both on reducing the risk of manipulating the election results by engineering minority parties, and on the process of consolidation of the political representation of minorities and strengthening the connection between political candidates (parties) and the stakeholders throughout the country.

The lack of information, knowledge about the electoral process and awareness about the weight of the reserved seats is also a problem that needs to be addressed for guaranteeing true political representation of minority communities in Kosovo. As it was discussed above, a high number of non-valid votes (about 40 000 in total in the elections of 2010) should not be acceptable phenomena, if on average 2000 people elect a deputy to a reserved seat. The

evidences from the field gathered by ECMI Kosovo suggest that community members at large are not fully aware about the election rules and procedures.

Finally, apart from pre-election educational campaigns to make people aware of election rules, procedures and technicalities, members of non-majority communities in Kosovo need to understand the weight of their vote and the risks resulting from their passiveness. Because although their Constitutional rights (among which the right of reserved seats in the Assembly) cannot be affected negatively by decrease of the number of community members, minority rights can be limited through the democratic procedures when political entrepreneurs push away genuine community representatives. A similar situation was observed in Hungary in the context of the minority self-governance system that has led to the amendments of the law in 2005 in order to prevent opportunists from abusing the established structures. In other words, if the reserved seats in the Assembly of Kosovo are taken by political entrepreneurs that in fact do not represent the respective communities, their vote can have a negative impact on the democratic arrangements in the country and on the rights of minorities.

VIII. Conclusion

Minority participation in the political process in Kosovo is a necessary factor for safeguarding the democratic framework installed by the existing legislation and for guaranteeing equality of political representation. In order to enable this participation, a number of challenges need to be addressed by local and international institutions, but also by the stakeholders, who should become aware of the weight of their vote of the risks to democracy resulting from non-voting. Raising awareness among member of minority communities requires continuous efforts and long-term educational activities.

The lack of mechanisms for accountability of elected minority



representatives to their stakeholders challenges participation in elections by decreasing levels of trust and increasing disappointment with the political representation and hence with the system and the institutions. This has a direct negative impact on voter turnout at elections.

A deputy holding a reserved seat in the Assembly of Kosovo must truly act as a community representative and not as an individual. Since there are no legal mechanisms for rendering such a deputy accountable to the respective community, instruments for civil control need to be developed. This entails strengthening of civil society and supporting the establishment of citizens' organisations in order to advocate community interests at local and central level.

Finally, the pieces of legislation that are not under the "direct" control of the political representatives of the non-majority communities in Kosovo, but might have a significant impact on the minority representation are the Law on General Elections and the Election Rules, issues by the Central Electoral Commission.

With regard to the ongoing debate about the changes of the electoral system in Kosovo (regulated by the Law of General Elections, which could be amended by simple majority vote), minority stakeholders, local and international institutions and organisations, concerned with the rights of minorities, should be aware of the various aspects of the negative

impact that the introduction of multiple-electoral districts might bring about with respect to the political representation of communities in Kosovo.

The Law on General Elections defines electoral thresholds (currently 5% for political entities representing the Albanian community and none for the political entities representing the non-majority communities) as well as the requirements before parties claiming that they represent minority communities. Elaboration of a set of criteria with regard to guaranteeing true political representation and including those in the LGE should be considered. In general, any suggested amendments to the LGE should be carefully analysed in the light of minority rights protection.

CEC rules need also to be monitored and assessed in the context of ensuring possibilities for adequate political representation of minorities in Kosovo.

In conclusion, ensuring the quality of democracy in Kosovo lies not only in the powers of the local and international organisations, but mainly in the hands of the stakeholders. Minority rights are guaranteed by the existing legislative framework, but its adequate implementation depends on the active participation of the members of the non-majority communities in Kosovo.



Bibliography

- Crawford, B. & R.D. Lipschutz, eds., *The Myth of “Ethnic Conflict”: Politics, Economics, and “Cultural” Violence*, pp. 513 – 561; Research Series No 98, Retents: University of California International and Area Studies Digital Collection; Available from <http://repositories.cdlib.org/uciaspubs/research/98/>
- ECMI Kosovo, *Electoral Reform in Kosovo* (Discussion Paper), 28 November 2011
- ECMI Kosovo, *Enhancing Minority Communities’ Understanding of the Electoral System in Kosovo*, Final Report, December 2012
- ECMI Kosovo, *Enhancing Minority Communities’ Understanding of the Electoral System in Kosovo*, Weekly Reports available from <http://share.pdfonline.com/includes/search.htm?q=ecmi%20kosovo>
 - ECMI Kosovo, *Enhancing Minority Communities’ Understanding of the Electoral System in Kosovo*, Weekly Report – Merr Pjesë, 15-19 October 2012
 - ECMI Kosovo, *Enhancing Minority Communities’ Understanding of the Electoral System in Kosovo*, Weekly Report – Merr Pjesë, 22-26 October 2012
 - ECMI Kosovo, *Enhancing Minority Communities’ Understanding of the Electoral System in Kosovo*, Weekly Report – Merr Pjesë, 29 October – 2 November 2012
 - ECMI Kosovo, *Enhancing Minority Communities’ Understanding of the Electoral System in Kosovo*, Weekly Report – Merr Pjesë, 5-9 November 2012
 - ECMI Kosovo, *Enhancing Minority Communities’ Understanding of the Electoral System in Kosovo*, Weekly Report – Merr Pjesë, 12-16 November 2012
 - ECMI Kosovo, *Enhancing Minority Communities’ Understanding of the Electoral System in Kosovo*, Weekly Report – Merr Pjesë, 19-23 November 2012
- ECMI Kosovo, *Minority Communities in the 2011 Kosovo Census Results: Analysis and Recommendations*, Policy Brief – 18 December 2012
- KIPRED, *Elections for the citizen. Evaluation of the Kosovo Electoral System and Recommendations for Future Elections*, January 2012
- KIPRED, *Kosovo National Elections 2010: Overview and Trends*, April 2011
- OSCE Mission in Kosovo, *Community Rights Assessment Report*, Third Edition, July 2012, available from <http://www.osce.org/kosovo/92244>

Laws (available from www.assembly-kosova.org)

- CONSTITUTION OF THE REPUBLIC OF KOSOVO
- Law No. 02/L-37 ON THE USE LANGUAGES
- Law Nr. 03/L-034 ON CITIZENSHIP OF KOSOVA
- Law No 03/L-047 ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF COMMUNITIES AND THEIR MEMBERS IN KOSOVO
- Law No 03/L-072 ON LOCAL ELECTIONS IN THE REPUBLIC OF KOSOVO
- Law No 03/L-073 ON GENERAL ELECTIONS IN THE REPUBLIC OF KOSOVO
- Law No 03/L-256 ON AMENDING AND SUPPLEMENTING THE LAW NO 03/L-073 ON GENERAL ELECTIONS IN THE REPUBLIC OF KOSOVO

Institutional websites

- Assembly of Kosovo, www.assembly-kosova.org
- Central Election Commission, Kosovo, www.kqz-ks.org
- Kosovo Agency of Statistics, <http://esk.rks-gov.net>



Footnotes

¹ ECMI Kosovo, project: Enhancing Minority Communities' Understanding of Kosovo's Electoral System, October-November 2012, project financed by the International Foundation for Electoral System (IFES).

² Constitution of the Republic of Kosovo, available from <http://www.kuvendikosoves.org/?cid=2,100,48>.

³ 2008 Law on General Elections in the Republic of Kosovo, available from: <http://www.kuvendikosoves.org/?cid=2,191,268>.

⁴ ECMI Kosovo Discussion Paper: Electoral Reform in Kosovo, 28 November 2011.

⁵ There are ongoing debates to introduce territorial division of electoral districts - ECMI Kosovo Discussion Paper Electoral Reform in Kosovo, 28 November 2011; KIPRED – Elections for the citizen. Evaluation of the Kosovo Electoral System and Recommendations for Future Election, January 2012, available from http://www.kipred.org/advCms/documents/28022_Kosovo_Electoral_System_Review.pdf.

⁶ CEC, kqz-ks.org.

⁷ Some of the requirements (as List of elections and municipalities for which the political entity wishes to compete and the connected with it Deposit fee per election/municipality contesting) hold a potential to create serious barriers to participation in elections of political parties representing minorities.

⁸ Law on Self-Government in Kosovo, available from http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L040_en.pdf.

⁹ The Constitution of Republic of Kosovo (2008) stipulates that “Inhabitants belonging to the same national or ethnic, linguistic, or religious group traditionally present on the territory of the Republic of Kosovo (Communities) shall have specific rights as set forth in this Constitution...” (Chapter III: Rights of Communities and Their Members/ Article 57 [General Principles]).

¹⁰ The other 2 international legal instruments that are directly applicable (Article 22) but not exactly relevant to the community rights are: (7) Convention on the Rights of the Child; (8) Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

¹¹ The Census of 2011 did not take into account the Croat and Montenegrin communities as separate ethnic groups and they were included under the category of “Others”, estimated to 0.1% of the total population (2352 people). Despite the Law on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo (LPPRC) was amended in December 2011 to explicitly incorporate the Croat and Montenegrin communities, according to the current legislation they are not entitled to reserved seats in the Assembly. According to the amendments, Croats and Montenegrins are entitled to 2 representatives for each community at the Community Consultative Council to the President of Kosovo (Amendments to LPPRC, Article 12.6 - amended).

¹² Appointed from the judges of the Supreme Court and courts exercising appellate jurisdiction (Article 139).

¹³ KAS, <http://esk.rks-gov.net>.

¹⁴ ECMI Kosovo Policy Brief, November 2012.

¹⁵ Minority communities' representatives have expressed dissatisfaction with the results to ECMI Kosovo (Policy Brief). ECMI Kosovo is continuously in contact with minority representatives. In addition, the issue of the 2011 census results was brought up on various occasions throughout a series of debates organized by ECMI Kosovo in October and November 2012.

¹⁶ ECMI Kosovo Policy Brief, November 2012.

¹⁷ If data were not reported during data collection, they are noted to be “Not available”, KAS, Main Data – Census 2011 http://esk.rks-gov.net/rekos2011/repository/docs/Final%20Results_ENG.pdf, p.17.

¹⁸ ECMI Kosovo has conducted a preliminary assessment of the census data on minority communities, comparing them with previous estimates made by ECMI Kosovo and the OSCE Mission in Kosovo in 2010 and 2011, as well as electoral participation data. Although the latter sources of information cannot be considered to be fully accurate, discrepancies with census results pose various questions, ECMI Kosovo Policy Brief.

¹⁹ ECMI Kosovo conclusions are also drawn from the comparison between the census data for municipalities with voter participation in elections – e.g. according to census data, there are 3,148 Serbs living in the Štrpce/Shtërpçë municipality. However, in the 2010 general elections, 3,396 people voted for the Serb political party SLS; this would mean the number of voters for that party is higher than the total Serb population in this municipality, ECMI Kosovo, Policy Brief, November 2012.



²⁰ ECMI Kosovo Policy Brief, November 2012.

²¹ CEC, <http://www.kqz-ks.org/SKQZ-WEB/en/zgjedhjetekosoves/rezultatetzp.html>.

²² The following minority parties were supported by votes of the electorate but did not manage to cast their representatives in the Assembly of Kosovo in 2010: Kosovo Turkish Union (Kosova Türk Birliği), League of Egyptians of Kosovo (Lidhja e Egjiptianëve të Kosovës), Serbian Social Democratic Party (Srpska Socijal Demokratska Stranka), Montenegrin Democratic Party (Crnogorska Demokratska Stranka), Serb People's Party (Srpska Narodna Stranka), Social Democratic Party of Gora (Socijaldemokratska Stranka Gore), Serb Kosovo-Metohija Party (Srpska Kosovsko-Metohijska Stranka), Union of Independent Social Democrats of Kosovo and Metohija (Savez Nezavisnih Socijaldemokrata Kosova i Metohije), Civic Initiative National Wing (Gradjanska Inicijativa Krilo Naroda)

²³ ECMI Kosovo - Merre Pjesë weekly project reports are available from <http://share.pdfonline.com/includes/search.htm?q=ecmi%20kosovo>.

²⁴ The campaign “MERR PJESE/UČESTVUJ” was financed by the International Foundation for Electoral Systems (IFES) and USAID. Apart from European Centre for Minority Issues in Kosovo, five other NGOs are involved: Kosovo Democratic Institute, Balkan Investigative Reporting Network, Center for Peace and Tolerance, Center for Policy and Advocacy, and Qendra Multimedia.

²⁵ ECMI Kosovo Final Project Report 2012; ECMI Kosovo indicates that a particularly positive aspect was the participation of women and young people in public informative meetings, TV debates, and in the promotional videos as additional proof that this campaign has achieved the main aim of enhancing the knowledge of non-majority communities’ women and young people regarding participation in elections and decision making processes.

²⁶ ECMI Kosovo, Weekly Report – Merr Pjesë, 5-9 November 2012.

ABOUT THE AUTHOR

Dr. Zora Popova

Research Associate at ECMI

Participating in ECMI’s Citizenship & Ethics

*Contact: popova@ecmi.de

FOR FURTHER INFORMATION SEE

EUROPEAN CENTRE FOR MINORITY ISSUES (ECMI)

Schiffbruecke 12 (Kompagnietor) D-24939 Flensburg

☎ +49-(0)461-14 14 9-0 * fax +49-(0)461-14 14 9-19

* E-Mail: info@ecmi.de * Internet: <http://www.ecmi.de>