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ELECTORAL REFORM IN KOSOVO (2010-2015)

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LIST OF APENDIXES

UNMIK	United Nation Mission in Kosovo
EU	European Union
EEA	European Economic Area
MLGA	Ministry of Local Government Administration
NGO	Non-governmental Organization
UK	United Kingdom
PRSTV	Proportional Representation through the Single Transferable Vote
LGE	Law on General Elections
LLE	Law on Local Elections
CEC	Central Election Council
MEC	Municipality Election Council
PSC	Polling Station Centers
ENEMO	European Network of Election Monitoring Organization
PDK	Democratic Party of Kosovo
LDK	Democratic League of Kosovo
AAK	Alliance for Future of Kosovo
AKR	Alliance for Kosovo e re
VV	Political Party (Vetëvendosja)
LDD	Democratic League of Dardania
SLS	Independent Liberal Party
CSP	Comprehensive Status Proposal
IDEA	Institute for Democracy and Electoral Assistance

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EXECUTIVE SUMMARY

In recent years Kosovo has made efforts to organize elections in accordance with democratic principles. The results from the questionnaire introduced in this project indicate that 60 % of the respondents believe that the electoral process is not credible, citizens do not trust the voting system, and some respondents believe that votes are manipulated.

The main objectives of the Capstone Project were to assess the opinion of voters and ascertain some key recommendation for improvement. For this purpose, the respondents were chosen amongst different interest groups (120 citizens), including government, non-governmental organization (NGO) and the business sector. To a limited extend the international community was also questioned. Among the respondents 49% of them do not believe that the current electoral system in Kosovo is able to produce effective and democratic government of the country.

To make this project well-informed, a set of meetings and interviews were conducted with relevant institutions related to the election system throughout the various phases of the project. In questions to respondents, 59% of them consider that the current electoral system of Kosovo needs an overall reform. If we add to this number 41% of the respondents which consider that the system needs a partial reform, we get a 100% of respondents considering that the current system should pass through a reform process.

Around, 70% of the respondents consider that the President of the Republic of Kosovo should be elected by direct vote. The experience of electing the President by the people instead of the parliament seems to be the best way to resolve the political crises. Further, 57% of the respondents think that the election threshold (5%) should be lower.

The respondents that consider that the threshold should be lower specify that the reasons for doing this are: i) to encourage the establishment of new political parties, thus increasing the choices for citizens, ii) to allow more diversity in the Parliament, and iii) as expressed by the majority, to give as much opportunity as possible to all interest groups to express their voice in Parliament.

The ballots for municipality mayors become difficult and expensive. At the 2009 election which obtained the participation of 45.36% of the voters, it was necessary to repeat three times. According to results, 21 municipalities out of 33 went in the second round of the voting. The results from the Capstone Project survey show that 75 % of the respondents consider that the Municipal Assembly should not elect the mayor, instead direct voting by citizens is preferred. Thus, it is of great importance to realize that avoiding the second round (ballotage) would increase the effectiveness of the election process, reducing the expense, and affect positively the performance of the local administration during the electoral process.

Around the 73 % of the project survey respondents consider that the current electoral system does not support the integration of minority communities. No less an important fact is with the choice of electoral zones; this is crucial for the future of fair representation. The majority of the respondents (62%) believe that instead of having one electoral zone covering all of Kosovo, the zone should be geographically divided into at least six electoral zones. This will result in creating more opportunities for citizens to seek accountability from those to whom they have given the vote to govern.

The findings and recommendations of this project aim to influence adequate changes in the electoral system in Kosovo and underline the importance to (i) extend the number of electoral zones, (ii) elect the president directly by the people, (iii) reduce the electoral threshold, (iv) avoid the second round of voting for municipality mayors, and (v) reduce the women quota.

1. THE ELECTORAL SYSTEM IN KOSOVO – CHALLENGES AND OPPURTUNITIES

1.1 Democratic Principles

Voting is a fundamental element of democracy. The electoral system is the whole set of rules by which the community will vote and the ways in which the votes will be translated into seats in parliament. Consequently the choice of electoral system is of considerable importance in the democratic system of representation. The system determines who will be chosen to represent the voters and which parties will form the government and which will be in opposition. Elections, which lie at the foundation of the electoral system, determine how citizens determine their government

1.2 Kosovo Experience and Practices

The Republic of Kosovo has a surface of 10,887 km², and based on the last census from the 1981, the total number of residents totals 1,584,440. A new constitution has been adopted after declaration of the independence in 2008. From 1999 until 2010, Kosovo went through 8 rounds of elections. Each and every round of the elections held have been assessed as free, fair and democratic by the international and local observers. The local elections of 2009 and the national elections of 2010 process were organized based on a new legislative framework and encountered a considerable number of disputes and difficulties. It should be noted that all rounds of elections (except 2009 and 2010) were organized and administered by the United Nations Mission in Kosovo.

The legal infrastructure in Kosovo, although in compliance with international standards, faces a lack of implementation due to financial and human resources shortfalls, administrative defects and a lack of strong political will.

The results from the survey show that it is evident that there are political influences over key institutions responsible for the election process, although, according to human rights standards, these should function independently for example the civil service, the judicial system, the police system and the media.

The last elections were announced by the president of the Republic of Kosovo¹. This decision was made in close collaboration and coordination with all political parties. There was also close coordination with international institutions functional on the ground and assisting in the election process. The political parties stated that they were fully prepared to take part in the election process.

The current law regarding the election system considers each municipality as a single electoral zone similarly to the national level where Kosovo is treated as a single zone. The basic principle of an “open list” of candidates for political parties or alliances, as prepared for central institutions, is used for the candidates for local assemblies plus direct elections for Municipality Mayors. The seats in the National Parliament or Municipal Assembly are allocated based on the general formula determined by the law². There are criteria for candidates including age and gender; these are included in the legal provisions³.

The term for all elected persons is fixed and ends on the same month four years after election.

1.3 Objective of the Exercise and the Respondents

The main objectives of the Capstone Project were divided into four areas: a) the electoral system of Kosovo, b) budgetary issues, c) the legal framework and d) administration of elections. For this purpose, the respondents were chosen amongst

¹ Decree of the President of the Republic of Kosovo date ...

² Law on general elections in the Republic of Kosovo No. 03/L-073

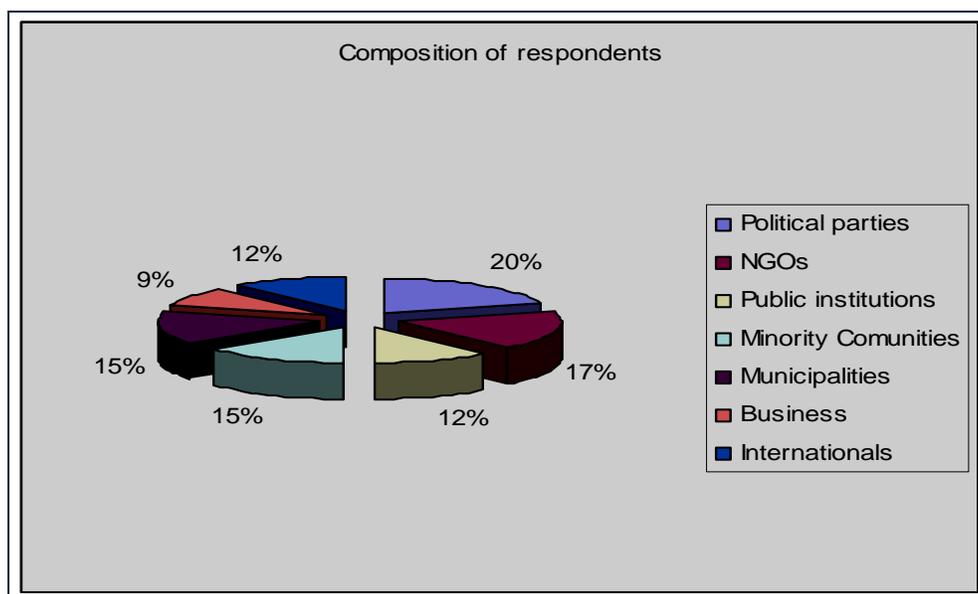
³ Law on general elections in the Republic of Kosovo No. 03/L-073

different groups of interest. These included government, non-governmental organization (NGO) and the business sector. To a limited extent the international community was also questioned.

Considering the political situation in Kosovo, experience from the past elections, and, predominantly, the reports from different observers for the last general elections in Kosovo, groups of interest are considered to be: representatives from political parties, representatives from non-governmental organizations and citizens, representatives from public institutions, representatives from minority communities, representatives from municipalities, and representatives from business.

Four respondents were chosen from the representatives of different international organization (non Kosovar citizenship), but the results from them is not included in the overall findings; they will be analyzed from a different perspective.

Fig 1.1 Composition of the respondents”



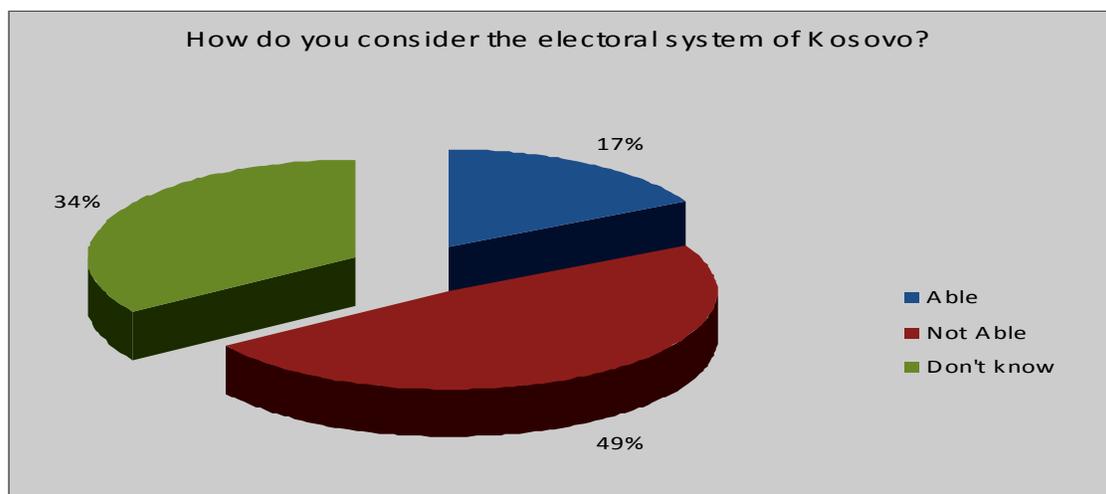
The questionnaire was developed and discussed with consultants of the Capstone Project. After finishing the final version of the questionnaire it was distributed to the respondents. A database was developed for entering the results and to generate graphic representation and to serve as a tool for cross-tabulation of data. Data entry was done on conditions of anonymity of the respondents.

One of the main objectives for setting the electoral system in place is of course to be able to produce an effective and democratic government. This is much more important in the countries where rules, norms and values of democracy have not been in place because of historical reasons, and is crucial to the Kosovo context, as a post-conflict country. Hence, meeting the main of the objective should be in focus in the election system and its mechanisms.

Among the respondents 49% of them do not believe that the current electoral system in Kosovo is able to produce a sustainable government of the country. Considering the large number of persons that were not able to give an answer (which is definitely not

“Able”), only 17% of people believe that the current system is able to produce sustainability.

Fig.1.2. “How do you consider the electoral system of Kosovo?”



It is very interesting to realize that the 17% of affirmative response is predominantly the opinion of the public institutions representatives. In the focus group discussions, representatives from political parties have different perceptions about the sustainability. Some of the representatives from the political parties argue that long-term integrity can be achieved with post or pre-electoral agreements. Somehow they do accept that post- or pre-electoral agreements can influence in the long-term integrity or legitimacy of the institutions of the country.

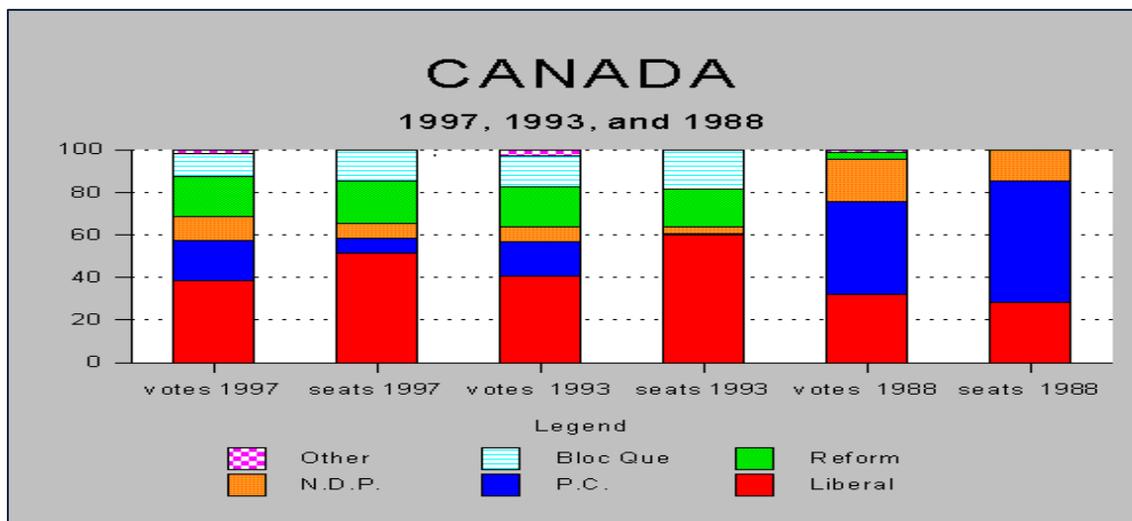
Only 24% of the respondents believe that the electoral system of Kosovo is a product of a prudent study of local circumstances. 42% cannot give a proper answer, meanwhile in the focus group discussion the participants, although believing that the current electoral system is based on some analyses, also believe that the main issues were of a political character, and not the electoral process.

1.4 Plural System

There are many electoral systems, which often also have their sub-systems and even the sub-systems are based on different formulae for calculating the results. All systems, although considered democratic, can function in very different ways and can produce different effects on the political system. Their effects on governance of the country and on the future of the political system are very different. Their impact can be significant on the system of political parties and on coalition building to govern and rule of law.⁴

The study of voting systems has influenced a new push for electoral reform that is going on today, with proposals being made to replace plurality voting in governmental elections with other methods. For example, consider the figure 1.3 that shows the disproportion between votes and seats in the parliament of Canada⁵ for different elections:

Fig. 1.3 Canada election system influence



⁴ Electoral systems – A comparative introduction by David M. Farrell. First published in 2001, PALGRAVE, New York;

⁵ Evaluation and optimization of electoral systems by Pietro Grilli Di Cortona. Society for Industrial and Applied Mathematics; New York, 1998.

1.5 What are Advantages and Disadvantages of Different Electoral Systems?

The challenge is to evaluate and analyze different electoral systems and to choose one of them for Kosovo. Furthermore, experience has shown that even in countries with a long democratic tradition the issue of changing the electoral system has been part of political debates and decision-making, up to referendums. Historically mankind has tried to choose the "best system", but one can conclude that the "best system" in reality does not exist. In fact, this task is related to select the most suitable system for one concrete reality, taking in consideration the traditions and political objectives of that country. Obviously this is a very complex task. It requires professionalism, but the final decision remains largely of a political nature, which will rarely satisfy al.

Thus it is worthy to have in mind a set (or establish) a list of principles, which would help to optimize the selection of an electoral system. Answers to these principles may come from the elected members of parliament or local assemblies, from local experts, students, civil society, civic forums etc. Specialized assistance may be needed from foreign experts or experiences from other countries. Below are eight principles that require answers⁶. The ranking is not a priority – their priority order should be part of the analyses and decision-making process:

1.5.1. Legitimacy

Kosovars have to choose an electoral system, in which they trust and that reflects the capacity of their values. High reliability of the system is an important element of success for the selection of the electoral system and for its longevity.

⁶ Electoral reform in Albania by Kastriot Islami, "Panorama", 17 may 2009;

1.5.2. Representation

Kosovars have to choose a system that guarantees a representative parliament. This means that Parliament should more accurately reflect the population by representing its entire constituent demographic and possibly in a more balanced proportion.

1.5.3. Choices for Voters

The electoral system should offer to the voters a greater number of choices and more opportunities to realize their best choice. So whilst considering the simplicity of the system, there is a need to create opportunities to the voters to elect the preferred party/candidate.

1.5.4. Effective System of Political Parties

Kosovars voters have to choose an electoral system that promotes democracy. The system must ensure that political parties are able to structure public debates, to mobilize and engage the electorate and to elaborate policies and processes of change and progress. Democratization and development of political parties have a close connection with the selection of the electoral system.

1.5.5. Stable and Efficient Governance

The electoral system should contribute to a sustainable and good governance of the country. Also, the system should contribute to the continuity of governance, and certainly contributing to avoiding misrule of the country. Government, built on the basis of election results, should be able to develop and implement its programs in order to meet the needs, interests and goals of the voters.

1.5.6. Effective Parliament

The selected electoral system has to lead to a shaping of Parliament that generates not only a stable and functional government, but also allows the opposition alternative to be voiced. Parliament must be able and efficient to conduct all its parliamentary

functions, including its primary legislative functions, as well as the function of consultation with voters and control of government.

1.5.7. Active and Full Participation in Elections

The electoral system should be able to encourage the Kosovar voters to participate in elections and engage in various aspects of democratic processes.

1.5.8. Accountability

The electoral system should create the opportunity for the voter to identify the decision makers, to interact with them and monitor their accountability.

2. ELECTORAL SYSTEMS IN EUROPE

2.1 Development and Current Electoral Systems in Europe

“Two very different ideas are usually confounded under the name democracy. The pure idea of democracy, according to its definition, is the government of the whole people by the whole people, equally represented. Democracy as commonly conceived and hitherto practiced is the government of the whole people by a mere majority of the people, exclusively represented. The former is synonymous with the equality of all citizens; the latter, strangely confounded with it, is a government of privilege, in favour of the numerical majority, who alone possess practically any voice in the State. This is the inevitable consequence of the manner in which the votes are now taken, to the complete disfranchisement of minorities”⁷.

John Stuart Mill,

“It doesn’t matter who and how one votes, all that matters is who is counting the votes”⁸.

Joseph Stalin

An election system is a method by which voters make a choice between options, often in an election or on a policy referendum. An electoral system contains rules for valid voting, and how votes are counted and aggregated to yield a final result. Selection of the best option was used by human kind centuries ago. It is very interesting to realize that in the ancient Greek democracies voting was seen as the least democratic methods used because elections were believed to naturally help the wealthy and well-known over average citizens. Assemblies open to all citizens and selections by lot, as well as rotation of office were considered more democratic. The system adopted by the state of Venice in the 13th century to elect their Great Council is well known. Election of the Great Council by a complicated process with five rounds of voting was then followed by the election of the Doge. This process was used with little modification from 1268 until

⁷ John Stuart Mill, Representative Government, 1861;

⁸ Edvard Radzinski – Stalin (Life and Death), Vagrius, Moscow 1996

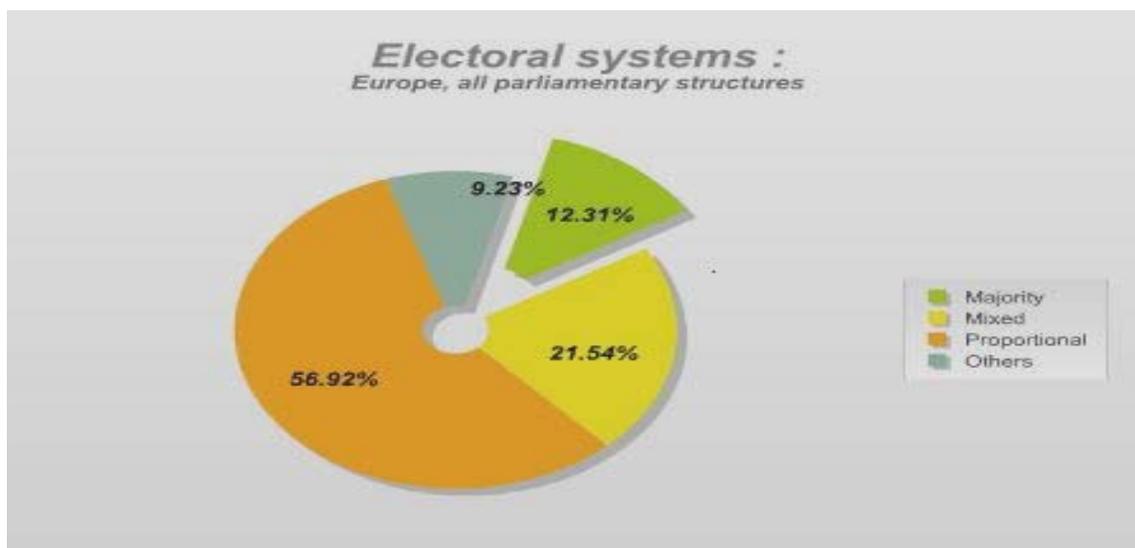
the end of the Republic of Venice in 1797, and was one of the factors contributing to the durability of the republic.

Voting theory evolved around the time of the French Revolution, when a method was proposed to elect the members of the French Academy of Sciences.

In later times, the voting systems were evolved with different seat allocation methods. We can mention methods proposed by statesmen such as Alexander Hamilton, Thomas Jefferson, and Daniel Webster. The Single Transferable Vote system was devised by Carl Andrae in Denmark in 1855, and also in England by Thomas Hare in 1857. Party-list proportional representation was first implemented to elect European legislatures in the early 20th century, with Belgium implementing it first in 1899. Since then, proportional and semi-proportional methods have come to be used in almost all democratic countries⁹.

These all led to the creation of two main voting traditions in the world: i) the majoritarian tradition and ii) the proportional tradition. Both of the systems have their own sub-systems, and also there are a lot of mixture systems, depending on the reason for voting.

Fig. 2.1 “...Electoral systems in Europe...”



⁹ Electoral systems – A comparative introduction by David M. Farrell. First published in 2001, PALGRAVE, New York

Political scientists of the 20th century published many studies on the effects that the voting systems have on voters' choices and political parties, and on political stability. A few scholars also studied what effects caused a nation to change for a particular voting system.

In the Annexes you will find the explanations of the predominant electoral voting systems in the world¹⁰.

2.2 Comparative Analyses of Different Systems and Kosovo

For the purposes of this exercise, different European electoral systems are compared, in order to gain experience and seek solutions for the future of the Kosovo electoral system.

2.2.1 German System

This system does not allow electoral alliances¹¹.

The German system is a fixed one, combined proportional/majoritarian, where the distribution of seats is conditioned substantially by proportionality. This system personalizes half of the seats in the direct voting. The result is quite proportional; therefore it is called a personalized proportionality. The main elements of this system are: open ceiling of the seats in Parliament; balance “single-member zones” versus “proportional” is 50/50. Competition in single-member zones is done with one round of majoritarian voting where the winner is the First-Past-The-Post. The proportional voting is done through a closed list with a fixed sequence at ‘Lander’ level.

This system does not allow electoral alliances. The voter selects the candidate and party. The initial calculation is done after aggregation of the votes for national parties. To compete for seats, parties must receive a percent of the votes in national threshold, or 3

¹⁰ The Comparative Study of Electoral Systems (<http://www.cses.org/>)

¹¹ Federal Republic of Germany - Federal Electoral Law Enacted on 7 May 1956 (Federal Law Gazette I, p. 383); amended by the law of 15 November 1996 (Federal Gazette I p. 1712);

seats in the majoritarian voting. Calculation of mandates is done at the national level. The electoral formula used is the d'Hondt method. The number of seats obtained by the party at 'Lander' level is deducted by mandates obtained in the majoritarian system. The remaining seats are allocated to the proportional list candidates. If the number of seats won in the majoritarian is equal to those belonging to the proportional, no candidate list can get a seat. The proportional seats are divided only between parties that have a positive difference of seats.

If the party in Land level has won more seats in the majoritarian system than the ones that belong to it according to the proportional system, then the party holds any mandates that are surplus. The surplus of the parties, collected nationally, are called "additional mandates" and lead to an "explosion" of the ceiling of seats in the Assembly for the current legislature.

2.2.2 Spanish System

Regional proportional, where the allocation is made on a regional basis¹².

This system is a regional proportional system (with a node point - the region), where the allocation of mandates is made on a regional basis. In the Spanish context, this system provides a distortion sufficient for creating stable governing coalitions. Its main elements are: to each administrative region originally are allocated two seats. The total number of seats allocated in this way is deducted from the total number of seats. The difference remaining is distributed among the regions with a proportional formula based on the population of each region (the initial distribution with 2 seats in each region creates a distortion in representation between regions with small populations and those with large populations). Competition is based on closed regional lists. The right to participate in the distribution of seats is given to parties which receive a percent of the vote at the regional level. Mandates are distributed through the d'Hondt method.

¹² Spain Central Electoral Commission - representation of the people institutional act 2007;

2.2.3 Bulgarian System

The allocation of mandates is done on a national basis, but the competition is with regional lists¹³. The Bulgarian system is a “national proportional” system, where the allocation of mandates is done on a national basis but the competition is made with regional lists.

The division of seats at the national level provides a high proportionality. The seats are allocated to each Oblast (district) using the d’Hondt method, according to population. Parties compete with regional list with a fixed sequence. Only parties that cross the threshold of a percentage at national level have the rights to benefit from the calculation of seats. Calculation of seats for each party is done nationally considering the whole territory as a single election unit.

The quota of seats for each party is then split between the regional lists of that party on the basis of votes obtained by party lists in the respective regions using the d’Hondt method. So regional competition only affects the distribution of seats won at the national level between the respective parties' regional lists.

2.2.4 Greek System

The Green system reinforces the main result and governance by a single party¹⁴. The Greek system is also a proportional system with three levels (the District - Region - National). It is considered as a “reinforced proportional system”, but this does not mean that it is the proportionality that is reinforced, it provides a strong distortion in favor of the largest party in order to strengthen the main results and to ensure government by a single party or a coalition with few parties.

The seats are allocated to administrative districts based on the number of population. Distribution of seats is based on the votes of the parties at the district level. Distribution is made with a quota formula. The quota is determined essentially by dividing the total

¹³ Spain Central Electoral Commission - representation of the people institutional act 2007;

¹⁴ Electoral law of Greece (codified by Presidential Decree Nr. 92/1994)

number of votes at the district level with the number of seats to be distributed in the district (different formulas ensure a higher or lower range of proportionality). The parties benefit as many mandates as the integer number derived by the division. The remaining seats at district level are collected with other remaining seats of districts in the same region, creating thus a number of seats to be distributed at the regional level. Distribution of seats at the region level is done based on a proportional quota formula. The quota is determined essentially by dividing the total number of votes at the region level with the number of seats to be distributed in the region. The same procedure as at the district level is repeated. The remaining seats at the region level are collected with the remaining seats from other regions. Mandates collected nationally are distributed by a quota formula. The quota is determined essentially by dividing the total number of votes nationally with the number of seats to be distributed nationally. The parties benefit as many mandates as the integer number derived by the division. The remaining seats are given to the largest party as a "premium" to enhance its chances for the creation of the government.

The voting process is carried by a single vote. The regional result is determined by the votes obtained in the respective districts of the region. The national result is done by collecting all the votes taken by the party in all districts.

2.2.5 Northern Ireland System

Northern Ireland is today one of the four countries of the UK, (although it is also described by official sources as a province or a region), having been created as a separate legal entity on 3 May 1921, under the Government of Ireland Act 1920.

Northern Ireland today remains a divided society with a legacy of civil conflict, at times made obvious through territorial markings such as painted kerbstones and the flying of the British or Irish national flags. There are some similarities between Kosovo and Northern Ireland, due to the irredentist Irish movement, the conflict, and the tense political atmosphere that is still continuing in the country. The 'Troubles' were a period

of ethno-political conflict in Northern Ireland which spilled over at various times into England, the Republic of Ireland, and mainland Europe.

The duration of the Troubles is conventionally dated from the late 1960s and considered by many to have ended with the Belfast "Good Friday" Agreement of 1998. Violence nonetheless continues on a sporadic basis.

In elections to the Westminster parliament the system for electing candidates has always been based on 'first past the post'. Under this method, in each single seat constituency, the voter simply puts an 'X' on the ballot paper beside the candidate of their choice and the candidate who obtains the most votes is deemed to be elected.

Proportional Representation through the Single Transferable Vote (PR-STV)¹⁵

This system has been used extensively in Northern Ireland since 1973 for local government elections, elections to the European Parliament, and elections to local assemblies. Using this method voters rank candidates according to their preference, with '1' for their favourite, a '2' for their next choice, and so on through the list. Voters can vote for as many or as few candidates as they choose. Candidates have to meet a 'quota' to be elected. The formula used for deciding the quota is known as the 'Droop Quota'. Essentially the quota is the total number of valid votes cast divided by one more than the number of seats to be filled, plus one. Any candidate who reaches the quota is deemed elected. Any candidate who has a surplus over the quota has this excess distributed among other candidates on the basis of voters' next preferences. The candidate with the lowest number of votes is then eliminated and these votes are transferred on the basis of voters' preferences. This process is continued until the number of seats in each electoral constituency is filled.

¹⁵ The Electoral Law Act (Northern Ireland) 1962 (Amendment No. 3) Order 2005;

3. VOTE THRESHHOLD, BALLOTS AND ELECTION OF PRESIDENT IN KOSOVO

3.1 The Minimum Threshold for Kosovo's Parliament

There is a minimum threshold for the Albanian political parties or political parties to enter the parliament (...) *Amongst Political Entities representing Albanian majority community who have won **at least five percent (5%)** from the general number of total valid votes for Assembly elections and Political Entities of the Kosovo Serb and other non majority communities (...)*¹⁶

This provision implies that, unlike political entities representing the Kosovo Albanian majority community, political entities representing “non-majority communities” are eligible for participation in the allocation of these 100 seats without having to surpass the 5% eligibility threshold.

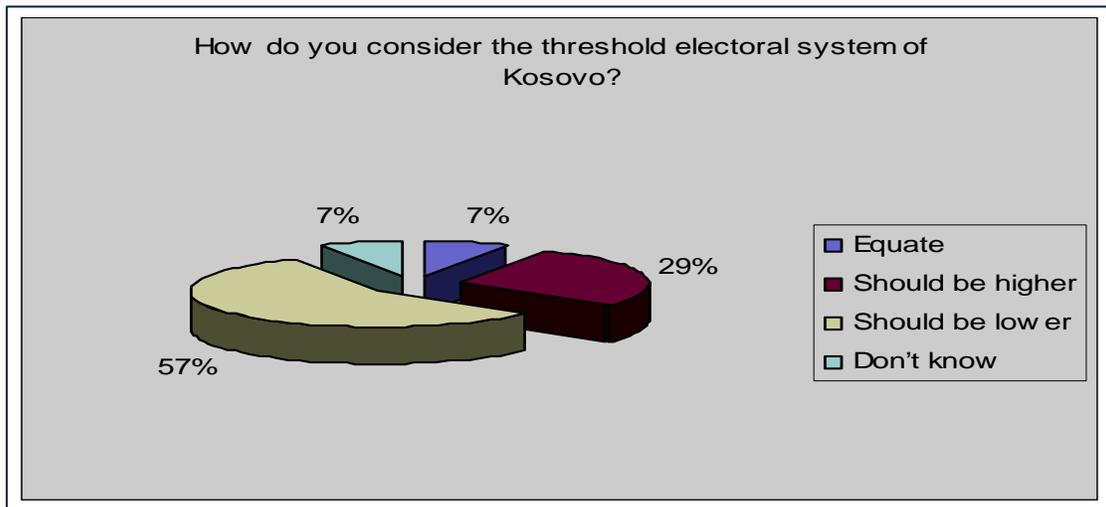
This divergence of opinions on the electoral system creates an environment of uncertainty with some potential for legal disputes after the election, and – more probably - undermines the likelihood of prompt acceptance of the election outcome. The absence of CEC guidelines detailing in full the procedures for seat allocation is of concern and is not in compliance with good electoral practice.

Neither the Constitution nor the CSP make reference to an eligibility threshold for the allocation of these 100 seats. It would appear that the intent of these documents was to render the election system, at least for the initial period of independence, most inclusive. The introduction of the 5% eligibility threshold does not contradict international standards, but it could restrict pluralism, particularly in the ethno-political

¹⁶ Law on general elections in the Republic of Kosovo No. 03/L-073

context of Kosovo. If applied to non-majority communities parties it could represent an obstacle for them to gain more seats than those which are reserved.

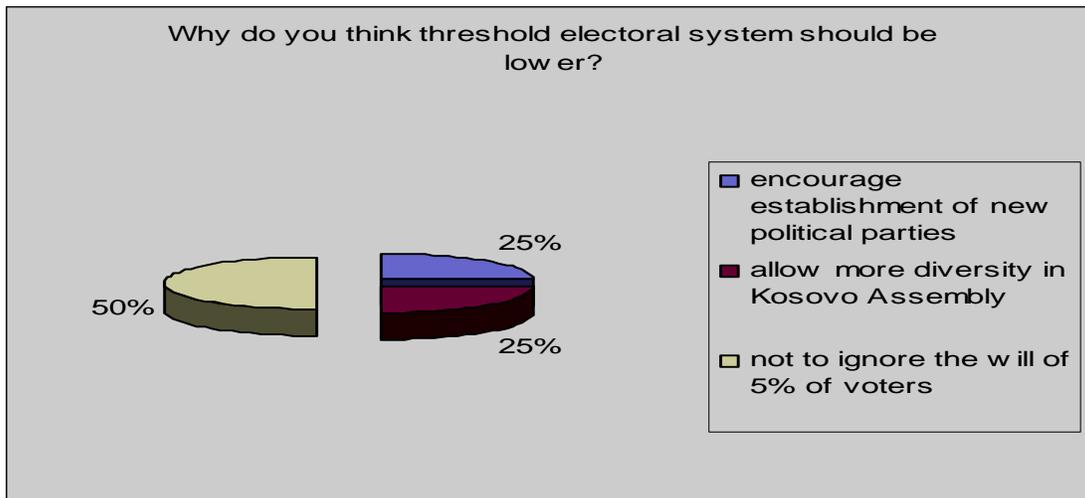
Fig. 3.1 "How do you consider the threshold electoral system of Kosovo"



The respondents of the special questionnaire for the minimum threshold have responded in a majority of 57% that the threshold should be lower.

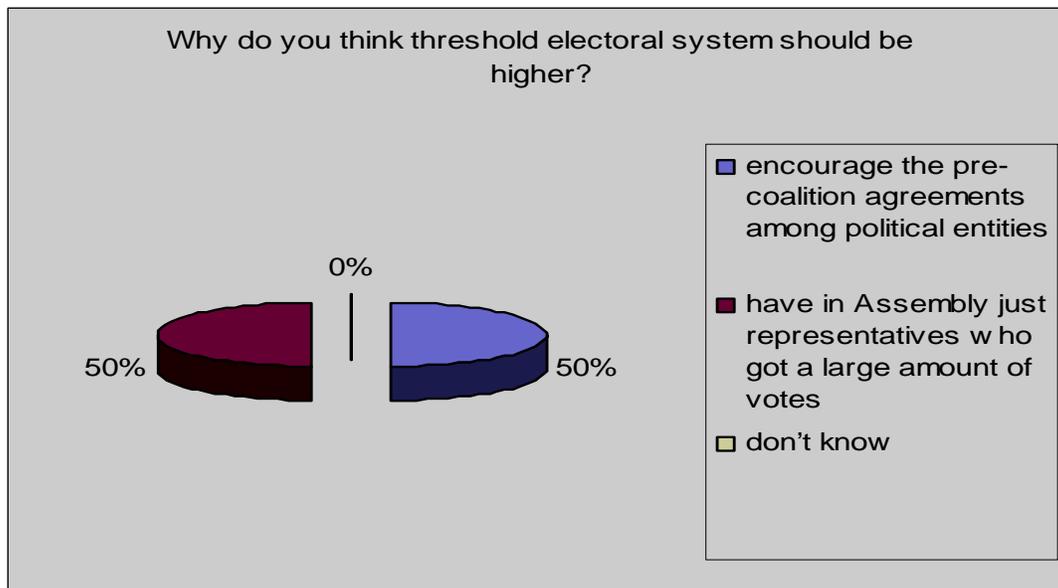
The respondents that consider that the threshold should be lower specify that the reasons for doing this are: i) to encourage the establishment of new political parties, thus increasing the choices for citizens, ii) to allow more diversity in the Parliament, and c) the majority of them (50%) wish not to ignore the political will of 5% of the voters in Kosovo.

Fig 3.2 “Why do you think threshold electoral systems should be lower?”



29% of the respondents think that the threshold should be higher. The main reasons for this are to encourage the pre-electoral agreements among political parties in Kosovo, as well as to have in the Kosovo Assembly only the representatives of political parties who got a large share of the votes thus strengthening the political stability in the country.

Fig. 3.3 “Why do you think threshold electoral systems should be higher?”



3.2 Two Round System

The two-round system (also known as ballotage) is a voting system used to elect a single winner. Under the two-round system, the voter casts a single vote for their chosen candidate. However, if no candidate receives an absolute majority of votes, then those candidates having less than a certain proportion of the votes, or all but the two candidates receiving the most votes, are eliminated, and a second round of voting occurs. This voting system is used in majoritarian systems, elections of Presidents, and for local elections.

The two-round system of voting or ballotage is used in Kosovo only for the election of the Mayor¹⁷. The Law on Local Elections foresees that if none of the candidates receives more than 50% plus one of the total votes cast in that Municipality, a second election shall be organized by the CEC between the two candidates who received the most valid votes. A second round of elections is held on the Sunday four (4) weeks after the first round. At this second round the candidate who wins the majority of votes in the second round is elected as Mayor of the Municipality.

However, the last local elections organized in Kosovo revealed some difficulties resulting from this voting system as used for election of the Mayors.

Elections were organized on 15 November 2009, with the participation of 45.36% of the voters. According to the results, 21 municipalities out of 33 went to a second round of the voting. The second round was organized in December 13. After that, it took a long time for the CEC to deal with electoral complaints and appeals, these led to organizing

¹⁷ Law on local elections in the Republic of Kosovo no. 03/l-072

on 31 January 2010 a third round (repetition of the second round) in two municipalities and in March 2010 a third round in another municipality¹⁸.

The local elections of November 2009 made clear the need for reform of the Law on Local Elections especially in terms of electing the Mayor and the procedures for electoral complaints and appeals.

The long period of electoral campaigns, when a second round is involved, creates difficulties for the efficiency of the local administration. As a general rule, part of the administration can be also involved in electoral campaign, or the period of waiting for the new Mayor makes the existing administration to work slowly.

Expenses are also increased in the cases of second round, including: administrative expenses for the organization of the elections, expenses for the electoral campaigns, international and local observers etc.

But amongst the most important effects of the second round of voting is the instability of the local administration, as well as interference of the politics in setting the administration after the second round, based on the fluid alliances to determine the winner. Practice shows that after the first round, coalitions are build to support one of the two candidates, but conditioning it with different positions in the new administration. So, because of this, the composition of the new administration may be a difficult process and it is based on pragmatic rather than programmatic issues.

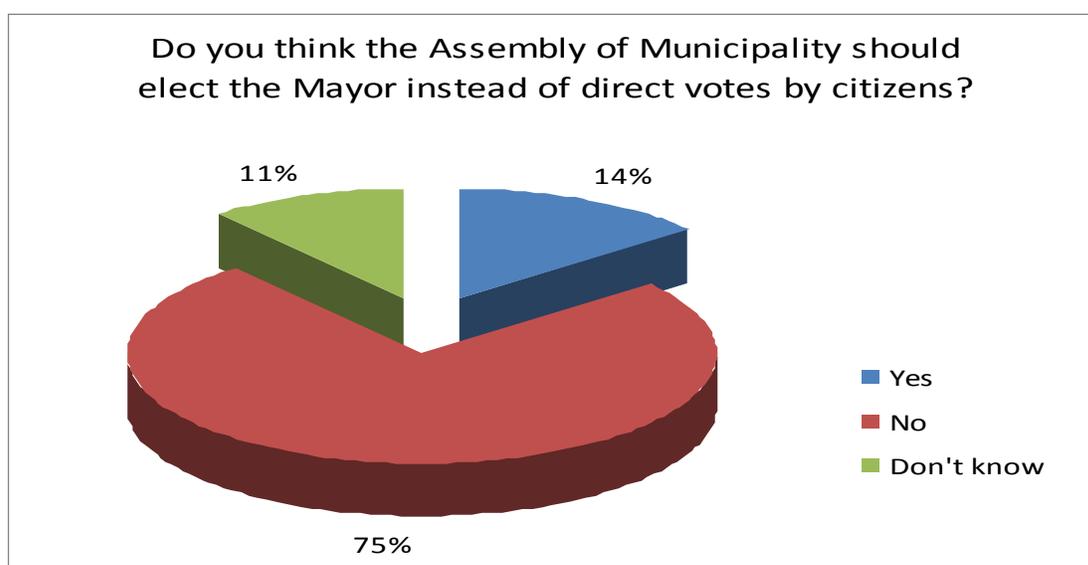
As a matter of fact, experience proves that generally candidates who are in the first position at the first round, win the second round as well (20 out of 21)¹⁹.

¹⁸ Report on the local elections 2009, CEC Kosovo.

¹⁹ Report on the local elections 2009, CEC Kosovo.

In order to reduce the expense, to support the programmatic electoral campaign for the local elections, to strengthen the role of the political parties in the municipal assemblies, the First-Past-The-Post voting system seems to be the best solution for Kosovo. Comparing it to the system where the Municipal Assembly elects the Mayor, this system increases the individual responsibility of the Mayor regarding the citizens, avoiding the political interference in performing his/her duties and responsibilities.

Fig. 3.3 "Do you think the Assembly of Municipality should elect the Mayor instead of direct votes by citizens?"



75 % of the respondents consider that the Assembly of the Municipality should not elect the Mayor instead of direct votes by citizens. Thus, it is of great importance to realize that avoiding the second round (ballotage) would increase the effectiveness of the election process, reduce the expense, and affect positively the sustainability of the local administration during the electoral process etc. This should be in accordance with a reform of the Law for Local Self-Government, précising the political influence of the Mayor in appointing the Directors in Municipal Administration, as well as in increasing the role of Municipal Assemblies.

Other countries in the region have gone through this experience. The Republic of Albania, for instance, passed from the ballotage system to majoritarian system of First-Past-The-Post in the general elections of 2005, with the impact of avoiding tension, reducing the expense, and reducing the manipulative voting. The same country is using the First-Past-The-Post system in the Local Elections since 2003²⁰. Greece and other countries in European Union use the First-Past-The-Post in their local elections, while the second round is used mainly by countries for electing the President.

3.3. The Election of President

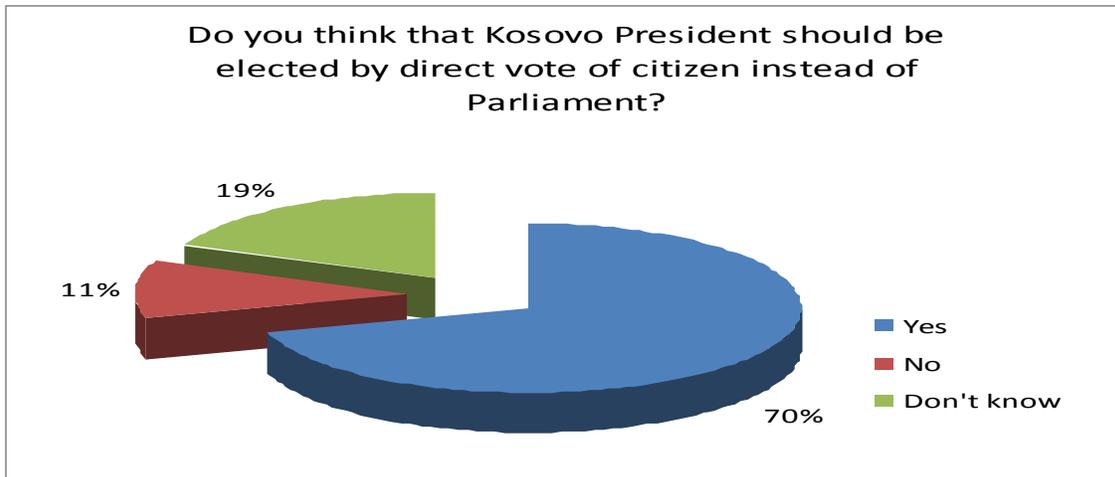
The experience of electing the President by the people instead of the parliament seems to be the best way to resolve the political crises that may happen because of the current system. The President, which according to the Constitution is the unifying person and a guarantee of the Constitution, should be above temporary political interests. The crises that occurred after the 2011 elections in Kosovo in electing the President against the constitutional provisions reflects clearly the need for a stronger way of electing the President which than will make him/her immune to political influences²¹.

A lot of countries across the region do vote for the President in a national election process, even the countries which still select the President by the Parliament are in the process of changing this system. This is a question of what kind of Republic a country is, a broad parliamentary one or semi-presidential one, but the practice shows that in transitional countries the President elected by the people is a stronger instrument above the narrow interests of the political parties.

²⁰ Electoral Code – Republic of Albania;

²¹ Decision of the Constitutional Court of Kosovo regarding the election of the President of Kosovo, date ...

Fig. 3.4. "Do you think that Kosovo President should be elected by direct vote of citizens instead of Parliament"?



When asked if the President should be elected by direct vote rather than elected by Parliament, 70% of the respondents consider that the President should be elected by direct vote.

In this case, the two-round system seems to be the best choice for electing the President.

4. ELECTORAL COMPLAINS AND JURISDICTION

4.1 The Kosovo System

The election system for the Kosovo Assembly is determined by the Kosovo Constitution and the LGE. The Assembly consists of 120 members, the seats of 20 of these are set aside for representation of minority ethnic communities in Kosovo; the remaining 100 members are to be elected from one Kosovo-wide electoral district, through proportional representation, on the basis of open candidate lists of political entities²². Replacement of the Kosovo-wide electoral district by several multi-seat electoral districts has the potential to enhance the link between the member of the Assembly and the electorate who elected him or her. The present system includes special provisions aiming to ensure enhanced participation of women in politics.

The legal framework lays the ground for participation in public life of ethnic communities that are not in the majority in Kosovo, including in elections on the basis of the principle of the so called “set aside” seats. This often stimulates the development of ethnically based parties, which does not run contrary to international law, although it does not uphold the development of political parties across ethnic dividing lines.

The requirement that political entities should declare their ethnic affiliation may turn into an obstacle in the development of Kosovo-wide political parties. In addition, the legal framework is silent with regard to potential coalition candidate lists between parties representing communities that are not in the majority in Kosovo, as well as between parties representing the majority community and communities that are not in the majority.

Following the count and tabulation of the vote, candidate lists are to be reordered on the basis of the valid preference votes cast. At least 30 % of the elected candidates

²² Law on general elections in the Republic of Kosovo No. 03/L-073

should be of the less represented gender. Thus, the election system based on “partially open” candidate lists, attempts to achieve simultaneously two conflicting objectives:

(i) Allow voters to choose among the candidates included in the list of their preferred political entity; and

(ii) Ensure that at least 30 % of the elected candidates are of the less represented gender.

It may be difficult to reconcile simultaneously these objectives within the framework of international standards. If voters are granted preference votes and these are respected it may not be possible to achieve the 30% quota of the less represented gender among the elected candidates; vice versa, if the 30% quota among the elected candidates is to be achieved by all means some preference votes may need to be ignored.

4.2 Administration of the Elections

Elections in Kosovo are administered by a three tier election administration comprising the CEC, 37 MECs and some 2,280 PSCs located in 746 Polling Centres²³.

Currently, the CEC comprises a President, and ten members nominated by the political parties represented in the Assembly of Kosovo²⁴. The PDK has two members; the LDK, LDD, AAK and AKR have one member each. Four members represent parties from non-majority communities. The MEC and PSC have one chairperson and six members nominated by parliamentary political entities. De facto, some MECs have more representatives in order to facilitate representation of non-majority communities on election commissions.

The President of the CEC is appointed by the President of Kosovo from among the Supreme Court judges for a seven year term, for a maximum of two consecutive terms.

²³ Law on general elections in the Republic of Kosovo No. 03/L-073

²⁴ Constitution of the Republic of Kosovo, Art.139

The current President was appointed to complete the term of the previous one who resigned for health reasons in 2010. The composition of the CEC is established by the Constitution; however the terms of its members are not specified. One could conceive that they will be appointed by the incoming Kosovo Assembly. The maximum number of consecutive terms for a member is three. Except for the CEC President, the members of the CEC remain largely the same as for the 2009 elections.

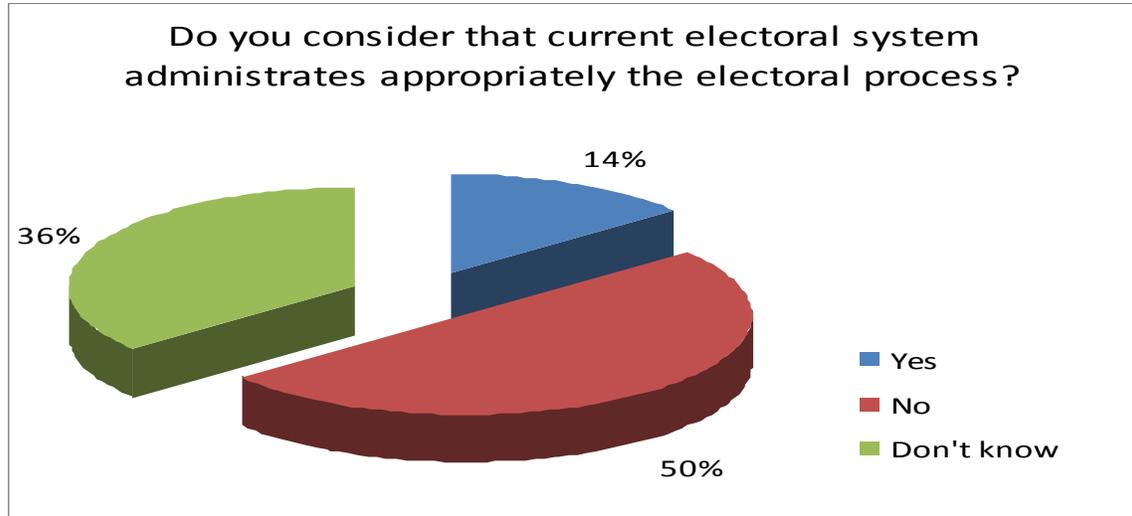
The selection criteria for nomination of CEC members and the rules for early termination of their mandates run contrary to the principle of proportionality. Further to that, it is unclear who decides whether the prospective members of the CEC “meet the conditions and criteria” of the LGE and whether the behavior of a member “seriously affects the status and integrity of the CEC”. While the intent of including the qualifications provided for by the LGE are clear, they could be used in a selective manner to disqualify “inconvenient” individuals.

It would appear that CEC members who are party representatives often perceive themselves as members of a “political board” overseeing the election, rather than professional election administrators. One is left with an impression that they are not always on “top of the election issues”, which are mostly left in the hands of the CEC Secretariat, a body stipulated in the LGE to assist the CEC discharge its responsibilities and functions, and which Chief Executive the CEC appoints. This attitude has the potential to make the CEC membership “hostage” to the CEC staff that could have their own agendas, despite being formally civil servants.

The existing solution for the composition of election commissions does not challenge international standards as such standards do not exist. It is conducive to transparency as it allows the key parties of the day to have an insight into and involvement in the process. This solution will work as long as neither the authorities nor political parties are in a position to influence the performance of the election commissions beyond the

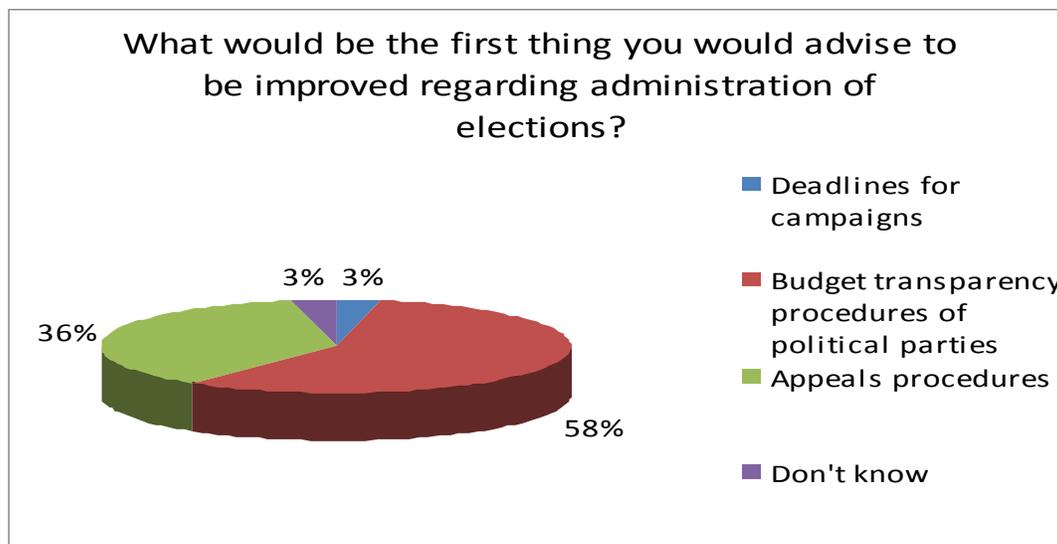
limits of the law and as long as the commissions conduct business in a professional and politically impartial manner. This remains a question.

Fig. 4.1 “Do you consider that current electoral system administrates appropriately the electoral process?”



50% of the respondents consider that the current electoral system does not administer properly the electoral process. Having in mind that another 36% of the respondents are not sure if the systems appropriately administers the process, then this means that the vast majority of respondents believe that the system is in need of an overall reform regarding the administration of elections.

Fig.4.2"What would be the first thing you would advise to be improved regarding administration of elections"?



Regarding the administration of the elections, respondents judge that the most important issues to consider are budget transparency procedures of political parties 58% and appeals procedures 36%.

4.3 Electoral Complain

The Law on General Elections in Kosovo foresees all the procedures for the election complaints and appeals commission. Following some welcome amendments to the legal framework, the complaints and appeals system was considerably simplified and streamlined in line with recommendations offered by the international observers for the 2009 local elections. The CEC, the ECAP and the Administrative Division of the Supreme Court of Kosovo are now involved in the resolution of election disputes.

According to ECAP statistics on complaints²⁵, a total of 124 complaints on the election campaign were filed with the Panel. The vast majority of these, 110, were related to destroying opponents' posters. Most complaints were filed against the PDK - 42, followed by LDK – 27 and AAK – 21.

As of 25 January 2011, the ECAP had received some 445 complaints regarding the voting process. The only pending complaints relate to the 23 January repeat election in Mitrovica. Complaints could still be filed regarding the pending announcement of final results.

The ECAP fined a number of political entities for campaign violations during the election campaign preceding the vote on 12 December election. The total of fines on the PDK was € 135,400, followed by the LDK – € 83,250 and AAK – € 69,600. The total of fines imposed on political entities for campaign violations amounted to € 359,850. No fines were paid, despite a 15-day deadline set by the ECAP²⁶.

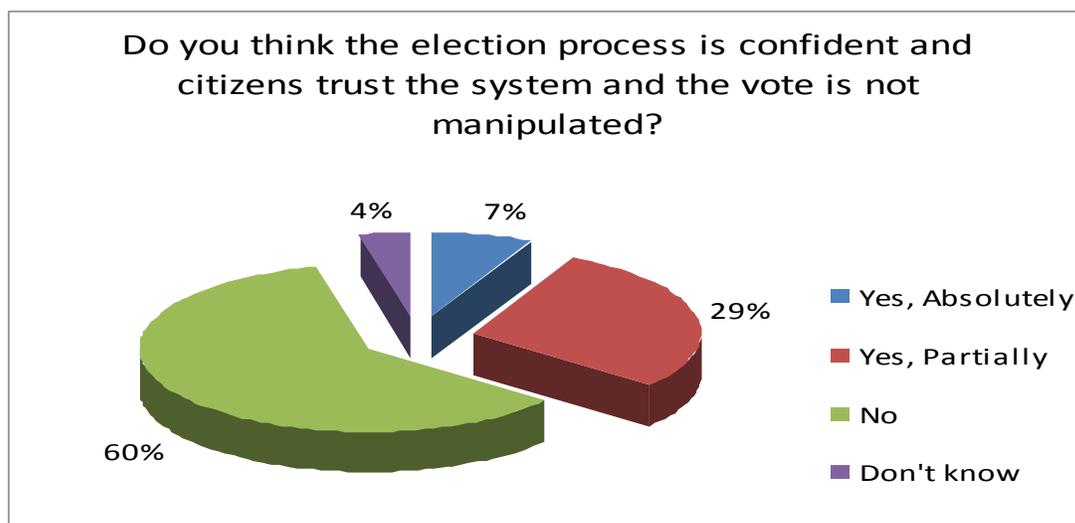
Due to lack of time and because this is not the central purpose of this exercise we are not in a position to clarify all details surrounding the complaints and appeals process, nor is it possible to provide a comprehensive analysis of the quality of the complaints filed with the ECAP and the respective responses of the Panel, or analyse evidence supporting ECAP decisions.

Generally, can say that ECAP ordered the repetition of the elections for suspected abnormalities that took place on 12 December, but for similar irregularities which happened in the 9 January partial repeat election ECAP decided only for the recount of votes.

²⁵ Report on the parliamentary elections 2010, CEC Kosovo

²⁶ Report on the parliamentary elections 2010, CEC Kosovo

Fig. 4.3. "Do you consider the election process is confident and citizens trust the system and the vote is not manipulated?"



Thus it took two different approaches for similar irregularities on two different occasions. While this is likely to have happened because the Panel was reluctant to order repeats of repeat elections, it only indicates that addressing irregularities by partial repeat elections does not provide a sustainable remedy. 60 % of the respondents believe that the electoral process is not reliable and that the citizens do not trust the system and the votes are manipulated. Having in mind that 29% of the respondents consider the system being partially confident, it means that the majority of them consider the system to have serious problems in administration of the elections.

Generally, the culture of impunity must be curtailed for Kosovo to uphold its democratic development. Perpetrators must be sanctioned in a timely manner. Further more, the transparency of the complaints and appeals process must be enhanced. The complaints and appeal process should take place in public hearings, including in front of a court of law. In this context, the ECAP should be part of the judiciary.

The LGE should be amended, with a view to further streamlining the complaints and appeals process and ensuring that all decision-making authority of the CEC is exhausted prior to transferring the process to the judiciary, including the ECAP and/or the Supreme Court.

The roles of the CEC, the ECAP and the Supreme Court should be further clarified with regard to ordering repeat elections and recounts. The streamlining of the complaints and appeals process should continue, to ensure against amendment of ECAP or Supreme Court decisions by CEC decisions. The current procedure for ordering recounts gives excessive authority to the CEC. Recounts and repeat elections should be possible only upon a decision of a court of law.

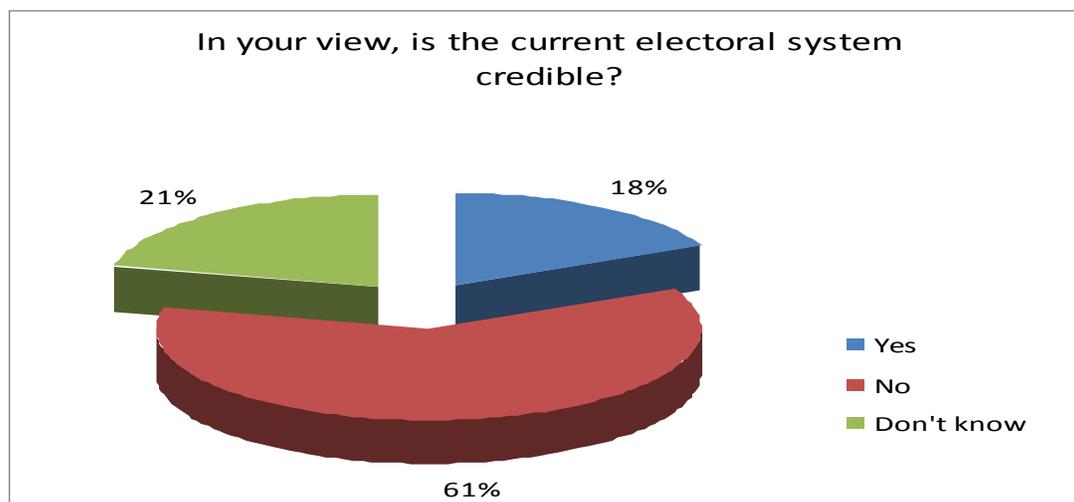
4.4 Voting Process

The environment on election days in all general and local elections held in Kosovo is characterized by a generally calm atmosphere. The CEC appeared to have been successful in organizing the polls. Among the main problems observed are family voting (mainly in rural areas), presence of political representatives near the voting centres, and some organizational issues inside the voting centres (such as the identification lamps in the last general elections).

It seems that the problems start with the closure of the voting centres and the calculation of votes. Let us look at how the international observation mission ENEMO considered the elections: “Elections were organized in an orderly manner meeting many international standards – procedural shortcomings and challenges remain”. The voting process was described as “generally calm and peaceful but some cases of breaches of procedural and irregularities were observed”. ENEMO continued to say that “[...] Allegations of manipulation of the voting and counting processes in certain

municipalities along with doubts over reported turnout figures in certain parts of Kosovo have been registered [...]²⁷.”

Fig. 4.4 “In your view, is the current electoral system credible?”



ENEMO observations of the count should be noted: “The counting process was assessed as bad or very bad in 12 % of the polling stations observed during the closing and counting procedures. In some cases voters arriving after 19.00 were allowed to vote and in 6 % of the polling stations unauthorized persons were seen directing the counting process in the PSC. Some of the counting procedures were not fully adhered to and in 15 % of the polling stations the chairperson did not announce the results, nor were the results posted on the wall as stipulated in the law.²⁸”

This is why the vast majority of the respondents (61%) think that the current electoral system in Kosovo is not credible and does not create credible and legitimate institutions.

²⁷ European Network of Election Monitoring Organizations (ENEMO), observations on elections in Kosovo, 09 January 2011;

²⁸ European Network of Election Monitoring Organizations (ENEMO), observations on elections in Kosovo, 09 January 2011;

4.5 Jurisdiction

The LGE and LLE foresee holding of the elections in the territory of Republic of Kosovo. This means that general and local elections should be organized all over the country, including the Serb-majority municipalities in the Northern Part of the country.

As for elections, the Serb-majority population in Northern Kosovo did not take part in the local elections of 2009 or national elections of 2010. The Municipalities of Zvecan, Leposaviq and Zubin Potok (North of Kosovo) function according to Serbian legislation.

In the last general elections of 2010, Kosovo Serb participation to the south of the river Ibër was notable in most areas²⁹. However, participation in the northern Kosovo Serb municipalities was almost non-existent. Polling at mobile polling stations north of the Ibër was halted in three locations due to non-violent but intimidating obstruction by groups of militant Kosovo Serb elements.

This creates the problem of the jurisdiction of the Republic of Kosovo in the North of the country. The problem remains of a broad political character which implies that other solutions are necessary rather than considering it in this exercise.

²⁹ Report on the parliamentary elections 2010, CEC Kosovo

5. PARTICIPATIONS OF MINORITIES AND WOMEN IN ELECTION

National and international institutions have given extra special attention to minority and women participation in the election system. There is an important provision in the Kosovo Constitution and election laws. Here is how the Kosovo Law describes the distribution of seats, according the Article 111³⁰:

“111.1 Seats in the Assembly shall be distributed according to the system of representation established by article 64 of the Constitution of the Republic of Kosovo, by allocating:

a) one hundred (100) seats amongst all certified Political Entities in proportion to the number of valid votes received by them; and

b) twenty (20) seats guaranteed for representation of communities that are not in the majority in the Republic of Kosovo, as follows:

(i) 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);

(ii) 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.

³⁰ Law on general elections in the Republic of Kosovo No. 03/L-073

111.2 The hundred (100) seats of the Assembly as described in article 111.1 (a) shall be allocated in the following manner based upon the total number of valid votes received by each Political Entity:

At least 30 % of the elected candidates of each political entity should be of the less represented gender. If the 30 % quota has not been achieved for a given political entity, “[...] the last elected candidate of the majority gender will be replaced by the next candidate of the opposite gender on the reordered candidate list until the total number of seats allocated to the minority gender is at least 30 % [...]”³¹.

5.1 Gender and Minority Requirement

Although States have a wide margin of appreciation in electoral systems, electoral rules should not violate the basic principles of universal and equal suffrage. The problem with this aspect of the election system is that, depending on the “partially open” list choices expressed by voters, distribution of seats can be determined by gender and not by the choices expressed by voters through their preference votes.

The Constitution explicitly provides that “[...] The composition of the Assembly of Kosovo shall respect internationally recognized principles of gender equality.”³² Further to that, measures to promote women participation in politics are usually part of the political party’s internal statutes. It is up to the political entities in Kosovo to ensure that women are well represented in political life.

³¹ Law on general elections in the Republic of Kosovo No. 03/L-073

³² Constitution of the Republic of Kosovo

The Law on General Elections in Kosovo reflects the best of international experience in including gender and minority issues in the electoral process of Kosovo, thus ensuring a relatively high percentage of female candidates both in candidates list, as well as in parliamentary seats, also ensuring the representation of minorities in the Kosovo Assembly.

The elements of the electoral system related to the allocation of the 20 seats set aside for members of the Assembly representing ethnic communities not in the majority in Kosovo were designed in two versions. The first version applied for the “first two electoral mandates upon the adoption of the Constitution”, while the second one applied for any subsequent terms of the Assembly. The first version refers to 20 “reserved” seats for representation of communities which are not in the majority in Kosovo, while the second one refers to 20 “guaranteed” seats for these communities.

As the LGE does not distinguish explicitly between the arrangements for the first two terms of the Assembly and those for the terms to follow, there could be a perception of a conflict of legal provisions. In the absence of formal guidelines for the implementation of the election system approved by the Kosovo authorities, such ambiguity creates confusion and is not in line with good electoral practice. It is regrettable that the clear distinction made in the CSP seems obscured, in particular in the LGE.

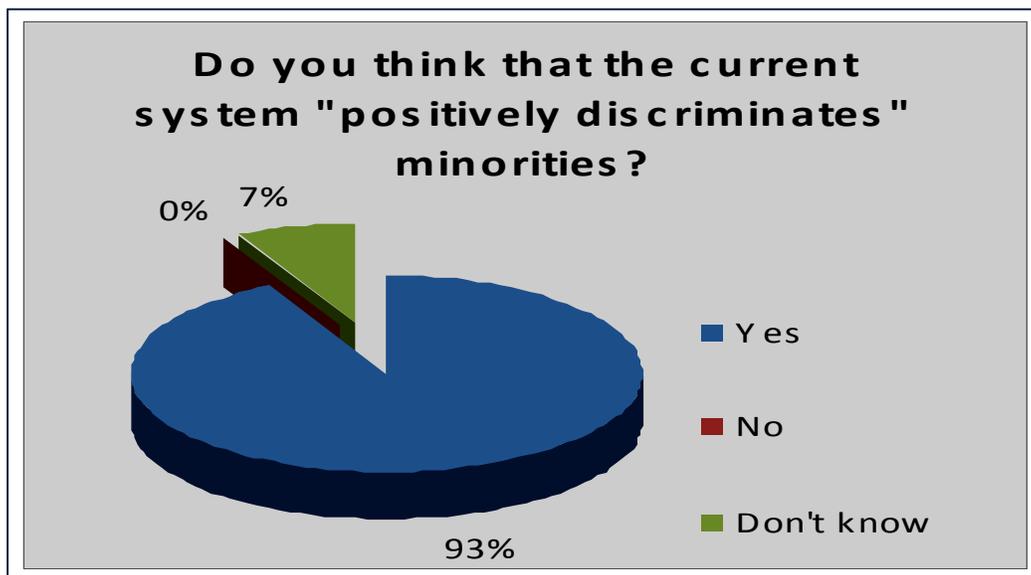
Both the reserved and the guaranteed seats include ten for the Serb community, three for the Bosnian community, two for the Turkish community and one each for the Gorani, Roma, Ashkali and Egyptian communities; an additional seat is to be awarded to one of the latter three communities that received the highest number of votes. The method of seat allocation for the 20 reserved/guaranteed seats is regulated by the LGE and is similar to the allocation of the 100 seats, but there is no eligibility threshold.

LGE Article 111.3 provides that “[...] The twenty (20) reserved seats [...] shall be allocated to the Political Entities representing the Kosovo Serb community and other

non-majority communities [...] based on the total number of valid votes received by each Political Entity, irrespective of the number of seats already allocated from the hundred (100) seats [...]”. This provision is in line with the last sentence of Article 3.2 of Annex 1 of the CSP, applicable for the first two terms of the Kosovo Assembly after the adoption of the Constitution. Consequently, during the first two terms of the Kosovo Assembly, non-majority communities will receive their reserved seats in addition to any seats they might have won from the 100 seats. LGE Articles 111.1.b.i and ii, relating to the terms of the Kosovo Assembly after the expiry of the second term, provide that each of the constitutionally recognized non-majority communities will secure their number of guaranteed seats if the number of seats won is less than the number guaranteed.

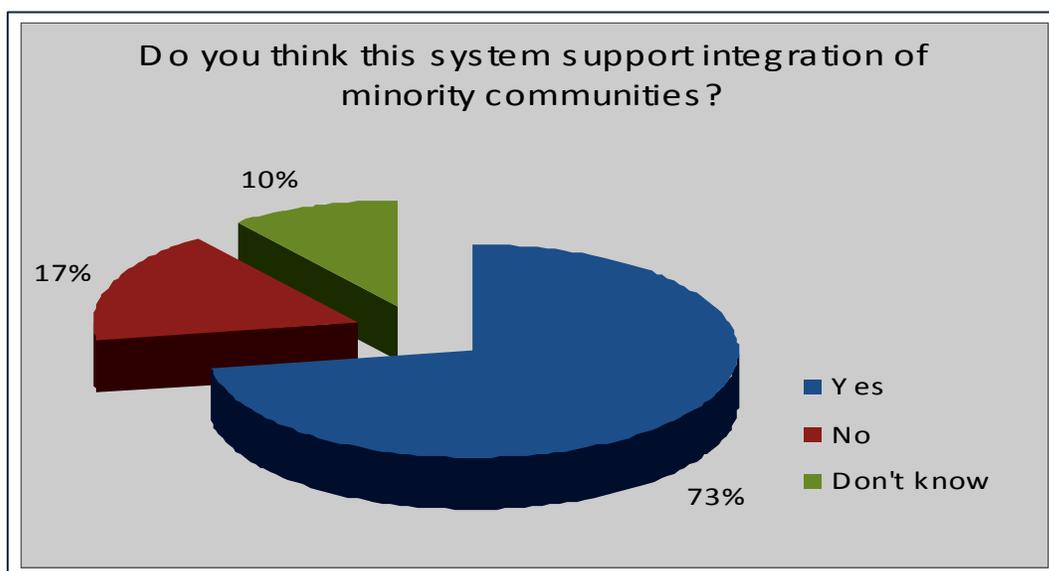
The key difference between this arrangement and the arrangement for the first two terms is that during the first two terms of the Assembly lists representing non-majority communities will achieve their respective reserved seats in addition to those won in accordance with LGE Article 111.2.a. However, after these two terms, non-majority communities will secure seats above the guaranteed number only if such seats are won in accordance with LGE Article 111.2.a. There is a lack of clear provisions that provide for the need to conduct a second seat allocation, after the distribution of the guaranteed seats when a political entity representing a non-majority community has won seats on the basis of LGE Article 111.2.a. In such circumstances, it is also unclear which political entities are eligible to participate in this second allocation and which method should be used for this purpose.

Fig 5.1 “ Do you think that the current system positively discriminates minorities?” I



In absolute numbers 93% of the respondents consider that the current electoral system positively discriminates the minorities in Kosovo, but in the other hand 54% of them consider that political parties are not actively involved in electoral campaigns for general elections in Kosovo.

Fig.5.2 “ Do you think this system support integration of minority communities?”



This result is approximately the same with the question if this system supports the integration of minority communities in the everyday life of Kosovo. 73 % of the respondents consider that this system does not support the integration of minority communities.

5.2 Participation of Women and Minorities in Other Countries

5.2.1 Gender

Although controversial, electoral gender quotas are in use in almost half of the countries in the world today, but still women constitute only 19 per cent of the members of parliaments around the world³³.

Fig. 5.3. "Women in parliament:"



³³ Women in Parliament: Beyond Numbers. A Revised Edition 2005. The International Institute for Democracy and Electoral Assistance (International IDEA);

Until recently, Europe has not been in the forefront of this new development. However, five European Union (EU)/European Economic Area (EEA) countries have introduced gender quotas by law – most recently Spain, Portugal and Slovenia – and that in more than half of the EU/EEA countries some of the political parties have adopted voluntary party quotas for their electoral lists³⁴.

At the same time as the introduction of gender quotas is spreading rapidly across the world and is raising hopes for increases in women's political representation, quotas are also meeting fierce resistance. Not all women support quotas, not even all feminists; and men are also divided on the issue. Opinions vary in terms of effects and repercussions but also concerning the meaning of key concepts in political analysis, such as 'equality', 'representation' and 'rights'.

Types of electoral quotas in the world vary from country to country; there can be legal quotas (foreseen in Constitution or electoral law) or voluntary party quotas that can result with reserved seats. Not always the voluntary party quotas result with reserved seats. Such is the case in the Republic of Albania, where gender quota is foreseen in the party electoral lists, but there are not reserved seats in the parliament.

5.2.2 Minorities

Around one in six people in Europe claims to have personally felt discriminated against or harassed, according to a Eurobarometer survey released by the European Commission in November 2009.

The results of the survey show that, at 61 per cent, discrimination on ethnic grounds is seen as the most widespread form of discrimination in the European Union (EU). More

³⁴ Electoral gender quota systems and their implementation in Europe - study by the European Parliament's Committee on Women's Rights and Gender Equality – 2008;

than one-third of Europeans also think that discrimination on the grounds of gender and religion or belief is widespread³⁵.

Electoral systems can influence not just the numbers of minority candidates elected but also how majority parties seek to appeal to or marginalize minority voters, and how inclusive candidate lists will be. One system might encourage the forging of alliances between parties that, in turn, will affect the broader political climate, while another may exaggerate conflict. If the results a system gives rise to are not considered 'fair', this may encourage minority groups to seek non-democratic retribution.

Furthermore, the type of electoral system can influence how party leaders engage voters. Some systems reward candidates who appeal to a cross-section of society while others reward those who appeal only to their own groups.

By considering specific countries, conflicts, minorities and electoral systems, the standard international and European conventions offers guidance on how best to ensure minority rights to public participation.

These rights include: the right to exist and be recognized; the right of individuals to choose their identities and not suffer for doing so; the right of all members of society to freely practice their language, culture and religion, by themselves or in community with others, including in public and at elections; the rights of all to participate in the decisions that affect them without any form of discrimination³⁶.

³⁵ Electoral systems and the protection and participation of minorities by Andrew Reynolds, - Minority Rights Group International 2006;

³⁶ Electoral systems and the protection and participation of minorities by Andrew Reynolds, - Minority Rights Group International 2006;

One may say that Kosovo positively discriminates the minorities, but in the other hand a more detailed survey should be in place in order to measure the active involvement of the minorities in the political life of the country and what is the way to do it.

5.3 Results Based on Gender Quota

Since its first elections after the conflict of 1999, Kosovo has adopted the gender quota for parliamentary seats. According the general elections for 2010, the gender quota has functioned properly, having 30 female parliamentarians in a total number of 120.

At the same time as the introduction of gender quotas was introduced in Kosovo and is spreading rapidly across the world, raising hopes for increases in women's political representation, quotas are also meeting fierce resistance.

Not all women support quotas, not even all feminists; and men are also divided on the issue. Opinions vary in terms of effects and repercussions but also concerning the meaning of key concepts in political analysis, such as 'equality', 'representation' and 'rights'. Attached are some of "Arguments for and against quotas".

One of the preconditions of gender quota should be the not favouring one group of candidates at the expense of better-qualified candidates, or not interfering with the final say that should remain to the voters.

In the other side, quotas are already in use in Kosovo and targets for women's political representation are acknowledged in several internationally recognized conventions, including CEDAW, as well as the 1995 Beijing Platform for Action.

With or without gender quotas, multiple measures should be applied in Kosovo, such as capacity-building programmes, support to women's organizations, recommendations

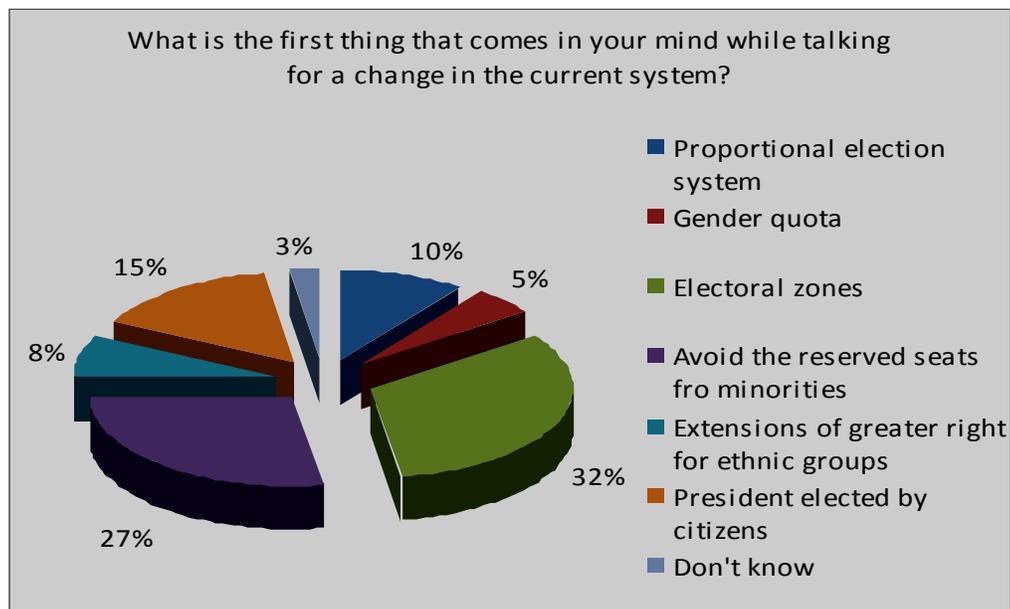
and targets with specific goals according to the choice of the party in order to redress the problem of women's underrepresentation in politics. Also, it needs further elaboration if quotas in Kosovo are compatible with the electoral system in use in order to be effective regarding the real presentation of females in political scene of Kosovo.

6. NATIONAL CONSTITUENCY OR REGIONAL ELECTORAL DISTRICTS

6.1 Moving from National to Electoral Regions

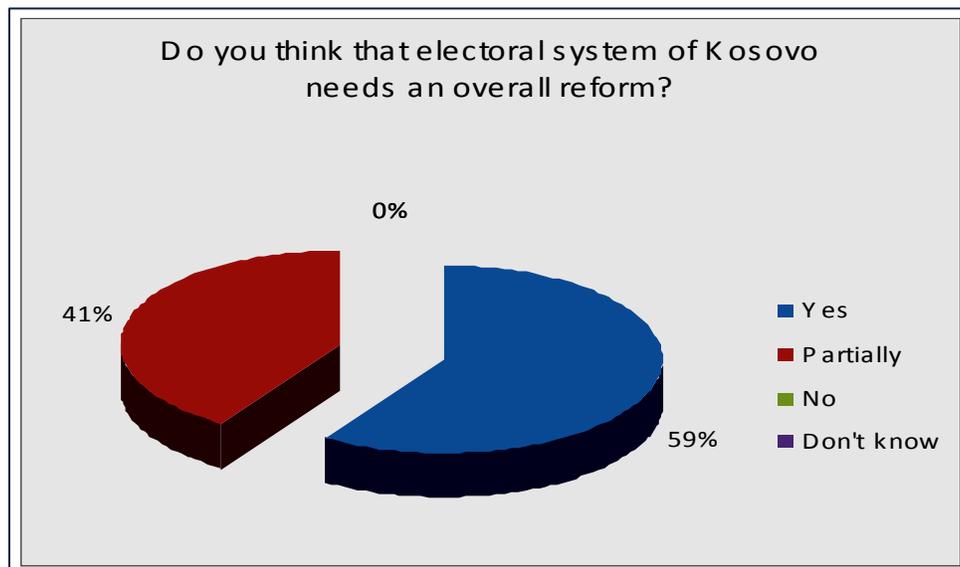
Let us remind again the principles for choosing the proper electoral system for the country. Legitimacy, Representation, Choices for voters, Effective system of political parties, Stable and efficient governance, Effective parliament, Active and massive participation in elections, Accountability – these were amongst the principles to guide us in the debates for proposing and choosing the best electoral system which fits Kosovo.

Fig.6.1. "What is the first thing that comes in your mind while talking for a change in the current system?"



The table shows what respondents think while talking about for a change in the electoral system in Kosovo. The elements mentioned by them in priority line are division in electoral zones. Having in mind different concrete systems of neighboring countries or countries with similar situations like Kosovo, the best system that can be proposed is a regional proportional system. In questions to responders 59% of them consider that the current electoral system of Kosovo needs an overall reform. If we add to this number 41% of the respondents which consider that the system needs a partial reform, we get a 100% of respondents considering that the current system should pass through a reform process. Electoral reform, as such, is often considered by the public when it engages in changes to representation arrangements, such as electoral systems, but it is a much broader concept than this. As the practice in different countries shows, there are three main aspects to an electoral reform: i) Legal aspect – involving the amendments of the constitution, the electoral law, or related regulations and rules to enhance integrity, relevance and adequacy of the legal framework; ii) Administrative aspect – involving new strategies, structures, policies, procedures and/or technical innovations to carry out elections in a more efficient, effective and sustainable manner, and iii) Political aspect – which involves the political environment, creating a transparent framework for the funding and accountability.

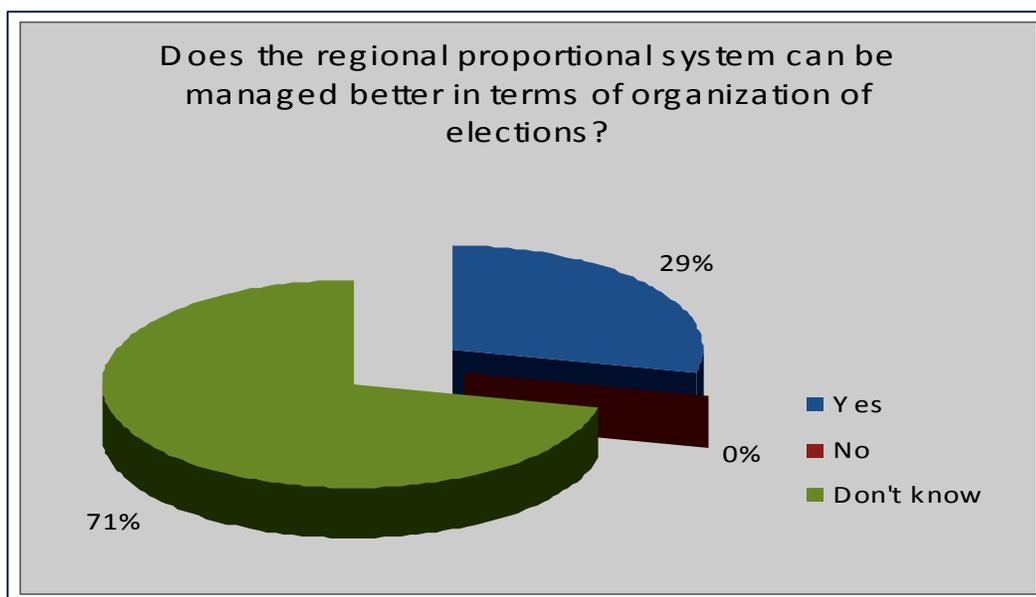
Fig.6.2 “Do you think that electoral system of Kosovo needs an overall reform?”



6.2 Division Into Regions

One of the solutions offered to the respondents was the idea of having a regional proportional system for Kosovo.

Fig 6.3 “Does the regional proportional system can be managed better in terms of organizations of elections? “



53% of the respondents consider that this will be a better solution for Kosovo, in terms of system, but if we consider the 36% of the respondents that have answered “don’t know” as answers that tend to support the regional proportional system, the overall percentage is increased. Also, the majority of the respondents consider that regional proportional system creates the possibility of a better representation of the citizens.

The respondents are very careful while responding to the question ‘if the elections can be managed better in terms of organization’ as this is much closer with the administrative procedures, budgetary issues, political will etc.

Let us create an imaginary scenario, where the results of electoral process 2010 can be divided in regional proportional zones. We will create six regional proportional zones, based only in demographic and regional criteria.

Six regional zones are: Prishtina (including municipalities of Prishtina, Fushe-Kosova, Podujeva, Obiliq, Graçanica, Glogoc, Lipjan); Mitrovica (including municipalities of Mitrovica, Zveçan, Leposaviq, Vushtrri, Skenderaj, Zubin Potok); Gjilan (including municipalities of Gjilan, Viti, Novoberde, Kamenica, Klllokot, Ranillug, Partesh); Ferizaj (including municipalities of Ferizaj, Kaçanik, Shtime, Shterpce, Hani i Elezit); Prizren (including municipalities of Prizren, Suhareka, Dragash, Rahovec, Malisheve, Mamusha) and Peja (including municipalities of Peja, Gjakova, Istog, Klina, Deçan, Junik).

Populations of the six regional zones are:

- 1) Prishtina: 713 000 – seats: 38
- 2) Mitrovica: 291 000 – seats: 16
- 3) Gjilan: 221 000 – seats: 12
- 4) Ferizaj: 193 000 – seats 11
- 5) Prizren: 450 963 – seats 24
- 6) Peja: 368 000 – seats 19.

Fig.6.4” “Electoral zone Division”

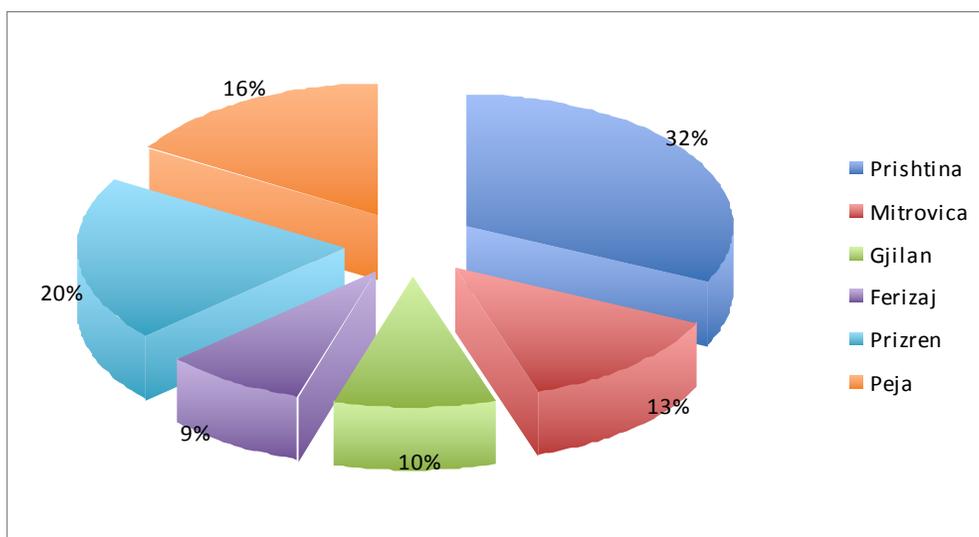


Chart reflects the percentage of the population of each regional electoral zone in rapport to the overall population of the country. According to this percentage, we shall split 120 seats of the parliament. The formula used for the calculation of the seats belongs to d'Hondt. One may say that the barrier for having a seat is very high for small political parties, for example in electoral region of Ferizaj. Otherwise, this formula allows the compounded electoral alliances, where two or more political entities can compete as a coalition, but the calculation of the seats is done according the results of each political party.

The second step is to compare the electoral results of political parties by the general elections in each municipality as per general elections of 2010, and to try to convert them in the results per regional electoral zones.

Table 6.5 "Peja Region"

Region	Municipality	Voters	PKD	LDK	AAK	AKR	VV	LDD	FER
Peja	Decan	12613	1326	2647	7027	159	784	15	5
	Gjakova	37185	4267	5414	10628	8977	4409	770	1282
	Peja	38325	5478	8618	10966	2320	5043	1258	1753
	Istog	16264	3177	7023	2539	519	1089	790	107
	Klina	16361	6393	3760	3266	533	967	333	197
	Junik	2105	185	758	856	22	94	101	7
	Total	122853	20826	28220	35282	12530	12386	3267	3351
Seats	19		3	4	6	2	2	1	1
Percentage			17%	23%	29%	10%	10%	3%	3%

Table 6.2 "Prishtina Region"

Region	Municipality	Voters	PKD	LDK	AAK	AKR	SLS	VV	FER	LDD
Prishtina	Glllogovc	23455	22133	642	278	429	0	522	20	17
	Obiliq	8682	2186	2997	562	667	263	1753	82	140
	Podujeva	34335	8604	17185	1691	1696	3	5313	416	221
	Lipjan	24840	10692	7920	919	1533	290	2631	226	492
	Prishtina	80539	13231	31096	4565	11526	183	15899	5232	1787
	F. Kosova	11583	2484	4512	520	934	238	2122	193	244
	Graçanica	5758	89	149	13	77	4503	49	9	69
Plus posta	Total	192247	59419	64501	8548	16862	5480	28289	6178	2970
Seats	38		12	13	2	3	1	6	1	0
Percentage	100		30.90763	33.55111	4.446363	8.771008	2.8505	14.71492	3.2136	1.5449

Table 6.3 "Gjilan Region"

Region	Municipality	Voters	PKD	LDK	AAK	AKR	SLS	VV	FER	LDD	JSL
Gjilan	Gjilan	40067	11317	8985	2621	3724	414	9556	817	1792	749
	Viti	17383	5289	4025	2517	1331	35	2850	654	1034	19
	Novoberde	3260	240	400	106	286	874	227	6	10	1280
	Kamenice	14625	4004	3790	1457	1552	562	2562	155	646	427
	Klllokot	1079	101	148	12	25	494	66	6	19	248
	Ranillug	1377	5	1	0	4	461	1	5	3	817
	Partesh	1710	2	6	0	2	1186	0	1	1	494
Plus posta	Total	80421	20958	17355	6713	6924	4026	15262	1644	3505	4034
Seats	12		3	3	1	1	1	2	0	0	1
Percentage	100		26.06036	21.58018	8.347322	8.609691	5.00616	18.97763	2.0442	4.3583	5.016103

Table 6.4 "Ferizaj Region"

Region	Municipality	Voters	PDK	LDK	AAK	AKR	SLS	VV	FER	LDD	JSL
Ferizaj	Ferizaj	37213	12199	8892	2307	3372	4	7429	1132	1556	0
	Kaçanik	14281	6491	2137	1965	938	0	2607	144	206	0
	Shtime	10162	4860	2343	421	688	0	1529	107	263	0
	Shterpce	5679	748	354	138	59	3396	316	17	49	270
	Hani Elezit	3681	1570	738	305	885	0	176	13	57	0
Plus posta	Total	70681	25868	14464	5136	5942	3400	12057	1413	2131	270
Seats	11		4	2	1	1	1	2	0	0	0
Percentage	100		36.59824	20.46377	7.266451	8.406785	4.81035	17.05833	1.9991	3.015	0.381998

Table 6.5 "Mitrovica Region"

Region	Municipality	Voters	PDK	LDK	AAK	AKR	Serb.	VV	FER	LDD
Mitrovica	Mitrovica	20869	10226	4850	1408	1323	70	2497	312	37
	Vushtrri	29964	9928	6324	1958	1727	778	5686	413	566
	Skenderaj	26555	26011	282	74	278	1	176	8	30
	Zvecan	4000	65	22	30	5	3846	14	3	15
	Zubin Potok	3500	209	137	32	44	3042	25	1	10
	Leposaviq	8000	31	24	26	3	7888	20	0	8
Plus posta	Total	90463	46470	11639	3528	3380	15625	8418	737	666
Seats	16		8	2	1	1	3	1	0	0
Percentage	100		51.36907	12.86603	3.899937	3.736334	17.2723	9.305462	0.8147	0.7362

Table 6.6 "Prizren Region"

Region	Municipality	Voters	PDK	LDK	AAK	AKR	Serb.	VV	FER	LDD	VAKAT	KDTP
Prizren	Prizren	59620	18167	14141	5645	2376	152	6028	1231	1286	2920	4972
	Suhareke	24977	7859	7384	7014	496	3	2033	198	439	1	19
	Dragash	12626	3966	3768	976	341	507	352	51	241	1254	
	Rahovec	21167	6799	6272	3647	1797	193	2287	208	234	35	
	Malisheve	21052	13812	4728	603	258	0	1722	118	169	1	0
	Mamushe	1711	80	19	13	24	1	2	1	5	1	1009
Plus posta	Total	137858	50683	36312	17898	5292	856	12424	1807	2374	4212	6000
Seats	24		9	6	3	1	0	3	0	0	1	1
Percentage	95.64769545		36.76464	26.34015	12.98292	3.838733	0.62093	9.012172	1.3108	1.7221	3.055318	4.352305

This exercise can be done for each electoral region of Kosovo, thus giving surprisingly results which allow a better composition of the Parliament in terms of consistency, including the minorities in the political life of the country.

Table 6.7 "National Results"

Political Parties	Result 2010		Regional proportional result	Political Parties
PDK	34		39	PDK
LDK	27		30	LDK
VV	14		16	VV
AAK	12		14	AAK
AKR	8		9	AKR
FER	0		2	FER
LDD	0		1	LDD
SLS	8		3	SLS
KDTP	3		1	KDTP
JSL	4		1	JSL
VAKAT	2		1	VAKAT
PDAK	1		3	Serbian Parties North
NDS	1			
BSDAK	1			
IRDK	1			
PAI	1			
SDSKIM	1			
PREBK	1			
GIG	1			
	120		120	

Some of the rules for this exercise include: national threshold 2%; existence of combined coalitions which allow the vote for the political party inside the coalition (which allows the electing of parliamentarians from smaller communities). Of course, corrections may be done in terms of division in regional electoral zones and allocation of seats for the regional electoral zones.

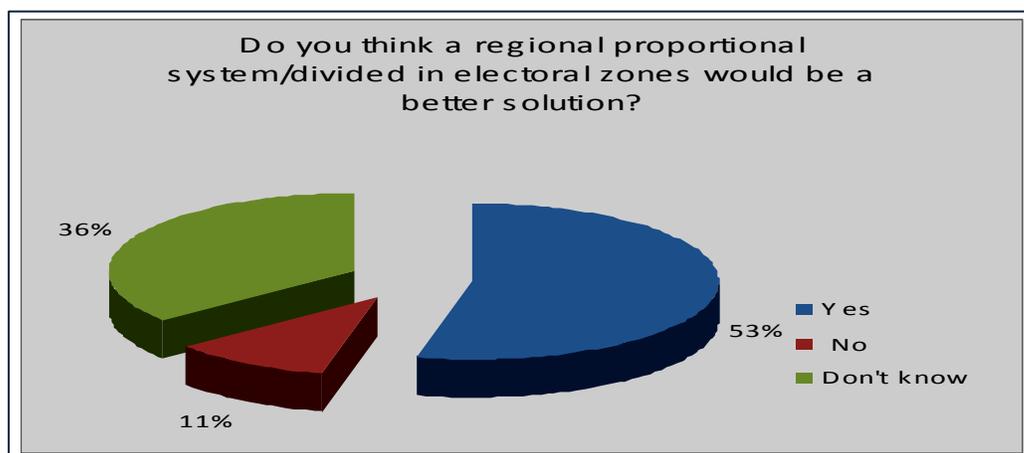
7 BUDGET AND FINES

7.1 Budget Impact on Quality Election

For the realization of the General Elections 2010 were planned 7.4 million Euros. According to the Central Electoral Commission report the amount spent for the election was 4.5 million, which means 2.5 Euro for a single voter. This is lower than the amount spent in the Local Elections 2009, where the amount spent for a single voter was 3.9 Euro³⁷.

Of course, the debate according the budgeting of elections in Kosovo (but not only this) is the amount to be spent, or the efficient way to calculate and to spend money. From the other side, the desired political stability and well-accepted elections may require further funding. Such can be the election of the President from the people and not from the Kosovo Assembly. This may require further funding, but it will increase the credibility of the President, avoiding political games and temporary fluid alliances.

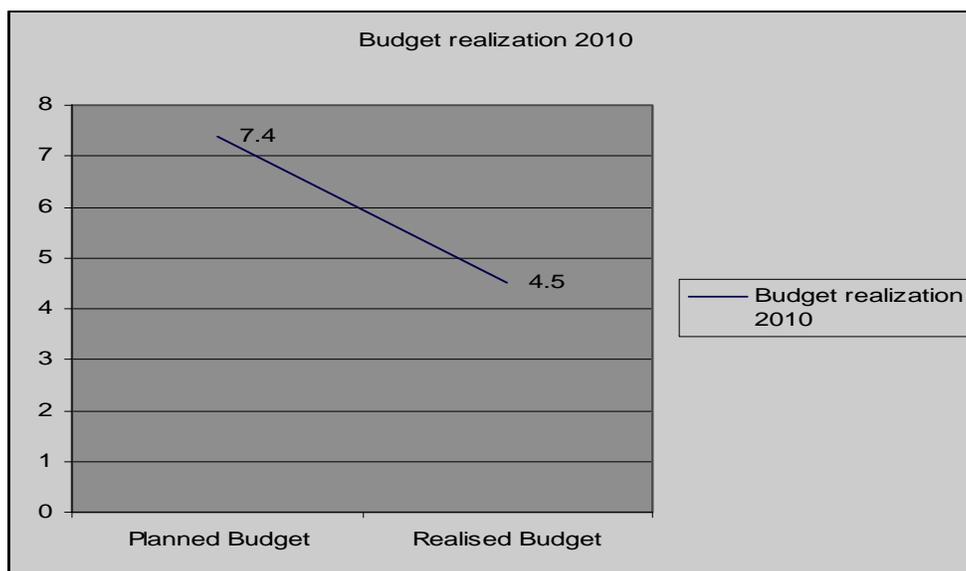
Fig.7.1. “Do you Think a regional proportional system/divided in electoral zones would be a better solution?”



³⁷ Financial Report on parliamentary elections 2010, Kosovo Central Electoral Commission, February 2011;

Main areas of the budgetary report were: salaries and per diems of the staff of CEC, services, non permanent staff, trainers and training material, voting services, voting ballots, staff of the Centre for Calculating the Results, electoral materials, renting, Public Information and Centre for Information, Municipal expense etc.

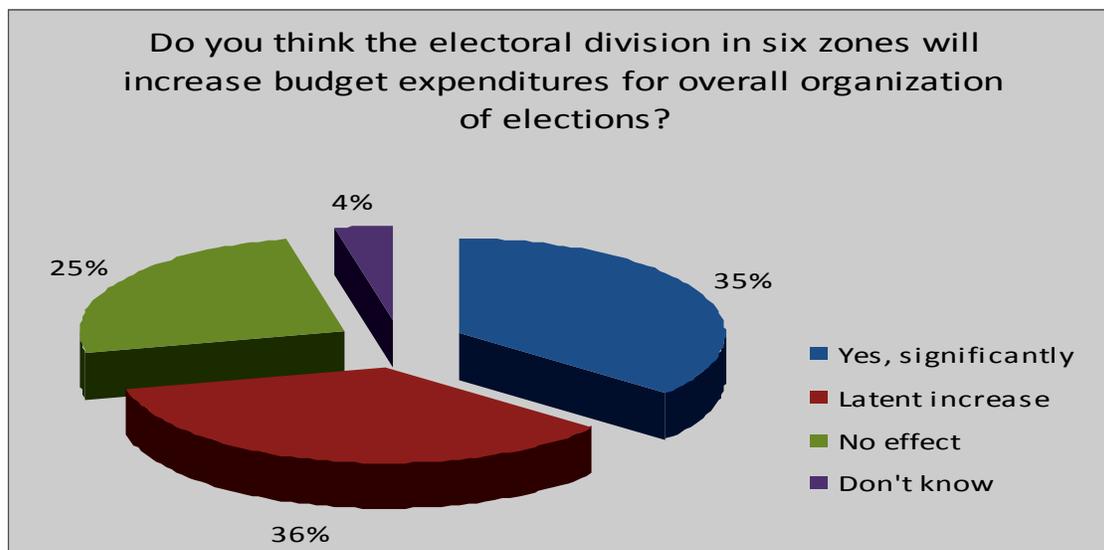
Fig.7.2 "Budget Realization 2010"³⁸



This is only one side of the money spent for organizing the elections. The other part takes in consideration budgeting of the parliamentary parties from the state budget, as well as party financing them.

³⁸ Financial Report on parliamentary elections 2010, Kosovo Central Electoral Commission, February 2011;

Fig.7.3 "Do you think the electoral division in six zones will increase budget expenditures for overall organization of elections?"

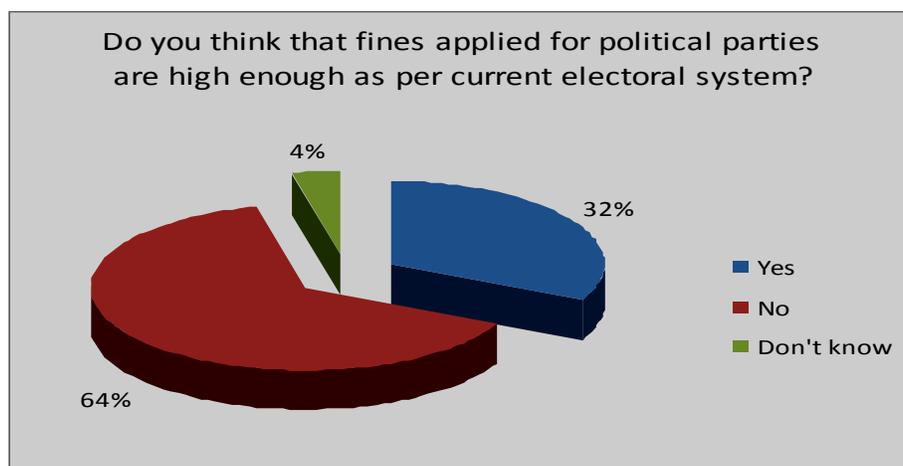


The proposal for the electoral division in six zones seems to have different opinions from the respondents. But still 51% of them think that this division will have no effect or a latent increase in the budget expenditures for the overall organization of the elections.

7.2 Fines for Political Parties

Fines for the political parties are amongst the instruments that can influence in the honest and equal opportunities for all political parties taking part in the elections.

Fig.7.4” Do you think that fines applied for political parties are high enough as per current electoral system”



Being such an instrument, it seems that it is not used properly from the bodies responsible for the administration of elections.

The majority of the respondents think that the fines for the political parties are not high enough thus making not possible a real punishment of different offences that a political party can make.

According to the Law on Elections the CEC or the Court of First Instance may punish violations of the provisions of this Law, when they do not constitute a criminal offence and have not been addressed by ECAC, by a fine between 200 and 2,000 Euros. It is foreseen that the main points where a political party can be punished with a fine is: Code of Conduct and Campaign Financial Disclosure Reports

7.3 Budget Expenditures for Political Parties

Budget expenditures of political parties, as the experience shows for the bigger political parties, are still not covered in a proper way. No one still can say how much is the budget spent from the bigger political parties, because some of them do not report or report with lower figures.

This is one of the most delicate questions, because it may have connections with economic interests, with the pressure of funding, raising the amount of public money spent from the political parties in power to remain in power etc.

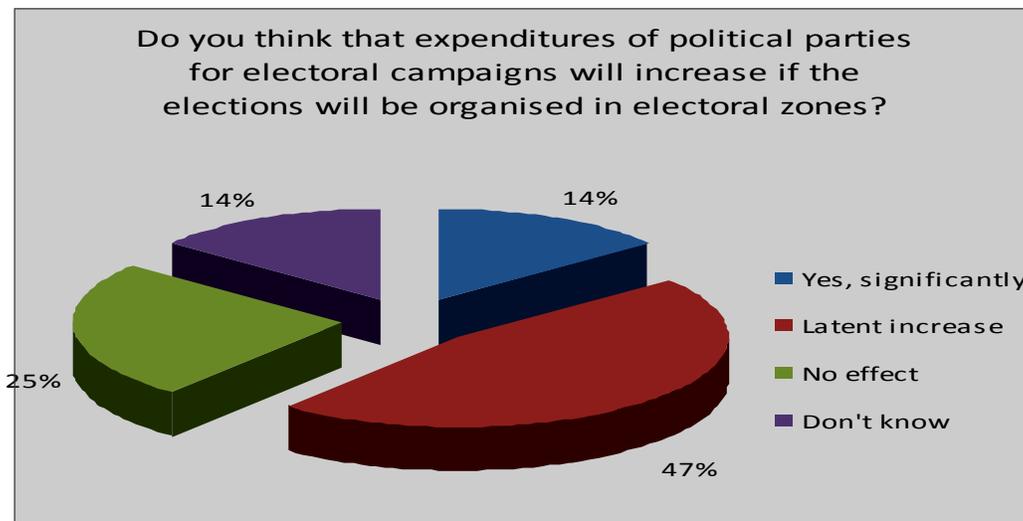
One of the central questions of party financing is how to design the legal provisions such that public trust in political parties can be ensured and fostered. Transparency of party financing must be considered as crucial in this respect. The lack of transparency surrounding private contributions, in particular, may negatively affect the legitimacy of the democratic process. In order to enhance transparency, Kosovo should adopt regulations on the reporting of party accounts and the disclosure of the identity of the donors.

In addition to the rules concerning the extent of private and public funding of political parties, party financing legislation should include disclosure and enforcement provisions which enhance the accountability of political parties. Important elements of the legal framework should include rules which oblige parties to publish their financial accounts and which subject them to independent scrutiny. In case of evasions of obligations, breaches of the law or attempts to fraud, clear and enforceable sanctions should be imposed.

To this effect, party financing legislation should include stipulations regulating at least four distinct aspects relating to the transparency of political finance:

- Disclosure: rules which oblige political parties to open up their financial accounts and reveal information on their levels of income, including the identity of donors, and expenditure.
- Reporting: regulations stipulating that party accounts be made public and reported to the appropriate institution.
- Monitoring: provisions for an independent body to inspect and control party accounts.
- Enforcement: a legal system of sanctions to ensure that regulations on party financing are not evaded and to impose penalties when the law is breached.

Fig 7.5 “Do you think that expenditures of political parties for electoral campaigns will increase if the elections will be organized in electoral zones?”



The majority of the respondents think that there might be a latent increase in the expenditures of the political parties if the elections will be organized in regional proportional system. Nevertheless, the experience from other countries which passed from the simple proportional or majoritarian, to the regional proportional system shows that the expenditures are lower.

8. FINAL DISCUSSIONS AND CONCLUSIONS

8.1 The Electoral System in Kosovo – Challenges and Opportunities

Kosovo has a simple proportional system, where the whole country is considered as a single electoral division. According to the Law on General Elections, political parties, citizens initiatives and independent candidates can take part in the election process. In each Political Entity's candidate list, at least thirty (30%) percent shall be male and at least thirty (30%) percent shall be female, with one candidate from each gender included at least once in each group of three candidates, counting from the first candidate in the list.

The voters can select their choice in the list by giving the vote to 5 candidates of the Party (initiative) they want. The Assembly generated by the general elections is the main legislative body, which than votes for the President of the country, as well as for the Government.

The importance of the system chosen in Kosovo is relevant according the institutions it creates. The last general elections, held in December 2010 showed to be not the best ones having serious problems in the administration of the electoral process, financing of the political parties, fraud of the results, and not a proper complains process. This may be the main reason why the respondents do not consider that the current electoral system is not able to produce a sustainable and legitimate government. As the reality shows, the problems that the new parliament is having with the election of the new parliament recommend a change or, better to say, an overall reform in the whole electoral system of the country. It means finding the tools for better representation of citizens, minorities, for greater accountability and for creating long term and stabile government of the country.

The guiding principles for this reform should be: legitimacy (high reliability of the system); representation (a more accurate picture of the representation of the population); choices for voters (more opportunities to realize the best choice); effective system of political parties (system that promotes democracy); stable and efficient governance (able to meet needs, interest and goals of the voters); effective parliament (shaping of parliament that generates not only a stable and functional government, but also the opposition alternative); active and massive participation (able to encourage and engage the citizens); accountability (opportunity to identify, interact and monitor the decision-makers).

8.2 Electoral Systems in Europe

Considering as a necessity the reform of the electoral system in Kosovo, analyses of different European electoral systems were done, in order to choose one of them based on concrete conditions of Kosovo. Experience shows that the issue of changing the electoral system is a part of political debates and decision-making. This task is related to select the most suitable system for the concrete reality in Kosovo, taking in consideration the tradition and political objectives of the country. Almost 57% of the systems in Europe belong to the proportional system.

Germany personalizes half of the seats in direct voting, where the winner is the First-Past-The-Post. The proportional voting is done through a close list with a fixed sequence at Lander level. This system gives the opportunity to the individuals, as well as to the development of the political parties. The citizen so can vote for the selected individual in the single member zone, as well as to express his/her political view, voting for the parties list. On the other hand, this system increases financial expenses and may result in various tensions during the individual competition of the candidates.

The Spanish system is a regional proportional system, based on closed regional lists. The system provides a distortion sufficient for creating stable governing coalitions, and as well makes possible a demographic representation of all citizens.

The Bulgarian system is close to the Spanish one, where the allocation of the mandates is done on a national basis, but the competition is made with regional lists. This creates more opportunities for the representation of all regions of the country.

The Greek system is a proportional three levels system (district – region – national). This system provides a strong distortion in the favor of the largest party in order to strengthen the main results and ensuring government by a single party or a coalition with few parties. The distortion is proved to be a good example in the countries with two strong political parties, but it is not quite clear how it can function in Kosovo, where four up to five parties are with close results.

A proposed solution for Kosovo would be the change of the electoral system from the proportional to the regional proportional system, with 6 electoral zones. The geographical and population criteria can be used to establish six electoral zones, in order to achieve the best representation from population, including minorities. Also, among these criteria the system should avoid the situation where political parties are locally grouped and could dominate within electoral regions. The system of counting of a vote for the party as a vote for the leader should be discontinued and the voters should be permitted to cast up to five votes for candidates on the list of candidates of their preferred political entity.

8.3 Vote Percentage Threshold for Allocation of Seats to Political Entities

Allocation of seats amongst political entities that represent the Albanian majority community who have won at least five percent (5%) from the general number of total valid votes for Assembly elections and political entities of the Kosovo Serbs and other

non majority communities. The majority of the respondents consider that the threshold should be lower, specifying that the reasons for doing this are: i) to encourage the establishment of new political parties, thus increasing the choices for citizens; ii) to allow more diversity in the Parliament, and c) not to ignore the political will of 5% voters of Kosovo.

In general, vote percentage threshold is used as a tool for making stable governance of the country. But different choices from the electoral system can be used in order to achieve the encouragement of the new political parties, more diversity and not to ignore the political will of 5% of the voters. Such can be the possibility to vote for the aggregated coalitions, where the vote for a political party is counted for the coalition, but the mandate belongs to the party.

8.4 Process for Adjudication of Election Complaints, Disputes and Appeals

The Law on general elections in Kosovo foresees all the procedures for the elections complaints and appeals commission. The institution of the Election Complaints and Appeals Commission (ECAC), as presently constituted under LGE, and particularly as to its status as an independent and permanent body, seemed to have difficulties and to be under great political pressure to function properly. Thus, according to the experience from other countries the complaints body should operate more as a court than a commission and the law should provide for judges to be designated to an Election Complaints and Appeals Tribunal, at least as a second degree. The creation of the tribunal can be created at the time of announcement of the election. It would serve as a special administrative court for election complaints and also decide appeals from certain CEC decisions. As there are appeals to the Supreme Court, the new body should consist of Judges of the District Courts.

The timing of complaints and appeals should be addressed to give a greater certainty in the completion of the decisions. Timelines should be set for every phase of the election

complaint and appeals process – particularly for post-election challenges of official election results submitted to ECAT, appeals to the Supreme Court, and final judgments by the Supreme Court.

There is a lack of clarity regarding jurisdiction should be addressed. ECAT should focus on core responsibilities and offences, such as: a) denial of voter registration, violations of the Code of Conduct and other pre-election campaign rules, efforts to intimidate or improperly pressure voters, voting and counting discrepancies, etc; b) appeals of decisions of the CEC denying rights of electoral participation: registration of parties, certification of political entities and candidates to contest elections, and qualification as election observers; c) objections to official election results, based upon allegations of widespread fraud and irregularities that genuinely question the vote outcome (subject to appeal).

8.5 Participations of Women and Minorities

The Law on General Elections in Kosovo reflects the best of international experience in including gender and minority issues in the electoral process of Kosovo, thus ensuring a relatively high percentage of female candidates both in candidates list, as well as in parliamentary seats, also ensuring the representation of minorities in the Kosovo Assembly.

Since its first elections after the conflict of 1999, Kosovo has adopted the gender quota for parliamentary seats. According the general elections for 2010, the gender quota has functioned properly, having 30 female parliamentarians in a total number of 120. At the same time as the introduction of gender quotas was introduced in Kosovo and is spreading rapidly across the world, raising hopes for increases in women's political representation, quotas are also meeting fierce resistance.

One may say that Kosovo positively discriminates the minorities, but on the other hand a more detailed survey should be in place in order to measure the active involvement of the minorities in the political life of the country and what is the way to do it.

Possible solutions for these issues can be a better determination of the criteria's regarding the participation of women in elections and encouraging the integration of minorities at the national level, by representing themselves with no distinction in the ethnicity.

The current 'gender quota' is not serving women's interests well and produces a serious disproportional in some cases between votes cast for winning women and winning men. The quota may be reduced to 25% and should not be applied to political entities allocated less than ten seats. However this should be part of a broad discussion to find out the best ways for the involvement of women.

Also, one best solution for the further involvement of the minorities in the political life of the country seems to be avoiding the reserved seats for them. So far, the positive discrimination has shown that the minorities has been more passive than they should be, in other circumstances.

8.6 National Consistency or Regional Electoral District

While talking about for a change in the electoral system in Kosovo, the elements mentioned by the respondents in priority line are: division in electoral zones, avoid the reserved seats for minorities, president elected by the citizens etc. We would consider three aspects as the main aspects of an electoral reform: i) Legal aspect – involving the amendments of the constitution, the electoral law, or related regulations and rules to enhance integrity, relevance and adequacy of the legal framework; ii) Administrative aspect – involving new strategies, structures, policies, procedures and/or technical innovations to carry out elections in a more efficient, effective and sustainable manner,

and iii) Political aspect – which involves the political environment, creating a transparent framework for the funding and accountability.

The regional proportional system seems to be the best solution by the respondents, although they seemed to be very careful while responding to the question if the elections can be better managed in terms of organization. This is much closed with the administrative procedures, budgetary issues, political will etc.

8.7 Budget

According to the Central Electoral Commission report the amount spent for the election was 4.5 million, which means 2.5 Euro for a single voter. This is lower than the amount spent in Local Elections 2009, where the amount spent for a single voter was 3.9 Euro.

The debate according the budgeting of elections in Kosovo (but not only) is the amount to be spent, or the efficient way to calculate and to spent money. From the other side, the desired political stability and well-accepted elections may require further funding. Such can be the election of the President from the people and not from the Kosovo Assembly. This may require further funding, but it will increase the credibility of the President, avoiding political games and temporary fluid alliances.

Regional proportional system seems not to have further financial costs at the overall budget expanses for the elections.

Budget expenditures of political parties, as the experience shows for the bigger political parties, are still not covered in a proper way. No one still can say how much is the budget spent from the bigger political parties, because some of them do not report or report with lower figures. This is one of the most delicate questions, because it may have connections with connections with the economic interest, with the pressure of

funding, raising the amount of public money spent from the political parties in power to remain in power etc.

Transparency of party financing must be considered as crucial in this respect. The lack of transparency surrounding private contributions in particular may negatively affect the legitimacy of the democratic process. In order to enhance transparency, Kosovo should adopt regulations on the reporting of party accounts and the disclosure of the identity of the donors.

8.8. Summary of Recommendation

One of the main objectives for setting the electoral system in place is of course to be able to produce an effective and democratic government.

The main objectives of the capstone project were to investigate the opinions of voters and prevail some recommendation for improvement.

The three most important recommendations are:

- 1.** Instead of having one electoral zone covering all Kosovo, the zone existing single should be geographically divided into at least six electoral zones. This will result in creating more opportunities for citizens to seek accountability from those they have voted for.
- 2.** The experience of electing the president by the people instead of the parliament should be established. The president, according to the Constitution, is the unifying person what will guarantee the Constitution, and should be above political party interests. A president elected by the people is a stronger instrument above the interests of the political parties.

- 3.** The voting threshold should be reduced to 3% for all political entities. The threshold should be lower in order to encourage the establishment of new political parties, thus increasing the choices for citizens, and allow more diversity in the Parliament.

In addition there are a number of recommendations which are important to improve kosovars electoral system. These are:

- 1.** It is of great importance to realize that avoiding the second round (ballotage). This would increase the effectiveness of the election process, shortening the expenses, affecting in good terms in sustainability of the local administration during the electoral process.
- 2.** Cancelling the reserved seats for minorities. The current system does not promote effective the integration of minority communities. Establishing the division on six electoral zones insures at least the same numbers of minorities as reserve seats now are in the Assembly but through a none democratic and fair represented.
- 3.** The women quota should be reduced to 25% and should not be applied to political entities allocated less than ten seats.
- 4.** Kosovo should adopt new regulations on the reporting of party accounts and the disclosure of the identity of the donors

5. Timelines should be set for every phase of the election complaint and appeals process especially for post-election challenges of official election results submitted, appeals to the Supreme Courts and final judgment by the Supreme Court.

LIST OF REFERENCES

Constitution of the Republic of Kosovo

Comprehensive Proposal for the Kosovo Status Settlement (Ahtisaari's package)

Decentralization and Local Governance Reform: Clear on paper blurred in practice, published by Kosovo Local Government Institute

Election system reforms in Kosovo (published by KIPRED)

Handbook on the structure and new organization in municipalities, published by MLGA (November 2009)

Law on Local Self Government No. 03/ L-040

Law on general elections in the Republic of Kosovo No. 03/L-073

Law on local elections in the Republic of Kosovo no. 03/l-072

Law on the municipal boundaries no. 03/ L-41

UNMIK Regulation no. 2000/39 on the local elections in Kosovo

UNMIK Regulation no. 2002/11 on local elections in Kosovo

UNMIK Regulation no 2007/27 on local elections in Kosovo

UNMIK Regulation no 2007/30 amending regulation 2000/45 on the Local Self-Government in Kosovo

Report on the local elections 2009, CEC Kosovo

Report on the parliamentary elections 2010, CEC Kosovo

Decision of the Constitutional Court of Kosovo regarding the election of the President of Kosovo,

Financial Report on parliamentary elections 2010, Kosovo Central Electoral Commission, February 2011;

Electoral gender quota systems and their implementation in Europe - study by the European Parliament's Committee on Women's Rights and Gender Equality – 2008;

Electoral Code – Republic of Albania;

Electoral law of Greece (codified by Presidential Decree Nr. 92/1994);

Electoral Law of Republic of Bulgaria - Act on Election of Members of Parliament (2001);

The Electoral Law Act (Northern Ireland) 1962 (Amendment No. 3) Order 2005;

Federal Republic of Germany - Federal Electoral Law Enacted on 7 May 1956 (Federal Law Gazette I, p. 383); amended by the law of 15 November 1996 (Federal Gazette I p. 1712);

Spain Central Electoral Commission - representation of the people institutional act 2007;

European Union Election Expert Mission – Final Report on parliamentary elections in Kosovo (25 January 2011);

European Network of Election Monitoring Organizations (ENEMO), observations on elections in Kosovo, 09 January 2011;

Election Observation Delegation of the European Parliament – Statement of December 13, 2010;

Electoral systems and the protection and participation of minorities by Andrew Reynolds, - Minority Rights Group International 2006;

Electoral systems – A comparative introduction by David M. Farrell. First published in 2001, PALGRAVE, New York;

Evaluation and optimization of electoral systems by Pietro Grilli Di Cortona. Society for Industrial and Applied Mathematics; New York, 1998.

Electoral reform in Albania by Kastriot Islami, “Panorama”, 17 may 2009;

John Stuart Mill, Representative Government, 1861;

Edvard Radzinski – Stalin (Life and Death), Vagrius, Moscow 1996.

Women in Parliament: Beyond Numbers. A Revised Edition 2005. The International Institute for Democracy and Electoral Assistance (International IDEA);

The Comparative Study of Electoral Systems (<http://www.cses.org/>) - The CSES Secretariat is in cooperation between the Center for Political Studies and GESIS - Leibniz Institute for the Social Sciences, with support from the American National Science Foundation, German Federal Ministry of Education and Research, University of Michigan, and governments of several German Lands;
International Foundation for Electoral (<http://www.ifes.org/>) – Election Guide.

APPENDIXES

1. Questionnaire
2. Database
3. List of questions for the focus group discussions
4. References