

# CITIZENS' PETITION FOR CONSTITUTIONAL REFORM



We, citizens of the Republic of Kosovo, are worried about our democracy. For almost three months after the general elections, our representatives have been unable to carry their duties, and a new government is yet to be formed. The Constitutional Court has decided that the right to nominate the speaker of the Assembly and the first candidate for prime minister belongs to the party that obtained a plurality of the votes in the elections. But that party has only one third of the deputies. As the largest party lacks the support of the majority of the people and the backing of other parties, the Assembly is unlikely to elect a new legitimate government any time soon.

We are aware that democracies naturally experience occasional slowdowns. But at the same time, we believe that the current difficulties are due to inadequacies in the supreme law of the land. Therefore, with the desire to preserve and further develop our democracy and to avoid potential institutional crises, we call on our representatives in the Assembly to consider making changes to the Constitution.

We have attached to this petition the text of proposed amendments to Articles 64, 66, 70, 82, 84, and 95 of the Constitution, which govern the election of deputies, their mandate, and the formation of the executive. Notwithstanding the final form that the text of the Constitution may take, the essence of our requests and goals is:

1. **To increase the accountability of representatives**—For this purpose, we demand representation through electoral districts. Citizens of each district should elect several deputies and be able to hold them accountable by exercising the right to vote.
2. **To obtain representation for the diaspora**—A number of seats for Kosovar expats will encourage them to participate in our democracy and to think about returning to their homeland.
3. **To limit the power of political parties**—We want to cast our free votes for individual candidates, regardless of the group or party to which the candidates belong. A citizen's vote and a deputy's mandate should be granted only to the candidate or deputy elected by the people; it should by no means be given to the party.
4. **To enable the quick formation of the government**—The executive should be elected without delay and excessive formalities. We demand that the President of the Republic use his own free judgment when appointing the mandatary to form a new government. Thus, the President may observe the balance of power in the Assembly and avoid crises. If the President fails to appoint an acceptable candidate for prime minister, we propose that the Assembly itself elect the government.

## A Project for Constitutional Reform

We suggest the following changes:<sup>\*</sup>

- I. Article 64 should be changed as follows:
  1. The Assembly has one hundred twenty (120) deputies ~~elected by secret ballot on the basis of open lists~~. The seats ~~in the Assembly~~ **of the deputies** are distributed amongst ~~all parties, coalitions, citizens' initiatives and independent~~ **the** candidates in proportion to the number of valid votes ~~they~~ received ~~by them~~ in the election to the Assembly.
  2. ***At least one hundred (100) deputies are elected as representatives of electoral districts as follows:***
    - (1) ***The territory of Kosovo is divided into twenty-four (24) districts of equal population, but with consideration to the administrative lines and the natural divisions between regions, areas, municipalities, and settlements. The territories of other states consist of one (1) district, designated for the diaspora.***
    - (2) ***The residents with a right to vote of each district elect at least four (4) deputies. Citizens living abroad have the right to vote as residents of the diaspora district or as residents of the district in which they were born, have lived, or have proven ties defined by law.***
    - (3) ***Electors may directly vote four (4) or more individual candidates, regardless of the group of political party of which the candidates are a part.***
  - 2.3. ~~In the framework of this distribution, t~~ Twenty (20) of the one hundred twenty (120) seats are guaranteed for representation of communities that are not in the majority in Kosovo as follows:
    - (1) ~~Parties, coalitions, citizens' initiatives and independent e~~ 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);

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<sup>\*</sup> [Some of the changes are dictated by the Albanian text of the Constitution and may appear irrelevant (if not unnecessary) to the English version. This translation attempts to reflect the Albanian text to the greatest extent possible.]

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

II. Paragraph 5 of Article 66 should be changed as follows:

The election conditions, ~~constituencies~~ *districts* and procedures are determined by law.\*

III. The following should be added to Article 70 as paragraph 5:

**A citizen's vote and the deputy's mandate may be granted only to the candidate or deputy who received the vote. The vote and mandate may not be granted to the group or political party of which the candidate or deputy is a part.**

IV. Subparagraph (1) of paragraph 1 of Article 82 should be changed as follows:

if the government cannot be established within ~~sixty (60)~~ *seventy-five (75)* days ~~from the date when~~ *after the day on which* the President of the Republic of Kosovo appoints the ~~candidate for Prime Minister~~ *mandatory to establish the new Government*,

V. Subparagraph (14) of Article 84 should be changed as follows:

appoints the ~~candidate for Prime Minister for the establishment~~ *mandatory to establish* of the *new* Government ~~after proposal by the political party or coalition holding the majority in the Assembly;~~

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\* [The original text of the proposed amendments uses the native Albanian word *vis* instead of the loanword *zonë* (or *zona*) for an electoral district. Here, "constituencies" may need to be replaced with another term, depending on the term that would be used in Article 64.]

VI. Article 95 should be replaced in its entirety with the following:

1. **[Mandate from the President. —] Within fourteen (14) days after the day on which the Assembly holds its first meeting or the Government resigns, the President appoints a mandatory to establish the new Government and to serve as Prime Minister.\* In appointing the mandatory, the President uses his or her own judgment and is not bound to consider the political makeup of the Assembly.**
2. **[Approval by the Assembly. —] Within fourteen (14) days after the day on which he or she is appointed, the mandatory presents to the Assembly the program and membership of the new Government. Then, the Assembly decides immediately, without debate, by open vote and with the majority of votes of all deputies, whether to approve the establishment of the new Government.**
3. **[Swearing-In. —] Within seven (7) days after the day of the approval by the Assembly, the new Government is presented before the President to take the oath and assume responsibilities. The text of the oath is regulated by law.**
4. **[Rejected Mandatory. —] If the Assembly does not approve the establishment of the new Government, the mandatory is considered rejected. The President appoints a second mandatory within seven (7) days after the day on which the first mandatory is rejected. The second mandatory is appointed in the same manner and has the same responsibilities and conditions as the first mandatory.**
5. **[Mandate from the Assembly. —] If the President fails to timely appoint a second mandatory, or the second mandatory is also rejected, the right to appoint the mandatory passes to the Assembly. The mandatory appointed by the Assembly has the same responsibilities and conditions, but may not have the same deadline, as a mandatory appointed by the President.**
6. **[Dissolution of the Assembly. —] If, within fourteen (14) days after the day on which the right to appoint the mandatory passes to the Assembly, a new Government is not presented before the President, the President may dissolve the Assembly.**

The petition will remain open for signing for three weeks, from Sunday, September 7, 2014, to Sunday, September 28, 2014. The names of the citizens who have signed the petition will be published and handed in an appendix.

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\* [The current English version uses “establish” rather than “form.” The same usage has been applied here.]

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