

The political (In)stability and Cabinet Duration in Kosova: Why are governments short-lived?

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EXECUTIVE SUMMARY

No Kosovar government has managed to rule for a full four-year term. The average time of cabinet duration as of 2020 is 240.9 days (excluding caretaker governments). This average is far lower than the average in Eastern and Western Europe. Most of the Prime Ministers, failed to be elected for consecutive mandates and the year 2020 saw three different governments.

The main reasons for short cabinet duration are a polarized party system, long and complex government formations, the Constitutional Court (CC) decisions that determined the making and breaking governments. But, also processes of transitional justice, which led to resignations and indictments of senior political figures.

The fractionalization and polarization of the party system led to major parties refusing to engage in ruling coalitions' with each-other, making formation of the governments long and difficult. The consequence of polarization are the formation of minimal-winning coalitions, which due to coalition in-fighting, lack of party discipline and internal cohesion, often fail to pass laws in the parliament and govern efficiently. Furthermore, in a polarized party system, small parties become king-makers and acquire disproportionate political power by bargaining for big number of ministries and public offices such as the President and Prime Minister.

The formation of the governments in Kosova, takes far longer than in most European countries. In Western and Eastern Europe, the government formation takes on average 27-28 days, whereas in Kosova on average it takes 96.2 days. Reasons for delay are: the late certification of election results by the Central Election Commission (CEC), institutional blockades from parties that even led to Constitutional Decisions in 2014 and 2017, and lengthy coalition talks between coalition partners. The coalition talks remain focused on portfolio allocation and not on political programs. The long formation process extends the tenure of the caretaker government, which governs without a parliament, is less accountable and generally less efficient.

Political parties often involve the Constitutional Court in elections, in the formation and break-up of governments. The lack of customary rules that regulate the transfer of power, led to parties turning to CC for interpretations on who has the right to form the government. Those interpretations oftentimes completely changed the rules of the game. In 2011 the election of the President was made more difficult by requiring a quorum of 80 MPs. In 2014, the CC declared that only the winning parties can elect the spokesperson of the parliament, an interpretation against the spirit of parliamentary majorities found in proportional representation systems. In May 2020, the Court essentially created a constructive motion of no-confidence, allowing LDK to form a government without prior election, after they ousted their coalition partner VV, setting a dangerous non-democratic precedent of electing non-popular governments without elections.

The polarization among political parties, the lack of informal rules of transfer of power, lengthy government formation processes, institutional blockades by parties and the partaking of the CC made the cabinets short-lived. For governments with a longer tenure, Kosova needs to have single-majority parties in the parliament or minimal-majority coalitions that are cohesive, a less fragmented party-system, less divided ruling coalitions', quicker formation processes and no institutional blockades by parties.

THE POLITICAL (IN) STABILITY AND CABINET DURATION IN KOSOVA: WHY ARE GOVERNMENTS SHORT-LIVED?

I. Introduction

In the short twenty-year history of Kosova's democracy, no government has managed to finish its full four-year mandate. Disagreements between coalition partners, rulings of the Constitutional Court (CC), processes of transitional justice and failures to implement international agreements have brought down governments and taken the country to early elections. The competitive elections in turn, often produced hung parliaments and long government formation processes that involved CC verdicts, breaking pre-electoral coalitions and institutional blockades by parties.

Government stability remains a crucial aspect of a functioning democracy. Full mandates and tenures of ruling coalition impact the stability of the political system, party system, long term policy planning, economic policies and reforms. Literature on government stability focuses on aspects such as differences of presidential and parliamentary regimes in the duration of governments,¹ or comparative studies on the difference in duration of governments in Western Europe² and post-communist states.³ Political scientists have also studied the impact of ideological diversity of the party system and the cabinets on stability.⁴

Besides these deterministic factors on the survivability of governments, in the 1980s a different strand of policy-oriented empirical research known as stochastic, was introduced by the events-approach of Browne et al. (1984, 1986),⁵ which takes into account the events that produce uncertainty for coalitions and threaten to break them up. Lastly King et al. have produced an encompassing theory of government stability by including elements of both the deterministic and stochastic approaches.⁶

Short-lived governments fail to implement their four-year government plan, their legislative agenda and tend to focus on short term policies that get them re-elected. In Eastern Europe governments often are short-lived; scholars have suggested that post-communist countries face a number of issues including lack of mass partisanship, electoral volatility, and weak party institutionalization, fractionalized parties without ideological programs or internal party discipline.⁷ All of these problems remain present in Kosova, a new and non-consolidated democracy, where the political system is shaped by legacies of socialist Yugoslavia, war, contested statehood and the involvement of the International Community through a protectorate and then supervised independence.

¹ Juan Linz, *Presidential or Parliamentary Democracy: Does it Make a Difference?*, in Juan Linz and Arturo Valenzuela, (eds.), *Failure of Presidential Democracy* (Baltimore: The Johns Hopkins University Press, 1994), ; Zeynep Somer-Topcu and Laron K. Williams "Survival of the Fittest? Cabinet Duration in Postcommunist Europe" *Comparative Politics* Vol. 40, No. 3 (2008), pp. 313-329.; Adam Przeworski, et al. "What makes democracies endure?," *Journal of Democracy*, 7 (1996), 39-55.

²Eric C Browne, John Frendreis and Dennis W Gleiber "An "Events" Approach to the Problem of Cabinet Stability". *Comparative Political Studies*, Vol. 17, Iss. 2, (1984): 167.

³ J. Blondel and F. Müller-Rommel, *Cabinets in Eastern Europe* (2001)

⁴ P. Warwick, *Government Survival in Parliamentary Democracies* (1994) , Cambridge, Cambridge Univ. Press.; See also P. Warwick "The Durability of Coalition Governments in Parliamentary Democracies", *Comparative Political Studies*, Vol.11(1979), 465-498.

⁵Browne et al. (1985) Ibid.;Eric C Browne, John Frendreis and Dennis W Gleiber "The Process of Cabinet Dissolution: An Exponential Model of Duration and Stability in Western Democracies".*American Journal of Political Science*, Vol.30(1986), p. 628-650.

⁶King, G., Alt, J. E., Burns, N. E. & Laver, M. "A Unified Model of Cabinet Dissolution in Parliamentary Democracies", *American Journal of Political Science*, Vol. 34 (1990), p. 846-871.

⁷ Paul Warwick "The durability of Coalition Governments in Parliamentary Democracies," *Comparative Political Studies*, Vol. 11 (1979), p.465-98

This policy report will focus on Kosova as a case study and on the duration of its post-independence governments. It aims to explain why governments in Kosova fall before their mandate is over and how Kosova can improve its government duration and formation processes. In the first section the study will look at the reasons government fall and the theoretical explanations. The second section looks at government duration in Kosova by analyzing the fall of each government since independence in 2008. The third section focuses on the patterns of government instability and what can be done to improve government tenure.

II. Why do governments fall?

a) Theoretical explanations

The research on government stability focuses on: 1. Cabinet attributes; 2. System attributes, and 3. Political events.⁸

The first approach, cabinet attributes compares the differences of duration between single-majority parties, minimal winning coalitions and minority coalitions. In party stability research, in Western Europe it is argued that single-party majority cabinets last longer, mostly as a result of a small number of countries like Denmark, Finland and Italy which have minority or oversized governments. However there are countries such as Austria, Germany, and Luxembourg where majority coalitions are stable.⁹

The second approach, system attributes, focuses on the fractionalization of the party system with the hypothesis that countries with short-lived governments have a larger number of small parties in the parliament and a higher degree polarization within the party system.

The third approach, political events, argues that the fall of governments is a stochastic process directed by critical events such as political scandals, crisis in economy, foreign policy or other potential event which have the potential to bring down a government.¹⁰

Some of the approaches on ideological diversity of the party system¹¹, single majority parties and minority governments are not applicable in Kosova, since the country does not have clear ideological alignments of political parties,¹² and there were no single majority or minority governments in power (until now at least). The government is mostly composed by two – three Albanian parties together with the reserved seats from the Serb and other ethnic communities.¹³ The second and third approaches, namely system attributes and political events are better suited to explain the fractionalization, polarization and events that lead to the fall of governments in Kosova.

b) Kosova, Eastern Europe and the Balkans

Government duration is determined by institutional constraints and policy success of the ruling governments. Institutional constraints include effective number of parties and types of government, whereas policy success includes the performance with various variables such as the

⁸Ibid. Gallagher et al. (p. 412).

⁹ Michael Laver & Norman Schofield, *Multiparty Government: The Politics of Coalition in Europe* (1990) p. 152-53

¹⁰Ibid. Browne et al. 1984, 1986, 1988.

¹¹ Ibid. Warwick 1994.

¹²Mehdi Sejdiu & Alban Haliti "The lack of political ideologies in Kosovo's political parties", *Savremena politika i upravljanje*, vol. 3, No. 1. (2017). ; Brenna Gautam and Leon Malazogu "Kosovo's Political Compass – Mapping Party Ideology" Democracy for Development, 2014.

¹³Kosova is a consociational democracy, there are 120 seats in the Kosova parliament, 20 of these are reserved for the ethnic communities. The ethnic communities have mostly been part of the ruling coalitions.

level of inflation.¹⁴ Many European Prime Ministers have strategic control over when to call elections, and they will often use this power to call early elections, before fulfilling their constitutional term. It is understandable that Prime Ministers would rather pick and choose a time more favorable to them after a few years into the term. This is why few national parliaments in modern Europe run their full terms.¹⁵ Calling for elections a couple years into the term is normal, however in some countries, including Kosova, governments break far earlier and have a short lifespan.

COUNTRY	DURATION OF GOVERNMENT IN DAYS
Hungary	905.6
Bulgaria	765.7
Croatia	683.6
Czechia	575.6
Estonia	545.1
Latvia	325.1
Lithuania	550.1
Poland	359.5
Romania	478.4
Slovakia	530.7
Slovenia	681.8
All countries	538.5
Kosova	240.9 (without 2020, 947.7)

Table 1- Duration of governments in days, until the motion of no-confidence, excluding caretaker governments. See: Conrad & Golder, 2010, p. 127. Years from 1990 – 2008. For Kosova 2007 -2020.

As mentioned above, it has been suggested that some of the issues in government durability for Eastern European countries include lack of mass partisanship, electoral volatility, weak party institutionalization, fractionalized party systems or internal party discipline.¹⁶ Compared to governments in Western and Eastern Europe, some of the governments in Kosova

¹⁴ Ibid. Sommer-Topcu and Williams (2008)

¹⁵ Michael Gallagher, Michael Laver and Peter Boston Mair *Representative Government in Modern Europe: Institutions, Parties, and Governments* (2005), p. 418.

¹⁶ Timothy J. Colton *Transitional Citizens: Voters and What Influences Them in the New Russia*, (2000).; Margit Tavits “The development of stable support: electoral dynamics in Post-Communist Europe”, *American Political Science Review* Vol 49, No. 2 (2005), p. 283-98.; Scott Mainwaring and Mariano Torcal “Party system institutionalization and Party System Theory after the third wave of democracy”, in : Katz, RS, Crotty, WJ (eds) *Handbook of Party Politics*. (London, 2006).

had duration of more than 1000 days.¹⁷ However the three most recent governments Haradinaj II, Kurti and Hoti were far shorter.

When taking into account post-communist countries of Eastern Europe, Kosova is now below the average in regards to government stability and government duration with 240.9 days of government duration. This is mostly due to the instability of governments in 2020 where the mandates of the Kurti and Hoti governments ended after 52 and 172 days respectively. If we exclude the two short lived governments and take into account the Thaçi I and II, Mustafa and Haradinaj II governments, Kosova would have had an average of 947.75 which is of normal duration compared to other Eastern European countries. Nevertheless, the year 2020 has shown that in times of crisis, Kosova's governments lack stability, dropping the average to 240.9 days.

Government	Took office	Motion of no confidence/ resignation	Caretaking until	Government duration	Including caretaking period
Thaci I	9.01.2008	2.11.2010	21.02.2011	1029	1140
Thaçi II	22.02.2011	7.5.2014	08.12.2014	1202	1386
Mustafa I	09.12.2014	10.05.2017	08.09.2017	881	1005
Haradinaj II	09.09.2017	19.07.2019	02.02.2020	679	877
Kurti	03.02.2020	25.03.2020	02.07.2020	52	121
Hoti	03.07.2020	21.12.2020	21.03.2021	172	262
Average				240.9	798.5

Table 2 - Government Duration excluding caretaker period (Source: Prime Minister Office of Kosova and the Assembly of Kosova)

Previous studies of government duration in parliamentary democracies measure the length of the government's tenure fail to account for the delay of the formation of the successive government. The only study in government stability in Kosova written by Pula in 2008 similarly counts the periods during which a government has lost its mandate but is legally still in power.¹⁸ Empirically this difference brings a skewed view on government stability. Some governments can appear to be stable in the number of total days, simply because the formation of the subsequent government was delayed. In Kosova this is the case with the Thaçi II and Haradinaj II cabinets, where the subsequent government formation (Mustafa and Kurti) was delayed for 7 months, which in no circumstance makes the Thaçi II and Haradinaj II cabinets more stable, it has more to do with the government formation processes than the stability of the previous cabinet. We cannot count Haradinaj II to be for six months more stable, when Haradinaj actually resigned on

¹⁷ Somer-Topcu, Zeynep, and Laron K. Williams. 2008. "Survival of the Fittest? Cabinet Duration in Postcommunist Europe." *Comparative Politics* 40 (3):313-329 ; "Demokracia e Kosovës në rrezik? Paqëndrueshmëria e sistemit partiak, kohëzgjatja e qeverisë dhe kriza institucionale në Kosovë" Besnik Pula, 2018.

¹⁸ Ibid. Pula, 2018.

the 19th of July 2019, but his government was in a caretaking role until the 2nd of February 2020.¹⁹

If we compare the Kosova government with other countries of the Western Balkans we will see that the number of governments is similar if not lower. However, in the other Balkan countries ruling parties had more consecutive mandates, whereas in Kosova only Thaçi had two consecutive mandates and Prime Ministers from all 4 major parties ruled throughout 20 years.

Country	No. of governments from 2000 -2020 ²⁰
Kosova	8
Albania	9
Serbia	9
Bosnia and Herzegovina	7
Montenegro	6 ²¹
North Macedonia	12

Table 3 - Duration of the governments of the Western Balkan 6

In Albania, the governments' Berisha I and II and Rama I and II had two consecutive mandates. In Serbia, the Serbian Progressive Party (SNS) has been in power from 2012 and currently still holds both the Prime Minister and President positions. It has ruled 8 consecutive years with 5 cabinets, Dačić, Vučić I and II, and Brnabić I and II. In Montenegro there were few government changes and the Democratic Party of Socialists (DPS) dominated the Montenegrin politics until the end of 2020. In North Macedonia despite its 12 cabinets, only two parties have governed in the last 20 years together with the Albanian minority.

It is important to note that even though governments do not fulfill their full mandates, one of the coalition parties usually rule for the next mandate with another coalition partner. In Kosova this has been always the case with the exception of the Kurti government in 2020, where for a first time both opposition parties took office. The changing governments and the high electoral volatility are a characteristic of new democracies of Eastern and Central Europe. In these societies, electorates are less established and more willing to realign with different parties.²²

¹⁹ For measuring government duration, see Courtenay Ryals Conrad and Sona N. Golder "Measuring Government Duration and Stability in Central Eastern European Democracies", *European Journal of Political Research* Vol 49 No 1 (2010), p.119 - 150

²⁰ Number of mandates of governments, not included when there are two different prime ministers with the same government such as Haradinaj, Kosumi and Çeku within one mandate, and it excludes acting prime ministers.

²¹ Since the independence in 2006.

²² Herbert Kitschelt "The formation of party systems in East Central Europe", *Politics & Society*, vol. 20 no.1 (1992), p.7-50.

III. The falling dominoes – why governments are falling in Kosova?

In the past 13 years Kosova has been governed by 6 different ruling coalitions'.²³ As of 2020, every political party in the parliament has switched from government to opposition in the past decade.²⁴ In this section we will analyze the fall of previous governments and the reasons behind it.

Kosova, similar to post-communist Eastern-European countries has high electoral volatility. The elections are competitive and governments change frequently. In this section I will introduce an overview of the governments' Thaçi I and II, Mustafa, Haradinaj II, Kurti and Hoti and the context and reasons why their governments fell.

a)Thaçi I (2008-2011)

Coalition: PDK + LDK + ethnic communities

Cause: Constitutional Court verdict on President Fatmir Sejdiu (LDK), leading to the withdrawal of the junior coalition partner LDK from the government.

Total days: 1029

Including the caretaking period: 1140.

The Democratic Party of Kosova (PDK) and LDK coalition ruled for more than three years. The grand coalition was led by PM Thaçi (PDK) who agreed to support the presidential bid of Fatmir Sejdiu (LDK), replacing the late historic President of Kosova, Ibrahim Rugova. The grand coalition of PDK and LDK left a relatively weak opposition composed by AAK, AKR (the newly-formed party of businessman Behgjet Pacolli), and LDD (splinter party of LDK). Despite the stable majority of the grand coalition, the fall of the government was inevitable after the ruling of the Constitutional Court that President Sejdiu could not be simultaneously the head of the party and the President of the state. LDK saw the ruling as a political set up by PDK, who allegedly had influence over the CC. After the CC's ruling, President Sejdiu resigned from his post and LDK withdrew from the coalition.

b)Thaçi II (2011-2014)

Coalition: PDK + AKR + ethnic communities

Cause: PDK's decision to rule with a new coalition and stronger government

Total days: 1202

Including caretaking period: 1386

The PDK and AKR executive was a minimal-majority government, where PDK kept the prime minister position with Thaçi, and AKR was given the position of the President - besides being one of the smaller parties of the parliament. The coalition struggled to vote BehgjetPacolli as a president due to the lack of quorum, and there were also reports about meddling from then United States' (US) ambassador Christopher Dell in the election of Pacolli.²⁵ Ultimately Pacolli's election as president was declared unconstitutional due to the lack of quorum and an illegal

²³ For post-war political parties see also:Adem Beha *Between Stabilisation and Democratisation. Elections, Political Parties and Intra-Party Democracy in Kosovo*(2017), CPC & Fes.

²⁴ Albeit LVV-s time in office was short, with 52 days as a government and 121 in total with the caretaking period.

²⁵ "MEP criticises US ambassador in Kosovo SMS affair" *EU Observer*, 4 March 2011. Accessed at: <https://bit.ly/3qxJR5f>

break between the second and third round.²⁶ After the failed attempt to become president, Pacolli returned to the government by becoming the first deputy Prime Minister. After two short-lived presidents, the international community backed an impartial candidate, Atifete Jahjaga, a former police woman unknown to the Kosovar public before, who was elected as a consensus candidate by the parliament.

The general bad performance of the ruling coalition, the continuous fall of PDK in polls and the need for a broader majority for upcoming talks with Serbia led to PDK voting against itself to open a path for a new government. Despite being a minimal government, the PDK-AKR-ethnic communities' coalition was the most stable in the independent Kosova.²⁷ Its performance was not good, as both parties lost substantial votes in the following elections, but nevertheless the coalition remained stable as both partners sustained their minimal majority in the parliament.

c) Mustafa (2014-2017)

Coalition: LDK + PDK + ethnic communities

Cause: PDK withdrawal from the coalition due to the inability of the government to pass an international agreement.

Total days: 881

Including caretaking period: 1006

The elections of 2014 produced a hung parliament and the longest political formation process sending the country into a six-month political gridlock. During this time the opposition with LDK, LVV, AAK and NISMA attempted to form a government with their parliamentary majority leaving PDK in opposition for the first time in seven years. The opposition parties elected Isa Mustafa as the Speaker of the Parliament. However, PDK as the winner of the election challenged the decision in the court. In the end the CC came out with an unusual²⁸ verdict favoring PDK and giving the exclusive right to elect the Speaker of the Parliament to the winning party of the election, regardless of other parliamentary majorities.²⁹

After a six-month gridlock LDK broke away from the opposition block and joined a grand coalition with PDK, receiving the Prime Minister position with an agreement to vote PDK's candidate Hashim Thaçi for the President. After almost three years of ruling together, the government fell due to the inability to pass signed international agreements in the parliament. The border demarcation agreement with Montenegro, which had also been added as a condition to Kosova's EU supervised visa liberalization process, repeatedly failed to be passed by the ruling coalition. Ultimately it was coalition partner PDK that withdrew its support from LDK. It can be argued that PDK withdrew its support due to the unpopularity of the Mustafa government, because of its inability to pass international agreement. Mustafa failed to generate a consensus with the opposition to pass the demarcation votes. Most of the failures of the government would

²⁶ "Constitutional Review of the Decision of the Assembly of the Republic of Kosovo, No. 04-V-04, concerning the election of the President", Case No. KO 29/11, 30 March 2011. Accessed at: <https://bit.ly/30vOxOw>

²⁷ Ibid. Pula 2018.

²⁸ Kosova has a system of proportional representation, meaning that logically whichever party or coalition secures the majority can form a government, whereas in systems of first-past-the-post, the winner of the elections takes the seats, irrespective of the vote share. Hence the CC's ruling is against the spirit of Kosova's multiparty system and proportional representation.

²⁹ "Concerning the assessment of the compatibility of Article 84 (14) [Competencies of the President] with Article 95 [Election of the Government] of the Constitution of the Republic of Kosovo", Case No. K0103/14, 1 July 2014. Accessed at: <https://bit.ly/3chmfgb>

be interpreted as failures of Mustafa, so PDK could have wanted to form a new government with a broader coalition.

d) Haradinaj II (2017-2019)

Coalition: PDK, AAK, NISMA, AKR and ethnic communities

Cause: Resignation of PM Haradinaj after an invitation from the Specialist Court

Total days: 679

Including caretaking period: 877

The Haradinaj II government came as the result of a broad pre-electoral coalition with PDK, AAK and NISMA (PAN) who, despite forming a strong war-wing coalition, fell short of winning the 41 seats necessary to create a majority with the 20 seats from the ethnic communities (61 out of 120). After the elections, AKR, who was in a pre-coalition with LDK, had broken away from the LDK coalition and joined PAN to form a minimal-winning majority in the parliament. AKR had only obtained three MPs, but due to their bargaining power it gained five ministries and one deputy prime minister in what was to become the largest government in post-war Kosova, in terms of ministers and deputy ministers.

After Kosova's failure to join INTERPOL, as a result of an international lobbying campaign put in place by Serbia in order to hinder Kosova's membership bid, PM Haradinaj imposed in November 2018 a 100 percent tax to imports from Serbia and Bosnia and Herzegovina. The tax was opposed by the EU and the US, and it led to Serbia withdrawing from the bilateral EU-led dialogue as a sign of protest. As pressure was mounting for Haradinaj to lift the tariffs, in July 2019 he was invited to be questioned in The Hague by the Specialist Chambers, after which he resigned.³⁰ It is unclear why Haradinaj presented his resignation, as in his press conference he had stated that he would go to The Hague as a citizen, and not as Prime Minister. However, the statement is contradicted by the fact that Haradinaj ran again within the same month for the PM position in the extraordinary elections.

The official reason of the fall of the government was the resignation of PM Haradinaj, after the invitation from the Specialist Court. However, it is likely that the resignation was a mere political calculation of Haradinaj who thought he gained popularity by his governance and his 100% tax on Serbian and Bosnian goods. Haradinaj would run again for elections under the slogan "100% state", in allusion to his 100-percent tax policy over Serbian and Bosnian goods; however, AAK did not gain more popularity and remained the fourth biggest party in the subsequent elections.

e) Kurti (2020)

Coalition: LVV, LDK and 10 MPs from the ethnic communities

Cause: Withdrawal of LDK after disagreement with LVV over economic reciprocity with Serbia

Total days: 52

Including the caretaking period: 104 days

LVV's executive was the most short-lived in post-war Kosova. The government was sworn on the 4th of February 2020 and it was overthrown by a no-confidence motion on the 25th of March 2020. The no-confidence vote was initiated by LVV's junior coalition partner, LDK, over disagreements on the economic reciprocity with Serbia. The mandate of Kurti started at a time when the US administration was pressuring the Kosova government to lift the tax imposed by the

³⁰ "Haradinaj resigns after Hague prosecutors' call for questioning" *Prishtina Insight*, 19 July 2019.

previous Haradinaj government. Lifting the tax was seen as an important policy by the US administration to open the path of the dialogue between Serbia and Kosova, and conclude an agreement between both countries. The Kurti government promised to replace the 100 percent tax with conditional economic reciprocity, which was not enough for the US envoy Richard Grenell and the coalition partner LDK.

f) Hoti (2020)

Coalition: LDK, AAK, NISMA and communities

Cause: Constitutional Court declares the vote of Etem Arifi illegal

Total days: 172

Including the caretaking period: 262

The Hoti administration was the only government to be elected without elections. After the no-confidence vote of LDK against the Kurti coalition government, which they were a part of, the CC ruling of May 2020, allowed President Thaçi to give the mandate to Hoti to form a government without going to elections. Hoti's government was voted on the 3rd of June 2020 with 61 votes out of 120. The number of MPs who voted for Hoti turned out to be crucial, since Etem Arifi, one of the MPs who voted in favor, was sentenced by a final Judgment of the Court of Appeals to one year and three months of imprisonment. The opposition MPs referred the matter to the CC, challenging the constitutionality of Etem Arifi's vote. The latter, after seven months, came out with the verdict that his mandate as a member of the parliament had not been valid, therefore the vote of Arifi was not valid.

The decision of the CC brought down the Hoti government, as it had been formed with the votes from 61 MPs. Once Arifi's vote was declared invalid, it meant that the Hoti government only gathered 60 valid votes, failing to yield the majority of votes of all MPs (61).³¹

IV. Factors of instability in Kosova – Why are governments short-lived?

In post-independence Kosova no government fulfilled a full mandate of four years. Except for the resignation of Haradinaj in 2019, other governments fell due to the withdrawal of one of the coalition partners (PDK and LDK, twice each). The withdrawal of parties came as a result of general dissatisfaction with the coalition, and revolved around certain events (CC ruling on President Fatmir Sejdiu, failure to pass demarcation agreement with Montenegro, disagreements over economic reciprocity with Serbia). Ultimately, the decision to withdraw from the coalition, or also Haradinaj's decision to resign, is often related to political calculation of leaders. Twice when PDK withdrew from the coalition, they did so to govern again with a new coalition, whereas Haradinaj ran again for office a few weeks after his resignation. When LDK ousted the Kurti government, it formed a new ruling coalition with different parties without going to new elections.

³¹Constitutional review of Decision No. 07/V-014 of the Assembly of the Republic of Kosovo, of 3 June 2020, on the Election of the Government of the Republic of Kosovo, Case No. KO 95/20, 21 December 2020. Accessed at: <https://bit.ly/38qVQeE>

Government	Ruling coalition	Year	Cause of breaking the coalition	Gov type	Key player	Days
Thaçi	PDK + LDK + Communities ³²	2008-2011	President Fatmir Sejdiu ruled unconstitutional by Constitutional Court	Surplus-majority coalition	LDK withdrew from the coalition	1029
Thaçi II	PDK + AKR + Communities	2011 - 2014	No particular event. General dissatisfaction with the coalition.	Minimal winning coalition	PDK withdrew to receive a new mandate from elections.	1202
Mustafa	PDK + LDK + Communities	2014 - 2017	Failure to pass the Demarcation with Montenegro in the parliament	Surplus majority coalition	PDK withdrew to create a broader coalition	881
Haradinaj II	PDK + AAK + NISMA + AKR + Communities	2017 - 2019	Invitation of Haradinaj to be questioned by Specialist Prosecutor's Office	Minimal winning coalition	PM Haradinajresigned	679
Kurti	LVV + LDK + 10 Communities	2020	Disagreements with LDK on economic reciprocity with Serbia and pressure from U.S.	Surplus majority coalition	LDK withdrew from the coalition	52
Hoti	LDK + AAK + Nisma + Communities	2020	Constitutional Court declaring the vote of Etem Arifi as illegal	Minimal winning coalition	Constitutional Court	172

Table 4– On ruling coalitions' and years (Extension of Pula, 2018)

³² Communities refers to the 20 reserved seats for Ethnic Communities in Kosova , where 10 are reserved for the Serbian Community in Kosova and 10 others for the other ethnic communities: Turks, Bosnians, Roma, Egyptian, Ashkali

In 2020, the Kosova parliament had five parliamentary groups and a set of minor parties which compete in elections under the umbrella of a bigger party.³³ The number of parties which enter the parliament is not high. In the past ten years PDK, LVV and LDK have consistently been the three biggest parties, and AAK the fourth biggest. NISMA, PDK's splinter party, and AKR, have both managed to stay in the parliament through pre-election coalitions with other parties, since they would not manage to pass on their own the five percent vote threshold needed to enter the parliament.

Government	Theoretical explanation	Examples
Thaçi I	System attributes + Event approach	System – not clear constitutional rules for the president Event – CC decision to call President Sejdiu unconstitutional
Thaçi II	System attributes	System – incumbent PM Thaçi calling early elections
Mustafa	Event approach	Event - Failure to pass international agreements in the parliament
Haradinaj II	Event approach – System attributes	Event – Invitation to question Haradinaj in the Specialist Chambers System – processes of transitional justice
Kurti	Event approach	Event – Disagreements with LDK over economic reciprocity with Serbia
Hoti	System attributes – Event approach	System – lack of institutional coordination between Courts, the Election Commission and the Assembly to certify members of the parliament. Event – declaring illegal the 61th vote casted by Etem Arifi

Table 5- Theoretical explanations of the fall of governments in Kosova

The number of parties per se is not a problem for government duration, however, the polarization of the party system leads to different institutional blockages in the formation of governments.

³³ In 2017 AKR ran for elections together with NISMA and Alternativa ran with LDK.

a) Fractionalization and polarization of the party system

i. Polarization of the party system

Ofentimes the three biggest parties of Kosova - LVV, LDK and PDK - have competed in election with “red-lines” (*vija e kuqe*), meaning that they vowed to not enter to coalitions with each other. The “red-lines” would make it difficult for the winning party to form a government and would make the smaller parties king-makers in government formation. The Kosovar parties and the society are not divided along the same cleavages found in the Western party system. Center and periphery, church and state, owners and workers, urban and rural are the 4 traditional cleavages introduced by Rokkan and Lipset in their seminal paper in 1967.³⁴ These divisions were created during the industrial and national revolutions and were frozen into the party systems of Western Europe. However, the Balkans did not experience these revolutions and its party system did not follow the same trajectory of political development and party-system formation.

The party system in Kosova is influenced by factors such as: the ethnic composition of the country, being a post-conflict society, the contested statehood, the legacy of Yugoslavia, the international protectorate, stances on trade liberalization, etc.³⁵

The first ideological cleavage between the parties in Kosova was the War and Peace Wing during the 1990s. The Peace Wing was represented by LDK with its charismatic leader Ibrahim Rugova, while the War Wing was represented by the KLA and challenged the peaceful methods of Rugova to resolve the conflict with Serbia. LDK remained as a party after NATO's intervention and Kosova's first elections, whereas the KLA was split into two parties, PDK and AAK.

During the post-war period the formation and evolution of the political system and conflicts of the political cleavages among parties follow more the post-communist cleavages like 1.Liberal vs. authoritarian politics, 2.Free market vs. redistribution and 3.Particularist vs. universalist citizenship³⁶ and 4.Cooperation with international community.³⁷

In the first twenty years of Kosova's democracy the political parties have not fully institutionalized and remain, to this day, more clientelist and charismatic, and less programmatic. The support in the electorate comes mostly due to the charismatic leaders, clientelist structures and less from their ideology or political programs.

This is why, even twenty years after the war, parties engaged in coalition talks mostly negotiate on portfolio allocation in the cabinet, and the seats of the Prime Minister, Speaker of the Parliament and President. As a result, the cabinets grew larger to satisfy the demands of coalition partners and the number of deputy ministers skyrocketed in the Haradinaj II government, where three Albanian parties and the ethnic communities comprised the government.

³⁴ Seymour M. Lipset and Stein Rokkan (eds.), “Party systems and voter alignments: Cross-national perspectives”, vol. 7, (New York: 1967).

³⁵ Mehdi Sejdiu, “Cleavages among political parties in Kosovo”, Heidelberg University, 2019.

³⁶ Herbert Kitschelt, “Formation of party cleavages in post-communist democracies: Theoretical propositions

³⁷ Ibid. Sejdiu 2019.

Administration and years	No. of ministries	No. of deputy ministers
Thaçi I (2007-2011)	19	38
Thaçi II (2011-2014)	20	45
Mustafa (2014-2017)	21	45
Haradinaj II (2017 – 2019)	21	80+
Kurti (2020)	15	33 ³⁸
Hoti (2020)	16	49

Table 6- Size of governments

The lack of institutionalization makes the party vulnerable to the short-sighted goals and the self-interest of the leader.³⁹ For example, in 2014 Isa Mustafa broke up the opposition coalition of VLAN for the PM position in a coalition with PDK, plunging LDK to a historical low in the subsequent election of 2017. Similarly LDK broke up the popular coalition with LVV in 2020 in order to rule with Hoti as a PM for less than a year—putting the party, again, in very bad position in the subsequent elections. In both cases LDK gained the Prime Minister seat but it suffered electoral losses afterwards. The lack of institutionalization and the power of the leadership break up coalitions on a whim for short-term political gains, making it hard for the government to survive.

ii. Lack of parliamentary majority

Once the government is voted in the parliament, the ruling coalition often struggles with passing laws due to the lack of quorum. The lack of party discipline often produces a lack of quorum, MPs of the coalition simply do not show up to vote, which is especially difficult for parties ruling with a minimal-winning coalition, where the absence of a few MPs can lead to ruling coalition being unable to pass laws. This renders the government very ineffective during their tenure. Hard rows to hoe are international agreements or the election of presidents, which need the presence of two-thirds of MPs. The polarization and lack of cooperation and compromise with the opposition often produce stalemates in the parliament.

iii. Winners of political polarization: the small king-makers

In the current political climate of government formation and government stability the smaller parties are the biggest winner. When the bigger parties refuse or do not manage to enter into coalition with each other because of their “red lines”, then the smaller parties who have only a fraction of the vote get to earn positions in the government that are disproportionate to their votes. Thus, AKR for example in the Thaçi II cabinet had small number of parliamentary seats, but could nevertheless appoint as a candidate its leader Behxhet Pacolli (declared unconstitutional afterwards). The same party in 2017 decided to join the Haradinaj II

³⁸The Kurti government had planned on appointing 33 deputy ministers, but it was ousted before appointing all the deputy ministers.

³⁹ When political parties are institutionalized they form consistent patterns of mass mobilization and internal organization. When a party system is institutionalized it means the pattern of interaction among political parties have become routine, predictable and stable.

government, where it was allocated five ministries, including the Ministry of Internal Affairs and the Ministry of Foreign Policy.

Similar to AKR, AAK, despite being the fourth biggest party in the parliament has managed to hold twice the position of the prime minister. In 2017, AAK entered in a pre-election coalition with PDK and NISMA. The elections in 2017 produced a hung parliament and, after negotiations AKR joined the parliament, making it the largest cabinet in terms of parties, but also in terms of ministries and deputy ministers.

b) Constitutional court – the “almighty” arbiter changing the rules of the game

Kosova's CC had a pivotal role in breaking and making governments. Throughout the years, the Court has twice ruled Presidents unconstitutional and has twice through its rulings fundamentally changed elections in Kosova and the way governments are formed. It is hard to argue that the rulings of the CC have made forming governments easier and clearer. Given that the CC is not immune to political influence, it is likely that the constitutional interpretation of the Court was often politically motivated. This would have made its interpretations likely to favor some parties in the short term, but have deep ramifications for Kosova's political system and its representative democracy. It is hard to ignore that all the judges of the CC were appointed during PDK's tenure, and the decisions often have favored solutions proposed by PDK.

It is important that the CC in itself does not shorten the lifespan of governments, but the instrumentalization of the CC by political parties does. In many democracies, the rules of the transfer of power are unwritten and rely on the informal norms that regulate the transfer of power. In the semi-presidential system of France, the President of another party could legally block the formation of the government by the opposing parties, but they decide to abide to the parliamentary majority.⁴⁰ Similarly, in Germany, the opposition party can form a parliamentary majority and rule, but they allow the winner of the election to initiate coalition talks and form the government. These informal rules allow actors and parliamentary majorities to negotiate coalitions and form the government without sticking to rigid interpretations of the constitution. Some of the CC's decision that had ramifications for Kosova's political system where the election of the president in 2011, on who can propose the speaker of the parliament in 2014, whether a new government can be formed without new elections in 2020 and on who is able to run as an MP also in 2020.

The election of the president was often marred by bargaining, backroom deals, and vote selling in exchange for positions in Kosova's diplomatic missions. Behgjet Pacolli was elected with unusual breaks between voting sessions, lack of quorum and “advice” from the then US Ambassador Christopher Dell.⁴¹ After the CC declared Pacolli unconstitutional, the country plunged into a political stalemate with the threat of early elections in case the government fails to elect a president. With the US mediation, Atifete Jahjaga, a top police commander, was presented as a neutral compromise candidate.⁴²

⁴⁰ Ibid. Pula 2008.

⁴¹ “US ambassador launches unacceptable attack on Kosovo journalists”, *Reporter without Border*, 20 January 2016. Accessed at: <https://bit.ly/3qHnyKB>

⁴² For more on the election of the President see: Mehdi Sejdiu “The issue of the new President is looming over the election results”, *GLPS*, March 2020. Accessed at: <https://bit.ly/3rHVyHN>

Case No.	Decision	Year	Consequence
KO 29/11	2/3 quorum for electing the president	2011	Electing the ceremonial president becomes more difficult than forming a government.
KO 103/14	Only the biggest winning party/coalition established before elections and register as such can propose the Speaker of the Parliament.	2014	The winning party can block institutions and the opposition parties from forming a coalition, even when they are able to create a parliamentary majority
KO 72/20	It further explains (amends) the KO 103/14 and claims that The President has the unlimited discretionary authority to nominate a candidate for prime minister from the party/coalition that is able to ensure that it is supported by a parliamentary majority.	2020	Junior coalition partners can bring down governments and form new governments without new elections.
KO 95/20	Anyone found guilty of a criminal offence within the last three years is ineligible to run to stand in the parliament.	2020	Ruling led to the CEC not certifying a number of MPs in the subsequent elections, including Albin Kurti of LVV. Anyone who has a sentence, no matter the offence, cannot run in elections.

Table 7–Decisions of CC that influenced the political system

The decision in 2011 that declared Pacolli unconstitutional also changed the rules of the game for electing subsequent presidents. Now a “two-third quorum” would include absent MPs. This meant that for the election of the president, the ruling coalition needed to secure that 80 MPs are present. The interpretation made electing a president far more difficult and increased the bargaining power of smaller parties that could block the election with a lack of 2/3 quorum.

In 2014, despite winning the elections in 2014, PDK could not form a government, since it lacked the majority to do so. Thus, LVV, LDK, AAK and NISMA aimed to form an opposition block and form a parliamentary majority. PDK, on the other hand, blocked the formation of the government through procedural ways by blocking the constitutive session, putting the country in a six-month political deadlock.

Following the six-month period, the CC had ruled that the exclusive right to try in the first round and form a government belonged to the winner of the elections and not to the majority in the parliament. This practically bestowed upon the then PDK the right to initiate the formation of the Government. PDK formed a government with LDK by giving them the Prime Minister position. The ruling of the CC goes against a parliamentary majority. It is intuitive that, most of the time, the winner of the election should form the government; however, if they fail to form a parliamentary majority, they should not be able to block the formation of the institutions. The 2014 decision of the CC essentially legitimized the six-month blockage of the formation of the Government by PDK.

Regime changes in North Macedonia in 2017 and in Montenegro in 2019 were made possible because the second-largest party managed to gain the majority in the parliament. A similar scenario could have been given in Kosovo in 2014 if the CC had not vaguely interpreted the constitutional provisions and to implicitly license the right of PDK to initiate the formation of the government, as winner of the election, but not to the majority in the Assembly. In its odd ruling, the CC goes on to mention how the parliamentary democracies in Albania, Bulgaria, Croatia, Portugal, Slovenia and Greece, are not hinged upon the winner of the elections.⁴³ However, in the end, it decided in favor of PDK.

In March 2020, the Kurti government was ousted by its junior coalition partner, LDK. Even though the Kurti government had been in power only for 52 days and was very popular in polls,⁴⁴ LDK declared that due to the unwillingness of Kurti to lift the tax and economic reciprocity with Serbia, Kosovo's important relationship with the US was in danger.

After the no-confidence vote President Thaçi requested LVV, as the winner of the election, to nominate another candidate to form a government. LVV preferred to go to elections, given its popularity with the electorate. Another constitutional battle ensued on whether after a government is ousted, the country automatically goes to extraordinary elections, or whether another government that had the majority could be formed. The Kosovo Constitution has no constructive vote of no-confidence, a variation of the no-confidence motion that allows the withdrawal of the confidence from a government only if another majority to be formed with a prospective successor. The constructive vote of no-confidence is part of the constitution of a handful of democracies like Germany, Belgium and Spain,⁴⁵ but in Kosovo until 2020 every no-confidence vote was obstructive, i.e., it led to the dissolution of the parliament and early elections—since a new government is required to gain legitimacy from new elections. However, in 2020, the CC verdict gave the right to parties to create new majorities in the parliament without new elections, putting in question the popular legitimacy of governments and the parliament, and allowing parties to have a regime change in the middle of their tenure without elections.

The practice of unelected governments could be dangerous for Kosovo's new democracy. In June 2020, through backroom dealing between political parties and Thaçi as a president, AvdullahHoti was elected as Prime Minister of Kosovo, despite the fact that he was only the 12th most voted person in the elections of 2019 and would stand no chance in becoming the Prime Minister through elections.

If the motion of no-confidence would stay obstructive, i.e., early elections follow the breaking of a government, then, election partners have fewer incentives to break governments and would not be able to engage in this kind of maneuvering. Therefore, this deeply harmful practice should not be continued in the future.

c) Government formation – the eternal waiting

Arithmetically, it is easy to form governments with two or three parties in the parliament. However, so far, election outcomes have often produced hung parliaments and, due to the polarization among the biggest parties, the process of forming a government often took months. In the recent years, the two biggest parties, LDK and LVV, have repeatedly campaigned by promising to not enter into a coalition with PDK, which led to difficulties in reaching a parliamentary majority and to long government formation processes. Some of the main issues that led to the delay of the government formation were: a) constitutional battles on who has the

⁴³Ibid. Pula 2018 p. 49

⁴⁴"Public Pulse XVIII", UNDP, 30 May 2020.

⁴⁵Reuven Y. Hazan, "The evolution of the constructive vote of no-confidence and its political consequences", ECPR, (2014).

right to form government or elect the speaker of the parliament; b) delay of the certification of election results; and c) lengthy coalition negotiations.

Government	Day of election	Day of formation of government	Days to form the government	Issues in the delaying
Thaçi I	17.11.2007	09.01.2008	53 days	No significant delays
Thaçi II	12.12.2010	22.02.2011	72 days	Election fraud, recounting votes, etc.
Mustafa	08.06.2014	09.12.2014	184 days	Institutional blockade by PDK and the CC decision
Haradinaj II	11.06.2017	09.09.2017	90 days	Issue to elect the speaker of the parliament, blocking by PAN coalition.
Kurti	06.10.2018	03.02.2019	120 days	Delay of the certification of election results, lengthy coalition negotiations between LVV and LDK
Kurti II	14.02.2021	22.03.2021	37 days	No significant delays
Average			92.6 days	

Table 8- Formation of governments

Even the shortest government formation in Kosova, before 2021, was 52 days in 2007, is still far longer than the average time of government formation in Europe. In his paper, Pula explains the study by Ecker and Meyer, which surveyed 297 government formation processes in 27 European countries.⁴⁶ On average, according to Ecker and Meyer, the formation process is 28 days for Eastern European countries, and 29 for Western European countries. The longest government formation processes in Europe are in The Netherlands (90 days), Austria (75 days), Italy (42 days), and Czechia (39 days). The average of government formation in Kosova is 103.8 and far exceeds those of Western and Eastern Europe. The reasons for the delays are lags in the certification of election results from the CEC, institutional blockades from parties that led to Constitutional Decisions in 2014 and 2017, and lengthy coalition talks. Nevertheless despite delays of the CEC in 2021, the single-majority of LVV in the parliament, allowed the party to form the government after the certification of election results without extended coalition talks, making Kurti II the shortest government formation process since the independence.

⁴⁶Alejandro Ecker and Thomas M Meyer "The duration of government formation processes in Europe", Research and Politics, vol. 2. no. 4 (2015), p. 1-9.

V. Conclusion

Kosova's politics remain polarized. Governments take a long time to form and are not able to survive full tenures. The factors behind the unstable government are the fractionalization of the party system, the long time in government formation, and the lack of informal democratic norms in breaking and making governments, which lead to the CC becoming an arbiter for parties.

The first reason why governments are unstable is the fractionalization of the party system. Part of which is the polarization of parties, the lack of parliamentary majorities and the smaller parties becoming kingmakers. The polarization between the three biggest parties, LVV, LDK and PDK, make forming surplus majority coalitions a tough task. On the other hand, minimal-winning coalitions often lose their parliamentary majorities due to the lack of discipline among party members and coalition parties, making governments unable to garner parliamentary majority to pass legislation. In the polarized party system, small parties become kingmakers and achieve disproportionate portfolio allocation. Consequently, Kosova has had a Prime Minister and a President from small parties like AAK and AKR.

The second reason is the government formation process. On average, this process takes 103.8 days in Kosova, compared to 27 days in Western Europe. The reasons for the delay include: lags in the certification of results from the CEC, lengthy coalition talks, a lack of informal rules for the transfer of power, and institutional blockades from political parties that result in the involvement of the CC. The long process of government formation process often does prolong the term of caretaker governments which govern without parliaments and are generally less efficient. The lack of informal democratic norms and institutional blockades also leads to the (often) unnecessary involvement of the CC. The involvement of the Court has been sometimes positive in the case of declaring Pacolli an unconstitutional president due to the lack of quorum in the parliament, and when it declared the vote of MP Etem Arifi illegal. However, the Court has also had decisions with ramifications for Kosova's democracy, such as giving the exclusive right to the winner of the elections to first form a government, and not to the parliamentary majority.

The establishment of informal norms and procedures of the transfer of power for the parties that manage to create a parliamentary majority, without unnecessary institutional blockades, and subsequent involvement of the CC could positively impact the government duration and stability. Parties also have to come together in the future to change Article 67(2), which does not allow parliamentary majorities to form governments, and Article 82(2), which allows new coalition governments to be formed without elections.

RECOMMENDATIONS

a) For the political parties:

- Political parties should be more open to engage in political talks and coalitions with other parties and not campaign with *vija të kuqe* (red lines) by promising to not form coalitions with other major parties.
- Political parties should aim to create coalitions along ideological cohesion and not only on portfolio allocation. The coalition partners should bridge internal divides in order to ensure and sustain stability and a meaningful majority in the assembly throughout their tenure.
- The CEC should consider changing counting procedures, strengthen its capacities and provide for its staff to count and certify the results within two to three weeks after the elections.

- Political parties should establish informal practices of transfer of power by respecting the election results and parliamentary majorities, and not block government formation through institutional and legal loopholes.

b) On constitutional changes and interpretations

- Parties should engage in a constitutional reform that includes the revision of the Article 67. The revisions should enable parliamentary majorities to form governments. The interpretation of the Court in 2014 essentially does not allow the parliamentary majority to form a ruling coalition, but creates a winner-take all election system, allowing the biggest party to block the government formation.
- Parties in the parliament should refrain from using the interpretation of the CC in May 2020, and elect new coalition governments only after elections. For a functioning democracy it is essential that a new coalition government should gain popular legitimacy from new elections and not from newly formed parliamentary majorities during mid-tenure. Elections provide the vital link between citizens and the government and should not be ignored by the assembly.
- The CC should refrain from interpretations outside of the constitution that have ramifications for the political system.
- The government formation process should be regulated in detail by the Rules of the Procedure in the parliament.

c) On the election of the president

- Parties should engage with each other in proposing neutral presidential candidates that represent the unity of the people.
- If parties fail to elect a President that represents the unity of the people, they should consider constitutional revisions that allow the president to be chosen by the popular vote, but with the same competences.

Policy Analysis

Policy Analysis in general is a policy advice paper which particularly aims to influence the key means through which policy decisions are made in both local and central levels of government. The purpose of Policy Analysis is to address, more in-depth, a particular problem, to examine the arguments related to a concerned policy, and to analyze the implementation of the policy. Through Policy Analysis, Group for Legal and Political studies seeks to stimulate wider comprehensive debate on the given issue via presenting informed policy-relevant choices and recommendations to the key stakeholders and parties of interest.



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