

# AN ANALYSIS OF THE INSTITUTE OF DISSOLUTION OF THE ASSEMBLY: A CASE OF THE EMERGING DEMOCRACIES

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## Abstract

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This topic is about the process of parliamentary democracy. The institute of dissolution of the assembly in the Republic of Kosovo is complicated by a complex procedure. Dissolution of parliament is one of the most serious tools that may be used by the executive power against the parliament, where such power can dissolve the legislative council before the end of the term provided under the Constitution (Al Momani, 2018). This study aims to analyze the institute of dissolution of the assembly in developing countries and emerging democracies. The research model was based on the comparative study and normative method. Furthermore, this study focuses on 1) making a review analysis of the institute of dissolution of the Assembly of the Republic of Kosovo, like a developing country; 2) identifying the differences and similarities between the institute of dissolution of the Assembly of the Republic of Kosovo with that of Albania; 3) the most frequent reasons that leading to the dissolution of the parliament in Kosovo. The main findings of the study show that the most frequent reasons for the dissolution of parliament are weak parliamentary majorities in countries with developing democracies such as Kosovo and economic and political crises in the country as a result of economic and social problems.

**Keywords:** Dissolution of the Assembly, Motion of Confidence, Motion of No Confidence, Kosovo, Albania

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## 1. INTRODUCTION

The Republic of Kosovo is characterized by frequent parliamentary crises produced by political parties as a result of various political disputes between them. In Kosovo, until the last elections in 2020, the political parties were somehow balanced where, as a result, the parliamentary majority was always relative in the assembly from the political party which emerged first in the parliamentary elections and had the right to form the government first, and

it elected one or more losing parties in the post-election coalition elections, and governments with weak parliamentary majorities were formed, often leading to parliamentary crises.

After the parliamentary elections of February 14, 2020, for the first time it is a question of a strong majority, almost called an absolute majority in the assembly, as the first party came out with a little less than 51% of the total votes. The dissolution of the assembly is one of the most popular institutions of parliamentary democracies.

This constitutional institute means the end of the mandate of the assembly or the legislative body before the expiration of the regular constitutional mandate for which it has been elected. Usually, the dissolution of the assembly comes as a result of certain constitutional and political circumstances, which cause blockage in its work, making it impossible to exercise constitutional functions, consequently causing deep parliamentary crises, which cannot be overcome by other political means. Most constitutions recognize the institute of temporary distribution of the legislature and set out the distribution procedures. In practice, the main constitutional circumstances affecting premature distribution may be conflicts between the president and parliament over the election of the prime minister and the government, the motion of no confidence in the government, the budget not being voted, the deep parliamentary crises, etc.

The most frequent cases of dissolution of the parliament come as a result of the impossibility of electing the government and the constitutional conflict between the president and the parliament over the election of the government, respectively the election of the prime minister. These cases occur in parliamentary and semi-presidential systems, in which the president of state has the right to nominate a candidate for prime minister. In the event that parliament in several rounds of voting refuses to nominate the candidate for prime minister, the president has the constitutional power to dissolve parliament and call early elections (Bajrami, 2005, p. 137).

After the review of the literature, the definition of the main research question, this research has continued the implementation with the comparative methodology and normative method, relying on data from various sources, such as legal acts, constitutions, rules of procedure of parliaments, judgments, other data collected from journal articles, university books, online publications, non-governance reports, research papers, and journal articles. Kosovo does not foresee in its Constitution the situation of what happens if the prime minister fails to survive the motion of confidence initiated by him and this is a research problem.

Therefore, the concern of the study is that if situations arise in the future when the prime minister challenges himself with a motion of confidence due to a failure to pass his proposal to the assembly in Kosovo like a country of developing and emerging democracy, then, in the absence of constitutional provisions, the situation will be resolved by turning to the Constitutional Court by other political actors for clarification if the government should be dismissed automatically, or the government and the assembly will rely on the constitutional doctrine for the parliamentary republic.

The main research question is:

*RQ1: What are the most frequent reasons that lead to the premature dissolution of the assembly in developing countries and emerging democracies such as Kosovo and Albania?*

This study aims to analyze generally the institute of dissolution of the assembly in developing countries and emerging democracies. Furthermore, this study aims to analyze the same situation regarding the dissolution of the parliament

alongside how it is predicted in Kosovo, regarding the motion of no confidence and motion of confidence, how the Republic of Albania like a country of developing and emerging democracies, handles it in a detailed way with the constitutional and legal norms.

Today the vote of confidence is considered as one of the strong and extraordinary measures of overthrowing the government, respectively the people's representatives take back the given confidence. The case of Kosovo is of that sort. In the other words, the vote of (no) confidence is the last institution through which the government is held responsible (Bajrami & Muçaj, 2018, p. 424). The constitutions of neighboring countries and beyond also have the institute of dissolution of the parliament. There is no definition in the Constitution of the Republic of Albania for the role and functions of the assembly and its position in relation to other constitutional bodies. The current system of government in the Republic of Albania is based on the principle of separation and balance of legislative, executive, and judicial powers, just like other parliamentary and contemporary democracies (Omari & Anastasi, 2008, pp. 194-195).

The research model was based on the comparative study and normative method. Furthermore, this study focuses on making a review analysis of the institute of dissolution of the Assembly of the Republic of Kosovo, like a developing country, identifying the differences and similarities between the institute of dissolution of the Assembly of the Republic of Kosovo with that of Albania, and the most frequent reasons that led to the dissolution of the parliament in Kosovo. The main finding of the study shows that the most frequent reasons for the dissolution of parliament are weak parliamentary majorities in countries with developing democracies such as Kosovo and economic and political crises in the country as a result of economic and social problems.

This paper proceeds as follows. Section 2 analyzes the review of the literature on the institute of the dissolution of the parliament in countries with developing democracies from the perspective of other researchers and normative acts. Section 3 presents the research methodology. Section 4 provides the research findings, while Section 5 discusses the findings. Finally, Section 6 concludes the study.

## 2. LITERATURE REVIEW

In countries with a two-party system or more, the parliament, as the highest representative body, has become the center of the exercise of political power. Political parties play an important role in the work of the parliament. They, on the occasion of the election, shape the general interest, which is expressed through the party votes received by the voters, depending on their program, respectively on the compatibility of their program with the interests of the electorate. Parliamentary procedures are of special importance for the work of the parliament. The level of democracy in the work of the parliament when reviewing and approving laws and making various decisions also depends on it.

The parliamentary procedure is usually regulated by the act of the parliament, respectively

by the rules of the procedure. The work and activity of the parliament are also based on the so-called "rules of the game" of political parties. Except for England, which has no written constitution, the powers of the parliament in every country are sanctioned by the Constitution (Salihu, 2004, p. 315). According to the Constitution of the Republic of Kosovo, the assembly is the legislative institution of the Republic of Kosovo directly elected by the people (Constitution of the Republic of Kosovo, 2008, Article 63). Its legislative power means that it is the body of the state which approves the source provisions and originally regulates social relations. As an institution that directly expresses the sovereignty of the citizens through the electoral representatives by vote, it has the power to create the Constitution and laws (Constitution of the Republic of Kosovo, Article 65, Point 1).

Since the people cannot participate in running the country, then it must be sure that the persons who represent it have, indeed, its trust. Faith is shown by choice. Persons, who consider that they have deserved the trust of the people, seek it from the people by standing as a candidate for parliamentary elections, which should be regularly fair and reflect the real state of civic will, or the real will of the people (Hasani & Ćukalović, 2013, p. 256).

## **2.1. The characteristics of the Assembly of the Republic of Kosovo**

The Assembly of the Republic of Kosovo can be dissolved even in cases when the prime minister initiates a motion of no confidence, or to him, the Assembly presents a motion of no confidence with 1/3 of the votes. Traditionally the dissolution of the assembly in Kosovo was realized with the extraordinary parliamentary tool, a motion of no confidence, when prime ministers tabled it whenever it was in the interest of all political parties to go to early elections, they politically negotiated the dissolution of the parliament by successfully voting the motion of no confidence by a majority vote of all deputies (at least 61 votes as many as they need for the election of the government). The effects produced by the institute of dissolution of the assembly are known from the parliamentary theory and practice: 1) the end of the mandates of the deputies; 2) the end of the term of the government, which continues to work in resignation until the election of the new government; 3) announcing early parliamentary elections.

The Assembly of the Republic of Kosovo is self-formed. The fact that political will in the assembly is exercised only by political parties in the assembly, the self-formation of the assembly in the constitutive session of the Assembly of the Republic of Kosovo is determined and regulated by the Rules of Procedure of the Assembly of the Republic of Kosovo, where according to Article 9, Point 1 of this regulation, in the constitutive parliamentary session convened by the president, or even when the president does not convene the session (after the final announcement of the election results and their certification by the Central Election Commission, CEC) the proceedings of the constitutions of the legislature of the assembly, until the election of the president and the vice president of the assembly, are led by the oldest

deputy, assisted by the youngest deputy, according to age. The chairperson of the constitutive meeting requests the largest parliamentary group to nominate the candidate for the president of the assembly (Assembly of the Republic of Kosovo, 2022).

The president of the assembly is elected by a majority vote of the deputies of the assembly (Assembly of the Republic of Kosovo, 2022, Article 12, Point 2). The chairperson of the constitutive meeting of the legislature announces the result of the voting for the election of the president and the vice presidents of the assembly. The newly elected president of the assembly is invited to take his place (Assembly of the Republic of Kosovo, 2022, Article 12, Point 6). The presidency and the president of the assembly are elected by a majority vote of the assembly deputies, i.e., with at least 61 deputies out of 120 deputies of the Assembly of the Republic of Kosovo (Constitution of the Republic of Kosovo, 2008, Article 67; Assembly of the Republic of Kosovo, 2022, Article 13, Point 2).

The situations when the Assembly of the Republic of Kosovo can be dissolved are defined by Article 82 of the Constitution, where the assembly can be dissolved in the following cases: if the government cannot be established within 60 days from the date when the president of the Republic of Kosovo appoints the candidate for prime minister; if 2/3 of all deputies vote in favor of dissolution, the assembly shall be dissolved by a decree of the president of the Republic of Kosovo (so, this is about the possibility of the assembly of the Republic of Kosovo to self-dissolve by a qualified majority, i.e., 2/3 of all deputies); if the president of the Republic of Kosovo is not elected within 60 days from the date of the beginning of the president's election procedure. According to Point 2 of Article 82, the assembly can be dissolved by the president after the successful vote of no confidence of the government which is initiated with 1/3 of the votes of all deputies of Kosovo, i.e., with 40 votes and the vote of no confidence becomes successful for the overthrow of the government with the majority of all deputies that falls to 61 votes as many as are necessary for the formation of the government.

Since Kosovo has represented a parliamentary system of governance, the constitutional and parliamentary rules have recognized the vote of confidence as the main instrument and not giving confidence to a governing nomenclature. Since the number of subjects that can initiate the motion of confidence is limited, then there should exist very compelling reasons for Members of Parliament (MPs), respectively for the prime minister to start the procedure of getting back the confidence of the parliament. However, this article has used a not difficult standard to be reached by 40 MPs by whose proposal the procedure of the motion of confidence could start. Giving such a possibility to such a small number of MPs it is created a relatively vibrant environment where the opposition MPs could challenge the parliamentary support of the government and this eventually makes it possible for them via a procedure of motion of confidence to discharge the government in the plenary session of the parliament (Diermeier, Eraslan, & Merlo, 2003, pp. 27-70). The motion of confidence initiated by the MPs and the motion

initiated by the prime minister for some reasons should be seen differently. Essentially, the initiation of this means by MPs as a typical instrument in countries with the parliamentary system which expresses an open opposition tendency to discharge the majority from power, and in this way, the sovereignty is again turned back to the people, so they can elect a new government. This instrument can also be seen as an adequate means through which the opposition parties could realize their aspiration to take the power.

On the other hand, the possibility of initiation of the vote of confidence by the prime minister on his government constitutionally could be justified by the fact that 1) in this way he testifies himself about his work before the representatives of people/MPs and 2) in this way he avoids any opposition tendencies in discharging the government before the end of its mandate. Unlike the initiative by the MPs, the initiative by the prime minister in starting the procedure of vote of confidence could be seen as an authoritative individual act that does not require a consensus of the political spectrum on discharging the government. In parliamentary practice quite often the motion of the vote of confidence is used to extend the life of the majority into power.

Therefore, the possibility of discharging the government with the vote of confidence could be transformed into support for the government so the government remains in power since the confidence vote succeeded and thus government gained support to further govern. Until before the issuance of the judgment of the Constitutional Court of Kosovo on the constitutional dilemma for the evaluation of Decree No. 24/2020 of April 30, 2020 of the former President of the Republic of Kosovo, Hashim Thaçi, who decreed the Prime Minister Abdullah Hoti as prime minister after the other parliamentary majority existed and proposed to the then President Hashim Thaçi the Prime Minister Abdullah Hoti, the previous winning parties and the winning party of the time in question (LVV party) acted in the same way as violating the principle of institutional loyalty, not respecting the constitutional spirit in the procedure of forming the government, where they did not respond to the request of the president that as the winning party of the elections to propose the name of the candidate for prime minister, as mentioned in Article 95, Point 1 and 2, "After elections, the President of the Republic of Kosovo proposes to the Assembly a candidate for Prime Minister, in consultation with the political party or coalition that has won the majority in the Assembly necessary to establish the Government. The candidate for Prime Minister, not later than fifteen (15) days from appointment, presents the composition of the Government to the Assembly of Kosovo and asks for Assembly approval" (Constitution of the Republic of Kosovo, 2008). So, for the fact that it was a space or constitutional gap, perhaps even normal, not to specify the exact time when the winning party should reflect by proposing the president-designate for prime minister, and that the 15-day deadline only meant if the prime minister-designate was then nominated. In this way, they delayed for long periods, up to 6 months or more, causing a blockage for the formation of the government and other

public institutions, where the abused time was used for political bargaining until the formation of a possible post-election coalition, thus produced deep parliamentary crises and hindered the formation of other important public institutions.

Thus, the Constitutional Court of Kosovo found in Judgment in Case No. 72/20 with Applicant Rexhep Selimi and 29 other deputies of the Assembly of the Republic of Kosovo that the then Decree of the President Thaçi was right, concluding, consequently, that the successful voting of a vote of no confidence of the Assembly to the Government does not result in the mandatory dissolution of the Assembly and enables the formation of a new Government in accordance with the Article 95 of the Constitution for the election of the government, that there was political will formed by the other majority formally proven to nominate Mr. Hoti for prime minister and that LVV as the winning party of the relative majority elections, after the overthrow of the government formed by LVV with a motion of confidence by the former government partner LDK party and others, the President Thaçi addressed a request to nominate the mandate and LVV was silent taking advantage in the aforementioned constitutional gap in the absence of a deadline when they must propose to the president the name of the prime minister-designate. The court found that the institutional loyalty in violation of the deadline for the nomination of the prime minister-designate was violated.

After the formation of the Hoti government, LVV contested the formation of the Hoti government in the Constitutional Court as a government formed without a sufficient number of regular votes with 61 votes of the deputies, claiming that the then deputy Mr. Arifi had a final court sentence by which the Constitutional Court found that there was a "burnt" mandate of the deputy Mr. Arifi at the time of his vote for the formation of the Hoti government, and thus the government was declared annulled, which meant that there could be no new political will by the then parliament after two attempts were consumed, which logically the Assembly of the Republic of Kosovo has 120 deputies thus implying that there are two chances to propose the formation of the government with at least 61 votes of deputies. After the elections of February 14, 2020, for the first time after the independence of Kosovo, we have a strong majority with numbers or seats in the assembly, where LVV came out the first party in the elections with 50.02% and also received the support of all non-majority minorities for the formation of the government with which the Second Kurti government has a governing coalition.

According to the theory of grundnorm, at the top of the state pyramid is the basic norm or as it is known grundnorm, which the head of state must implement along with other constitutional institutions. As such, this theory of Hans Kelsen became the very core of what is now known as the theory and practice of constitutional democracy.

In constitutional theory, there are three basic models of the governing system in terms of the constitutional position of the president of the republic: 1) the parliamentary model of the government, where the role of the president of the republic is almost formal and with very few

executive characteristics; 2) the model of the semi-presidential system, where the president of the republic, in addition to the formal function of the state, carries many executive powers, which place him in the position of a real overseer of the government; 3) the model of the presidential system, where the president of the republic is the sole holder of executive power and at the same time performs the function of the head of state, and where parliamentary oversight of the executive branch is almost non-existent (Hasani & Čukalović, 2013, p. 381).

When it comes to the president's discretion in Kosovo, "The provision on the discretionary dissolution of the Assembly by the President means that the decision to dissolve the Assembly following a vote of no-confidence is solely vested in the President. If the President refuses to dissolve the Assembly, the Assembly could still dissolve itself if two-thirds (2/3) of all deputies vote in favor of the dissolution. The Assembly has therefore a constitutional mechanism to 'correct' the President's decision not to dissolve the Assembly if there is genuine parliamentary will to call for new elections" (Muharremi, 2020, p. 6).

The president of the parliamentary Republic of Kosovo is positioned according to the parliamentary model of governance, where his role is formal and representative, and there is no discretion in shaping the political will, which in the face of political life plays a neutral role and in principle does not interfere in matters of a partisan nature. In parliamentary republics, in cases where the president is elected by parliament, or such with parliamentary domination, the president of the republic is not the institution that governs the state alone. It is political parties that control and design political life. In this sense, the president of the republic is more an instrument of the party he comes from than an independent leader who dimensions political life according to his personal emphasis (Hasani & Čukalović, 2013, p. 383).

Regarding the concept that the president is the head of state according to the Constitution of the Republic of Kosovo, the concept of the head of state is more of a formal constitutional category than a substantial authority since Article 83 of the Constitution implies more of a ceremonial, formal authority which the president of Kosovo has rather than a governing authority. The constitutional epithet of the head of state is covered by the representation of the state at higher levels of domestic and international communication, again having as a ceremonial task without discretion of decision-making.

Viewed in this perspective, in the position of the head of state, the president of the parliamentary Republic of Kosovo acts under the constitutional authority of other state institutions and seals their decisions simply in the ceremonial/formal aspect. With the role of the head of state, the president of Kosovo can exercise preventive control when it is known that the president is one of the four privileged categories before the Constitutional Court to refer constitutional issues directly to issues of the nature of abstract constitutional control.

Regarding the representation of the unity of the people by the president of Kosovo, as his

attribute enshrined in the constitution, the authors must clarify in a broader constitutional view that this attribute derives from the president as his representation over all ethnicities in Kosovo, therefore, he is the president of all ethnicities of Kosovo. Secondly, he must be a figure above the party, and thirdly, since the attribute of the unity of the people is broader than only in the formal aspect, he must represent and advance the general popular and state interest. Regarding the representation of the president in the outside world, it is simply a formal competence, without the substance of discretion in decision-making. From the representation abroad, it is clear that our president does not have the competence to create a position in which Kosovo must maintain its relations with the outside world. The president of Kosovo, therefore, materializes the position or decision on the substance of an external relationship simply at the level of state representation.

The position of the formal president is emphasized even more in the clarification of the constitutional norm, "The president of the republic has no discretion in announcing the elections according to his/her wish because that issue is a logical flow of a constitutional process where the last link, i.e., the president should only make the formal announcement for their holding. In short, even in the exercise of this power, the president does not have discretion" (Hasani & Čukalović, 2013, Article 84.3). For more objectivity, "The Constitutional Court of Kosovo has previously ruled that the "acting" nature of the Presidency does not prohibit from holding and exercising political or party functions. It is unlikely that the same ruling could be applied if the Acting President runs for elections which will contradict her role as a representative of "the unity of the people". Political campaigning infringes upon the unity represented by the President and its most fundamental principle — the separation of powers" (Balkans Policy Research Group, 2021, p. 5).

## 2.2. The characteristics of the Assembly of the Republic of Albania

Albania's constitutional provision for the Albanian Parliament begins with the structure of the assembly consisting of 140 deputies, the election, and the term. Parliamentarism in Albania is distinguished by a typical multiparty system, i.e., by the creation of a large number of political parties of different program orientations. Despite this, two rival parties, the Socialist Party and the Democratic Party, have traditionally been profiled in the Albanian political scene (Bajrami, 2005, p. 279). Recently in Albania, we have had a strong majority, despite the political pluralism, the Socialist Party had an absolute majority in the last parliamentary elections of April 25, 2021, which came out first with 74 seats in the assembly with 48.6% of the vote, thus having a strong majority they formed the Rama 3 government on September 16 with 77 votes in favor, 53 against and 1 abstention. The Albanian Parliament is a body that acts on behalf of the voters, with an original legal meaning of political representation. Its constitutional expression is the principle of freedom of mandate or the prohibition of a mandatory mandate for its members.

In the last decade of political developments, a number of debates have taken place on the issue of building the assembly, the immunity of MPs, and the place of the assembly in relation to the executive and independent constitutional institutions. These issues are of particular importance to ensure the smooth running of the assembly, as a very important body for the development of rule of law (Zaganjori, Anastasi, & Çani, 2011, p. 109). Elements of the principle of the rule of law that are found in many of the provisions of the Constitution of Albania appear in the form of constitutional concepts, which define Albania as a parliamentary republic and as an indivisible unitary state in Article 1 of the Constitution of Albania (Sadushi, 2012, p. 461).

The election of the speaker of the Assembly of the Republic of Albania is not the exclusive right of the largest parliamentary group that emerged from the parliamentary elections to nominate the only candidate for the speaker of the assembly as in Kosovo, but in Albania, the candidate for the speaker of the Assembly must be proposed by at least 15 deputies, where one deputy cannot support more than one candidate for the speaker of the Assembly. The speaker of the assembly is elected without debate and by secret ballot with a majority of votes in the presence of more than half of all the deputies. In the case when no one of the candidates has won the necessary number of votes, it proceeded to the second round, where is voted for two candidatures received the highest number of votes (Assembly of the Republic of Albania, 2004, Article 6). The structure of the Albanian Parliament is broader with a total of 140 deputies, with a mixed electoral system in some constituencies.

Regarding the institute of dissolution of the assembly, unlike Kosovo, the Constitution of the Republic of Albania provides for some cases of dissolution of the assembly before the time of the mandate; in the case when the Assembly of the Republic of Albania fails to elect the president even after the 5th round with the required majority, in this case, the assembly dissolves itself, i.e., without a presidential decree (Constitution of the Republic of Albania, 1998, Article 87, Point 6); in case the Assembly of the Republic of Albania fails to elect the new prime minister, the president of the Republic of Albania dissolves the Assembly by decree (Constitution of the Republic of Albania, 1998, Article 96, Point 4); and in case the motion of confidence initiated by the prime minister is voted by less than half of all members of the assembly, the prime minister, within 48 hours from the voting of the motion, requests the president of the Republic of Albania to dissolve the assembly.

The president dissolves the assembly within 10 days upon the receipt of the request (Assembly of the Republic of Albania, 2004, Article 100, Point 4). Unlike Kosovo, the vote of no confidence in the government by the Albanian Parliament must be proposed by the Constitution at the same time as a new prime minister. Article 105 of the Constitution of the Republic of Albania and Article 101, Points 1 and 4 of the Rules of Procedure of the Assembly of the Republic of Albania provide that not less than one-fifth of all deputies have the right to vote to the assembly a motion of no confidence towards

the incumbent prime minister, by proposing at the same time a new prime minister.

The motion of no confidence must contain the signatures of the deputies and be justified. The assembly can vote a motion of no-confidence against the prime minister only by electing a new prime minister with the votes of more than half of all its members. The president of the Republic decrees the dismissal of the incumbent prime minister and the appointment of the elected prime minister no later than 10 days from the date of the vote of motion of no confidence in the assembly. The smaller number of cases leading up to the dissolution of the assembly and the more difficult parliamentary procedure for the dissolution of the Albanian Parliament makes Albania more politically stable than Kosovo, which has recently had frequent parliamentary crises.

The Constitution of the Republic of Albania has sanctioned in its content of the normative text also the political parties and obliges the political parties to make the financial resources public (Constitution of the Republic of Albania, 1998, Article 9), while in Kosovo the political parties are not included even in the normative text and are not even legal categories, but simply their regulation and registration is done by the criteria set by the CEC of Kosovo, and as a result, democratization within political parties is still fragile in Kosovo.

### **3. RESEARCH METHODOLOGY**

By research design, this study is a comparative and normative method. The comparative analysis of the study will be based on the temporary and academic literature in the relevant field of constitutional law. Also, this study will be based on legal acts such as constitutions, rules of procedure of parliaments, judgments, etc. The comparative method will provide similarities and differences between the institutes of dissolution of the Assemblies of Kosovo and Albania. Also, the research relies on data from various sources.

The authors began collecting data regarding the institute of dissolution of the assembly in the parliamentary democracy system based on secondary resources from many official sources in Kosovo state and Albania state. Other data were collected from journal articles, university books, online publications, non-governance reports, research papers, journal articles, and publications. The reviewed literature is of international level by several indexed databases. The comparative methodology of the study has enabled addressing the main issues related to the institute of dissolution of the assembly in a system of parliamentary democracy in Kosovo and Albania, as two countries with developing democracies. Data were collected also using a variety of qualitative methods, such as observation and case studies from the judicial practice of the Constitutional Court of Kosovo (The judgment in Case No. 72/20 of the Constitutional Court of Kosovo).

The qualitative research methodology with comparative methods requires an intensive discussion and review analysis of different approaches to parliamentary practice toward the political stability of new parliamentary democracy in Kosovo and Albania. In addition to

the academic part, this study also has a pragmatic part, which was done to analyze the relevant topic in more detail. In this regard, the authors will try to respond to the theories raised through the results that were collected from the different authors' explanations about differences and similarities in characteristics of the dissolution of national assemblies between these two Balkan countries.

On the other hand, the normative-legal method is one of the methods that respond the most to the work and topic since the research topic has a legal and constitutional basis. Based on the comparative method and normative-legal method, we have defined similarities between the institute of dissolution of the Assembly of Kosovo with that of Albania and other important things:

- Kosovo and Albania have a unicameral system of assembly;
- Kosovo and Albania embrace political pluralism with a multiparty system;
- Even in Albania, the assembly is a self-formed body and the constitutive session is chaired by the oldest member of the assembly;
- The institution of dissolution of the assembly is sanctioned by the constitutions of both countries;

Based on the comparative method and normative-legal method, we also found an essential difference. Albania has detailed that the prime minister falls if the majority of the members of the assembly do not vote as much as is necessary to vote for the government (Assembly of the Republic of Albania, 2004, Article 100, Point 4). Unlike Albania, in Kosovo, the vote of confidence motion by the prime minister in Kosovo is not clarified in the situation of what happens when more than half of all members of the assembly will not vote. Neither the Constitution of the Republic of Kosovo, nor the Rules of Procedure of the Assembly foresee this situation, nor does the Commentary of the Constitution of the Republic of Kosovo clarify such a possibility. Meanwhile, in Albania, it is clearly defined in the procedural regulation of the assembly, that in case the motion of confidence initiated by the prime minister is voted by less than half of all the members of the assembly, the prime minister within 48 hours from the voting of the motion asks the president of the Republic to dissolve the assembly (Assembly of the Republic of Albania, 2004, Article 100, Point 4).

Based on reviewing data that were collected from journal articles, university books, online publications, non-governance organization reports, research papers, journal articles, and publications, as secondary sources, we also found that the most frequent reasons that leading to the dissolution of the parliament in Kosovo is a parliamentary crisis as a consequence of weak parliamentary majorities and difficulties in the inauguration of the new governments as a consequence of the constitutional loopholes for the procedure of the quick inauguration of the new government.

#### 4. RESULTS

Based on the constitutional doctrine and parliamentary practice of contemporary democracies, it is clearly understood that the parliament is the highest representative body. Based on the positive constitutional law in Kosovo, the parliament is

a legislative institution of the Republic of Kosovo directly elected by the people (Constitution of the Republic of Kosovo, 2008, Article 63). As an institution directly elected by the people, the Parliament of Kosovo self-forms and elects other important political and legal bodies (the president, the Government, members of the Judicial and Prosecutorial Council, proposes for decree the judges of the Constitutional Court) in a parliamentary voting procedure based on the Constitution (Constitution of the Republic of Kosovo, 2008, Article 65).

Through various parliamentary control instruments (various parliamentary committees, no-confidence motions, interpellations, etc.) the Kosovo Parliament also oversees other powers. Among others, "the dissolution of parliament is a powerful political tool which, being closely associated with the process of government formation and removal, can affect the overall balance of power in the polity" (Bulmer, 2016, p. 3). However, this supposal remains in the framework of a supposal that can be ruined.

As a result of this study, we can presume that parliamentarism in Kosovo has experienced parliamentary crises produced by a weak majority in numbers when years ago political parties were as politically balanced and none of them was very detached from the election result in general parliamentary elections, where all previous national elections brought winning parties by relative majority.

From the findings of this study, the research problem remains open as to what if the prime minister in Kosovo challenges himself with the vote of confidence and he does not receive the support of the assembly with the majority of half of the members and he would not reflect to submit the vote of confidence motion because it has not happened in Kosovo yet. Despite various parliamentary crises, no one prime minister has been challenged with a motion of confidence.

#### 5. DISCUSSION

In line with our study are also the findings of other authors, that the dissolution of the assembly most often occurs for reasons of political or economic crisis (Stojanovic & Bertoa, 2016). The relative majority is decomposed by the commentary of the Constitution of the Republic of Kosovo as a parliamentary majority that came out first in the election result, which does not have a sufficient number to form a government, but has the indisputable right to try to form political institutions first after the election result, even with the possibility of forming a post-election governing coalition.

To this fact was added the fragile cooperation of the position-opposition, showing a lack of political unity in the face of the great political and social problems of Kosovo, occasionally manifesting a poor parliamentary culture until there were cases of degrading language in the rostrum of the assembly. Goplerud and Schleiter (2016) emphasize that "Assembly dissolution is a key dimension of constitutional variation in parliamentary democracies. It conditions the timing of elections, influences electoral accountability, and shapes how politicians bargain about government formation, termination, and policy" (p. 427). So, the realization

of good governance is supposed to be a mission of every governing nomenclature that comes into power through elections.

The recent problem of the lack of existence of strong majorities, we have mentioned as a weakness and the cause of parliamentary crises until the dissolution of the assembly in Kosovo, we found similarly in the report of the Democracy for Development Institute for the period 2019–2020 where it points out that the then ruling coalition of 22 parties emerged victorious with a relative majority at that time, barely managed to form the government in the margins of the parliamentary majority from the sixth legislature of the assembly. Being dependent on each vote of the deputies, the main positions in the government were held by the small parties that did not have cadres for the positions they lead, and at the same time, they received more ministers than they had deputies in the assembly (Krasniqi, 2020, p. 17).

Kelly (2021) mentions the Joint Committee's suggestion of the United Kingdom's Parliament that "a Prime Minister should not make a dissolution request if it is made simply to avoid forthcoming changes in electoral boundaries" (p. 27).

## 6. CONCLUSION

Based on the results of the study, it can be concluded that the institutional credibility of the Constitutional Court of Kosovo has been preserved despite the challenges with its judgments of a legal and political nature, which have been directed by the deputies and presidents who have come as a result of the parliamentary crises and which have been frequent.

Despite the most important competencies in the political life of the country, and its direct election, the assembly is understood to have no excessive power in relation to other powers, because the competencies of the Assembly of Kosovo are based on the basic legal act, the Constitution of Kosovo and this Constitution determines the mutual division and balance between the three powers, and this causes that the Assembly of Kosovo has no absolute power.

Based on the results of the study, we can also conclude that even though the parliament in Kosovo is the highest body with enough powers, it has not reflected excessive power in relation to other powers, preserving the constitutional basis that determines the division and mutual balance between

the three powers. However, political parties have not reflected on the quick resolution of parliamentary crises when it comes to the creation of new governments or the preservation of the regular legislative mandate, so there have been in almost all cases premature parliamentary elections, and delays in the creation of new governments.

We consider that such constitutional loopholes in countries with emerging democracies such as Kosovo are not welcome because political parties do not reflect on the quick solutions to parliamentary crises relying on the constitutional doctrine, or on the constitutional practices of other countries with consolidated democracy.

The motion as a means of parliamentary control over the government guarantees the well functioning of the parliament and good governance in a country with the fear of the majority that there is always a potential risk of losing the confidence within the parliament. However, it does not exclude the possibility that the initiated vote of no confidence against the government is transferred in the vote of confidence, which confirms the support of the government from the majority in the parliament.

There are some limitations of this paper. Since qualitative research is a perspective-based method of this study, the responses given are not measured in this paper. As the research paper is open-ended, we, as researchers, have more control over the content of the data collected. This type of research is based more on opinion and judgment rather than results. Since all qualitative studies are unique, we consider that they are difficult to replicate.

This study has some perspectives for future research. Recently, it is observed from media and opinion that the political awareness of the electorate has increased in Kosovo, so it remains to be studied in the future how it affects the parliamentary elections and the political stability of the country.

The paper is also important for future research with quantitative methods to extract more detailed data on why the frequent parliamentary crises that lead to premature dissolution of the assembly occur in countries with emerging democracies, in addition to the causes of economic crises, and what the degree of political and institutional awareness of political actors, and political parties in countries with emerging democracies is, and which legal changes are more appropriate to consolidate those countries politically and economically.

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