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ACTION MEMORANDUM NO. 6 – ELECTORAL REFORM

TO: ASSEMBLY OF KOSOVO, PRESIDENT OF KOSOVO, PRIME-MINISTER OF KOSOVO, CENTRAL ELECTION COMMISSION

FROM: DEMOCRACY FOR DEVELOPMENT INSTITUTE (D4D)

SUBJECT: ELECTORAL REFORM

DATE: 14 NOVEMBER 2016

CC: REPRESENTATIVES OF QUINT, EU OFFICE IN KOSOVO, RESEARCH INSTITUTES, MEDIA

RECOMMENDED ACTION

The discussions among the representatives of political entities on electoral reform, initiated by the President of the Republic of Kosovo, should be a continuation of the electoral reform initiated in 2010 and should be based on the Resolution of the Assembly of the Republic of Kosovo No. 04-R-02, of April 2011.

ISSUE

In November this year, the President of the Republic of Kosovo invited all political entities and the civil society to discuss on the electoral reform. In the two meetings in which the opposition refused to participate, discussions took place on matters related to the amendment and supplement of the Constitution of the Republic of Kosovo and of the electoral legislation. In the most recent meeting of 11 November, the President of the Republic of Kosovo decided on the establishment of two working groups; one on amending the Constitution and the working group on the Law on General Elections. In addition, the timelines for the working groups to come up with their proposals have been set, therefore, the proposals on amendments and supplements pertaining the electoral law are to be submitted until 5 December, whereas, the proposals on amendments pertaining the Constitution are to be submitted until 10 December. Taking into consideration the work that has been done in the past as well as the Resolution of the Assembly of Kosovo, the continuation and completion of this reform should neither be politicised nor connected to any person or political party. All those who today are in favour or against the new initiative on electoral reform, some years ago participated actively in this process. This fact speaks for itself that everyone is interested in electoral reform and it should not be ignored.

In 2011, despite many criticisms on the way how the electoral reform was brought to the agenda, the Assembly of the Republic of Kosovo adopted a resolution which was as a result of an inclusive process in which participated ruling parties and opposition as well as the civil society. In spite of an overly-prolonged process and missing all the deadlines set by the Assembly, the results were not missing. Nevertheless, even though a large number of matters were decided upon, the adoption of the reform failed as soon as the political parties started making political calculations, leaving aside the interest of the state and moreover the interest of the citizens of Kosovo.

Leaving aside the prejudice related to the moment this initiative came about and the personification of the reform, it is necessary to overcome other problems and get engaged so that all the parties, despite their major disagreements, to continue the work which started in 2011. Political consensus is a precondition for successful conclusion of the process of electoral reform, and as such it should be generally accepted.

In order to overcome the current disagreements, all the parties should agree that the issue of electoral reform is returned back under the auspices of the Assembly of the Republic of Kosovo

OPTIONS

Taking into consideration the importance of an inclusive electoral process, not many options are left on the table. The opposition is not against the electoral reform, but is insisting that early elections are held initially and then to work on the electoral reform. On the other hand, the ruling coalition prefers to having electoral reform first and then to hold elections. The common denominator is the electoral reform and elections; however, the difference is with the order when the two actions are to be undertaken.

1. 1a. While it is clear to the ones seeking for early elections that it is hard to achieve this in a near future, not only because of political but also for technical reasons, they should agree to initiating the electoral reform which they indeed support, but provided that at the same time, to determine the timelines for the completion of the reform and setting a date for the next national elections.

1b. On the other hand, the ones in favour of electoral reform prior to elections should agree to have early elections provided that the agreed timelines for completion of electoral reform are adhered to as well as the best practices of Venice Commission in relation to these issues. In order to reach an agreement on such matters, there is a need to have an agreement among the heads of political entities which would be confirmed through a resolution by the Assembly of the Republic of Kosovo which would be a follow up of the Resolution of 2011.

2. In case no agreement on recently reinitiated electoral reform is reached, another option should be to reach a consensus that the electoral reform is initiated immediately after the upcoming national elections, whenever they are held. Such an agreement should be approved by the heads of political parties and a resolution to be adopted by the Assembly.

3. Third option, the one of carrying out the reform without the opposition will have its disadvantages as well as long-term harmful political consequences.

IMPLEMENTATION

Immediately	<p>1. The Presidency of the Assembly of the Republic of Kosovo to invite the representatives of all political parties in a meeting where the next steps of electoral reform are to be discussed. With the consent of all political parties, to set a 6-month deadline for the completion of the electoral reform taking into account the results of the joint work in the reform initiated in 2011.</p> <p>2. To reconvene the Committee on Electoral Reform as it has been convened in 2011 so as to complete its work within three months. Unresolved issues to be addressed to the heads of political parties so that in their joint meetings they can find solutions within three months deadline. After 6 months of joint work, all matters that are decided upon in the Committee meetings as well as those agreed in the meetings of political heads should be sent to the Assembly for adoption.</p> <p>3. After the adoption of the amendments to the electoral law as part of the electoral reform, elections are to be held within the deadline as set in the Agreement.</p>
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[Memo 4: University of Prishtina](#)

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