

## Democratic Orientation of Political Regime Sanctioned according to the Constitutions of European Southeast Countries and Kosovo

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### Abstract

*This paper deals to the state governance forms and as well governance systems based on the constitutions of other Southeast European countries, focusing mainly in the democratic direction of political regime based on the constitution of Southeast European countries and Kosovo.*

*Base on the empiric and comparative analysis of orientation and states included in the survey this abstract treats values and democratic orientation expressed through preamble and as well basic provisions, and some states in the basic principles, where mainly Southeast European countries in the primarily set independence, sovereignty, civil, democratic state based on law domination and social justice as well, civil democratic principles, human, minority rights and freedoms, likewise engagement in European principles and values.*

*Governance state forms in the political legal sovereign states treat mostly as an institution that legitimizes a particular governance, ditto constitutions of different countries codify viewpoint, power, goals and relevant governance forms.*

*Ranging from these theories results that in general most constitutions of countries, treated in this paper prefer parliamentary form of governance of the presidential state.*

*Analysis of the Southeast countries are based primarily in its relationship in the political system with relevant countries in the performance of the models, as well as the legal constitutional position of each country.*

**Key words:** democratic direction, political regime, governance forms and systems, Southeast Europe.

### **Democratic orientation of political regime sanctioned according to constitutions of European Southeast countries and Kosovo.**

Constitution of Bosnia and Herzegovina, expresses its democratic orientation in article 1, paragraph 2, Bosnia and Herzegovina will be a democratic state, which will operate under the rule of law and free democratic elections.<sup>1</sup>

Constitution of the Republic of Serbia, at the general principles of article 1, expresses its orientation that the Republic of Serbia is a state of Serbian people and all citizens who live in it, based on the rule of law and social justice, principles of civil democracy, human, minority rights, freedoms, likewise to the commitment to European principles and values.

Constitution of Cyprus, expresses its democratic orientation in the basic provisions in article 1 and 2 of the constitution, which defines the state of Cyprus as an independent and sovereign republic with a presidential governance, focused on the rights and obligations of the two peoples Greek and Turkish communities.

Constitution of Albania expresses its democratic orientation in its preamble: "We people of Albania, proud and aware of our history, with responsibility for the future, with faith in God and other universal values, with the determination to build a state of law, democratic and social, to guarantee the rights and constitutive freedoms".<sup>2</sup>

Constitution of Macedonia, apart that expresses its democratic orientation, in the preamble that Republic of Macedonia formed as a sovereign, independent, civil, democratic and social state. This orientation is expressed even in the basic provisions, article 1, according to which Republic of Macedonia is a sovereign, independent, democratic and social country.

Constitution of Montenegro, expresses its values and democratic orientation through preamble and basic provisions, so according to the article 1 Montenegro is an independent and sovereign state, with a republican form of governance, civic, democratic, with ecology and social justice, based on the dominance of law.

Constitution of Bulgaria expresses the democratic orientation through the preamble, which expresses will of the Bulgarian people, to build a democratic, legal and social state.

Constitution of Hungary, expresses democratic orientation in the first chapter to the general provisions of article 2, paragraph 1 and 2: The Republic of Hungary is an independent and democratic state, based on the priorities of law and paragraph 2: In the Republic of Hungary all power belongs to the people, who exerts its sovereignty direct, through elected representatives.

Constitution of Moldova, expresses its democratic orientation through preamble, judging the dominance of law, civil peace, democracy, human dignity, rights and freedoms for the free development of human personality, justice where political pluralism would be a high political value etc

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<sup>1</sup> Constitution of Bosnia and Herzegovina, 1995

<sup>2</sup> Constitution of the Republic of Albania, 28 november 1998.

## **Forms of state government under the constitutions of the Southeast European countries**

In legal political theory a sovereign state is an institution that legitimizes a special governance, also the constitutions of various countries codify views, purposes, effective and appropriate forms of governance.<sup>3</sup>

Based on all these legal political theories it appears that in general that the most constitutions of discussed countries in this paper, prefer parliamentary form state governance, presidential style, based on French republican model. Elaboration of the governance form of Kosovo, under its Constitution, their configuration and constitutional relationships between them, have a major impact in the elaboration of state forms of the governance.<sup>4</sup>

Study of authoritarian state apparatus seems necessary to identify different forms of government, if this expression reveals ways in which state functions are distributed and organized between different constitutional bodies, paying particular attention to activity policy and ways of its developing.<sup>5</sup>

Constitutional scientific doctrine recognizes two forms of state government: monarchy and republic.

The monarchy is divided into unlimited monarchy and parliamentary limited monarchy, while the second form of government is republic, which is divided in the presidential republic and parliamentary republic. In fact the difference between monarchy and republic is presented for a long time as a fundamental criterion of classification of the forms of state governance.<sup>6</sup>

Almost all treated constitutions define the state as a parliamentary state with a governance form as a parliamentary republic, which represents the electoral institutions which are chosen by parliament or directly by citizens eligible to vote in the presidential elections.

In parliamentary republic, parliament has the main part in the governance of the state, which elects head of state and government, while at the presidential republic the dominant role in political life belongs to the head of state, chairperson or president. In these states, head of state represents the main political figure, with broad executive and political powers. He is elected directly by citizens in presidential elections and his work is not in Parliament. Such systems today are not included in the constitutions that i object address in this PhD dissertation. Genesis of the parliamentary system and parliamentary democracy is found in England. In contemporary theory, there is no unison of rules for operating parliamentary systems.

Under the constitution, that I have treated in this dissertation, their states define as a parliamentary republic, some of them have pure system or full Parliament, where

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<sup>3</sup> Rexhep Meidani, About governance, Tiranë, 2009, p.2

<sup>4</sup> Geopolitic, Constitution and challenges- of the consolidation of Republic of Kosovo, Publication of Scientific Research Institute, Barleti, Tirane, 2010, p. 17.

<sup>5</sup> Temistocle Martines, Constitutional Right, Tiranë, 2011, p. 120.

<sup>6</sup> Erlir Puto, Compared Constitutional Right, p. 24.

parliament is the center of the political establishment, which means he elect mayor the republic as the chief state and government executive body, some of them half system Parliament, where the head of state in these systems has the right to sign the laws of Parliament to restore them to parliament, to review and to use a suspension veto over legislation, parliament has the right to initiate the procedure of dismissal of the head of state defined by the constitution and mixed parliamentary system.

In countries that applies this model of governance, state power is divided between the Parliament, of which was believed electoral legislative and supervisory function, as well as the head of state, who is the bearer of executive and politic power.<sup>7</sup>

Base on the Constitution of Kosovo, article 4 Kosovo has the form of governance as a democratic republic, based on the principle of separation of powers, verification and balance among them, as is defined in the Constitution, known as one of the essential elements of states with democratic orientation, also as the main criterion of democracy is the separation of powers, but not always enough ample thus it must be added the balance of powers.

On the basis of the Constitution Republic of Kosovo establishes power controls, in such a way that no branch enjoys absolute sovereignty within its sphere. In the sense of the principle separation and balance of powers exerted by different organism, the Constitution has avoided definition that was contained in the law on major constitutional provisions, that the assembly is the highest organ of state power, this definition that was a reminiscence of definitions of the communist era, when in the Constitution was formally declared the omnipotence of the assembly, supremacy and its preponderance over all other organs. Parliament approved mechanically those draft laws presented by the higher authorities of the party.

Nowadays democratic system, although the assembly is the most authentic exponent people will, its competences are strictly defined in the Constitution.

Constitution and prescribed powers by it, three well known powers, on the basis of which rises our constitution are: the legislative, executive and judicial power. James Madison, compiler of the new US Constitution has an interesting definition consists in the fact that "collection all powers in the hands a person or people with the reason that is called as the definition of its tyranny".

Greek Constitution, under Article 1, paragraph 1: Political regime or form of governance. Greece is one of a Parliamentary Republic; Point 2: popular sovereignty constitutes the foundation of political regime and point 3: All the powers derived from the people, exist itself and for the nation and is exerted as set in the constitution, while article 26, paragraph 1: The legislative function exerted by the Chamber of Deputies and the President of the Republic. Point 2: Executive function is exercised by the President and the Government, and in point 3The judicial function exerted by the court, whose decisions are implemented on behalf of the Helen people.<sup>8</sup>

Constitution. of Turkey Independence on April 23, 1920. In 1923 announced the Republic, and Mustafa Kemal Ataturk was declared as the first president, while in 1924

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<sup>7</sup> Arsim Bajrami, Parliamentary theory and practice, Pristina, 1997, p. 69.

<sup>8</sup> Constitution of the Republic of Greece , 1986.

was declared unvalued even the caliphate, (dominant Muslim religion ) 98%, while 80% are Turkish, somewhere 20% are Kurds. Turkey, since 1923 it was a parliamentary republic with 550 deputies, a secular state, divided by religion and organized into 81 provinces (regions).

The Constitution of the Republic of Turkey and 7 November 1982, considered a new constitution, completed with major reform measures in October 2001, which tends to help the ease of Turkey's accession to the European Union. Turkish Constitution prescribes the form of government in Article 1, which states that the Turkish state is Republic. article 7 of the Constitution establishes the legislative power, which belongs to the Grand National Assembly of Turkey, acting on behalf of the Turkish nation, where power may not be delegated, while article 8 defines the executive power exerted by the President of Republic and the Council of Ministers, in accordance with the Constitution and laws. judiciary power exerted by independent courts on behalf of the Turkish nation.

The Constitution of the Turkish Republic of year 1982, article 90 sanctions that international agreements entered into force, in the right manner have power of law, of separate powers. The tendency for an Islamic republic tolerated during the government of Erbakan, from the years 1996-1997, under the influence of opinion and army was banned. Turkey so far has changed the constitution 17 times. Constitutional changes in 1983 in articles for the judiciary, the army, the individual, society and the economy. The need and demand, for a new Constitution for the Republic of Turkey are not new. Almost all political actors think that there are many issues in the Constitution of the Republic of Turkey since 1982 has changed, the existing constitution is insufficient to solve the problems of Turkey. The backbone of the Constitution, namely its spirit has not changed for the design of new constitution.<sup>9</sup>

Constitution of Bosnia and Herzegovina, notes that the form of governance of Bosnia and Herzegovina is republic, whereas under article 1 paragraph 2, Bosnia and Herzegovina define as a democratic state, which operates under the rule of law. Bosnia is simple and decentralized. State governments are divided legislative function is exerted by the parliamentary assembly composed of two chambers: the House of Representatives and House of Peoples Executive power is exerted by the Presidency and Council of Ministers, while judiciary exercises by the State Court and Constitutional Court, Chamber for Human Rights.<sup>10</sup>

The Constitution of Serbia, defines the form of government to a parliamentary republic with share power: legislative, both executive and judiciary.<sup>11</sup>

Constitution of Cyprus defines presidential form of governance. under article 1 of Constitution Cyprus sanctioned as an independent and sovereign republic with a presidential regime. its Constitution was adopted on 16.08.1960.<sup>12</sup>

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<sup>9</sup> Constitution of the Republic of Turkey, 1982

<sup>10</sup> Constitution of the Bosnia and Herzegovina, 1995..

<sup>11</sup> Constitution of the Republic of Serbia, 2006.

<sup>12</sup> Constitution of the Republic of Cyprus, 1960.

Constitution of Albania, article 1, described the country as a parliamentary republic, with separate state powers into legislative, executive, and judicial, and with balanced controls.<sup>13</sup>

Constitution of Macedonia, sanctions the state governance form as a parliamentary republic based on the article1, by defining the Republic of Macedonia as a sovereign, independent, democratic and social state.<sup>14</sup>

Constitution of Montenegro defines the form of governance as a parliamentary republic, on the basis of article 1, and points out that Montenegro is an independent and sovereign state, with a republican governance.<sup>15</sup>

Constitution of Bulgaria defines the form of governance in article 1, which states that Bulgaria is a republic, with parliamentary governance..Bulgarian Parliament exerts classic parliamentary function, which is heterogeneous, the president is elected directly by the electoral body.<sup>16</sup>

Constitution of Hungary, in the general provisions, article 1, states: Hungary has a governance form, republic, where is applicable parliamentary system, based on the principle of separation of state power. The president is elected by the National Assembly.<sup>17</sup>

The Constitution of Moldova on the general principles in article 1, paragraph 2 states that forms of state governance is Moldovan presidential republic, based on the Constitution of the year1994. Legislative power is exercised by the unicameral parliament composed of 201 member selected by universal suffrage for a 4 year term. Executive power is exercised by President, together with the Council of Ministers led by the Prime Minister. Head of State is directly elected for a 4-year term.<sup>18</sup>

## **Conclusion**

The research “Democratic orientation of political regime sanctioned under the constitutions of Southeast European countries Kosovo”. Democratic orientation of political regime and state government forms and governance systems in the countries of Southeast Europe and Kosovo represent a spectrum formulations, models, with features and similarities, but also differences between each country or group of countries treated in comparative terms in this paper.

Elaboration of the governance form of Kosovo, according to its Constitution, configuration their constitution and the relationship between them, have an important role in the elaboration of state governance forms.

Kosovo as a democratic republic has a governance form based on the principle of separation of powers and balanced controls among them, as provided by the Constitution.

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<sup>13</sup> Constitution of the Republic of Albania, 1998.

<sup>14</sup> Constitution of the Republic of Macedonia, 17 november,1991.

<sup>15</sup> Constitution of the Republic of Montenegro,22, october 2007.

<sup>16</sup> Constitution of the Republic of Bulgaria12, july, 1991

<sup>17</sup> Constitution of the Republic of Hungaria,25 september,1997.

<sup>18</sup> Ledia& Silviu cider, Europe geographical encyclopedia, Tirana, 2002, p. 116.

One of the key elements at states with a democratic orientation is as well separation of powers as the main criterion, of democracy, but not always is sufficient, it must be added, the balance of powers, where in the basis of the Constitution , Republic of Kosovo generates power control, in such a way that no branch enjoy absolute sovereignty within its sphere.

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