

# OUT-OF-COUNTRY VOTING DIASPORA 2019

ANALYSIS OF OUT-OF-COUNTRY VOTING IN THE KOSOVO ASSEMBLY ELECTIONS

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### INTRODUCTION

Citizens of the Republic of Kosovo living abroad are entitled to elect and be elected the same way as citizens living in Kosovo. Through its legislation, the Republic of Kosovo enables the exercising of electoral rights to all citizens regardless of where they live. Voting rights are a part of fundamental rights, and are guaranteed by the Constitution of the Republic of Kosovo and the Laws in effect. In Kosovo, voting from abroad is allowed for all types of elections. Non-residential citizens can vote in Local or Central Elections via mail once they have successfully registered with the Central Elections Commission (CEC). However, despite the large number of citizens living abroad, their turnout in Kosovo Elections remains low. Since the first elections after the declaration of independence, out-of-country voting has not been treated with priority and issues reported during election cycles have not been addressed adequately. This has created difficulties for the participation of the electoral potential abroad in the democratic processes in the place of origin, and this has affected as well in the trust in the institutions of the Republic of Kosovo.



THE AIM OF THIS ANALYSIS IS TO ADDRESS THE OBSTACLES IN THE PROCESS OF OUT-OF-COUNTRY VOTING, WITH THE INTENTION OF INCREASING DIASPORA TURNOUT IN KOSOVO ELECTIONS.



A large number of observers and monitors agree that electoral processes in Kosovo have generally had a steady increase in quality over the years. However, this has not been the case for out-of-country voting. Problems in the application process to qualify as an out-of-country voter, slow communication and poor information, as well as issues with sending and receiving ballots in envelopes have been a part of almost every election cycle and they are still ongoing. Despite the fact that the CEC has made some changes since the 2017 elections - providing the option of applying through the official email - voting from abroad, just like in the parliamentary elections of 2019, remains challenging.

The aim of this analysis is to address the obstacles in the process of out-of-country voting, with the intention of increasing diaspora turnout in Kosovo Elections. This analysis presents data for out-of-country voting in the last elections of 2019 for the Kosovo Parliament. It addresses: the importance of the right to vote, voting procedures and turnout of citizens living abroad, voting results and obstacles during the process. The final part of the document contains concrete recommendations to different relevant institution regarding changes that need to be made in order to overcome obstacles and to widen the possibilities for out-of-country voting.



### WHY IS OUT-OF-COUNTRY VOTING IMPORTANT?

For a country such as Kosovo, the inclusion of diaspora in political processes represents an important tool to maintain connections with its citizens abroad. For the diaspora, voting is also a means of preserving national belonging and of strengthening ethnic identity. Out of the different aspects of a country of origin in which the diaspora should be closely involved, political participation is probably one of the most important ones. In this regard, voting is not only the most important form of political participation, but also the best way to make the voice of diaspora heard. Also, providing opportunities for exercising the right to vote indicates the State's interest in treating all citizens equally, regardless of the place they live in. As states the 2011 Report on Out-of-Country Voting of the Venice Commission, voting from abroad is also a mechanism of equal treatment of both citizens residing in the country as well as members of the diaspora. According to the Venice Commission, it is at the discretion of states to include in their legislation the right of out-of-country voting. However, when states give their non-resident citizens the right to vote, they must ensure every possibility of exercising this right to outside citizens, the same as resident citizens.

### THE IMPORTANCE OF DIASPORA

Kosovo is considered a country with a large diaspora compared to the total number of in-country citizens. Various sources indicate that somewhere around 400,000 and 600,000 Kosovo citizens live abroad, who are in possession of documents of the Republic of Kosovo, whereas the overall number of Diaspora members ranges between 800,000 up to 1 million.<sup>2</sup> According to data from the Migration Report of 2014 of the Kosovo Statistical Agency, there are over 380,000 citizens who are born in Kosovo but live outside of it, whereas over 50% if emigrants are located in Germany and Switzerland.3 Meanwhile, it is estimated that over 300,000 citizens living abroad are eligible to vote.4 Historically, Kosovo's Diaspora has remained close to its country of origin. Since the 70's, it has been a sustainer of 'social rest' through its sending of remittances, which have been the sole financial source for a multitude of Kosovar families. Diaspora continues to be a major contributor to Kosovo's economy through money-sending, which makes about 15% of the GDP, but also through direct investment. However, while Kosovo has made a sort of a progress in recognizing the importance of diaspora, very little has been done in regards to political representation and participation in decision-making.

<sup>1 &</sup>quot;Report On Out-Of-Country Voting". 2011. Venice Commission. https://www.venice.coe.int/webforms/documents/default.aspx-?pdffile = CDL-AD(2011)022-e.

<sup>&</sup>lt;sup>2</sup> Krasniqi, Lirim. 2018. "Diaspora Vote as an Infusion of Democracy". GERMIN & KALLXO.Com. https://kallxo.com/gjate/mendime/vota-e-diaspores-si-infuzion-i-demokracise/.

<sup>3 &</sup>quot;Kosovar Migration". 2014. Kosovo Statistical Agency (KSA). https://ask.rks-gov.net/media/1379/migrimi-kosovar-2014.pdf.

<sup>&</sup>lt;sup>4</sup> "Setting Justice in Elections: Reviewing of Cases and the Road To Institutional Cooperation". 2015. Democracy For Development (D4D). https://d4d-ks.org//assets/2015-07-10-Electoral-Justice-Report-ALB.pdf.

### LEGAL FRAMEWORK

The legislation in effect in the Republic of Kosovo relating to out-of-country voting is based on the status of persons living abroad. Initially, it is important to qualify people as citizens living abroad or as members of the diaspora. According to Article 2 of Law 04/L-215 on Citizenship, a member of the Diaspora is "every person with lawful residence outside the Republic of Kosovo who proves that has been born in the Republic of Kosovo, a member of the Diaspora is also considered every person who is a first-generation descendent of a person who was born in the Republic of Kosovo." 6

However, regarding being legally eligible to participate in elections, Law 03/L-073 on General Elections in the Republic of Kosovo, Article 5, states that: "A person is eligible to vote in an election if he or she is at least eighteen (18) years of age on the day of the election and satisfies at least one of the following criteria: he or she is registered as a citizen of Kosovo in the Central Civil Registry; he or she is residing outside Kosovo and left Kosovo on or after 1 January 1998; he or she obtained the status of a refugee." 6

### REGISTRATION PROCEDURE AS AN OUT-OF-COUNTRY VOTER

Based on the Law on General Elections, the Central Elections Commission (CEC), drafts procedural criteria for citizens living out of Kosovo who wish to vote in Kosovo elections. In order to be included in out-of-Kosovo Voters List, criteria that need to be proved, according to the CEC, are:

- Your Identity,
- Your Age,
- You have completed civil registration in the Republic of Kosovo, OR
- You were a resident of Kosovo on January 1, 1998, AND
- Meet certain criteria of legal civil eligibility:
- a) Being born in Kosovo, b) Have one parent that was born in Kosovo, c) Have lived in Kosovo for a period of at least five (5) years in a continuous period, d) You have been forced to leave Kosovo so you have not been able to reside in Kosovo for a continuous period of five years, e) You are a child under the age of 18 (but you will be 18 years old on Election Day) dependent on a person registered in Central Civil Registry in Kosovo, f) You are a person under 23 years old, dependent on a person registered in Civil Registry of Republic of Kosovo and you are a regular student in a recognized education institution.<sup>7</sup>

To prove these criteria for out-of-country voting are satisfied, the application must be sent to the CEC email address, mail or fax. After that, the CEC examines whether the person is eligible to vote and informs him or her of the approval or rejection of the application based on the registration criteria.

<sup>&</sup>lt;sup>5</sup> Parliament of the Republic of Kosovo. 2008. "LAW NO 03/L-034 ON KOSOVO CITIZENSHIP". Prishtina: Official Gazette of the Republic of Kosovo. Article 2.

<sup>6</sup> Parliament of the Republic of Kosovo. 2008. " LAW NO 03/L-073 ON GENERAL ELECTIONS IN THE REPUBLIC OF KOSOVO ". Prishtina: Official Gazette of the Republic of Kosovo Article 5

<sup>7 &</sup>quot;Procedure for Evaluation of Legal Eligibility for Acquiring the Right to Vote: Out-of-Kosovo Voting". Central Elections Commission(CEC). http://www. w.kqz-ks.org/sherbimet-per-votuesit/votimi-me-poste/ (Accessed on 20 December, 2019.)

A citizen whose out-of-country voting is rejected is allowed to appeal the decision of the CEC, at the Election Complaints and Appeals Panel (ECAP) within twenty-four (24) hours of receiving the rejection.

Citizens that have been approved their request for registration as out-of-Kosovo voters, the CEC sends a notification via email and announces the list of eligible voters registered as out-of-country voters. Until 2017, the CEC used the method of notification by physical mail, sending to the registered persons an unfilled ballot and candidate list, voting instructions, and CEC address where voters should send the enveloped ballot. As of 2017, the CEC started to use email also for out-of-country voter application and notification procedures, expanding opportunities for and expediting the process of communicating with voters. In the 2019 Elections however, physical mail was not used at all for notification of out-of-country voters. This small change, nonetheless, has positive financial and environmental impacts.

Registration for out-of-country voting is a special period that can last up to forty (40) days during regular elections and may be shortened to seven (7) days during early or extraordinary elections. According to Election Regulation no. 03/2013, Article 3.5, in regular elections, the period ends 60 days before Election Day.8 CEC reviews all applications in order to determine applicants' right to vote. In Early Elections of 2019, out-of-Kosovo voter registration deadline lasted 12 ditë, that is from August 30 until September 10, 2019.

### **VOTING PROCEDURES**

In 2013, the CEC adopted a special Election Regulation (No. 03/2013) which sets out procedures for out-of-country voting. Successfully registered out-of-country voters and persons registered in past elections and who have proved their legal eligibility as out-of- Kosovo voters receive official notification/confirmation from the CEC along with the ballot for the respective elections. For the 2019 Early Elections, the CEC notified all applicants by e-mail and published the list of persons who have been recognized as legally eligible to vote out-of-Kosovo. The publication of the Voter List for the Early Elections for the Kosovo Parliament 2019 was followed with concern, as it also included personal data of citizens registered as out-of-country voters.

<sup>&</sup>lt;sup>8</sup> This deadline was adjusted to the period of confirmation and rejection of the Voter List, which must be finished up to 40 days before Election Day. However, the deadline between 60 days before Election Day and 40 days before Election Day was set for the objection period, where the voter list (including voters inside and outside the country) can be objected and confirmed during this period.



All persons registered successfully as out-of-country voters could download the original ballot from the official website of the CEC, without having to wait for the original ballot to come via physical mail as in previous years. According to the Regulation No 03/2013, Article 4.2, out-of-Kosovo voters



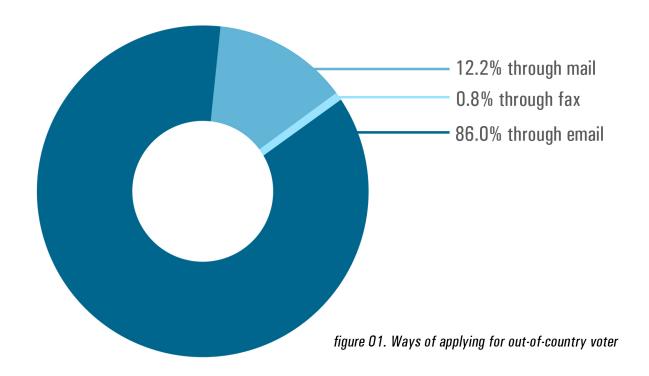
"After filling the ballot (s) voter must put ballot (s) in an unmarked envelope placed inside sealed outer envelope / for delivery. In envelope voter also puts a copy of his or her valid identification and a note containing personal information about him or her and which contains at least the name, surname, father's name and his date of birth or her." <sup>9</sup>

Voters can also print ballots from their homes (even in an A4 format, black and white), so they do not have to wait for the original ballot to come by mail. After filling in the ballot and putting it in the envelope in accordance with the criteria set by the CEC, the voter must mail the envelope or package by mail at one of the CEC mailboxes, before the date specified by the CEC, which according to the Law on General Elections must be one (1) day before Election Day. Mail packages that contain envelopes of persons with different last names or which are proven not to come from the same family are not accepted as valid by the CEC. This happened in the 2019 Elections.

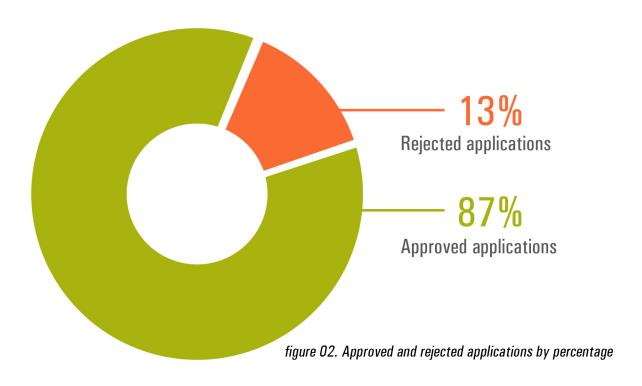


### NUMBER OF APPLICATIONS, APPROVALS AND VALID BALLOTS

For the Early Elections for Kosovo Parliament, the Central Election Commission set a 12-day period (August 30 – September 10, 2019), within which citizens living abroad had to apply to register as out-of-country voters. During this period, the CEC received 40,313 applications for registration, of which (as shown in Figure 1), 5,327 applications were received by physical mail; 319 applications were received by fax and 34 thousand 667 applications were received through the Voting Service email. This shows that email is a much more convenient and practical way of submitting applications for registration as an out-of-country voter.



Out of 40,313 applications for registration as an out-of-country voter, 35,087 or 87,04% were approved, whereas 5,226 applications or 12,96% were rejected (Figure 2), due to failure to meet legal eligibility criteria. As a result, only 35,087 citizens acquired the right to send their ballots as an out-of-Kosovo voter through mail.



 $<sup>^{10} \ &#</sup>x27;' Meeting \ of \ 18 \ September''. \ 2019. \ Central \ Election \ Commission. \ http://www.kqz-ks.org/lajmet/periudha-e-votimit-permes-postes-fillon-me-19-shtator/.$ 

Compared to the last two election cycles for the Kosovo Assembly, there has been a significant increase in the number of applications, and consequently in out-of-country ballot packages addressed to the CEC (Figure 3). Compared to the 2017 elections in which 20,354 citizens had applied to register as out-of-country voters, 2019 shows a 99% increase with 40,313 applicants for registration as out-of-country voters. This is reflected in the number of approved applications and packages submitted as well, as in 2019 we notice a significant increase compared to previous election years for the Assembly of Kosovo.

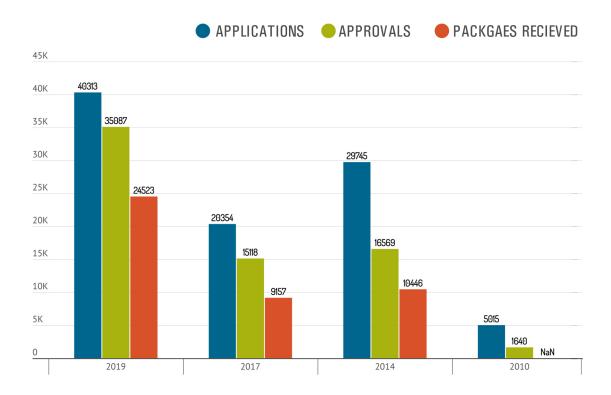


figure O3. Number of out-of-country applications, approvals, and ballot packages in four election cycles for the Kosovo Assembly after the declaration of independence

### OUT-OF-COUNTRY BALLOT PACKAGES<sup>11</sup> IN PARLIAMENTARY ELECTIONS - 2019

Following the announcement of the out-of-Kosovo Voter List, the CEC set deadlines for the mailing of ballots for the Kosovo Assembly Early Elections in 2019. The deadline to mail ballots for the 2019 Elections was 17 days, September 19 -October 5. According to the Central Election Commission, 15,794 mailings arrived at their mailing address within the deadline, including packages from Serbia. Meanwhile, 6,445 ballot packages arrived after the election date (6 October 2019) at the CEC mailing address, which were deemed to have arrived past the deadline and were assessed/received after the appeals process, as decided by the

<sup>11</sup> Ballot package is the envelope with sender/s data which arrives at CEC's mailbox and which can hold more than one ballot.

<sup>12</sup> Decision of the Supreme Court of the Republic of Kosovo A.A.-U.ZH.no 20/2019, date 30/08/2019, and Decision of the Supreme Court of the Republic of Kosovo A.A.-U.ZH. no 21/2019, date 05/11/2019.

Supreme Court of the Republic of Kosovo, pursuant to judgments A.A.-U.ZH. no20/2019 and A.A.-U.ZH. no 21/2019.12

Regarding ballot packages received by the CEC, in the elections of 2019 may be noticed a significant increase compared to previous elections. As is shown in Table 1, in the 2019 Kosovo Assembly Early Elections, the CEC received 24,523 individualized ballot packages. In percentage, this amounts to 70% of citizens registered outside the country have managed to send their ballots through to CEC's mailing address.

	2010	2014	2017	2019
Registration deadline	N/A	7 days	7 days	12 days
No. of received applications	5,015	29,745	20,354	40,313
No. of approved applications (% from received applications)	1,640 (32%)	16,569 (55%)	15,118 (74%)	35,087 (87%)
No. of received packages (% from approved applications)	N/A	10,446 (63%)	9,157 (61%)	24,523 (70%)
No. of countries applications came from	32	40	59	53

Table 1. Out-of-country voting data in the last four parliamentary elections

Figures of 2014 elections are greater not because of individual out-of-country votes but because of the large number of votes from Serbia which have come in an organized manner, facilitated by OSCE. In 2019, there were 3,782 packages (envelopes) from Serbia, which were sent by regular mail at the CEC's mailbox. 13 3,782 votes from Serbia were annulled after a decision of the Election Complaints and Appeals Panel (ECAP) A. no. 428/2019 of date 10/12/2019, which was confirmed as well by the Supreme Court, through judgment A.A.no. 27/2019. Upon receiving all documents, CEC made an assessment of the validity of all packages, a process which resulted in the rejection of 4,323 packages, for reasons presented in Table 2.

<sup>12</sup> Decision of the Supreme Court of the Republic of Kosovo A.A.-U.ZH.no 20/2019, date 30/08/2019, and Decision of the Supreme Court of the Republic of Kosovo A.A.-U.ZH. no 21/2019, date 05/11/2019.

<sup>&</sup>lt;sup>13</sup> "Final report of the Voting Period through mail – Out-of-Kosovo Voting 2019". 2019. Central Election Commission

REASONS FOR REJECTION	NUMBER
Persons that haven't applied in the registration application period	1,763
Applicants rejected during the registration application period	357
Persons that have sent ballot packages more than once	253
Persons that have not presented identification (they have only sent the ballot) and persons that have sent packages with more ballots than citizens approved	1,010
Persons that have not proved their identity by valid identification documents (they have sent copies of expired documents)	940
TOTAL	4,323

Table 2. Rejected Ballot Packages after CEC's verification process

In total, out of 35,087 successfully registered voters, 24,523 managed to send ballots through mail, whereas packages from only 20,200 persons have been approved as valid. In percentage, out of 35,087 successfully registered voters, ballot packages have been sent by 20,200 voters, or 57.57% of successfully registered voters (Figure 3).

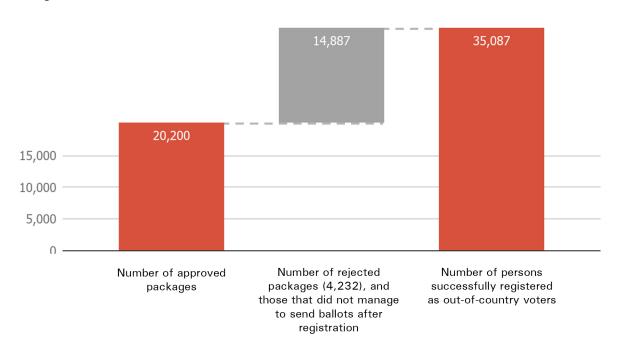


figure 03. Packages approved and rejected after the validation process by CEC

### **VALID VOTES ACCORDING TO SENDING COUNTRIES**

Mailed ballot packages for Kosovo Assembly Elections have come from 53 different countries. Most packages came from countries of Europe, such as: Germany, Switzerland, Austria, Sweden, Italy, France, and USA (Table 3).

Table 3. Number of approved packages according to sending countries

Country	No. of packages approved			No. of packages approved	
01. GERMANY	7,684	2	28. BOSNIA AND HERZEGOVINA		15
02. SWITZERLAND	7,077	2	29. IRELAND		12
03. AUSTRIA	860	3	30. ALBANIA		10
04. FRANCE	643	3	31. UNITED ARAB EMIRATES		10
05. SWEDEN	633	3	32. SKOTLAND		9
06. ITALY	548	3	33. ICELAND		7
07. USA	483	3	34. SPAIN		6
08. BELGIUM	375	3	35. MONGOLIA		6
09. UNITED KINGDOM	308	3	36. SERBIA		6
10. NORWAY	264	3	37. SLOVAKIA		5
11. FINLAND	237	3	38. JAPAN		4
12. KAZAKHSTAN	224	3	39. PORTUGAL		3
13. SLOVENIA	162	4	40. COLOMBIA		3
14. DENMARK	138	4	41. POLAND		2
15. LUXEMBURG	72	4	2. NEW ZELAND		2
16. CANADA	61	4	43. SIRIA		1
17. NETHERLAND	60	4	44. BAHREIN		1
18. TURKEY	58	4	45. SAUDI ARABIA		1
19. AUSTRALIA	33	4	6. MALAYSIA		1
20. MONTENEGRO	29	4	7. AZERBAIJAN		1
21. CROATIA	24	4	8. SENEGAL		1
22. ROMANIA	23	4	9. ARMENIA		1
23. LICHTENSTEIN	22	5	0. ISRAEL		1
24. NORTHERN MACEI	DONIA 22	5	1. COLOMBIA		1
25. CZECH REPUBLIC	17	5	2. NIGERIA		1
26. BULGARIA	16	5	3. IRAQ		1
27. HUNGARY	15		TOTAL	22	2,200

Expressed as percentage, packages from Germany and Switzerland together make up more than 70% of all ballot packages, with 40.3%, and respectively 30.8% of total packages approved by the CEC.

### **BALLOT PACKAGES THAT ARRIVED** AFTER CEC'S LEGAL DEADLINE

During the verification process of the validity of packages received by mail, GERMIN organization, through its CEC accredited observers noticed that as many as 6,445 packages were not taken in consideration at all, which, despite the fact that were sent before the CEC's legal deadline – arrived at CEC's mailbox after October 5. GERMIN observed for the first time and exclusively the process of receiving, verifying and counting out-of-country votes.

Following that, GERMIN observers identified the dates of when these CEC disapproved packages were sent, and verified that they were all delivered within the deadline, but due to technical mail reasons did not arrive on time. Figure 4 shows data regarding the sending dates of the 6,445 ballot packages that arrived after the deadline set by the CEC. As shown in Figure 4, all packages were initiated as postal deliveries before the legal deadline, with the exception of 371 packages, the sending date of which was unidentifiable.



figure 04. Number of mailed packages by date of sending arrived after the legal deadline (October 5 2019)

GERMIN reacted to the disapproval of these packages by the Voter Service of CEC, making a complaint at ECAP14 for the two out-of-country package stacks (4,639 and 1,806), and following rejection by CEC an appeal was made at the Supreme Court. On the same matter there was a complaint by political party "Lëvizja Vetëvendosje". Furthermore, GERMIN has initiated a case with the Institution of the Ombudsperson, relating to violation of electoral rights of citizens living abroad.

<sup>14 &</sup>quot;Complaint directed to ECAP: On the Violation of the Right to Vote for citizens of the Republic of Kosovo living abroad". 2019. NGO GERMIN. https://germin.org/ankese-drejtuar-pzap-per-shkeljen-e-se-drejtes-se-votes-ndaj-qytetareve-te-republikes-se-kosoves-qe-jetojne-jashte-vendit/.

CEC's reasoning on the rejection of these packages is based on Article 96.2 of the Law on General Election 16 and Article 4.4 of Election Regulation No. 03/2013, which stipulates that "Votes out of Kosovo must be received by CEC 24 hours before Election Day". Regardless of the fact that in the procedural sense the CEC was right, the rejection of mailed votes after the deadline in the abovementioned documents, consists in a violation of electoral rights guaranteed by the Constitution and international instruments.

Limiting the deadline for acceptance of out-of-Kosovo votes through Article 96 of the Law on General Elections and Election Regulation of the CEC no. 03/2013, is in conflict with Article 45, read together with Article 55 of the Constitution, since the purpose for which the limitation is in place is not fulfilled. Article 55, paragraph 2 of the Constitution determines that: "Fundamental rights and freedoms guaranteed by this Constitution may be limited to the extent necessary for the fulfillment of the purpose of the limitation in an open and democratic society.". If the purpose of If the purpose of setting a deadline of 24 hours prior to Election Day for accepting votes from out-of-Kosovo is to prevent delays in the processing and counting of votes, then this purpose, albeit legitimate, does not justify the refusal to accept the packages arriving after this deadline. This is because the counting of votes cast by mail, in almost no election round ended earlier than a week after the end of the electoral process in Kosovo. This means that the counting of these packages arrived by mail would not have delayed the process of counting other mailed votes arrived within the legal deadline. In other words, setting a strict 24-hour limitation prior to Election Day does not appear to be an imperative to the fulfillment of the purpose for which the limitation is permitted, as states Article 55 paragraph 2 of the Constitution. The legal limitation, in order to be permissible, must have a legitimate purpose and must be a proportionate measure of achieving that purpose.

Furthermore, responsibility for the late arrival of out-of-country ballot packages was not of the voters. Citizens living abroad cannot be deprived of their constitutional rights for objective reasons of delays in postal services. This is confirmed by the Supreme Court as well through decision A.A.UZH. no. 20/2019, which states that "Article 96 paragraph 3 of the Law on General Elections and Article 4 paragraph 4 of Election Regulation no. 03/2013 are in collision with Article 3 of the Protocol of the European Convention on Human Rights which includes the right to free elections, and in this particular case, without any fault of their own, the voters were deprived of the opportunity to express their opinion in the relation to the election of members of the Parliament of the Republic of Kosovo, voters were denied the very essence of their right to vote, as guaranteed by Article 3 of Protocol 1 of the European Convention on Human Rights."

<sup>16</sup> Parliament of the Republic of Kosovo. 2008." LAW NO 03/L-073 ON THE GENERAL ELECTIONS IN THE REPUBLIC OF KOSOVO". Prishtina: Official Gazette of the Republic of Kosovo.



# **OBSTACLES IN THE OUT-OF-COUNTRY VOTING PROCESS**

From the data presented above, but also from the evidence from electoral processes so far, there are noticeable obstacles that have an impact in low voter turnout of citizens living out-of-Kosovo. Below is a list of barriers to out-of-country voting, some of which are mentioned in the ongoing consultations that GERMIN organization conducts with members of diaspora:

- 1. LACK OF IDENTIFICATION DOCUMENTS: Many citizens living abroad, upon receiving citizenship and other documents in their countries of residence, have either renounced Kosovo citizenship or have not updated their Kosovo identification documents for a long time. This prevents the ability to prove their legal eligibility criteria that the CEC requires from them in order to vote. Therefore, considering the bureaucratic procedures for updating documents and the lack of institutional assistance, a significant number of them are "excluded" in the very first steps of the out-of-country voting process.
- 2. LACK OF KNOWLEDGE OF ELECTORAL RIGHTS AND COMPLEX APPLICATION/VOTIN G PROCEDURES: Kosovo Citizens living abroad are often unaware of their electoral rights guaranteed by the Kosovo Constitution. Many members of the diaspora have little information about their rights, from the right to vote and be voted all the way to complaint rights and procedures, etc. Without having information about their electoral rights and being unaware of the importance of participating in elections, citizens living abroad are much less likely to vote. Furthermore, procedures of voting by mail are bureaucratic and discouraging for a share of potential voters. Printing and filling out forms for the application and registration procedures, copying and scanning the necessary documentation, and procedures related to mailing the ballot envelope are time-consuming and financially costly, and in many cases discouraging for a share of citizens abroad.
- 3. SHORT DEADLINES FOR APPLICATION/REGISTRATION AND VOTING: During regular election cycles, out-of-country voters may submit applications for registration between the timeframe of no earlier than 25 days of announcing the elections and no later than 60 days before Election Day. This period of time, in the 2014 and 2017 parliamentary elections was shortened to 7 days, also due to the fact that they were early elections. A very short timeframe does not allow much room for citizens abroad to meet all the criteria in out-of-country voting. Furthermore, even for those who register successfully, the deadline for sending/receiving ballot envelopes to the CEC remains challenging, taking in consideration postal delays which are not the responsibility of voters. The 2019 elections proved that a large number of citizens abroad could not exercise their electoral rights due to the arrival of ballots after the legal deadline.
- 4. NON-SERIOUS TREATMENT OF OUT-OF-COUNTRY VOTING AND ISSUES RELATED TO DIASPORA: Political parties of Kosovo are not very active abroad. Since activity abroad is costlier and more challenging, and since the process of voting abroad is complex, political parties do not consider out-of-country votes to be an electoral potential, and therefore their targeting of citizens abroad is weaker. Consequently, issues that concern citizens abroad do not gain priority in the programs and activities of political parties. Even when they are addressed, issues of diaspora are only used for domestic consumption. In this regard, out-of-country voting has so far been seen as a secondary issue in the debate for electoral reform. With few exceptions, a large share of political stakeholders quietly ignores the improvement of this process, whereas institutions mandated to take necessary actions do not address it with seriousness.
- 5. LACK OF CONTINUOUS INFORMATION CAMPAIGNS: Diaspora voter information remains an aspect that demands more efforts and engagement. In the recent years, the CEC has undertaken several actions to target out-of-country voters, such as the placing of information leaflets at the Prishtina Airport, notifying voters on voting procedures as they depart from Kosovo. Furthermore, the CEC has made available electronic methods for application and registration, and an easy access to ballots and candidate brochures, making them accessible at the CEC website. Apart from campaigns organized before the elections, a lack of continuous institutional education and information engagement for out-of-Kosovo voters is noticeable. In this regard, information and education could be more targeted by using capacities of embassies and consulate offices of the Republic of Kosovo, Ministry of Exterior and Diaspora, but also various Diaspora organizations outside the country.



### **RECOMMENDATIONS**

Considering the importance that Diaspora has for Kosovo, in order to increase out-of-country participation in decision-making, GERMIN organization provides the following recommendations:

### 1. VOTING PHYSICALLY AT DIPLOMATIC MISSIONS OF THE REPUBLIC OF KOSOVO

To amend the Law on General Elections and enable physical voting at embassies and consulates of the Republic of Kosovo. The Committee on Legislation, Mandates, Immunities, Assembly Regulation and oversight of the Anti-Corruption Agency in its 6th legislature drafted the Draft Law on Amending the Law no. 03/L-073 on General Elections in the Republic of Kosovo, amended and complemented by Law no. 03/L-256, which provides for voting in Kosovo's diplomatic and consular missions for citizens living abroad, however this Draft Law has not been passed for reading and voting in Parliament. Ratification of this Draft Law would widen the possibilities of exercising electoral rights for citizens abroad.

### 2. EXTENDING THE DEADLINE FOR THE ARRIVAL OF BALLOT ENVELOPES

The judgments of the Supreme Court of the Republic of Kosovo A.A.-U.ZH. no. 20/2019, dated 30/08/2019, and A.A.-U.ZH. no. 21/2019, dated 05/11/2019, almost rendered null and void the Article 96.2 of the Law on General Elections and Article 4.4 of Election Regulation no. 03/2013 on the reception of votes out of Kosovo 24 Hours Before Election Day. Consequently, the deadline for receiving out-of-country votes should be extended to 5 or 7 days after Election Day, provided that the date of submission is before Election Day, which can be verified by the postal mark.

### 3. MAIL VOTE TO EMBASSIES AND CONSULAR OFFICES OF THE REPUBLIC OF KOSOVO

Additional to the possibility of physical voting, extending voting opportunities for members of the diaspora should include the possibility of sending mail to Kosovo's embassies and consular offices in the country of residence of citizens living abroad. This is because in some places the distance between the residence and the diplomatic and consular mission of Kosovo is great, therefore it should be possible to send the vote by mail to the diplomatic/consular mission in the same country, apart from the possibility of sending mail to the CEC mailing address. Voting by mail arrives much faster within the territory of a country. The diplomatic or consular mission could then send ballot packages by diplomatic mail to the CEC. This would expand voting opportunities and accelerated the process.

### 4. DEVELOP AN ELECTRONIC PLATFORM TO APPLY FOR REGISTRATION AT CEC WEBSITE

Apart from current out-of-country registration application forms, we recommend adding an electronic platform to the CEC website that would enable online registration application (web-based). Such a platform would: (1) facilitate and simplify the process compared to the current manual form, as there would be no need to print/fill the form; (2) reduce the likelihood of errors in data entry since it could be configured not to accept incorrect data and applicants would be able to correct their data; (3) avoid the overburdening of the official CEC email, which has been an issue in previous elections.

### 5. FULL REGISTRATION OF CITIZENS LIVING ABROAD

The registration of members of Diaspora by the former Ministry of Diaspora has failed to collect all the data of citizens abroad. On top of that, this register was not used by the CEC so far to create a separate list of citizens abroad, which could be updated on an ongoing basis. Furthermore, the Ministry of Internal Affairs should cooperate with the Central Election Commission to establish an identification code in the civil registry for Kosovo citizens living abroad, just as there is a code for citizens that extract Republic of Kosovo documents at embassies and consulates abroad.<sup>17</sup>

### 6. VOTING ONLY BY DOCUMENTS OF THE REPUBLIC OF KOSOVO

In order to eliminate any suspicion or possibility of manipulation, the CEC should deem valid only documents of the Republic of Kosovo for out-of-country voting. This issue as well was intended to be changed by amending the Law on General Elections. However, this should be done by also setting in motion the Ministry of Internal Affairs and Public Administration (MIABAP), since, as we have mentioned above, the lack of possession of valid documents of the Republic of Kosovo by members of the Diaspora or potential out-of-country voters is one of the obstacles for participating in elections. Therefore, equipping and updating with valid Republic of Kosovo documents for citizens abroad is something which is in a causal relation with the increase in voter turnout.



NOTE

Since the first Parliamentary Elections of 2017, GERMIN organization, launched a campaign called "Diaspora Vote", aiming to raise awareness of the wider public inside and outside of Kosovo on the importance and procedures of out-of-country voting, with a focus on members of Diaspora. Through detailed notifications, articles emphasizing the importance of out-of-country voting and infographics sent through digital channels and platforms, GERMIN managed to convey information to a large number of diaspora members, which are legally eligible to exercise their electoral rights in Kosovo. The "Diaspora Vote" campaign continued even during the process of Early Elections for Kosovo Assembly of 2019, continuously expanding its activities. This analysis follows the same light, addressing many aspects of out-of-country voting and presents the main characteristics of this process, focusing on the Early Elections for Kosovo Assembly - 2019.

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