

## **Legal instruments of citizen participation in decision-making processes of the public administration in the Republic of Kosovo - Comparative aspects with countries in the region**

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### **Abstract**

Substantial reforms in public administration, are one of the requirements that are constantly required by European Union progress reports. All of these reports call upon the formation of an accountable, efficient, transparent, accountable and public open administration for the citizens.

The research using the comparative method will illustrate the constitutional and legal aspects of citizen participation in decision-making processes in public administration with the countries in the region, the principles of good governance and the standards of the European Union in accordance to make a modest scientific contribution to meet the requirements and the standards of the European Union in this particular area, because it is considered that this topic is one of the most important obligations that the Republic of Kosovo, must accomplish within the requirements in the European integration program.

Comparing these legal and constitutional standards with the countries of the region such as: Northern Macedonia, Montenegro and Albania moreover considering given the fact that these countries have approximately the same past of the governing system, as well as similar institutional tradition and culture, yet positive examples in the regulatory aspect of these countries will be recommended for eventual legal changes in the Republic of Kosovo.

**Keywords:** public administration, citizens, decision making, local mechanisms, standards.

### **Introduction**

The role of public administration in society is irreplaceable, its importance has historically and conceptually changed at different historical stages depending on the democratisation of the state and social relations. The functions of the public administration are almost the same since its beginning and genesis, which means; the practice of state power, the provision of the rule of law and the realisation of the rights and obligations towards citizens.

The issues raised in this paper are closely related to the democratization of public administration and society in general in the Republic of Kosovo. Public administration reform is a very important challenge for all countries in transition and in particular for Kosovo which has had a specific journey in independence and citizenship.

During its evolution and reform, the public administration gradually reformed, becoming a service to the citizens and a service for the "citizens". However, just as

the role of the administration is necessary and irreplaceable, so does the license plate of power is necessary and inevitable to exercise the role that the public administration has, as a mechanism of law enforcement in order to be respectful for the constitutional order.

Being at the service of citizens and for their needs of apprehending and realizing the rights and obligations of citizens, public administration should create mechanisms also convenient environment due to the involvement of citizens and civil society in decision-making.

Transparency and accountability of public administration and instruments of citizen involvement in decision-making, is the most important conceptual and practical challenge of transition countries, for the fact that public administration in the past in these countries has had a role and a conceptually different position and, in many cases, also on the legislative and judicial branches. Therefore, conceptual and legal reforms, and their implementation in practice in these countries encounter problems and obstacles of various natures. In many cases, constitutional and legal provisions do not correspond to practical reality.

The research, without claiming to create an overview of the practical implementation of constitutional and legal regulation at the central and local level in the Republic of Kosovo, will focus only on the regulatory and legal aspect in this area to compare with the countries in the region such as: *Albania, Macedonia and Montenegro*, which have approximately the same system of government also the same institutional culture and tradition to find the most appropriate modalities.

### **Theoretical approach**

In recent decades the democratization and socialization of public administration is one of the most important elements of governance reforms, in particular the countries of Southeast Europe through public administration reform, democratization and socialization aim to break away from the previous system, where public administration has been the main mechanism in preserving the values of monistic systems.

In modern times, the role of public administration has conceptually changed and today it is treated and perceived as a service to citizens and its functions as well as the responsibilities are in addition to exercising state sovereignty are also services for the needs of citizens in order to improve the quality of life. An important feature of this administration is the involvement of citizens in decision-making through public consultations, public gatherings and other democratic mechanisms at both central and local levels.

Public consultation is a process which involves the general public in providing various ideas, proposals, views and social reactions on issues which are considered issues of general public interest by community. To consult means to get the other person's or other's view on a particular issue. If one considers that there is a "spectrum" of decision-making (as illustrated), consultation lies somewhere between notification and negotiation. "Although less than a negotiation may be required, even though that does involve a wide range of situations in which public may have some clues or

information about<sup>1</sup>” (Handbook on Public Consultations at Local Level, 2021).

“Public consultation is considered an ideal tool to improve democratic governance, helping governments [central, regional and local] to consult with citizens / their community on key public policy issues facing the government. To this end, public consultation it is necessary to look at the pluralism and diversity of views of other parties, which are not part of the government<sup>2</sup> (Handbook on Public Consultations at Local Level, 2021). Consultation means “actively seeking the views of interested and affected groups. It is a two-way flow of information “It can happen at any stage of a project development. It can be a one-stage process or an ongoing dialogue. Furthermore, participation means the active involvement of interest groups in the formulation of various decisions or solutions<sup>3</sup>” (darzin, n.d.).

*“Public consultation is very important for the community of that location, because: It affects the improvement of the quality of life to the community; Informs the public and informs them about the policies of the municipality; Encourages the public to be part of the decision-making process; It has a minimal cost; Enables all parties (public) involved to be part of decision-making and policy-making; Increases community social cohesion and inclusion; Creates facilitation and innovative ideas for the benefit of that community location; contributes to and enhances the triangle: transparency, good governance and accountability to citizens; the public can provide the necessary ideas and information for municipal programs or projects<sup>4</sup>”* (Handbook on Public Consultations at Local Level, 2021).

Due to the importance of public consultations, many international organisations and institutions have drafted public consultation documents and procedures for the purpose of an effective consultation process.

The International Covenant on Civil and Political Rights (ICCPR), in its 25th Article states that every citizen has the right and opportunity, without any distinction and without unreasonable restrictions, to participate in the conduct of public affairs, directly or through freely elected representatives.

In 2001 the European Commission drafted the White Paper on European Governance, by which suggests creating a broad culture of consultation and communication with citizens, by establishing a code of conduct that sets minimum standards, focusing on who, when and how to consult. The aim of these standards is to improve the representation of civil society, organisations and also to structure their debate with EU institutions.<sup>1</sup> However, this consultation is not a new process within the EU. This is because the commission has a long tradition of consulting external stakeholders when formulating its policies. It includes external consultations in the development of almost all of its policies. In 2002, the European Commission adopted general principles and minimum standards for stakeholder consultation (EC Minimum Principles and Standards). This document “refers to the most important issues of

<sup>1</sup> Handbook on Public Consultations at Local Level, p.8, Prishtinë 2021, <https://mapl.rks-gov.net/wp-content/uploads/2021/06/FINALEE-Manuali-ne-tri-gjuhet-1.pdf>.

<sup>2</sup> Handbook on Public Consultations at Local Level, p.9, Prishtinë 2021 <https://mapl.rks-gov.net/wp-content/uploads/2021/06/FINALEE-Manuali-ne-tri-gjuhet-1.pdf>.

<sup>3</sup> <https://www.darzin.com/public-consultation/>, accessed during June 2019.

<sup>4</sup> Handbook on Public Consultations at Local Level, p.9, Prishtinë 2021 <https://mapl.rks-gov.net/wp-content/uploads/2021/06/FINALEE-Manuali-ne-tri-gjuhet-1.pdf>

public consultation, where it is required:

- Providing clear documents for consultation;
- Consultation with all relevant target groups;
- Allowing sufficient time for participation;
- Publication of results and informing participants of the results of their comments<sup>5</sup> (Commission of the European Communities, 2002).

Also the European Card of Local Self-Government and the Additional Protocol on the right to participate in the affairs of local authorities as an international treaty for the implementation of this Card, entered into force on June 8th, 2012. This protocol aims to establish international legal guarantees for the exercise of the right of citizens to participate in local authorities<sup>6</sup> (Council of Europe, 2009).

### **Constitutional and legal aspects of citizen participation in decision-making processes in public administration in the Republic of Kosovo**

In the Constitution of the Republic of Kosovo, Article 2.1 defines that, *“The sovereignty of the Republic of Kosovo originates from the people, belongs to the people and is exercised in accordance with the Constitution, through elected representatives, by referendum and in other forms in accordance with constitutional provisions”*. Article 3 of the Constitution of Kosovo, defines that the Republic of Kosovo is a multi-ethnic society composed of Albanians and other communities which governs democratically with full respect for the rule of law through its legislative institutions.

Whereas paragraph 2 of this Article defines that, *“The exercise of public authority in the Republic of Kosovo is based on the principles of equality before the law of all individuals and the full respect of internationally recognised human rights and fundamental freedoms as well as the protection of rights and participation of all communities and their members”*<sup>7</sup> (Constitution of the Republic of Kosovo, 2008).

Conceptually viewing, most of the Constitutions of European countries determine that sovereignty belongs to the people and is practiced by the people through elected representatives or forms of personal declaration, through legislative initiatives or referendums. The form and manner of exercising the sovereignty of the people is regulated by many provisions of the constitution distributed in chapters of the Constitution that refer to areas of constitutional matter.

It will be emphasised that the Constitution of the Republic of Kosovo as a modern and democratic constitution, in its interior has incorporated international agreements and documents such as: the comprehensive proposal for the agreement on the status of Kosovo, an agreement which is included in all the constitutional matter in particular

<sup>5</sup> European Commission: “Commission of the European Communities - Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission”, Brussels, 2002, p. 21 [https://ec.europa.eu/governance/docs/comm\\_standards\\_en.pdf](https://ec.europa.eu/governance/docs/comm_standards_en.pdf)

<sup>6</sup> Council of Europe (2009), Additional Protocol to the Charter of Local Self-Government on the right to participate in the affairs of the local authority, Article 1 <https://rm.coe.int/168008482a>

<sup>7</sup> Constitution of the Republic of Kosovo, Article 2 and 3 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702>

in the field of representation and protection of the rights of communities. This agreement, although promoting the principle of equality, non-discrimination, protection and respect for the highest level of human rights and freedoms provided in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and freedoms and followed by its protocols<sup>8</sup> (Constitution of the Republic of Kosovo, 2008) there are also restrictive, discriminatory and undemocratic elements. The most practical illustrative example is the prohibition of holding a referendum on the adoption, amendment or repeal of laws of vital interest as defined in Article 81 at the Constitution of the Republic of Kosovo.

According to the Constitution of the Republic of Kosovo, the initiative to propose laws can be taken by the President of the Republic of Kosovo from his/her field of activity Government, Members of the Assembly or at least ten thousand citizens in the manner prescribed by law<sup>9</sup> (Constitution of the Republic of Kosovo, 2008).

Law no. 04 / L-025 on legislative initiatives, determines the right of legislative initiative by straight citizens based on the following principles: Every citizen can initiate a legislative initiative; Every citizen is entitled to equal rights with regard to legislative initiative; Any form of discrimination or restriction to propose laws based on race, colour, gender, language, religion, political stand or other opinions, national or social origin, affiliation with any community, property, economic status, social status, sexual orientation, origin, disabilities or any other personal status is prohibited<sup>10</sup> (Law No. 04 / L-025 on Legislative Initiatives, 2011).

Regulation No. 09/2011 on the work of the Republic of Kosovo government, defines the obligation to consult with citizens from the initial stage of initiating legal proposals for which a concept paper is required that in addition to consultations of Ministries and administrative bodies, the proposing council must 'publish the content of its proposal for public comment and will specifically seek comments from non-governmental organisations which are significantly influenced by the proposal. The Government of the Republic of Kosovo has adopted Regulation No. 05/2016 on minimum standards for the public consultation process, which aims to promote and ensure a public consultation process between public council, stakeholders and the public in general for a comprehensive participation in the process of policy-making and decision-making in the public interest as well as increasing the transparency and accountability of public council to stakeholders and the people<sup>11</sup> (Regulation on Public Consultations, 2016).

The Constitution of the Republic of Kosovo represents the basic legal basis for the construction and functioning of local self-government in Kosovo, which has been

<sup>8</sup> Constitution of the Republic of Kosovo Article 2, paragraph 2.1 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702>

<sup>9</sup> Constitution of the Republic of Kosovo Article 79 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702>

<sup>10</sup> Law No. 04 / L-025 on legislative initiatives, Article 10 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2776>

<sup>11</sup> Regulation No. 05/2016 on minimum standards for the public consultation process Article 1 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=15036>

directly accepted in the constitutional matter the European Charter of the Local Self-Government. Kosovo' Constitution provides that local self-government is based on the principles of good governance, transparency, efficiency and effectiveness in service delivery, paying special attention to the specific needs and concerns of non-majority communities and their members<sup>12</sup> (Constitution of the Republic of Kosovo, 2008).

The right to local self-government is guaranteed and regulated by law. Local self-government is exercised through representative bodies elected in general, equal, free and fair elections also by hidden ballot<sup>13</sup> (Constitution of the Republic of Kosovo, 2008).

According to the Law on Local Self-Government, the basic unit of local self-government in the Republic of Kosovo is the municipality. Municipalities are entitled to a high degree of local self-government, encourage and ensure the active participation of all citizens in the decision-making process of municipal bodies.

The Law on Local Self-Government in Chapter IX, defines the mechanisms of transparency and direct democracy of citizen participation in decision-making process according to the standards and manner of the European Charter of the Local Self-Government.

The Ministry of Local Government Administration, in order to assist municipalities and standardise transparency has issued Administrative Instruction (MPL) no. 03/2020 on Transparency of Municipalities. This Administrative Instruction obliges municipal bodies to make decisions, activities and documents transparent and accessible to the public, according to certain legal deadlines with the exception of confidential documents and the implementation of mechanisms for citizen involvement in decision-making processes<sup>14</sup> (Administrative Instruction on Transparency, 2020). Transparency is the open activity of municipal bodies that provides the public and stakeholders with the opportunity to participate in the decision-making process<sup>15</sup>. (Administrative Instruction on Transparency, 2020).

Also, the Ministry of Local Government Administration has issued Administrative Instruction (MLGA) no. 06/2018 on Minimum Standards for the Public Consultation in Municipalities, which aims to encourage and ensure by local authorities the participation of citizens and other stakeholders in the policy-making and decision-making process at the local level, to promote municipal transparency, as well as to influence the development of sustainable policies in the general interest<sup>16</sup> (A.I. on Minimum Standards for Public Consultation , 2018).

<sup>12</sup> Assembly of Kosovo: "Constitution of the Republic of Kosovo", April 2008, chapter X, article 123, point 4. <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702>

<sup>13</sup> Assembly of Kosovo: "Constitution of the Republic of Kosovo", April 2008, chapter X, article 123, points 3 and 4. <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702>

<sup>14</sup> Administrative Instruction (MPL) No.03 / 2020 on transparency in municipalities, Article 1, p.1 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=31852>

<sup>15</sup> Administrative Instruction (MPL) No.03 / 2020 on transparency in municipalities, Article 3, p.2 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=31852>

<sup>16</sup> Administrative Instruction (MLGA) No. 06/2018 on Minimum Standards for Public Consultation in Municipalities, Article 1 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18425>

Other acts that regulate transparency, accountability and involvement of citizens in decision-making processes at the local level are: Law on Access to Public Documents, Regulation (MLGA) no. 01/2017 on the Procedure for Drafting and Publication of Municipal Acts, Administrative Instruction ( MAPL) Nr. 02/2019 on organisation, functioning and cooperation with Villages, Settlements and Urban neighbourhoods and Municipal regulations for transparency.

According to the Law on Local Self-Government, each municipality periodically holds, at least twice a year, public meetings in which any person or organisation of interest in the municipality can participate<sup>17</sup> (Law on Local Self-Government, 2008).

Citizens can also take the initiative to propose regulations, within the competencies of the municipality, for approval by the assembly or by vote of the citizens, in accordance with applicable law. The proposed draft regulation must be signed by 15% of registered voters for hearing by the municipal assembly<sup>18</sup> (Law on Local Self-Government, 2008).

The law also provides for the possibility of organising a referendum as a more advanced mechanism of personal declaration of citizens in the municipality, the citizens of the municipality can request that the regulation of the municipal assembly approved by the municipal assembly, be subject to referendum. The request must be submitted to the chairperson of the municipal assembly, within 30 days from the date of approval of the regulation which must be signed by 10% of the registered voters<sup>19</sup>. (Law on Local Self-Government, 2008).

One of the mechanisms of local democracy is the initiative to remove the mayor. Such a request must be signed by twenty (20) percent of the registered voters and submitted to the chairperson of the municipal assembly, who submits the matter to the relevant voting administration institution<sup>20</sup> (Law on Local Self-Government, 2008).

### **Comparative aspects of citizen participation in decision-making processes in public administration of the countries in the region**

#### **Comparisons with the Republic of Albania:**

The Republic of Kosovo and the Republic of Albania, as a basic constitutional principle, have the sovereignty of the people which is exercised through its representatives, or through direct democracy over the personal declaration of the citizens.

The referendum according to Article 177.4 of the Constitution of the Republic of Albania, can be organised for draft constitutional amendments unlike the Constitution of the Republic of Kosovo which excludes the possibility of a referendum for approval

<sup>17</sup> Law on Local Self-Government, Article 68, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2530>

<sup>18</sup> Law on Local Self-Government, Article 70, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2530>

<sup>19</sup> Law on Local Self-Government, Article 71, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2530>

<sup>20</sup> Law on Local Self-Government, Article 72, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2530>

and amendment of the Constitution and legislation of vital interest.

Unlike the Republic of Kosovo, the Assembly of the Republic of Albania has issued a special law on public notification and consultation, which regulates the process of notification and public consultation of draft laws, draft national and local strategic documents and policies of high political interest such as for the central as well as for the local level<sup>21</sup>, (Law on Local Self-Government, 2008) unlike the Republic of Kosovo where the procedure of public consultations with citizens is not done by law but by special bylaws for the central level and for the local level.

Pursuant to this law, the Government of the Republic of Albania has approved the guide for the public consultation process (order no. 3 dated 29,01,2021), where this guide contains the main standards and principles of public consultation, procedures and institutional framework for coordination, management and quality control of public consultation, rules for planning, implementation, reporting and evaluation of the consultation process, including collection and analysis of comments received, as well as drafting annual (and semi-annual) reports of ministries and central institutions, depending on The Prime Minister over the results of the public consultation<sup>22</sup> (Law on Local Self-Government, 2008).

The Republic of Albania, similar to the Republic of Kosovo, has accepted in its legislation the basic principles of the European Charter of Local Self-Government. However, unlike the Republic of Albania, the Republic of Kosovo has accepted the European Charter of Local Self-Government directly in the text of the Constitution.

The Law on Local Self-Government of the Republic of Kosovo and the Law on Local Self-Government of the Republic of Albania contain legal provisions for public consultations, local democracy and citizen participation in decision-making in the way of the European Charter.

Regarding the public consultation, the mechanisms are more or less the same, both in terms and the manner of public consultation and the principles of public consultation, the organisational procedures and the parties are involved in public hearing or debate.

But realistically assessed and estimated, public hearings with citizens in both the Republic of Albania and the Republic of Kosovo are more accepted as formal issues, as legal obligations than a sincere commitment to get the opinion of citizens and to encourage citizens to be part of decision making.

The Law on Local Self-Government of the Republic of Albania contains the right of every community that through its representatives or authorised persons or not less than 1% of the inhabitants of the community have the right to submit for decision-making in the municipal council civic initiatives on issues that are within jurisdiction of the local self-government unit. The procedures for initiating the requests of citizens and the community are much easier than in the procedures of citizens' initiatives provided by Article 70.3 of the Law on Local Self-Government of the Republic of Kosovo, where a proposed draft regulation must be signed by 15% of registered

<sup>21</sup> Law No. 146/2014 On Public Notification And Consultation, Article 1, [https://www.adisa.gov.al/wp-content/uploads/2021/03/Ligj\\_146\\_2014\\_30.10.2014.pdf](https://www.adisa.gov.al/wp-content/uploads/2021/03/Ligj_146_2014_30.10.2014.pdf)

<sup>22</sup> <https://www.adisa.gov.al/wp-content/uploads/2021/03/URDHER-Nr.-3-Dt.-29.01.2021-compressed.pdf>

voters to be considered in the Municipal Assembly (Law on Local Self-Government, 2008)<sup>23</sup>, in future legal changes this criterion should be reconsidered because it is difficult to achieve with the current criteria, which is presented as an obstacle to civic initiatives.

### **Comparisons with the Republic of Northern Macedonia:**

Similar to the Constitution of the Republic of Kosovo and the Republic of Albania, the Constitution of the Republic of Northern Macedonia provides that, «*Sovereignty originates from the citizens and belongs to the citizens*» (Constitution of the Republic of North Macedonia, 1991)<sup>24</sup>. Both constitutions stipulate that legal initiatives must be supported by at least ten thousand citizens.

Analysing the legal mechanisms and instruments for public hearings with citizens, it can be concluded that the Republic of Kosovo has much more advanced legislation than the Republic of Northern Macedonia, both in form and content. In the Republic of Kosovo in detail Government regulation no. 05/2016 on minimum standards for the public consultation process, has set minimum standards aimed at developing effective public debates in the process of drafting policies and legislation through public bodies, stakeholders and people without meeting the drafting process of policies and legislation is not considered complete unless otherwise provided by applicable law<sup>25</sup> (Regulation on Public Consultations, 2016).

Even at the local level in the Republic of Kosovo, minimum standards of public consultation have been set in order to develop effective public hearing during the process of drafting policies and bylaws by municipalities with the involvement of stakeholders and citizens, without which the process of design is not considered complete.

In the Republic of Northern Macedonia, public consultation procedures are generally defined for all public institutions, both at central and local level, leaving room for more initiating institutions that determine their own procedures for public debate with citizens.

Also in the Republic of Kosovo, issues of public consultation and civic democracy are under the authority and responsibility of the Office for Good Governance, as a civil and permanent part of the Government, unlike the Republic of Northern Macedonia where the Office of the Deputy Prime Minister is in charge of public consultations with citizens. Given that the Deputy Prime Minister is part of the political structures, we believe that this process can be politicised and become more of a political performance.

In terms of local democracy and mechanisms of citizen participation in decision-making at the local level, more or less both countries have similar systems and in the

<sup>23</sup> Law on Local Self-Government, Article 70, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2530>

<sup>24</sup> Constitution of the Republic of North Macedonia, Article 2 <https://www.sobranie.mk/content/ustav%20al/ustav%20rsm-al-ok.pdf>

<sup>25</sup> Regulation (GRK) no. 05/2016 on minimum standards for public consultation process, Article 3 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=15036>

similar way of the European Charter of Local Self-Government. Differences can be noticed in the criteria for civic initiatives, where according to the Law on Local Self-Government in Kosovo, it is required that the draft regulation proposed by citizens must be signed by 15% of registered voters in the municipality to be reviewed by the Municipal Assembly (Law on Local Self-Government, 2008)<sup>26</sup>. Whereas according to the Law on Local Self-Government of the Republic of Northern Macedonia, this criterion is 10% of the signatures of the voters of the municipality. Another difference consists in public gatherings with citizens according to the Law on Local Self-Government in the Republic of Kosovo, each municipality periodically holds public meetings with citizens at least twice a year Assembly (Law on Local Self-Government, 2008)<sup>27</sup> while according to the LLSG of the Republic of Northern Macedonia, the mayor of the municipality on his own initiative calls public gatherings, per the request of the council or at the request of at least 10% of the voters of the municipality, respectively of the local self-government to which the determined issue is dedicated (Law on Local Self-Government of North Macedonia, n.d.)<sup>28</sup>

As can be seen, the modalities of local democracy in the Republic of Kosovo are more advanced, more specified and more standardised than in the Republic of Northern Macedonia.

### **Comparisons with the Republic of Montenegro:**

Even according to the Constitution of Montenegro, the bearer of sovereignty is the citizen itself. (Constitution of the Republic of Montenegro, 2007)<sup>29</sup>. Unlike the Constitution of the Republic of Kosovo, this Constitution for the initiation of the legislative process by the citizens requires a threshold of six thousand voters, while for the proposal to call a referendum it is required at least 10% of eligible citizens (Constitution of the Republic of Montenegro, 2007)<sup>30</sup>. When we take into account the number of inhabitants that the Republic of Montenegro has, then it is very easy to meet these two very democratic criteria with which citizens are consulted and involved in decision-making on very important issues.

The Law on State Administration of the Republic of Montenegro defines in great detail the mechanisms of public consultation and involvement of citizens in decision-making. The law in question explicitly defines the obligation for state administration bodies and other public institutions that all legal initiatives, plans and strategies go through public hearing procedure specifying acts which are exempt from the public

<sup>26</sup> Law on Local Self-Government, Article 70, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2530>

<sup>27</sup> Law on Local Self-Government, Article 68, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2530>

<sup>28</sup> Law on Local Self-Government of North Macedonia, Article 27, <http://mls.gov.mk/images/laws/Ligji%20i%20veteqeverisjes%20lokale.pdf>

<sup>29</sup> Constitution of the Republic of Montenegro, Article 2 <https://wapi.gov.me/download-preview/6c22f4e8-f4f0-452b-82ad-5a1cfc8ae898?version=1.0>

<sup>30</sup> Constitution of the Republic of Montenegro, Article 93 <https://wapi.gov.me/download-preview/6c22f4e8-f4f0-452b-82ad-5a1cfc8ae898?version=1.0>

consultation process. The Law on State Administration of the Republic of Montenegro, in this aspect is much more advanced than the Law on the Organisation and Functioning of the State Administration and Independent Agencies in the Republic of Kosovo. The law in question also provides that the main burden of conducting public hearings, in all early stages of the preparation of laws and strategies, rests with the sponsoring minister, obliging them to follow the detailed procedures by law.

The right to local self-government according to the Constitution of the Republic of Montenegro includes the right of citizens and local self-government bodies to regulate and administer certain jobs and other public works, based on their own responsibility and in the interest of the local population<sup>31</sup> (Constitution of the Republic of Montenegro, 2007). This definition is more meaningful and puts the citizen and his interests at the core of local government.

According to the Law on Local Self-Government of the Republic of Montenegro in the local referendum, citizens from a part of the territory of the municipality vote on issues within the competence of local self-government. The conditions and manner of implementation and the issues for which the citizens will declare themselves in the local referendum are determined by the statute. The municipal referendum may be convened for the purpose of preliminary voting of the citizens in the territory of the municipality on certain issues from the competencies of the local self-government in the cases, in the manner and procedure determined by the statute of the municipality, in accordance with the law<sup>32</sup> (Constitution of the Republic of Montenegro, 2007). Thus, according to this provision, the legislation of local government in the Republic of Montenegro regulates the issue of local referendum and extends the right to referendum to certain administrative parts of the municipality and not only the municipality as an administrative unit, as is the case with the Republic of Kosovo.

Analysing entirely, the modalities of local democracy in the Republic of Montenegro are clearly distinguished in terms of certain administrative areas within the territory of the municipality to have the right of initiative and the right to consult projects within the respective administrative area. This is also a consequence of the electoral system at the local level where a majority system is divided into separate electoral units as opposed to the proportional system, with a single area in the municipality that applies to the Republic of Kosovo. Consequently, the mechanisms of local democracy and citizen decision-making in the electoral system for local government in the Republic of Montenegro creates premises for more effective local democracy and more effective and active citizens.

## Conclusions

As the Republic of Kosovo has a very similar governing system to the Republic of Montenegro, Macedonia and Albania, they have applied approximately the same standards and rules that refer to transparency, accountability and involvement of

<sup>31</sup> Constitution of the Republic of Montenegro, Article 113 <https://wapi.gov.me/download-preview/6c22f4e8-f4f0-452b-82ad-5a1cfc8ae898?version=1.0>

<sup>32</sup> Constitution of the Republic of Montenegro, Article 162 and 163 <https://wapi.gov.me/download-preview/6c22f4e8-f4f0-452b-82ad-5a1cfc8ae898?version=1.0>

citizens in decision-making.

All these countries, like other countries in Southeast Europe, have had as a point of reference of the European acts and standards, in particular the White Paper on European Governance drafted by the European Commission in 2001, and the Additional Protocol to the European Charter of Local Self-Government which aims at establishing international legal guarantees for the exercise of citizens' right to participate in local authorities.

Any analysis due the implementation of these standards in the legislation of these countries will lead to a positive assessment, but the reality does not correspond to the legislative standards. Public authorities perceive the issue of democracy and citizenship decision-making more as a formal legal issue than a substantive mission. Given that the people in these countries have the same political culture and a common history, it would be very preferable to cooperate between different civic initiatives, through joint projects for public awareness and raising the political culture for more effective involvement in decision-making of public authorities.

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