

ELIAMEP Briefing Notes

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Serbian Elections in Kosovo incorporating an electoral procedure into two different narratives

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On the 6th of May Serbian citizens are called to cast their ballots for all elected posts in their country: the President of the Republic, the deputies in the National Assembly and the municipal authorities. Citizens of the Autonomous Province of Vojvodina will also elect the members of their local parliament.

In this election cycle the disputed status of Kosovo brought about considerable implications. Serbs view Kosovo as an inalienable part of their country—albeit under provisional international trusteeship—and consequently deem it unquestionable that elections should be held there, just like in the rest of the country. On the other hand, the Pristina government, having unilaterally declared independence in February of 2008, considers that Serbian elections can no longer be held in Kosovo since it is not part of Serbia. These two contradictory views are reflected on the ground by parallel structures. Institutions of independent Kosovo span all over the country except over the northern part, which is controlled by Serbs. Constructed in parallel, the institutions of the Serbian state are found in North Kosovo, as well as in the scattered enclaves where Serbs reside. This setting has created a peculiar status of dual sovereignty with all the problems it entails.

After the remarkable progress of the technical dialogue between Belgrade and Pristina, the international community decided to go another step forward and seized the opportunity of the Serbian elections to put an end to the anomaly of the parallel municipal authorities. Therefore, many foreign governments, mostly from the European Union, put considerable pressure on Belgrade not to call for local elections in the Kosovar municipalities.

For the parliamentary and presidential races things were different. Neither the Serbian President nor the National Assembly of Serbia is a disputed institution and, what is more, there is no sub-national representation in the parliament (the whole country is a single constituency). Therefore, no one disputes the right of the Serbian citizens in Kosovo to participate in parliamentary and presidential elections. However, in the case of the Kosovo municipalities, the constituencies lie entirely in the territory taken out of Belgrade's administration in 1999 or (for those who recognise Kosovo's independence) in another state, where another authority conducts elections to fill in the municipal councils, be it the provisional institutions under international protectorate or the institutions of the independent Republic of Kosovo.

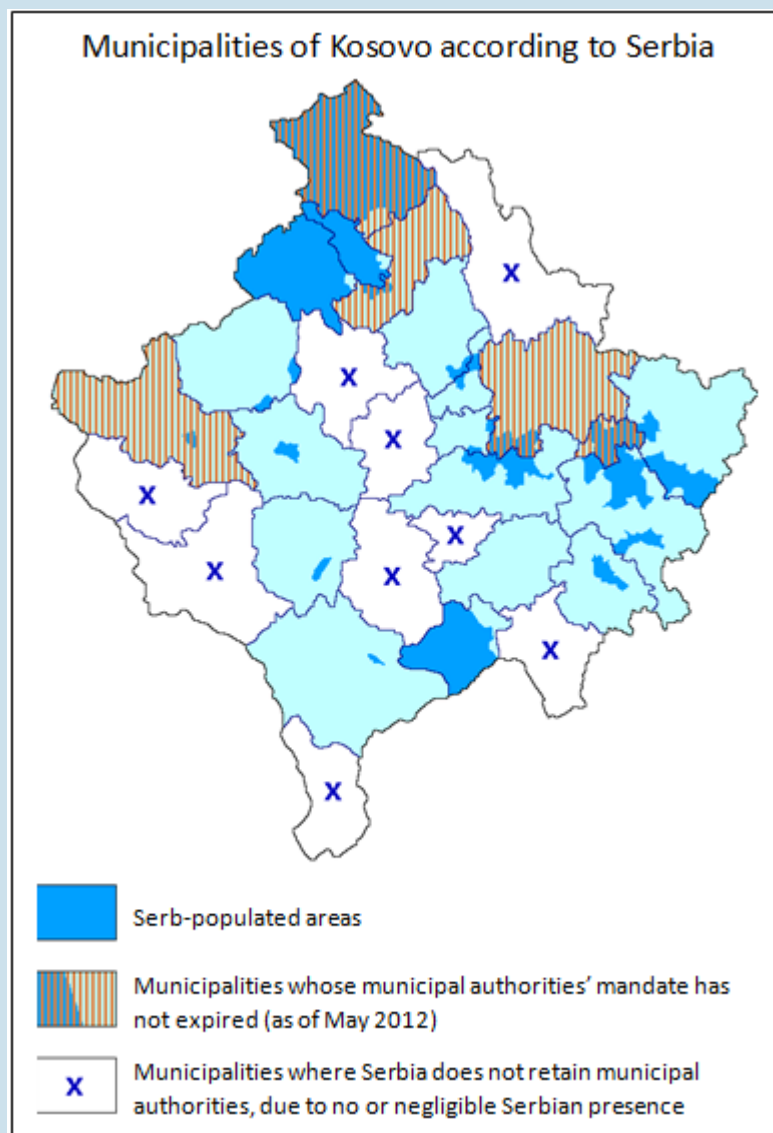
As expected, Pristina stepped forward against the conduct of Serbian elections in Kosovo. After the declaration of independence from Serbia in February 2008, the Pristina government concludes that Serbian elections cannot be held in Kosovo since it is no longer part of Serbia. Encouraged by the resolved attitude of the international community, the Kosovar government made it clear that any attempt from Belgrade to carry out elections in Kosovo will be considered a challenge to Pristina's jurisdiction over the territory of Kosovo, and hence an aggressive provocation which will be decisively thwarted, even by the use of force if necessary. Indeed, Kosovo police temporarily detained a few Serbian representatives in Kosovo who were caught carrying electoral material "for undermining the constitutional order".

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The Serbian government, however, would find it difficult to follow the international recommendations and go against its own laws by canceling the local elections for its Kosovo municipalities and above all, communicating this move to its own electorate, if it had not been facilitated by UNMIK. Under UN Security Council Resolution 1244, the cornerstone document for the Serbian policy vis-à-vis Kosovo, UNMIK has been responsible for conducting elections there since 1999. Accordingly, the Serbian Minister for Kosovo and Metohija asked for UNMIK's cooperation in conducting the elections in the territory under its surveillance, but the international mission dismissed the possibility of carrying out local elections "due to the prevailing circumstances on the ground".

Reactions from Belgrade were mostly acquiescent. Although the authorities issued a verbal condemnation of UNMIK's decision "to succumb to the Albanian threats", most Serbian political parties, including the opposition centre-right Serbian Progressive Party (SNS)—which comes first in the pre-election opinion polls—appeared to be considerate given UNMIK's confined operational capacity, and argued against holding local elections in Kosovo on the grounds that Serbia should not violate resolution 1244, which is the most important international document that guarantees Serbian sovereignty over Kosovo and which the Serbian side very often calls upon. Only the extreme-rightist Serbian Radical Party (SRS) and the former Prime Minister Vojislav Koštunica's Democratic Party of Serbia (DSS), as well as most representatives of the Kosovo Serbs, were unreservedly in favour of defying UNMIK's decision and proceeding with the municipal elections in Kosovo. It seemed that otherwise it would be an implicit recognition of Kosovo's independence and a violation of the Serbian constitution. They also pointed to the 2008 elections when there was a municipal race as well, as in Serbia proper, and UNMIK

had not objected to it. President Tadić's Democratic Party (DS), the major governmental party, answered by underlining the supremacy of international over domestic law and reaffirmed that the absence of local elections does not mean that Serbian municipal authorities in Kosovo will cease to exist, reminding them that from 1999 until 2008 there had also been no Serbian local elections for the Kosovo municipalities and yet Serbian institutions remained functional.



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The whole discussion concerns 15 municipalities. Serbia retains municipal structures in Kosovo only in the municipalities with at least a minimal Serbian presence. Most of them are in fact small enclaves consisting of one or a few villages that stand nominally for the whole municipality they belong to. Be that as it may, local elections were not called for 17 (later reduced to 12) municipalities all over Serbia where there have been early elections and therefore the respective municipal authorities' mandate has not expired yet; among them are 5 Kosovo municipalities, two of which are the all-important municipalities of Kosovska Mitrovica and Leposavić in North Kosovo.

Belgrade's announcement to put off municipal elections in Kosovo was met with resentment and opposition by the Kosovo Serbs. After unsuccessful lobbying to overturn the decision, representatives of Zvečan and Zubin Potok, the remaining two municipalities of North Kosovo whose municipal authorities' mandate has expired, aired their intention to organise local elections on their own initiative once they are out of reach by the Kosovar security forces and can therefore stand up for such an endeavour. Still, Belgrade has stated that it will not recognise these election results.

Once Belgrade decided to refrain from local elections in Kosovo, international pressure was redirected towards Pristina to accept the parliamentary and the presidential elections. The Kosovar government gave its concession after it was agreed that elections would not be carried out by the Serbian state election commission but by Organisation for Security and Cooperation in Europe (OSCE). It was also agreed that OSCE will undertake the task of transporting the ballot boxes to the nearby area of Raška in Serbia proper to be counted, a provision resented by Serbs who nevertheless accepted it for the sake of security of their electoral workers.

After the commotion has calmed, both parties can incorporate the Serbian election procedure into their firm view on the Kosovo issue. For Serbs, elections are held throughout the Serbian territory, including Kosovo—except for the local Kosovar race because of the negative answer of UNMIK. For Kosovars, their fellow citizens, who also hold Serbian citizenship but reside in Kosovo, vote for the president and the parliament of the neighbouring state. Another example of compromise between two conflicting views? Protracting a frozen conflict with no prospect for common language or a leg of a long and tiring journey to a viable solution?

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