

Municipal administrations in North Kosovo – a two-headed dragon in one body

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The system of functioning of municipal administrations in North Kosovo reminds us of a dragon, a mythical two-headed being in one body, where one "head" looks towards Belgrade, and the other towards Pristina

1. Introduction

Since the signing of the Kumanovo Agreement and the arrival of the UNMIK mission in Serb-majority municipalities in Kosovo, there are two systems of local self-government, one operating in the legal system of Serbia and the other in the legal system of Kosovo. This situation is particularly emphasized in the four municipalities in North Kosovo (Leposavic, Mitrovica North,² Zubin Potok and Zvecan) that maintained the same institutional structure from the pre-war period.

The system of organizing local self-governments created by UNMIK, and later the Kosovo Government, never succeeded in operating in full capacity in these municipalities. This did not happen even after the Brussels Agreement (April 2013), when the conditions for organising local elections under the Kosovo laws in these municipalities were set. At the elections, mayors and councillors in municipal assemblies were elected, but very few things have changed at the level of functioning of municipal administrations.

As a consequence, we often encounter duplication of municipal departments, functions and employees in municipal administrations that operate in two separate systems, which creates a confusing picture among citizens when it comes to the competencies of local administration, but also among employees in municipal administrations who are also torn between the two systems. This whole situation also affects the transparency, efficiency and accountability of municipalities in the performance of public functions under their jurisdiction.

This paper will give an overview of the competencies and system of organizing municipal administrations within the Serbian and Kosovo systems in Serb-majority municipalities in North Kosovo. A comparative analysis of the laws on local self-government in Serbia and Kosovo has also been provided, where similarities and differences between the two systems are highlighted.

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² Mitrovica North was recognized as a separate municipality only after the signing of the Brussels Agreement (2013). In the Serbian system, this municipality still uses the name "Kosovska Mitrovica", which it held before the war.



2. Comparative analysis of the laws on local self-government in Serbia and Kosovo

2.1 Local self-government bodies and their competencies

Laws regulating the operation of local self-governments in Serbia and Kosovo are in line with the European Charter of Local Self-Government of the Council of Europe, so they are very similar because they provide for the same or similar competencies of municipalities. However, due to different legislation and institutional development, to a certain extent, these laws are also different.³ Table 1 gives an overview of differences in terminology between the Laws on Local Self-Government of Serbia⁴ and Kosovo.⁵

Table 1 Comparative overview of differences in terminology in the Laws on Local Self-Government

Law on Local Self-Government of Serbia	Law on Local Self-Government of Kosovo
President of the municipality	Mayor
Head of municipal administration	Chief of staff
Head of department	Director of department

Source: comparative analysis of laws on local self-government of Serbia and Kosovo

Both laws define the municipality as the basic local self-government unit. In Serbia, the municipal bodies are (Article 27 of the Law on Local Self-Government of Serbia): municipal assembly, president of municipality, municipal council and municipal administration. The Municipal Assembly is the highest body of the municipality that performs the basic functions of the local authorities, as defined by the Constitution, the law and the statute of the municipality (Article 28, *ibid.*). The executive body of the municipality consists of the president of the municipality⁶ and the municipal council (Article 42, *ibid.*). The president of the municipality is elected by the assembly from the councillors, by a majority of votes, and the term of office is four years (Article 43, *ibid.*). The municipal council consists of the president of the municipality, the deputy president of the municipality, as well as the members of the municipal council whose number is determined by the statute of the municipality, and who are elected by the municipal assembly by a majority of votes for a term of four years (Article 45, *ibid.*). The competencies of the municipal assembly, the president of the municipality, and the municipal council are described in the law on local self-government and in the statutes of the local self-government units.

In Kosovo, municipal bodies are composed of a municipal assembly and a mayor (Article 10 of the Law on Local Self-Government of Kosovo). The Municipal Assembly is the highest representative body of the municipality and it consists of its elected members. The Assembly adopts acts within its competencies, which are defined by the Constitution, laws and the statute of the municipality. The Mayor is the highest executive body of the municipality elected in direct elections (Article 56, *ibid.*). The Mayor also has the right to issue instructions and decisions in accordance with his/her authority and responsibility (Article 13, *ibid.*). Unlike Serbia, where there is a municipal council, in Kosovo, the mayor has all the executive power, but is assisted by the deputy mayor (appointed by the mayor). In municipalities where at least ten percent of citizens belong to non-majority communities, representatives of minority communities will have one deputy mayor in charge of communities (Article 61, *ibid.*).

The difference in legislation between Kosovo and Serbia is also reflected in the competencies in health care and education, where municipalities in Kosovo have much more authority than municipalities in Serbia.

³ It is important to mention that translation of Kosovo's laws to Serbian is not sufficiently accurate, which makes their interpretation and implementation more difficult.

⁴ Law on Local self-Government, "RS Official Gazette", no. 129/2007 and 83/2014, available at <http://bit.ly/2gbtx7t>

⁵ Law no.03/L – no. 040 on Local self-Government, available at <http://bit.ly/2tyqufg>

⁶ Law on Local Self-government of Serbia makes a difference between cities and municipalities. Cities are self-government units with a population of more than 100,000 (in special cases they can have a population of less than 100,000) and the executive function is performed by the mayor. Local self-government units with the population of less than 100,000 are municipalities, and the executive function is performed by the president of the municipality. According to the Law on Territorial Organisation ("RS Official Gazette", no. 129/2007 and 18/2016, Article 28), in the territory of Kosovo (and Metohija) there are 29 local self-government units, including 28 municipalities (Vitina, Vucitrn, Glogovac, Gnjilane, Gora, Decani, Djakovica, Zubin Potok, Zvecan, Istok, Kacanik, Klina, Kosovska Kamenica, Kosovska Mitrovica, Kosovo Polje, Leposavic, Lipljan, Novo Brdo, Obilic, Orahovac, Pec, Podujevo, Prizren, Srbica, Suva Reka, Urosevac, Stimlje and Strpce) and one city (Pristina).

Consequently, municipal administrations in Kosovo have established departments dealing with these sectors, which is not the case in Serbia.

Based on a comparative analysis of the laws in Serbia and Kosovo, it can be concluded that the mayors of Kosovo municipalities have significantly more power than the holders of executive functions (presidents of municipalities) in the Serbian system, while in the Serbian system the authority of municipal assemblies is greater than in case of Kosovo.

2.2 Organisation of municipal administrations in Kosovo and in Serbia

Municipal administration in Kosovo is organized by departments headed by a director appointed by the Mayor (Article 62 of the Law on Local Self-Government of Kosovo). Directors manage their departments in accordance with the strategic and political decisions of the Mayor, in accordance with the laws, the statute and other relevant acts. Municipal administration is comprised of employees in the municipality and elected persons (mayor, deputy mayor, department directors, president and deputy president of the municipal assembly and councillors). Municipal administration has a chief of staff who is equivalent to the head of the municipal administration according to the Law on Local Self-Government of Serbia. However, the Kosovo Law did not precisely define the competencies of the municipal administration, as is the case in the Serbian Law.

The difference between the two laws is in the election of the head of the municipal administration, that is, the chief of staff. In Serbia, it is specified that a person with a law school degree, with an exam for work in state administration bodies and at least five years of work experience in the field can be appointed for the position of the head of municipal administration (Article 54 of the Law on Local Self-Government of Serbia). This person is elected by the Municipal Council on the basis of a public vacancy, for a period of 5 years (Article 56, *ibid.*).

According to the Law of Kosovo, the Mayor announces a vacancy for the Chief of Staff (Article 66.3 of the Law on Local Self-Government of Kosovo), in accordance with the applicable Law on Civil Service, which states that employment in such a position is carried out in accordance with the principles of “competence, impartiality, equal conditions, non-discrimination and equal representation, through a public competition and after confirming the candidates’ ability to work” (Article 11 of the Law on Civil Service of Kosovo).⁷ For their work, Chief of Staff in Kosovo is directly responsible to the mayor, but not to the assembly (and the municipal council), as is the case in Serbia.

Municipal administration in the Serbian system is also organised by departments. The differences are, however, noticeable in the appointment of the heads of departments (in Serbia) or directors of departments (in Kosovo). In Serbia, local self-government units with over 50,000 inhabitants can organize several municipal administrations, that is, they can train municipal administrations in certain sectors (Article 53 of the Law on Local Self-Government of Serbia). Municipal administration is managed by the head, whether it is a single municipal administration or a number of municipal administrations (Article 55, *ibid.*). Municipal councils are appointed by the head of municipal administration in a public call (Article 56, *ibid.*), and in accordance with qualifications defined by the Law (Article 55, *ibid.*). The Rules on Internal Organisation and Job Classification of Municipal Administrations is adopted by the Head of Municipal Administration, with the approval of the Municipal Council, and the Head also appoints the managers within the organizational units in the municipal administration (Article 59, *ibid.*).

3. Municipal administrations in North Kosovo

Municipal administrations in North Kosovo have retained the same pre-war institutional form, and UNMIK’s efforts to form a different structure of municipal departments have not had significant results. After the declaration of Kosovo’s independence, the municipalities in the north refused to cooperate with the central authorities in Pristina, and consequently there were no changes in the form of municipal administrations in accordance with Kosovo’s legislation. Therefore, the municipal administration system in these municipalities differs significantly from other municipalities in Kosovo, as well as from municipalities in Serbia. Following the democratic changes (2000), there were significant reforms of local self-governments in Serbia, including the reform of municipal administrations, and those processes excluded municipalities in North Kosovo.

⁷ Law no.03/L – no. 149 on Civil Service of Kosovo, available at <http://bit.ly/2gSqFR5>.

After the signing of the Brussels Agreement (2013), the Serbian Government introduced provisional measures in the municipalities in North Kosovo, and appointed the Provisional Bodies, headed by the presidents, in charge of managing municipal affairs, including the management of municipal administrations. On the other hand, local elections were organised under the Kosovo laws, where the mayors and councillors in municipal assemblies were elected.

However, the election of officials did not bring significant changes on the level of functioning of municipal administrations, since the institutional structures remained the same as in the period after the Brussels Agreement, with the existence of a dual administration - one operating within the Serbian and the other within the framework of Kosovo's legislation. Both municipal administrations operate in the same premises (except Mitrovica North where the Administrative Office took over the function of municipal administration) and a part of the employees perform duties (the same or different) from both systems.

After local elections (2013), the Municipal Assembly was constituted and new statutes of municipalities were adopted, which were verified by the Ministry of Administration and Local Self-Government of Kosovo. When adopting the statute, there was a problem with the selection of the symbols of these municipalities (coats of arms, seal, emblem and flag), where it is stipulated that they are defined by a special procedure and a two-thirds majority at the municipal assembly session. However, even four years after the adoption of the statute, there was no definition of the symbols of these municipalities, which is a good indication of how sensitive this topic is. As a transitional solution, it was agreed that municipalities in the north use seals from the period when local self-governments were under the control of UNMIK.

According to Kosovo's legislation and statutes of municipalities, the municipal administration is organized by departments. Departments are, furthermore, organized by sections, whose job description is defined in a special act of the Mayor. Since departments have not been formed, the mayors of these municipalities have not yet adopted acts defining the number and description of the jobs performed by the sections.

Table 2 Overview of departments in municipal administrations in North Kosovo

Municipality	Number of departments in municipalities by the system of Serbia	Number of departments in municipalities by the system of Kosovo
Kosovska Mitrovica / Mitrovica North	7	16
Zvecan	3	13
Zubin Potok	4	15
Leposavic	5	15

Source: Statutes of local self-governments in North Kosovo by Serbian and Kosovo's system

The number of units according to Kosovo's system is much higher than it was in the Serbian system (Table 2). However, after the election, not all departments of municipal administrations were established, as stipulated by the statute, and the reasons are numerous - from the lack of budget funds to the resistance of holders of public functions, primarily the mayors, to execute the task.

The exception is the newly formed municipality of Mitrovica North, which inherited the Administrative Office⁸ of Mitrovica North which has become an essential part of the municipal administration of this local

⁸ Administrative office was established in 2012 in accordance with the Comprehensive Proposal for the Kosovo Status Settlement, known as the Ahtisaari Plan. Point 13.5 of the Comprehensive Plan indicates that during the 120 day transition period, Special Representative of the Secretary General (SRSG), shall, in coordination with the International Civil Representative, "create provisional municipal structures for the new municipality of Mitrovica/Mitrovica North... which shall be under the authority of the CIR, until the time of the first local elections in that municipality." The Government of Serbia and Serbs from Kosovo have not accepted the Maarti Ahtisaari's Comprehensive Proposal, and accordingly, they have not accepted institutional solutions from the Proposal, including the Administrative Office of Mitrovica North. After the signing of the Brussels Agreement and organisation of local elections in the municipality of Mitrovica North, Administrative Office became a part of the municipal administration of this local self-government. With this, the issue of employees in the

self-government. That is why the municipality of Mitrovica North is the only municipality in North Kosovo with a municipal administration that functions under the Kosovo's system and provides services to citizens in accordance with the Kosovo's legislation. There are currently seven departments within this municipal administration, and the plan is to set up nine more departments (a total of 16), as defined by the statute of this municipality.

In the other three municipalities (Leposavic, Zvecan and Zubin Potok), the functioning of municipal administrations is mainly based on activities related to the application for finance from available funds in order to develop municipalities. This work is mainly done by the mayors with their assistants and finance and public procurement officers. Bearing in mind that the process of forming departments in these municipalities has not been completed, other employees are mostly unassigned to their duties.

One of the biggest challenges in the process of forming municipal administrations by the system of Kosovo, i.e. the establishment of municipal departments, is in the fact that the number of jobs in the municipalities under the Kosovo's laws is much lower than those currently provided in municipal administrations operating under the Serbian system. Consequently, a significant number of workers in the existing municipal administrations would lose jobs because municipal budgets do not provide funds for their salaries. Therefore, resolving this problem requires a more comprehensive approach that no one currently wants to deal with, neither the Government in Pristina nor the Government in Belgrade, and especially the mayors (or the presidents of provisional authorities) in these municipalities.

Municipal administrations that functioned under the laws of the Republic of Serbia until the signing of the Brussels Agreement and the organisation of local elections (until 2013) continued to exist in a form that is possible under the circumstances. As for operations, these municipal administrations carry out the original and delegated responsibilities defined in the Law on Local Self-Government of Serbia. As noted earlier, these municipal administrations are managed by the Provisional Bodies, headed by the presidents appointed by the Government of Serbia. The Serbian government also continued to pay salaries to employees in these municipal administrations. However, it must be noted that these municipal administrations are not able to exercise all competencies from the Serbian system of local self-governments because many legal solutions in Serbia do not foresee enforcement in the territory of Kosovo. Thus, for example, a unified system for electronic submission of requests for building permits which is in place in municipalities in Serbia, does not include the municipalities in North Kosovo.

As noted earlier, municipalities in Kosovo have broader powers in the field of education and health care than those in the Serbian system. For this reason, municipal administrations in Kosovo have departments that perform jobs in these sectors. However, it turned out that the establishment of these departments in the municipalities in North Kosovo is not so easy as education and health care are planned to be under the jurisdiction of the Community/ Association of Serb Majority Municipalities, the establishment of which has not yet started, although it is foreseen by the Brussels Agreement from April 2013.

In the education sector, the competencies of municipalities relate to the provision of public preschool, primary and secondary education, as well as the registration and licensing of educational institutions, employment, salaries and training of instructors and education administrators (Article 17 (h) of the Law on Local Self-Government of Kosovo). The municipality of Mitrovica North has expanded competencies in university education, and it is authorised to provide university education, including the registration and licensing of educational institutions, employment of teaching staff, payment of salaries and training of teaching and administrative staff (Article 21, *ibid.*). This legal solution entitles the municipality of Mitrovica North to establish a university, which seems to be the possibility of legalizing an existing state university functioning within the education system of Serbia.⁹

municipal administration which operated in Mitrovica North (Kosovska Mitrovica) before the Brussels Agreement within the Serbian system remains unclear.

⁹ "University of Pristina", a state university of the Republic of Serbia located in Pristina was transferred to Kosovska Mitrovica after the war.

According to the laws of Kosovo, the municipality of Mitrovica North also has extended competencies in the provision of secondary health care, which makes it authorised to provide secondary health care, including the registration and licensing of health institutions, the employment of health workers, payment of salaries and training of health workers and those employed in the administration (Article 20, *ibid*). This legal solution can be interpreted as part of the solution for the status of the Clinical Centre Kosovska Mitrovica, which operates within the legal system of Serbia. The other three municipalities (Zvecan, Zubin Potok and Leposavic) have extended competencies in the provision of primary health care, including the employment of health workers, the payment of salaries and training of health workers and those employed in the administration.

An interesting novelty is that in the statutes of the municipalities of Mitrovica North, Zvecan and Zubin Potok there is a department for European integration. A similar solution was also introduced in the municipality of Gračanica, which established a department for European integration and economic development. However, in Gračanica, this department was renamed to the Centre for Economic Development with the task of strengthening the municipality's economy by providing support to existing business entities, as well as providing support for the establishment of new ones. It remains to be seen whether similar practices will be established in municipalities in North Kosovo.

Budgets of local self-governments in North Kosovo operating under the Kosovo system is divided into 5 categories: salaries and per diems for employees; goods and services; municipal expenditures; subsidies and transfers and capital expenditures. salaries and per diems are further categorised to: employees in the municipality (elected persons and employees in the municipal administration); employees in health and employees in education. Unlike the municipality of Mitrovica North, the other three municipalities (Zubin Potok, Zvecan and Leposavic) have not established municipal departments, but they have a defined number of employees with regular payment of salaries from the Kosovo's budget. An overview of the number of employees in municipalities in North Kosovo in 2015 and 2016 is given in Table 3.

Table 3 Number of employees in the municipalities in North Kosovo
(2015 and 2016)

Municipalities	Number of salaries in 2015 ¹⁰	Number of salaries in 2016 ¹¹
Mitrovica North	732	152
Zvecan	251	67
Zubin Potok	331	141
Leposavic	416	196

Source: Quarterly financial reports of the Kosovo's budget realisation for the period 1 January – March 31 2015 and 1 January – 31 March 2016

As presented in Table 3, the number of salaries is significantly lower than in 2015. This situation arises from the fact that the mayors of the four municipalities in North Kosovo have decided not to accept funding for health and education from the Kosovo's budget until the issue of establishment of the Community/Association of Serb Majority Municipalities that should have authority in these areas is resolved.

4. Conclusion

Although the Brussels agreement was expected to solve the issue of the dual administration in municipalities in North Kosovo, this did not happen. The reasons for this are political and technical. At the political level, even four years after the signing of the Brussels Agreement, the Community/Association of Serb Majority Municipalities was not formed, which was recognised as an institution for the protection of collective rights of the (remaining) Serbs in Kosovo. Therefore, one should not be surprised by the great resistance of politicians (whether local or those from Belgrade) to the implementation of Kosovo's legislation, especially those legal solutions that address the issue of identity or strategic areas of survival of the Serb community in Kosovo (e.g. education and health care).

¹⁰ Quarterly financial report, Kosovo's budget for the period 1 January – 31 March 2015, available at <http://bit.ly/2tdLWw0>

¹¹ Quarterly financial report, Kosovo's budget for the period 1 January – 31 March 2016, available at <http://bit.ly/2sbTZWe>

In technical terms, the Brussels agreement does not specify whether newly formed municipalities, constituted after local elections, will inherit the existing municipal administrations that had previously functioned under Serbian legislation or new administrations would be established. Also, it is not specified what will happen with the employees in the existing administrations, or what will be the role (and whether there will be a role) of the Government of Serbia in the future functioning of local self-governments and municipal administrations. In all likelihood, there will be no collective solution to this problem, but each municipality will begin to solve this situation by itself.

Namely, according to the laws of Kosovo, mayors have the discretion to decide who will receive the salary from the municipal budget provided by the Kosovo Government, not only in case of employees in the municipal administration, but also in education and health care. Based on that, mayors may decide whether to include the existing employees in the payroll or to hire new employees. This situation often provokes a paradoxical situation that employment within the Kosovo's system is used to implement a social program rather than taking into account the establishment of a professional local administration.

This conclusion is a result of the public discourse of the mayors from North Kosovo who often declare that employees cannot receive salaries from two sources, from the Government of Serbia and the Government of Kosovo, but this situation must be used to create new jobs. So recently, the Municipality of Mitrovica North has announced a vacancy for 168 jobs in the field of education and health. However, the question is where the new employees will work (and what will they do) when educational and health care institutions work in the Serbian system, and what will happen to employees in municipal administrations, health care and education when the Serbian government suspends the funding? It seems that at this moment, the answer is so far away and that none of the actors in Belgrade, Pristina, Brussels or in North Kosovo can or want to think about it.

InTER – Institute for Territorial Economic Development – is an independent non-governmental think tank with the mission to promote and improve sustainable socio-economic development in the Western Balkans.

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