

### Kosovo Elections and the Future of Negotiations

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None of the parties won an outright majority in Kosovo's December 12 parliamentary elections and results remain disputed. It may take time and a bit of "crisis" before a coalition government emerges. But barring drastic developments concerning Prime Minister Hashim Thaci's alleged involvement in organ trafficking, he will again lead the Kosovo government. His Democratic Party of Kosovo (PDK) led the Democratic League of Kosovo (LDK) by several points. Though the two parties are long-term rivals – and have fought each other with guns as well as words – they formed the previous government together and may do so again. Or PDK may enter into arrangements with other parties who passed the threshold for entry into the National Assembly. In any case, Kosovo's approach to settling the status issue and possible negotiations with Serbia will likely remain the same.

Although this was the first national election since Pristina declared independence in 2008, less than half of eligible voters turned out. In third place was the Self-Determination Party, despite – or because of – its rejection of the internationally-brokered and supervised independence plan and its support of a "Greater Albania". This was the first time Self-Determination ran nationally and the party may prefer to remain in opposition counting on dissatisfaction with the current political ruling class to mount. They will be critical of any appearance of compromise with Serbia.

Thaci ran with the "quiet" support of the US Embassy. Some suspect the Americans had a role in keeping the leader of the Alliance for the Future of Kosovo (AAK), Ramush Haradinaj, out of Kosovo – facing charges in The Hague – to make it easier for Thaci. Nevertheless, AAK came in fourth and could end up in coalition with the PDK. Thaci also may find support from the non-Albanians who won seats. They have a reserved 20 seats out of the total 120. For the first time, Kosovo Serb turnout in the south was significant. They and other non-Albanians (Bosniaks, Roma, Turks) could become "king-makers". Their participation will allow Pristina and its international allies to claim a victory for multi-ethnicity in Kosovo.

In the north, however, there was violence and a Serb boycott. The week before the vote, a Bosniak helping organize elections in the north was killed by unknown assailants, an unoccupied NATO (KFOR) office was damaged by gunfire and Serbs were arrested for trying to obstruct the setting up of polling

places. (The individual killed was wanted under a Serbian warrant for murder and police as yet have not characterized the crime as political.) After two years of Kosovo's declared independence – and considerable pressure from Kosovo Albanians, the EU and US and uneven support from Belgrade – the northern Serbs still refuse to have anything to do with Kosovo institutions. They – and Belgrade – have resisted efforts by the International Community Office (ICO, headed by the EU chief in Kosovo) to implement a so-called “northern strategy” for imposing Pristina's rule in the north.

With Belgrade's approval, the EU Rule of Law Mission (EULEX) placed personnel at the two northern boundary posts and with the local Kosovo Police (KPS) stations and has conducted cases using its own judges and prosecutors in the former north Mitrovica courthouse. (Serbs burned down the customs posts, and the former UNMIK district court was closed, after independence was declared in 2008.) But KFOR has backed away from political involvement in the north and EULEX recently foreswore the use of force to impose Pristina institutions, customs and law there. Yet, as revealed in leaked US cables, Belgrade's political options on Kosovo remain limited. The four northern municipalities – including north Mitrovica – are governed by municipal governments elected in Serbian elections and function as part of the Serbian government with official funding. The northern KPS remain part of the Kosovo service but under the command of local Serb KPS officers with EULEX facilitation. The north remains separate from the rest of Kosovo and at the core of the unsettled status issues about which Belgrade and Pristina continue to disagree.

The Kosovo Albanians and – as revealed by the US cables – the US Embassy remain opposed to any UN role in the north and impatient with EULEX's failure to impose Pristina's rule there. The Albanians, supported by the ICO (working apparently with US encouragement), have sought to increase their presence north of the Ibar River by pushing unilateral returns and construction near Serb neighborhoods in north Mitrovica and neighboring Zvečan. They have publicly criticized the continued presence of UNMIK in the north, accusing it – and the UN officers from Russia working there – of being pro-Serb. While construction is paused for the winter, the Albanians will probably seek to continue in the spring and will test EULEX's and KFOR's commitment to prevent provocations and preserve peace in a status-neutral manner.

The US believes that the ICJ's finding last August that international law is silent about declarations of independence amounted to finding Kosovo's declaration “legal”. Leaked cables reveal that in US thinking, UNSCR 1244(1999) makes the Serbian municipalities in the north “illegal” and “parallel”. The US embassy hoped that the “northern strategy” would allow replacement of the UN offices there by the ICO or EULEX. The US position glosses over the fact that the ICJ found that 1244 remains the legal basis for UNMIK's position in Kosovo. If any institutions are “parallel” to the UN mandate, it is those that declared independence outside the ambit of the Security Council. (The northern Serb municipalities recognize and cooperate with UNMIK.) As Belgrade interlocutors apparently explained to US officials there, the northerners have never really been part of Kosovo south of the Ibar and refuse to be so now. President Tadic simply cannot give them away.

Thaci's victory in the December 12 elections and his probable leadership of the next government means more of the same vis-à-vis negotiations and resolution of status. His support from America still counts for enough votes from the Albanian community to overcome frustration with the perceived lack of progress on the economy, fight against corruption and low number of recognitions. The US seems ready to continue encouraging the Albanians to take a hard line against concessions to Serbia – such as special status for the north – while seeking to gain ground in the north through unilateral actions. The US may also continue to seek to prevent the EU from softening its approach to Serbia and the north and – as shown by leaked cables – to hold the EU to the position staked out by Paris that Serbia not be allowed to enter the EU before surrendering Kosovo. This does not bode well for success in discussions between Belgrade and Pristina.

The US and some Europeans appear to have quite unrealistic expectations about the political maneuvering room on Kosovo available to President Tadic. Tadic wants to be able to campaign in Serbia's next elections (probably in 2012) showing visible progress on Serbia's EU candidacy. He has tried to cooperate with EULEX and his government has kept the northern Serbs from doing anything provocative of their own. Serbia will try its best to appease Brussels with "status neutral" answers to the EU questionnaire due in February. The US cables suggest Tadic may be willing to drop opposition to Kosovo – though not recognize – with agreement to give Belgrade a special role vis-à-vis the north and the Church. (Partition would be "option B".) But Tadic could not surrender Belgrade's claim to Kosovo or allow Pristina to implant its institutions in the north without strengthening his nationalist opposition. As long as the US and EU encourage Kosovo to hold out for maximalist concessions from Serbia – imposition of Kosovo courts and customs in the north, direct control of the local police by Pristina, refusal of special status for the north – negotiations are likely to fail.

Failed talks will mean a continued frozen conflict in the north, increasing Albanian frustration with the lack of "full independence" and the consequent potential for more violence. KFOR can prevent real violence from crossing the Ibar but a repeat of the anti-Serb violence of 2004 in southern Kosovo cannot be discounted. Then politics in both Serbia and Kosovo would probably move toward increased nationalism. For negotiations to succeed, the new Kosovo government may have to think on its own and not be led astray with external encouragement to remain "tough". The US has other problems more pressing than Kosovo and, at the end of the day, can walk away, leaving it to the Europeans and the people of Kosovo. Kosovo's Albanians have choices: they can remain locked in a futile status dispute for years – and suffer the economic and international costs – or reach for an "historic" adjustment of building a multi-ethnic state south of the Ibar or perhaps in union with Albania. Pushing for everything will probably not work in any case.

As the responsible peacekeeper in Kosovo under UNSCR 1244, the UN will stay involved in efforts to resolve status and on the ground. It alone has the legal mandate and responsibility to keep the peace. This is likely to remain a difficult assignment requiring strong support from all the major players.