



ÖGfE Policy Brief 24 2022



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Vienna, 21 December 2022
ISSN 2305-2635

Local elections in Montenegro: beyond political campaigns

Policy Recommendations

1. Local self-governments need to actively use local governing mechanisms of citizen participation defined by the legal framework – citizens' assemblies, civil initiatives, referendums, petitions and complaints.
2. Montenegro should adopt a new Law on Local Elections – a single legislative act which would regulate the process of local elections. This new legal solution should primarily contain norms about local elections in all municipalities to be held on a single day to increase rationality, efficiency and legitimacy of the process. The new law should also allow for open lists and individual candidatures on the local level.
3. Local self-governments should become more independent, autonomous and efficient in their role as local governing bodies. They need to be organised in a polytype rather than monotype model to better serve the needs of their local communities and to ensure more economic, social and cultural integration.

Abstract

For years, one of the key objections of the European Commission in its annual reports on Montenegro has been the failure to hold local elections on one day. What is certainly crucial for the very existence of the local self-government system is removing it from the current context of deeply polarised political scene, characterised by a lack of cooperation between political actors, regular action on particular party interests in the executive and legislative branches, consequential spilling of that influence on other branches of government, such as the judiciary. In order for that to be possible, the local self-government, as a sort of autonomous branch of government, must first of all be provided with an adequate political and social context in which to

function. One of the first actions for that would be to start calling local elections in all municipalities in Montenegro on the same day. Also, in order for local elections organised in such a way to contribute to changes in their local communities, a higher degree of rule of law is needed when it comes to application of the set of laws regulating the work and nature of local self-governments in Montenegro. This also calls for adoption of a separate Law on Local Elections, which would additionally address the issues of open lists and individual candidatures. Furthermore, a structural transition to a polytype organisational model of local self-government, which would allow for a higher degree of adaptation of governance based on the needs of the local population.



Local elections in Montenegro: beyond political campaigns

Context

After the parliamentary elections held in August 2020, until today, Montenegro had two governments which consequently received vote of no-confidence in the parliament during 2022. First, the 42nd Government of Montenegro, headed by Prime Minister Zdravko Krivokapić was given the vote on 4 February 2022. After that, the 43rd Government of Montenegro, headed by Prime Minister Dritan Abazović was elected in the parliament on 28 April 2022 and subsequently given a vote of no-confidence on 19 August 2022. Since then, the government is serving in technical mandate until the election of a new one by the current parliament convocation or after extraordinary parliamentary elections are held, which would result in a new parliamentary majority.

Dynamic developments of the situation on the political scene after the first democratic change of government in 2020, caused political turmoil which threatens to paralyse the institutions. Uncertain and still distant outcome of a decade long European Union accession process put the country in a transitional period during which the democratic institutional and structural reforms will be of crucial significance.

In the European Commission's 2021 Report on Montenegro, it is noted that the parliament established the committee on comprehensive electoral reform in December 2020. The committee was tasked to deliver legislative reforms by the end of 2021. It failed, due to boycotts and delays. Despite cross-party agreement to hold all local elections on the same day, the legal framework still provides for their conduct on a rolling basis, leading to nearly constant pre-electoral campaigning at national and local level¹. In the European Commission's 2022 Report, it is noted that in May 2022, amendments made to the Law on Local Self-Government which stipulated that local elections in Podgorica and 13 other municipalities should be held on the same day, no later than 30 October². Although the Constitutional Court assessed these amendments as unconstitutional, President Milo Đukanović (DPS) called the elections for the former mentioned municipalities for 23 October.

It is necessary to enable a legitimate electoral and decision-making process for citizens.

In the current political context, seemingly without a wider consensus on important social issues and without political will for reforms, a new social dynamic which would affirm a broader consensus on various issues is needed. For this, it is necessary to better integrate communities that make up the state through adequate policies and relations towards them and the population. It is necessary to enable a legitimate electoral and decision-making process for citizens. Furthermore, democracy needs

- 1 Montenegro Report 2021, https://ec.europa.eu/neighbourhood-enlargement/montenegro-report-2021_en.
- 2 Montenegro Report 2022, https://neighbourhood-enlargement.ec.europa.eu/montenegro-report-2022_en.



to be strengthened at the local level and the influence of national level party politics needs to be limited.

Making citizens decision-makers

As local elections in all municipalities are not being held on the same day, high political and state representatives on the national level are able to participate in political campaigns sometimes several times a year within local communities. For years political campaigns within smaller communities have been coming directly from the top of political circles³. This is something known as a “functionary campaign⁴”. It is not unusual, for ministers, members of the parliament or other high officials such as the president or the prime minister to be giving political speeches and heading political campaigns in local communities whose interests should be taken care of by local representatives.

With the ongoing campaigning at the local level in several municipalities, political parties were given an opportunity to assess the situation at the national level by using local elections as a “testing ground” for the anticipated pre-mature parliamentary elections. Most recently for example, the President of Montenegro and the leader of the Democratic Party of Socialists (DPS), Milo Đukanović, asked a group of local businessmen in Bar to urge families, relatives and employees of their companies to support the DPS in the local elections, because the situation in the state will be very serious if their political opponents, whom he labelled traitors, win⁵. This kind of electoral campaigning damages the local election process and citizen participation in decision-making at the local level. This example illustrates how high ranking political and state officials guide the decision-making process at the local level, by inappropriately influencing citizens through their employers, relatives, family, etc.

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In order to even begin the process of depoliticisation of local self-government and thus its functioning in the service of citizens, local self-governments must enable participation of citizens in decision-making processes through various mechanisms and institutes predicted by the law. Mechanisms for which the current Law on Local Self-Government allows for, such as citizens’ assembly, civil initiatives, referendums, petitions and complaints by citizens are not being utilised to a sufficient level. Citizen participation through these legally prescribed mechanisms increases the accountability and transparency of local governing bodies, and with additional mechanisms

3 Example of president Milo Đukanović actively participating in his party’s campaign for local elections in Nikšić and Mojkovac in 2021: <https://www.vijesti.me/vijesti/politika/570987/djukanovic-27-poslanika-vecine-je-pjesadija-srpskog-sveta-imali-smo-rat-za-niksic-sada-cemo-imati-rat-za-mojkovac>.

4 Article on “functionary campaigns” in Montenegro on RFE: <https://www.slobodnaevropa.org/a/crna-gora-izbori-drzavni-resursi-zloupotreba/30778203.html>.

5 Dramatic messages to scare voters, Internet source: https://www.vijesti.me/vijesti/politika/626144/dramaticne-poruke-za-plasenje-biraca?utm_campaign=vijesti_share_counter&utm_medium=app_android&utm_source=vijesti_android.



such as open lists and individual candidacies, can greatly contribute to the affirmation of democracy in the country and local communities. This shift in political dynamics at the local level would ensure the impact of citizen participation in creation of local policies and social, economic and cultural development of their immediate communities. Additional harmonising mechanisms prescribed by a potentially separate Law on Local Elections, could certainly strengthen the existing ones. This could prevent further influx of politicisation, corruption and nepotism.

A new Law on Local Elections

There have been several initiatives during 2021 and 2022 to amend changes to the Law on Local Self-Government in order to have multiple local elections on the same day. To give a presentation of the timeline in which these initiatives occurred, we have to go back to July 2021. At that time, then Speaker of the Parliament, Aleksa Bečić (Democrats) announced an initiative to schedule local elections in 17 municipalities on the same day. Later in October, before the Assembly session happened, President Đukanović (DPS) reacted to the announced initiative of the Speaker Bečić by using the earliest possible date for calling local elections scheduled for December in three municipalities (Cetinje, Petnjica and Mojkovac). That way, conditionally speaking, he "overtook" the proposed initiative of re-scheduling the elections in these three municipalities for the same date as the elections in at least 14 other municipalities, which was June 2022⁶. Later in February 2022, at the Assembly session at which the no-confidence motion towards the 42nd Government of Montenegro was passed, the parliament adopted a proposal to amend the Law on Local Self-Government, which postpones local elections in two municipalities (Ulcinj and Berane), scheduled for March 27, to an aforementioned date in June 2022, to be held together with other local elections scheduled for that date. Although the proposal was adopted in the parliament, President Đukanović earlier, on January 26, called the elections in these two municipalities, Ulcinj and Berane, for March 27,⁷ a date on which they were held. More recently, remaining 14 local election processes have been postponed from a date in June to a date in October 2022 by adopting amendments to the Law on Local Self-Government. As mentioned above, these amendments were assessed as unconstitutional by the Constitutional Court, but nevertheless, President Đukanović called the elections for 23 October.

A person can vote in local elections in several municipalities during a single year, a principle prone to alleged abuse by certain political actors and their supporters or party members.

The European Commission's 2021 Report also questions the consequential practice of enabling voters' rights in local election to those who change their residency immediately prior to the local elections. In November 2020, the Constitutional Court ruled that the prescribed residential condition for exercising the right to vote

6 Bécic proposes all local elections in one day, DF and the opposition not announcing their stance, Internet source: <https://www.vijesti.me/tv/emisije/556321/becic-predlaze-sve-lokalne-izbore-u-jednom-danu-df-i-opozcija-se-ne-oglasavaju>.

7 Djukanovic did not sign the postponement of the elections in Berane and Ulcinj, Internet source: <http://www.rtcg.me/vijesti/politika/351859/djukanovic-nije-potpisao-odlaganje-izbora-u-beranama-i-ulcinju.html>.



in local elections of 'at least six months before the day of the elections' was unconstitutional and annulled the respective provision of the Law on Elections of Members of the Parliament and Councillors⁸. This means that a person can vote in local elections in several municipalities during a single year, a principle prone to alleged abuse by certain political actors and their supporters or party members⁹. For example, the Ministry of Internal Affairs reported that in the period from 1 July to 14 October 2022, 337 people moved to Šavnik¹⁰, a municipality in which 1,597 people have suffrage rights¹¹, thus effectively increasing the number of voters by more than 20%. This has consequently led to high controversies over the legitimacy of local elections in Šavnik. As of now, seven rounds of elections have been held, each being interrupted due to conflicts between party members of DPS and DF¹². Out of that number, 250 people have been reported moving in from Nikšić, a municipality in which local elections were held in March 2021. In order to enable quality active democratic participation of citizens in their local communities and to give a higher degree of legitimacy to the process of local elections, a new Law on Local Elections would have to be adopted. This single act could replace the current set of laws which regulate the process of local elections.

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This is not only a question of rationalisation of the election process but essentially a question of legitimacy of the local election process as a whole. As indicated by the European Commission's Report, the legal framework still provides for their conduct on a rolling basis, leading to nearly constant pre-electoral campaigning at national and local level. Another important aspect of the law would be open lists and individual candidatures. Citizens would be able to choose their representatives at the local level directly. Citizens would be able to choose not only the list which they want to be represented by in the Local Council, but also a specific person which would represent them, based on their merits in the community.

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- 8 Montenegro Report 2021, https://ec.europa.eu/neighbourhood-enlargement/montenegro-report-2021_en.
 - 9 Representatives of opposition parties blocking the registration of residence in premises of the Ministry of Internal Affairs in Mojkovac, Internet source: <https://www.vijesti.me/tv/emisije/576208/predstavnici-opozicionih-partija-i-danas-blokirali-prijavu-prebivalista-gradjanima-u-prostorijama-mup-a-u-mojkovcu>.
 - 10 Popović: 337 people moved to Šavnik before the elections, no doubts about electoral engineering, Internet source: https://www.vijesti.me/vijesti/politika/625989/popovic-u-savnik-se-uoci-izbora-doselilo-337-osoba-nema-sumnje-da-je-u-pitanju-izborni-inzenjering?utm_campaign=vijesti_share_counter&utm_medium=app_android&utm_source=vijesti_android.
 - 11 Article from 15 April 2022 about the number of voters in Bijelo Polje and Šavnik: <https://mina.news/vijesti-iz-crne-gore/politika/u-bijelom-polju-pravo-glasa-ima-39-580-gradana-u-savniku-1-597/>.
 - 12 Voting in local elections in Šavnik was interrupted for the 8th time: <https://www.vijesti.me/vijesti/politika/634417/uzivo-ni-ove-nedjelje-izbori-u-savniku-nece-se-završiti-prekinuto-glasanje-na-oba-biracka-mjesta>.



Local self-governments as local governments

Local self-governments are being run as an extension of the central government, rather than separate governing bodies servicing needs of citizens of their local communities.

In order for local self-governments to become more independent, autonomous and efficient in their role as local governing bodies, they need to be organised in a polytype rather than monotype model to better serve the needs of their local communities. This would ensure better economic, social and cultural integration of the local communities which they govern. Local self-governments are being run as an extension of the central government, rather than separate governing bodies servicing needs of citizens of their local communities.

Current monotype model of organisation of local self-government does not differentiate between different types of localities being governed. It does not take into consideration sustainable differentiations when practically and systemically applied. This model, characterised by its' reliance on procedural governing, with low efficiency which leads to various structural and systemic issues on the internal plan, questioning overall sustainability of local self-government. For example, municipalities in the northern region show how inadequate policies from the national level can halt the development of an entire region of the country. Even with a high percentage of depopulation in the north region, which encompasses 11 municipalities, unemployment rates in that region remain alarmingly high. Average unemployment rate in 11 municipalities in the north, according to data from 2020, is 35,2%, while the unemployment rate average in six south region municipalities is 7,5%¹³. Inequality in development is a consequence of inadequate economic policies ran from the central government, especially when developing the northern region of the country. Depopulation is a problem in a majority of municipalities, as in 2021, as a consequence of internal economic migrations and COVID-19, 20 out of 24 municipalities have experienced fall in population numbers¹⁴. This is of course due to many factors, but high unemployment rates in the north and high depopulation rates all over Montenegro are a signal that the government policies and investments in this region need to be much more adequately managed, with attention to the needs of local populations.

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A polytype system of governing at the local level, i.e. a system which would account for differences in various areas of governing of each specific locality and establish appropriate governing structure for each one of them:

- financially sustainable and unsustainable branches of the local self-government,

13 Closed Economy, Internet source: <https://cnogorskiportal.me/sadrzaj/814>.

14 INFOGRAPHIC White plague in 20 municipalities, Internet source: <https://www.vijesti.me/vijesti/drustvo/580336/bijela-kuga-u-20-opstina>.



- size of the area being governed,
- urbanisation levels,
- cultural and historical specificities and creation of administrative capacities.

Polytype system of organisation would enable greater flexibility and efficiency of the system of local self-government and prevent its further politicisation, weakening and meaninglessness.

Conclusion

Currently, the sustainability of the system of local self-governments is in question. Should local self-government in Montenegro even exist? In order to ensure their proper functioning as a governing system established on principles of direct and local democracy, it needs to be decentralised, flexible, and efficient. Local elections should not be a breeding ground for clientelism, nepotism and misuse of state resources but rather a basis for much needed democratic consolidation in Montenegro. Furthermore, governing structure of local self-government needs to be adapted to the context and locality being governed in order to be an efficient governing body.



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The Policy Brief is published in the framework of the [WB2EU](#) project. The project aims at the establishment of a network of renowned think-tanks, do-tanks, universities, higher education institutes and policy centres from the Western Balkans, neighbouring countries and EU member states that will be most decisive for the enlargement process and Europeanisation of the region in the upcoming years. The [WB2EU](#) project is co-funded by the European Commission under its Erasmus+ Jean Monnet programme.

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ISSN 2305-2635

The views expressed in this publication are those of the author and not necessarily those of the Austrian Society for European Politics or the organisation the author is working.

Keywords

Montenegro, elections, democracy, law

Citation

Mumin, N. (2022). Local elections in Montenegro: beyond political campaigns. Vienna. ÖGfE Policy Brief, 24'2022

Imprint

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