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REPORT ON THE STATUS OF PUBLIC ADMINISTRATION IN KOSOVO

Aim of the document:

This document presents the current state of public administration in Kosovo. It provides a general analysis of the situation and serves as a starting point for decision-makers and policy-makers to identify the main priority areas for reform of public administration.

Description of the document:

This report on the current state of public administration presents an analysis of existing policies and practices that affect the public administration sector. The document provides an analysis of the following key areas of activity: human resources, structure of institutions, management in public administration, e-Governance, communication with citizens, anticorruption, policies and legislation, and funding of public administration.

GROUP OF EXPERTS FOR PUBLIC ADMINISTRATION REFORM

February 2007

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ABBREVIATIONS AND ACRONYMS

| | | | |
|------|--|---------|---|
| HBS | Household Budget Survey | MTEF | Medium-term Expenditure Framework |
| EAR | European Agency for Reconstruction | EFC | Economic Fiscal Council |
| CFA | Central Fiscal Authority | SPAC | Senior Public Appointments Committee |
| KACA | Kosovo Anti-Corruption Agency | UN | United Nations |
| PA | Public Administration | KFOS | Kosovo Foundation for Open Society |
| PPA | Public Procurement Agency | EC | European Commission |
| ABR | Applications for Business Registration | KEC | Kosovo Education Centre |
| EU | European Union | KEDP | Kosovo Education Development Project |
| BPK | Banking and Payment Authority of Kosovo | KEK | Kosovo Energy Corporation |
| KCB | Kosovo Consolidated Budget | KFOR | NATO forces in Kosovo |
| CIDA | Canadian International Development Agency | KA | Kosovo Assembly |
| ITD | Information Technology Department | IOBK | Independent Oversight Board of Kosovo |
| DCSA | Department for Civil Service Administration | PPRC | Public Procurement Regulatory Committee |
| DMS | Document Management System | LPFMA | Law on Public Financial Management and Accountability |
| eSEE | Electronic South-East Europe (electronic South Eastern Europe) | LPP | New Law on Public Procurement |
| KS | Kosovo Statistics Institute | MAPL | Ministry for Administration of Local Government |
| VET | Vocational Education and Training | MEST | Ministry of Education, Science and Technology |
| IMF | International Monetary Fund | MEF | Ministry of Economy and Finances |
| GDP | Gross Domestic Product | MAFRD | Ministry of Agriculture, Forestry and Rural Development |
| GSM | Global System for Mobile Communications | MLSW | Ministry of Labour and Social Welfare |
| IMG | International Management Group | MSP | Ministry of Public Services |
| IAWG | Inter-Agency Working Group | MTT | Ministry of Transport and Telecommunications |
| HIS | Health Information System | MH | Ministry of Health |
| KIPA | Kosovo Institute for Public Administration | MIA | Ministry of Interior Affairs |
| PISG | Provisional Institutions of Self-Government | MCYSNRI | Ministry of Culture, Youth, Sports and Non-Residential Issues |
| MTEF | Medium-Term Expenditure Framework | SAA | Stabilization and Association Agreement |
| MTBF | Medium-Term Budget Framework | NATO | North-Atlantic Treaty Organization |

| | | | |
|------|---|--------|--|
| PE | Public Enterprises | TSS | Transitional Support Strategy |
| SME | Small and Medium Enterprises | VAT | Value Added Tax |
| SOE | Socially Owned Enterprise | UNDESA | United Nations Department of Economic and Social Affairs |
| FIU | Financial Investigation Unit | UNDP | United Nations Development Programme |
| NGO | Non-governmental Organization | UNMIK | United Nations Mission in Kosovo |
| OSCE | Organization for Security and Cooperation in Europe | UNICEF | United Nations Children's Fund |
| EPAP | European Partnership Action Plan | USAID | US Agency for International Development |
| PIP | Public Investments Programme | TNA | Training Needs Assessment |
| PTK | Kosovo Post and Telecom | OAG | Office of the Auditor General |
| PSSP | Special Representative of Secretary General | OPM | Office of Prime Minister |
| RAP | Public Administration Reform | OAG | Office of the Auditor General |
| SP | Permanent Secretary | LO-MSP | Legal Office of Ministry of Public Services |
| SIDA | Swedish International Development Agency | OLAS | Office for Legal Assistance and Services |
| KPC | Kosovo Protection Corps | OGG | Office for Good Government |
| ICT | Information and Communications Technology | | |

1. SUMMARY OF THE REPORT – SITUATION OF THE PUBLIC ADMINISTRATION IN KOSOVO

1.1 Summary and Main Findings of the Report

This report provides an analysis of the strengths and weaknesses of public administration in Kosovo. It has been prepared by the Group of Experts for Public Administration Reform in consultation with all stakeholders, in order to provide an analytical basis for developing a strategy for reforming public administration.

As a result of the profound political, social and economic changes since 1999, the development of public administration in Kosovo has lagged behind progress in the other countries of the region, due to a difficult socio-economic and political heritage, low capacity and fragmented actions of local and international governmental organizations. So far, there have been several useful analyses on the functioning of public administration in Kosovo, including the 2005 capacity-building plan, but none has led to much action, although they have generated some very important findings. However, while exposure to external innovations, technical assistance and training in the field of public administration has been limited, there is a noticeable desire at the political decision-making level in Kosovo to change towards improvement of the level of public administration services.

This report focuses on seven main areas: human resources, structure of institutions, management of public administration, E-governance, communications with citizens, anti-corruption, policies and legislation, and financial public administration. The main findings in each area are as follows:

- Human resources

The basic legal framework for public administration is in place but is fragmented into over 100 pieces of legislation and therefore requires consolidation and completion. Record keeping on civil servants and organisations is poor and needs revision; different databases cite different numbers of budgetary organisations and of civil servants. There is a confusing proliferation of staff titles, grades and salary levels that need rationalisation. Public institutions ought to have clear objectives and goals, so that civil servants can be rationally allocated to functions. The recruitment of a large number of civil servants before the recruitment rules were in place led to the recruitment of many inadequate staff, and despite clear recruitment rules, existing practice is seen by many as still politically influenced.

There is a good legal framework for equal opportunities which, however, is not adequately implemented leading to under-representation of certain gender, ethnic, religious, language, age and disabled groups, especially in management positions.

There is civil servant turnover of 10-15% a year. This is exacerbated by the use of short-term contracts, which themselves undermine proper recruitment procedures. Salaries are low, and there is sickness leave but no health insurance. However, there is an adequate (even though opaque) pensions system, and other working conditions match European standards. A trades union of civil servants has recently been established.

There is a civil servants evaluation scheme, but it is burdensome and is treated as a formality; it ought instead to be used to assess effectively the civil servants' strengths and weaknesses. There is no evaluation by staff of their seniors. The legal opportunities for career development are limited, and motivation consequently is low. Training is provided by KIPA, but skills learned are rarely put to use by staff in their work.

- Organizational structure of the Institutions

The central institutions have more or less a similar organizational structure, which nonetheless differs even within certain ministries, which have in general proven to have organograms, although they often do not reflect the actual organizational structure of the institutions.

There is also a long list of titles used to identify holders of posts, and there seems not to be a standardized nomenclature in place. There is no consistency in the organization structure when comparing ministries, and this reflects a wider confusion of terminology used to describe sub-sections of ministries and municipalities. A group of staff that is called a "division", in one Ministry is often called "Directorate", "Sector", "Office" or "Unit" in another Ministry, even though it stands at the same level in the hierarchy. Such a diversity of titles can sometimes be found in the same ministry. In municipalities there is the same variation in the naming of organizational units, which may also be called "Directorate" "Inspection", "Inspectorate", "Office", "Department", etc

The biggest problem however, appears to be the duplication of duties among several ministries. Although the competencies of institutions are clearly defined, the job descriptions of various officials that work in the institutions are not. This is further exacerbated with a series of ad-hoc decisions by the institutions in a total lack of coordination, causing legal inconsistency among decisions or legal acts which sometimes are contradictory and clashing.

- Management of public administration

Strategic planning is not well developed in public administration, and most institutions have poorly articulated or have not defined their mission or objectives. While the Government has a programme, the Government itself does not act as a strategic body. The coordination of central government policy is still not at the proper level, and there is little ex ante or ex post impact assessment of proposals and program commitments.

Oversight of administrative management largely takes a financial form, and rarely focuses on the overall performance of institutions. There is little or no assessment of the quality of public services. Financial supervision is exercised through the internal audit function (which functions within the Ministry of Economy and Finances) and is largely concerned with financial rules rather than efficiency, and the Auditor General's Office, which has in recent times issued some critical reports. There have been few dismissals of officials or politicians for abuses.

In public administration institutions, there is little ethical culture of public accountability, and neither are accountability mechanisms well developed.

Political interference in administrative decisions is a common complaint, and friction between civil servants and political advisers common, although a positive development can be noticed in this regard.

- Communications with citizens

Despite progress achieved in the communication of the public administration with the people and a gradual tendency for opening of this administration, the current situation analyzed in this report shows that there is still room for improvement.

The bulk of the criticism in terms of communication with the public can be rounded up as follows:

1. Lack of information for the public regarding the services provided by the public administration, namely which department offers what services and which are the requirements to be met in order to get access to these services.
2. Lack of information on the functioning of the public administration and lack of practice of drafting and publishing reports dedicated for the public.
3. Lack of mechanisms to listen to and to collect suggestions and complaints of the people and furthermore the inconsistency of the public administration to treat these suggestions or complaints.
4. Lack of implementation of the Law for access to official documents.

- E-governance

Despite extensive investment in ICTs by government and donors, the absence of an overall strategy and poor coordination between them led to lack of positive results in e-Governance. This was caused also by the lack of coordination between responsible ministries and by the lack of an inter-ministerial mechanism for the implementation of e-Governance projects. Most key government institutions at central level are connected through the government telecommunications infrastructure by either fibre optic or microwave technology, but the system is not much used in intergovernmental communication. At the local level, software applications are used for the management of public administration which has been implemented by donors, but this is lacking interconnection, through the government telecommunication infrastructure, with the central level due to the fact that not all municipalities are connected to this network.

A wide variety of subject-specific software applications are in use in ministries and agencies. Webpages are used to provide some information to citizens, but interactive applications are almost entirely absent. The Government Portal, which should act as a focal point for government e-services, is not operational.

Access to Internet by the public is only 17% in Kosovo – very low by European or even regional standards. However, extension of ICT access will make a difference to public administration only if staff and the public are trained in its use.

Financing the public administration

The area of public administration financing has special importance for public administration reform and concrete steps are already being made with considerable support from donors such as the USAID, the EAR, the World Bank, Netherlands, Sweden, Canada, etc. To a large extent, the required systems are in place but time and resources are needed to build capacities in public services in order to make these systems more effective.

A priority should be the support and encouragement of existing capacities, whilst every new resource must focus on institution building, and capacities of all budget organizations in the area of planning and developing budgets, and for internal audit.

Moreover, the training for expenditures management should be provided to all high-ranking “non-financial” officials in the respective ministries and municipalities to help them understand the role and value of effective budgeting and the management system and its contribution to the process of designating priorities by the organizations.

Nonetheless, the capacity building cannot be assured only with one training and it is critical for the payment structures to undergo reforms so that they attract and hold on to their professional staff.

- Anti-corruption

Corruption constitutes an obstacle to the genuine functioning of public administration. Kosovo has quite a good framework. The Government has adopted an Anti-Corruption Strategy and Action plan, and the Assembly has passed an Anti-Corruption Law, all of which are fit for purpose, however, implementation is weak. The essential missing element has been the creation of the Anti-Corruption Agency which has been much delayed. In the absence of this, and due to the non-functioning of the judicial system in Kosovo the individual efforts of the institutions and agencies have not managed to produce sufficient results, despite donor assistance. An exception to this rule is the General Audit Office, which has shown an excellent example in recent months, with the publication of detailed reports which have attracted considerable media interest. Yet, until the Agency becomes effective, the cohesive inter-institutional action needed to make a profound impact will not happen.

- Policies and legislation

The legal framework in Kosovo is complex but insufficient. The applicable legislation in Kosovo includes the Regulations promulgated by the SRSG and other legal instruments in compliance with these, and the applicable legislation in Kosovo on 22 March 1989. In the case of conflicts between the two applicable laws, the UNMIK Regulations and other secondary legislation prevail.

If a court of a competent jurisdiction, a body or a person that should enforce a legal provision assesses that an issue or a situation cannot be covered by the Regulations promulgated by the SRSG and other aiding legal instruments in compliance with these and the legislation in Kosovo on 22 March 1989, but by another law in force in Kosovo after 22 March 1989 which is non-discriminatory and is in harmony with the internationally recognised standards on human rights as they appear on international documents that apply directly as part of the applicable legislation in Kosovo, the court, the body or the person, as an exception, applies that piece of legislation.

The policy development prior to law-drafting is uncommon in ministries, and adversely affects the quality of laws. The problem is complex, and the proper drafting of laws needs to be preceded by a proper policy development. Almost every ministry has lack of skills for policy development and draft laws. There are annual legislative plans for every ministry. The Legal Offices of ministries and the Office for Legal Support Services in the OPM are bodies that shoulder the main burden for drafting legislative acts. The policy and capacity for legal drafting in the ministries follows a certain cycle whereby the Office for Legal Support Services in the OPM coordinates and discusses, the Government decides, and the Ministries prepare and analyze the proposals for policies and legislation.

There is a mechanism, the Agency for European Integration, which checks the compliance of draft laws with EU standards.

The secondary legislation required to implement primary legislation is often drafted late; there is no mechanisms for planning what secondary legislation is needed. The monitoring of law implementation is not sufficient, and donor assistance focuses on drafting rather than implementation.

The legislation is published on the webpage and in the Official Gazette.

2. Context

The purpose of the report on the current state of public administration is to provide an overall assessment of the strengths and weaknesses of the system of public administration in Kosovo, to form a basis for a strategy for further reform. Such an assessment was made based on the existing documents on public administration, on interviews and talks with respective individuals and officials and the expertise of the group of experts. The identification of advantages and disadvantages creates a basis for strategy orientation for areas that require immediate action.

This report was prepared by the Group of Experts for Public Administration Reform (GEPAR) established by the Ministry of Public Services in the context of a decision by the Government that the Ministry should prepare a strategy for reform. In the course of 2006 this group has held a series of workshops, supplemented by meeting with stakeholders, to identify the main issues. The Group's work was underlined by the work of five sub-groups that examined in detail the following areas:

- Human resources, structure of institutions, management of public administration and communications with the citizens
- E-governance
- Anti-corruption
- Policies and legislation
- Financing the public administration

Each of these sub-groups gathered data, reviewed existing materials, carried out research. The main sources of data were public documents and reports from PISG, UNMIK, UNDP, the Statistical Office, donors who have supported public administration projects, and the publications listed at the end of this report.

In addition, the sub-groups consulted other experts and stakeholders, producing five detailed reports. The full version of these reports can be found at the website: <http://www.ks-gov.net/mshp/>

One of the difficulties that the GERAP has faced is the limited amount of data, and the rarity of assessments of the functioning of public administration sector in Kosovo. This has not enabled comparative analysis of the progress in the public administration sector. Lack of information in certain sectors (for example, anti-corruption) is an important indicator. One purpose of this report is therefore to identify indicators in each of the fields analysed, which will provide benchmarks for future assessment of reform in public administration.

The financing of GERAP's work was made by the MPS. Work in drafting this report could not have been successful without the assistance of MPS and the Government of Kosovo. Also without the full commitment of the group of experts and the competent individuals who contributed to the preparation of this report by providing information and valuable suggestions, the report would have been incomplete. Also, DFID and the World Bank have continuously provided technical assistance to the GERAP, and SGMA were consulted during the whole process.

The views, ideas and arguments presented in this report are the responsibility of the authors and do not necessarily reflect the views of the Government of Kosovo, MPS and donors involved in this project.

Previous Analyses and Reform Strategies in Field of Public Administration in Kosovo

There have been several previous reviews of public administration in Kosovo, one of which led to the adoption of a capacity-building strategy. It is important to review these initiatives, to consider what conclusions they reached, and what action ensued.

A useful UNDP report appeared in 2003, 'The Kosovo Mosaic' , based on a survey of 6000 people, which measured the public's perceptions of the performance of public services, with a strong focus on municipalities. This revealed confusion about which public body was responsible for what, which was to some extent the product of UNMIK's then pervasive role. There was also a high level of citizen confidence in municipalities, coupled with high expectations from them, although actual satisfaction with the services provided varied greatly between localities. There was a notable difference between ethnic communities, with Kosovar Serbs less confident in municipalities and looking more to central government structures for action.

In July 2003 a draft discussion paper was produced by a team from UNDESA (the United Nations Department of Economic and Social Affairs in New York). The report commended the progress made in a short time but noted, amongst other issues, weaknesses in integrity, transparency and accountability in the public sector. They highlighted the need for action against corruption; greater public debate of public policy; strengthening of financial and administrative oversight bodies; a programme of institution-building in ministries and municipalities; stronger HR management and development; and pay reform. However the style of the document was in places rather academic, and the report and its recommendations were written at a quite a high level of generality. No doubt this was because the document was meant to lead to the preparation of a public administration reform strategy for Kosovo, which would have identified more specific actions. But in the event there was no follow-up to the UNDESA exercise.

In mid 2004, the Eide report recommended transfer of all 'non-sovereignty' responsibilities from UNMIK to the PISG. The SRSB through UNDP commissioned six experts to produce an Assessment of Administrative Capacity in Kosovo, which reviewed the PISG's capabilities in the fields of central and local government, the police and justice. It concluded that 'the foundations for a sound system of public administration are being established gradually'. In most areas the level of development was no less advanced than in comparable countries at the time of their independence, and exceeded this level on a number of measures. However, many weaknesses remained. In central government the main elements of the legal framework existed, the main institutions were established, and the necessary budgetary and policy coordination systems were being established by the MEF and the OPM. However, the report identified many more weaknesses in line ministries, both in legal skills and in more general administrative systems. In policing, justice and local government much had been achieved but capacity could not be fully built until competences were transferred.

The Assessment's main recommendations were:

- Functional reviews of all line ministries and administrative bodies
- A related review of the capacities of all budget entities to manage their budgets effectively
- Assessment of the human resources function across all ministries
- Development of long-term mentoring relationships between individual donors and individual ministries

Following discussion of the Assessment at a donor conference, the PISG devised a Capacity Building Action Plan. It followed the Assessment in stressing the paramount importance of building capacity in line ministries. Drawing on surveys of ministry managers, it stressed that

the main need was not for subject-specific skills but for basic administrative skills lacking in all line ministries: business planning, human resource management, audit, procurement, legal drafting, improving individual skills of civil servants, and implementing ethical standards. Although this action plan was approved by the Government in the autumn of 2005, little action followed. In part, this was due to lack of donations. The Plan was intended to be an agenda for support from donors. In reality, most donors pursued their own agendas and ignored the Plan. However, the PISG itself did not market the Plan very vigorously amongst donors, for reasons that reveal the greatest weakness of the plan: there was no ownership on the part of PISG. The Assessment of Administrative Capacity in Kosovo was devised and carried out by UNMIK, and the Government's role was passive. Consequently the Government felt little ownership of the resulting recommendations, and the Capacity Building Action Plan was devised only because of pressure from UNMIK. In the end, neither donors nor PISG felt any commitment to, or ownership of, the exercise.

Although both the UNDESA and Capacity Building exercises led to nothing concrete, they bequeathed a body of useful analysis upon which GEPAR has drawn in preparing this strategy.

3. DETAILED DESCRIPTION OF THE SITUATION OF PUBLIC ADMINISTRATION IN KOSOVO

3.1 Human resources

Introduction

In the context of this report, the term 'human resources' is used to refer to individuals employees in an organization, and to the capacity within the organization that deals with employment, capacity building, performance and many other issues related to employees. It is only in the past decade that public institutions have started using the terms 'human resources', under the influence of international organisations that have settled in Kosovo. The most important resource of the public administration is the people it employs, and as a result the human resources are the key to the successful functioning of the administration as the provider of services to the citizen on one hand, and the implementer of the Government's policies on the other.

- a. Job Analysis
- b. Planning of work needs
- c. Candidate Recruitment
- d. Candidate Selection
- e. Orientation and Training of the new civil servants
- f. Performance Evaluation
- g. Compensation Issues (Salaries, benefits, incentives)
- h. Communication (Interviewing, counselling, discipline and mentoring)
- i. Training and Development
- j. Establishment of a commitment of the civil servants to their jobs and organization
- k. Equal Opportunities
- l. Ethics
- m. Positive Actions
- n. Health and Security of Civil Servants

The assessments of public administration referred to earlier in this report have noted significant progress towards the development of good human resources in Kosovo, as good as or in some cases better than in other newly independent countries. Nonetheless, the same reports note that there are still many weaknesses, and that more time and much work will be needed to raise public administration to accepted European standards.

Legal infrastructure

As regarding the Public Administration, the legislation is not complete but there is a basic fundamental legal infrastructure which has been composed basically according to European standards.

There are now over 100 legal and by-legal acts (including Regulations and UNMIK administrative instructions, laws adopted by the Kosovo Assembly and promulgated by the SRSG, Regulations adopted by the Kosovo Government and administrative instructions of PISG) regarding public administration which should be rationalised and codified. There are significant gaps, including the absence of adequate regulations governing the role, recruitment, replacement and management of Permanent Secretaries and Chief Executives.

A preliminary list of laws required that affect the public administration field are:

- The Constitution of Kosovo;
 - The Law on the Government of Kosovo – competencies and the scope of work
 - Law on State Administration, (structuring, composition and organization of ministries and other agencies and organizations of the central administration and local units according to the delegated competencies);
 - Law on Normative Acts (that defines the type and the hierarchy of the normative acts in Kosovo, as well as the area of social relations regulated by them);
 - Law on Symbols of Kosovo;
 - Law on Official Holidays;
 - Law on Civil Service;
 - Law on Preventing Conflict of Interests and Exercising Duty (doing his/her job);
 - Law on Property Statement by Senior Officials and Civil Servants;
 - Law on Personal Data Protection;
 - Law on Civil Servants Working Abroad (accredited or delegated);
 - Law on Reimbursement of Expenditures and Administrative Procedures;
 - Law on Administration Inspectorate;
 - Law on Employment and Rights of Senior Officials whose mandate expires;
 - Law on Employment and Salaries of those (civil servants) that hold more than one post (job);
 - Law on Professionalism and Status of Civil Servants
-
- Law on Symbols of Kosovo
 - Law on official holidays.

Data on budgetary organisations

There is inconsistency between the three main sources of information:

- According to DCSA (Department of Civil Service Administration of the Ministry of Public Services), there are 69 Budgetary Agencies (39 central and 30 municipal);
- According to the payroll (Financial Record of personal incomes of employees), there are 72 Budgetary Agencies (39 central and 33 municipal)
- According to the 2006 Budget, there are 77 Budgetary Agencies (42 central and 35 municipal).

Numbers of staff

A variety of staff records are kept: on the payroll system, by the DCSA at MPS, and by individual organisations. A variety of software is used by different organisations to keep staff records. The type of information kept varies, and that information is sometimes incomplete or inaccurate. For example, the three main sources of information on the overall number of employees offer conflicting data:

| | Payroll July '06 | DCSA report March | DCSA report June | MFE Budget 2006 |
|--|---------------------|-------------------------|------------------------|-----------------------|
| | | | | |

| | | | | |
|-----------------|---------------|---------------|---------------|---------------|
| Central Level | 29.789 | 28.770 | 27.432 | 35.201 |
| Municipal Level | 41.279 | 40.532 | 40.022 | 41.516 |
| Total | 71.068 | 69.302 | 67.454 | 76.717 |

(These figures suggest that more salaries are paid than there are staff employed. DCSA suggests that this is because budgetary organisations are slow to notify the ending of staff contracts. In these circumstances, salaries paid in error should be recouped; in practice, this rarely happens).

Record keeping on staff

Various deficiencies in staff records held by DCSA throw doubt on the reliability of the Government's record-keeping on staff. For example:

- March 2006 DCSA figures state that 4339 central bodies' civil servants had primary school qualifications only; the June 2006 figures put this at 1883 civil servants
- June 2006 DCSA data records the gender of 356 staff as 'undefined'.

Titles and grades

There is great and confusing variation in the titles and grades of staff: the 2006 Payroll lists some 923 different titles.

Diversity of nomenclature is confusing, but not too grave a problem. Of greater concern is the multiplicity of grades. Originally public administration began with a scale of grades from 3 to 10. This has been made increasingly elaborate by a variety of Government decisions relating to particular staff, and there are now a total of 53 multipliers applying to a total of approximately 37,000 staff. In addition, there are approximately another 37,000 staff on fixed salaries, but the situation here further complicates, with 66 different levels of fixed salaries. In this extremely complicated system, there seems to be little use of standards criteria to determine the grade or salary appropriate to a particular post (such as complexity of duties and responsibilities, qualification, performance, or other specific professional skills).

A Government decision 4/98 of 2004, created a new grading system of three categories divided to 12 grades (four each for every category), and where each grade had ten levels. The problem with this system is that it has not been implemented. A new attempt to rationalize the system of working titles and grades is now in preparation, aiming at supporting promotion of civil servants based on previous experience and positive performance. It is worth stating that any drafting of new regulations in this direction, should take into account the context of the actual development of the public administration in Kosovo.

The payment system in public administration is currently based on four administrative instructions (two referring to civil staff and two to political staff), and the one regulating civil staff entitlements, explicitly defines five types of allowances (over-time; work in shifts; work under dangerous conditions; ad interim engagement as well as recruitment and staff incentives) the current pay system doesn't allow for their implementation. Moreover, no changes can take place in the pay system after day 11 of the current month; therefore around 20 calendar days of the month remain "uncovered" by the system, including the civil staff that might be terminating their contract before time.

The Administrative Directive nr. 08/2006 Measures to Increase Efficiency in Public Administration adopted by the Kosovo Government, foresees that the salaries of civil staff are calculated at the end of the month bearing in mind the calculation of salaries for

hours/days of work. In this way, the unjustified absence from work will be reflected in the end of month salary.

Civil staff planning and recruitment

Public institutions usually lack a mission, goals and/or objectives. As a result, it is impossible to plan the number of civil staff they will need to fulfil their functions, with the result that some functions are over-staffed and some understaffed.

The present system of administration was established, and many of the civil staff recruited, before a full legal framework for public administration was established. Four basic regulations were adopted in 2000 and 2001, but these were not very detailed. Relevant secondary legislation was not adopted until 2003, and there are still many gaps in the legislation governing management of public servants. In the meanwhile, of course, recruitment of civil staff could not wait, and as a result institutions had recruited some 67,000 civil staff by 2001. It is worth mentioning that the recruitment of this number of civil staff was done in times when personnel tasks were yet not transferred onto PISG.

Subsequently, implementation of the Instruction, including objective selection methods to recruit civil staff, have often failed due to conflicts of interest at the senior decision making level, hierarchical pressure from above, political interventions in recruitment and selection processes, and the need for particular positions to be filled urgently. This has led to the selection of inadequate persons in specific positions, cancellation of competitions, and filling of vacancies for long periods with acting persons.

This undermines the objectivity and impartiality of the public service. An OSCE report notes: "More than half of civil servants stated that political opinion affects civil servants' work. More than half think that there is political pressure on civil servants, and this comes from the civil staff, and the political staff. Civil servants in managing positions, including permanent secretaries and department directors, are considered to be political persons by more than the half of civil servants".

Senior staff are appointed by special processes. In municipalities chief executives are appointed by the Municipal Assembly which can overrule the recommendation of the selection panel. In contrast, in central government, permanent secretaries and chief executives are appointed by the Senior Public Appointments' Committee (SPAC), whose membership includes international and civil society representatives, which hampers (but does not eliminate) political influence. However, the legal deficiencies (mentioned above) governing the filling of Permanent Secretary posts led at one point to a position in which most posts were filled by acting permanent secretaries (although this has now been remedied).

The only relevant body that can provide information on the professional qualification structure of the civil staff employed in Public administration is the DCSA, yet when comparing a series of reports, it becomes obvious that the gathering and processing of information comes often too be erroneous or the least, inconsistent. The example provided when comparing two quarterly reports of 2006 shows clearly a faulty input of data as the numbers by educational qualification substantially differ from report to report (e.g. one report states that there are over four thousand staff with primary education whilst the other states that this number is actually half as big). Moreover, the category of "undefined" also appears in these reports.

A very concerning fact is that the vast majority of the civil servants in the central level belong to the category of people who have finished primary and high school only, altogether making up around 70% of all employees. However, a more detailed analysis proves that the largest portion of civil staff with primary school education is employed with the ministries of Health

and Labour and Social Welfare; as well as the Kosovo Police Service and the Kosovo Judicial Council -- meaning that these civil servants are generally cleaning persons or night guards. On the other hand, most of the employed with high school diplomas are employed with KPS, Ministry of Health and Kosovo Judicial Council – leading to the conclusion that they are mainly nurses, police officers and administrative-technical staff of the courts.

Apart from concluding that the rudimentary system used to keep track of the employed in public administration needs urgent revision and also must be replaced by an inter-active computer software, the question is whether individuals with these qualifications should be holding the posts they currently hold.

In the local level, the percentage of these two categories reaches 55% -- mainly because the largest number of employees at the local level belongs to the teaching staff category (which must have university degrees), meanwhile the majority of the administrative-technical tasks are covered by people with high school education. Those with primary school education are mainly employed in schools and health facilities (as cleaning persons and night-guards).

Equal opportunities and diversity

The legal framework in this area is good. In practice, however, much remains to be done in addressing diversity and eliminating prejudices of various kinds in human resource management. There has been no census in Kosovo since 1981, which makes it difficult to contextualize data. Even so, there has been a lack of policies and actions by senior management in promoting diversity values, which has not enabled an adequate representation in management positions of certain gender, ethnical, age or disability groups.

Gender profile of civil servants

Of 392 management positions in the civil service (heads of division and above), only 78 (19.89%) are held by women. Since 2002, when SPAC took over permanent secretary appointments, only one female permanent secretary has been appointed. One female chief executive has been appointed.

Of 332 management positions in municipal level (deputy director and above), only 26 (7.83%) are held by women, most of them heads of department. There is only one female CEO in the municipalities.

Of 724 management positions overall, a total of 104 women hold managing positions (14.36%) in Kosovo's Public Administration.

Ethnic profile of staff

DCSA's data on the employment of Civil Servants according to their ethnic background is done generally, without a clear breakdown of their professional background. According to these statistics, members of communities participate in the overall employment in Public Administration with some 12%.

Of the 392 management positions in the civil service (heads of division and higher), 24 (12.68%) are held by non-Albanians. One of the 16 permanent secretaries is non-Albanian, as is one chief executive.

At municipal level, of the 332 management positions, 42 (12.68%) are held by non-Albanian staff.

Of 724 management positions overall, a total of 66 minority community members hold managing positions (9.12%) in Kosovo's Public Administration.

| | Overall Number of employees | Albanian | Serb | Turkish | Other | Undefined |
|--|--|-----------------|-------------|----------------|--------------|------------------|
| DCSA report March¹ | 69.295 | 61.037 | 5.404 | 703 | 2.146 | 0 |
| Percentage(%) | | 88,09% | 7,80% | 1,02% | 3,10% | 0,00% |
| DCSA report June | 67.454 | 60.008 | 4.725 | 692 | 2.007 | 22 |
| Percentage(%) | | 88,97% | 7,00% | 1,02% | 2,97% | 0,08% |

Age profile of civil servants

According to the reports of the DCSA on the second quarter of 2006, the largest number of public servants in the administration belongs to the 40-50 age group, which is then enriched by age groups of 30-40 and 20-30 – which in total comprise 76,27% of employees in the public administration. This is a reasonable mix, bearing in mind that it combines the most vital part of the population with maturity, although it is not clear what kind of working experience these employees have. If nothing else, then many of them have some greater experience of life generally.

| Age Structure of Public Administration Employees | | | |
|---|------------------|-------------------------------------|---------------|
| Nr | From - to | Number of Civil Servants | % |
| 1 | 20-30 years old | 13782 | 18.50 |
| 2 | 30-40 years old | 20431 | 27.44 |
| 3 | 40- 50 years old | 22582 | 30.33 |
| 4 | 50- 60 years old | 14712 | 19.76 |
| 5 | 60- 65 years old | 2953 | 3.97 |
| Total: | | 74460 | 100.00 |

Disabled people

From the presented reports, there is no information by which one may conclude on the number of disabled persons employed with the public administration. There is no doubt that this segment needs to be incorporated in the future system of data collection so the information of the employed in Public Administration are more comprehensive.

Contractual status of civil servants

As stated above, the legal framework does not distinguish civil servants exercising public authority from the support staff (bureaucrats vs. technical staff such as cleaners and guards). However, the system does recognize the possibility of signing contracts for a maximum three-year period, and also provides the possibility of signing the so-called interim contracts, for which the regular recruitment procedure is often not applied

There are no contracts for internship, allowing young graduates to go through internship in public administration institutions. Instead there is a three-months probation period clause,

¹ The disaggregated number by ethnic groups does not sum up the total as presented

which is applied in each signed contract.

Short-term contracts do not allow for movement within institutions, nor professional promotion. Furthermore, they exacerbate staff turnover (it is estimated that around 10-15% of the staff leave their job, for one reason or other, and are replaced with new staff), which wastes the training given and the experience gained. However, in order to avoid this, a new possibility has been created for the horizontal movement within the institutions with the aim of filling out some empty jobs, and the Government of Kosova adopted a decision nr. 06/214, date 7.9.2006, to freeze employment in Public Administration.

A longer term security of professional employment would create a more sustainable basis for investing in human resources development, including career development and training. But this would also require a more rigorous and quality system of performance evaluation, which would not allow poorly performing civil servants to keep their jobs in public administration.

Salaries

Over 28% of the overall Kosovo budget is dedicated to the wages and allowances of the Public Administration (which includes “classical” civil servants and other public administration employees). The amount may seem large at first sight; however the fact is that the overall Kosovo budget is relatively small. The average gross salary in public administration is 193 €. This is not unique to Kosovo, but the enormous international presence has pushed up living costs and made posts in public administration unattractive to able people who can find better paid posts with international organisations. The level of salaries is an all-pervasive obstacle to developing the public service. For reasons given in the financial section of this paper, there is no prospect of this changing for some time.

The Government of Kosova has adopted the administrative directive nr. 3/2004 on the salaries of civil servants in the civil service of Kosovo from the Kosovo Consolidated Budget, who are engaged in more than one job, according to which civil servants are entitled to, in addition to the regular job, be engaged part-time in another job and where they will get 50% of the other salary.

Management and performance evaluation

The essence of performance management is that the work of the civil servant should be oriented towards fulfilling the institution's objectives and plans (based on the government program) and the employee's own job description and work objectives. However, the standard form of evaluation and performance management currently in use enables an evaluation that is mainly qualitative rather than quantitative, based on the subjective perception of the superior. It is a lengthy document, and is time consuming to complete, especially since many senior officials have to complete reports for many subordinates.

This form is applied in the majority of institutions of public administration, but the impression is that it still is only treated as a formality or a required legal procedure, and it is not used for its intended purpose: a meaningful appraisal of the employee's performance. The experience of the assessment process in recent years has shown that in many cases the assessment was carried out late, and was not carried out with the aim of identifying achievements and weaknesses.

The AD on Increasing Efficiency in PA envisages that from now on the evaluation of work of civil servants by their superiors should be done every 3 months.

On the other hand, there is no established system in which civil servants would evaluate their

superiors – which would help to improve performance of senior managers, and would avoid having them evaluated only by their administrative or political superiors which may often have a political connotation.

Working conditions

General working conditions reflect the provisions of the Law No. 2003/19 on Safety in Work, Workers' Health Protection and Working Environment, and meet good practices in EU countries.

However, some 4 million euros is spent annually on renting offices of around 16,000 m². A rough calculation based on the cost of building schools suggests that, for that annual cost, some 14,000 m² of office accommodation could be built.

On the other hand, the Department within the MPS, in charge of infrastructure, was not able to produce data on whether the available space used to accommodate all public servants complies with architectural standards.

Pensions and health insurance

Public servants make compulsory contributions of 5% of gross salary to the Pensions Savings Trust (the Regulation foresees up to 15%). The government meets its obligation to make an equivalent contribution for each worker. However the operation of the Trust is not very transparent. Staff can request information on their contributions and entitlements, but this takes a long time and often the information is not provided at all.

On the other hand, there is still no proper health insurance, and civil staff have the right to medical leave and maternity leave. However, there is no coverage of health expenses, which places public servants in an unfavourable position, especially since their salaries are low.

Legal aid and trade union organisation

The Independent Oversight Board, which became operational in 2005, reviews and decides on complaints against decisions of employment entities for all civil servants, up to the level of directors of departments. During 2006, IOB has received a total of 186 complaints (3 from Serb civil servants) and has resolved 124. Moreover, it is in the mandate of the IOB to check that the selection of department directors is made in accordance with legal provisions. On the other hand, the decisions of this council are considered of the second level, and in principle may be disputed at the Supreme Court only in an appeals proceeding.

Civil servants have the legal right to join political parties and trade unions. The Independent Trade Union of Administration Civil Servants was established in the summer of 2006, but it is not clear whether it will spread branches in all budgetary agencies.

Training and development

For career development in Public Administration the legal framework must provide the opportunities for transfer or promotion from one rank to the other as well as from one institution to another within the administration. The current opportunities for such career development are limited, and mainly there is no co-relation between education, results in work activities and qualification grade, which often leads to decreased interest on employment, limited creativity, increased interest on secondary jobs, demotivation in giving maximum performance in work, etc. The capacity building action plan adopted in 2005 identified extensive shortfalls in capacity in key areas of staff skills.

One of the most effective ways of countering this is training, aimed at increasing efficiency, effectiveness and productivity of the organization, through capacity building or continuous advancement of its human resources.

There is no centrally compiled data on training undertaken. However, public administration civil servants have received training from a variety of PISG and international sources. KIPA was established in 2003, and annually prepares a training plan based on an assessment of staff training needs. To date KIPA has provided training in the following areas:

| Training fields KIPA Trainings 2004-2006 | Training Programmes | Training days | Participants | Participation² |
|---|----------------------------|----------------------|---------------------|----------------------------------|
| General Administration | 12 | 96 | 493 | 1056 |
| Human Resources | 12 | 146 | 1032 | 1577 |
| Budget and Finances | 10 | 68 | 595 | 832 |
| Municipal Issues | 31 | 197 | 1210 | 1466 |
| Legislation | 12 | 69 | 686 | 733 |
| General Management | 13 | 123 | 623 | 2627 |
| Information Technology | 17 | 170 | 1224 | 1607 |
| Total | 107 | 869 | 5863 | 9898 |

However, despite the improvement in the performance of a proportion of public administration civil servants, in the majority of cases skills and knowledge acquired in training are not applied by most staff in their work. This comes as a result of the non-functioning of the monitoring, evaluation and sanctioning procedures even though article 12 of the Administrative Direction 2003/02 requires it.

However, KIPA has never been able to evaluate the impact of trainings provided, since there was no budgetary provision for this. But, despite professional advancements marked in a part of public administration staff, in the majority of cases, practices and methods learned in trainings are not applied in their working places, which is a result of non-functioning monitoring, evaluation and punitive mechanisms, although such a thing is required by Article 12 of the Administrative Instruction 2003/02. Furthermore, if 10-15% of staff leave public administration each year, that proportion of training is completely wasted. Hence, there must be a question over the benefit of the energy invested in training.

The AD on Increasing Efficiency envisages the possibility of keeping trained staff with expenses covered by the respective institution.

Many institutions have no staff development policies or budgets for continuous professional development. The structure of institutions' budgets does not make it possible to identify whether a training budget exists.

3.2 Organisational Structure of Institutions

Gathering data on the organizational structure of the institutions proved to be quite difficult, as in some cases no organograms could be found, in others they were so outdated that they made no sense and in some cases the ministry's officers would simply ignore the request coming from the experts' group.

The fundamental and general aim of the creation of the organizational structures of institutions through an adequate construction is to achieve a level of vertical and horizontal divisions, so that mechanisms of coordination, communication and control can be established, in order to formalize power as well as establish its centralization or decentralization.

Ever since 1999, a series of legal acts and regulations have been adopted aiming at establishing the public administration in Kosovo and have directly or indirectly determined the organizational structure of the institutions and their mandates. Currently, some eight legal

² This marks the energy spent in training provision by the KIPA –meaning that one staff can undergo several number of training courses. For training fields, calculation is made by attendees.

acts serve as grounds for the institutional set up, and can be found in the annex to this report, provided by the group on Legislation. In addition, this structure has also been affected by a series of decisions adopted by the PISG. All of this results in different organizational structures, composed of different organizational units.

Basic structure

A general conclusion can be drawn, and this is that the institutional structure has several organizational units and which according to the hierarchy more or less would be defined as follows:

- Agency
- Department
- Division
- Sector

However this structure is not unique in all institutions and discrepancies in the application of this pattern can be noticed even within one same institution, when looking at the existing organograms. The most common names of organizational units in the institutions of the public administration in Kosovo are the following:

- Cabinet
- Agency
- Agency
- CEO
- Permanent Secretary
- Permanent Secretary
- Department
- Inspectorate
- Institute
- Secretariat
- Directorate
- Office
- Commission
- Division
- Sector
- Unit

and sometimes something that is very difficult to understand even by the institutions themselves.

The analysis has proven that there are many cases when in a ministry an organizational “cell” has been placed within a department as has been called “division”, while in the other ministry, although designed to fulfil the same or similar tasks was called “ directorate”, “sector”, “office” and even “unit”.

Such discrepancy and confusion leads to the conclusion that many of the diagrams are unclear and are drafted in such way that make it very difficult to understand who is who, who is responsible for what and who is doing what in an institution.

Central institutions

The basic document that lays the foundations for the functioning of the administration at the central level is UNMIK Regulation 2001/19, amended with regulations 2002/5, 2005/15, 2005/53, 2006/19 and 2006/26.

When this analysis was done, the central institutions comprised the Parliament, the Office of the President, the Office of the Prime Minister and fifteen ministries (Transport and Telecommunications; Economy and Finance; Energy and Mining; Environment and Spatial Planning; Culture, Youth, Sports and Non-Resident issues; Health; Trade and Industry; Education, Science and Technology; Public services; Communities and Returns; Labor and Social Welfare; Agriculture, Forestry and Rural Development; Administration of Local Government; Justice and Internal Affairs)

Local Institutions

The basic document that regulates the functioning of the administration at the local level is regulation 2000/45. According to it, Kosovo comprises 30 municipalities. In addition it established the bases for the organizational structure of the municipalities.

The analysis has shown that the hierarchical structure of the municipalities is generally consistent and is composed of:

- CEO (as the highest unit)
- Directorate
- Sectors (as smaller units)

However, same as at the central level, some inconsistencies can be found – be it in numbers of units or the names of the units. Apart from the above names, terms such as: “Director’s Office”, “Inspection”, “Inspectorate”. “Office”, “Department”, “Civil Servant for certain issues” etc., are also common in some municipalities.

When this analysis was done, Kosovo comprised these municipalities (Prishtina, Prizren, Mitrovicë, Pejë, Gjakovë, Gjiilan, Ferizaj, Podujevë, Glogovc, Fushë Kosovë, Obiliq, Skenderaj, Vushtrri, Zubin Potok, Zveçan, Leposaviq, Suharekë, Dragash, Malishevë, Rahovec, Klinë, Istog, Deçan, Kamenicë, Novobërdë, Viti, Shtime, Shtërpce, Kaçanik and Lipjan) and with five pilot municipal units (Hani i Elezit, Mamusha, Juniku, Graçanica and Partesh), the first three are already functioning.

3.3 Management in Public Administration

Transfer of competencies

As mentioned above, the legal framework for public administration is fragmented and incomplete because it is based on three legal sources and in need of revision. The situation is further complicated by the gradual transfer of competencies from UNMIK to the PISG, which is not yet complete. At present, in the aspect of executive and judicial power, the competencies not yet transferred to the PISG are in the fields of privatization; customs; banking authority; justice; police and the KPC. In terms of legislative power, the SRSG reserves the absolute right to amend or to not promulgate a law adopted by the Assembly. At the municipal level, the Municipal Assemblies cannot administer public property in full (e.g. the land is under KTA administration).

Competencies’ transfer also implies establishment and strengthening of capacities within the Executive Branch for policy-making and policy coordination. Two particularly relevant procedural developments are the 2004 Administrative Instruction of the Government which requires that draft laws should be harmonized with the *Acquis communautaire*, and the adoption in 2005 of a set of rules of procedures for the operation of the Government meetings (currently under revision). The enforcement of these rules has been entrusted to two recently created institutions: the Agency for European Integration and the Government Coordination Secretariat.

Strategic and policy planning

An effective policy system requires complementary capacities in both the Ministries and the OPM. The Office of the Prime Minister must have the capacity to develop and strengthen procedures for sound policy development. Procedures would specifically address inter-ministerial and stakeholder consultations, and require sound analysis, including cost evaluation and consequences of political and legislative proposals. Ministries must have the capacity and decisiveness to follow necessary procedures and base their policies and legislative proposals on valid analysis, including the *ex ante* impact assessment of proposals, and periodically an *ex post* assessment of outputs. If these capacities are lacking, this system will not be effective.

According to the strategic planning model, all activities undertaken by a public organization must be consistent with Government priorities, sector strategies, the vision and mission of the organization, and the goals and objectives of the programs set by the organization.

In Kosovo, Government priorities are largely generalized, and as such they do not support the strategic planning process in public administration. Sector strategies are lacking, or are of an academic nature, and often do not contain concrete action plans. Many public organizations have not reviewed their vision and mission, maintaining a vision/mission which remains unrealistic, since it does not adapt to changes in the field, be that in the aspect of competency transfer, experience sharing, standards implementation, or other aspects. Many organizations have programs with goals and objectives that are difficult to link with strategic planning.

The current Government Program, approved by the Assembly in early 2005, was approved once more on the occasion of the nomination of the present Prime Minister and the current Government. The Program's implementation is monitored by the Government Coordination Secretariat, in coordination with the Ministries.

Legislation and policy development still relies heavily on support from foreign experts, and not infrequently come as programs proposed by UNMIK and foreign donors. However, with the aim of coordinating some Government activities, every week a meeting of the Permanent Secretaries is held, chaired by the Permanent Secretary of the OPM. However, since this body is not defined by Law, and does not have decision making powers, it only serves as a forum for sharing experience as well as professional and political opinions.

The Donor Coordination function was until recently in the MEF, but a new Donor Coordination and Capacity Building Unit is now being raised in the Prime Minister's Office.

Planning at the level of budget agencies

According to Regulation 2001/36, the responsible person for planning and management of the budget in a budgetary agency is the Permanent Secretary or Chief Executive Officer. According to the experience shown so far, it is the heads of departments that plan the number of staff and budget required to fulfil the tasks deriving from action plans, based on the Government program. It is the PS or the CEO who structures this material into a single document that is then submitted to the MEF for approval. Usually these budget bids are reduced during the budget hearings with the MEF, because the requirements exceed the amount that can be covered by Kosovo's annual budget.

At the municipal level, the procedure is more or less the same, with the difference that in calculating individual budgets, these entities plan also their revenues levied at the municipal level. The municipal budget is approved by the Municipal Assembly, which does not have control over the level over grants allocated by the MEF to the municipalities, which in turn are

dedicated to education and health care. Regulation 2000/45 does not allow municipalities to raise loans.

Financial control

Supervision of the financial side of public administrative activity is carried out by two bodies. The Internal Auditor (within the MEF) was established by the Law on Public Finances, and is an office which from this ministry verifies more the compliance with financial rules and procedures, rather than assesses efficiency of management systems. The Office of the Auditor General, established by UNMIK Regulation 2002/18, carries out external and independent audits of the budget institutions of Kosovo. In the last year, the Auditor General has issued a series of reports on financial management of the PISG, in which a number of breaches of procedures have been highlighted.

Transparency

Almost all local and central institutions have established information offices, primarily to facilitate communications with the media, but also with citizens. Spokespersons, which according to organizational structures should (in principle) be civil servants but in practice are often politically nominated, have a relatively good approach towards their work. From the experience of past years, it can be said that communication with journalists has improved, but communications with the public remain unsatisfactory, especially as far as websites are concerned (see the section on E-Governance below).

Transparency of procedures in staff recruitment and procurement of public contracts is not at the desired level, as evidenced by the many doubts expressed in the written and electronic media. The Law on Access to Official Documents (UNMIK Regulation No 2003/32) was approved by the Assembly in 2003, but the administrative instruction to implement it was passed only in March 2006 (Administrative Instruction of the MPS, No 3/2006).

The work of the Assembly of Kosovo in plenary sessions and commissions is mainly public, and the work of parliamentary commissions is often even interactive, with the presence of invitees from the civil society and other stakeholders. The same is not true of the Government, which keeps its meetings in closed sessions (based on practices of all the countries of the region). On the other hand, the Ministries mainly communicate with citizens through public debates on a law, a strategy or an initiative, however these public gatherings have not proven to have had a satisfactory attendance nor participation by the citizens so far.

At the municipal level, the legal requirement to hold at least two meetings with the citizens annually is relatively well observed by all municipal assemblies, but these meetings have not attracted large numbers of participants. There are only a few cases in which these meetings have been reported to have led to concrete results or to changes of decisions by the municipal entities.

Equal Rights

Two bodies within the OPM exercise oversight of human rights across the Government: the Advisory Office for Good Governance, Human Rights, Equal Opportunities and the Gender Issues Agency. There are also units for human rights in ministries and officers for gender equality in ministries and municipalities. In addition, the Ombudsperson exercises supervisory and investigative functions.

The impact of these offices/agencies has been rather limited. This is supported by evidence mentioned earlier in this report, such as the under-representation of women in public

administration and the failure to maintain records of the number of disabled persons employed in ministries and municipalities.

Implementation of the law

Implementation of the laws is often hampered, first by the approval of legislation without any associated budget provision; second, delay by Ministries in drafting the secondary legislative acts necessary for the implementation of the laws; and third, the non functioning of sanctioning mechanisms for failure to observe the law and of subsequent judicial enforcement. Failure to implement laws is often excused on the grounds of 'lack of full competencies', but that cannot justify these deficiencies.

Responsibility for preventing and acting against abuses at administrative level lies with civil service managers, internal auditors and disciplinary commissions. Due to the lack of data, there are too few cases in which civil servants have been dismissed or prosecuted for such abuses.

Decision making

Policy development requires an open mutual exchange of opinions between politicians and state civil servants, initiative and assessment by state civil servants, consultations and information sharing between ministries, inclusive cooperation with an informed civil society and consensus building. This is often in a severe contradiction with the previous approach of "directives from above".

Still, it seems as if the "directives from above" approach has not gone from the public administration. According to a study made in relation to the influence of political advisors in the public administration sphere, there is a conviction that the influence of politics in building public administration management is still large. According to this study, only 10% of the 500 respondents consider professional qualification and working experience as a crucial factor to administration employment. This supports the belief that employment in administration is not made in accordance with the law definition (merit and experience), but it is mainly politicized and based on regionalization, kinship, and nepotism – which in turn leads to bad decision-making.

On the other hand, the same study has revealed the discontent of the civil staff with the intrusion of political staff in administrative decisions. According to senior servants, political advisors are manipulating the hiring process by arranging for the employment of their own followers, while simultaneously accusing past governing structures of acting in the same way. The damage to public administration is twofold: on the one hand, people are not employed with the necessary qualities; while on the other hand, there can be over-employment and internal conflicts, having an adverse impact on decision-making.

In this context, there are numerous complaints of the civil staff accusing political staff of attempting to practically manage the ministries— as a consequence of the fact that there is no differentiation between the terms “leader” and “manager”, and because the Code of Conduct of Political Advisors is often not observed, as according to it, the political advisors are not allowed to intrude with the management of civil service.

The process for making decisions at the Government meeting, the Kosovo Assembly, and Municipal Assemblies, is governed by specific regulations. While rules and regulations of the executive and legislative branches have been subject to several changes in the recent years, municipal statutes have progressed more slowly. In this area, the responsibility for supervision of the observation of these rules lies with the SRSG.

Oversight of administrative management

In the majority of institutions, oversight takes a mainly financial direction, focusing on the comparison of budget allocation with budget outturn. This is not always illuminating, since both overspending and underspending can be evidence of inadequate administration. Furthermore, focusing on budgets alone provides only a partial assessment of performance.

Such assessments rarely focus on the realisation of working plans which are built on the programmes of institutions (Government, Assembly, municipal assemblies) – principally because the entire administrative system is not orientated in that way.

There is no external evaluation of the overall performance of institutions, only self-evaluations made by heads of institutions, which once a year present their success (or lack of it) in unilateral reports, and without feedback from service beneficiaries.

Reporting

The Government, through the Prime Minister, has a constitutional obligation to report periodically to the Assembly on the implementation of the Governmental program, and the Prime Minister and ministers may be invited to account to the Assembly for their responsibilities, including the activities of the civil service in their respective ministries.

At the Government level, there is an obligation of each ministry to report in writing on activities of different sectors on quarterly basis, which the Prime Minister's Office should compile and edit into a single report. These reports are generally not written following any standard format, and contain a variety of information which is cannot easily be incorporated in a single report. Furthermore, the editing of these reports so far has not been very skilful, and consequently the reports are long and inconsistent.

The reports of ministries are prepared based on individual reports of the departments of that institution, which meets the formal requirement of written reports but not always results in compact information required for the further development of work toward the implementation of the annual plan. There is an evident lack of reporting capacities in all levels of reporting in public administration.

There are frequent weekly meetings of directors, where reports are usually made verbally and minutes are not always kept. Moreover, there is no unitary format of minutes, which results in a variety of formats and contents.

Accountability and responsibility

Despite a legal framework that includes regulations on access to official documents, evaluation of work, standards of conduct of civil servants, discipline and complaints, the system of responsibility and accountability is unsatisfactory. This is true of both the ethics of the public service and of the way its systems work in practice. This may be a result of lack of experience, ethics, culture and tradition of work in public institutions; lack of proper action plans, lack of monitoring or checking of duties and activities of each civil staff; lack of clear job descriptions; lack of implementation of a proper performance evaluation system; hesitation in applying disciplinary procedures or the impossibility of applying punitive (monetary) measures because of technical limitations in the payroll system.

Quality of services and productivity

Data does not exist to allow an assessment of the quality of services provided by the public administration. There is a lack of medium and long term development strategies for providing such services, and there are no public surveys of the services provided.

Political staff

Tension between political staff and civil servants is common in the Kosovar Public Administration. Recently, efforts in improving the relations between the political staff and the civil servants have been seen, aiming at establishing joint understanding of roles and responsibilities, always viewing that the political and professional staff (civil servants) have complementing roles in the development and implementation of the developing policies, and their relations are crucial in the work of the Government. Nevertheless, there still remains a lot to be done in finding models of effective cooperation.

3.4 Communication with Citizens

Introduction and content

Despite progress achieved in the communication of the public administration with the people and a gradual tendency for opening of this administration, the current situation analyzed in this report shows that there is still room for improvement.

The bulk of the criticism in terms of communication with the public can be rounded up as follows:

1. Lack of information for the public regarding the services provided by the public administration, namely which department offers what services and which are the requirements to be met in order to get access to these services.
2. Lack of information on the functioning of the public administration and lack of practice of drafting and publishing reports dedicated for the public.
3. Lack of mechanisms to listen to and to collect suggestions and complaints of the people and furthermore the inconsistency of the public administration to treat these suggestions or complaints.
4. Lack of implementation of the Law for access to official documents.

The present situation

The legacy from the previous regime and non-information of citizens about the opportunities and ways of communicating with the institutions has led to a point where most citizens do not use their right of directly communicating with public administration institutions. This is reinforced by lack of availability of information, or by confining public information to conventional forms, such as statements by spokespersons and press releases, with a very limited access to electronic communications. This places communication between the administration and the public in Kosovo at an unsatisfactory level, and creates an atmosphere where self-satisfaction and corruption can flourish.

All institutions, at central and local levels, have already established public information offices, which in general employ a small staff, and are led by the spokesperson of the institution.

All information officers are required to have a superior education, and preferably experience in media or publishing. Experience to date shows that there has been a diverse professional range of levels of information officers in Kosovar institutions, and that they have focused more on communicating with written and electronic media, and much less on direct communication with the citizens.

The communication with the citizens by the information offices are mainly implemented in the following forms:

- Press conferences (in which politicians often take part),
- Press releases, which are mainly distributed through electronic addresses to editors
- Through websites, where information is posted to describe activities of relevant institutions, and
- Through periodical publications in limited editions

Special publications distributed through daily press are more sporadic, and this practice is not used by all ministries or municipal assemblies, but mainly only by those that enjoy support of an international project.

On the other hand, there have been few organized information campaigns, and these have mainly distributed information through national TV broadcasters, daily press, billboards, posters and leaflets. Examples are OPM campaign "And now, Europe" (on European Integration); the MESP campaign "Kosovo My Home" (on environmental protection); the MEM campaign on electricity bill collection); and the MCYSNRI campaign "Preserve it, it is yours" (on cultural heritage), MSP/OSCE (Campaign for implementation of Code of Conduct for civil servants. The problem with these campaigns is that they have been a one-way channel of communication only, and there has been no evaluation of their effectiveness.

Communication at the central level

Central government civil servants communicate with citizens mainly through the media, most often by statements by spokespeople on certain issues to journalists following meetings. Also to deliver particularly important messages, there are recorded statements which are then broadcast via the electronic media, but this is relatively rare.

Another channel of communication between the institutions and the citizens is the website of each institution. At the central level, websites are not active in the case of the Office of the President of Kosovo; the Ministry of Justice, the Ministry of Internal Affairs, the Ministry of Agriculture, Forestry and Rural Development, and the Ministry of Returns and Communities. The updating of information is often carried out in an inconsistent and insufficient fashion,

and therefore the information provided is not always useful. On the other hand, one needs to point out the webpage of the Ministry of Local Government Administration, which is the only one that is interactive, but there are only 574 registered users.

There is a total lack of online forums on specific topics that are of special interest to the citizens, in the webpages of institutions.

However, the problem of internet communication in Kosovo is also the access problem, as access is provided mainly in urban areas, and even there user numbers are small (as described at greater length in the section of this report on e-governance).

Visits of government officials to the field are very few in number and in the majority of cases visits to certain municipalities are limited to meetings held with the municipal government officials. Moreover, debates with the citizens on certain topics are very rare.

Lately, there has been progress in the level of communication with the citizens with regards to the drafting and promulgation of laws. There is intensified organization of public debates on legislation, and the Official Gazette is also published in five languages whereby citizens can get informed on the laws passed by the Assembly of Kosovo and signed by the SRSG. So far, there have been 8 editions of the Official Gazette.

A positive step in improving communication with the citizens is the Citizens Communication Desk (the Offices for appeals) in all institutions of the central level and in the municipalities. These roundtables will replace the practice of boxes in various institutions, which to a large extent did not meet their functioning, because the voice of the citizens had no echo in the work of the administration.

Communication at the municipal level

Officials of municipal governments also usually communicate with the media and citizens through statements and press releases. As in the case of central institutions, municipal entities have worked to develop their websites (mainly thanks to donations from SOROS and UNDP), on which information, reports and announcements on specific issues are posted. But not all municipalities have active webpages, and some don't have webpages at all (in Viti and Klina the webpages are undeveloped and in Novobërdë, Kamenicë, Deçan, Glllogovc, Fushë Kosovë, Leposaviq, Obiliq, Shterpcë, Vushtrri, Zubin Potok and Zveçan there are no websites at all). Moreover, the updating of information is not always done on time and not all websites provide necessary information on services provided. Internet access at the municipal level is a more frequent problem than at the central level

Meetings with the citizens are rare and more of a formal nature. The legal obligation of municipal leaders for holding at least two annual public hearings with the citizens is mainly implemented for formal reasons, but does not result in a genuine debate or initiatives for positive changes.

Regulation 2000/45, which defines the rights and obligations of municipalities, does not provide for "local community offices" within their organizational structure, although they functioned earlier. Such offices would have imposed an additional burden for the administration, but they would have required decentralization of municipal powers and tasks, and would have brought services closer to the citizens. Many services provided at the level of local communities (registration, certificates of birth, etc) are now provided and archived at municipal level. However, this practice will be replaced with the approval of the Law on civil status which envisages the refunctionalizing of local community offices.

Law for Access to Official Documents

The implementation, namely the failure to implement the Law for access to official document was one of the most talked-about topic in Kosovar media and in various reports of governmental and non-governmental organizations. With the aim of implementing this law, the Ministry of Public Services adopted an administrative directive in early 2006, and the Government of Kosovo adopted it several weeks later, on 28 March 2006. The development of this administrative directive was an example of transparency, communication and cooperation with the media, citizens and other institutions. The Ministry presented the draft for public discussion three times and received comments and remarks which it incorporated in the final version of the directive. The organizations that contributed most with their remarks and comments to the development of this directive were the Association of Kosovo Independent Journalists, the UNDP (CBF advisors), the USAID (NCSC) and the OSCE (Rule of Law section).

In April 2006, based on the administrative directive for the implementation of this Law, an inter-institutional committee was set up to administer the practices related to the Law that functions as part of the OPM.

In June 2006, the MSP drafted and published manuals for the implementation of the Law (in over 100.000 copies in three languages). The manuals were distributed through newspapers, central and local institutions, and were given to various organizations that further disseminated them in seminars.

In June 2006, the MSP in KIPA has organized trainings for institution officials on the implementation of the Law and the administrative directive for its implementation.

All this led to a point where the public is better informed about the Law in comparison to other laws. According to UNDP's study Kosovo Mosaic 2006, depending on the communities, up to 30% of the citizens are informed about this Law. Albeit this study did not provide comparative measures, by showing the level of information of citizens on other laws, one can assume that this level is higher than that of any law or administrative directive drafted by the government.

Institutions have lagged behind in the implementation of a series of obligations from the Law and from the administrative directive for its implementation. Following are some of the most important obligations: (1) drafting and publication of lists of official documents in institutions, (2) drafting and publication of lists of sensitive documents in institutions, (3) final classification of official documents and (4) drafting and publication of procedures for access to official documents in every ministry.

In March-November 2006, the central level has received 51 requests for access to official documents, and 48 requests received replies. During the same period, the municipalities have received 71 requests, and 70 of them have received replies.

3.5 e-Governance

Introduction

Electronic governance, or in short e-Governance, is an instrument of an information society in the form of governance principles, strategies, systems and tools that permit the use of ICTs (Information and Communication Technologies) in mutual interactions between and among the key members of society - state, citizen and businesses - to strengthen democracy and support development.

It is obviously a key tool in the reform of public administration, since it allows information to be made easily available to the public and, of equal or greater importance, allows government services to be accessed by the public on-line. As the experience of other countries has shown, there is tremendous potential for making services far more easily accessible to the public, for improving the speed and efficiency of administration, and for reducing costs. The overall impact of this is to improve democratic government and strengthen trust in public institutions.

During the 1990s the development of ICT lagged far behind other countries in the region. After 1999 donors brought a large influx of IT aid to Kosovo, but the absence of an overall ICT development strategy and the lack of coordination between donors led to some confusion, whose after-effects are still felt now.

Kosovar institutions' investments in ICT were ad hoc and did not address the need of public administration for a cohesive and interconnected system.

A particular obstacle was created by the low level of cooperation between ministries, especially between the two ministries with the lead role in the ICT field, MTPT (Ministry of Transport Post and Telecommunication) and MPS (Ministry of Public Services). Had they cooperated, it would have been possible to develop a clearly defined action plan, based on an adequate legislative framework, and significant progress could have been achieved.

Current Status

Telecommunication and Hardware infrastructure in Government Institutions

The governmental telecommunication network is mainly based on a fibre optic network, but some other institutions are connected through a microwave network.

The fibre optic network covers:

- Kosovo Assembly; Gërmia (MPS/MLGA); the new government building; Ministry of Culture; Ministry of Agriculture; Ministry of Education; Ministry of Trade and Industry; Ministry of Work and Social Welfare; Ministry of Finances (whose network logistically functions separately from the government network structure, although the two are connected with each other); Ministry of Justice; Pension Administration; Rilindja-Containers; Ministry of Health; Municipal Court in Prishtina; Prishtina University Rectors Office; Prishtina Municipality; National Library; Archive of Kosovo / Cadastral Agency /Institute of History; Organ of statistics; Forest Agency / Kosovo Museum; KPS (a connection between the KPS network and the Government network with optical fibre is possible) .

Connections by governmental network with capacity of 45Mbps:

- Ministry of Energy; Ministry of Environment; Department for Management of Emergencies; Kosovar Agency for Medical Products; Gynaecology UCC

Connected by a microwave network with capacity of 2Mbps are:

- Gjilani Municipality; Mitrovica Municipality; Peja Municipality; Dragash Municipality; Deçani Municipality

Connected by a microwave network with a capacity of 64Kbps are the following municipalities:

- Prizren; Theranda; Rahovec; Graçanica; Lipjan; Ferizaj; Shtime; Kaçanik; Shtërpca; Kamenica; Artana; Vitia.

IT Department has access to the Internet with a capacity of 10 Mbps. Access to the Internet is centralised for all institutions that are connected to the government network (over 3200 computers).

The interconnected central government-municipal network provides access to the Internet, governmental e-mail, the cadastre service, and the MEF programme (FreeBalance). However the condition of the connection infrastructure between the Municipalities and central institutions in Prishtina is not good. A single governmental telecom network would offer a better environment for developing e-services, and expansion of such a service to all governmental institutions remains imperative.

Software Infrastructure

Public administration uses two general software systems and certain specialised customized to the specific requirements of individual institutions. The general systems are based on the standards of ITD-MPS, which have adopted Microsoft products are used as standard software.

General Software infrastructure is as follows:

For servers: Windows 2000 and Windows 2003 Server
 For Desktop: Windows 2000 and Windows XP
 For data bases: MS SQL Server 2000
 For Office Application: MS Office XP and 2003
 For mail Server: Exchange Server 2000

The following specialised applications are also used:

Central Institutions :

Kosovo Assembly: Document Management System (DMS)

Presidential Office: Document Management System (DMS)

Office of Prime Minister:

Some databases based on MS Access (data bases for laws, donor coordination, missing persons etc.)

Ministry of Economy and Finance:

BDMS (Budget), PIP (Budget), Software for property taxes (DTP), FreeBalance (Treasury), SIGTAS (Tax Administration)

Ministry of Public Services:

Payroll system, Human resource management (ITD), Inventory management (ITD), vehicle registration, Statistical system (ESK), IPRR & Geomedia GIS (Kosovo Cadastral agency)

Ministry of Agriculture:

Cattle registration (Veterinary Agency), ASPAUK (office of Agricultural statistics), GIS (Forestry Agency)

Ministry of Trade and Industry:

Application for business registration (ARBK)

Ministry of Transport and Telecommunications:

Database for registration of driving licence (Vehicle Department), application for road conditions (DIRr)

Ministry of Health:

Health information system (HIS)

Ministry of Education:

Infogather – EMIS

Ministry of Labour and Social Welfare:

Software for pensions, Software for war invalids, social help software, SIMP (Work division).

Ministry of Environment:

Some GIS applications (MapInfo 8.0, Vertical Mapper 3.1 etc.)

Ministry of Internal Affairs:

KPIS (police), KVIS (vehicles), AFIS (finger prints) etc.

UNMIK – Central Administration

CREG (Civic registration), AFIS, PDL driving license (driving licence), TDKOS (travel documents)

Kosovo Trust Agency:

Privatisation database

UNMIK Customs:

TIMS (Customs system)

Databases used for those applications are: MsSQL Server, Ms Access, Oracle and MySQL.

Local institutions:

Municipalities in Kosovo use a specialised Intranet software application for the municipal administration in Kosovo (e-Municipalities). This application enables the registration of citizen's requests, exchange of information between departments, internal e-mail system etc. This software application operates in Windows platform while the data bases uses MySQL and Apache Web Servers.

Governmental Services Presence in Web

E-services offered to citizens - communication with them and provision of information to them through the Internet – can be categorised as follows:

- Information – unilateral communication and publication of information
- Interaction – download of different forms
- Interaction in both directions – processing of filled forms
- Transactions – Full case management, decisions and proceedings.

To date, there has been no provision of governmental services to citizens and businesses through the government portal. There has been some progress by some institutions such as the Kosovo Assembly, some ministries and some municipalities, but most offer only information and no interaction. The Kosovo Government portal www.ks-gov.net does not yet offer on-line services but functions only as a web page from which you can get to the web pages of other governmental institutions. Web pages of the ministries are not properly designed and maintained. On most, information is not updated.

There are some examples of promising practice:

- The Ministry of Local Government Administration has designed a web page www.mapl-ks.net, on which much information is provided for citizens.
- The Web page of the Business Registration Agency www.arbk.org, offers general information for businesses, and information on registration including the appropriate application forms which can be downloaded and completed. Information on this web page is offered in three languages (Albanian, Serbian, and English).
- The web page of the Kosovo Assembly www.kuvendikosoves.org, offers much information but it is only 'one-way', from the Assembly to the citizen.
- The web pages of Kosovo municipalities (e.g. www.gjilani-komuna.org), offer much information on the work of the municipalities, but these to are 'one way' only.

Communication within institutions and between institutions

Communication within institutions and between institutions is unsatisfactory, despite much investment in recent years, because of:

- The absence of software applications designed especially for exchange of information between institutions;
- Malfunction of the governmental telecommunication network in all institutions;
- The lack of operational policies for application of ICT to public administration.

Ministries

The governmental telecommunication infrastructure is not being used to its full potential. The only instrument of communication is the governmental e-mail. There is a need for the use of

software applications which will enable fast communication, including exchange of documentation, between institutions.

The Centrex phone system, which permits telecommunication between central institutions, has the full capability to be transformed to a VoIP service by using the governmental telecommunication infrastructure. It could also be extended to municipal level. This would cut expenditure and increase communication security.

Municipalities

On the local level, software applications are used to manage the work of the administration which increase communication within the institution, and enable the provision of faster services for citizens and businesses. This was achieved by donor investment (KFOS and UNDP). Use of the intranet in municipalities is on growing and municipal administrations have started to notice the benefits from using this software. However, development of software application in certain fields of municipal administration work has to continue. Connection of municipalities to the governmental network would permit more efficient and faster communication with central institutions.

The existing legal infrastructure for e-governance

The existing legal infrastructure includes:

- UNMIK Regulation 2001/19, which gives the MPS and MTPT responsibilities regarding e-governance;
- Various administrative instructions and approved policies by MPS, including:
 - Administrative Instruction No. MPS 2004/06 for the organisation and internal constitution of Ministry of Public Services.
 - Policies over the acceptable usage of the access on e-mail and Internet.
 - Software and Hardware Policies
 - Administrative Instruction No. MPS 2003/02T –on the usage of phones (mobile and land line) in government of Kosovo
 - Policy for reimbursement over the staff training on information and technology.
- Administrative Instruction No. 2005/03-MPS for usage of official electronic mail (official e-mail) of PISG of Kosovo.
- Various other laws or instructions approved by other Ministries or Agencies that affect the field of e-governance.

There are numerous gaps in this framework. Kosovo's membership of eSEE require it to legislate in the following fields (the deadlines by which this legislation should have been enacted is given in brackets):

- Approval of National and UNMIK strategy for the development of an information society based on the common strategies drafted by the work group of eSEE (December 2005)

- Creation of Government level bodies or equivalent, for the development of an information society based on the unified model of the terms of reference drafted by the work group of eSEE (March 2006)
- Legal Framework for electronic signature (March 2006)
- Legal Framework for electronic commerce (March 2006)
- Law on cyber-crime (June 2006)
- Law on telecommunications (done in 2003)
- Law for protection of personal data (June 2006)

Data Security

E-governance will work only if citizens and business have a high degree of trust in the public administration that applies this model of governance. Therefore public administration must offer guarantees of the security of e-governance systems.

There are three facets to this issue:

1. People – civil staff need to have sufficient knowledge and skills to administer the complex processes and the technology to offer high security for the users.
2. Processes –implementation of procedures to guarantee security in e-governance, for example procedures of certification, risk assessment, data security etc.
3. Technology –high security equipment that enables unobstructed communications, protection of secrets and privacy etc.

Even though implementation of e-governance is a continuous process, at present in Kosovo there are no consistent policies for any of these three categories:

- There is no policy for professional development (either training or availability of advice) for civil servants working in this area.
- Procedures for data security are not approved by any regulatory authority and in most cases are not available in the form of manuals. Since these procedures are informal, it is impossible to supervise their implementation.
- Work on the development of security standards is not keeping pace with technological developments.

The PISG is taking the first steps to develop policies for information security. A document drafted in late 2005 identified the fields where security parameters had to be defined:

- Data security and data ownership,
- Anti-Virus programmes and protection against programmes of malicious nature,
- Connection to Internet,
- Access Control,
- Connection to Computer network,
- Application development,
- Physical Security,
- Operations Management,

- Business continuation,
- Personnel.

A comprehensive plan in this area is essential.

Budget of Kosovo Government for ICT

In 2004, MEF records state that Internet and telecommunication expenses were €3.162.398, 17, while other equipments for ICT were €4.290.224, 04.

Budgetary spending of Kosovo Government for the year 2005 for hardware was about 6 million euro; whilst communication, phone and Internet expenses were over 6.8 million euro. (Software and Software licenses expenses are excluded.) There are no precise details on donor assistance on ICT, but KFOS investments were around €350,000, and UNDP investments on SKIT 1 project were €645,000 € (Investments for SKIT 2 project (currently in progress) are expected to be €447,000.)

For the first six months of the year 2006 Government spending in IT equipment was about 100.000€, while Internet and communication expenses were 1.4 million euro. Many projects for equipment are not finalised yet, so the total expenses by the end of 2006 will be several times higher.

Access of citizens to Internet, mobile and land line

The most important pre condition for providing E-governance services is access for business and citizens to the Internet. There is still a low rate (17%) of access to Internet of Kosovo citizens comparing to EU countries (49.8%) and countries candidate for EU membership (20%). Access to Internet by institutions is at a reasonably high level, but access of businesses and citizens leaves a lot to desire.

Access to the Internet in Kosovo can be achieved through three suppliers that offer Internet services, licensed by ART, at national level and through numerous local suppliers. Wireless telecommunication technologies dominate, while there are positive developments concerning optic and coaxial cables. Recently there has been an increase of Internet signal coverage in towns, although less in rural regions, thanks to initiatives taken by private companies. However Kosovo is far from offering Internet broadband.

Land line – the only land line that operates in Kosovo so far is PTK that offers services for around 120 000 land line customers, which is equal to a 5.6% tele-density (telephones per 100 inhabitants). The land line network is being modernized by applying digital techniques, optic fibres and SDH system. Land line network capacity is planned to extend to 450 000 ports from the current level of 100 000 ports.

Mobile line –only one mobile line national company, GSM Vala 900, in Kosovo uses European standard of GSM technology. It has about 300.000 users or 16% penetration.

Internet services- currently there are three big companies that offer Internet services and more than ten small local companies that operates in this field. Possibilities exist for international companies to enter this market. The larger companies that offer Internet services are Dardanet, IPKO NET, and Kujtesa. Investments in this field are expected to increase in future, improving the quality of services offered to institutions, citizens and businesses.

ICT personnel in Governmental Institutions

The most important support for ICT is given by civil servants of the Information Technology Department of the Ministry of Public Services. Some institutions (ministries, municipalities) have their own civil staff in charge of IT. However, low salaries discourage IT experts from working in public administration. Existing civil servants lack the skills or knowledge to deliver complex ICT projects. There are some more specialised civil servants, but they are involved mainly in projects in governmental agencies, and are paid realistic labour-market wages. An urgent need in Public Administration Reform is the provision of motivation and incentives to this specialised category of personnel. Linked to this is the desirability of strengthening public-private partnerships in the ICT field.

The need for training and development of civil servants and citizens

Finally, but of great importance, the introduction of ICTs alone will not improve public administration. Benefits will come only if civil servants are made, by training and managerial leadership, to change their ways of working to gain maximum benefits from new ICTs.

e-governance systems will only be used if citizens and businesses are helped or trained to use them. At present, there is for obvious reasons a low level of preparedness amongst citizens and business to use ICT in any form.

The scope for implementing e-governance in Kosovo

The strategy of the European Union for e-governance identifies 12 key e-services for citizens and 8 e-services for businesses:

Twelve basic e-services for citizens

1. Taxes, calculation, publication of access to taxes
2. Services to look for a job through governmental organisms in charge for this
3. Social insurance contributions
4. Personal documents (passports and driving licenses)
5. Vehicle registration (new, old and imported)
6. Request for construction permits
7. Report to police (ex. Thefts, reports)
8. Public libraries (access to lists, search)
9. Documents (birth certificate, death certificate)
10. Admission in high schools and university
11. Notification of change of location
12. Health services (interactive advises of services available at hospitals and interactive instructions of medical treatment)

Eight basic e-services for businesses

1. Social insurance for civil servants
2. Taxes, paid from businesses, prediction, statements
3. VAT: calculation, declaration
4. Registering new businesses
5. Sending details to statistic office
6. Customs declaration
7. Permits on environment issues (with reports)
8. Public procurement

We suggest the following success indicators of e-governance (drawn from UNDP advice):

- Existence of national strategies that includes e-governance, strategies for e-governance and action plans, electronic governments and action plans
- Number of institutions present on-line
- Percentage of individuals Internet to communicate reciprocally with public authorities for any certain purposes (receiving information, obtaining forms, and filling out forms)
- Percentage of businesses that use Internet to communicate reciprocally with public authorities (receiving information, obtaining or filling out forms, electronic management of cases)
- Number of available on-line services followed by digital processing
- Public procurement processes, which are present on-line in % of public procurement total
- Percentage of public authorities that use software with open code
- Percentage of public administration with access to Internet broadband
- Number of certain servers (in one million inhabitants)
- Number of Internet Public Points for 1000 inhabitants
- Percentage of libraries that offers public access to Internet
- Number of government web-sites
- Number of portals for citizens, designed especially to offer on-line services
- Percentage of basic services offered on-line
- Percentage of public procurement that can be accomplished on-line
- Number of Internet users in 1000 inhabitants.
-

3.6 Financing the Public Administration

Introduction

The financing of public administration in Kosovo is viewed in the context of the Kosovo Consolidated Budget. Over the medium term, this will face significant constraints. Although economic growth is very difficult to forecast at this point, projections contained in the 2006-2008 Medium Term Economic Forecast suggest relatively flat revenue growth, which in turn translate into a significantly constrained expenditure plan.

At the same time, there are significant spending pressures, especially in the fields of social protection , of labour restructuring in the public sector, the public investment program, the wage costs/severance implications of building a professional, skilled civil service, transfer of the remaining reserved functions to the PISG, and the growing number of international commitments, such as the activities under EPAP and other EU integration requirements, as well as the as yet unknown implication of resolving Kosovo's status. In addition, the budget implications of new laws and other decisions taken by the government are not always assessed adequately, effectively resulting in new budget commitments being approved outside the budget approval process.

The main consequences of this situation for the functioning of public administration are:

- Downsizing of number of civil servants in Public Administration. Earlier this year the Government agreed with the IMF and World Bank that civil service numbers would be reduced by 10% over two years. A government decision provides that the professional services (healthcare, education, police and justice) are not

included in the downsizing process. The main problem in implementing the IMF recommendation is the non-definition of criteria for downsizing of civil servants.

As of December 2005, a Government decision for freezing of recruitment in administration is in power.

- The need for professional administrative capabilities to manage budgets constraints and to use resources (staffing and finance) more effectively. Currently an important reform agenda is underway in Kosovo in the area of financial management and mechanisms to prepare a fiscally responsible budget and for controlling budget execution. However, there are major difficulties in ensuring that the very limited financial resources are efficiently allocated to the priority activities of ministries and governments. This is analysed below with regard to three areas: budget planning and preparation; Treasury functions and budget execution; procurement; and internal and external audit.

Budget planning and preparation

The overall legal framework for budgeting and budget management in Kosovo, as specified in the Law on Public Financial Management and Accountability, is largely compatible with international standards. And with the support of the USAID project implemented by BearingPoint, substantial progress has been made in institutionalizing the budget process as stipulated in the law. Key reforms include as follows:

- Preparation of a Medium Term Budget Framework (MTBF) and Medium Term Expenditure Framework (MTEF), beginning with the 2006 budget year.
- Early involvement of the Government through review of the fiscal forecast and establishment of budget priorities at the start of the budget process.
- Preparation of forward (three-year) expenditure estimates by ministries
- Preparation of ministry budgets within fixed ceilings consistent with the MTBF, and reflective of the Government's budget priorities.
- Preparation of ministry Strategy Statements as part of the ministry budget submission (new for the 2007 budget process), as a step towards strengthening the link between policy and expenditure planning within ministries
- Greater involvement of the OPM in the budget process to ensure that policy issues are taken into account.
- Improved assessment of the fiscal impact of laws and other government decisions that are taken outside the budget process.

In addition, significant improvements have been made in the preparation of the public investment program, and its integration into the regular budget process. This reform has been supported by a two-year EAR technical assistance project, which concludes at the end of 2006.

In effecting these budget reforms, substantial support continues to be provided by international advisers to the central institutions involved in the budget process (including particularly the MEF). In the last two years, progress on budget preparation has been significant, with approved budgets that reflect fiscal discipline, supported by controls that have been effective in keeping overall spending within approved budget limits.

However, the quality of ministry budgets in terms of appropriate allocation of resources to ministry and government priorities, and more generally as a planning tool for ministry operations, is poor. There are two main dimensions to this issue:

- The technical capacity within ministries to forecast expenditure requirements of current program obligations over the medium term, and to cost the multi-year requirements of new programs, is very weak. In addition, the ability to plan and implement activities is largely absent.
- There is a lack of interaction between the ministry's budget functioning and the ministry's program planning and implementation responsibilities. This means that priority setting and policy decisions are taken without substantive consideration for the financial feasibility.

Although the quality of ministry budget submissions has been lacking, it is a well recognized issue. The World Bank is in the process of launching a technical assistance project that will begin to address this issue, by working directly with the ministries of Health, Transport and Communications, and Labour and Social Welfare in the area of budget formulation, as well as helping to build capacity within the MEF to assess these budget submissions.

Treasury Functions and Budget Execution

According to the Law, a Treasury shall be established within the Ministry of Finance and Economy and shall be responsible for managing the Kosovo Consolidated Fund and for discharging all other functions assigned to it via the LPFMA. The LPFMA provides for clear assignments of responsibilities when it comes to authorization and execution of payments and planning and handling of cash.

Budget execution in Kosovo is relatively efficient and transparent. Once the budget has been appropriated and signed by the SRSG, line item appropriations are entered into the system. Treasury then allocates quarterly spending limits for all appropriations. Budget organizations can then commit and spend funds up to the amount of the allocation. The Treasury makes all payments from a single account in the central Banking and Payment Authority of Kosovo (BPK).

The Treasury uses a software system (Freebalance) to record commitments and payment orders. While municipalities are able to enter data on the system, line ministries are not. Instead, they are required to submit paper copies of commitments and payment orders, which are then entered into the system at Treasury. This delays budget execution. Until recently, budget execution was also slowed by the absence of an electronic link between the Treasury system and BPK. Improvements are in train. In late 2004, payment orders began to be transferred from the Treasury to BPK on CDs, and a direct electronic link is under development. The Treasury is now in the process of extending the electronic payment and commitment components of the software system to the line ministries. Technical assistance in the use of the software will be provided by the Canadian and Swedish governments, which have been working with the Treasury Department in parallel with the USAID contractor.

But while expenditure management controls are largely in place, and effective in limiting ministry expenditures to approved appropriations, there remains a challenge in most ministries to fully execute their budgets, particularly with regards to capital projects and new initiatives, the level of budget execution for the first six months of 2006 shows that while recurrent expenditures are tracking at approximately 44 percent of budget, capital expenditures are less than 12 percent.

The final numbers for 2005 showed that only 87 percent of the capital budget was spent by the end of the year.

| Progress in Budget Execution, January to June, 2006 | | | |
|--|---|-----------------------|--------------------------------|
| | Full year Appropriations per KFMIS (€mill) | Actual (€mill) | Progress against Budget |
| Wages and Salaries | 206.33 | 99.01 | 47.99% |
| Goods and Services | 138.64 | 51.41 | 37.08% |
| Utilities | 17.3 | 8.3 | 47.98% |
| Subsidies and Transfers | 161.53 | 69.53 | 43.04% |
| Total Recurrent Expenditures | 523.8 | 228.25 | 43.58% |
| Capital Outlays | 185.5 | 23.43 | 12.63% |
| Reserve | 4.97 | - | |
| Total Expenditure | 714.26 | 251.68 | 35.24% |

Source: Ministry of Economy and Finance. 2006. *Interim Budget Report, Second Quarter 2006*. Kosovo, 2006.

Procurement

A new Law on Public Procurement (LPP) was promulgated as UNMIK Regulation 2004/3 of February 9, 2004. It addressed many of the flaws in the prior legislation (Finance Administration Instruction 2/99). In particular, it established open tendering as the main procedure for awarding public contracts and imposes controls over the use of other, less competitive procedures. The new LPP also provided for a number of valuable safeguards, which were designed to make abuses of the procurement procedures more difficult, to improve transparency in decision-making related to procurement and to ensure that more than one pair of eyes review transactions in which competition may be restricted to a limited number of bidders.

However, concerns have been expressed over the complexity of the law and, in particular, the need to operationalize three separate enforcement agencies: a public procurement regulatory board, a regulatory authority, and a rules committee. In response to these concerns, an EAR-financed consultant has been involved in drafting amendments to the law. EAR is also financing the drafting of the law's implementing secondary legislation and intends to finance a training program to support their implementation. The latter would consist of a series of periodic training courses for staff of the major line ministries, along with the development of a procurement training module in the Kosovo Institute of Public Administration. The upcoming PEMTAG project will also provide procurement training to ministries.

To improve transparency and accountability in procurement, Kosovo needs a management information system to collect and publish information on public procurement. This could include automated systems for communicating procurement information between the contracting authorities and key executive and oversight bodies, a public procurement website for publication of legislation, regulations, standard forms, invitations to bids, contract award notices, as well as comprehensive information on public procurement operations and performance measurement statistics.

Internal and External Audit

Internal control, including internal audit is not sufficiently developed in Kosovo's public sector. There is a lack of comprehensive written procedures for financial management and control processes. Basic control activities, such as reconciliation of accounting and transaction data from different sources, are not performed. The central internal audit function was transferred from the Central Fiscal Authority of UNMIK to the MFE in 2002. Most of the staff in the department have only received very basic training in internal audit. Another 75 civil staff are employed as internal auditors in other ministries and in the municipalities.

The EAR is currently financing a €1.9 million project aimed at strengthening public internal financial control and internal auditing throughout the MFE and other PISG institutions including ministries. The project will run over a period of 24 months and consists of two components: the first will provide for training and the development of a strategy and regulatory framework for internal control, and the second will provide training for internal auditors and managers.

An Auditor General's Office was established by UNMIK Regulation 2002/18. The external audit function was outsourced to the Netherlands' Court of Audit, which undertook the audits of the KCB for 2002 and 2003. The responsibility for external audit has now been formally transferred to the Office of the Auditor General of Kosovo, which undertook the audit of the KCB for 2004, albeit with continuing support from the Netherlands. Funding for the further development of the OAG's audit capacity is being provided from a €2.8 million EAR-financed grant over a period of 44 months.

3.7 Anti-corruption

Introduction

The current problem of corruption in general and of corruption connected with public administration in particular is rooted in the political and social system before the disintegration of the former Yugoslavia, particularly the circumstances before the war of year 1999, when the Albanian population was forced to offer various favours to officials at almost all levels in order to get administrative services. Since 1999, the building of the new political and economical system in Kosovo, the social problems of transition and the dual ascendancy of international and local institutions have created a favourable environment for corruption at many institutional and non-institutional levels.

When the Anti-Corruption Strategy in Kosovo was compiled in 2005 the dominant factors identified as factors encouraging the growth of corruption in Kosovo were:

- Lack of the rule of law;
- Privatisation of socially owned property;
- Extensive reform of the political system, the system of law enforcement, and the judicial system;
- Lack of effective supervisory mechanisms;
- Insufficient level of awareness of the prevalence and dangers of corruption.

Many of these factors continue to be dominant in encouraging corruption in Kosovo. Nor should the influence of the regional dimension of corruption be ignored, since Kosovo is surrounded by an environment characterized by a high level of corruption.

Institutional and legal infrastructure against corruption

The fight against corruption largely depends on political will and institutional organisation and behaviour. Action against corruption in Kosovo became part of the general process of democratization only in late 2003, when the following measures were undertaken:

- In December 2003 Inter-Ministerial Anti-Corruption Workgroup was created;
- In March 2004 the Government of Kosovo approved the Anti-Corruption Strategy;
- At the beginning of 2006 the Anti-Corruption Action Plan was approved;
- In April 2006 the Council of Kosovo Anti-Corruption Agency was created;
- In July 2006 the director of the Kosovo Anti-Corruption Agency was elected.

Other associated supervisory measures were the creation of the General Audit Office (GAO) and the office of the Ombudsperson.

Institutional confrontation of corruption has also been helped by the international community. Actions against corruption are coordinated and directed by the Inter-agency Task Force (ITF) with the participation of the European Anti-Fraud Office, the UN Office of International Oversight Services, and the Financial Investigation Unit (FIU). The ITF agency is of an interim character and is predicted to be absorbed in a larger entity, probably within the framework of the enlarged Financial Investigation Unit or in a specialized Police Unit.

In May 2005 the Anti-Corruption Law was enacted. Numerous other acts that also assist in the anti-corruption have been approved or are in draft.

Mechanisms for fighting corruption

The fight against corruption in Kosovo is characterized by certain features that differ from other countries of the region.

The key mechanism is the Anti-Corruption Agency (ACA), to which suspected cases of corruption can be referred. If the Agency judges there is a substantial case, it is forwarded to the prosecutor for further judicial process. Cases where there appears to be substantial evidence but that need additional investigation are forwarded to the specialized police units. In addition to this process, suspicious cases of a serious nature in public companies are currently handled by the Guardia di Finanza.

Ministries are obliged to install and execute appropriate measures to fight and prevent corruption. Some ministries and governmental agencies have established internal audit units, have approved codes of conduct, and have created disciplinary commissions to investigate cases in which corruption is suspected.

The Anti-Corruption Strategy requires that from school age upwards the population at large is educated in the dangers of corruption. The strategy also calls on civil society and the media to play a particular role in fighting corrupt behaviour.

Donors

USAID has been the biggest bilateral donor in the anti-corruption field, financing research, publications and help to civil society. Another significant donor has been the EAR, which since March 2004 has financially assisted the FIU. The UNDP and KFOS in cooperation with Kosovo institutions are intensively engaged in raising the awareness of the population regarding the consequences of corruption for Kosovo society.

Public opinion regarding corruption in public administration.

The nature and extent of corruption in Kosovo are not documented to a level that permits the priority fields for action to be identified. There is lack of credible data.

Up to the beginning of 2004 between 10 and 15 cases of corruption were investigated, while during 2005 only 15 cases of corruption came to court. This data is more an indication of the deficiencies of investigation and institutional action than an indicator of the true dimension of corruption.

Survey data is available, although one must emphasize that perceptions of public opinion of the level of corruption usually exaggerate the phenomenon. Such surveys in Kosovo suggest that:

- The general public sees corruption as a pervasive social problem. A survey in 2003 ranked it second of the three main problems that Kosovo faced. In one other survey, when asked to rank the most serious problems which Kosovo is facing, respondents ranked corruption as the fourth most serious out of list of 18 options, ranked only after unemployment, the undefined status of Kosovo, and poverty.
- Even though a 2005 survey encouragingly showed that Kosovars in general have a clear idea of what is and is not a corrupt behaviour, some 10% of those interviewed regarded as acceptable certain categories of behaviour usually regarded as corrupt.
- Public perceptions of the reasons for corruption in a 2003 survey cited low incomes of public officials as the main influence (80.9%), while other principal reasons given were the lack of strict administrative control (34.4%), ineffectiveness of the judicial system (31%), problems inherited from the communist past (29.8%), and the motivation to earn fast money (28.9%).

Even though public administration presents an institutional structure that, in Kosovo's particular circumstances of economical and social development, presents a very suitable environment for corruption, so far there is little information regarding corruption in this field. Some is provided in 2005 public opinion surveys.

Table 1. Opinions of the respondents over the presence of corruption in different institutions-presence of corruption in "high level" (%)

| | Albanians | Serbs | Others |
|-----------------------------|-----------|-------|--------|
| Customs | 33,3 | 30,7 | 12,0 |
| Courts | 25,3 | 34,0 | 5,4 |
| Education | 13,8 | 6,0 | 5,0 |
| Local Administration | 21,4 | 16,1 | 7,1 |
| Central Administration | 24,1 | 25,5 | 5,0 |
| UNMIK Police | 21,8 | 24,7 | 7,1 |
| KPS | 3,9 | 41,2 | 3,8 |
| Health | 38,0 | 10,8 | 23,0 |
| International Organisations | 29,2 | 42,7 | 13,1 |
| NGO's | 15,7 | 36,3 | 5,5 |
| PTK | 42,0 | 33,7 | 8,9 |
| KTA | 55,8 | 3,46 | 19,4 |

| | | | |
|-------|------|------|------|
| Banks | 13,5 | 27,0 | 9,3 |
| KEK | 64,1 | 56,6 | 41,3 |

Source: Opinion Research, December 2005, Riinvest

Table 1 shows the perception of the public of corruption in different social, institutional, and economic fields. This table shows that the public does not think that corruption in public administration is particularly present to a “high degree” compared to other entities. Answers from all parts of the survey are least encouraging on corruption in the Public Administration. But the overall answers still offer a discouraging view of the perception of corruption in Public Administration.

Table 2. Respondent's opinions over the presence of the corruption in local administration- (%)

| | Albanians | Serbs | Others |
|------------|-----------|-------|--------|
| Not at all | 8,5 | 1,3 | 25,9 |
| Low level | 40,5 | 34,2 | 35,7 |
| Mid level | 29,6 | 48,4 | 31,3 |
| High level | 21,4 | 16,1 | 7,1 |
| Total | 100 | 100 | 100 |

Source: Opinion research December 2005, Riinvest

Table 3. Respondent's opinions over the presence of the corruption in central administration- (%)

| | Albanians | Serbs | Others |
|------------|-----------|-------|--------|
| Not at all | 7,5 | 1,9 | 29,0 |
| Low level | 34,3 | 28,0 | 33,0 |
| Mid level | 34,0 | 44,7 | 33,0 |
| High level | 24,1 | 25,5 | 5,0 |
| Total | 100 | 100 | 100 |

Source: Opinion research December 2005, Riinvest

These tables show that local administration is considered less corrupt than central administration.

Respondents base their opinions mostly on information taken from the media (Albanians and the non-Serbian minorities) while Serbs base their opinions from the conversations that they have with the family members and friends. A December 2005 survey also found that a high percentage of respondents based their opinions on personal experiences: Albanians around 14%, Serbs around 17%, and non-Serb minorities 19%.

Deficiencies and need for reforms

Societies in transition are generally characterised by a high level of corruption, so in this regard Kosovo is not an exception. However, many other countries in transition have made more progress than Kosovo in creating institutional mechanisms to combat corruption.

In Kosovo, the necessary legal framework is incomplete. The SRSG still has not approved the Law on the Financing of Political Parties and the Law for Witness Protection so in this way they are inapplicable while there is a significant lack of secondary legislation, which regulates the issue of combating/prevention of corruption in different levels of administration and in other social and economic fields of life.

The Anti-Corruption strategy, Anti-Corruption Law and Anti-Corruption Action Plan form a model which focuses on prevention of corruption and education of the population against corruption. In many of its elements it is similar with the model which is currently in use in

Slovenia. Since prevention is the essence of the combat against corruption, a large portion of the responsibility for action lies with different ministries.

Despite all the improvements achieved in the legal infrastructure, the implementation of this legal framework is the greatest weakness. For example, despite the fact that the Anti-Corruption law was approved in May 2005 and swift action was promised to create the ACA, only in March 2006 was the Agency Council created. The director of the Agency was elected a month later, and the Agency itself still is not functional.

Similarly, there have been significant delays in the implementation of almost all aspects of the Anti-Corruption Action Plan. Slow execution of the plan is due mainly to:

- The setting of unrealistic deadlines in the first instance
- Inadequate formulation of success indicators
- Failure to priorities action
- Failure to allocate financial resources

Since prevention is meant to be the essence of the combat against corruption, the current conception of the role of the ACA leaves a large part of the responsibility other institutions: the Prosecutors Office, the Police, Customs, the General Audit Office etc.

The GAO has shown itself very active and systematic. Its audits have revealed many deficiencies in financial record keeping, procurement procedures, proper decision-making and the assets records in almost all ministries and municipalities of Kosovo as well as in Presidency and the Kosovo Assembly. The recorded deficiencies do not state whether the fault is due to deliberate corruption or to mistakes. A differentiation of corruption from professional mistakes could be established if there were coordination between GAO, ACA, prosecutor's office, Police, and Court houses. Currently such coordination is deficient, especially because ACA is still not operational, which significantly weakens the potential of combating and preventing corruption in Kosovo. Apart from deficiencies in functioning of the institutional systems, another deficiency is the shortage of specialized human resources able to fight corruption especially in the ACA and the Public Prosecutors office. The KPS and the UNMIK Customs are somewhat better equipped.

The media in Kosovo did not deal much with this issue until early 2006, when there was coverage of the reports of GAO. However this coverage tended to be of a sensational character rather than analytical, and in some cases was politically coloured. Although current thinking stresses education and civil society as extremely important elements in combating and preventing corruption, they are not at all taking on the role envisaged for them in the Anti-Corruption strategy. While in the field of education the measures stated in the Action Plan have hardly been addressed, the engagement of the civil society partially came to life with the activities of the NGO coalition "Çohu" that were undertaken during 2006.

3.8 Policies and Legislation

Introduction

The sphere of policies and legislation is a very complicated issue due to the complex constitutional and judicial environment in which Kosovo operates. A factual difficulty is the legal uncertainty on what laws are actually applicable in Kosovo. There is little or no codification and it is often not easy to access the text of current applicable laws (the Official Gazette has only recently been created, in 2006, and there is a backlog of unpublished laws and by-laws). Responsibility for legislation is effectively shared by the PISG and the SRSG, and the latter has used his powers extensively to make legislation and to amend legislation proposed by the PISG. Creating a legislative system for newly self-governing Institutions in

Kosovo is complicated, but these factors make it additionally problematic considering the heavy burden of the requirement to approximate all new legislation to the *Acquis Communautaire*.

A lack of an all-inclusive program for capacity building in developing policies and legislative capacities within PISG creates limitations in the necessary development of capacities for a qualitative draft legislation and approximation to the *Acquis Communautaire*.

Policy-making

Kosovo has an urgent need for professional policy-making capacity. While good progress has been noted throughout different Ministries the overall quality in developing policies remains poor. The slow transfer of competencies from the international authorities to the PISG has affected the growth of policy-making capacities in this respect. Also, there are duplications and confusions between ministries. There is little capacity in order to articulate an overall strategy.

There are a number of reasons for this situation:

- Lack of experience of developed countries in policy-making;
- Lack of professional capacities in PA, due to non-competitive salaries.
- The focus of international donors on compiling policies and laws, rather than concentrating in the slow process of developing the local capacities of the administration in drafting policies and legislation.
- Lack of coordination with or among donors on capacity building for policy-making and legislative drafting in ministries.
- Lack of a comprehensive programme for capacity building at the level of the PISG.

The development of legislative policies in Kosovo is mainly unplanned. Policies are usually developed in haste, in response to crises or emergencies, in reaction to sudden political demands, and in response to media stories and other external stimuli. While such a legislative policy could be understandable for the emergency post war period, now it is necessary to create a system which provides a planning fashion for the development of the legislative policies.

The drafting of legislation

Legal Offices of Ministries and the Office for Legal Support Services in the Office of the Prime Minister are the main bodies for preparing the legislative acts.

The process of legal drafting in the ministries goes through a standard process where ministries deal with preparation of policy analyses and prepare the initial draft of the legislation. The Office for Legal Support Services in the Office of the Prime Minister coordinates and reviews, whilst Government gives its approval.

There are annual legislative plans at the level of ministries; however, they do not always reflect the implementation of policies by the respective ministry.

There are no mechanisms in Kosovo responsible for identifying secondary legislation which should be drafted. In fact, there is no plan either on implementing this level after a law is approved.

Arrangements exist to ensure that draft legislation is harmonized with EU Law. These work, although they place a considerable burden on the administration. These mechanisms are still insufficient, and the approximation of the legislation is done mainly through international technical assistance, nevertheless this is a good step forward in spite of the considerable burden that this phase puts upon the administration.

Approval by the SRSG

Each law passed by the Assembly of Kosovo must be approved by the SRSG, who ensures its compliance with UN Security Council Resolution 1244, the Constitutional Framework and international standards. This usually results in changes to the laws adopted by Kosovo Assembly, which are made by UNMIK Regulation that promulgate laws adopted in Kosovo Assembly. These changes are done through replacing text, or deleting paragraphs or articles. Unfortunately there is no procedure in place through which the changes made by the SRSG through regulations that promulgate laws adopted in Kosovo Assembly can be incorporated in the wording of the Assembly laws. Neither the Assembly nor UNMIK have addressed this problem. Considering that UNMIK Regulations are drafted in Albanian, Serbian and English and that there are cases of dispute and that the English text is a priority, this causes difficulties for the fact that majority of civil servants in public administration have little knowledge of English language.

It is important to stress that a mechanism has been established to address this issue and this is the Office for Management and Administration of the Official Gazette of Provisional Institutions of Self-Government in Kosovo. Official Gazette of Provisional Institutions of Self-Government in Kosovo is published based on the Law on Official Gazette nr. 2004/47, as well as UNMIK Regulations 2005/25 for promulgation of the Official Gazette.

The Official Gazette of Provisional Institutions of Self-Government in Kosovo publishes official and final texts of the laws adopted by the Kosovo Assembly and promulgated by the Special Representative of the Secretary General; resolutions adopted by Kosovo Assembly, regulations and other normative acts of the Government and ministries; agreements of international character etc.

The Official Gazette of Provisional Institutions of Self-Government in Kosovo is published in five languages: Albanian, English, Serbian, Turkish and Bosnian.

Implementation of laws

There is no mechanism for monitoring the implementation of laws once they are approved. The International Community, including the humanitarian organizations, have assisted and still assist the PISG in developing laws. However, in most cases this assistance is limited only in the phase of the draft legislation by leaving a gap for assistance during the implementation phase of legislation.

Relations between central and local government

The lack of clarity in defining responsibilities between the central and local level makes it difficult to the citizens in exercising their right for filing complains on decisions of the public administration.

There is no forum where legislative issues that include the relations between the central and local government could be discussed. Such a forum could clarify the roles and competencies of both levels of self-government in offering services, and could also be used as a forum to discuss important policy issues and those that affect the long-term development of the relations between the centre and the municipalities.

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1. **Law on basic pensions, nr. 2002/1**, adopted on 04.07.2002, (promulgated by UNMIK Regulation nr. 2002/15, dated 26.07.2002), aimed at setting the methodology for determining the level of basic pension and aimed at determining the commencement date for provision of basic pensions.
2. **Law on Labour Inspectorate in Kosovo, nr. 2002/9**, adopted on 19.12.2002 (promulgated by UNMIK Regulation nr. 2003/4, dated 21.02.2003) – aimed at establishing a Labour Inspectorate as an important mechanism for controlling the implementation of Labour Law and protection labour rules by specifying that the labour inspection authority will be implemented in uniquely to all workplaces irrespective of applicable legal provisions relating to the occupational safety and health protection of all civil servants in general, except workplaces within UNMIK and other government and non-government organisations operating in Kosovo.
3. **Law on Public Financial Management and Accountability, nr. 2003/2**, adopted on 08.05.2003 (promulgated by UNMIK Regulation nr. 2003/17, dated 12.05.2003)- aimed at setting provisions relating to drafting of the budget, capital and operational investments, financial management, accounting, budget responsibilities and the system of financial reporting for budgetary organisations in Kosovo, at defining powers, competencies and tasks of Minister of Economy and Finance regarding these issues and at establishing a framework for regulation of the income and grants for municipalities in Kosovo. This law was amended by the Law on Amendment of Law nr. 2003/2 on public financial management and accountability nr. 2003/21, adopted on 23.10.2003 (promulgated by UNMIK Regulation nr. 2003/38, dated 17.12.2003) By recognising the need for the amendment of Law Nr. 2003/2 “On Public Financial Management and Accountability”, to allow budgetary organisation to give a loan to a certain entity if the Government and SRSG formally agree to the amount, conditions and aims of this loan.
4. **Law on Access to Official Documents, nr. 2003/12**, adopted on 26.06.2003 (promulgated by UNMIK Regulation nr. 2003/32 06.11.2003) aimed at defining principles, conditions and restrictions based on public or private interest that determine the right for access to documents of any organ or agency of Provisional Institutions of Self-Government (PISG), any municipal organ or agency, any of the independent organs or offices set or established according to Chapter 11 of UNMIK Regulation Nr. 2001/9 (Constitutional Framework), of Kosovo Trust Agency and also to set the rules enabling as smooth as possible exercise of this right and also to encourage best administrative practices for access to documents.

5. **Law on Public Procurement in Kosovo, nr. 2003/17**, adopted on 15.01.2004 (promulgated by UNMIK Regulation nr. 2004/3, dated 09.02.2004), aimed at ensuring the most efficient, transparent and fair use of public funds and public resources in Kosovo by setting the requirements and rules that shall be observed, procedures that shall be followed, rights that shall be respected and obligations that shall be performed by persons, economic operators, enterprises, contracting authorities, works concessionaires and public bodies conducting, involved, participating or interested in a procurement activity involving or relating to the use of funds and/or similar resources and is also aimed at ensuring the integrity and accountability of public officials, civil servants and other persons conducting or involved in a procurement activity by requiring that the decisions of such individuals and the legal and factual bases for such decisions are free from any personal interests, are characterised by non-discrimination and a high level of transparency and are in compliance with the procedural and substantive requirements of this law.
6. **Law on Occupational Safety, Health Protection of Workers and Working Environment nr. 2003/19**, adopted on 09.10.2003 (promulgated by UNMIK Regulation nr. 2003/33, dated 06.11.2003) aimed at preventing occupational injuries and diseases at workplace and to protect the working environment.
7. **Law on Gender Equality, nr. 2004/2**, adopted on 19.02.2004 (promulgated by UNMIK Regulation nr. 2004/18, dated 07.06.2004) – this law preserving, treating and establishing gender equality as a basic value of democratic development of society in Kosovo, with equal opportunities for participation of female and male and for their contribution in the political, economic, social, cultural and other fields of social life as well as at creating the conditions and opportunities for gender equality through policies that support overall development especially for the improvement of the females' status so that they are entitled to be recognised and enjoy authority in the family and society.
8. **Anti-Discrimination Law nr. 2004/31**, adopted on 9.02.2004 (promulgated by UNMIK Regulation nr. 2004/32, dated 20.08.2004) – aimed at preventing and fighting discrimination, raising level of effective equality and implementing the principle of equal treatment of Kosovo citizens before the Law.
9. **Anti-Corruption Law nr. 2004/34**, adopted on 22.04.2005 (promulgated by UNMIK Regulation nr. 2005/26, dated 12.05.2005) – specifies measures against corruption within the scope of activity of anti-corruption agency in particular in the field of administrative investigations of public corruption, elimination of reasons of corruption, the incompatibility between holding public office and performing profiting activities for official persons, restrictions regarding the acceptance of gifts in connection to the execution of office tasks, supervision of their assets and those of persons from their domestic relationship and restrictions regarding contracting entities that participate in public tenders conducting business transactions with firms in which the official person or a person in close relation is involved.
10. **Law on Kosovo Official Gazette nr. 2004/47**, adopted on 27.09.2004 (promulgated by UNMIK Regulation nr. 2005/25, dated 12.05.2005 – establishing provisions for publishing Kosovo Official Gazette, types of legal acts that shall be published and the manner of management.
11. **Law on Tax Administration and Procedures nr. 2004/48**, adopted on 27.09.2004 (promulgated by UNMIK Regulation nr. 2005/17, dated 09.04.2005 –

establishes a set of comprehensive rules and procedures for administration of taxes and contributions imposed by legislation applicable in Kosovo that are in accordance to the best international practices and European standards.

12. **Law on Administrative Procedure nr. 02/L-28**, dated 22.07.2005 (promulgated by UNMIK Regulation nr. 2006/33, dated 13.05.2006) – regulated relations between administrative bodies and citizens according to a judicial proceeding that offers parties more procedural guarantees and contains procedural rules that guarantee efficiency, accountability, integrity and transparency in the relation of administrative authorities with parties involved in the proceeding.

Basic UNMIK Regulations and Administrative Directions regarding public administration:

1. **Regulation No. 1999/1, 25 June 1999, On the Authority of the Interim Administration in Kosovo.** This regulation is considered to have entered into force on 10th of June 1999, on the day when the United Nation Security Council Resolution 1244 has been approved (1999) and has been amended with: Regulation No. 1999/25 - 12 December 1999. On the amendment of UNMIK Regulation No. 1999/01, On the Authority of the Interim Administration in Kosovo and the Regulation No. 2000/54, amendment of the UNMIK Regulation No. 1999/1 amended on the authorisation of the interim administration in Kosovo.
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3. **Regulation No. 1999/20 On the Banking and Payments Authority of Kosovo.** This Regulation has been amended with Regulation No. 2001/24. This regulation, as amended, has entered into force on 1 October 2001 while the first regulation has entered into force on 15 November 1999. Regulation No. 2001/24 determines that: Banking and Payments Authority of Kosovo is a distinct public legal entity;
4. **Regulation No. 1999/24 on the applicable law in Kosovo.** This Regulation is considered to have entered into force on 10 June 1999, and amended with Regulation No. 2000/59 for the amendment of the Regulation No. 1999/24 on the applicable law in Kosovo. Regulation No. 1999/24 on the applicable law in Kosovo determines what includes the applicable law in Kosovo. For the implementation of this Regulation, the following Administrative Directions have been issued: Administrative Direction No. 2001/9 and Administrative Direction No. 2003/16;
5. **Regulation No. 2000/4 On the Prohibition Against Inciting to National, Racial, Religious or Ethnic Hatred, Discord or Intolerance.** This Regulation has entered into force on 1 February 2000;
6. **Regulation No. 2000/38 On the Establishment of the Ombudsperson Institution in Kosovo** This Regulation has entered into force on 30 June 2000. By this Regulation, the Ombudsperson Institution in Kosovo has been established.;

7. **Regulation No. 2000/47 On the Status, Privileges and Immunities of KFOR and UNMIK and Their Personnel in Kosovo.** This regulation is considered to have entered into force on 18 August 1999. This Regulation has been promulgated by the Special Representative of the Secretary General, for the purpose of implementing, within the territory of Kosovo, the Joint Declaration on the status of KFOR and UNMIK and their personnel, and the privileges and immunities to which they are entitled;
8. **Regulation No. 2000/45 On Self-Government of Municipalities in Kosovo.** This Regulation has entered into force on 11 August 2000. For the implementation of this Regulation, the following Administrative Directions have been issued: Administrative Direction No. 2000/28, Administrative Direction No. 2002/26 Administrative Direction No. 2005/11. The Regulation establishes provisional institutions for democratic and autonomous self-government at the municipal level;
9. **Regulation No. 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo.** The Constitutional Framework has entered into force on 15 May 2001. The Regulation has been amended by Regulation No. 2002/9 regarding an amendment on the Constitutional Framework for provisional Self-government. For the implementation of this Regulation, the following Administrative Directions have been issued: Administrative Direction No. 2001/23, Administrative Direction No. 2001/21, Administrative Direction No. 2003/15 and Administrative Direction No. 2004/6. In case of conflict between this Constitutional Framework and any Assembly law, this Constitutional Framework shall prevail;
10. **Regulation No. 2001/14 On the Establishment of the Kosovo Statistical Office.** This Regulation has entered into force on 2 July 2001. This Regulation establishes the Statistical Office which shall be responsible for the overall management of matters relating to statistical data collection, its analysis, compilation, processing, dissemination and archiving;
11. **Regulation No. 2001/19 On the Executive Branch of the Provisional Institutions of Self-Government in Kosovo.** This regulation has entered into force on 13 September 2001 and amended by: Regulation No.. 2002/5, Regulation No. 2005/15, Regulation No. 2005/53, Regulation No. 2006/19 and Regulation No. 2006/34. For the implementation of this Regulation, the following Administrative Directions have been issued: Administrative Direction No. 2001/14, Administrative Direction No.. 2002/11, Administrative Direction No. 2002/10, Administrative Direction No. 2003/25, Administrative Direction No. 2004/21, Administrative Direction No. 2004/18, Administrative Direction No. 2004/17, Administrative Direction No. 2004/16, Administrative Direction No. 2004/7, Administrative Direction No. 2005/10, and Administrative Direction No. 2005/10. by this regulation has been determined that: the Executive Branch of the Provisional Institutions of Self-Government shall consist of the Prime Minister and Ministers (the "Government") and ministries under their authority;
12. **Regulation No. 2001/27 On Essential Labour Law in Kosovo.** This Regulation has entered into force on 8 October 2001. Regulation No. 2001/27 on essential labor law in Kosovo regulates employment in Kosovo, including employment relationships under which work or services is performed. Working relationship within the civil service, UNMIK, KFOR and the offices or missions of foreign governments and international governments shall not be governed by this regulation;

13. **Regulation No. 2001/36 On the Kosovo Civil Service.** This Regulation has entered into force on 22 December 2001 and amended by Regulation No. 2006/20. Regulation No. 2001/36 on the Kosovo civil service regulates the employment and the terms of employment for civil servants in Kosovo. The Administrative Direction 2003/2, 25 January 2003 has been issued for the implementation of this Regulation. In this direction are prescribed the detailed provisions on the civil servants employment procedures and terms. Also, for the implementation of the administrative direction 2003/2 – implementation of the UNMIK Regulation No. 2001/36 on the Kosovo Civil Service, the following Administrative Instructions have been issued: MPS/ DCSA Administrative Instruction No. 2003/01 recruitment procedures; MPS/ DCSA Administrative Instruction No. 2003/02 contract procedures; MPS/ DCSA Administrative Instruction No. 2003/03 probation period procedures; MPS/ DCSA Administrative Instruction No. 2003/04 disciplinary procedures; MPS/ DCSA Administrative Instruction No. 2003/05 appealing procedures; MPS/DCSA Administrative Instruction No. 2003/06 procedures of terminating the work relation; MPS/ DCSA Administrative Instruction No. 2003/07 job description procedures; MPS/ DCSA Administrative Instruction No. 2003/08 performance evaluation procedures; MPS/DCSA Administrative Instruction No. 2003/09 work and presence at work procedures; MPS/DCSA Administrative Instruction No. 2003/10 leave procedure; MPS/DCSA Administrative Instruction No. 2003/11 personnel files procedure; MPS/ DCSA Administrative Instruction No. 2003/12 equal opportunity procedures;
14. **UNMIK Regulation. 2003/25, On the Criminal Code of Kosovo.** – with the purpose to ensure that the criminal laws applicable in Kosovo are in conformity with the established principles of international law and with general trends in modern criminal law reform and combat all forms of criminal activity through the promulgation of comprehensive criminal legislation in conformity with the internationally recognized human rights standards and with due respect for the rights of criminal defendants and victims. The Criminal Code of Kosovo has been amended by Regulation No. 2004/19 –on amending the Provisional Criminal Code of Kosovo – with the purpose of providing for the criminal offences related to socially-owned land and other socially-owned property;
15. **UNMIK Regulation No. 2003/26 On the Criminal Procedure Code of Kosovo.**(promulgated on 06.07.2003) – with the purpose to ensure that the criminal laws applicable in Kosovo are in conformity with the established principles of international law and with general trends in modern criminal law reform and combat all forms of criminal activity through the promulgation of comprehensive criminal legislation in conformity with the internationally recognized human rights standards and with due respect for the rights of criminal defendants and victims.

Administrative Instructions related to public administration:

1. Administrative Instruction No. 3/2004 on Kosovo civil servants salaries from the Kosovo Consolidated Budget engaged in more than one working places, (27.04.2004);
2. Administrative Instructions No. 7/2004 On The Payment of The Political Staff of Municipalities, (15.05.2004);
3. Regulation No. 2/2005 on the Internal Establishment and Organization of the Gender Affairs Office, (10.05.2005);

4. Decision No.. 5/154 On The Employment Of Minorities In Provisional Institutions Of Self-Government Of Kosovo (28.06.2005);
5. MPS Administrative Instruction No. 2003/02t on the Kosovo Government Telephone Usage (mobile and land line);
6. MPS Administrative Instruction No. 2004/01 on the Kosovo Government and PISG Central Institutions Car Parking (16.03.2004);
7. MPS Administrative Instruction No. 2004/02 on the access to the premises of PISG central institutions (24 March 2004);
8. MPS Administrative Instruction No. 2004/07 on the official travels (24.09.2004);
9. MPS Administrative Instruction No 2004/10 on the identification cards for PISG officials (12.11.2004);
10. MPS Administrative Instruction No. 2004/11 on the assigning the civil service grade level (26.11.2004);
11. Administrative Instruction No. 2005/02- MPS - Rules and Procedures of Appeals of the Kosovo Independent Oversight Board (8 August 2005);
12. Administrative Instruction No 2005/03-MPS - On Using Official Electronic Mail (official e-mail) of Kosovo PISG (10.03.2005);
13. Administrative Instruction No. 02/2005 On the Rights and Duties of the Politic Appointed and their Code of Conduct;
14. Administrative Instruction No. 2005/5 On The Management Of Municipal Public Premises;
15. Administrative Instruction No.. 2005/07 On The Implementation of MLGA Responsibilities Related to Monitoring and Supervising of Municipalities;
16. Administrative Instruction No.. 2006/02 on the administrative internal organization and structuring of Municipal Pilot Units;
17. Administrative Instruction No. 2006/03 on the transparency in Municipalities;
18. Administrative Instruction No. 2/2006 on the procedures for project-draft (act) compilation, reviewing and approval;
19. Regulation on the Kosovo Government performance No. 1/2005 (cleared text);
20. Administrative Instruction No. 01/2005 on the assigning the responsibilities for the deputy prime minister and deputies of ministers;
21. Code of Conduct for Civil Servants No. 01/2006 Government of Kosovo;
22. Administrative Instruction No. 3/2006 on the law implementation for the access on official document , (14.04.2006);
23. Code of Conduct for Civil Servants No01/2006;

24. Administrative Instruction No. 05-2006 on the organization and functioning of the offices for receiving complaints and requests - Desk for communication with citizens.
25. Administrative Instruction no. 07/2006 on Using of Kosovo Government Vehicles
26. Administrative Instruction no. 08/2006 Measures for Increase of Efficiency in Public Administration
27. Administrative Instruction no. MPS 2006/10 Rules and Work Procedures of the Monitoring Unit for Use of Official Languages in Central Institutions of Kosova
28. Administrative Instruction no. MPS 2006/12 The Measures for Freezing the Recruitment of Civil Servants in the Public Administration Bodies