



Kosovo Local Government Institute
Kosovar për Qeverisje Lokale
Kosovski Institut za Lokalnu Samoupravu

Implementing Decentralization in Kosovo: One Year On

Pristina, June 13, 2009

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ABBREVIATIONS PAGE

KLGI	Kosovo Local Government Institute
ICO	International Civilian Office
MLGA	Ministry of Local Government Administration
AKM	Association of Kosovo Municipalities
MPT	Municipal Preparatory Team
LLSG	Law on Self Local Government
SWGRL	Sub-Working Group on Reform on Legislation
GND	Inter-ministerial Group on Decentralization
UNMIK	United Nations Mission in Kosovo
GPBKR	Sub-Working Group on Transfer of Competences and Resources
KPA	Kosovo Property Agency
NIS	National Integrity Systems
DFID	Department for International Development
EMI	Effective Municipality Initiatives
USAID	United States Agency for International Development
WB	World Bank
SDC	Swiss Development Cooperation
EC	European Commission

Introduction:

Following the entry into force of the Kosovo Constitution on 15 June 2008, Kosovo has become increasingly committed to a framework of decentralization. The model for this framework has been specified in the *Law on Local Self Government* (LLSG)¹ which identifies the sole or shared competencies of each municipal authority over a broad range of service sectors such as health care, education, social services and local economic development. As new responsibilities emerge for the municipalities, they become increasingly accountable to the citizen. One year on, the question and challenge facing the new structures and responsibilities of Kosovo's local government is whether or not each municipality is able to successfully deliver its new responsibilities, and whether the establishment of new municipalities in Serbian inhabited areas is feasible.

The European Commission Progress Report for 2008 states that "Local government has been strengthened. New legislation on administrative municipal boundaries, local self-government, and local government finance and decentralization came into force in June"². Under the Constitution of Kosovo, five (5) new municipalities³ were to be established in minority areas and the territory of one municipality, Novobërdë/Novo Brdo, was to extend its territory. However, one year since the adoption of the Constitution, Kosovo's local government is far from establishing the new municipalities, let alone exercising the services and responsibilities allocated to them. The establishment of the new municipalities requires not only a wide acceptance from

¹ *Law on Local Self Government* (Law Nr. 03/L-040), http://www.assembly.kosova.org/common/docs/ligjet/2008_03-L040_en.pdf, accessed 15 May 2009.

² *European Commission Progress Report for Kosovo -2008*, page 10. November, 2008 (http://ec.europa.eu/enlargement/pdf/press_corner/key_documents/reports_nov_2008/kosovo_progress_report_en.pdf)

³ Five new municipalities to be created are: Gracanica, Partesh, Ranilluge, Mitrovica North, and Klllokot.

their communities but it also seeks community participation and support throughout the establishment process. Although the government, and in particular Ministry of Local Government Administration (MLGA), continues to assert that they are fully behind the Ahtisaari Comprehensive proposal⁴, they are falling behind.

This study aims to assess the progress and efforts made towards decentralization in Kosovo by evaluating the challenges that the decentralization process has faced since the adoption of the Constitution of Kosovo one year ago. Four (4) main issues challenging decentralization in Kosovo will be assessed; a) community acceptance, b) implementation of the decentralization plan, c) cross-institutional cooperation and d) mobilization of resources versus implementation. The focus on the acceptance of decentralization by Kosovo communities shall initially address the willingness of the Kosovo Serb community to take part in the decentralization process for the purpose of their integration into wider Kosovo society. It will then address the support from the Kosovo Albanian community as one that has also initiated concern. When assessing the implementation of the decentralization plan, the extent to which guaranteed competences have been transferred from central to local government will be looked at. This section will also assess the current extent to which new municipalities have been created. When analyzing cross-institutional cooperation, the focus will be on the vertical and horizontal coordination in implementing the plan, as well as the role of international donor organizations. In a final section the study will analyze and evaluate the mobilization of resources available to carry out the decentralization plan successfully, and their management by the municipalities.

⁴ Annex III of Ahtisaari Comprehensive Proposal sets the current decentralization plan in Kosovo.

Research Methodology:

This study is the result of quantitative and qualitative research carried out by the Kosovo Local Government Initiative (KLGI). Data has been collected from both primary and secondary sources gathered from various field visits, discussions with municipal representatives and with central government civil servants including the MLGA. Consultations with civil society organizations and representatives of the international community also served as an important input for this report. During the last four (4) months (March – June 2009) the KLGI conducted a more in-depth desk research consulting various reports including the progress reports published by the Ministry of Local Government Administration and other reports published by the international community.

I. COMMUNITY ACCEPTANCE

Challenges and Perspectives:

One of the greatest challenges for implementing the decentralization plan in Kosovo has been the level of acceptance from Kosovo Communities. The decentralization process is directly linked to the local community and as such requires cooperation, acceptance and participation by *all* communities in Kosovo. Without support from the Kosovo Communities, the energy and the resources spent on the decentralization process may be wasted; and the process itself can fail.

Community acceptance of the decentralization process, of both Serbs and Albanians, has two dimensions: a political dimension, and a practical dimension. The transferring of power from central to local government level can have positive outcomes for all communities of Kosovo. Under the existing laws, the Serb community is given a high level of enhanced competencies⁵ where they constitute the majority. They are to be given power to administer themselves and hold autonomy in areas of primary and secondary health, education, including at a university level, as well as in cultural affairs. Additional municipalities will be created to allow the Serb community to be in a majority. These Serb-majority municipalities can cooperate with Belgrade and accept financial and technical support. Although this support shall be channeled through the Ministry of Economy and Finance, its budgetary destination will not be changed.

Decentralization, however, takes on negative connotations for the Serb community when decentralisation is linked to, and understood as coming from, the package that paved the way for Kosovo Independence. Accepting a part of the independence package would mean accepting the independence of Kosovo, which the Serb community mostly refuses. This has predominately been the case with Serbs from the north of Ibar River and those in enclaves who have seen the outcome of

⁵ Ahtisaari Proposal, supra n. 18, Annex III 'Decentralisation', Article 4

decentralization as a blueprint for the independence of Kosovo⁶. In this sense, decentralization has become ‘politicized’ and thus a sensitive issue that is difficult to push forward.

The Albanian community, on the other hand, can only be positively affected by the practical improvement of municipal services, and service delivery through local institutions. However, decentralization for the Albanian community has also been politicized. Some parts of the Albanian population believe that the expansion of new Serbian municipalities into majority Albanian villages and the creation of new municipalities with a Serbian majority creates and strengthens Serb controlled areas. This is ultimately viewed by some as preventing Kosovo from having full sovereignty over its entire territory. As such, parts of the Albanian population feel hesitant towards and guarded against decentralization.

As a result of the rising mistrust about what decentralization brings to Kosovo communities, the MLGA has faced various difficulties and challenges when attempting to proceed with the implementation of new municipalities. It has been difficult both for the MLGA and the international community to gain full support for the implementation of the decentralization process, thereby slowing down the process.

Serbian Community Acceptance:

The Serb community is openly controlled and influenced from the Serbian Government in Belgrade. It rejects any form of decentralization unless it provides them with full powers over the governance of the municipalities and a blank cheque policy over many political issues such as the non-recognition of the institutions of Kosovo⁷. Recently, the Serbian community has shown some willingness to accept decentralization only if the process is status-neutral, if the MLGA and ICO are not

⁷ Kosovo Local Government Institute (KLG I) Report. *Framework and Provisions for the Minority Communities*. May 5, 2009.

involved, and if decentralization does not carry the Kosovo flag. The majority of Serbs who are not familiar with the details of the Ahtisaari plan see the process of decentralization with suspicion, wrongly believing that it will take away even the most basic competences such control of schools and hospitals⁸.

Belgrade continues to play a significant role in preventing the implementation of decentralization, at least in the majority Serbian areas. Belgrade sees the process of decentralization not as a mechanism to strengthen the power and protection of the rights of Serbs in Kosovo but rather as a mechanism that legitimizes the independence of Kosovo. As such, with financial support and through its parallel structures, Belgrade has managed to isolate the Kosovo Serb community from the integration processes of Kosovo, and influenced it to not participate in the larger Kosovo society. In this way, Belgrade has managed to create and control parallel structures within the territory of Kosovo. These structures have become the strongest mechanisms for boycotting the decentralization process and for undermining the implementation of the Ahtisaari plan.

There has been a recent weakening of Belgrade's hold on the Kosovo Serb community. The current global economic crisis has negatively affected Serbia, straining its budget and forcing the Belgrade government to gradually decrease the amount of support to the Serb community. As a result, Belgrade's control over the Serb community in Kosovo has reduced⁹. For example, despite Belgrade's call for boycotting Kosovo institutions, over twenty (20) Serbs recently accepted to return to the Kosovo Police Services, and many are currently applying for Kosovo documents and accepting Kosovo salaries¹⁰. Lately, the Serb community, especially those from the south of Ibar river, appear to have taken a more long-term and pragmatic approach towards the decentralization process. In fact, about 300 Serbs have expressed their wish to be part

⁸ International Crisis Group Report. *Serb Integration in Kosovo: Taking the Plunge*. Europe Report N. 200 – 12 May, 2009. P.26.

⁹ *Wages are Stopped for Suspended Serbian Police*. Gazette Express. May 15th, 2009.

of Municipal Preparation Team (MPT), which will serve as the embryonic tool for establishing five (5) new municipalities. This positive response also comes after a series of low-key meetings between the Minister of the MLGA and the Serbian community in the last three (3) months.

Albanian Community Acceptance:

The Albanian community is also divided when it comes to accepting decentralization. The majority of the Albanian population as well as the Government see the process that derived from the settlement plan as a small compromise for the greater cause – the full independence of Kosovo. Contrary to that, some parts of the population see decentralization as a negative process. The *Self-determination movement* in particular has been the most outspoken actor against decentralization in Kosovo. They see the process as a loss of administrative and sovereign control of Kosovo over its territory, which would result in the lack of stability and a possibility for the creation of more enclaves such as northern Mitrovicë/Mitrovica. It is believed therefore that a Kosovo without control over its entire territory cannot be an independent Kosovo, thus, decentralization does not serve the purpose of true independence.

On the one hand, Kosovo Albanians appear to consider the decentralization process as a necessity and a natural process. However, the Kosovo government and civil society institutions appear to support this process as long as it is based purely on the decentralization of power, giving more power to municipalities. The requirement is that this process is set according to the *European Charter of Local Self Government* adopted in 1985 by the Council of Europe to help Kosovo tick the right boxes needed for future EU integration. Any other possible formula for governance is strongly

rejected on the grounds that it takes Kosovo away from EU integration¹¹. As such, decentralization further becomes a political tool in serving the wider EU goal.

The *Self-determination movement* has been successful in convincing some Albanian villages to disagree with decentralization. They have achieved this in villages where the MLGA has not been able to reach and where services are now further away because of the relocation of villages to new municipalities, and. With the help of the *Self-determination movement*, residents from the village Pasjak, have signed a petition against the relocation of their village the enlarged municipality of NovoBrdo/Artanë. Around 80% of the population of Pasjak who are eligible to vote has signed this petition. The village is currently two (2) kilometers from the services provided by the Gjilan/Gnilanje municipality, but with its planned integration into NovoBrdo/Artanë, the municipality services will be thirty (30) kilometers away¹². Residents of Llabjan/Labljane also voiced their opposition through a similar petition. Most recently, at the MLGA meeting with the Mayors of Kosovo, the Mayor of Gjilan/Gnilanje, strongly opposed the decentralization plan that the MLGA has set out¹³.

A further reason to which some amongst the Albanian community oppose decentralization stems from the challenges created by the actual transfer of competencies from central to local government. These challenges, mostly expressed by mayors, include the weak municipal capacities to take in and cope with all the new competencies and responsibilities of the municipalities. Budget constraints and demographic change is another such problem that changes the structure of the municipality¹⁴ and where capacity is lacking.

¹¹ Kosovo Local Government Institute (KLGI) Report. *Framework and Provisions for the Minority Communities*. May 5, 2009.

¹² *Petition against Decentralization*. Gazette Express. April 24th, 2009.

¹³ *Kontravers*. Gazeta Lajm. May 29, 2009. pg. 3.

¹⁴ Report on Consultation with Municipal Mayors. June, 2008. UNDP Report. During the consultations with Mayors of Kosovo, May, 2008, Mayors of Obiliq, Podujevo, and Prishtina expressed their views on the human resources.

Efforts Made so Far:

The MLGA has made efforts to reach out to both the Kosovo Serb and Kosovo Albanian communities who disagree with decentralization. The ministry has used up time and resources to try and explain the benefits that decentralisation brings Kosovo and its citizens, in particular to the Serb community. The MLGA has had over three hundred (300) one-to-one meetings with citizens and local Serb leaders¹⁵. Despite these efforts and recent moves among the Serb community to work together with Kosovo structures, skepticism remains. As a consequence of continuing cynicism, the MLGA has moved its attention away from implementing all aspects of the decentralisation plan to directly supporting municipal officials to focus on improving public perception through outreach and media campaigns. As a result of this change in focus, many municipalities have faced practical challenges in turning their new competencies into reality. These uncertainties have in turn created a delay in the process of decentralisation, preventing the public from recognizing any benefits decentralisation may provide.

In response to the flagging perceptions of decentralisation, the Minister of the MLGA along with the head of the International Civilian Office (ICO) has conducted several field visits to encourage Serbs to participate in the decentralisation process. They have also attempted to promote decentralisation by communicating the benefits and additional provisions reserved for the Serbian community. The media center in the village of Cagllavica/Caglavica for example was used several times for debates on decentralization where the minister and other international actors in Kosovo tried to convey their messages across to the Serbian community. The European Centre for Minority Issues in Kosovo (ECMI) in cooperation with the Government of Kosovo visited different Serbian communities in the Anamorava region to engage with and explain issues of decentralisation to Serbs and other minorities.

¹⁵ Interview with the Permanent Secretary of the MLGA, Mr. Besnik Osmani. Held May 15th, 2009.

Despite Government efforts, opposition from within the both the Kosovo Serb and Kosovo Albanian communities has created a very complex and delicate situation in terms of the practical reality of implementing decentralization. On the one hand, the Serb community is heavily pressured by the parallel institutions to not engage in the process of decentralization. Although there have been contacts with NGOs in the North of Kosovo, the MLGA has faced difficulties in reaching out to decision-makers in the Northern part of Kosovo to promote decentralisation. On the other hand, limited efforts have been made with the majority community in new municipal areas such as Gjilan/Gnilanje. In failing to get support in these areas, opposition to decentralisation has increased.

II. LEGISLATION & IMPLEMENTATION OF THE PLAN

Challenges and Perspectives:

A year after the three (3) main local government laws came into affect¹⁶, some progress in implementing decentralization has been made, despite community misapprehensions. The *Law on Self-Local Government* is a substantial law in the sense that it sets a clear structure for local governments and it decentralizes 25 competencies and powers to local governments¹⁷. However, to implement this law in practice and to actually hand the 25 competences to local government is proving to be a very difficult and challenging exercise. As such the Kosovo Government has yet far to go.

A second major challenge facing decentralization is the issue of the five (5) new municipalities, the expansion of one municipality, and the activation of three (3) pilot-municipalities¹⁸ and the delays in setting these up. To date, none of the 5+1 new municipalities have been created and preparations for their creation have only just started. Staff for the Municipal Preparatory Teams (MPT) has not yet been selected to conduct the groundwork needed to establish these municipalities. Local elections, which will be key to the establishment of the municipalities, will be held in November 2009¹⁹. Any lack of community participation in these elections will mean that the municipalities will not be created resulting in the failure of a major component of the

¹⁶ *Law on Administrative Municipal Boundaries* 2008 (Law Nr. 03/L-041) <http://www.assembly-kosova.org/?cid=2,191,250> ; the Law on Local Self Government, supra n 21; *Law on Local Government Finance* (2008/03-L049), http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L049_en.pdf, accessed 10 May 2009.

¹⁷ **Own powers:** local economic development; urban and rural planning; land use and development; implementation of building regulations and building control standards; local environmental protection; provision and maintenance of public services and utilities; local emergency response; provision of public pre-primary, primary and secondary education, provision of public primary health care; provision of family and other social welfare services; public housing; public health; naming of roads, streets and other public places; provision and maintenance of public parks and spaces; tourism; cultural and leisure activities.

Delegated Powers: cadastral records; civil registries; voter registration; business registration and licensing; distribution of social assistance payments (excluding pensions); and forestry protection on the municipal territory within the authority delegated by the central authority.

Enhanced Powers: cultural affairs, and participatory rights in the appointment of police station commanders. Mitrovicë/Mitrovica North was given the highest level of enhanced competencies, including higher education and secondary health care.

¹⁸ Three (3) pilot municipalities: Junik/Junik, Hani i Elezit/Đeneral Janković, and Mamushë/Mamuša

¹⁹ European Center for Minority Issues (ECMI) Policy Brief, 5 May, 2009. *Decentralization: Establishing Municipal Preparatory Teams.*

current decentralization plan. As such the delay in setting up the MPTs is a major drawback.

In terms of the timeline to implement decentralization, 25 competences should already have been devolved to local government. Some of these competencies address important sectors such as health, education and social services. Yet much of the current legislation in these sectors needs to be amended or changed in order to avoid conflicting with the local government laws. In this regard, the Sub-Working Group on Reform on Legislation (SWGRL) has managed to change nine (9) laws and have them processed by the Assembly of Kosovo, in order to harmonize them with current local government legislation. Another six (6) laws for the same purpose have been changed by the SWGRL and are ready to be processed by the Assembly²⁰. Despite the amendments in the laws, awareness of the changes are minimal. As such, capacity building in the form of training is required, representing a further challenge; as more time is consumed, more resources are spent.

An Action Plan for the Implementation of Decentralization 2008-2010²¹ was prepared by the MLGA to help it implement the process of Decentralization. This action Plan created the Inter-Ministerial Group on Decentralization (GND) and, under its oversight, five (5) Sub-Working Groups²². The Action Plan does not set a clear strategy on *how* to transfer competences from central to local level. Most importantly, the Action Plan fails to specify how to prepare the municipalities to absorb these competences. No priorities are set in this Action Plan be it in terms of which competences and resources should be transferred first, or when and how new

²⁰ MLGA 3 Month Report. March, 2009. *Report on Progress of the work of the Sub-Working Groups for the Implementation of Decentralization*.

²¹ Government Action Plan on the Implementation of Decentralization. [http://emi-kosovo-rti.org/repository/docs/Action%20Plan%20on%20the%20Implementation%20of%20Decentralization\(Eng\).pdf](http://emi-kosovo-rti.org/repository/docs/Action%20Plan%20on%20the%20Implementation%20of%20Decentralization(Eng).pdf). Accessed 01 May, 2009.

²² Five Sub-Working Groups on Decentralization are: SWG Reformation of Legislation, SWG Establishment of New Municipalities, SWG Transfer of Competences and Resources, SWG Development and Capacity Building of Municipalities, and SWG Informative Campaign.

municipalities should be created. The Action Plan also fails to provide a strategy for the reforming and changing of existing laws.

The decentralization plan of Kosovo is ambitious and needs a great deal of cooperation and coordination at both the horizontal level (central government level) and vertical level (centre and local government). For the most part Kosovo municipalities are eagerly anticipating the devolution of competencies as laid out in the Ahtisaari Proposal. Many mayors have expressed their exasperation at the sluggish progress of this process which has left them in a competency 'limbo'. The mayors resent the fact that they receive citizen complaints about issues that they do not have the power to deal with. In particular most mayors would like to gain responsibility for public utilities, as this is a frequent source of complaint from citizens. Despite being aware of the limitations of their administrations, an overwhelming majority of mayors would prefer the immediate full devolution of competencies²³. This fact highlights their lack of faith in the central government in dealing with local issues.

Structural Reform of Local Government:

Most progress to date has been made on the structural reforms of local government. The Permanent Secretary of the MLGA stated that 95% of local Government law has been implemented when it comes to setting up the structure of the local government. In this regard, all Albanian municipalities have restructured their municipal assemblies to abide by the new law. Moreover, 28 municipalities have adopted their Municipal Statutes as well as four (4) other administrative orders reforming the structure of the municipal operations. The municipalities have also made progress in the implementation of the *Law on Local Finance* by adopting five (5) regulations in support to basic reforms on their municipalities²⁴.

²³ Report on Consultation with Municipal Mayors. June, 2008. UNDP Report.

²⁴ MLGA Report. Report on the Functioning of Municipal Assemblies of the Republic of Kosovo. January-March, 2009.

On the other hand, the technical aspect of handing over the competences to local government proves to be the most challenging aspect of implementing decentralization and the MLGA plans to carry out the process over a period of two years. According to the MLGA Permanent Secretary, transferring all twenty-five (25) competences at the same time is not effective for the municipalities, nor are the MLGA or the Sub-Working Group on Transfer of Competences and Resources ready to do so²⁵. Priorities have to be set stating which competences are to be transferred first. The MLGA's Action Plan for the Implementation of Decentralization however is very broad and only foresees the establishment of the Inter-Ministrial Working Group that will oversee the five (5) Sub-Working Group.

Status of Transference of Competences:

Since the first meeting in January 2009 of the Sub-Working Group on Transfer of Competences and Resources (GPBKR), chaired by the MLGA's Permanent Secretary and an ICO representative, only two competences have been transferred to local government. Although already set up in municipalities, social services²⁶ were formally handed to the municipalities in May 2009. The social welfare budget has also been transferred to the municipalities. This includes family services and social services, with the exception of the pension fund. However, as the Director of the Association of Kosovo Municipalities (AKM) stresses, 'it is still very hard for the employees of these new centers to start looking to the local authorities for support and to report to the municipalities because they are used to a different system that was directed by different people; central government'²⁷. Currently, 441 employees working in the social sector now have to report to local government rather than central government. Also the budget allocated to social services has been divided between wages and per-diem,

²⁵ Interview with the Permanent Secretary of the MLGA, Mr. Besnik Osmani. Held May 15th, 2009.

²⁶ Social services here include provision of family and other social welfare services, such as care for the vulnerable, foster care, child care, elderly care, including registration and licensing of these care centres, recruitment, payment of salaries and training of social welfare professionals),

²⁷ Interview with the Executive Director of Association of Kosovo Municipalities (AKM), Sazan Ibrahim. Held May 13th, 2009.

amounting to €1,116,880. Of the budget, €472,541 has been allocated to services, €110,000 for municipal expenses, and €900,000 for capital investment²⁸.

The Sub-Working Group on Transfer of Competences and Resources (WGTCR) has identified the decentralization of public corporations from central to local government as a priority. Unfortunately, the WGTCR has already fallen behind its anticipated deadline having anticipated handing over this competence by May 2009. Progress has been made towards transferring the public corporations to the local level but there remains much confusion on the part of municipalities. The Kosovo Privatization Agency (KPA) has ownership of these public corporations creating extra challenges for the hand-over process. Although some public corporations have been transferred to the municipalities or groups of municipalities, they await the selection of their boards by the municipal authorities. It will take some time for this competence to be completely transferred to local government. Water management has not been transferred to the municipalities either²⁹. Land use and development, another competence to be handed over to local government, has stalled because of the lack of legislation. Although the sub-working group has anticipated handing over this competence by June this year³⁰, the *Law on the Management of Municipal Land* is yet to be drafted and passed through the Assembly of Kosovo.

The sub-working group has looked into what needs to be done to transfer cultural and leisure activities to the local government. Cultural and leisure activities appear in the *Law on Local Self Government* as an ‘own’ competency for local government however, the sub-working group has concluded that there is nothing to transfer. In terms of municipal borrowing, the sub-working group is awaiting the adoption of the *Law on*

²⁸ MLGA 3 Month Report. March, 2009. *Report on Progress of the work of the Sub-Working Groups for the Implementation of Decentralization*.

²⁹ Interview with the Permanent Secretary of the MLGA, Mr. Besnik Osmani. Held May 15th, 2009.

³⁰ Interview with the Executive Director of Association of Kosovo Municipalities (AKM), Sazan Ibrahim. Held May 13th, 2009.

Borrowing by the Assembly of Kosovo to regulate this area. It is anticipated that by the end of August 2009 this competence will be completed³¹.

The provision of primary health care, and provision of pre-primary, primary and secondary education are now under the executive power of the municipalities. However, according to the advisor to the Mayor for Development Policies and Assembly Member of Municipal Assembly of Podujevë/Podujevo, the health workers strike during February and March was problematic for the decentralization process. According to him, central government completely handed over the responsibility of primary health care without any proper budgetary projections, as has been the case with the Centers for Social Welfare. He also stated that managing forestry and issues with Privatization Agency are also problematic, although he claimed that the municipality could perform well even with less staff if the staff were better trained³².

Some measures to transfer competences have also been delayed. For example, the technical work on business registration, has fallen behind because of the installment of equipment. Whilst the Operational Plan agreed by the Sub-Working Group for 2009 anticipates the start of its second phase which prepares for the transfer of extended competences reserved for municipalities with a Serbian majority, no progress has yet been made. This is due to the fact that the MLGA has had a difficult time convincing the municipalities with a Serbian majority to accept the current decentralization plan³³.

Some progress has, however, been made. Although voter registration has stalled due to the delay in selecting the Head of Council of Central Elections, the Memorandum of Understanding has been prepared and is ready to be signed. The sub-working group has also made some progress regarding cadastral zones and the protection of forests. It

³¹ MLGA 3 Month Report. March, 2009. *Report on Progress of the work of the Sub-Working Groups for the Implementation of Decentralization*.

³² Interview with the Advisor to the Mayor of Podujevo, Mr. Faik Muciqi. Held April 15th, 2009.

³³ MLGA 3 Month Report. March, 2009. *Report on Progress of the work of the Sub-Working Groups for the Implementation of Decentralization*.

is expected that these competences will be completely handed over to local authorities by the end of summer 2009.

Challenges on Transferring Competences:

Current human capacities at the municipal level are not enough to successfully carry out the new competences. Very few mayors are confident about the technical skills and competencies of their staff in handling the competences and responsibilities already at hand. While a significant number of municipal staff throughout the country have received relevant training from a whole host of national and international agencies, the prevailing sentiment among mayors is that personal competency levels among staff remain extremely low³⁴. But in some cases, the problem is due to the poor management of mayors who are not prepared to make the proper adjustments to support their staff. For example, mayors may be reluctant to employ new employees to address the new responsibilities and replace previous employees. It is not enough for the MLGA to just carry out the formal transfer of a competence or delegation of a competence; it also needs to provide adequate training to the municipal employees.

Currently, consultations are taking place between local government officials and the MLGA to provide training on the changes of local government. There has recently been a three (3) month training with municipal advisors (i.e. Members of the Municipal Assembly) on new legislation. According to the MLGA, it has prepared 72 training modules for local government officials. The problem remains however, that most of these trainings focus on the change of the structure of local government rather than on the new competences that the municipalities have gained with the new local government legislation³⁵. Currently there are various trainings with the Department of

³⁴ Report on Consultation with Municipal Mayors. June, 2008. UNDP Report.

³⁵ Interview with the Permanent Secretary of the MLGA, Mr. Besnik Osmani. Held May 15th, 2009.

Human Rights focusing on the protection of human rights. Soon, a training module will be carried out on Gender Equality in the municipalities³⁶.

³⁶ Administrative Orders of MLGA. <http://www.ks-gov.net/mapl/Document.aspx>.

III. CROSS-INSTITUTIONAL COOPERATION

Challenges:

Following the signing of a Memorandum of Understanding, the MLGA, with the support of the ICO and the line ministry, designed a plan of action to transfer competences from the central to the local level. The MLGA and the line ministry then coordinated with the Ministry of Economy and Finance to transfer the budget and grants to the various municipalities. Basic guidelines have been prepared for municipalities that receive the competence before the formal process is completed. In some cases, one or more line ministries must be involved in the transfer of a competence, and in other cases, other agencies or institutions must also be a part of the process. With the multitude of agencies involved in this process, close cooperation and coordination is necessary³⁷. This aspect of decentralization is a complex procedure and can be time consuming, but with cooperation and good communication, this process can move smoothly ahead and successfully.

Vertical and Horizontal Coordination:

In order for the transfer of competences to be successful, the MLGA must also lead consultations and trainings with the municipalities. In practice, there have been some consultative meetings hosted by the MLGA. However, there is a substantial lack of practical discussions and planning specific to the implementation measures of decentralization; whether the local level is prepared and how the transfer will be achieved. Many mayors across Kosovo will say that there are not enough concrete discussions about what competences are to be transferred and how to go about transferring these. The Association for Kosovo Municipalities (AKM) does not have

³⁷ Interview with the Political Analyst of Effective Municipalities Initiative (EMI), Ms. Ilire Agimi. Held May 10th, 2009.

the capacity to conduct the consultations with municipalities but are being lobbied by municipalities to push through recommendations on draft-legislation such as the Draft-Law on Legalization and the Draft-Law on Municipal Property³⁸. The Sub-Working Group on Transfer of Competences and Resources does not ask these municipalities for their input. This serves to highlight the gap in the vertical coordination of decentralization, respectively between central government and local government.

Horizontal coordination is also presenting a challenge to the process of decentralization. The Inter-Ministerial Working Group on Decentralization has a difficulty in coordinating different line ministries involved in the process of decentralization because each has their own priorities they want to push forward. This often halts or slows down the process. For example, the new *Law on Management of Municipal Property* poses a difficulty for the harmonization of work between the line ministries involved because the Kosovo Property Agency (KPA) has to be included in the process. This leads to different priorities being set up between line ministries and the KPA, and delays any agreement being consented to.

Another difficulty is the coordination of the international donor organization. While some international donor organizations are involved in the sub-working groups on decentralization and coordinate their projects with the government institutions, donor coordination itself is a problem. The mechanism for donor coordination set up by the MLGA is not functional and there are cases when projects, specifically in areas of capital investment in municipalities, are carried out by international organizations without the involvement of the MLGA or the line ministries. International donor coordination is also missing in the case of resource mobilization needed for a successful decentralization process.

³⁸ Interview with the Executive Director of Association of Kosovo Municipalities (AKM), Sazan Ibrahim. Held May 13th, 2009.

IV. MOBILIZATION OF RESOURCES

Challenges:

Another important challenge for the implementation of decentralization in Kosovo is the cost for the implementation of such an ambitious decentralization process and how these resources would be allocated and secured. Although it is difficult to estimate the real cost of the decentralization process, preliminary assessments by the MLGA have estimated that €35 million are needed to make decentralization function exactly as it is foreseen in the *Law on Self-Local Government*³⁹. In an interview that was given by the Minister of the MLGA, Sadri Ferati, to the daily newspaper the Kosova Sot, the cost of decentralization is likely to be at around €30 million⁴⁰.

The current decentralization plan requires technical reformation, human resources, administrative reform and other capital investment relating to the transfer of competences. The expenses for decentralization will be used for territorial (real-estate), functional, fiscal and administrative expenses. The creation of new municipalities will cost an extra €7.5 million. Only the Municipal Preparatory Teams, which will be running the operations of the new municipalities up until the new elections, are considered to reach the costs of € 3.5 million. There has been a 2.4% increase in the budget of the MLGA since last year, but it is quite difficult with the current resources of Kosovo to continue to secure the money. The Minister stresses however, that this money will be secured from the Kosovo Consolidated Budget and from the donor organizations.

Securing the Resources for Implementation:

³⁹ Interview with the Permanent Secretary of the MLGA, Mr. Besnik Osmani. Held May 15th, 2009.

⁴⁰ *Decentralization Will Cost Us 30 million Euros*. Kosova Sot. May, 4, 2009. Pg. 3.

According to the ministry, the mid-term Framework has foreseen that the expenses for 2010 be at the disposal of the MLGA to carry out the decentralisation process as needs be. However, it is usually harder in the first years to find funds as there are one-off expenses that help establish the initial structures and secure a functioning system. These expenses no longer become necessary once the system is up and running. In theory, the amount of financial contributions to the decentralization process should decrease once costs become limited to operational costs.

By law, municipalities report to the MLGA. However, since law cannot be fully implemented at this time, accountability continues to shift back and forth between the central and local government. The full transfer of the municipal functions will take some time to be completed, and this is dependent on whether or not the finances from the local government are transferred at the same time as with the transfer of competences. Many mayors like the Mayor of Gjakova/Đakovica claim that new competences are not being followed through with enough funds. However, the Permanent Secretary states that on average this year municipalities received 30% more money through grants to allow them to carry out their new competences. This is in addition to the budget for social services that is transferred to the municipalities. However, the MLGA Permanent Secretary states that mayors complain that there is not enough money because they use this 30% for other projects, preventing them from successfully implementing their new competences. Funds for the new competences are being secured by open grants on education, health social services and other sectors as well as funds based on the number of population, minorities and children in school in each municipality.

Donor Mobilization:

International donors have shown a great interest to fund projects to help Kosovo implement decentralization however, the coordination of donor projects at both the central and local level is low. Since the start of the decentralization, donors have increased their funds towards the goal of decentralization. In 2007, the European Commission invested €8.5 million in capital investments in cooperation with the MLGA. In 2008, capital investments from the European Commission increased to €13.5 million. UNDP is also contributing 2 million USD. UNDP funded projects in this area focus mainly in public outreach activities and on municipal cooperation between municipalities in Kosovo, as well as with municipalities in developed countries. The entire process is coordinated by the MLGA. The MLGA also works on cross-border cooperation with Montenegro, Albanian and Macedonia with donor organizations.

When it comes to transferring competences, different sectors are being supported by different international organizations. DFID assists in the social services area, Effective Municipalities Initiative in local government reform structure and some capital investments. The World Bank, Swiss Development Cooperation and UNDP also help out with trainings and infrastructure projects. The World Bank has held trainings on the management of public corporations by municipalities through three (3) different approaches: 1) workshops on management, 2) training sessions, 3) consultative services. The European Commission has also provided one local advisor to every municipality, to be overseen by international experts, to assist the municipalities in technical matters⁴¹. This is the first year that international organizations have increased their funds for capital investments in the area of local government. The problem remains however, that some international donor organizations do not coordinate their capital investments with the MLGA. The SDC for example provides capital investments in municipalities but does not coordinate most of these with the MLGA. The Norwegian

⁴¹ Interview with the Permanent Secretary of the MLGA, Mr. Besnik Osmani. Held May 15th, 2009.

Government has also carried out projects without coordinating with other organizations.

V. CONCLUSIONS AND RECOMMENDATIONS:

Communicating effectively:

The decentralization process will not succeed if the entire focus is based on establishing new structures, be it in terms of laws passed, boundaries defined or the establishment of municipal offices and staff. In order for its success, the process of decentralization needs to be effectively communicated to the people. The government, and in particular the MLGA, can not do this alone. Greater participation and involvement at all levels of the process and from all levels of society is needed. Civil society, politicians, media, private sector and academicians, all have a role to play. International actors also have a key role, especially in support of inter-ethnic dialogue and coexistence initiatives. The benefits and positive aspects of decentralization must be communicated to all communities in a more effective, clear and practical way. Such an approach would insure greater participation and community acceptance.

Better coordination:

The Government currently lacks a comprehensive system of coordination with international organizations and donors. As such, the MLGA needs to establish and clearly define a set of policies to be understood by the stakeholders. It also needs to establish a consistent system of donor coordination which should be continuously reviewed. Holding a coordination meeting is not good enough, particularly if there is a lack of a sustainable donor coordination mechanism. The Government has to take exclusive leadership in ensuring that donors are supporting not only decentralization in new municipalities, but also supporting government policies related to sustainable local government development and potentially, the direct budgetary support to municipalities.

Participatory planning:

There is much talk about the establishment of new municipalities, decentralization, services and decision-making closer to the citizen, but as yet, there is little to show. The Government needs to seize this opportunity and set up an example of participatory planning when setting up new municipalities' development plans. When devising municipal development plans it is of vital importance to engage from the outset in dialogue with the different communities concerned, especially the Serb community. International organizations have a major role to play in this regard.

Ensuring Sustainability:

When setting up new municipalities, it is important that forms of inter-municipal cooperation are identified early on, as the cost of decentralization is high compared to the economic potential of the new municipalities. There is a lot to gain in terms of value for money and professionalism by having joint urban planning, administration of taxes and joint service provisions. Here also, international organizations have a major role to play in sharing their expertise and experiences.

Resource mobilization:

Resource mobilization can be successful only if a greater degree of transparency and accountability is ensured. Setting up a 'Decentralization Trust Fund' for supporting small-scale initiatives can be helpful in this regard, especially when it comes to enabling smaller donors to tap in. Ensuring transparency in the disbursement of funds would

also be necessary. International and inter-governmental organizations such as USAID, EC, UNDP, SDC and WB can play an important role in this regard, but the leadership has to come from the government itself.

Recommendations:

1. Municipal Preparatory Teams must have all the necessary support and a clear mandate to operate successfully as soon as they are launched. Showing early results is key in gaining the trust and the support of their community. Failing at this stage risks destabilizing the entire decentralization project.
2. The Ministry of Local Government Administration (MLGA) needs to effectively communicate with, and gain the consensus of, the majority community in the Gjilan/Gnjilane municipality if it is to be successful in implementing the decentralization plan in this area. While creating a new municipality, it is key that the majority within that area understands the reasons behind decentralization and embraces it. The Mayor alone can not achieve this.
3. The MLGA should specify its priorities with timelines in its Action Plan for the Implementation of Decentralization especially when it comes to transferring municipal competences. Municipalities are in great need to know the agenda of the transfer of competencies.
4. All the competences guaranteed by the *Law on Local Self-Government* should be transferred to the municipalities in a coordinated manner so that they can become responsible to their citizens. Financial competencies should follow and the MLGA should conduct close consultations with municipalities to determine the best way to do this.
5. Capacity building of the municipal staff should be carried out in a coordinated manner with international organizations so that the municipal staff can effectively carry out the new competences. Advanced and coordinated trainings should be organized for the municipalities and the different sectors on the changing of the legislation according to the new local government laws.

6. More focus should be placed on building the capacities and competencies of the three (3) pilot municipalities (Hani i Elezit/Đeneral Janković, Junik/Junik and Mamushë/Mamuša).

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