RE-THINKING
DECENTRALIZATION

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Introduction

Decentralization has become a global phenomenon in most developing countries during the recent years. The aim of decentralization goes beyond the principles of self-government and political representation of local communities. This aim is to improve the delivery of services towards the citizens, ensure that these services are provided efficiently and effectively and improve the lives of citizens in a country. Unlike other countries, in Balkan, including Kosovo, the decentralization reforms are used as a means to resolve ethnic conflicts and reduce the excessive authority of the central level.

During the implementation of decentralization, it is obvious that on the one hand, the central government insists on preventing any transfer of authority to the local level; whereas, on the other hand, local government seeks more authority in order to exercise competencies and provide services to be closer to citizens. However, this principle has not been used in Kosovo, as the competencies and decentralization policies have not been driven by the lower level – to the higher level, but vice versa; where the central government and its international partners have designed the model of the decentralization process.

The decentralization process in Kosovo appears to be a long and a challenging process, not an act that can be achieved over a short period of time. Since 2002, the decentralization process was initiated to include Serbs in the parliamentary elections, while in 2004; this process and the creation of new municipalities have come as a result of the document for local government reform. Whereas, in 2005 and 2006, decentralization was put on the agenda as the main condition under which Kosovo should work.

The greatest steps of this process come from the Ahtisaari1 package and continue with the final proposed agreement which is the Association / Community of Serb-majority municipalities2. Based on the obligations deriving from the "Ahtisaari" package in 2008, many laws and principles for local government have been approved. The decentralization process not only increased the municipal responsibilities, but also drastically transformed the physical condition of municipalities by changing borders through the increased number of municipalities to meet the citizen's needs, especially those of the Serb community. The first two years after the independence, in 2010, the local government has been significantly transformed. The Kosovo’s Constitution provided the right of local self-government and guaranteed levels of competencies to municipalities in Kosovo, thus, offering local governments a higher level of autonomy from the central level.

Local governance in Kosovo is still known for its high levels of autonomy, however, it is limited in terms of financial resources and capacities, and therefore delivers inefficient and ineffective public services. Given these developments, eight years after the Ahtisaari package, Kosovo continues to encounter issues with the integration of municipalities in the unique system of governance, lacks coordination between institutions, and has an inefficient system that does not guarantee sustainable growth and cohesive functional decentralization. However, through a new rethinking and a functional revision of decentralization, area by area and sector by sector, the municipalities would have the opportunity to create a key platform for better service delivery, economic development and the improvement of the welfare of citizens.

1 http://www.kuvendikosoves.org/common/docs/Propozim%20per%20Statusin%20e%20Kosoves.pdf
2 http://www.kryeministri-ks.net/repository/docs/Asociacioni_per_kthimi_shqip_-final.pdf
CHAPTER I

1. Decentralization vs implementation on the ground

1.1. Decentralization as a product of the package

In June 2008, Kosovo adopted its constitution which included provisions that regulate local self-government under the Comprehensive Proposal for the Kosovo Status Settlement of President Ahtisaari. Regarding the local government, this "Proposal" had provided extensive competencies to municipalities in many areas, including primary and secondary education, primary and secondary health care, economic development, urban and rural planning, public housing, naming of the roads.

In order to exercise the competencies in these areas and achieve the objectives, the proposal had envisaged the transfer of legislative, financial and administrative competencies for municipalities. This "Proposal" and the agreements that emerged from this document - the Constitution, laws, decisions and other acts - require an effective implementation of the principles of an autonomous local government.

In the area of local government, all provisions of the Ahtisaari Proposal, and later the Constitution, provide a political and legal environment that reflects and respects the principles, processes, procedures, experiences and practices of developed Western democracies. It is clear that for more than a decade of state-building and consolidation of the overall Kosovo government, local government in particular has gone through a transition that is challenging for its creators and implementers at the political, administrative, technical and operational level. It is particularly important to note that in terms of local government, the central and other institutions in Kosovo have not yet resolved and addressed a new process of a functional review of the decentralization process.

It is worrying that at the local level, municipalities have not yet found real support and partnership from the central and other institutions. Moreover, political and government developments at the municipal level are often influenced by developments at other levels of governance, which threaten the autonomy and strengthening of local government.

1.2. The first steps of decentralization

Through the process of applying the principles of the Ahtisaari package in a challenging and dynamic process, Kosovo has built a strongly decentralized framework of local government, which then resulted in the Law on Local Self-Government. The Law on Local Self-Government has transferred special or shared competencies to local authorities for a broad range of services. Health care, education, social services and economic development are not only a burden to municipal authorities, but they represent enormous responsibility as well.

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* For more information, look at UNMIK nr 2000/45 on local self-government in Kosovo
4 Law on Local Self-Government (Law Nr. 03/L-040), http://www.parliament.am/library/Tim/kosovo.pdf
Given that these responsibilities of local government authorities directly affect the citizens of each municipality, the question and the big challenge that local government in Kosovo encountered had to do with whether the municipalities were able to exercise their new competencies and whether the establishment of new municipalities in environments inhabited by Serbs was possible.

The new legislation on municipal and administrative boundaries, local government, local finances and decentralization came into force in June 2008. However, the data collected in this period show that the establishment of new municipalities did not occur and municipal authorities were not in a position to perform their services. The establishment of new municipalities does not only require a wide acceptance for their communities, but it also requires a broad participation in the process of establishment. Although the government, in particular MLGA, continue to claim that they were in line with the Comprehensive Proposal of President Ahtisaari's Comprehensive Proposal, this process was lagging in many areas.

In order to assess the progress in the implementation process of the decentralization plan and the efforts made in this direction, four key issues that were seen as challenges to the process of decentralization were analyzed:

a) Acceptance of the community;
b) Implementation of the plan;
c) Inter-institutional cooperation; and
d) Resource mobilization towards implementation

Acceptance of the community initially focused on the participation of Serb community in this important process, in order to integrate them into society.

### 1.3. From the package into implementation

From the beginning, the process of decentralization in Kosovo was seen as a commitment by the international community to Kosovo. As such, the process had been marked by big promises from the central government, hopes and great expectations by municipalities and large dedications by international organizations which have supported the strengthening of local governance in Kosovo.

For Europe, decentralization is seen as a tool to strengthen democratization and the functioning of the political system. Modern European societies are called on the European Charter of Local Self-Government, approved by the Congress of the Europe's Council in support of their decentralized systems. Among other affirmative descriptions, the European Charter states that local authorities acting within legal limits may be able to manage a considerable part of public issues, in the interest of the local population. Although not a part of the Council of Europe, Kosovo has fully embraced the principles of the European Charter. In the constitution, it is defined that "the activities of local self-government bodies are based on this Constitution and laws of the Republic of Kosovo. Kosovo recognizes and respects the European Charter of Local Self-Government.

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6 Annex II of the Comprehensive Proposal of President Ahtisaari determines that actual plan on decentralization in Kosovo
The decentralized form of governance has been a challenge for Kosovo. Although the majority of municipalities in Kosovo already apply new competencies to manage services at the local level, there is still a need to provide support and resources to them, in order to effectively implement the competencies that are attributed to them by law. It has become clear that decentralization in Kosovo is not always an easy target. Municipalities have witnessed a very complex process of planning and management of local law enforcement on the ground. Not only it has been a complex process at the local level, but it has also been difficult to explain the changes to all actors involved, including the ones who are most affected by this process; the citizens of Kosovo.

1.4. From the Ahtisaari package to the Association/Community of Serb-Majority Municipalities

The Association/Community of Serb Majority Municipalities risks to deliver controlling authority to Serbian Municipalities. This then endangers the country’s unitary system and its “one-scale” system of government.

This process should be within the constitutional and legal framework; able to transfer administrative competences, but not political or executive competences. "Zajednica" in the Serbian language is much more than an association; it is a community or unification of some elements, including the administrative ones. A battle is expected to come with regard to the competences that the Association will have. This is among the main points of the Brussels Treaty, as it is one of the four topics that the parties have not reached an agreement yet.

Serbia and Kosovo do not provide details regarding the Association of Serb Majority Municipalities. This process of negotiation appears to be a victory for both parties. Belgrade views this process as a tool to protect Serbian interests in Kosovo, whereas Prishtina views it as a mechanism to extend the sovereignty and extinguish the parallel Serbian structures. However, it should not be forgotten that there is the international community which has a great role and tries to integrate them in Kosovo institutions.

Considering that this has been a closed process, it leaves room for negotiating parties to represent it in different ways. Serb representatives who were legitimized after the elections in November 2013 have admitted that they do not want the Association to be registered as an NGO. As it is provided in the legislation of Kosovo, the establishment of the Association of Serb Majority Municipalities is the most important issue of the dialogue between Kosovo and Serbia.

However, a long time has passed since the consultations have begun and been drafted in Brussels. Since the agreement has not been achieved, the burden remains for the working groups who try to achieve similar positions between the two countries. Still, the content of the statute of the Association is not yet known. Last December, the government officials in Kosovo had stated that they were waiting for comments from Brussels regarding the draft-statute presented for the establishment of the Association.

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8 http://www.kryeministri-ks.net/repository/docs/Asociacioni_perkthimi_shqip_-_final.pdf
9 http://www.kligi-ks.com/?page=2,28,72#.V3zio9J97cs
Yet, Serbia has repeatedly insisted that it has a leading team that is working on drafting the statute according to their "demands."

Until now, the statute draft has not been presented. The Kosovo negotiating party continues to hold the position that this organization should have a statute, form, structure and operation fully in compliance with the laws, constitution and the agreement that was reached, in April 19, in Brussels. The position of the Republic of Kosovo and the European Union is that the Association will be a non-binding consultative mechanism and will not exercise legislative or executive authority. However, looking at the process as a whole, it is clear that the agreements are not the same to those that the parties have stated in the beginning.

It has been a long time that local Serb representatives have begun the consultations with Belgrade to create the Association. On the 17th of March 2015, a meeting was held with all Serbian representatives, at the time when Serbian list boycotted the Kosovo institutions. After the meeting, the Serbian list came with the request of making the association functional at the end of November 2015. However, despite this request, the association has not been established yet.

From the discussions arising from the meeting, the Association is thought to have an Association chairman, the executive council and assembly, and as well as their account. Regarding the competences, Serbs have insisted that education and health should be financed by Serbia.

Looking at the name "Association / Community;" it represents two names and two goals, and the terminological meaning of the Association referring to the Oxford vocabulary is "a group of people organized for the same purpose," with the word coming from Latin "asso-cial" which means "to unite." Whereas, "Community" is a "group of people who live in the same country and have mutual characteristics or interests." The word "Community" comes from the old French "comunitete" which means "the same, unique." This explanation intends to show that there are two names and two aims. The difference between the two is their purpose, not the institutional structure of the Serbian ethnic community in Kosovo and within it.

Second, the "Association" has a functioning structure, whereas the "community" except that it maintains the national, racial, religious homogeneity, it does not have a functional structure. This explanation concerns the literal aspect because according to the Agreement, the Association will have a statute, a president, a vice president, the parliament and the council, and it will be prepared similar to the Association of Kosovo Municipalities.

The Brussels agreement is not the final solution of the issue but the beginning of new difficulties for institutions in Kosovo. This is due to the decision of the Constitutional Court to assess the compliance of the principles, in which it was found that 23 articles of the general principles for the establishment of the Association are in conflict with the Constitutional principles. Now, the problem has become even more complex and ambiguous because the Serbian side challenges all the agreements with the
adoption of the principles, while, the Kosovo side requires the elimination of the parallel structures and the implementation of previous agreements in Brussels.

1.5. An overview of local autonomy

Localization and globalization came in the 20th century, the latter one coming as an effort for development. The localism movement has needed major political and administrative power of the state in order to make the government remain closer to the citizens.

As such, there is the sub-national concept; there is administrative power, policies that are left to the state, and regional services; The binary concept of state building was to have a democratic state, whereas to leave the basic functions to local government institutions. To wrap it up, Kosovo is joining this trend or social development which is european and political... in relation to the guidelines, not necessarily has to do with quality.

In the European Charter of Local Self Government, we find the source on what local government is. The Constitution is composed of two basic principles; subsidiarity and transparency. The concept of decentralization is manifested in two forms: firstly, we have a decentralized system in which the state has a final say, and second, we have local autonomy in which the municipality has the final say.  

The legislation has reduced the intervention of the state and has strengthened the role of the courts. The government can not intervene in the final say, only the courts do. If there was local autonomy, the international rules would prevent this intervention, however, the system of local governance is very advanced.

The process of reforms and decentralization is known through several aspects. For instance, there is autonomous authority that municipalities have which used to belong to the central level; a deconcentration of power that has not gone to local authorities by remaining closer to the citizens but still on the hands of central governments for the final say. Therefore, this is a form of decentralization in which the functional authority remains in municipalities. With our legal framework, the public services that should be delivered to the citizens have been transferred into private services, and as such there is a privatization of service delivery.

Example: The collection of waste is a competence that should be exercised by municipalities, whereas what we have in this case is the fact that the state believes a service to a private operator. So, the private sector grows in a particular area, whereas the institutions provide services which in the modern world are completely privatized. In modern countries, the administration is done by the municipality, whereas the services are delivered by private companies. In this way, there is a relationship between the administration and the economy.
After the 90s, these countries have become very powerful, so they were in the position to jeopardize the functioning of the state. Consequently, in order to reduce the power of these country towns, the low levels are planned to save the development trend but dismantle the monopolies.

Based on these quick facts, the balanced distribution of economic and financial resources is crucial. Seeing the responsibilities for revenue collection, the local government does not bare the main burden as around 80% of the budget is not collected by the municipalities. Unfortunately, only 15-20% of the revenues collected at Out responsibilities for revenue collection, the municipal government the main burden falls not, because about 80% of the budget not collected by municipalities but the "deal of the willing". Unfortunately only 15-20% of the revenues are collected at the local level, whereas 85% are collected at the central level. Around 45% of the budget is in the hands of municipalities, whereas 55% of the government duties fall under municipalities (based on the competencies). It is important to note that a key aspect of decentralized governance has to do with the fact that who gathers and administers the revenues. 18

Finally, it should be noted that 'the national public good is best served when the local public good is best represented'; The aim of the constitution is to provide competences by local interests in order to create the sphere of separation of powers; However, obviously, local interests and national interests will sometimes match or be different from one another. 19

1.6. Decentralization fluctuates between success and failure
First, it is concluded that the first hand of the state is the municipality and the first service by the government comes through the municipality; and secondly, the success of a state directly depend on the success of the municipality as an institution. In short, the state is strong only if the municipality is strong.

As a state and as a society, we have embraced the concept and arrangements of decentralization. Decentralization is not an invention. Decentralization in the strengthening of communities and citizens. We know that there has not been a proper debate for decentralization and there was no proper approach regarding the functionality and feasibility on the ground.

Embracing various western models as in this case the model of decentralization without a debate and an analysis, foresees one advantage and one disadvantage. The advantage is that we borrow models that have been tested previously and are proven to be successful. This shortens the path by saving us energy and time.

The disadvantage has to do with the fact that not always, the local context and our real possibilities enable us to achieve the objectives of the proven models. This then requires correction, which is not possible without focus and energy. Therefore, it should be admitted that our country, like very few other countries in the region and Europe, often fluctuated between success and failure, and this shows that there is insecurity that inhibits success.

Therefore, a reform is a necessity. The responsibility is great, not only in institutions, but also for social and other public actors. Otherwise, other generations will bare the burden by not having a European model to follow. We should be honest with our achievements as a country and as a society, as in the field of local government we have achieved only partial success. It is partial because local governance

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18 Quick facts coming from the collection and expenses of the general budget
19 Tahiri Besnik, conclusion from Module V of LGA program
arrangements, especially the decentralization process have contributed to the affirmation of state-building in Kosovo.

However, we are still halfway; if we evaluate the quality and efficiency of services, a lot is to be desired. But we need to know which institutions offer the platform, security and order, whereas on the other hand, the human factor acting institutionally can enable change by strengthening the institution and the society as a whole.  

It should be emphasized that decentralization is strong in letter, but weak in practice

- It should be known that there is decentralization with competences in letter, however, with limited opportunities and without the transfer of resources or finances, it will not function properly. With the current system, the mayor has a lot of responsibility, but in reality, there is little opportunity. Current laws have ghettoized the mayor by imposing him/her to act according to a plan that is determined from the upper level to the lower level, due to capital investments from line ministries.

- This makes the municipalities to become directly dependent from the central level. It also makes them feel that they have no real power and perceive their responsibilities as administrative or operational ones, rather than policy-making or decision making responsibilities. For this reason, with this concept of decentralization, the centralization and its impact has somehow smuggled. Therefore, this document suggests that:
  
  o A revision of decentralization and local governance in relation to the quality and efficiency of services should occur during 2016-2018;
  
  o It is crucial that fiscal decentralization occurs because there is no decision making without a possession of finances and tools;
  
  o It is well known that those who possess resources, influence the developments. As such, we should not accept that municipalities remain at the operational level;
  
  o Any revision in this regard should have the concept local government’s autonomy as the starting point.

1.7. Decentralization, a challenging process for municipalities

The evidence for decentralization in Kosovo, eight years after the Constitution, shows that local government reform is a long process and not an intervention that can be fully achieved in a timeframe set by decision makers and the international community. So far, decentralization has had positive effects; however, the success of decentralization continues to be dependent primarily by two factors: the support of the central government and the proper response by local governments and citizens. Moreover, international donor organizations that have pushed forward this process since the beginning, have still a lot of work to do, especially with resources and direct interventions.

However, there is another side of decentralization which is less political and more practical. The main challenges of decentralization in Kosovo are; the politics; side of decentralization which can not be fulfilled without an attention to the efficient provision of public services.

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20 Tahiri Besnik, periodic conference of KLGI, 16 September, Prishtinë
21 Conclusions from the periodic conference of local governance, 16 September, Prishtinë
22 http://www.klgi-ks.com/repository/docs/DECENTRALIZATION_A_HEAVY_WEIGHT_TO_BE_CARRIED_OUT.pdf
The progress of decentralization has been the consolidation of the new municipalities. These municipalities have made positive progress in consolidating their administrations and taking responsibility given to them along with the new status. At the same time, the illegal parallel institutions continue to operate in these locations, and therefore, they pose a challenge to the full autonomy of the legitimate local governments.

As it was mentioned before, the other side of decentralization which is less political is about providing good services, by responding to local citizens who will receive better services compared to central government. This is the accurate decentralization; one in which benefits are seen and felt directly by citizens - a form of decentralization that ultimately determines whether the process has been successful or just a political compromise. Service delivery, in certain municipalities, has had progress but it still remains weak.

Despite the fact that municipal finances are growing, they still continue to limit improvements in a number of services. The transfer of funds to municipalities from the general budget (through grants) is not enough to maintain the current quality of services - let alone make these services more qualitative and accessible.

Moreover, the limited capacity of personnel to provide services in a professional manner, the inefficient management of assets and the contradictions in laws of different sectors of services, are other obstacles for municipalities. However, there are other arguments that municipalities are not being supported in the efficient service delivery, including the agreement of inter-municipal cooperation and the generation of higher incomes to maintain and improve local services.

Municipal management of new public enterprises, responsible for public services, was not an easy process - an issue also discussed in detail in the following document. Additionally, in terms of national capital, the central government has been an obstacle for the advancement of a decentralized system of governance as it is provided by the Constitution, whereas, the Law on Prishtina and funds that come with it are held back, resulting in significant restrictions on the provision of services.

Moreover, there exists some confusion regarding local competences, especially where the authority of central government ends and the authority of local government begins. In some cases, the central government agencies have developed norms that restrict the ability of municipalities to exercise their duties efficiently.

Over the years, there have been many disputes between the mechanisms of municipalities and central government with regard to public lands and enterprises, a point that will be discussed below. There are many competences that have not been fully transferred to local governments, especially the enhanced and delegated authority defined in the legal framework.

Eight years after the implementation of the decentralization process, it has become clear that the basic laws of local government need to be amended. The evidence from this document shows that the most fundamental law is the Local Self-Government Law, as it is being challenged heavily by sectorial laws.
CHAPTER II

2.1. Local Governance in the ground

Municipalities in Kosovo have gone through many political processes that aimed to accommodate the communities, especially the Serbs, whereas less focus has been put in the functionality, quality of service and the capacity of municipalities to manage their responsibilities.

From this entire process, including the establishment of new municipalities, the transfer of powers has derived from the needs of local communities, rather than the context. Given these developments, it can be concluded that the system remains challenged because municipalities do not have enough financial, operational, administrative and technical capacities. Consequently, there is an ad-hoc and slow growth at the local level which endangers the functionality of the state.

By analyzing the process of decentralization, it can be concluded that the process of local reform can fail if it continues to lack support from Central Government towards local government.

To have a strong and efficient local governance, it is very important to pay special attention to strategic planning and economic development. Therefore, in the long term, only the municipalities that have strategic planning and local economic development will be able to offer a wide range of services and improve the administration’s performance.

The perspective of Local Government should be reflected in the following dimensions:

- The necessity to strengthen the local governance system in Kosovo
- Local Government Reforms – the way forward
- Exchanging the debate of local governance from policies into sustainable development in municipalities

Moreover, a model of Integrated Planning System should be developed to apply a set of operating principles to ensure implementation in the most effective way in the aspect of planning, implementation and monitoring of policies.

The process of Local Government Reform itself is based on communication between people who think that they have common interests and are connected together by the spirit of the community. This notion is very real, especially when dealing with local self-governance. Local self-government is the closest to the citizens and arranges daily issues that derive from the heart of the local community and every person living in a specific region.

This chapter presents a mosaic of events that occurred in local governance in Kosovo, reflecting some of the dimensions and shapes that have left a mark on local governance.

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21 Gecaj Bajram, part taken from the periodic conference of KLGI Institute, 16 September, Prishtinë
2.2. Municipalities in the shadow of dominant mayors

The Republic of Kosovo has a new institutional and contemporary governance history. Local self-government and contemporary developments are related to the trends of improving democratic governance in general, especially with the trends that reflect the need to reduce the democratic deficit by improving the relationship between costs and benefits, increasing efficiency and expanding the range of services to citizens, including the active participation of citizens in governance.

It should be mentioned that the Law on Local Self-Government generally foresees a system of mutual control between the legislative and executive. In this regard, there are two serious challenges for these two institutions - the municipal council and the mayor. 24

First, the governance in general, including here local government, is shaped in a new context of a political and institutional culture of the ‘newborn’ state. Therefore, the practice of keeping government officials mutually accountable is something new. It is widely recognized that the development of a consolidated democracy requires a lot of time and effort, where the government and its representatives (politicians, officials, civil servants, etc.) are supervised, limited, disciplined and if necessary, sanctioned, namely penalized.

This political culture and the practices that this concept contains are being targeted in Kosovo, but not as desired. Secondly, another challenge is the lack of professional capacity, especially managerial and administrative professionalism. As a result, certain representatives in the assembly and especially the mayor, by aiming to overcome this gap (weakness) are accumulating competences that lead to dominance.

Consequently, we see that there is "subjugation" of institutions and violation of the electorates and citizens will, a will that reflects the choices for the Assembly advisor. Currently, we see that the mayor’s institution is constantly accumulating competences in harming the power of the municipal assembly, other civil society members and media. in young role and power of the municipal assembly and other members of civil society and media. This is putting the Municipal Assembly and civil society in a position of inferiority, which sometimes goes into subjugation.

Whereas, in reality the role of the municipal assembly is to supervise, control, correct, and support the role of the mayor in the implementation of institutional obligations. There is an explanation in this regard: The lack of budget for municipal assembly, civil society and local media, makes these actors dependent by the support of the mayor. The situation becomes worse because in most of the municipalities, there is a lack of resources and office space for municipal assemblies and mayors of assembly groups.

Hence, there is a problem or a challenge, which is partly a derivative of the impact by the central level and partially by the consolidated democratic culture. This challenge has to do with the poor accountability within the municipality;

24 http://www.klgi-ks.com/repository/docs/THE_MUNICIPAL_MAYOR_-_A_REPRESENTATIVE_OR_A_DOMINANT_AUTHORITY.pdf
The Municipal Assembly is directly elected and has the mission of controlling and monitoring the executive. The question is: "is this happening in practice and as a state what are we providing for this institution? – nothing!"

The Municipal Assembly has become a forum for raising a hand, but in fact it should have been a tool to supervise, strengthen democracy and pursuit accountability. This does not occur only because the assembly members do not fully engage, but also for the fact that this position is projected to be a helpless and a political position.  

2.3. **The poor quality of services reduces the confidence towards local authorities**

Local authorities offer citizens a range of services (for example documentation, information, public services such as road maintenance or primary services in health and education), but different from the suppliers of the private sector, the citizens are not able to choose an alternative provider of these services. In proper circumstances, the citizens would have not had objections regarding the services offered and as well as the performance of local authorities, but this is not really possible. Thus, the need for measurement and evaluation of performance and satisfaction in general arises.

Based on a pilot measurement of citizen satisfaction with municipal services, the findings show that there is a need for raising the level and quality of service delivery by municipal structures. Through a Diagnosis on the quality of municipal services, specifically for the satisfaction of services provided, after the decentralization there has been a radical transformation in the services transferred to the municipalities.

The poor level of services or the quality of these services can reduce the satisfaction and expectations of citizens; in a way that all those who had negative experiences will share them will other citizens. In this way, the phenomenon of a negative perception on the work of local authorities, in particular municipalities, is created. Therefore, there is a need for the introduction of new and creative methods in the evaluation of services that are provided by local authorities. Therefore, there is need for the introduction of new and creative methods in the evaluation of services provided by local authorities.

The fact that citizens are not sufficiently satisfied about the methods and quality of service delivery has been highlighted. It is clear that the provision of services by electronic means and the civil status should be improved significantly. Periodic reviews can significantly help in improving good governance, democratization of society and the establishment of a culture and civil institutions in showing the importance of providing services, and the importance of raising the level of satisfaction and acceptability of citizens for the provision of services.

These forms shall define in the clearest manner on where the local authorities remain not only with regard to services, but also for the recognition of duties and obligations that arise in relation to the primary and secondary legislation. Moreover, it is also a tool to see the form of management thinking and municipal stakeholders in relation to the daily concerns of citizens.

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25 Conclusions from the periodic conference of local governance, 16 September, Prishtinë
26 [http://www.klgi-ks.com/repository/docs/Mystery_Shopper_in_Municipality.pdf](http://www.klgi-ks.com/repository/docs/Mystery_Shopper_in_Municipality.pdf)
27 Ibidem
28 Ibidem
2.4. Clientelism is endangering the construction of good governance in the municipality

A snapshot of daily life across Kosovo’s municipalities: a hard working student achieves the highest marks in her school exams but misses out on a municipal scholarship for university; a village is left without a steady supply of water; a poverty-stricken family is turned away at the municipality; a teacher is sent away to teach at a remote village for opposing the mayor; a poorly performing business wins another municipal contract. These situations do not happen because of accident or neglect, nor do they occur principally because of the absence of the rule of law, a lack of training or because the Kosovar state has simply ‘not had the time to sort itself out’; these primarily occur because of the presence of a countervailing pattern of political behaviour called clientelism.

Formal institutions are part of the state: in the constitution, administrative rules and laws, civil service procedures and legal structures. They are easily monitored through written documents (eg laws), physical structure (government buildings) and public events (eg municipal public hearings). Inclusiveness and the reforms of political institutions that comprise the state-building process after 1999 are concentrated on formal institutions, with the aim of developing a liberal democratic structure supported by accountability, transparency and other characteristics of good governance.

Despite such a focus, it is quite clear that behind the construct of the formal state alternative, informal structures and logics operate to determine politics in Kosovo. This is not surprising as all nations have both formal and informal governance systems: no human society is so ‘advanced’ that it relies exclusively on formal institutions to run its common affairs. Informal institutions are not embodied in the formal state but “are created, communicated, and enforced outside of officially sanctioned channels.”

Informal institutions are unseen and implicit but this does not mean they may be any less significant.

In fact, informal institutions matter because they represent an alternative and separate source of political behaviour. Whilst the nature of formal institutions can be shaped and changed by actors with rule-making authority (i.e. elected politicians), this is not the case with informal institutions which are authorised and enforced by more diffuse social processes. This independent source of enforcement grants informal institutions a kind of autonomy: strengthening formal institutions may encourage the demise of informal institutions, but it would not necessarily suppress them.

There are many different types of informal institutions in Kosovo: corruption is one, but so is nepotism, cultural conventions, traditional laws or informal bureaucratic procedures. Even though informal institutions are mostly autonomous from formal systems, the crucial point is that formal and informal systems in Kosovo are not separate but co-exist and interact. Informal institutions often operate within and through the formal state.

Clientelism as a phenomenon is endangering the democratic functioning of Kosovo institutions in general, but since the first contact of the citizen with the institutions is the municipality, the municipal level is suffocating local direct democracy. Clientelism threatens to turn into a widespread and

30 ibid.
33 Jackson David, part from the conference “Clientelism, the alternative dimension to Kosovo’s Governance”, KLGI Institute
accepted culture in government, especially at the local level by empowering a narrow circle of political elites which work for personal interests and agendas, instead of the common good and public interest.

2.5. Economic development, a barrier to fiscal decentralization

Kosovo municipalities continue to operate with weak mechanisms regarding the capital investment finances and are also greatly restricted to the options that are available within the annual budget process. With this finding, financing of capital investments in municipalities has been prevented from the ad hoc and short-term decision making.\(^{34}\)

Being limited by applicable laws, the complicated procurement procedures and the lack of budget revision in municipalities are expected to have tens of millions in surplus each year. Therefore, it is necessary for the municipalities, the Ministry of Local Government and line ministries to find ways to more accurate planning processes and financial management at the local level.

Municipalities should be involved in the drafting of a strategic plan, including harmonization, adaptation of existing planning systems within the new system, streamlining organizational structures, and the elimination of repeated requests from sectors. In this way, municipalities will avoid fragmentation and repetition between the main government policies and financial planning processes.

Budget proposal and the allocation of grants open debate to municipalities, especially in terms of capital investment and services. Moreover, some municipalities have been reluctant to adopt the budget. The budget debate is almost the same every year, however, this time there is also a decrease in the budget codes. This is closely linked to the wage increase, a burden carried by municipalities. Hence, if we look at the budget allocation in municipalities, it appears that more than 60% goes to wages and salaries.\(^{35}\)

Looking at this division and frameworks in municipalities in relation to capital investments, it is implied that the elected authorities can not govern the municipality, but only administer it. The Local Finance Law, adopted in 2008, initially served to establish the principles for budgetary expenditures, but today this law needs an analysis and improvement in order to give municipalities more flexibility in planning and budget management.

The budget division continues to be based on a formula which takes into account several criteria (the number of inhabitants, territory and communities). Thus, we can not say that the budget is not allocated in a proportional way, but it should be noted that a budget formula reflects the municipal development context.

This calls for an important discussion about the appropriate levels of funding to municipalities through grants - i.e., are municipalities given mandates without reallocation and relevant funds? For this reason, municipalities and line ministries should be able to define the difference between the quantity of their own revenue potential and the funding requirements to manage the services.

Two aspects should be addressed: first, can municipalities fulfill the legal responsibilities in providing the sectorial services as foreseen with the process of decentralization? and second, what are the criteria of investment allocation by line ministries and commission grants?

Thus, there is a need for a balance of capital investments and establishment of clear criteria by the line ministries and the grants committee. In this aspect, the regional practices, such as the case of Macedonia should be taken into account. Macedonia has drafted the law on balanced regional development, which

\(^{34}\) Tahiri Besnik, speech in the local governance conference in Macedonia, 2015

\(^{35}\) Tahiri Besnik, interview in the newspaper ‘Epoka e Re’
can effectively serve better to recognize the needs of municipalities, increase inter-municipal cooperation and development.

Taking this into consideration, the central and local government should communicate at the same level and be substantially transparent. There is also the need for a greater increase in funding and capital investment, not to say a whole change of the budgeting and financing system, as the only way to give a perspective to municipalities for sustainable development.

2.6. Municipalities within the framework

The approach for the development of municipalities had gone in depth has deepened the individual leadership. As a result, without any guidance or a clear program about the path to follow, municipalities continue to have weak capacities and leadership. The main problems still arise with the issue of excessive number of personnel and poor allocation of work among the civil servants.36

However, it should not be forgotten that after the war, the municipal administrations were built by involving the previous administration that operated during the 90s. Taking into consideration that throughout the 90s the reforms in governance occurred and the principles of good governance were promoted, this aspect becomes even more aggravated. This breaking point aggravates the reforms and processes, and is also closely related to the fact that the administration is responsible for the implementation of public policies.

This means that the representatives of local self-government should go beyond their functional and administrative duties and be more pro-active in the implementation of a strong development plan that will improve the lives of citizens. 37

While the rationalization of public action is closely linked to strategic planning, the local governance has failed to offer solutions or a development vision. In the absence of this vision, the local government is situated in the limits of the law. To be more precise, local government should “go beyond the structure” because the law provides regulatory space for the identification of opportunities. As such, the law or the absence of law should not be interpreted as a limitation. This means that the representatives of local self-government should go beyond their functional and administrative duties and become more pro-active in creating and implementing a strong development plan that could improve the lives of the citizens.

This implies that democracy and local government should beyond administrative frameworks, not remaining in what is written in the Constitution and laws. Another important aspect is to maintain the principle of subsidiarity and local accountability for local resource mobilization and direct involvement of citizens in decision-making. It should also be understood that the increased role of local government has changed the concept of development which now requires much more commitment and expertise. It is very important that local economic development and the issues that are related to accountability and transparency to return to the center of public discourse and become a priority in local government reforms.


The aforementioned aspects should serve as a motivation and an incentive for good local self-government reform. A good reform can not occur or produce the expected impact if it is not in the function of achieving the goals related to the local democratic consolidation, efficient delivery of services, active participation of citizens in public and institutions, an inter-institutional partnership, a correction of local self-governance in accordance with the expectations of citizens.

2.7. Negotiations as the only tool for integration of the North
The entire negotiation process in Brussels, including the unresolved issues within the state, is conditional on behalf of the so-called 'Serb survival in Kosovo' by Belgrade. This has been done with the aim of establishing on-municipal structures of coordination, management and services. This has greatly undermined the political, representative and institutional power of the local Serbs in Kosovo municipalities. Moreover, self-integration and the elimination of parallel structures is not based on the needs of communities, but in the political interests of senior political representatives of the Serbs and Belgrade itself. 38

Belgrade is aiming to create large administrative structures, by involving them in the institutions of Kosovo. However, the main focus is not their integration, but the aim is to build a strong institution of representation through their integration, such as the Association / Community, which reduces the role of municipalities. Additionally, Belgrade is bearing the financial burden to the Kosovo institutions and is making progress in achieving the standards towards integration, starting from the reform of Public Administration of Serbia by removing from the lists around 5 thousand officials that had mandates in Kosovo municipalities, 3 thousand of which were completely fictitious.

However, despite the obstacles, it can be stated that Kosovo has made progress in extinguishing the so-called Civil Protection. Whereas, one of the challenges that remains unclear is the issue of Education and Health workers. Meanwhile, the Government of Kosovo, supported by the international community, has addressed the process of integration in two levels: first, the negotiations with Belgrade for Kosovo Serbs, with emphasis on those in the north, and second, the support of Serb majority municipalities in Kosovo.

It should be noted that Serbia has created an unequal treatment of Serb majority municipalities in Kosovo, due to the fact that it is legitimizing additional power for northern municipalities. It should be clearly stated that the political dialogue does not solve the integration and living conditions for Serbs. Therefore, the Government of Kosovo and the international community should quickly turn the focus on service delivery, sustainable development and the welfare of the citizens for all communities. Political solutions do not help the parties to achieve an integrated, structural and comprehensive approach for all communities. In essence, this creates fragmented groups that do not feel comfortable and an integrated part of the society.

In short, Kosovo needs to finish the unsolved issues with Serbia and pay specific focus to the strengthening of municipalities and local communities living in Kosovo. It is a good sign that North Mitrovica, since the last local elections in 2013, has began to build municipal and legitimate structures by the citizens. However, it should be noted that these structures are still non-consolidated and do not have a strong role towards the processes and decisions that are being taken for the local residents. Their

38 Tahiri Besnik, interview for the newspaper ‘Epoka e Re’
life decisions are still taken by Belgrade and it is important to emphasize that their senior political representatives continue to be instrumental.

Looking from the positive aspect, we can say that many local and municipal structures themselves have an interest in knowing the policies and legislation of the Republic of Kosovo, with an focus on capital investments and donations. Meanwhile, looking from the perspective of sentiment and symbolism, the northern part of Mitrovica looks similar on how Kosovo was during the 90s. Unlike other Serb municipalities in Kosovo, in northern part of Mitrovica is a chaos starting from the banners, folk-nationalism, flags, license plates and to the institutional symbols. In short, the elements of the state are missing and that part continues to be isolated.

It is evident that Kosovo and other countries in transition encounter issues in many aspects, such as the representation of minorities, the recognition of values and multi-culturalism. By using previous models, the international community has used a continous approach of dialogue with all stakeholders, not excluding the role of Serbia in the process of integration and community accommodation.

Despite the international community's approach, Serbia continues to see the process of integration as an influence and manipulation of this community. Hence, the normalization of neighbor relations is the main condition towards the european integration. Yet, Serbia continues to consume the "issue of serbs" in the internal politics of Kosovo. Therefore, the institutions of Kosovo and the international community should make it clear that the integration of Serbs is a will and a joint effort from both countries, not a condition for Serbia's own interests.

2.8.  New municipalities, additional burden for decentralization in Kosovo!

The establishment of one or more municipalities is a process that should be based on clear and defined criteria. The establishment of one or more municipalities is not and should not be an isolated and arbitrary process based on the preferences of anyone, including the government.

The regulation of the establishment of new municipalities as foreseen by the current criteria provided in this document enables the process of establishment to be based on the principles of respect for local democracy, respect for local authorities, the consultation of stakeholders that are affected by this process, including aspects related to the general benefits for the public.

Similar practice applies to the division, the changes in municipal boundaries and residence/name definitions. According to the current legislation, Kosovo has a number of municipalities; the governance arrangements of which are enabled through the Constitution, international documents (in particular the European Charter of Local Self-Government).

Currently we are not only facing the negligence of legal provisions, but also the aspects of democratic regulation; the foundation of which is the respect of the citizen’s will, the respect for local institutions, and as well as the consultations with the public, including actors that are active in the field local governance within the civil society, the donor community and others.

In this context, changing one or more administrative boundaries is viewed as a process that takes place through:

a) The union of one or more municipalities within an existing municipality;
b) The union of two or more districts with the aim of forming a new municipality;
c) The separation of a part of a municipality or municipalities with the aim of forming a new municipality.

As it is seen, the three dimensions refer to the need that should come out by the authorities and local communities, in this case, the representatives of one or several municipalities, rather than by the decisions of the community, villages or the political preferences from the representatives in the central level.

That is, the precedent of establishing municipalities without criteria and the lack of the preferences of representatives and local structures convey a completely negative message in the existing municipalities. Furthermore, they create the impression that the existence and their authority are functioning through the central agenda, in this way placing the representation of the citizens and local interests in an inferior position.

The regulatory basis that is necessary for the creation of one or several municipalities or any change of the administrative borders - this would have meant that the changes arising from the establishment of new municipalities - should include at least:

- The map of the territory or administrative borders of municipalities which are proposed to be altered by specifying the proposed administrative new borders;
- The reason for the necessity of a change and the positive and negative impacts of the citizens approach to the services provided by the municipality;
- An analysis of the effects that this change has in terms of economic sustainability of the municipality;
- A reasoning that proves that these alterations are in accordance with the principle of subsidiarity and will have a positive impact on the municipal competencies;
- Explanatory materials in the form of liquidation of debts or obligations taken by each municipality;
- A report that explains the methods of consultation with citizens; the results in favor and against deriving from these consultations, and;
- Other documents created by the respective authorities throughout the process.

Based on these criteria, it can be clearly concluded that the establishment of one or more municipalities is not only a technical process, but it is also a process studied in depth, seeking for positive changes in the favor of the interests of citizens who are a part of existing municipalities.

In addition, the proposal for separating a part of the territory and the establishment of a new municipality should include:

a) A plan for the division of their properties, their rights, actions, debts and obligations;

b) A plan for the re-appointment of municipal staff who will be appointed in the new municipality; and

c) The certified list of citizens who will be a part of the existing municipality or the new municipality.
CHAPTER III

3.1. The Decentralization Reforms and the Way Forward

While there is a large gap between municipal resources and capacities, the institutional, non-governmental actors and donors should be engaged in the field of local governance and should use a series of tools to help municipalities in the process of democratization and decentralization. In particular, municipalities should be assisted in building the professional capacities to eliminate legal uncertainties, specifically in developing programs and policies that help sustainable economic and social growth.

Given these dynamics, there are many barriers that local government is encountering and there is a lack of a serious reform to give functionality to decentralization. As such, municipalities with partners should directly intervene, field by field and sector by sector, in the field of local governance. Moreover, this comes as a consequence of the lack of changes in the basic and sectorial laws for strategic and sustainable development at the local level.

In this chapter, the alternative approaches are addressed in order to deliver full functionality to local government. This document, in particular this chapter aims to assist stakeholders in enhancing the efficiency of local government, increase citizen participation in decision-making, support local public policies and operational decentralization at the local level.

Furthermore, this chapter addresses specifically the delivery of policies that aim to increase and promote local governance, improve the efficiency of municipalities in the country, consolidate democracy and decentralize the government. A special focus is given to the path that Kosovo needs to follow in the reform process, and the need for a comprehensive review of the decentralization process. Among other things, this chapter addresses the fundamental issues about where does the local government stand and the path that it needs to follow.

The chapter is divided into two parts; the first half reflects the challenges that must be addressed urgently through the description of seven points; and the second part presents the four main pillars that need to be considered along the path towards reform, starting from; good governance, increased performance, economic development – local finances and strategic dimensions.

7 Burning Points of Local Governance in Kosovo:

1. Relations between Central and Local Government; Municipalities are standing in between the demand of citizens for services and a constant confrontation with central institutions, regional companies and government agencies. Hence, there is a need for a direct intervention that would provide full clarity on the role of municipalities and institutions that operate at the local level through either public, administrative or operational services. It is worth mentioning that the first hand of the state is the municipality and the first government service comes through the municipality. The achievements of a state depend directly on the success of the municipality as an institution. Therefore, the state is powerful only if the municipality is powerful.
2. **Good Governance and Reforms (relations between the Executive and Legislative);** KLGI aims to make municipalities responsible, efficient and functional institutions, which serve to strengthen the legitimacy and local democracy. In essence, they should also serve for accountable and transparent governance; two factors that are considered to be the key pillars of good governance. There are a range of policies, directives and services that create ambiguity and constant obstacles for a decentralized, functional governance. Therefore, without a coordination and cooperation within the institutions, particularly between the executive and the legislative, municipalities risk their journey towards an efficient local government that serves for the development and welfare of citizens.

3. **The establishment of New Municipalities;** the establishment of one or more municipalities should be an inclusive, transparent and consultative process. Current municipalities have had sufficient and legal opportunities to provide services in many areas that requested the establishment of new municipalities. The unwillingness of institutions to offer services to citizens through administrative offices or municipal communities, has increased the demand for new municipalities. The establishment of new municipalities should not be allowed without a clear analysis and criteria; otherwise it will possibly result in confusion by increasing the expectations of citizens through electoral promises. This process cannot be an arbitrary process, without an analysis and consultation, and it depends solely on the financial and administrative capacity of the municipalities that are thought to be established. Kosovo may as well have 68 municipalities; but the main question here is whether they will be functional and serve to the citizens.

4. **The Law of Prishtina;** should facilitate the management of revenues and give more power and opportunities to the municipal assembly in policy-making. Local Government reform should be addressed separately from the Law of Prishtina as a capital city. On the one hand, the local government reform should have a cross-sectional and multi-level evaluation, and on the other hand, the Law of Prishtina should necessarily address specific aspects that enable Prishtina to function properly as the capital city in the Republic of Kosovo. Without the approval of the law of Prishtina, the legal framework of local government and constitutional requirement will remain uncompleted. That is, the law of the capital city is a constitutional law. The law of Prishtina is not a law for mayors; rather it is a fundamental document for sustainable development of the capital city. Hence, it is better to not have a law, rather than having a weak law that does not give full functionality to Prishtina as the capital city.

5. **Legal Framework in relation to Mayoral Sentences:** Taking into consideration the convictions of mayors and the current situation in Kosovo, it is clear that the legal framework, the ‘ad-hoc’ management and unprofessional administration are encouraging mayors to take illegal actions. Add here the fact that the basic and secondary legislation are having a constant clash. Mayors are in between the requests of citizens requests for service delivery and gaps, whether these gaps are legal, financial or for property management and services. Through legal methods, we
should be able to untie the hands of the mayors, enabling them to serve to the citizens as it was mandated.

6. Integration of North Municipalities: The main battle here is related to service delivery; Now we do not have to deal only with the political aspect since the whole battlefield and the focus is about who offers better services. It is important that the path of true integration should begin with actions and concrete achievements. If we do not offer qualitative and inclusive services to all the citizens without distinction, in every area, then we leave an open door for others to interfere and as a result we risk the functionality of the state.

7. The Establishment of the Association with Serb Majority Municipalities; The association should be established within the framework of the Kosovo Constitutional law, it should not have the authority that does not comply with the current law on Local Self-Government and it should have its own statute as the highest act adopted by A/BKS. From the beginning, the association has had two names and two aims. Hence, we need guidelines from the Constitutional Court that would serve for the full integration of all citizens in Kosovo institutions, the municipalities and the development of the country.

The way forward:

Good Governance – strengthening transparency, accountability, monitoring and consultation

This dimension addresses the aspects related to democratization and the ways on how municipalities should become accountable, efficient and functional institutions, by serving to strengthen the legitimacy, local democracy and also serve as an accountable and transparent government, which are also the two main pillars of good governance.

In this aspect, transparency and accountability have an impact in the democratic consolidation at the local level, but also strengthen the connection between the elected / governing structures and constituents / citizens. A democratic government foresees the practices and processes which ensure that government structures are not disconnected from the demands and expectations of the citizens.

In order to achieve this, an integrated effort should be done in three key areas:

I. Strengthening the citizen participations mechanisms, including the pro-active mechanisms of participation;

II. Integration the marginalized groups socially and physically, and

III. Pro-active efforts that aim to benefit from the improvement of gender equality in local government and administration.

At the moment, most local authority administrations have done relatively little to solve the problems of social exclusion / and the limited participation of citizens in their communities. In many cases, this has occurred due to the lack of capacities and the technical/ organizational knowledge of local administrators, rather than due to the lack of political will.
**Increased Performance** – the provision of local services/ the fulfillment of needs up to the end user

The inter-sectoral, inter-institutional and inter-level communication is a critical aspect for an effective local government. Without effective and efficient structures of communication, local government will continue to operate in the dark by failing to fulfill the mandate given by the citizens. Therefore, the pro-active efforts by all actors are necessary to achieve a cohesive development, to enable the municipalities provide qualitative services, sustainable development and prosperity for all citizens.

In order to strengthen the capacities for efficient service delivery by local governments, it is not enough to pay attention to the specific interventions in sectors, but also to a number of important assets. As the international experience demonstrates, these assets are able to improve appropriately the productivity of a wide range of municipal services - ranging from visible sectors such as education, health, drinking water and sanitation and public transportation, to those that are intangible - but no less important - administrative services such as registration of births and marriages; construction and building of permits.

Perhaps one of the most serious challenges that Kosovo will face during the decentralization of service delivery is the under-developed administrative and leadership capacities of most local governments today - many of which address the issues of overstaffing personnel and poor allocation of work among the civil servants. Without a strong effort and a push to engage the municipal administrations - at all levels - in a systematic effort of modernization and relocation, the new mandate of decentralization can not be properly implemented.

Municipal managers are burdened with an outdated culture of management bureaucracy, which is inappropriate for the identification of important local problems, proposal of solutions and for the transformation of these proposals into effective results.

Therefore, "the modernization of management" aims to comprehensively develop the important skills and generally change the managers and municipal employees' way of thinking towards a more pro-active management culture.

In order to achieve this, there should be work done in three main fields;

I. Setting performance standards of service delivery
II. Objects where all services will be performed in one place in order to make service delivery much more efficient to the offices of local citizens and admission
III. Improving the effectiveness of low cost services through the agreements on mutual or inter-municipal service

The key problem at the municipal level is the complexity of the regulation and poor trainings which have resulted in an uncertain provision of services that come as a result of very complicated range of procedures, regulations, directives and licensing conditions.
The citizens often experience long delays when receiving services that they need or sometimes are forced to rely on their personal contacts. The opportunities for training and adequate education are limited. This situation often results in poor performance, lack of transparency and corruption.

The possibility to measure the function of service delivery becomes even more difficult from the standardized methodologies for data collection and the lack of proper recording of data for comparison.

Moreover, the standards can not be set arbitrarily. Processes of detailed consultation should be developed for local communities (village leaders, businesses, civil society) to set the standards for key services, such as health care and education, access to clean water, public transport and garbage collection.

**Economic Development, Local Finances** – sustained economic growth and the improvement of local finances management

Through this dimension, the organization models of municipal administration are addressed, particularly the strategic sectors, in order to turn the municipality into a generator of sustainable development and growth. Through this dimension, municipalities should be encouraged to comprehensively view the actors that are operating in a decentralized environment as “stakeholders.”

The capacities of municipal administrations are paralyzed by ambiguities and uncertainties that exist with respect to the definition of authority and responsibilities that municipal governments have. Although some progress has been done with regard to the definition of broad categories in the Law on Local Self-Government and the Law on Local Government Finances, there is still uncertainty. The main work that needs to be done is to clarify precisely the division of competences between the municipal and central authorities.

While the latter is done systematically, sector by sector for each functional area, local and central authorities will continue to vaguely operate, in this way leading to confusion and to a lack of accountability in both levels of government. To address this problem, efforts on technical assistance for the clarification of competencies between both levels of governments should be provided. This can be done through a series of technical dialogue and negotiation between the local and central government organized in each sector.

Law on Local Self-Government has given explicit mandate for local economic development activities to the municipalities in Kosovo. This has opened the door for a more pro-active role by municipalities with the support of central government and international donors. However, it can be concluded that municipalities are making slow progress in improving the competitiveness of the economy in relation to the regional market, by supporting the regional businesses, encouraging innovation, advancing exports and the access to market, and thereby enhancing labor market with effective training and technical education.

Meanwhile, the special law on Local Government Finances has aimed the strengthening of fiscal autonomy and responsibility to municipalities for management. This has been done in proportion with
the competences of municipalities to provide services and at the same times to ensure an efficient framework for inter-governmental fiscal responsibility. However, eight years later, the Ministry of Finance, after many repeated requests by municipalities and other acts has managed to bring the procedure to change this law.

Today, municipalities in Kosovo heavily rely on transfers and grants from the central government as the primary source of their income. On the other hand, this has led to an important discussion about the appropriate levels of funding to municipalities through grants - i.e., were municipalities given mandates without allocating relevant funds?. To minimize confusion and controversy on this issue, the drafting of the Law on Local Finance should be able to make the difference between the own revenue potential and funding requirements to manage the services.

On the other hand, despite the efforts to encourage the generation of revenues through the provision of incentive grants for municipalities that meet certain standards in collecting property taxes, little progress has been done.

There is a general consensus that the current system of encouraging revenue collection should be critically reviewed in order to increase its effectiveness. Furthermore, it should also be complemented with a more pro-active program of capacity building, in order to improve the inefficient collection systems and revenue management that exist in most municipalities.

To fulfill the responsibilities of the new service delivery sector defined in the Law on Local Self-Government, local governments will need a significant increase in funding for capital investments – not to say to completely change the existing system of capital investment funding. Kosovo municipalities continue to operate with weak mechanisms regarding the capital investment finances and are also greatly restricted to the options that are available within the annual budget process. With this finding, financing of capital investments in municipalities has been prevented from the ad hoc and short-term decision making.

In addition, the amount of local funding for capital investments has been totally inadequate in relation to the investment needs of municipalities. This reflects the issue of mandates funds allocated to them. Being aware of this, the Law on Local Government Finance takes into consideration the establishment of a new mechanism for financing local capital investments.

This effort should pay attention to several alternative sources of financing capital investments, including:

I. Development of a mechanism for analyzing the fiscal gap in order to make informed decisions on appropriate levels of grants for municipalities;

II. Development of an associated financial system/order of loans in municipalities, which could be used by the Ministry of Finance (i) the allocation of funds for capital investment projects (grants, loans or a mix of both) and (ii) as a reference and a part of a system for financial capacity building in municipalities

III. Technical assistance to municipalities, with the aim of integrating strategic development planning with MFE and the annual budget process;
IV. Develop guidelines and provide technical assistance to (i) broad participation of citizens in the budgeting process, and (ii) information campaigns on the taxpayers’ budget planning and spending;

V. The establishment of a central fund for capital investment projects, managed by the central government;

VI. An analysis and strategic budgeting for equal development of regions;

**Strategic Dimensions** – the support of services in sectoral areas

Municipalities continue to operate through public pressure and services that do not possess the resources, supervision and control over them. There are a range of policies, directives and services that create continuous ambiguity for a functional decentralized governance. This is due to the ongoing collision between the basic and sectoral laws. Municipalities are in between the demand of citizens for services and a constant confrontation with central governments, regional companies and agencies. Therefore, it is necessary to directly intervene, in order to provide full clarity to the role of municipalities and institutions that operate at the local level through public, administrative or operational services.

Inter-governmental communication is a critical aspect of the efficient local government - without effective and efficient structures of communication, the participation of local government in the discussion/formulation of policies and state regulations will not be effective. In addition, the enforcement of regulations and policies of the central government in relation to local government may result in an unequal or partial implementation of the regulations, which would also result in a limited effectiveness.

Further, the capacities of municipal administrations are totally prevented by the ambiguity and inaccuracy that exists in relation to the precise definition of competences and responsibilities of municipal governments. Although critical progress has been achieved in the Law on Local Self-Government and the Law on Local Government Finance in defining the broad categories of municipal competencies, still great work remains to be done in the administrative aspect and the exact/detailed definition of competencies between the municipal and national entities. While the latter are carried out systematically; sector by sector, and functional area by functional area, the entities of the municipal and national government will continue to operate in the dark, leading to confusion and lack of accountability in two levels of government.

In order to enable the proper function of the decentralization framework, the central government bodies should play a strong and pro-active role in the process by ensuring efficient and sustainable operation of local services.

This will require the creation and strengthening of mechanisms responsible for the support and cooperation with municipalities from most ministries, particularly MLGA:

- I. mechanisms for technical assistance, training and advice to municipalities;
- II. coordination, networking and knowledge systems;
- III. information and monitoring systems to ensure compliance with the standards;
- IV. development of a clear scheme in “decision-making”
V. defining the procedures;
VI. reducing uncertainty and ambiguity;

Moreover, the central government institutions can play a very important role in helping the orchestration of aid and international assistance to municipalities, by helping them to improve or compensate enormous issues related to the uneven or unequal distribution/surplus of international assistance that exists among the municipalities in Kosovo.

MLGA, as a line ministry, is responsible not only to supervise, but to also support municipal development. It is the main institution at the central level that deals with the local level. However, the involvement of other ministry lines, is very important when municipalities are in need of support in areas that are represented by these ministries.
CHAPTER IV

4.1. Conclusions

Decentralization in Kosovo has contributed to inter-ethnic coexistence and to the integration of minority communities in the new political system coming right after the declaration of the independence in 2008. The Ahtisaari process did not take into account the functionality of the process, but rather focused more on the political community accommodation.

Eight years after the independence of Kosovo, the necessity to rethink decentralization is being widely accepted. There is a need for a reformulation of a sectoral grant formula, comprehensive legal revision in order to improve the functional decentralized system in Kosovo.

Municipalities continue to operate in between public pressure and the services that do not possess sufficient resources, fully flat supervision and the control over them. There is a range of policies, directives and services that create ambiguity for functional decentralized governance. This happens due to the collision between the basic and sector laws. Inter-governmental communication is a critical aspect of an efficient local government; without effective and efficient communication, the participation of local government in the discussion and formulation of policies will not be effective.

Local Government system remains challenged as the municipalities do not have sufficient, financial, operational, administrative and technical capacities. As a consequence, there is an ad-hoc and slow development at the local level. Revenues of local government in Kosovo need to be thoroughly analysed.

Eight years after the package of Ahtisaari, Kosovo continues to encounter issues with the integration of municipalities in the unique system of governance, the lack of inter-institutional coordination, inefficient municipalities and a system that does not guarantee sustainable and cohesive growth of functional decentralization.

One of the main problems at the local level is the complexity of the regulation and poor training that lead to the provision of services that becomes uncertain. Considering that opportunities for training and education are limited, we face poor performance, corruption and a lack of transparency.

One of the important aspects that is endangering the democratic functioning of Kosovo institutions is clientelism. This phenomenon threatens to become a widespread culture at the local and central level, directly harming the citizens.
4.2. **Recommendations**

- The institutions in Kosovo should make a functional review of the decentralization process as a whole, in order to give the opportunity to municipalities for an efficient and effective governance;

- The functional review should provide clarity regarding the finances, investments and municipal sustainable growth;

- Local policy design needs to be focused on creating the appropriate institutional arrangements in which the reforms will ensure long-term developments and avoid the gaps as it happened until now;

- The reform process should analyze in detail the gaps and provide legal, operational and technical clarity for the municipalities. This analysis should be carried out systematically; sector by sector and functional area by functional area;

- The Government in Kosovo should focus on a wider and deeper revision of the legal framework by including the reform of local government into a wider public administration reform process;

- The issue of control and the balance of inter-municipal governments should be solved immediately in order to increase transparency, accountability and effectivity;

- The approval of the Law of Prishtina should fulfill the constitutional obligation and fill the local governance framework. Moreover, this Law should necessarily address specific aspects that enable Prishtina to function properly as the capital city in the Republic of Kosovo;

- The reform process should address the sustainable, harmonized and equal growth of municipalities in an explicit way;

- The Local Self-Governance Strategy 2016-2026 should be followed with the reform process and a functional review. Otherwise, the aimed outcome will be partial;

- The Association/Community of Serb Majority Municipalities should provide clarity and be in line with the conclusions deriving from the Constitutional Court;

- International practices show that Kosovo is not ready to establish new municipalities during the next years. As such, the establishment of new municipalities tends to be additional burden to the decentralization process, considering that there has been no assessment of the functionality of the existing municipalities and there is a lack of clear criteria;

- Representatives of local self-government should become more pro-active in implementing strong development plans that improve the lives of citizens by going beyond their functional, administrative and routine responsibilities;
• **Central government bodies should play a pro-active role in the reform process.** Most ministries, especially MLGA, should continue to create and strengthen mechanisms to increase the support and cooperation with municipalities;

• **The ability to measure service delivery becomes more difficult without standardized methodologies for data collection.** Moreover, standards can not be set arbitrarily – processes of consultation for local communities should be developed with regard to setting standards for key services;

• **Legal uncertainties and strategic governance should be defined in line with the principle of legality which would untie the hands of the mayors, enabling them to serve to the citizens as it was mandated;**

• **Mechanisms that strengthen local democracy and prevent the tendency of clientelist development should be defined;**

• **There should exist a coordinated and systematic approach to strengthen the administrative capacities and the standardization of municipal services;**

• **A map for clear responsibilities and procedures between the central and local level should be established;**

• **It is essential to reduce the procedures and bureaucracy on both levels in relation to investments and local sustainable development.**
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