

**UNIVERZA V LJUBLJANI
FAKULTETA ZA DRUŽBENE VEDE**

Afërdita Rexhepi

Procesi reforme lokalne samouprave na Kosovu

**Reform processes of the local self-government in
Kosovo**

Magistrsko delo

Ljubljana, 2017

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Mentor: prof. dr. Miro Haček

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Procesi reforme lokalne samouprave na Kosovu

Kosovo je najmlajša država v Evropi. V primerjavi z drugimi sosednimi državami, je bila politična, družbena in gospodarska tranzicija na Kosovu posebna. Kot država je Kosovo nastajalo na načelih pravne države, demokracije, spoštovanja človekovih pravic in temeljnih svoboščin ter tudi tržnega gospodarstva. Reforme javne uprave na splošno in še zlasti lokalne samouprave so ustvarile ključne dejavnike procesa tranzicije. Ko govorimo o reformah, si običajno predstavljamo spremembo ali preoblikovanje nečesa obstoječega, z namenom, da bi bilo le-to lahko kos novim izzivom. V primeru Kosova pa gre za nekaj drugega. Procesi reform so integrirani skupaj z vzpostavljanjem novih upravnih struktur. Iz tega konteksta je nastal in se je razvijal sistem lokalne samouprave. Osnovni značilnosti trenutnih reform lokalne samouprave sta decentralizacija in široka avtonomija občin oz. enot lokalne samouprave. V pričujočem delu bosta ti značilnosti obširno obravnavani s političnega, pravnega in upravnega vidika.

Ključne besede: lokalna samouprava, občine, reforme, decentralizacija

Reform processes of the local self-government in Kosovo

The process of political, societal, and economic transition was rather peculiar compared to the other countries of the region. As a young country, Kosovo has embarked the process of state-building based on the principles of the rule of law, democracy, respect for human rights and fundamental freedoms, as well as the free market economy. The reform of public administration in general, and of the local self-government administration, in particular, have made key components of the transition process. When we speak about the reforms, we usually have in mind something that is in existence but needs certain transformation or change to be able to face the new challenges. But, in the case of Kosovo is rather different. The process of reform is embodied in the process of setting up the new structures of the administration itself. In this context, the system of local self-government administration rose and developed. Today, the main features of the reform of local self-government administration are decentralization and extensive autonomy of local self-government units - municipalities. These features will be thoroughly elaborated in this thesis from historical-evolutionary, political, legal and administrative viewpoints.

Keywords: local self-government, municipalities, reforms, decentralization

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1 On substance and methodology

1.1 Introduction

The process of political, social, and economic transition that occurred in Central and Eastern Europe in the early '90s brought substantial changes in the public sector (Hesse 1997). Such transition reached Kosovo at least one decade later. At the end of '90s, Kosovo was placed under international administration, at all levels. It took almost another decade to establish the very foundational structures of public administration, both at central and local level. The local government sector of Kosovo has experienced substantial changes and developments in the recent years. The process of reforms at the local level is on-going. The decentralization process that took place between the years 2004-2008, is still struggling to achieve its original goals (Ebel and Péteri 2007).

This master thesis aims to address the key developments in the area of local government administration in Kosovo, starting from the very beginning of the post-war period to present day. It is important to underline that the international administration of the country had positive impacts and served as a prelude to undertaking serious steps to re-establish and reform the entire administration of the country. As some authors have emphasized the establishment of entities for local governance is one of the most important elements of public administration reforms (Bennet 1998). In this context, one of the key challenges, but at the same time seen as a positive achievement, was the decentralization of powers from central to local level. The main criticism of the decentralization process was its ethnic principle as it basically is modelled alongside the ethnic composition of a given municipality. In addition to the process of decentralization, the local institutions of governance have gone through the process of restructuring, vesting more executive authority on the mayors. Municipalities have been given three types of responsibilities: a) own competencies; b) delegated competences; and c) enhanced competencies. As regard to the legal framework of the activities of local administration, in addition to national law provisions, the constitution provides for applicability of the European Charter of the Self-Government to the same extent as required for the signatory states. The political system belongs to the parliamentary democracy and

republicanism model, while to the relationship between the politico-administrative structures is formal, and it is defined by the law, as is the case of Slovenia too (Haček 2006).

Henceforth, given the fact that local government system in Kosovo is the newest one in Europe, where on one hand the local representation is increasingly gaining more importance, and on the other hand since 1999 we have seen substantial shift in regard to institutional patterns, decision-making mechanisms, types of local actors, the spectrum of the problems to be addressed as well as the changing role of the central government (John 2001). All these developments within a relatively short time make this topic both challenging and intriguing for scholarly research.

1.2 Hypotheses and research questions

This thesis aims to argue that establishing a fully-fledged and strictly professional administration for a young country is an enormous challenge. In this pathway the principle, of learning by doing is unavoidable, however, when things are done from scratch, there is always a unique opportunity to utilize and implement the best-tested practices.

We have set forth as following the research questions of this thesis:

- a) What are the circumstances and specifics that dictated and accompanied the development and the evolution of the local self-government administration in Kosovo in the last two decades?
- b) What are the achievements and the failures of the process of decentralization as well as the specific challenges of the reform process of the local self-government administration?

1.3 Methodology

For the purpose of addressing the questions that this master thesis work aims to answer, the research was based on several mutually complementary scientific methods and research techniques. More specifically, the following methodology will be applied accordingly:

a) To explain the basic concepts and explore the broader topical context we have relied on the descriptive method. We have relied on this method mostly to describe the evolution of the local government system in Kosovo since 1999, for the purpose of providing accurate narration about the course of development that shaped and changed the system up to now. Additionally, this method was utilized to consult the existing literature.

b) Further, an extensive review, analysis, and interpretation of both primary and secondary sources relevant to the subject matter of the thesis were done. In this regard, it had been undertaken a thorough review, analysis, and interpretation of legal framework regulating the area of local government, as well as other policy documents setting policy objectives and policy guidelines for this area.

c) In addition, a review and analysis of relevant sources, including statistics and other official web pages were utilized, as appropriate and applicable in the context of the arguments set forth in this thesis. This approach was applied for the purpose of relying on the regularly updated information.

d) Finally, We applied the case study method on the reforms of local government administration in Kosovo. This thesis is country specific, so the research was focused on the local government system in Kosovo with regard to the development of its formal institutions, reforms and decentralization model, sources of local revenues as well as the mechanisms of control. Another specific aspect is direct applicability of the European Charter on Local Self-Government, even though Kosovo is not a signatory party to it.

1.4 Structure of the thesis

This thesis is organized into eight chapters. The first introductory chapter encompasses parts that speak about the substance of the thesis and of the methodology too. Effectively, it highlights the broad narration of the thesis.

Chapter two, addresses theoretical aspects relevant to the topic, focusing on those views that are instrumental to the functioning of democracy for citizens, as citizens

are the source of the sovereign power in a democracy. In addition, this chapter provides some basic ideas on local self-government system in Kosovo.

The third chapter elaborates the path of historical development of the local self-government system in Kosovo. The purpose of this chapter is to provide an informative image of this process, not only in the sense of chronological evolution but also in the context of political and cultural influences that have left traces in Kosovo's societal development and evolution.

Chapter four covers legal framework governing local self-government sector in Kosovo. As a new country and young society, Kosovo's legal system has gone through tremendous changes in the last almost two decades. This dynamic was imposed by the political circumstances and also due to the status of the country. The legal principles governing local self-government system have been embraced into the constitution and numerous laws adopted pursuant to it. From the formal legal point of view, such legislation has taken into full account the principles set out in European Charter for Local Self-Government.

The fifth chapter addresses the key aspect of local self-government reform in Kosovo, namely decentralization. Decentralization has been for many years the most debatable political topic. And still, continues to be so. Decentralization as a process brings a lot of challenges even for more consolidated and fully fledged democracies. In the case of Kosovo, decentralization was not, and is not, only about the devolution of powers from central to local authorities, but was perceived more as a tool to accommodate ethnic communities in Kosovo, particularly Serbian community.

Chapter six elaborates the institutional organization of the local self-government administration and explains the roles and relationships between them.

The seventh chapter addresses the mechanisms of control and supervision in the area of local self-government, focusing on internal and external mechanisms established under the respective legislation that serves as tools to impose and enforce discipline and accountability in discharging duties of the public office.

Finally, the last part contains concluding remarks, where we try to provide certain objective assessments about what has been achieved so far in establishing a sustainable system of local self-government in Kosovo.

2 Theoretical observations on the local government administration

2.1 A brief review of literature and of the systems of local government

The local government development is strongly connected to the overall development of a given society. As developed the country is, more developed and more autonomous local units are. In addition to the level of development, stronger local democracy means a more established democratic ruling, since the democracy that takes roots at the local level is fundamental for the purpose of having more educated citizens (voter) in a political sense. In this regard, as de Tocqueville had underlined long ago 'meetings of town are linked with freedom as the science is closely linked with the primary schools. The Government is brought among people's reach as it assists men to use and enjoying the facilities' (de Tocqueville 1935, 631). In addition, local government is not meant to have responsibilities that are typical for sovereign governments, since under the principle of subsidiarity derives the authority to govern on local matters. Effectively, depending on the size and administrative organizational structure of a given country local authorities in the capacity of municipality or other units of local self-government are entrusted and empowered with the responsibilities to deal with local matters that (Haček in Brezovšek 2014), for the purpose of strengthening local governance and improving the quality of life for the local community. In this context, some authors rightly argue that "by engaging in policy planning, local citizens further develop the skills, experience, connections, and the will to plan and implement local policies, projects, and programs. Under this assumption, local leadership is developed and the structure of opportunity is changed so that both local institutions and individuals are better able to perform on their own behalf" (Chaskin and Garg 1997, 634).

The element of local government and local leadership gains importance also in light of the arguments made by Held that 'most of the people claim that they comprehensively understand the matters of government and the politics at national grounds, nor they ample to maintain steady and remarkable interest. Importantly, the interest in the political life is mostly taken into consideration by those who are more closely associated with the centres. Although, the remoteness towards 'politics' experienced by individual who have little or lack of interest as they perceived that

politics do not touch or encounter their lives in direct mode and they themselves are not powerful enough to alter or affect its course" (Held 1987,15).

In spite of the arguments that local government serves better to the community, raises the quality of democracy, offers more and better services for the benefit of local community, strengthens local governance and serves as a vehicle to "political education" and to "feeling and knowing the effects of politics" as well, there is another theory that views local government as a sort of defence mechanism vis a vis the power that may be concentrated in the hands of central government, or as portrayed by Smith "there is correctness in this regard that greater level of accountability can be restored by means of local democracy. It can be said that local democracy has greater control than public corporate, appointed agencies and field administration. The element of 'elective' relates citizen with bureaucrats who makes the entire procedure more meaningful as accountability is more visible in local government. Activities of political nature inside local government like elections, the pressure of political nature, rule-formulating, public debate and publicity- bridge the gap among citizen, and their responsible administration along with the provision of opportunities for the handling of grievances" (Smith 1985, 27). This argument can also be viewed in light of the elaborations that systems of local self-government enable better provision of certain public services due to higher efficiency and better performance of the local government as compared to the situation where such services would have been under the authority of central powers (Vlaj in Brezovšek 2014, 6).

As key principles of local self-government, Brezovšek lists three: a) principle of autonomy that entails certain level of independence of local government from the central government; a) principle of subsidiarity that covers the delegation of decision-making authority from central to local governments; and c) the principle of regionalization dealing with transfer of certain political and economic power from central to local authorities (Brezovšek 2014). Additionally, citing Greer and others, Brezovšek puts emphasis on three normative elements that are fundamental in the European local self-government system, namely autonomy, democracy, and efficiency (Brezovšek 2014). The European system of local self-government it has been developed parallel to the rise of demands for equality, welfare and more

effective administration of public services, but the dynamics were different in northern countries (UK, Germany, Scandinavian states) as compared to southern (France, Spain, Italy, Portugal) ones (John 2001). The system of local self-government applied in the Scandinavian states is considered the most advanced one and the local authorities have a wide range of responsibilities from delivery of public-local services to social protection and social welfare functions (Shah and Shah 2006,27).

The Central and Eastern European countries in the recent years have adopted new laws and rules providing for more competences for local governments as they have gone through the multifaceted process of transition and reforms. In general terms, all the reforms were oriented to strengthen the idea and the concept of citizen-centred governance, for the purpose of establishing responsive, responsible and accountable governance. Therefore, it is widely proven that local government institutions the work efficiency, responsiveness as well as the accountability of the government because the local authorities know the needs and demands of the local community. Moreover, the local community knows the capacities and potential of the local leadership that enables them to opt for the best available options—by which they are able to choose for those non-partisans representing their best interest's not big politics (Haček 2014). This is an indication of democratic functioning of a given society.

2.2. Local government system of Kosovo

The current system of the local self-government in Kosovo is in one hand a product of historical developments, as well as the historical evolution of the society, and on the other hand a product of legal arrangements that were made in the process of state building.

For practical purposes, and to provide the historical pathway of local government development in Kosovo we have provided a more detailed analysis in Chapter 3. However, the existing structure of the local government was built upon the legal new arrangements that were made in the last two decades, including the process of decentralization that started in 2006/7. Even though the process of decentralization was subject to intense criticism, it was essentially done for the purpose of addressing

certain concerns by minority communities, and in the spirit of the idea of preserving and strengthening ethnic identity and enhancing cooperation between different ethnic groups (Brezovšek 2014), as well as bringing the services closer to the citizens. I shall address the process of decentralization in more depth in Chapter 5. It should be noted that the legal framework that sets principles for local government in Kosovo (see Chapter 4), has fully taken into account the fundamental principles of citizen-centered local government that shall act as a local body which makes life of citizens easier and better, building and maintain local roads, keeping clean streets and environment, providing housing for social categories, providing infrastructure for good primary education and health care, providing advanced administrative services, and other services that would make the life of the local community better and civilized.

Paradoxically, we often witness situations when local leaders get involved in heated debates about national politics, while the principal job for what they are elected to do is not at all satisfactorily. Still, the local leaders are mainly derivate of the bigger political parties, while civic initiatives remain at margins. Perhaps, it will take some more time to have more local ownership of the political leadership.

3 Historical background of local government

3.1 Local government before the '90ies

The historical development of the local government system in Kosovo shares the same fate as the development of the society as a whole. As some authors rightly argue, the genesis of the local self-government is linked and dependent on the historical conditions of the given period (Brezovšek 2014). As the other countries in Europe and beyond, and especially the countries of the Western Balkan region, Kosovo went through very challenging and difficult times, while the local self-government went from one of the administrative organization of its territory to another one. The borders of Kosovo have been changed many times, but somehow it has managed to save the main part of the territory that constitutes the present territory of the Republic of Kosovo (MLGA 2014).

From the historical perspective, in the territory of Kosovo the local self-government system was introduced long time ago, respectively around 100.000 years ago (MLGA 2014). In this context, it is said that in the IV and III centuries BC. the largest settlements took the status of towns and they started to provide different kinds of administrative services to citizens. However, it was only around the XV century, a period where the territorial organization of Kosovo territory was set in the form of principalities, and under those circumstances, certain elements of local government system were more obvious. Henceforth, Kosovo historically experienced different forms of local government starting from settlements in the prehistoric era, to towns in ancient and middle ages time, and finally municipalities.

The organization of the administrative and territorial system in Kosovo in this period was primarily if not exclusively oriented toward using and exploiting natural resources and the local population, regardless the origin or belonging of the ruling regimes. Therefore, there was nothing to be evidenced as local government oriented policy approach aimed to provide citizens with the necessary local services. It could be underlined that during the Ottoman ruling and after under the ruling of Yugoslavia in the pre - World War Two period the system of local self-government Kosovo used to have historical periods when the local self-government that was installed then represented to state structures that were foreign to local population, and such structures were mainly intended to serve as mechanisms for revenue

collection rather than public service providers. Moreover, it should be emphasized that during the Ottoman occupation was prohibited from having local schools, and moreover Albanian language was the only language to be prohibited by a decree. The conditions did not improve during the Yugoslav regime and no education was provided for the majority of the local population.

During the World War Two, after the Germany conquered Yugoslavia, Kosovo was divided into three jurisdictions or control zones of that time: a) central and south part or the largest part fell under the Italian jurisdiction; b) northern part fell under German jurisdiction; and c) the eastern part fell under Bulgarian jurisdiction (Kosovo Academe of Science and Arts 2013), (Malcolm 2001). In the meantime, the part that was under Italian control was transferred under Albania's government control, a government that was established by Italian approval and was loyal to it. On the other side, two other parts under German and Bulgarian control introduced a system of "local administration" where they placed loyal local people. It should be noted here that despite the division in three zones, it was possible for the people living in different zones to move "freely" across those jurisdictions, and paradoxically for the first time ever was allowed to have public schools in the Albanian language.

As the World War Two was still ongoing, and the Communists were expanding their influence across the region, Kosovo's political leaders of those days agreed for a referendum after the WWII for the purpose of determining the future of the post-war status (MLGA 2014). By the time the WWII came to an end the communist groups took control of the whole situation, and other political opponents were gradually eliminated by all means available, and finally on the 18 February 1945 Kosovo was placed under military administration of Yugoslavia, and the territory of Kosovo was declared to be a province under the jurisdiction of the Republic of Serbia. (Osmani and Manaj 2013). Under the conditions of the military ruling and against the will of the local people, in June 1945 was held the first session of what was then called Provincial People's Council, and on that occasion was adopted the resolution by which was "formalized" the jurisdiction of Serbia over Kosovo.

In August 1945, Serbia enacted the Law on establishment and regulation of the Autonomous Province of Kosovo. According to that law, Kosovo was divided into fifteen (15) districts: The district of Gjiçani, district of Peja, district of Drenica, district

of Gora, district of Gračanica, district of Kaçanik, district of Podgora, district of Vushtrria, district of Zveçani, district of Llapi, district of Podrimja, district of Istog, district of Gjakova, district of Nerodimja and the district of Sharri (MLGA 2014). The districts had represented the basic units for the administration of the territory, and for the local self-government units as well. Pursuant to the legal provisions of the above-mentioned law, the structures of governance in Kosovo was made of District People's Councils, and People Councils of cities and of towns. The districts included several local administrative units that were somehow connecte to each other based on the conditions of local geography, inter-connected local economy, as well as local culture (Osmani and Manaj 2013). At the level of the districtin addition to District People's Council,as a form of executive mechanisim were established Executive Councils.

Henceforth, the administrative-territorial units as such remained till 1947 when two districts (district of Kaçanik and district of Nerodime) merged in one, and two new districts were established, district of Kamenica and district of Sitnica. This change raised the number of districts into sixteen (16), while at the same time four larger towns were upgraded to the status of the city, Prishtina, Prizren, Peja and Mitrovica (MLGA 2014). In 1947, Prishtina was declared the capital city of the Province of Kosovo. Two years later, in 1949, the system of territorial-administrative organization was reviewed again, but no major changes took place, apart from the fact that another new district was established (the district of Upper Morava). It could be underlined that the immediate postwar period was quite dynamic as regard to experimenting the frames of administrative organization.

Following the consolidation of the communist ruling, as elsewhere in the former socialist Yugoslavia, the municipality as a new concept in the context of territorial organization system was introduced in 1952 (Brezovšek 2014). Basically, the municipalities derived from what at that time were called "People's Councils of Settlements". These councils were transformed into "People's Councils of Municipalities". The new system of municipal organization brought some new dynamics into the local development. With the new organizational scheme, the local government was structured in three layers. First was municipal level, second district level, and third city level. Henceforth, in 1953, Kosovo numbered twohundered and four (204) municipalities, seventeen (17) districts, and five (5) cities (in addition to

the above- mentioned towns that were given the status of the city in 1947, in 1953 Gjakova was also given the status of the city), (MLGA 2014).

This period is considered to have been of significant importance as regard to the establishment of the local governance structures that would provide some basic services to the local population. This was happening in spite of the fact that the overall political picture was still very turbulent, and Kosovo was struggling to find its own place in the new Yugoslav communist regime. The progress was rather slow, but what is to be mentioned as the most important achievement of this period was the opening of the schools and providing widespread education. This was important due to the fact that in the post-WWII period the level of illiteracy among the local population across Kosovo was very high (Kosovo Academy of Science and Arts 2013). Shortly after, in 1955, took place another round of administrative reorganization of the local structures, and as a result of this process, Kosovo was organized in five (5) districts, and five (5) cities, each city corresponding to the concept of regional (district) center. Prishtina retained the status of the capital city. (MLGA 2014).

In addition, in 1957, a new law on the territorial organization of Kosovo was adopted, and on the basis of its provisions the number of municipalities was reduced from 204 to 63, while the number of districts remained the same, namely:

- District of Gjilan
- District of Prishtina
- District of Mitrovica
- District of Peja, and
- District of Prizren

These legal arrangements were effective until 1960. At this time new legislation was introduced, and the new legal arrangements provided for a one-level system of local government. It meant that districts ceased to function as levels of local structures, and from that point onward only municipalities were recognized as local government structures (MLG 2014). The number of municipalities was set to be 22 out of 63 that were in place until the end of '50-ies, and the process of merging several municipalities in a larger one was seen with dubiousity by the local population, even though no reactions or opposition to the process was marked. Historically, this is the

time when Kosovo has the lowest number of municipalities. In addition, as of 1963, the then Municipal People's Councils did transform into Municipal Assemblies (Constitution of SFRY 1963).

The year of 1974 brought new dynamics into then Yugoslav politics, and the entry into force of the new constitution marked a historical moment for the people of Kosovo. The new constitutional regime upgraded the status of Kosovo to a constitutive element of the Socialist Federative Republic of Yugoslavia (Constitution of SFRY 1974), and the overall political climate became rather positive. The whole Kosovo was experiencing a stage of development and improving social welfare. In the context of such societal evolution, the Parliament of Kosovo that was formed then in the light of new political circumstances adopted the Law on territorial organization of Kosovo in 1975. On the basis of this law, the number of 22 municipalities remained intact, while 1431 counties/settlements/neighborhoods were confirmed.

The law provided for a wide range of authority for the municipalities in the area of basic education, primary healthcare services, etc. The law was amended in 1985, whereby a new municipality of Malisheva was established (Law no.48/29, December 1985). Later on, in 1987, were established the municipality of Zubin Potok, municipality of Shtime, and the municipality of Shterpce (Amending Law on territorial organization of Kosovo). A year later, in 1988, were established three other new municipalities, Fushe Kosova, Obiliqi and Novobrd (MLGA 2014). To sum up this part it may be underlined that the changes in the organization of local government administration were rather frequent, and only from 1974 onwards more certainty and stability was marked. From 1974 until 1989 seven new municipalities were established, and generally the criteria that did apply for the establishment of the new municipalities were both economic and geographic, as well as ethnic one. As of 1989, the period of political uncertainty and instability started, which culminated with the forcible abolishment of the Kosovo's political status at the federal level. Such events sparked the waves of public dissatisfaction and collective opposition, reflected through massive demonstrations and social disobedience, and effectively marked the beginning of the SFRY dissolution. Kosovo fell under police and military regime, and all structures of political organization at all level were dismissed and dismantled.

3.2 Local government during the '90ies

The post 1990-ies period is characterized by a negative and regressive trend of developments, not only for the local government sector but for the entire Kosovo society. Kosovo's status as a federal unit of the former SFRY was abolished, and with it also the whole political system that was in place was disintegrated (Osmani and Manaj 2013). Such disintegration was followed by a stage of uncertainty, insecurity, and turmoil. The majority of the population rose up against the imposed political changes but were not in a position to prevent the flow of events. The common federal roof was in the process of falling apart, and Serbia moved fast to establish hegemonic control over Kosovo, a state of classic occupation was enforced (Osmani and Manaj 2013).

By the beginning of 1990, the newly established regime under Serbian control abolished the legislative, executive and judicial institutional structures that were established under the provisions of 1974 constitution of SFRY. In this line, the regime made several changes into the system of local government, and established five districts, namely:

- District of Kosovo
- District of Peja
- District of Prizren
- District of Mitrovica, and
- District of Metohija (Dukagjini)

In addition, in 1991, were made some new territorial arrangements in several municipalities, whereas the municipality of Malisheva was disintegrated and its territory was transferred to the surrounding municipalities, and the new municipality of Zvečan was established within the former cadastral municipal boundaries of Mitrovica. These changes were done by executive decrees and were motivated by ethnical element. In this period the number of municipalities was 30 (thirty). (MLGA 2014). During this period the public services a priori were mainly delivered only to those who agreed and supported the forcibly installed regime. On the other side, the vast majority of the people were subject to systematic discrimination and deprivation and were expelled from all public institutions: public servants from the administration, medical staff from health care institutions, teacher's from public schools and

university, and so on. Throughout the country was established a parallel system that aimed to offer mainly education, healthcare and social assistance to the local population (Shahini 2016).

It shall be underlined that the period of '90ies was the most difficult one in the recent history of Kosovo. The majority of the people of Kosovo did not agree with the state of systematic discrimination, hegemony, and repression.

3.3 The period of the United Nations Interim Mission ruling

The transitional process of Kosovo society was rather peculiar, and we may underline here that in Kosovo's context, the process of transition that was experienced at the beginning of the 1990s in most parts of Central, Eastern and South-eastern Europe (Hesse 1997), began only in 2000 (Weller 2009). Kosovo was placed under a United Nations Interim Mission administration (UNMIK) in June 1999. UNMIK was run by the Special Representative of the Secretary-General (SRSG), who was the ultimate authority in charge of legislative and executive branches of government (UNMIK REG 1999/1), as well as the authority to appoint all judicial bodies. Initially, at the local level, the SRSG appointed international administrators to govern local affairs pursuant to the municipal arrangements that existed in Kosovo prior to 1989 (UNMIK REG 1999/14).

The period of UNMIK administration at local level lasted till 2002 (MLGA Report 2013). Despite the fact, the first local elections for municipal assemblies were organized in 2000 (UNMIK REG 2000/39). Prior to the local elections, the Department of Local Government Administration was established, as an executive body at the central level, and also was adopted another regulation establishing the territorial-municipal jurisdiction (UNMIK REG 2000/43). These were the very first formal step to frame the future organization of the local government system in Kosovo. One of the major steps was the adoption of Regulation 2000/45 on Self-Government of Municipalities, which basically provided for fundamental principles of administrative and representative functioning of local institutions.

We have to underline here that all these basic legal and institutional arrangements were taking place at the beginning of the new century whereas in Western Europe the debates were focused on new shifts in local politics (John 2001). The first stage

of municipal government administration was marked by the delivery of very few public services, and mainly the efforts were concentrated on building the capacities of the local bureaucracy. Following the establishment of the Provisional Institutions of Government of Kosovo at central level (UNMIK REG 2001/9 and UNMIK REG 2001/19), as a transitory period to transfer responsibilities from international ownership to a domestic one, the local government system entered the second stage of its development. During this stage, the international administrator was sharing the governing power with the local representatives, but yet municipalities did not have strong local leadership. The political parties participating in the local elections had to establish coalitions for having a governing majority in the municipal assemblies, while the chairman of the municipal assembly was head of the municipality, elected by the municipal assembly (UNMIK REG 2000/45, Section 11).

The second stage of local government development lasted until 2007. The first step that marked the shift in the current system was amending Regulation 2000/45 by Regulation 2007/30 that provided for direct democracy (Held 2006) for the election of the mayor, and also provided for a wide set of functions. The successive election saw an enormous increase of political battle at the local level. For the first time, the major political parties abandoned the practice of “weak” candidates and positioned key political figures to run for mayors. Evidently, this amendment brought the battle of major parties at local level marking, therefore, the overture “strong” local politicians (John 2001,26-27). The period of UNMIK administration, despite the challenges imposed by the post-war and the emergency to build up the basic structures of public administration able to deal with the emergency circumstances, served as a ground for setting up a system of administration capable of adapting to the variety of international expertise and national need to move as faster as possible to the stage of normality. It could be said that this period served well to the goal of having constant evolution in local government maturity and development.

3.4 Local self- government in independent Kosovo

Kosovo became independent in 2008, and the new constitutional and legal regime were established. The Constitution of Kosovo and the legislation adopted on the basis of it established the basic principles of local self-government administration

(Constitution, Chapter X). This moment marked the new stage of development in the area of local self-government. The parliament adopted new Law on Local Self-Government (Law No. 03/L-040), and also Law on Administrative Municipal Boundaries (Law No. 03/L-041), and Law on Local Government Finance (Law No. 03/ L- 049). This third stage also marked some major development in the process of evolution of local self-government system. One of the key developments was the process of decentralization (Tahiri 2011). This process was generally understood as a part of the process of the overall reforms at local government level, even though looking into the debates that followed it, we may infer that there were at least three conceptions about it. The first one has to do with the model of decentralization that is intended to attract the inclusion of minority communities into the system of governance and is qualified as a political concept of decentralization. The second one is about the delivery of better services to the citizens by further devolving the powers to local authorities, and is qualified as a concept of administrative decentralization. The third concept, which was also supported by the government was the mixture of the first two, and it was promoted as a model of decentralization designed to enable inclusion of all communities into the system of governance and also to offer better public services to the citizens (MLGA Report 2013).

Decentralization is not the only central element of the transition and transformation of the local government system in Kosovo. Other central elements of this process remain the adaptation to the new circumstances requiring credible and reliable public-private partnership in providing good quality of service delivery (Van Dooren et al. 2004), as well as matching with the different local actors such are various interest groups and civil society undertakings (Hajrullahu 2011). It shall be noted that despite the fact that due to reasons beyond the scope of this research, Kosovo is not signatory state to the European Charter on Local Self-Government, such Charter is part of the internal legal system of Kosovo, and is enshrined in the Constitution (Article 23), making it applicable within the domestic legal regime.

4 Legal Framework governing local government

4.1 *The Constitution of Kosovo*

The Constitution of the Republic of Kosovo enshrines in entirety the international legal obligation that Kosovo took by accepting the Comprehensive Proposal for the Settlement of Kosovo Status (known as Ahtisaari document). The Ahtisaari document was drafted in the course negotiations process, mediated by the international community body, headed by Maarti Ahtisaari, a former Finnish President, who was acting as a Special Envoy of the UN Secretary-General.

As the highest legal and political act of Kosovo, under its Chapter X, the constitution stipulates fundamental norms and principles on local self-government. The constitution provides that local self-government is guaranteed by the constitutional norms, and it is to be regulated by a special law (Article 123.1). Moreover, the constitution establishes that the local self-government authority is exercised by the representative organs elected through general, equal, free, direct, and secret ballot elections (Article 123.2). In addition, the constitution also emphasizes that all authority of the local self-government bodies is to be exercised in full compliance with the norms of the constitution and the laws adopted pursuant to the constitution (principles of constitutionality and legality, Article 123.3 and 124.6).

The constitution sets the generally accepted principles of good governance as key principles on the basis of which the local self-government authority shall act, namely principles of transparency, efficiency, and effectiveness in providing public services (Article 123.4).

In regard to the territorial organization and operation of the local self-government, the constitution stipulates that municipalities are the basic units of local self-government administration, meaning that as in the case of Slovenia (Oplotnik and Brezovik 2004), Kosovo has a low degree of decentralisation, but the constitution provides that the in the areas of their competences, municipalities enjoy high degree of local self-government (Article 124.1). The constitution sets the basis for three types of competencies that municipalities have, namely a) own competences, b) delegated competences, and c) enhanced competences (Article 124.3) that will be elaborated

later on. Also, the inter-municipal cooperation and cross-border cooperation of the municipalities is provided under the constitution (Article 124.4), while as regard to the local finances the constitution stipulates that municipalities are entitled to decide, collect and spend municipal revenues, as well as to receive appropriate funding from the central government (Article 124.5).

It should be noted here that as regard to the administrative review of the municipal acts by the central government, the constitution limits this authority only to the extent when such review has to be done for the purpose of ensuring the compatibility of the municipal acts with the constitution and with the primary laws too (Article 124.7).

Municipalities have the status of the authorized parties to refer matters to the Constitutional Court, for the purpose of contesting the constitutionality of laws or act of central government infringing upon their responsibilities or diminishing their revenues, in cases when municipalities are affected by such laws or acts (Article 113.4).

Following the enactment of the new constitution, the Assembly of Kosovo adopted a set of law by which the local self-government system in Kosovo had to operate in the post-independence period. In this regard, three major law were adopted: a) Law on Local Self-Government; b) Law on Administrative Municipal Boundaries; and c) the Law on Local-Government Finance.

4.2 Law on Local Self-Government

The most important legislation, in subordination to the principles set by the constitution, to regulate the organization and the functioning of the system of local self-government in Kosovo, is the Law on Local Self-Government (LLSG). More specifically, LLSG defines the legal status of the municipalities, their competencies, general principles of municipal finances, organization and functioning of the municipal bodies, the intra-municipal arrangements and the inter-municipal cooperation, including the cross-border cooperation as well as the relationship between municipalities and the central government (Article 2). It is important to

highlight that even though LLSG contains the basic provision about the inter-municipal cooperation, in 2011 was adopted a specific law on inter-municipal cooperation (Law No. 04/L-010).

This basic law was adopted in the course of political and legal transformation the country was going through, as the international supervision was ending, and the new legal regime was about to emerge. The framework for the new territorial organization of the country was being installed, while the new and more authority and responsibilities for the municipal bodies were shaped (Chapter III, Articles 16-23).

It is important to underline that the spirit of LLSG is providing for a wide range of opportunities for the citizens to influence local politics (Chapter IX, Articles 68-73), and at the same time exercising certain influence as regard to the small-scale decision-making, which in Dahl's view is also seen as a compensation for the growing gaps of actual and expected opportunities for citizens participation (Vetter et al, 2016, 274).

Therefore, LLSG replaced the UNMIK Regulation 2000/45 and set the basis for the local self-government system of the independent Kosovo. This was a major step in the development of the local self-government system, and the spirit of the LLSG aimed to accommodate all the concerns that were raised with regard to the position of the minority communities in the new legal regime.

4.3 Law on Administrative municipal boundaries

The new legislation increased the number of the municipalities, and now Kosovo has thirty-eight (38) municipalities. Due to the need to enact such changes, the Law on Administrative Municipal Boundaries (LAMB) was adopted, for the purpose of regulating territorial organization in the new Republic of Kosovo, as well as establishing new municipalities, and delineating the territory of the municipalities as the units of the local-self-government (Article 1). In addition, the law defined the administrative municipal boundaries, names, and residences of the new municipalities, and since the new changes were in the process it also set forth the

provisional arrangements between the then existing municipalities and the new ones that were being established in the ex-territory of them.

The new municipalities were established on the following basis: a) merger of one or more municipality within the existing one; b) merger of two or more municipalities for the formation of a new municipality; c) separation of a part of a municipality or municipalities in order to merge with another municipality; and d) separation of a part of a municipality or municipalities to form a new municipalities (Article 10). The whole transitional process of the formation of new municipalities was conducted by municipal preparation teams established by the government (Article 14), while the international Civilian Office (ICO) had a critical role in the entire process.

4.4 Law on Local Government finances

As noted at the outset of this thesis, due to historical and political circumstances, Kosovo is lagging behind in the processes of transition, while the financial reforms associated with decentralization in Central and Eastern Europe have reached different stages (Davey 2007). However, there is no single model of fiscal decentralization that can be taken as a granted one, but the process is done on the basis of general principles to shape the most suitable model on the basis of responsibilities assigned to the local self-government bodies (Milunović 2008). It is a notorious fact that sound local finance is a basic condition of local self-government, but at the same time, this condition depends on the general economic situation of the country. The general guidelines for the management of the public finances, including how to handle financial resources of the municipalities are set in the Law on Public Financial Management and Accountability, while the Law on Local Government Finance (LLGF) sets a detailed legal platform about the local finance specificities.

In line with the standards set in Article 9 of the European Charter of Local Self-Government, LLGF for municipal financial autonomy, and it stipulates that municipalities are entitled to adequate financial resources of their own that they may dispose of freely in the discharge of their municipal competences (Article 2). LLGF imposes certain limitations with regard to the authority of the local government to apply taxes. In this regard, the law provides that with the exception of the tax on

immovable property within the administrative borders of the municipality, a municipality shall have no authority to impose or assess, levy or collect any other duties or taxes (Article 3). The limitations imposed under Article 3 include customs and other duties, taxes on the revenues of persons, value-added taxes, excise taxes, taxes on capital, and any other charge that may have the same effect as duties or taxes have. This limitation is not applied to the cases when the municipal bodies fulfil the function or responsibility that has been formally delegated by the central government.

In regard to municipal financial resources, LLGF establishes that municipal finances consist of: a) own source revenues; b) operating grants; c) grants for enhanced competences; d) transfers for delegated competences; e) extraordinary grants; financial assistance from the Republic of Serbia; and f) proceeds from municipal borrowings (Article 7).

Pursuant to Article 8 of LLGF, *municipal own revenues* consist of the following resources:

- a) Municipal taxes, fees, user charges, other payments for public services provided by the municipality, and regulatory charges and fines authorized by the present law;
- b) Rents on immovable property situated in the municipality and under the administration or ownership of the municipality;
- c) Revenues from the sale of municipal assets;
- d) Revenues from undertakings wholly or partly owned by the municipality;
- e) Co-payments from consumers of education and health services provided by the municipality;
- f) Revenues collected by any agency, department or organization of the municipality as a result of the provision of any good or service;
- g) Interest on municipal deposits, if any;
- h) Grants and/or donations from foreign governments (except for financial assistance from the Republic of Serbia) or from foreign organizations, including governmental and non-governmental organizations and international and supranational institutions; and i) any other category of revenue that is designated as municipal own-source revenue in a law of the Republic of Kosovo.

As a second source of municipal incomes are listed grants. Indeed, grants are yet the main source of municipal revenues. LLGF stipulates that municipalities shall receive grants from the central budget, called operating grants. Operating grants are structured into a) general grant; b) specific grant for education; and c) specific grant for health (Article 23). The purposes of the general grant are to provide for a reasonable degree of stability in the municipal income and to provide an appropriate measure of equalization between the municipalities. In addition, it aims to take into account the respective ability of the inhabitants of each municipality to access public services as well as to provide for the adequate allocation of resources for the non-majority communities in the respective municipalities (Article 24). The general grant is calculated on the basis of budgeted central government revenues, which shall be 10% of total revenues, however, for the purpose of equalizing smaller municipalities receive a lump-sum of € 140.000 per year.

Municipalities also receive special grants for health and education that are aimed to cover the cost of providing a minimum standard level of pre-primary, primary and secondary education, and public primary healthcare (Article 25).

Given the fact that grants make the essential part of municipal finances, LLGF has foreseen for the establishment of the Grants Commission composed of most senior officials, namely: the Prime Minister or his representative, the Minister of Finance, Minister of Local Government and another minister appointed by the government, the Chairperson of the Budget Committee of the Parliament, and four mayors, one of whom representing a minority municipality (Article 32). For Kosovo context, fiscal stability of the municipalities is extremely important, and there is always borne in mind that the inadequacy of financial resources can have destabilizing effects for the local government (Kukovič et al. 2016).

Municipalities are also entitled to borrowing but upon authorization of the central government (Ministry of Finance), and under very strict fulfilment of the criteria set by LLGF (Article 30).

Municipalities are autonomous to set fees and charges for the services they provide, as well in regard to setting the organizational structure for service delivery, but are limited as regard to employment (Oplotnik and Brezovnik 2004) plans since this is regulated by civil service legislation and for any new staff there is a need for

approval by the central level, meaning that municipalities may hire only for approved jobs.

It should be noted that there are some conflicting provisions of LLGF and the Law on Internal Trade, which is posing certain difficulties for collecting licenses fees from businesses (MLGA 2014), and also it is being criticized for being rather restrictive as regard to the fiscal autonomy of the municipalities (Tahiri 2017). It is true that Kosovo has accomplished only one aspect of decentralization that is political decentralization through the establishment of the new municipalities. However, there is a long way ahead to have a more sustainable development at the local level and beyond, for the purpose of moving toward a more decentralized system of local finances. Therefore, it could be summed up that the autonomy of local government is extended only to the management of the own revenues authorized by LLGF.

In general, municipalities lack professional resources that would be necessary to comprehend the broad nature of legal rights and legal obligations that municipalities are entitled to or bound to. To overcome this deficiency the MLGA issues instructions to the municipalities about the specific provisions of respective laws that intersect with the work of municipalities in areas of their competence (Municipal Law Manual, 2012). Despite the fact that municipalities receive such instructions, it is rather evident that they keep having difficulties in this regard. A case ruled by the Constitutional Court confirms the lack of comprehension of some very basic provisions of the LLSG (Ref. No. 46/10, 7 October 2010), by which the court had to rule about the effectivity of the resignation of a mayor. The mayor resigned publicly and also confirmed his resignation in written to MLGA, but shortly after he continued to exercise the function of the mayor and the matter was sent to the court. The justifications for reassuming the office were clearly political and unprofessional as LLSG precisely defines that one of the ways to terminate the mandate is by resignation (Article 56.3(c)), which is also reiterated by the Law on Local Elections (Article 11).

It could be summarized that the legal infrastructure in place provides a consolidated framework for positive trends in the local self-government sector. However, Kosovo still is in a stage of capacity buildings as a country and as a society as well.

Consequently, the fully-fledged capacities of local administration will take a longer time to be fully effective and proactive.

4.5 Applicability of European Charter on Local Self-Government

The European Charter of Local Self-Government (hereafter "the Charter"), is an international multilateral instrument within the umbrella of the Council of Europe (CoE) in the area of local government and may be viewed as one of the major contributions of the CoE for the promotion of democracy as one of its principal areas of focus. The aim of the Charter as provided under the preamble is to set certain common standards that will enable the local self-government system to be more autonomous in discharging its entrusted responsibilities, and it also promotes the establishment of local communities capable of operating in a legal framework, and so dealing with a substantial part of the public issues on their own and to the benefit of the local population (Vlaj 2008).

Due to the international political circumstances that have been prevailing in the post-independence period, Kosovo has not yet become CoE member. Kosovo has also very specific (some call it discriminatory) treatment by the European Union (EU) as a whole since five member states do not recognize its independence. Despite these circumstances, Kosovo has committed itself to observe and implement the European Charter of Local Self-Government to the same extent as it is required for the signatory states (Constitution of the Republic of Kosovo, Article 123.3). Therefore, by the constitutional norms, Kosovo undertakes to implement the responsibility provided under article 2 of the Charter, and in addition, the other obligations provided under articles 3-11 of the Charter are set under the constitution (Article 124), and also enacted thoroughly under the provisions of the Law on Local Self-Government, Law on Local Finances, as well as in the Law on Inter-Municipal Cooperation. The ultimate responsibility of Kosovo to fully obey with the principles of local self-government as provided under the Charter, and embraced by the positive law, has been sanctioned by the judgment of the Constitutional Court (Ref. No. 46/10, 7 October 2010).

Given the fact that municipal structures are new and some even inexperienced, the Ministry of Local Government Administration has drafted a manual by which they have provided general guidelines for the municipalities of how to promote and implement the principles of the Charter as enshrined in the constitutions and in other laws (MLGA Manual 2015).

5 System of self- government in Kosovo

5.1 Decentralization

Decentralization was the key element of local self-government reform in Kosovo. As it is known from the literature, decentralization is usually defined as the transfer of powers from central to local levels in a given political system, and it is manifested either as a form of deconcentrating, as a fiscal decentralization or as a devolution of powers (Setnikar Cankar and Ševi 2008,4). In this context, deconcentration refers to the process of administrative decentralization that practically means authority is transferred from higher to a lower level of state administration. Further, fiscal decentralization is about transferring authority on budgetary and fiscal decision making from central to local bodies, and finally, devolution is a concept developed around the idea of democratic decentralization that refers to the transfer of resources, powers, and responsibilities to local self-government units enjoying greater autonomy from central government (Ibid.).

As for the rationality and effects of decentralization, there are views that it entails multifaceted positive impacts in almost all dimensions of governance, making it as one of the key principles of good governance in the European context. Specifically, the references are made to the need that openness and participation are to be increased through the decentralization since it serves as a source of motivation due to the fact that enables closer interactivity and better visions for the local needs (Nemec 2008).

On the other hand, there are approaches that view the concept of decentralization from the opposite perspective and maintain that decentralization is a rather elusive term affected by generalized confusion about its meaning, which is subject to the change according to different perspectives of analysis. In this regard, although there is present confusion, a general agreement is to be achieved about its negative definition. In other words, it is well known what is not decentralization but there is no agreement on what it actually is. Indeed most would agree that transferring power and recourses to the national government is not decentralization (Schneider 2003).

Initially, decentralization in Kosovo was announced in 2005, by SRSG through the signature of the Administrative Directive 2005/11, which opened the way to commence the implementation of the process of pilot municipalities. This development triggered many debates, contradictions, and discussions Kosovo-wide. But, beforehand, in 2003, UNMIK asked for assistance the Council of Europe and a group of experts as a part of Decentralization Mission in Kosovo was assigned to make a thorough assessment of the circumstances in place, and provide an in-depth analysis as well as a recommendation on the way forward. The group of CoE experts summarized their finding and recommendations in five basic models of local self-government administration to be considered in the case of Kosovo. The first recommendation or model was that Kosovo maintains the same number of municipalities (at that time 30), and proposed additional devolution of powers to the municipalities. In the second model, they also supported the idea of keeping the same number of municipalities but recommended another layer of sub-municipal bodies that would be equipped with additional competencies. The third model recommended the devolution of power between municipal and sub-municipal units, aiming to establish a balance between these layers of government. These last two models were based on the concept of sub-decentralisation, which effectively delineates relationships within the local self-government tiers itself as applied in a given country (Haček and Grabner 2013). The fourth suggested model was the one supporting the creation of new municipalities and also proposed the establishment of the regional level for the five biggest cities of Kosovo. And, finally, the fifth model recommended the creation of the new municipalities with additional enhanced competencies (Council of Europe 2003).

The particularity and the specificity of the process of decentralization in Kosovo as a key element of local self-government system in Kosovo were conditioned by several factors. First, the country itself was in the process of political status definition and with it of its international legal subjectivity as well. Second, the role and influence of the international actors was instrumental, not only because of the fact that the country was under international administration but also due to the political reality that the whole process of status determination was being carried out in coordination with the main international actors, including United States, European Union, and United Nations as well. Third, the process of decentralization was being crafted to achieve

twofold objectives: a) to set up a functional system with clearly defined competences and responsibilities for the local self-government units, and b) to accommodate the concerns of minority communities, mainly Serbian community through the establishment of the new municipalities that would be run by an autonomous local leadership, and where cooperation with the Republic of Serbia will be properly regulated by the law.

Therefore, the process of decentralization became one of the main items of the negotiations for determining the status of Kosovo in Vienna process. The Serbian part was insisting for a Serbian entity to run education, healthcare, social security and cultural heritage with Belgrade, completely bypassing Kosovo (European Parliament, 2010). Effectively, the consistent aim of Serbia was to undermine the process of state-building in Kosovo through projects that would further deepen the societal polarization and ethnic division (Weller 2009), and would eventually impose a system that in the future would show as dysfunctional one.

The position of Kosovo in the Vienna process was that the model of decentralization that will be established in Kosovo shall endorse all the European principles of local self-government, including the European Charter of Local Self-Government and all its protocols (European Parliament 2010). In addition, Kosovo had asked the European Union to be more supportive of decentralization as a principle of local governance reforms, and its involvement to be proactive on the development of decentralization and reform of local governance, including the development of a legitimate and accountable local government in the northern municipalities as well. This position was crucial for the northern Serbs to exercise their basic rights of democratic elections and an accountable local authority because in that part since 1999, the Republic of Serbia has financed and politically supported parallel structures (European Parliament 2010). As a matter of fact, such structures are yet operational.

At the end of the Vienna process, international community team lead by former Finnish President Marti Ahtisaari finalized the agreement that was negotiated for more than two years between Kosovo and Serbia. For the purpose of the following developments, it should be noted that the Republic of Serbia refused to sign the agreement, even though it agreed with the entire content of it, with the exception of

status recommendation (Letter of President Ahtisaari to UN Secretary General). One of the main chapters of the agreement dealt with decentralization, and it is considered that the backbone of the Ahtisaari plan, was designed to give to the Serb-majority municipalities a significant level of autonomy. Kosovo accepted the Ahtisaari document and the obligations envisaged therein. Consequently, dozens of laws that derived from Ahtisaari document became part of Kosovo's constitutional order, and a significant number of these laws were related to decentralization. As stated also in the previous chapter, all adopted legislation takes into account the principles of local self-government enshrined in the European Charter of Local Self-government and its protocols. Moreover, the entire legislation is adopted in the spirit of the framework of the Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages and the European Outline Convention on the Transfrontier Co-operation between Territorial Communities or Authorities and its protocols.

As a result, Kosovo adopted or amended all necessary legislation, which for illustrative purposes will be henceforth enumerated: a) the Law on Administrative Boundaries of Municipalities; b) the Law on Local Self-Government; c) the Law on Local Elections; d) the Law on Local Government Finances, and amended accordingly a large number of laws, including a) the Law on Public Finance Management; b) the Law on Primary Education; c) the Law on Secondary Education; d) the Law on Higher Education; e) the Law on Primary and Secondary Health Care; f) the Law on the Police, and a number of other laws, regulating the three categories of competencies for the municipalities, which will be elaborated below.

5.2 Competencies of local government

The LLSG (Articles 16-23) sets out three categories of competences for the municipalities, namely: a) own competencies; b) delegated competencies; and c) enhanced competencies. The two first are exercised by all 38 municipalities of Kosovo, while the third one is reserved only for specific municipalities.

5.2.1 Own competencies

This category of competencies under the provisions of LLSG refer to full and exclusive powers of municipal competencies, applicable to all municipalities. Article 17 of LLSG enumerates the wide range of such competencies, which include most notably: local economic development, urban and rural planning, land use and development, local environmental protection, provisions of public services (water supply, waste management, local roads, local transport), local emergency response, provisions of public pre-primary and primary schools, public primary health services, provisions of family and other social welfare services, public housing, licensing of local services and facilities, tourism and so on, and also emphasises that other matters not excluded from their competence or assigned to another authority may be exercised by the municipalities.

These competencies belong to the core authorities of the local level and serve to the essential idea of bringing power closer to citizens. Such competencies were also exercised by the municipalities during the international administration of Kosovo (UNMIK REG 2000/45).

5.2.2 Delegated competencies

The second category of competences as provided under Article 18 of LLSG, refers to the delegated competencies and entails the transfer of authorities from central to municipal level of matters that previously were exercised by central institutions. This category includes competencies over cadastral records, civil registry, voter registration, business registration and licensing distribution of social assistance payments (excluding pensions), and forestry protection including the granting of licenses for tree-felling and other timber activities. In addition, the law leaves open the possibility for the central government to delegate additional competencies to the municipalities, and also call on the central government to provide the financial support necessary to discharge delegated competencies.

The transfer of the delegated competencies was gradual and the MLGA had to follow up the process of capacity building of each municipality to take over the additional competencies. There are still difficulties in this regard, particularly with smaller and

newly established municipalities, since the human resources and other resources remain limited, which causes certain delays in fully implementing the legislation.

5.2.3 *Enhanced competencies*

The third category of municipal competencies refer to enhanced competencies and is stipulated in Articles 19-23 of LLSG. Under the LLSG, the concept of enhanced is designed as an extension of own competencies for certain municipalities in the areas of health, education and cultural affairs, as well as infers a certain role for the given municipalities as regard to the selection of the station police commanders. Therefore, the enhanced competencies in the area of health care provide for secondary health care, including the registration and the licensing of health care institutions, recruitment, payment of salaries etc., for municipalities of Mitrovica e Veriut/Mitrovica North, Graçanicë/Gracanica, and Shtërpçë/Štrpce (Article 20). As regard to the enhanced competencies in the area of education, LLSG provides for higher education, including registration and licensing of educational institutions, recruitment, payment of salaries and training of instructors, for the municipality of Mitrovica e Veriut/Mitrovica North (Article 21). Furthermore, in the area of culture, for municipalities in which Kosovo Serb community is in majority, LLSG provides for authority and responsibility in cultural affairs, including protection and promotion of Serbian and other religious and cultural heritage (Article 22). Last but not least, in accordance with the police law, LLSG provides that municipal assemblies of Serb-majority municipalities have an enhanced participatory right in the selection of the local police station commander (Article 23).

As it may be understood from the legal arrangements, the changes consist both in deconcentration and devolution of power from central to the municipal level. It is obvious that the enhanced competencies prove the asymmetric character of decentralization that consequently grants significant autonomy to particular municipalities, namely: Mitrovica e Veriut/Mitrovica North, Graçanicë/Gracanica, and Shtërpçë/Štrpce.

In spite of all these developments, the main obstacle to decentralization remains the negative stance of Serbia towards Kosovo's independence and their influence to Serbian community living in Kosovo. As Kosovo and Serbia are engaged in the

process of dialogue to normalize relations, numerous agreements have been signed, a great part of which address the integration of Serbian community into Kosovo constitutional order and institutional life. For the first time since the independence, in 2013 were organized local elections in the municipalities in the northern part of Kosovo, where the turnout was around 22%(Central Election Commission).

The Serbian community in Kosovo continues to challenge the statehood of Kosovo, and as a consequence, their integration into new society is moving slowly. Unfortunately, this negative stance is producing consequences for the entire society as processes are inter-connected and inter-dependent. Hopefully, the European path that both Kosovo and Serbia are committed too, despite the uncertainties that are taking place within the EU countries itself, will bring both societies to mutual recognition and peaceful co-existence.

6 Institutions of local self-government administration

6.1 Mayor

The process of institution building in societies in transition is somehow dictated by the societal dynamics. In the case of Kosovo, this was rather peculiar given the fact that the country for about a decade was under international administration. At the point when the international administration was deployed in Kosovo, simply there was no institutional framework in place. The international official came from different parts of the world, meaning also from different backgrounds and cultures, and knew very little about the societal context where they were expected to discharge their responsibilities.

We know, and also the literature informs us that historically the local government has played a crucial role in the democratization process in Western countries as well (Haque, de Vries and P.S.Reddy 2008). It is for sure that local institutions of government are the ones that are most closely to the citizens, and normally they have an effective impact on the lives of people. A good mayor is really a big deal. Not only in the sense of improving infrastructure and overall quality of life in a given municipality, but also as regard to the credibility of the institution, and moreover credibility of the political leadership. On the other side, the municipal councils are important forums where local affairs and interests are represented and defended. Cooperation between the mayor and municipal council is not always accountable. The opposite happens often. Municipal administration is somewhat the engine of local governance, even though in transitional context it is often politicized and kept under the pressure of political changes.

These three components make the core of local government structure in Kosovo. They have gone through substantial changes and evolution in the last fifteen years, and still, are struggling amid the vagueness of the ongoing transition.

The position of mayor in Kosovo's recent history of local governance has evolved rapidly. The entire processes of the local self-government administration in Kosovo went through an interesting by a very challenging period. As at the beginning of the 2000s, the entire authorities and powers were vested to the international civilian

mission, the first major step was the adoption of Regulation 2000/45 on Self-Government of Municipalities, which basically provided for fundamental principles of administrative and representative functioning of the local institutions. We have to underline here that all these basic legal and institutional arrangements were taking place at the beginning of the new century whereas in Western Europe the debates were focused on new shifts in local politics (John 2001). However, the electoral systems for the local government and more specifically for the institutions of the mayors and of the municipal councils were guided by the universally enshrined democratic principles, according to which the citizens have the right to elect and to be elected (Law No. 03/L-072, Article 3).

In fact, after the phase of international administration at the local level, there was no real mayor. What was to be perceived as a mayor, was indeed the chairman of the municipal assembly (UNMIK REG 2000/45), while the executive duties of the mayor were discharged by the Chief Executive Officer, appointed by the municipal assembly. In most of the cases, the Chairman of the municipal assembly and the Executive Officer were politically appointed and belonged to the same political grouping or party. This mode of operation showed to be quite ineffective, and there was a broad consensus to amend the legislation and establish the real position of mayor, vested with a wide range of executive powers, and also directly elected by the citizens.

Since 2008 the mayors in Kosovo municipalities are elected directly by the local voters of their municipalities, which give more power to the local leaders and at the same time more choices to the local community. The mandate of the Mayors is four years (Article 5), and expires on the same month in the fourth year after the date of regular elections, in accordance with article 37 of the Law on Local Self-Government. Therefore, based on the new law the mayor is the master of the municipality, a holder of political function, elected by direct elections for a four-year term of office by local citizens (Kukovič 2014). As in Slovenia case and other European countries, the mayors of the municipalities in Kosovo are elected by its citizens, after the election, she or he takes the executive powers and appoints his/her deputy and heads of municipal administration (MLGA 2013).

As regard to the criteria for a candidate to be elected as a mayor, she or he must meet requirements of the article 30 of the Law on General Elections and must have been at least three years resident of the municipality in which she or he is running (Article 9). The candidate to be elected must have the majority of the citizens' vote, to be more specific needs to have 50% plus one of the total votes. The Kosovo municipalities seem to have still problems with the mayors who are formally residents of a given municipalities, but indeed they live for a long time elsewhere. Usually, this happens for mayors of smaller municipalities who live in a capital, and "occasionally" go to the municipality that they lead. In some recent developments, this situation had provoked debates among the citizens, and also among the local politics, as they are blamed for escaping the reality of the municipalities they govern and do not know the real problems of citizens and of the municipality itself.

It is important to mention the fact that in Kosovo the large municipalities have a lot of problems to get the majority of the votes and as a result, in many cases, we have coalitions or some time it has to go in the second round between two candidates (the case of Prishtina in 2014). Prishtina as a Capital City of Kosovo plays a very important role as somehow is an indicator for the general elections as well. The political parties pay a lot of attention to this fact and they try to choose the most appropriate candidate for running. Anyway, the last local election for the mayor of Prishtina was a big surprise for everybody. From the first elections that were held in 2000 (Kosovo Election Commission) till in 2014, the Capital City was led by one of the biggest parties in Kosovo, LDK (Democratic League of Kosovo). In the last election the candidate from the movement "Lëvizja Vetëvendosje" (Movement for Self-determination) was the second most voted candidate in the first round, and since none of the candidates won 50+1 votes, the winner was to be decided in the second round, with the candidates of LDK and Vetëvendosje running for mayor's post. The movement Vetëvendosje managed to get the support from the other parties and they won the election. For the first time in the history, Prishtina was led by a mayor who came from the third party in the Parliament. Meanwhile, the citizens were quite optimistic for having a new management and their expectations were very high. It is important to mention that this is the first case where we have a situation in which the mayor has no majority in the municipal assembly, and throughout the mandate, he did not seek to enter into a coalition with the other major parties holding

the majority in the municipal assembly. This brought many challenges to the mayor and his staff to push forward the projects for the municipality that required approval from the municipal assembly since the political opponents showed reluctant to back the policies which they attacked as not in the interest of municipality and its citizens. This change in the local leadership is meant to have happened more as a desire to punish the old folks and also as a wish to see new faces on top. However, the public ratings for the new leadership are not so promising (Pallaska 2016). It should be underlined that among other things the main disapproval for the current leadership was that they got to frequently involved in useless debates at central politics, and not focused sufficiently on local problems.

Currently, there are thirty-eight (38) mayors, responsible for running municipalities of different size of population and territory. (MLGA 2013) The largest municipality is 633km² and the smallest 23km² (MLGA 2014). Out of 38 mayors, only one is not part of any political party. At any electoral circle in all municipalities we have witnessed a number of non-partisan candidates running on their own or supported by a group of people (Haček 2014), but still, the political parties have very strong influence through their local structures and the non-partisan candidates will fall short of support for at least another decade. In addition, it is worth mentioning that there is only one female mayor (ASK official data), who in the meantime separated her path with her own party and announced to run on her own for another term when elections will take place according to the schedule.

The participation of citizens in the voting process varies from one to another municipality, but it is evident that the participation in the last electoral circles has been decreasing. To exemplify this, we would refer to the early local election for the mayor in one of the municipalities of around 60.000 (sixty thousand) people, held in November 2016 were only around 40% of the entitled voters participated in the voting. The electoral campaign involved all political leaders of the key political parties, and also an intensive campaign through social networks and media broadcasters took place. Particularly, the "battle" developed through the social-media networks was as intensive as never before, trying to attract every single voter, anyway, in this case, was still a very low turnout of the citizens in local election raises also the question about the democratic legitimacy as we generally, see

democracy as the "rule of majority" and as such the decisions of such "majority" apply also to those who have not taken part in the decision-making (Held 2006,372–375), and moreover when such participation is far below fifty percent of those entitled to vote, we may also have the situation where the voice of the people is severely distorted (Hajnal and Lewis 2003).

In our point of view, the political parties have understood the importance of the local leader's integrity and their influence on the citizens. The fact that the mayor is elected directly by the citizens gives him/her much more power as a local leader and easy can implement the strategy and reach the goals in the respective municipality.

6.2 Municipal Council

The Municipal Council is the fundamental unit of the local government and the highest authority in decision-making in all local matters and obligations (Kukovič 2014).In Kosovo the electoral system for municipal assemblies^[1] is proportional and with open lists (Law No. 03/L-072, Article 7), this gives the equal opportunities and the citizens can vote for their favourite candidate. From 2008 the Municipal Assembly is led by the chairman, while by UNMIK regulation as emphasized above the chairman of the municipal assembly carried the function of the mayor too. Under the new legislation, the Municipal Assembly has two permanent committees, while under the old UNMIK regulation 2007/30 used to have seven. The other committees are established as necessary since they are temporary and the municipality needs them only for specific professional work. These committees have the same functions in all municipalities (MLGA 2013), and the average of the committees is about five. The assembly is composed of the representatives of political parties where the majority decides. In case that the political parties can not make the necessary majority in the municipal council, still exists the possibility to have coalitions with any other party. The role of the opposition is to correct the position in the assembly work and to provide for alternative proposals for solving the problems of the municipality.

[1]In Kosovo system "municipal council" is named "municipal assembly". For the purposes of this thesis, both terms will be used interchangeably.

The representation of citizens in the municipality variation is from 1 with 666 till 1 with 7618 (MLGA 2014). The average of citizens representation in national level is 1 with 110. The number of representatives in the local assembly is depended from the municipality. In small municipalities, the number of assembly members is 15 and in the largest municipality is 41. The number of members of the Municipal Assembly of a Municipality shall be proportional, dependent upon the number of citizens in the Municipality (Law for Local Government, Article 36) and the number is as following:

- if a Municipality has up to 10.000 citizens, the Assembly for that Municipality shall consist of 15 members;
- From 10.001 to 20.000 citizens, the Assembly for that Municipality shall consist of 19
- 20.001 to 30.000 citizens, the Assembly shall consist of 21 members;
- 30.001 to 50.000 citizens, the Assembly shall consist of 27 members
- 50.001 to 70.000 citizens, consist of 31 Assembly members
- 70.001 to 100.000 citizens, the Assembly consist of 35 members;
- if a Municipality has more than 100.000 citizens, the Assembly for that Municipality shall consist of 41 members.

It is only the municipal assembly of the Prishtina which is at the same time the capital city of Kosovo with 51 members of the municipal Assembly.

The municipal assembly work is based on the Law for the Local Self-Government, Statute of the current municipality and in other sub-legal acts. Assembly shall enact municipal, financial and development plans,

reports and other documents relevant to the general interest of the municipality, which are proposed by the municipal executive. The transparency of the work of assemblies is increased through the transmission of the assembly meetings in the media (MLGA 2013). The term for the municipality assembly is four years, as in the case of the mayor. The assembly and the mayor usually are elected in the same election, and exception happens only in cases of any early elections. It is important to mention as fact that the members of the municipal assembly are not very active in

the meaning of being interactive with the citizens (Tahiri 2012), and they do not have offices. They discharge this duty in addition to their principal job and generally are not known so much by the citizens. Nowadays, given the fact that there are plenty of opportunities to keep regular contacts through the social media and so on, the public opinion knows very little about the work of municipal counselors. There is also a sort of prejudice that they do not do anything worth as they only attend the sessions and most of them never participate in the debates. In the case of Prishtina, particularly in the current circumstances where the mayor comes from a minority political grouping in the assembly, the debates are more exposed to the public, since there is always political ping-ponging about whose fault is for the failures—the mayor blaming the assembly and vice versa.

6.3 Municipal Administration

Municipal Administration of each municipality is an administration of itself (Kukovič 2014), and from the standpoint of the effective management, it is essential to have a professionally suitable personnel (Haček and Bačilja 2009), able to implement projects and discharge responsibilities. In the context of the local administration in Kosovo, the administration of the municipality is divided into politically appointed heads of directors and civil servants. Directorates make the principal structure of the municipal administration that is headed by directors, who are appointed by the mayor (Law No. 03/L-040, Article 62). Effectively, the mayor and the directors appointed by her or him make the municipal government. The civil servants are selected on a competitive basis and have the status of professional personnel that cannot be dismissed by the heads of directorates on the basis of political preferences.

Since the directors are appointed by the mayor, and usually they come from the close political circles, their duty is to harmonize the strategic goals and the political strategies with applicable laws and regulations. Directors have to report to the mayor on regular basis for all the matters that are under their responsibility, and they have to provide the mayor with all necessary information for the decision-making processes. All municipalities have the same responsibilities, but they have different numbers of directorates (the average is 9). The most common directorates at the municipal level are:

- Health and Social Welfare Directorate
- Education and Culture
- Directorate of Youth and Sports and
- Inspection and Administration directorate

Given the fact that the municipal administration is responsible for performing the technical tasks and preparation of technical basis for the decisions of the mayor and of municipal assembly (Kukovič 2014), depending on each municipality interest and priorities, the municipal administration is composed of other units too.

Therefore, the organizational structure differs from one to another municipality, and we often find directorates to have different names and covering different subjects and responsibilities. This fact often causes problems in communication, processing and collecting standard form data (MLGA 2013).

To sum up, the municipal institutions in Kosovo are still new and we may conclude that it is still in the stage of capacity building. From the organizational point of view it has undergone through substantive changes, and still, it is struggling to shape its own identity. Given the fact that the position of mayor has gained an unquestionable importance, and the responsibilities vest on the institution of the mayor are very wide, it is of utmost importance to have the most qualified and the most appreciated persons to run for this position.

The municipal council needs more transparency in its work. The municipal administration will struggle amid the very complicated relations between the politically appointed directors and professional civil servants. Based on the so far experiences, both sides demonstrate certain distrust, particularly when changes in the municipal leadership occur.

6.4 Association of Municipalities

Following the spirit of the European Charter on Local Self-Government, the Association of the Kosovo Municipalities has been established soon after the first local elections that were held after the war in Kosovo, in 2001 (ECLSG, Article 10),

even though Kosovo was still a territory under international administration. The applicability of the ECLSG was authorized through UNMIK REG 2000/45, and as elaborated in chapter four above, the ECLSG continued to be effective in Kosovo through its inclusion in the constitution and the laws.

The Association has the status of the legal personality and functions as a non-profit organization, whose principal aim is to coordinate various activities in the interest of local self-government authorities (LLSG, Article 31-32). Under the LLSG it is possible to have more than one association, since the law uses term "associations" (Article 32), and as regard to the scope of the activities there is a broadly formulated norm that says " for the protection and promotion of their common interest, municipalities may form and belong to associations...", (Article 31), the LLSG refers also to the "representative nature of associations on behalf of the local self-government bodies" (Article 32.1). In addition, LLSG stipulates that associations "may offer to its members a number of services, including training, capacity building, technical assistance as well as research on municipal competencies and policy recommendations..." (Article 32.3), which as interpreted by the central government such body has no decision-making authority, but can provide professional and technical services to its members- the municipalities (MLGA 2013).

Pursuant to the Statute of the Association of Kosovo Municipalities, the governing bodies of the association are a) the Assembly; b) the Council; and c) the Board of the Association. The highest body is the Assembly that is composed of delegates of all members, including representatives from the minority communities (Statue of the Association, Article 4). The operation of the association had seen progressive developments and was observed as an important forum to discuss common interests of the local communities.

The topic of municipal association became more debatable in the context of political dialogue that Kosovo is conducting with Serbia, in the process of normalizing relationships between the two countries, and under the mediation of the European Union's High Representative for Common Foreign and Security Policy. As a result of negotiations in 2015, the Prime Ministers of Kosovo and Serbia reached an agreement on the establishment of Association of Serb Municipalities in Kosovo, refereeing to the municipalities inhabited by Serb community in the majority. The

content of such agreement was intensively criticized by the opposition parties in Kosovo, and as a departing point for such criticism that later became a very strong objection was the ambiguity of the legal terminology used in Albanian and Serbian languages to describe the association (in Albanian is used the term "Asociacion", while in Serbian "Zajednica"). For the opposition political leadership, the term used in the Serbian language reflected the latent aim of this structure "to establish the third layer of government" outside the legal framework of Kosovo system of local self-government.

This agreement was sent to the Constitutional Court for reviewing its compatibility with the Constitution (Constitutional Court, Case KO130/15). The court ruled that certain aspects of the agreement were not in line with the constitution, and ordered the government to take all necessary measure to address the conflicting norms, and underlined that "the Association of the Serb majority municipalities is to be established as provided by the first Agreement, ratified by the Assembly of the Republic of Kosovo and promulgated by the President of the Republic of Kosovo", since the main elements of the current agreement "are not entirely in compliance with the spirit of the Constitution, Article 3 (Equality before the Law), paragraph 1 Chapter II (Fundamental Rights and Freedoms) and Chapter III (Rights of Communities and their members)" (Constitutional Court, Case KO130/15).

Following the ruling of the Constitutional Court, the process of establishing the Association of Serb Municipalities has remained pending yet. The Serbian side had expressed its disagreement with the court ruling and is insisting that the association is established pursuant to the agreement (despite the fact that in the signed agreement was made a reference to the constitutional revision of it). On the other side Kosovo's government position is that the association is to be established only along the lines of the court's ruling, while the opposition parties oppose the idea of establishing a structure that denies the statehood of Kosovo, and potentially will serve as a tool not only to have a third layer of government out of the framework of the system, but also it will jeopardize the political stability, functionality and in a long run the unitary character of the country.

7 Supervision and control of municipal work

7.1 The meaning and the scope of supervision and control

Supervision and control of the local self-government as in all democratic countries also in Kosovo has a crucial role in the promotion of democratic behaviour and transparency. The system of supervision is necessary to keep the balance between public interest, the interest of the local community and individual rights (Kukovič et al. 2016).

In the case of Kosovo, the local self-government control system is more oriented in supervision than in control. The monitoring system of local self-government is regulated by the constitution, Law on Local Self-government (Article 78) and the other sectoral laws. Municipalities in Kosovo have a high autonomy in local self-government and in the same time the citizens are encouraged to be more active in participation during the decision-making processes of the local authorities (Constitution of the Republic of Kosovo, Article 124). The purpose of having the supervision and control of the work of local authorities is to ensure compatibility with the legislation, have better performance in service delivery, and also to prevent of having any and to make the taxpayers feel that their contributions are going in the right direction.

It is very important to mention that the measurement of performance of the municipal employees plays a crucial role of having a successful administration. Through measuring the performance we can identify the achievements and the failures. Measuring the performance is important for different reasons. First of all, if the failures are not identified there will be no improvements in the municipal services for the citizens. As it is important to identify the failures it is very important to recognize the achievement as well because if we cannot recognize them we cannot be rewarded (Haček 2009), and being rewarded for the good work is always motivation for improving and keeping good work.

7.2 Types of control and supervision

The municipalities should take into consideration that the wide range of competencies which are provided by law, infer responsibility and they are obliged to respect the legal orders and general principles of local governance (MLGA 2014). Comprehension of the control and supervision of Kosovo municipalities is determined in two fields:

- Internal Control and
- External control

Before we elaborate on the internal and external control, it should be underlined the importance of the societal supervision as well. This kind of supervision can be realized through various forms of the direct democracy, as the participation of the citizens (LLSG, Article 68) in the public meetings that municipalities are obliged to organize at least twice per year, where every person or organization who is interested in the municipality work can participate. A recent survey about conducted in seven biggest (7) municipalities about the level of citizens satisfaction with the quality of public services delivered by the municipalities showed that 28.2% of the respondents answered positively on the question whether the public service delivery has been improved, while 15.7% stated that the quality of services has become even poorer, and 56.1% answered that there was no change at all (Democracy for Development Report 2017). The municipality should provide the citizens with the information for achievements of the municipality and also presented strategic plans and vision for the development of the municipality. In this context, participation can be of instrumental importance as they can express their views, ideas, and opinions that could serve as a positive feedback for the further work improvements of the local institutions.

7.2.1 Internal mechanisms of supervision and control

The internal supervision and control are conducted within the municipalities, by the structures that operate in the internal hierarchy of each municipality. Under the current legislation (LLSG, Articles 35 and 58), the internal control consists of:

- a) The control of the municipal executive by the municipal assembly, as the highest municipal representative body (LLSG, Article 35.1); and
- b) The control made by the mayor of municipality towards the municipal directorates (LLSG, Article 58).

The control exercised by the municipal assembly is effectively conducted in the context of regular reporting by the executive to the assembly on the implementation of the acts and of the policies adopted by the assembly, including here the financial reporting. As regard to the financial reporting, it should be underlined that neither under the Law on Public Finances and Management (Law no. 03/L-048), nor under LLSG is stipulated that the financial reports of the municipalities have to be approved by the municipal assembly, even though there is an established practice that almost every executive leadership of the municipality seeks for approval of the financial reports by the municipal assemblies (MLGA 2013). This practice stems from the fact that annual municipal budget has to be approved by the assembly, and if the municipal assembly fails to approve the budget it is considered to be non-functioning and consequently be dissolved (LLSG, Article 50). The supervisory authority of the municipal assemblies on regular basis is conducted by the permanent committee on policy and finance (LLSG, Article 52).

The other mechanism of internal control is that of executive administration, respectively municipal directorates, which is done by the mayors. In Kosovo system of local self-government, mayors have free hands to appoint heads of directorates as well as deputy mayors, and therefore they have full authority to remove them anytime on the basis of unsatisfactory performance (LLSG, Article 58). As regard to the performance evaluation of the municipal administration, staff applies the rules of the Law on Civil Service (Law No. 03/L-149), as well as the Law on State Administration (Law No. 03/L-189).

As regard to the internal control of the finances, municipalities are subject to control by internal audits that entails control of compliance with financial rules and regulations in discharging municipal responsibilities (Law on Internal Audit, No. 03/L-128). The assessment of the performance of internal auditing units so far was rather negative, especially due to the lack of human and professional capacities in most of

the municipalities (MLGA Report 2013). It should be emphasized that smaller municipalities face greater challenges as regard to the human resources capacities, particularly for experienced professionals.

7.2.2 External mechanisms of supervision and control

When we speak about the external control and supervision, we have in mind the process that is carried out by central institutions. As we have pointed out earlier, municipalities are autonomous in discharging their entrusted responsibilities pursuant to the law, and the only basis for the control by the central government is related to the administrative review of the municipal acts in light of their compatibility with the constitution and the laws (Constitution of Kosovo, Article 124.7, see also Article 8.2 of ECLSG). The objectives of the administrative review as further elaborated in the LLSG are intended to strengthen the ability of the local government institutions to fulfil their responsibilities through advice, support and assistance, to ensure the lawfulness of the activities of the local institutions as well as to ensure that the rights of citizens are protected and respected (LLSG, Article 74). Usually, as a supervisory authority acts the Ministry of Local Government Administration, but the supervisory authority can be vested also on the other ministries (LLSG, Article 76).

As stipulated under the constitution and LLG, municipalities are autonomous in exercising their own and delegated competences. Therefore, MLGA is the overall supervisory authority of municipalities' acts. However, the Government of Kosovo cannot instantly annul municipal acts - legislative or executive - even if they are not in line with Kosovo law or with the Constitution. In such cases, the Government may request that the municipality re-examines such decisions or acts. The request shall state the grounds of the alleged violation of the constitution or of the law and shall not suspend the execution of the municipal decision or other act at issue. Municipalities are then, obliged to respond to such requests for re-examination within 30 days of notification. If municipalities do not respond within the given timeline or respond negatively regarding reconsideration of a particular act, the Government can only bring the issue to a competent court or to the Constitutional Court.

Based on the fact that due to the lack of professional capacities the cases where the municipal acts came to be non-compliant with the basic laws, the government

established an inter-ministerial committee to review such cases. On the other side, the MLGA has assigned a group of its officials to monitor the work of the municipal assemblies and to report on the acts approved by them, so that such review can be done in due time and to the extent possible serve as a prevention tool too (MLGA Report 2013).

The other aspect of the external review is the auditing conducted annually by the Office of Auditor- General (Law No. 03/L-075), which is done for the purpose of promoting high standards of transparency, accountability, and integrity in the financial management and performance of the municipal administration. It shall be underlined that this auditing is the most important one in terms of financial discipline, and the reports of the Auditor-General have served on several occasions as an alerting message for the local officials, and consequently as a grounds for criminal prosecution of the municipal officials (the case of the mayor and directors of Prizren municipality).

Concluding Remarks

The process of local government reform is of utmost importance for a transitional democracy. The historical path of the evolution of Kosovo as a country and as a society has had a great impact on the level of development and democracy that we have nowadays. The long-lasting struggle for freedom and independence was at the center of any political action and activity. Essentially, the real traces of the local self-government system are the ones of the post-World War Two. For about half a century of the communist ruling, the system experienced several circles of changes, and the post-1974 political and constitutional brought the most substantial changes in the system of the local self-government. Effectively, for the first time in the history, the local structures were not only formally, but for real from among the local population, and served the local population. Of course, this all happened in the broader context of the political ideology that was in place that time.

The beginnings of the political changes and democratic transition in Eastern and South-Eastern Europe found Kosovo in the hopeless situation. The entire system of political values and institutional structures were set in ruin. Within a very short time, the institutions that were built for decades fell under the regime of dictatorship, and they became hostile towards the people they were aimed to serve.

The period of international administration brought new impetus into the political and societal life. Despite the fact that the composition of the international administration was so various and its personnel came from different cultures and different backgrounds, it succeeded to gain the full support and trust of the people. This stage was of emergency nature since the country that came out of the war at first needed food, shelter and safety and security. The joint international and national structures that were established afterward set the foundations of what later became the system of local self-government in Kosovo.

Kosovo has developed a system of local self-government that from the legal point of view is in full compliance with the framework arrangements set by the European Charter of Local Self-Government and other general guidelines established on the

basis of the best practices applied in Europe. Municipalities are very autonomous in the areas of their competencies. The competencies vested in local self-government institutions are very broad. The position of mayor in the local self-government system is very strong, and he has full authority to establish municipal executive structures for the purpose of implementing his/her objectives. Municipal assembly is an important institution of local representation, and also has a key role in policy formulations and approval of the key municipal acts and supervisory role as well.

The process of decentralization, as one of the key reforms in the local self-government system, has to be seen from at least two angles. First, it has brought substantial changes with regard to the municipal competencies since the central government has delegated a wide range of powers to local authorities. The positive side of this is that decision making was brought close to the local population, and for the interest of the local population. However, the negative side is, and it is going to be for a longer time, the lack of capacities at the municipal level to cope with the responsibilities vested in them. In addition, most of the municipalities have very low level of revenue collections, and their main budget is made by governmental grants and subsidies.

Second, decentralization in Kosovo was drawn more or less along the ethnic lines. More specifically, the newly established municipalities aimed to address the concerns of the local Serb community. Nevertheless, there is always a risk that this concept will produce the most undesired result—ethnic division of the country. It is obvious, that Serb community in Kosovo is reluctant to accept and recognize Kosovo's statehood. Moreover, they also advocate for strengthening the ethnic division via the establishment of the Association of Serbian Municipalities. The mere fact of naming the Association pursuant to the ethnic character is an indicator of the risk for deepening the ethnic division of Kosovo's society. This contravenes the spirit of multiethnicity that is enshrined in the constitutional system of the country.

There is no doubt that an autonomous and fully fledged local self-government system is instrumental in the development of a country, as well as for strengthening democracy, rule of law and overall welfare. It is paradoxical for local self-government structures to become detrimental to the system as a whole. For Kosovo, to have sustainable development and progress, as a country and as a society, is to have a

functional system of local self-government that at the center of attention has local development and individual liberty and freedom as a departing point of the liberal democracy.

Povzetek

Kosovo je najmlajša država v Evropi in s tem posledično najmlajša družba. V zadnjih (skoraj) dveh desetletjih je Kosovo doživelo velike preobrazbe kar zadeva izgradnjo nove družbe, ki temelji na načelih pravne države, dobrega upravljanja, spoštovanja temeljnih človekovih pravic, tržnega gospodarstva, svobodnega tržiščakarotudi vzpostavitvi države ter krepitvi njene mednarodne subjektivitete. V tem kontekstu je potrebno obravnavati transformacijski razvoj v sistemu lokalne samouprave. Kot vsaka družba, ne glede na politične in zgodovinske okoliščine, je tudi Kosovo šlo skozi različne faze politične evolucije in socialnega razvoja, pri tem pa gradilo svojo politično, geografsko in končno tudi državno identiteto.

Začetke različnih oblik sistema lokalne samouprave srečujemo v zgodnejši fazi, še posebej pred in med obema vojnama, vendar je najbolj hitri razvoj in izgradnjo lastne identitete zaznamovalo obdobje po drugi svetovni vojni. V tem obdobju, ko je Kosovo bilo del nekdanje komunistične Jugoslavije, je naredilo preskokk oblikovanju svojih samoupravnih političnih struktur. To še posebej postane pomembno po ustavnih spremembah iz leta 1974, ko je politični status Kosova pridobil status zvezne enote v okviru nekdanje Jugoslavije. Te spremembe so prinesle tudi druge pozitivne premike na vseh področjih političnega, institucionalnega in družbenega organiziranja, vključno z vzpostavitvijo sistema lokalne samouprave, kjer so občine postale pomemben dejavnik v lokalnem razvoju.

Obdobje razvoja se konča v sredini 1980-ih, ko so že iz znanih razlogov politične razmere na Kosovu in tudi v nekdanji Jugoslaviji začele zapletati, kar je kulminiralo z nasilnim strmoglavljenjem ustavnega reda in priključitve Kosova Srbiji. Posledičnose je javno in politično življenje spremenilo v instrument hegemonije, diskriminacije in nasilja nad večinskim prebivalstvom, vključno z množičnimi izgoni iz javnih šolskih objektov, izključenostjo iz zdravstvenih in upravnih storitev ter pomanjkanjem varnosti. Ta faza se je zaključila s krvavo vojno, ki je terjala življenja več deset tisoč ljudi. Materialna škoda ter stagnacijs družbenega, gospodarskega in kulturnega razvoja jepresegala imaginarno škodo, ki še danes bremeni krhko kosovsko družbo.

Po končani vojni se na Kosovo vzpostavila mednarodna uprava Združenih narodov (ZN UNMIK). Začel se je proces izgradnje družbe od nične točke na področjih

infrastrukture, javnega reda, zakonodaje, gospodarskega razvoja in družbene blaginje. Vzpostavitev UNMIK-ove oblasti in potreba po učinkovitosti sta terjali tudi vključevanje državljanov v lokalno vodenje. Tako se po več kot desetletju znova začenja vzpostavitev normalnega stanja institucionalne in demokratične realnosti, s centralnimi in lokalnimi oblastmi. Oblast se tako v centru kot tudi na lokalni ravni izvaja skupaj s mednarodnimi upravitelji (nosilec suverenosti) in lokalnih uradnikov (uslužbenci suverena). Ta faza je ustvarila priložnost za razvoj novega temelja bodoče lokalne uprave, ki je bila vodena z idealom po svobodni, uspešni, demokratični in večetni družbi, v kateri so individualna odgovornost, strokovnost in svoboden državljan postali temelji liberalne demokracije.

Kosovo ustvarja sistem lokalne samouprave, ki temeljni na načelih Evropske listine o lokalni samoupravi, uvaja jasno določen pravni okvir in standardizirane pristojnosti na lokalni ravni. Kljub socialno-etničnim delitvam, še posebej kar zadeva odnos albanske večine do srbske manjšine, je cilj novih lokalnih oblasti bil predvsem postopen razvoj. Kosovo je po osamosvojitvi, sloneč na načelih, ki jih je vzpostavila mednarodna uprava, urejalo pravni okvir za vzpostavitev lokalne samouprave in ustvarilo potrebno institucionalno infrastrukturo za uspešen zaključek faze mednarodne uprave. Proces reforme sistema lokalne samouprave je zlasti temeljil na implementaciji procesa decentralizacije. S procesom decentralizacije je bilo na Kosovu ustanovljenih še deset novih občin, predvsem z namenom odprave pomislekov etnične skupnosti kosovskih Srbov, hkrati pa je bil izveden obsežen proces devolucije kar zadeva prenos pristojnosti in odgovornosti iz centralne na lokalno raven oblasti. Razvoj sistema lokalne samouprave na Kosovu vzgodovinskem, političnem, pravnem in institucionalnem okvirju, je predmet analize magistrskega naloga.

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