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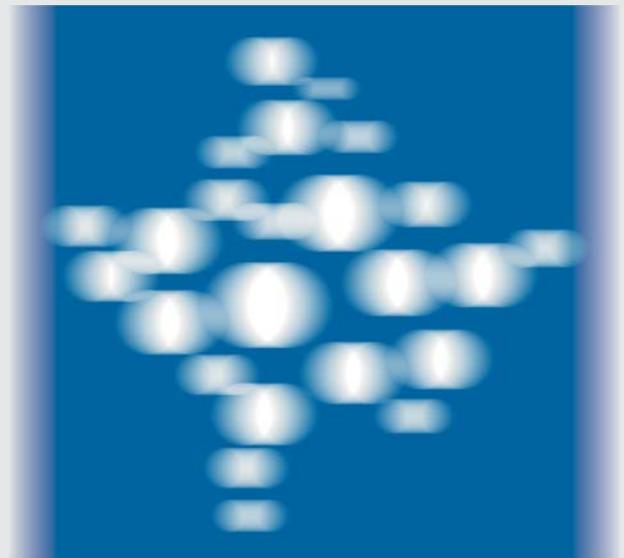
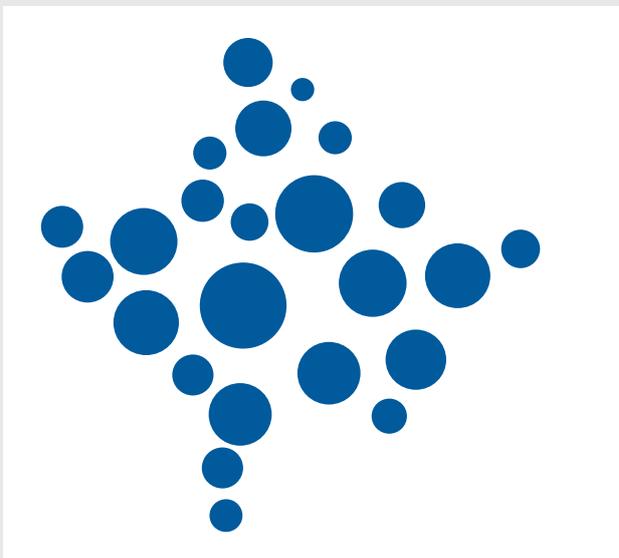
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**Besnik TAHIRI**

**Decentralisation and Local Governance Reform:**

# **Clear on paper blurred in practice**

**The case of Kosovo**



Pristina, June, 2010

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**Decentralisation and Local Governance Reform:**

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**The case of Kosovo**

A study on the prospects and challenges of Decentralisation in the Republic of Kosovo two years after the Constitution

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## **ABBREVIATIONS**

AFP	Agency for Forest Protection
AKM	Association of Kosovo Municipalities
APK	Agency of Privatization in Kosovo
BDMS	Budget Data Management System
CoE	Council of Europe
DFID	Department for International Development
EC	European Commission
EMI	Effective Municipality Initiatives
ICO	International Civilian Office
IPA	Instrument for Partnership Assistance funds
IWGD	Inter-ministerial Group on Decentralisation
KLGI	Kosovo Local Government Institute
KPA	Kosovo Property Agency
KVM	Kosovo Verification Mission
LLF	Law on Local Finances
LLSG	Law on Self Local Government
LMB	Law on Municipal Boundaries
LOGOS Support	Swiss-Kosovo Local Governance and Decentralisation
MCYS	Ministry of Culture Youth and Sport
MEF	Ministry of Economy and Finance
MLGA	Ministry of Local Government Administration
MLSW	Ministry of Labour and Social Welfare
MoU	Memorandum of Understanding
MPT	Municipal Preparatory Team

NGO	Non-Governmental Organisation
OSCE	Organisation for Security and Cooperation in Europe
SDC	Swiss Development Cooperation
SWG CBDC	Sub- working group on capacity building & coordination
SWG ENM	Sub- working group on establishment of new municipalities
SWG IC	Sub- working group on information campaign
SWG RL	Sub- working group on reform and legislation
SWG TCR	Sub- working group on transfer of competences and resources;
SWGRL	Sub-Working Group on Reform on Legislation
UNDP	United Nations Development Programme
UNMIK	United Nations Mission in Kosovo
USAID	United States Agency for International Development
WB	World Bank

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Lastly, I would like to express my appreciation to all the Mayors, MLGA officials, officers of international donor organisations and NGOs who were willing to contribute to this study through their interviews and discussions with us.

## **Abstract**

This report discusses the decentralisation process in Kosovo two years following the entry into force of the Constitution of the Republic of Kosovo and attempts to highlight the progress and challenges faced on the ground. Whilst there are multi-level developments that aim to make decentralisation a success story in Kosovo, it is still left to think tanks to monitor progress and to bring to the fore specific issues or concerns about the process overall. As such, the aim of this research is to cover the core aspects of this process – the establishment of new municipalities, legislation and transfer of competencies, cross institutional cooperation, resource mobilization and cooperation, and finally citizen participation. It should be stressed that these issues only partially cover the highly delicate and complex process that is decentralisation in Kosovo. With a clear methodology and research dedication, our objective here is to present a report that reflects the situation on the ground in realistic and practical terms.

In short, this research provides information about the implementation of international commitments by the Kosovo authorities in relation to local governance, the implementation of policies and legislation, the establishment of new local entities, the reform of local administrative structures and the issue of direct democracy. In all of its composing elements, the reader will notice that progress is not constant though efforts are being made. One can also find that, for a country in transition, decentralisation is a challenging task.

As an institution we have published this report in order to contribute to the improvement of local government in Kosovo, strengthening the integration and function of one political system across Kosovo, and also to help advance modern governance through the cultivation of direct democracy.

## Executive Summary

Decentralisation has been at the heart of the reform agenda for the newborn Republic of Kosovo. With an advanced constitution enshrining the highest European principles on local self government, the legal basis for which decentralisation has been founded upon is strong. However, the implementation of such legislation has proved to be a domestic challenge for the Kosovo authorities and international partners as will be addressed throughout this paper.

This study highlights the progress and challenges that have been faced by the Kosovo authorities and municipalities in implementing the decentralisation plan. Although legislation is clear, strengthening direct democracy through the increased roles of municipal mayors, there is still a long way to go before Kosovo's central institutions, civil society, citizens, and the international community see decentralisation to be working in practice. Hence, in general there is evidence that there has been progress in the process of decentralisation throughout Kosovo, it can be emphasized that as such, a functioning, sustainable and efficient form of local governance still remains a future objective for Kosovo.

Information about the progress of decentralisation with reference to the establishment of new municipalities, the transfer of competencies and solid financial support is included in this study. Attention is also focused on the shortcomings in regard to capacity building and inter-institutional cooperation. There are references to increased institutional commitments, oversimplification and misunderstanding of the benefits of decentralisation or resistance against this process by both majority and non-majority communities. As such, particular attention has been paid to misconceptions and politicization of the decentralisation process by sceptics, opponents or adversaries.

The report also records the different range of successes and challenges amongst the Kosovo municipalities; detailing the successful cases, such as that of Ranillug, to unsuccessful municipalities such as North Mitrovica. Whilst the difficulties faced by each newly established municipality including their confusion or disputes over responsibilities, territory and population with mother municipalities will be discussed, the study will also look at identifying solutions. There is a growing interest to provide a smooth transition into a decentralized system of governance and as such, an increased interest in openness and cooperation. This study details the lack of coordinated planning at various levels in order to propose some solutions.

Due to the lack of expertise and failure of cross-institutional cooperation there is now an urgent need for making local government legislation more coherent and easily implementable. Despite efforts, there is a lack of policy focus and direction from the working groups. The evidence provided in this report illustrates that more has to be done regarding financial planning, needs assessments, and managerial or absorbing capacities of the new municipalities.

There are two additional issues that are addressed in this report. The first is that of donor support which could be improved in terms of coordination and in depth assessments of the demands on the ground. Another relates to the

participation of citizens, the role of civil society and the media. In this area there is much room for improvement.

Finally, this report is highly responsive to issues that interpret decentralisation from the point of view of European Integration. As will be indirectly addressed in this paper, decentralisation is an integral part of state consolidation and thus it is up to international partners in close cooperation with central institutions and local actors to stand firm and be clear that the progress is not isolated but covers all the territory of Kosovo and its communities. One of the cornerstones of modern democracies is to ensure that there is transparency, responsibility and accountability in the political, legal and financial spheres. Without this, the spirit of Kosovo's constitution – reflecting best international principles – will be breached. One of the challenges now is to make Kosovo a state adhering to rule of law and justice for all.



# I. Introduction

Two years since the coming into force of the Kosovo constitution, Kosovo's local government has been substantially transformed. The Constitution of the Republic of Kosovo now ensures the right to local self-government and guarantees different levels of competencies for the municipalities, providing a high level of autonomy from central government. It has also transformed the physical shape of municipalities by changing borders and adding new municipalities to cater to various community needs. From its outset, the process of decentralisation in Kosovo has been pursued as a commitment of international nature by the Kosovo authorities. It has been marked by promises from the central government, high hopes and expectations from the municipalities and by great dedication from international organisations which have supported the strengthening of Kosovo's local government.

For Europe, decentralisation is seen as a means through which to foster democratization and strengthen the functioning of a political system. Modern European societies have called upon the European Charter of Local Self-Government adopted by the Congress of the Council of Europe to support their decentralized systems. Among other affirmative provisions, the European Charter stresses that local authorities acting within the limits of the law, are able to regulate and manage a substantial share of public affairs under their own responsibility in the interests of the local population.<sup>1</sup> Despite not being part of the Council of Europe, Kosovo has fully embraced the principles of the European Charter at the highest legislative level. Chapter 10 article 123.3 of the Constitution of the Republic of Kosovo states that "[t]he activity of local self-government bodies is based on this Constitution and the laws of the Republic of Kosovo and respects the European Charter of Local Self-Government. The Republic of Kosovo shall observe and implement the European Charter on Local Self-Government to the same extent as that required of a signatory state."

Nevertheless, a decentralized form of government has been a challenge for Kosovo. Decentralisation has primarily been a top-down and international policy. It was first introduced by the United Nations Mission in Kosovo (UNMIK) as a tool through which to address political realities in Kosovo following the 1999 war, and only gained serious consideration during the status negotiation process led by Maarti Ahtisaari. During the status talks when decentralisation was discussed at the highest levels, beneficiaries and municipalities were not consulted. Although an overwhelming majority of the municipalities now welcome the new competencies to manage services at the local level, they are also left with the need for more support and resources in order to effectively implement competencies assigned to them by law.

It has become clear that decentralisation in Kosovo is not an easy or steady task. Many have indeed witnessed a very complex process of planning and managing the implementation of local government legislation on the ground. Not only has it been a complex process at the functional level but also in explaining changes to all actors involved as well as to those most affected through their daily life, the citizens of Kosovo. However, as the European Commission Progress Report

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<sup>1</sup> Council of Europe, *European Charter of Local Self-Government* 1985, available at <http://conventions.coe.int/treaty/en/Treaties/Html/122.htm>, last accessed on 16 April 2010; henceforth referred to as 'the European Charter'.

for Kosovo stated, “[t]here has been some progress in the area of local government administration reform and decentralisation, which is a key European Partnership priority. Working groups have been formed on legislative reform, establishment of new municipalities, devolution of competencies and resources, information campaigns, donor coordination and capacity building.”<sup>2</sup> According to the 2009 official Ministry of Local Government Administration (MLGA) estimates, 75% of decentralisation projects have been implemented.<sup>3</sup>

As such it is the aim of this report to highlight the progress and efforts that have been made over the past two years towards a decentralized state by evaluating the challenges the process has undergone. Five main issues of decentralisation will be addressed; a) establishment of new municipalities, b) reform of legislation and transfer of competencies, c) cross-institutional cooperation, d) mobilization and coordination of resources, and e) citizen participation in decision-making.

## **Aim of the study**

Although there are various dimensions to decentralisation, the aim of the study is to address decentralisation from the perspective of legal and institutional reform, political implications, and community acceptance including socio-economic implications.

This study firstly describes recent developments in local government reform since the decentralisation plan envisaged by Maarti Ahtisaari in his Comprehensive Proposal for the Kosovo Status Settlement<sup>4</sup> was incorporated into the Kosovo Constitution and subsequently embraced by the Kosovo Government and its institutions. What is of particular interest here is the implementation of the Constitution and overall legislation regulating local governance, as well as the political implications of this. Finally, in an attempt to uncover the daily practical challenges of decentralisation for citizens, the study also gathers evidence based information relating to the implementation of policy and legislation on the ground.

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<sup>2</sup> European Commission in Kosovo, *EC Progress Report 2009 for Kosovo*, pg. 8., available at [http://www.delprn.ec.europa.eu/repository/docs/ks\\_rapport\\_2009\\_en.pdf](http://www.delprn.ec.europa.eu/repository/docs/ks_rapport_2009_en.pdf), last accessed on 16 April 2010.

<sup>3</sup> Lajm Newspaper, *Interview of Minister Ferati given to Lajm Newspaper*, 16 December 2009.

<sup>4</sup> Hereinafter referred to as the ‘Ahtisaari Proposal’, available at [http://www.unosek.org/docref/Comprehensive\\_proposal-english.pdf](http://www.unosek.org/docref/Comprehensive_proposal-english.pdf), last accessed 15 March 2010.

## **Methodology**

This study is the result of quantitative and qualitative research carried out by the Kosovo Local Government Initiative (KLG I). Data has been collected from both primary and secondary sources gathered from various field visits, discussions with municipal representatives and with central government civil servants including the MLGA. Consultations with civil society organisations and representatives of the international community also served as an important input for this report. During the last four months (February – May 2010) the KLG I conducted a more in-depth desk research consulting various reports including the progress reports published by the MLGA and other reports published by the international community. The study is also a continuation of the work conducted last year when KLG I published the paper “Implementation of Decentralisation: One Year After Constitution,” which was followed with a conference on the same topic.





## **II. Establishment of New Municipalities**

### **A. Overall Context**

Whilst it is true that the MLGA and other central institutions spend a considerable amount of time and energy attempting to inform the public that decentralisation is more than setting up new municipalities, many continue to have misinformed views of what decentralisation is and what it will bring them. This is primarily due to a lack of focused institutional and public debate as well as limited qualitative media coverage. The decentralisation process has also been oversimplified and for many it now represents a process intended to satisfy only the needs and expectations of non-majority communities within municipalities. One part of civil society has gone as far as raising concerns on what they assume will be negative consequences of the decentralisation process. Increasingly therefore, decentralisation has been interpreted as a stepping stone toward the division of Kosovo along local demographic compositions.

In Kosovo it is widely accepted that decentralisation will result in the enhanced position of non-majority communities through extended rights, institutional protection, and financial support. However, decentralisation also provides other provisions for existing municipalities which are often neglected in order to improve the position of the majority which was not territorially and demographically affected by the decentralisation process. For example, for majority population, decentralisation can be used for inter-municipal cooperation, opportunities for public and private partnership at local level, creation of public companies, or provision of extended services.

Alongside concerns about the way in which the decentralisation process has been arranged, shaped and implemented, sceptics have been quick to judge and question the ultimate goal of decentralisation by questioning legitimacy and domestic ownership. Some have linked decentralisation to ethnic and territorial issues which could potentially interfere with the still relatively new independence of Kosovo. Hence on one hand, part of the majority population remains sceptical and sensitive about issues relating to sovereignty, independence and ownership over the processes that affect governance and territorial integrity. On the other hand part of the non-majority population, notably the Serb population, tends to avoid the newly created reality of Kosovo being an independent entity.

Generally however, it has been observed that the process of decentralisation and the establishment of new municipalities have been marked with both challenges and successes. Considering the current socio, cultural, and political climate, and the fact that Kosovo remains a post war country in transition, Kosovo has been successful in initiating the implementation process of what is a sensitive and complicated issue. Indeed, some of its success may in fact be attributed to what some are sceptical about, the level of external intervention. This said, decentralisation has also appeared to be relatively acceptable for local communities living within newly established municipalities.

Under the current Law on Municipal Boundaries (LBM) deriving from the Ahtisaari Proposal and the Constitution, five new municipalities were to be created and one municipality was to have its borders extended. The close of 2009 and the start of 2010 were crucial in terms of setting up the territorial boundaries and ensuring the functioning of these new municipalities. Of the six new municipalities three (Graçanicë, Ranillug, Klllokot/Vrbovc) and the newly extended Novoberdo municipality participated in the local elections of 15 November 2009. Of the remaining two new municipalities, neither Mitrovice nor Partesh participated in the 2009 local election, nor were they placed on the Kosovo Government agenda due to on the ground feedback about local community reluctance to participate in any election process administered by the Republic of Kosovo. Following two years after the declaration of Kosovo independence, challenges remain.

## **B. Community Acceptance**

The decentralisation process is directly linked to the local community and as such requires cooperation, acceptance, and participation by all communities throughout Kosovo. Although the level of acceptance from Kosovo communities has been perceived as one of the greatest challenges for implementing the decentralisation plan in Kosovo, one can notice that there is an initial positive response by the non-majority populations to become a part of the decentralisation process. For example there has been a strong involvement of the sub-working group on Establishing New Municipalities in Mitrovicë, Gjilan, Kamenica, Novobërdë, Grancanica, Dobratin, Gushterice, Kufke, Bostan, Prekocv and Budrige where meetings have been held with representatives of the Serbian community, Serbian NGOs and representatives of Serbian political parties in order to establish contact with Serb citizens within these municipalities. The aim of such efforts has been to involve the Serbian community in cooperating with the process of decentralisation and to encourage them to become a part of the municipal preparatory Teams (MPTs). According to the MLGA, 30 individual such meetings were held.<sup>5</sup>

However, for the Serbian community decentralisation continues to be negatively linked to the package that helped bring about Kosovo independence. Accepting part of the independence package, such as the system of decentralisation, is equivalent to some as accepting the full independence of Kosovo. As such, opposition to newly established municipalities may continue for some years to come, with the legal basis and the legitimacy of the entire process being disputed by a considerable number within the Serbian community. This has predominately been the case with Serbs from the north of Ibar River and those in enclaves who have seen the outcome of decentralisation as a blueprint for the independence of Kosovo. In this sense, decentralisation has become 'politicized' and thus a sensitive issue that has been difficult to push forward. Most recently, the Serb community has demonstrated this opposition by allowing local elections organised by Belgrade to be held in North Mitrovice and Novobërdë.

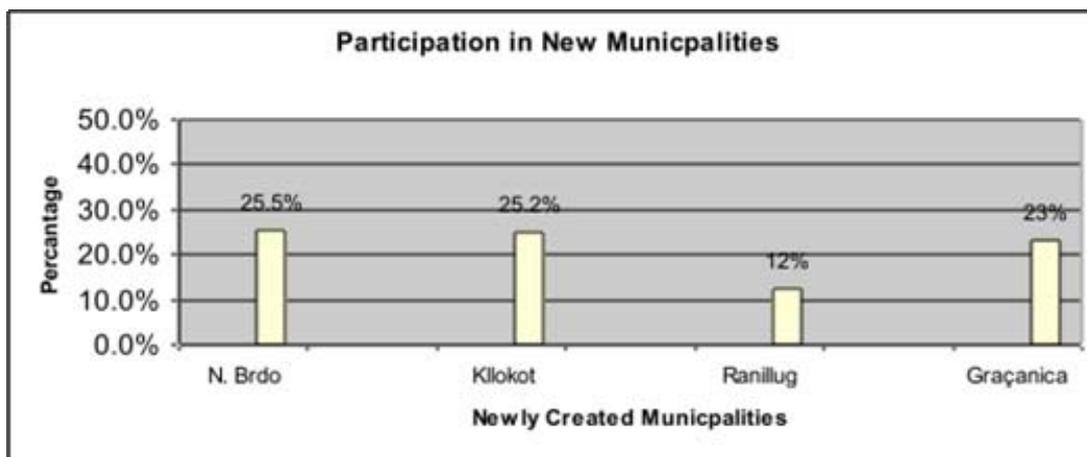
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<sup>5</sup> Work Report on Working Groups on Decentralization, (April 2009 – February, 2010). MLGA February, 2010.

### C. Participation during the 2009 local elections

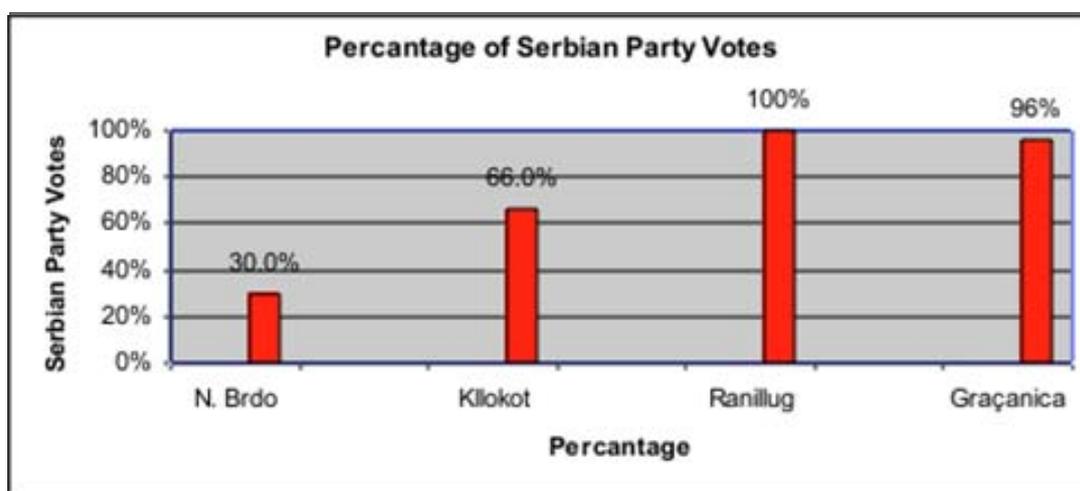
Although the turnout during the 15 November 2009 local elections in the new municipalities was not high, it has been perceived by the MLGA as a success considering the circumstances. Participation in the new municipalities was Gračanica (23%), Ranillug (12%), Klllokot (25.2%), and Novoberdo(25.5)<sup>6</sup>.

**Graph 1.**



It should be stressed that even though the majority of the population in Novoberdos Serb, it is the Albanian community that voted. One third of voters from the municipality of Klllokot and 4% of the voters in Gračanica came from the Albanian community. It is only in Ranillug that all the voters from the Serbian community but it is evidenced that at 12%, voter participation was quite low.

**Graph 2.**



<sup>6</sup> Democracy in Action results - [www.demokracianeveprim.org](http://www.demokracianeveprim.org)

## D. New Municipalities

It has been noted by several interlocutors that decentralisation has undermined illegal parallel structures on the ground, although the evidence from the ground shows that still they are present. The newly established municipalities have brought about new developments in the field as well as challenges. New municipalities are struggling to provide basic services to their communities as they have to compete within the parallel structures. In this regard, it is of fundamental importance that the new leadership brings about early results as well as practical and concrete initiatives that will help to strengthen the legitimacy of Kosovo's local government system amongst citizens of Kosovo. It is of crucial importance that the current 'battlefield' regarding service delivery is won by the new locally elected municipal leadership. However, due to the delicacy and fragility of the current system, new municipalities may continue to rely on the overall support from the central government, international institutions and other stakeholders, in particular mother municipalities which continue to hold a strong voice and remain influential.

### 1. Ranillug

The newly created municipality of Ranillug has now consolidated its power and is receiving support from the local government. Yet municipal staff is without a permanent building. The current mayor has been proactive in initiating the formal procedures for creating the necessary space, and there is evidence that there is enthusiasm, willingness and initiative amongst municipal administrative staff to successfully work towards benefitting their community. In this case it is an advantage that the Mayor, the Deputy Mayor and some staff have some experience in municipal governance.

Challenges remain however. The transfer of documentation for example from Kamenica to the new municipality has not yet taken place. Despite a positive initiative from Kamenica municipality to engage in inter-municipal spatial planning to further urban development, progress has been slow. Although the mayor of Kamenica is exploring new opportunities and the difficulties in issuing building permits from Kamenica to the Ranillug cadastral zone have now been resolved, it is a matter of urgency that an MoU be signed between these two municipalities in order for Ranillug to be able to fully embark on providing efficient services for its citizens.

The MLGA has also been a positive influence in visiting, mentoring and advising the new administration. Recently a joint visit by the head of the International Civilian Office in Kosovo (ICO) and the MLGA minister has given a new impetus to municipal leadership and encouragement. Though there has been an expectation that there will be completion of administration in the new municipality, this still remain ongoing process but there are signals



that it will be successfully realized<sup>7</sup>. The Mayor of Ranillug claims that the parallel structures are less visible and active due to his presence. Yet unless the administration is completed and fully operational, the path to a successful and functioning system of local government will be delayed, and both salaries and services will continue to be provided for by the parallel structures.

In addition, the group for national self-determination, "Vetvendosja", as well as other local activists are voicing uncertainty about the success of efforts in Ranillug. To some extent the way this movement is interpreting decentralisation is mainly ethnically dominated and passes a kind of political message which is not always correct and in line with general perspective. More specifically there are concerns amongst the elected leaders and citizens of Kamenica who are unhappy with the cadastre zones that have been given to Ranillug. They believe that such a move physically detaches Petrovc from Kamenica as Ranillug is right in the middle of the Municipality of Kamenica. Changes to the Statue of Kamenica municipality were proposed by the Mayor of Kamenica, Shaip Surdulli, on 3 May 2010 due to the changes in territory, giving parts of Kamenica to Ranillug and Novobërdë, yet were not ratified because the opposition political parties did not agree to it.<sup>8</sup>

In short, the evidence from the field visit and other sources give impression that the work of the Mayor of Ranillug and initial support provided by central actors, give hope that the process of establishment and functioning of Ranillug will succeed. However, it's obvious that further success depends on the commitment and support from central government and indeed support from mother municipality.

## **2. Graçanica**

Graçanica is the newly created municipality that seemed most ready to take local governance into its own hands. Most attention was paid to Graçanicë by central government and donors because it has the largest population of the newly created municipalities of the Serbian community. The central government and MPTs have been quite successful in establishing the municipality. This is thought to be attributed to the fact that many meetings were held with the local community, non-governmental organisations and businesses in the lead up to the creation of the municipality. Financial support was also given to Graçanicë from the Kosovo Government, the Republic of Albania and international partners. There has also been a high number of businesses, construction projects, and interest for investment in the Graçanicë cadastral zone which has allowed Graçanica to sustain and implement initiatives from its own revenue collection.

Challenges and conflicts have faced Graçanica during the consolidation period of its new municipality. For example, on 26 April 2010 the municipality put a construction project on hold as its license had originally been received from

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<sup>7</sup> Interview with Mr. Fatmir Matoshi, Director of D - Press Radio of Kamenica. Held on 31 March 2010.

<sup>8</sup> Koha Ditore, 4 May 2010, pg. 14.

Pristina rather than Graçanica.<sup>9</sup> Incidents such as this appear common in the newly created municipalities. Line ministries and the MLGA should resolve such disputes through MoUs. or administrative orders. Such issues are sensitive as they can have the effect of deterring foreign investments if such investments are annulled or delayed for administrative or border issues and negatively impact the municipality and Kosovo as a result.

Similarly to Ranillug , Graçanica has faced difficulties with the continued existence of the parallel structures which continue to provide for health and education services, thereby preventing harmony within the Kosovo legal system and creating opposition to the elected municipal structures. Yet despite these drawbacks and obstacles, Graçanicë has the potential to become a success story.

### **3. Kllokot**

Although the election process in Kllokot has successfully been implemented and a new leadership is in place, its location within the Viti territory and the major resistance from the population of Vitia over the past two years suggests that tensions and challenges may still occur.

Receiving competencies in the area of education was amongst one of the first challenges faced in establishing Kllokot as a new municipality.<sup>10</sup> It is encouraging that the MLGA has responded to resolving this issue as well as addressing other obstacles. A positive step has also been made by the Mayor of Vitia who previously, was openly and actively against the establishment of Kllokot, and has now confessed that he is willing to cooperate in the establishment of Kllokot.<sup>11</sup>

Kllokot has limited and scarce resources preventing it from being fully self sufficient. It must not therefore ignore possible means of cooperation with mother municipalities such as Gjilan, Kamenica and Vitia . Kllokot must also work with new municipalities in order to function well and demonstrate to Partesh and North Mitrovica that the new municipalities are effective and not detrimental to any of the communities inhabiting within their borders.

### **4. Partesh**

Local elections could not be held in Partesh on 15 November 2009 to form this municipality due to the strong resistance from the Serbian community. Although MPTs have been present in the field and they continue to be present with 14 members; 9 from the Serbian community, 3 Albanian and 2 Bosnian, there have been occasional threats to them.<sup>12</sup> Despite the threats, none have resigned from their positions. As of now, Partesh is set for holding elections on the 20 June 2010. Three citizen initiatives have placed their candidacy for Mayor. Partesh has

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<sup>9</sup> Aktvendim i Drejtorise se Inspekcionit. Municipality of Gracanica. 25 April 2010.

<sup>10</sup> *Lajm Newspaper*, 'Cooperation Kllokot-Vitia Started', 12 February 2010. Pg. 9.

<sup>11</sup> Interview with the Mayor of Viti Municipality – Tuesday, 4 May 2010

<sup>12</sup> Kosova Sot, 'Interview of Minister Ferati to Kosova Sot Newspaper', 13 March 2010.

also been visited by the MLGA as well as USAID to implement projects aiming to improve infrastructure in time for the elections.<sup>13</sup>

Participation in the elections could prove to be problematic due to the history of resistance from the local community during the 2009 elections and the fact that Partesh is in the current territory of Vitia Municipality which has been the most opposed to territorial decentralisation. It remains to be seen how well Vitia will cooperate in handing over competences and documents to the newly created municipality in the coming months.

## **5. North Mitrovica**

Although it was a positive development the well functioning of MPT which aimed to enable creation of North Municipality of Mitrovica, it can be stressed that not much results in the ground has been achieved by its activities. When addressing the establishment of North Municipality of Mitrovica, there is an evident confusion on who does what in this process. For ICO and Kosovo institutions, the strategy on North Mitrovica which has been approved recently is expected to serve as a guiding principle for the establishment of municipality; however it is obvious that with Belgrade organized elections in North Mitrovica we witness a direct obstruction in regard to the establishment of North Municipality. Parallel elections planed to be held on 30th of May will further aggravate the process, and as such they also pose a direct breach of Kosovo laws and hinder international and domestic commitments as envisaged by Ahtisari and Kosovo constitution. Northern Kosovo has been a greater struggle ever since after the war, at that time for UNMIK and now for Kosovo, to extend its institutional authority in the region. This has been constantly prevented by the illegal structures that have laid root for 10 years now in administering this region of Kosovo.

Moreover, since the 1999 war, extending institutional authority in Northern Kosovo has been a sensitive and difficult issue first for NATO, and now for Kosovo. This has been continuously prevented by the illegal structures that have laid root over the past 10 years in administering this region of Kosovo. The municipality of North Mitrovica has not yet been created as local elections have not been held. Nor are there any municipal elections foreseen in the near future, other than those most recently organised by Belgrade but illegal. A few election dates have been mentioned however implementing agencies are careful to set a date that may be too soon for this challenging municipality. Parallel structures in North Mitrovica continue to be strong and remain the contact point for all Serb community services in North Mitrovica.

According to the Minister of the MLGA, polls showed that 70% of the local community in North Mitrovicë were not satisfied with the parallel structures.<sup>14</sup> However, the Minister and implementing parties have also had problems with meeting with the local community in North Mitrovica and have not indicated a need to meet with proponents of the parallel structures. It is similarly questionable whether or not the parallel structures would want to meet with the Kosovo institutions. For the local community of North Mitrovica, creating a

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<sup>13</sup> Lajm Newspaper, 'Partesh Serbs to Take Part in Elections', 22 April, 2010.

<sup>14</sup> Interview of the MLGA Minister Sadri Ferati

new municipality is still associated with recognizing the independence of Kosovo.

The MLGA considers the establishment of a municipality in North Mitrovica a priority and recognizes it as the biggest challenge of implementing territorial decentralisation in Kosovo. The Ministry is working carefully to establish this municipality and to involve as many partners and pool as many resources as possible to overcome this challenge. Since February 2010 MPTs have been created with citizens willing to help create a municipality in the north. For three months now, members of MPT for North Mitrovica met with citizens, civil society and the business community in North Mitrovica. Despite some positive moves, threats have been made to MPTs members who still cannot meet openly with citizens and function openly in the field.

A recent 'strategy for Northern Kosovo' which aims to increase the presence of Kosovo institutions north of the Ibër/Ibar River and to integrate Kosovo Serbs into the Kosovo structures is somehow overlapping MLGA efforts. Thus, as such it may also raise the issue of duplication of efforts and responsibilities.<sup>15</sup> As such there needs to be a coordinated approach among Serb and Albanian approaches, and the Government must include the MLGA in the proceedings of the strategy for the North.

Apart from North Mitrovica, in other three municipalities of Kosovo - Leposaviq, Zhubin Patok and Zveqan there is no functioning of administration. Apart from Zhubin Patok where only 3000 citizens took part in the elections, the structures of these municipalities do not have any connections with institutions in Prishtina.<sup>16</sup> The MLGA and the Government must establish contact with the local community in these three municipalities whether it is through MPTs or through other means. The local community in the Northern municipality are not aware of the local government laws of Kosovo and do not know of the level of cooperation that they can have with Kosovo institutions and Serbian institutions. They are not even aware of the benefits that the MLGA is able to offer them if they participate in local elections, such as the possibility for funding from international donors, nor of the positive cases of the newly established municipalities (Graçanica , Ranillug, and Kllokot).

In conclusion the elected leaders of newly created municipalities are willing and prepared to take on the full responsibility of leading a municipality under the laws of Kosovo. This has not been without major challenges and remains an arduous task for municipal staff to ensure that their municipality functions and operates fully and fairly according to law. The effective and efficient transfer of competencies from mother municipalities and central government will be essential for the successful functioning of new municipalities, as will be the human and financial capacities available to them. One step has been made towards this effort with the signing of a MoU on 30 March 2009 to transfer competencies between mother municipalities and newly created ones,<sup>17</sup> however delays, disagreements, and in one case conflicts, have been a hindrance to progress.

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<sup>15</sup> Interview with the Director of Administration at MLGA, Rozafa Ukimeraj. Held on 29 March 2010.

<sup>16</sup> KQZ results – For more visit <http://www.kqz-ks.org/>

<sup>17</sup> MLGA web portal, 'Memorandum of Understanding is Signed for Transfer of Responsibilities from Mother-Municipalities to the New Municipalities', 31 March 2010.

## 6. Novoberdo (Territorial extension)

NovoBerdo has been extended towards Gjilan and Kamenica to include 204 m<sup>2</sup>, more than twice its current size. The mayor of NovoBerdo stated that even though not many of the Serbian community participated in the local elections of Novobërdë, one third (1/3) of the municipal assembly is from the Serbian community (five assemblies in total) and from three Serbian political parties<sup>18</sup>. The governance of the municipality of NovoBerdo has proved to be a good example of inter-ethnic governance with an Albanian Mayor and Serbian Deputy Mayor and Deputy Chairperson of the Assembly. Furthermore, four of the ten divisions within the municipality will have Serbian directors and high officials from the Serbian community will be present in the divisions directed by Albanian parties, and vice versa. The Social Welfare Centre will also be headed by a member of the Serbian community. Positive discrimination is being applied by the Mayor in order to draw more participation and cooperation from the Serbian community in Novobërdë.

The village of Pasjak has signed a petition against the relocation of their village to the enlarged municipality of NovoBerdo. Around 80% of the population of Pasjak who are eligible to vote have signed this petition. The village is currently two kilometres from the services provided by the Gjilan municipality, but with its planned integration into NovoBerdo, the municipal services will now be 30 kilometres away.

NovoBerdo along with USAID is in the process of establishing satellite offices to provide services to five newly integrated areas, most of them with a Serbian majority. The office in Stanishor has been renovated and is now ready to operate. Initiated by the MLGA, the Pasjak offices, have also renovated and new employees from the Serbian community will be hired to help bring services closer to the citizens. Moreover, the grants and the overall budget are double for NovoBerdo due to enlargement plans. Capital investment has increased from around 300,000 Euros last year to 600,000 Euros this year.<sup>19</sup>

Despite these efforts, the municipality of NovoBerdo still faces challenges to its power. The parallel structures are still present and it remains to be seen how much of an effect the recent developments of decentralisation in NovoBerdo have on the parallel structures. The declaration by Minister Ferati that the operationalisation of new municipalities will fade and dismantle parallel structures has not yet been fully witnessed.<sup>20</sup> Also, the Mayor of NovoBerdo has expressed discontent with the support that he received from the central level following the local elections and the subsequent extension of the territory and increase in responsibilities. Mayor Ymeri stated that "those that in the past have been very active in decentralisation [MLGA and ICO] now have been passive and are not showing any action".<sup>21</sup> He has shown dissatisfaction with the support of the government and it was reported in the media that the visit from the American ambassador, Christopher Dell, on 30 of March 2010 was one of the first official visit to NovoBerdo after the new municipality was formed.

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<sup>18</sup> Interview with Bajrush Ymeri, Mayor of NovoBrdo. Held on 31 March 2010.

<sup>19</sup> Interview with Bajrush Ymeri, Mayor of NovoBrdo. Held on 31 March 2010.

<sup>20</sup> Lajm Newspaper, 'Interview of Minister Ferati given to Lajm Newspaper', 16 December 2009.

<sup>21</sup> Interview with Mr. Bajrush Ymeri, Mayor of NovoBerdo – 4 May 2010

The municipality of Novoberdo is also having trouble with the handing over of responsibilities and the separation of the cadastre zones from Gjilan. The mayor of Novoberdo has taken the initiative to establish a working group of directors who have made calls to communicate with the municipality of Gjilan without any response. Novoberdo does not have adequate capacity to handle its responsibilities without the help of the MLGA in mediating between Gjilan and Novoberdo as well as and Kamenica and Novobërdo.

### **III. Legislation and transfer of competencies**

#### **A. Overall Context**

Decentralisation has attracted the most attention from the Kosovo public due to the immense challenge it poses the Kosovo authorities. One of the most contentious areas has been that of the transfer of competencies because on paper these look solid, yet in practice there are serious issues and gaps. The mayor of Novoberdo for example complains that on paper he received all the competencies necessary for the successful administering of the municipality, yet the means with which to manage those competencies have not been provided for. Nor is there interest from amongst the line ministries increase their involvement.

#### **B. Legislation**

Immediately after the declaration of Independence, the government of Kosovo ratified three basic laws to regulate local government.<sup>22</sup> The Law on Local Self-Government (LLSG) sets a clear structure for local governance. It decentralizes 25 competencies to municipalities and four enhanced competencies to municipalities with a Serbian majority. Fully implementing this Law as well as the Law on Local Finances requires the harmonization with previous legislation. Similarly it will also require future harmonization with the development policies of the European Union.

The sub-working group on Reform and Legislation has identified 15 laws that are inconsistent with the LLSG, six of which are on the legislative agenda to be ratified by the Assembly of Kosovo<sup>23</sup>. The six pieces of legislation to be harmonized with the LLSG by this sub-group are:

1. Draft-law on amending and supplementing the law on protection from natural and other disasters;
2. Draft-law on amending and supplementing the law on fire protection
3. Draft-law on amending and supplementing the law on primary and secondary education in Kosovo
4. Draft-law on Mandatory and High Secondary Education
5. Draft-law on amending and supplementing the Law on Health
6. Draft-law on amending and supplementing the Law on Administrative Procedure.

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<sup>22</sup> Law on Local Self-government (February 20, 2008), Law on Administrative Boundaries (February 20, 2008), Law on Local Finance (March 13, 2008)

<sup>23</sup> Work Report on Working Groups on Decentralisation (April 2009 – February, 2010). MLGA February, 2010.

There have been delays in transferring many responsibilities from central to local government, preventing progress. Several laws have not yet been ratified. For example, under the LLSG the municipality is to provide and maintain the provision of water and waste. However, neither the Law on Waste nor the Law on Water have been passed on to the Kosovo Assembly. Similarly, the Law on Natural Disasters and the Law on Fire Protection have not been ratified stalling the transfer of emergency response to the local level. According to the Legislative Strategy of 2010, it was hoped that the Law on Health would reach the Assembly in May 2010, setting the legal basis for the transfer of primary health care to the municipalities as specified under Article 17m of LLSG24. Although the draft Law on Tourism has gone through the competent Parliamentary Committees, it has remained with the Assembly since last year. Similarly, the Draft-law on Social Schemes remains with the Assembly.

### C. Transfer of competencies in practice

According to the Sub-working group on Transfer of Competences and Budget Resources (SWG TCBR), the transfer of 'own' competences have been completed. However, the Sub-working group and the MLGA need to be careful to remember that by just signing a MoU with the municipalities or simply passing legislation does not mean that in practice the municipalities are exercising that competence.

Some municipalities complain that competences have been transferred on paper but not in actuality. The MLGA should evaluate the capacities of a municipality to absorb the new competences successfully. That is not to say that the municipalities do not show willingness to receive the new competences or that they do not have the capacities to handle them, but that this opportunity should be used to train the local officials on their new responsibilities and sharing best practices among municipalities. In the long run this would improve the service delivery process at the local level.

#### 1. Own competencies

Name of Own Competence	SWG TCBR	In Practice
Local Economic Development	Transferred	Already a local competence.

<sup>24</sup> Kosovo Government's Legislative Strategy for 2010. Office of Prime Minister of the Republic of Kosovo. [http://www.kryeministri-ks.net/repository/docs/STRATEGJIA\\_LEGJISLATIVE\\_TRI\\_GJUHE\\_+\\_Vendime\\_e\\_plotesuar\(1\).pdf](http://www.kryeministri-ks.net/repository/docs/STRATEGJIA_LEGJISLATIVE_TRI_GJUHE_+_Vendime_e_plotesuar(1).pdf). Accessed

Urban and Rural Planning	Transferred	Already a local competence. Very few municipalities have completed their spatial planning program as request by the Ministry of Environment and Spatial Planning. Some of them do not have the capacities.
Land use and Development	Transferred	No direction on renting of property by the local government.
Implementation of Building Regulations and Building Control Standards	Transferred	No trainings on building control standards.
Local Environmental protection	Transferred	Already a local competence but needs the support of the respective ministries in order for municipalities to carry out bigger projects than their budgets can afford.
Provision and Maintenance of Public Services and Utilities, including Water Supply, Sewers and Drains, Sewage Treatment, Waste Management, Local Roads, Local Transport, and Local Heating Schemes	Transferred	Not transferred fully or fully function. Legally they are transferred to municipalities or group of municipalities but they have not been fully functional since the municipalities are falling being in naming their board members.  Water management is not being transferred.
Local Emergency Response	Transferred	Transferred
Provision of Public Pre-primary, primary and secondary education, including registration and licensing of educational institutions, recruitment, payment of salaries and training of education instructors and administrators	Transferred	Salary lists for teachers have been transferred and the appointment of school directors to the local governments.
Promotion and protection of human rights	Transferred	There are offices within municipalities for promotion and protection of human rights that have this function.
Provision of public primary health care	Transferred	Transferred. Salary lists of health workers are in local government hands. However, the list of essential medications, which falls under this competence, is not transferred.

Provision of family and other social welfare services, such as care for the vulnerable, foster care, child care, elderly care, including registration and licensing of these care centres, recruitment, payment of salaries and training of social welfare professionals	Transferred	Transferred but difficulties in management of the social services. There is need for trainings. Ministry of Labour and Social Welfare (MLSW) was slow in handing this competence to the local government but it was a big job since they had to deal with 30 local social service centres.
Public Housing	Transferred	Transferred.
Public Health	Transferred	Transferred
Licensing of local services and facilities, including those related to entertainment, cultural and leisure activities, food, lodging, markets, street vendors, local public transportation and taxis	Transferred	Already a local competence.
Naming of roads, streets and other public places	Transferred	Already a local competence.
Provision and Maintenance of public parks and spaces	Transferred	Already a local competence.
Tourism	Transferred	Already a local competence but needs the support of the respective ministries in order for municipalities to carry out bigger projects than their budgets can afford.
Cultural and Leisure Activities	Transferred	Theatres and Public Libraries transferred to 10 municipalities. Memorandums of Understandings signed with these municipalities and are being implemented (MoU with Prizren). The working group is still working on the transfer of archives and cultural heritage.
Any matter which is not explicitly excluded from their competence nor assigned to any other authority	Not assigned by the MLGA	Some municipalities have requested

## 2. Delegated competencies

Delegated Competence	SWG TCBR	In Practice
Cadastral Records		In the hands of the municipalities, except for the new municipalities and Novobardo that still are waiting to have all the cadastral records from mother municipalities.
Civil Registries		Transferred except for new municipalities. Even Mamusha, a municipality created in October of 2008, only in May functionalized its Office for Civil Registry
Voter Registration		Transferred as seen on last elections but problems with updating the list.
Business Registration and Licensing		Not transferred but in progress. World Bank project that is being tested in eight municipalities. In the process with software under way but not yet any results.
Distribution of Social Assistance Payments (excluding pensions)		Not Transferred.
Forestry Protection		Not Transferred. The Agency for Forestry Protection (AFP), an independent body created by the Assembly, still foresees forestry protection.
Republic of Kosova may delegate other competencies to municipalities	None	None

## 3. Enhanced competencies

Enhanced Competence	SWG TCBR	In Practice
Secondary Health Care (North Mitrovicë, Graçanicë and Sterpce).		Not Transferred under the jurisdiction of the Republic of Kosovo.

University Education (North Mitrovicë)		Not Transferred under the jurisdiction of the Republic of Kosovo. Parallel institution in the North of Mitrovicë does administer it.
Cultural Affairs, including, protection and promotion of Serbian and other religious and cultural heritage (Serbian majority Municipalities)		In the process of being transferred to the newly created municipalities. Whereas in the North not transferred under the jurisdiction of the Republic of Kosovo.
Selection of the Local Police Station Commanders (Serbian majority Municipalities)		In the process of being transferred to the newly created municipalities. A competence already under the jurisdiction of the Municipality of Sterpca.

There are many new competences that have been devolved by law to the local government and some of them are very complex. As seen from the table above, some competences have been partially or fully handed over to the local level. There are other competences that only a few municipalities by now exercise. Some municipalities still do not possess some competencies due to a lack of capacities, such as having a small and young administration as in Mamusha municipality, or existing internal conflicts. Some competences require creating the necessary mechanisms to make it possible to implement. For example, the delegated competence of business registration requires special software so that data from municipalities can be integrated into one server<sup>25</sup>. As such, not all competences can be clearly stated as “transferred”.

Extended competences, mostly reserved for the Serbian majority municipalities, can not be exercised by all entitled municipalities. Before all are entitled to these competencies, all Serbian majority municipalities must be created and functioning under the jurisdiction of the Republic of Kosovo. Such a demand is a great political challenge.

As seen in the table above, competences can be considered legally devolved to the local government since they are explicitly stated in the LLSG. However, in order to implement the law, and for municipalities to exercise these competences, MoUs must be signed between the municipalities and the line ministries, and in many cases the MLGA. Even though this is planned for by the inter-ministerial working group, challenges often arise. Not only do municipalities have to be ready to receive these competences, but central government and donor organisations have to raise the human and financial capacities of local administration staff to handle these new competences.

<sup>25</sup> *Transferi i Kompetencave (Informate)*. MLGA. Accessed 20 April 2010. Document.

Where the transfer from central to local governance has been successful is in the area of theatres and public libraries. A MoU was signed between the Ministry of Culture, Youth and Sports, the MLGA, the Ministry of Economy and Finance and the respective municipalities. One such memorandum was with the Municipality of Prizren. This MoU states that “[t]t is foreseen for the theatres to be administered under the responsibility of the Municipality of Prizren under the supervision of the Ministry of Culture Youth and Sport (MCYS). As part of this agreement, the municipality will undertake the management of the existing assets of theatres that deal with theatrical related issues. The municipality of Prizren will be responsible for securing and administering centres for culture and art in accordance with the Law on Theatres. Local government will review the daily administrative work; however the performance on accountability will be a responsibility of MCYS, but undertake in cooperation with the Municipality of Prizren.”<sup>26</sup>

Even though considerable progress has been made in the transfer of major competences, municipalities are not showing readiness to exercise some of these competences. In the case of the management of public corporations, now a municipal competence, many municipalities have not appointed any board members. This is especially true in the case of inter-municipal public corporations. By neglecting this, municipalities fail to exercise this transferred competence.

## **D. Building capacities for new competencies**

One of the major difficulties described by mayors is that the devolution of resources should go hand in hand with the devolution of responsibilities, turning blueprint into action. The research brings to the fore the issue that new competences should be supported by human and financial capacities in order for municipalities to effectively carry-out the competences allocated to them by law and offer good services to their citizens. There is the need for the creation of an effective public administration dedicated to the implementation of the laws and offering better services for citizens. This would be supported by civil servants recruited and assessed on their professional qualities.

New municipalities are mostly in need of capacity building and the MLGA has conducted some training. Such trainings for municipalities were provided on the following topics:<sup>27</sup>

- New legislation on local-self governance as well as the other legislation that municipalities should implement
- Administering citizen registration
- Training for legal offices in municipalities

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<sup>26</sup> Memorandum of Understanding for Delegation of Competences of Theaters in the Local Level. Ministry of Local Governance Administration.

<sup>27</sup> *Draft-Plan on Trainings for New Municipalities*. Ministry of Local Governance Administration.

- Preparing Projects for Public Investments
- Using technological tools for cadastre (GIS software)
- Spatial planning systems
- Implementation of spatial planning
- Environmental protection
- Municipal Inspection of the market, hygiene, traffic and construction
- Preparing Contracts for teachers
- Municipal Competences of the Department of Education
- Education Budget
- BDMS System
- Education Inspectorate
- Offices for Social Services

## **IV. Cross-instructional Cooperation**

### **A. Overall Context**

The decentralisation plan of Kosovo is ambitious and needs a great deal of cooperation and coordination at both the horizontal level (central government level) and vertical level (centre and local government).

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

### **B. Horizontal cooperation**

The Inter-ministerial Group on Decentralisation (IGD) has been functional now for two years and incorporates the following five sub-working groups:<sup>28</sup>

1. SWG RL – sub- working group on reform and legislation
2. SWG TCR-sub- working group on transfer of competences and resources;
3. SWG ENM - sub- working group on establishment of new municipalities
4. SWG CBDC- sub- working group on capacity building and donor coordination
5. SWG IC – Sub- working group on information campaign

The Decentralisation Action Plan was approved by the Government of Kosovo and supported by a newly established Working Group on Decentralisation comprising of Government's Ministers, ICO and strategic partners. In close cooperation with the ICO the MLGA has coordinated all the activities of the working group and other sub-groups towards implementing the decentralisation plan. Meanwhile it is a governmental body that is in charge of coordinating the policies intended to implement decentralisation. The Intern-

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<sup>28</sup> *Action Plan for Implementation of Decentralisation 2010-2011*. Ministry of Local Government Administration. April, 2010.

ministerial Working Group on Decentralisation (IWGD) has had some difficulties in coordinating different line ministries due to differing priorities. One concrete case is the new Law on Management of Municipal Property which poses difficulty in the harmonisation of work by the line ministries firstly because the Kosovo Property Agency (KPA) has to be included in the process which leads to opportunities for the line ministries to come up with different priorities and solutions<sup>29</sup>. The 2009 Progress Report for Kosovo highlights this delicate cooperation by stating that “inter-ministerial cooperation and coordination remain weak. The Law on Government has not been adopted. The central policy guiding role of ministerial councils is not fully implemented.”<sup>30</sup>

## C. Vertical cooperation

As shown in KLG’s study in 2009, municipal competences are not transferred along with finances. This has remained the case this year<sup>31</sup>. In most of these cases, the major barrier has been the cooperation of the line ministry. The line ministry is required to transfer the budget along with the competences. However, it seems that decentralisation may not be a priority for some line ministries and is perceived as being time consuming.

There has been a decline in the level of interest for line ministries to continue with the effective and timely process of decentralisation. Indeed, the ICO and MLGA have noticed that there have been delays by line ministries to implement local government reforms. The ICO has been known to follow up the line ministries to ensure that they keep to their promises. For example, the reluctance of the Ministry of Labour and Social Welfare (MLSW) in transferring social services, has meant that the Ministry has been left with 30 offices. With regards to the transfer of public corporations, the Ministry of Economy and Finance (MEF) and the Agency of Privatization in Kosovo (APK) have been slow to cooperate. The Ministry of Economy and Finance remains crucial however in practical terms as it often the transferring of competences needs to be followed by grants and funds. However, the Department on Local Finances at the MEF has now transferred the Education Grants and Health Grants to the municipalities in addition to the general grant for municipalities<sup>32</sup>.

The MLGA and the line ministries must be active in assisting municipalities in these changes and the central government must remain in the lead to implement the decentralisation plan. Even after competences are transferred to the local level, oversight is crucial. As such, the central government should devolve these competences and immediately allocate them with the necessary finances. In this respect, the Association of Kosovo Municipalities (AKM) has a crucial role to play since one of its primary objectives is to coordinate municipalities in seeking their interests at the central level. The AKM is involved

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<sup>29</sup> *Implementation of the Decentralisation Process in Kosovo: One Year After Constitution*. Kosovo Local Government Institute (KLG). June, 2009.

<sup>30</sup> EC Progress Report 2009 for Kosovo, pg. 8. European Commission in Kosovo. Available at [http://www.delprn.ec.europa.eu/repository/docs/ks\\_rapport\\_2009\\_en.pdf](http://www.delprn.ec.europa.eu/repository/docs/ks_rapport_2009_en.pdf)

<sup>31</sup> *Implementation of the Decentralisation Process in Kosovo: One Year After Constitution*. Kosovo Local Government Institute (KLG). June, 2009.

<sup>32</sup> Interview with the Permanent Secretary of the MLGA, Mr. Besnik Osmani. Held April 21st, 2010.

in the sub-working groups and it should use its position to seek devolution of competences to municipalities with the financial means and to clarify the procedures for these competences. There are collegiums that function within the AKM and some training has been organised by the AKM in areas such as social welfare.<sup>33</sup>

Building licenses issued by the municipality of Kamenice in places that are now a part of Ranillug have been annulled by the current leadership of Ranillug. This is due to the lack of MoUs between Kamenica and Ranillug to respect the decisions taken before the newly created municipality. Moreover, the mother municipality is frustrated that the line ministries do not act in these cases to resolve such conflicts<sup>34</sup>.

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<sup>33</sup> Association of Kosovo Municipalities (AKM) web portal. <http://www.komunat-ks.net>. Accessed 14 April 2010.

<sup>34</sup> Interview with the President of the Municipal Assembly of Kamenica, **Enver Mavriqi**, Held on March 31<sup>st</sup>, 2010.



## **V. Resource Mobilisation for Decentralisation**

### **A. Challenges**

The process of decentralisation is very complex and requires investment in numerous fields, starting from the new working premises necessary for functioning to the transfer of competences that have their associated costs. New municipalities are also part of the overall decentralisation expenses. With new competences, new and existing municipalities are trying to adjust their administrative and financial capacities to appropriately address their additional responsibilities. Thus decentralisation in Kosovo is shifting the understanding of municipal authorities from units of line ministries toward decentralised units. To date, most competences to be transferred to the municipal level have already been transferred with the exception of enhanced competencies. However it seems that the assignment of new responsibilities has proceeded too quickly without assessing the municipal capacity on the public financial management. Assessments are required for the qualified staff and an evaluation of the decentralisation expenses is needed.

### **B. Cost of decentralisation**

The cost of decentralisation for the newly established municipalities on the consolidated budget of Kosovo for 2010 is expected to be no less than 13,783.199 €. In 2009 MLGA had a "Contingency Fund" of €3.2 million dedicated to the newly created municipalities."  
This fund covers:<sup>35</sup>

1. MPT wages
2. Operational Expenses of MPTs
3. Operational Expense of the personnel of newly created municipalities
4. Capital investment projects in cadastre zones where the new municipalities will be created.

Along with the budget dedicated for the newly created municipalities for 2010, the cost of the newly created municipalities comes to about €5.8 million.

It is very difficult to calculate the costs of other expenses covered by different donors, as no unified database of projects exists. According to municipal authorities, the government sometimes interferes in areas where the municipal authorities have clear exclusive responsibilities with financing or co-financing projects such as building schools. On the other hand, municipalities continue to demand additional funding for "new" competencies transferred to them. For some new municipalities that are small, with around five thousand residents, very few believe that they can manage their new competences and powers without support from central institutions.

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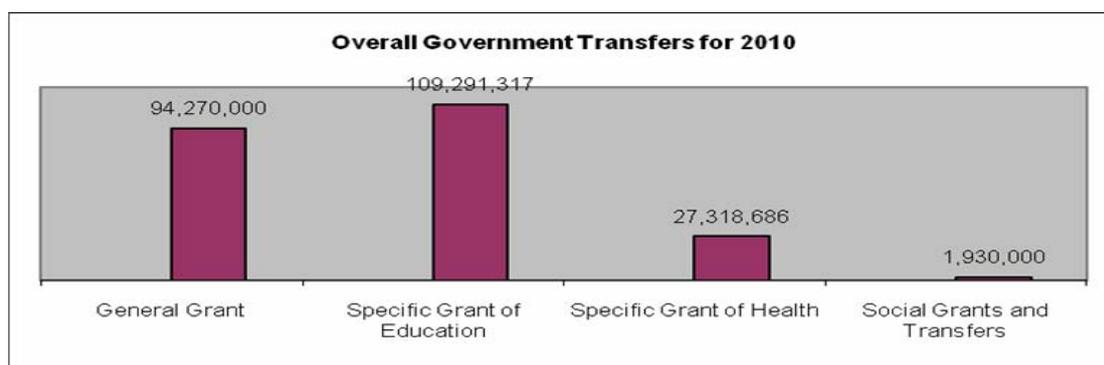
<sup>35</sup> Interview with Besim Kamberaj. Director of Department for Regional Development and European Integration. MLGA. May 18, 2010.

## C. Coordination of resources

As part of the attempt at coordination, intergovernmental working groups have been established. These involve 11 ministries of the government of Kosovo. However, the MLGA still does not have the figures of international donor organisations within the municipalities, nor do they know about all the projects that donor organisations implement or have planned to implement in the newly created municipalities in Kosovo.

Some progress has been reached with regard to coordination with donors. The sub-group on capacity building and donor coordination is organising regular meetings with donors. In order to prevent any possible duplication of projects, this sub-group is facilitating regular and periodic meetings with present donors involved in the decentralisation process. The objective of this sub-group is to eventually establish a database of implemented projects which would be perceived as a step toward improving the coordination of decentralisation projects. However, this initiative that dates back to 2009 is not expected to be implemented in the near future.

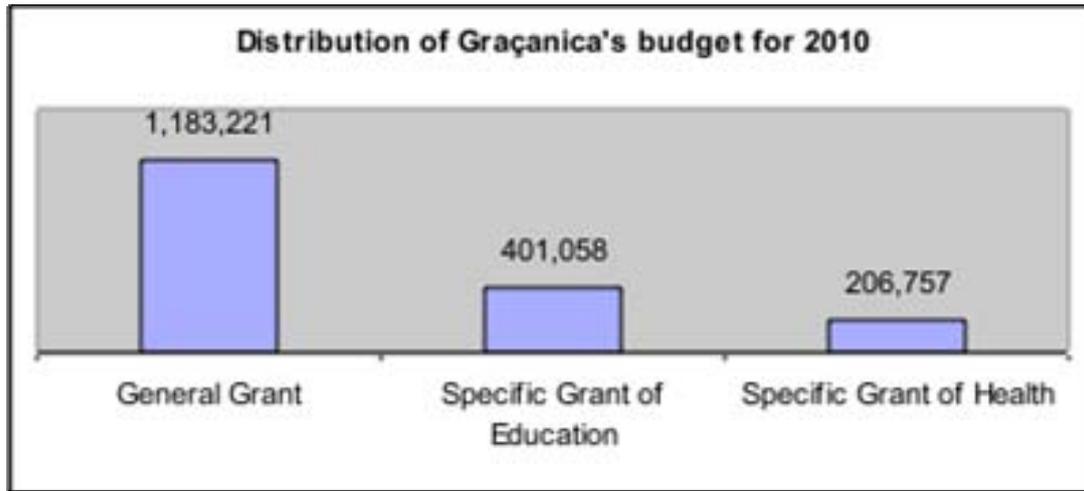
**Graph 3.**



The most important shortcomings of local government reform are in the field of enhanced competences. Nevertheless, the other transferred competences do not function as well as they appear to on paper. In addition to the interference of central government the local municipality, old municipalities interfere in the new municipalities that were once part of their municipality. The last case in this respect is the interference of Pristina, an old municipality, with regards to the competencies of Graçanicë, the new municipality. The old municipality has continued to issue construction permits for the territory of the new municipality. The ICO has interfered by asking the old municipality to stop the practice of issuing construction permits for the territory that does not belong to it anymore.<sup>36</sup> This can be considered as direct interference of one municipality in the income streams of another municipality.

<sup>36</sup> ICO News Release, 30 April 2010

**Graph 4.**



Construction permits are one of the main municipal revenues that amounted to almost 45 million Euros in 2009. Central government decided to partially transfer the costs for teacher and health workers to municipal authorities from 2009. The partial transfer of competences is estimated to be 12% of the total healthcare grants from the central government. Municipalities are aiming to adjust their financial management capacities in line with their additional responsibilities. Due to the rapid decentralisation process the need to build budget formulation and analysis capacity at municipal level has now emerged as a need. The delegation of competencies with regard to budget implications at the local level as not been accompanied by the full delegation of budget management decision-making powers that still remain with the Ministry of Economy and Finances. New municipalities completely rely on government grants for the initial post-election year. The total of government grants transferred to all 35 municipalities for 2010 amounts to 232,810,002 Euro. If the estimated consolidated budget for Kosovo for 2010 is 1.1 billion Euros, then about 21% is delegated to the municipalities through grants this year.

## **D. Advances in coordination**

Following the establishment of the working group on decentralisation, numerous programs and projects have been reviewed. This working group aims at enhancing the further development of transfer of competences through decentralisation. The working group is also coordinating attempts to foster local self-government sustainability for the purpose of fulfilling the following objectives: a) reform of legislation on local self-government; b) establishment of new municipalities; c) transfer of competencies and resources; and d) building and development of municipal capacities.<sup>37</sup>

Some progress has been reached regarding coordination with donors. The sub-group on capacity building and donor coordination is organising regular

<sup>37</sup> See 'Action Plan for implementation of decentralization'

meetings with donors. To prevent any possible duplication of projects, this sub-group facilitates regular and periodic meetings with donors involved in decentralisation. Representatives of EMI and UNDP have also confirmed their attendance at regular donor meetings.<sup>38</sup>

Although the initiative to create a database of projects exists, it has not yet been created. The idea to have a database of donor projects implemented at a local level has now been replaced by the idea of having a comprehensive database for all local and central projects. Considering the diversity of the stakeholders engaged in the process, such a database is expected to take time. Similarly there is no uniform payment for the projects. Some projects are being implemented directly with an agreement between the municipality and the donors, others between the line ministries and donors, and many through the Association of Kosovo Municipalities.

During 2009, the MLGA has carried out 84 capital projects in 36 municipalities of Kosovo, equalling almost 9 million Euros. Seven of the MLGA's projects have been co-financed by European Commission's Instrument for Partnership Assistance funds (IPA) funds<sup>39</sup>. The biggest donor to decentralisation and the reform of local government continues to be the European Commission through its IPA funds. Through the Effective Municipalities Initiative (EMI), USAID has already planned more than \$2 million in capital projects in municipalities and more than half of their investments on municipalities will go to the new municipalities with Graçanicë receiving more than \$300,000.<sup>40</sup> The Swiss Development Cooperation (SDC) through its LOGOS program has committed another CHF 4'712'845 in capital investments for the 2010-2012 period. They will continue to work in the Ana-Morava region of Kosovo, which has been their region for capital investments for most of their projects.<sup>41</sup> UNDP also fund many decentralisation projects.

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<sup>38</sup> Interview with Arben Gashin (EMI) dhe Rreze Dulin (UNDP) – 4 May 2010

<sup>39</sup> Department of Reforms and European Integration, MLGA. *Report on Projects Done on Municipalities during 2009*, published December 2009.

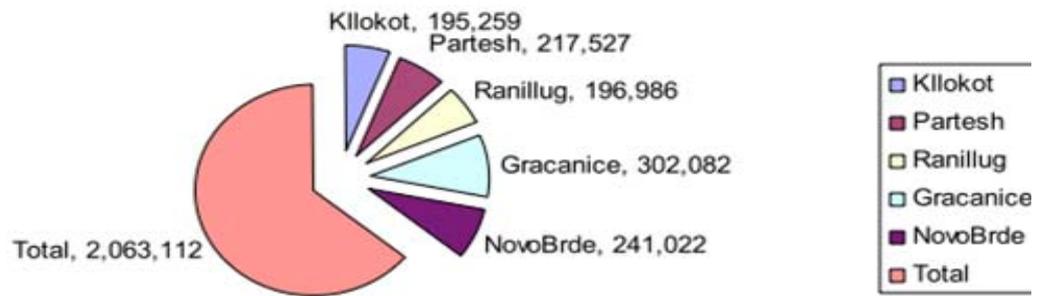
<sup>40</sup> Effective Municipalities Initiatives portal. Available at [www.emi-kosovo-rti.org](http://www.emi-kosovo-rti.org). Accessed April 2010

<sup>41</sup> Swiss Development Cooperation portal. Available at [http://www.swiss-cooperation.admin.ch/kosovo/en/Home/Domains\\_of\\_Cooperation/Rule\\_of\\_Law\\_and\\_Democracy/Swiss\\_Kosovo\\_Local\\_Governance\\_and\\_Decentralisation\\_Support\\_LOGOS](http://www.swiss-cooperation.admin.ch/kosovo/en/Home/Domains_of_Cooperation/Rule_of_Law_and_Democracy/Swiss_Kosovo_Local_Governance_and_Decentralisation_Support_LOGOS). Accessed April 2010.

**Graph 5.**

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**Amount in Capital Investment - EMI**





## **V. Citizen participation in the local decision-making process**

### **A. Overall Context**

Chapter nine of the LLSG institutionalises direct democracy and citizens' participation. This legislative act ensures citizens participation in decision making on issues relating to public information and consultation, right on petition, citizens initiatives, referendum to recall the mayor, and establishment of consultative committees. The current electoral system also provides citizens with the democratic opportunity to elect their mayor. However, it has been found that citizens have not fully used their rights to influence municipal authorities, nor have the municipalities encouraged them to. There are indications that the limited its level of citizen participation and community empowerment is largely due to a lack of vision, followed by government negligence to encourage participation.

However, there is more citizen involvement with non-governmental organisations. These are dependent on external funding and accountable not only to donors but also to the public whose needs they claim to be addressing. During the research most of mayors confessed the important role of NGO in fostering democracy and bridging the needs of society. However, it is becoming evident that non governmental organisations do not always articulate the voice and concerns of citizens but instead attempt to cater for donor-driven agendas in order to obtain funds. Ensuring that citizens are organised into formal and informal debate platforms therefore would strengthen the voice of the people. Improving citizen advocacy and lobbying capacities would be of crucial importance for future developments related to local governance.

### **B. Findings from the field**

Municipal authorities recognise the importance of civil society and citizens within the municipality. Most see different way of partnering with citizens in order to strengthen governance at the local level. Most of the mayors link their public information outreach programmes to the local community and are clear about potential partnerships with civil society actors such as NGOs, sport's associations and youth initiatives.

Whilst municipal staff is aware citizens see the local structures and powers with reserve and mistrust, they feel it is only non-governmental organisations, civil society and the media which can contribute towards changing such negative public opinion. However, due to the lack of resources and human capacities, local radio and TV stations have only partially achieved to transfer messages to the public and have a relatively weak influence on the development of municipal agendas. Although municipal authorities are very much in favour of strengthening local mediums of communication, the limited budget and the lack of vision on strengthening NGOs in planning and decision-making at a local level has meant that not much progress has been made to involve and include citizens more actively.

The newly created circumstances of decentralisation hint at a better future for the citizens of Kosovo at a local level. This is important for overall democracy in Kosovo and for encouraging new opportunities to emerge. Although citizen participation is currently weak, it has the potential to strengthen alongside improved legislation and policies that reflect community needs.

## **VI. Recommendations**

### **MLGA**

- MLGA should oversee the implementation of MoUs signed between new and mother municipalities to avoid disputes and conflicts. MoUs are useful in supporting the smooth transition from central to local government and for ensuring a speedier transfer of competencies from central to local level.
- An MoU should be signed by the newly extended municipality of Novoberdo with Gjilan and Kamenica to speed up the transfer of documentation.
- MLGA should engage more in Northern Kosovo and allocate more resources to it. MLGA support to MPT of Northern Kosovo is essential, especially after the last parallel elections.
- MLGA should seriously explore the idea of undertaking an independent consultancy assessment in order to draft a strategy of cross-institutional cooperation. This strategy should include vertical and horizontal cooperation mechanisms as well as suggesting ways in which to use existing resources.

### **Municipalities**

- Municipalities affected by border changes should adopt an action plan with their break-away municipalities in order to ensure the full and effective transfer of power.
- Municipalities must immediately appoint their public corporation board member so as to ensure services are delivered efficiently through these public corporations.
- Municipalities should work closely with civil society and non-governmental organisations and cooperate with clear objectives.
- Municipalities must build on their capacity to process comments from the public and ensure citizen participation in decision making process.

### **Ministries and Independent Government Agencies**

- Cooperation between sector ministries and independent government agencies must be increased at all levels to support the transfer of competencies. Sector (line) ministries should also assist municipalities in managing sectoral changes, especially in Health and Social Welfare

- Inter-ministerial cooperation and coordination must be strengthened so that it is not identified as a weakness in the next EC progress report
- The Kosovo Property Agency (KPA) must be more active in assisting with the transfer of responsibilities to newly established municipalities and to Novobërdë
- The Agency for Forest Protection (AFP) must start handing over responsibilities to municipalities as requested under the LLSG.

## **The Government of the Republic of Kosovo**

- The strategy for the North should coordinate activities with the MLGA rather than duplicate efforts.
- The Law on the City of Pristina must be processed and ratified as soon as possible. The municipality of Pristina needs to cement its status as capital with additional responsibilities in order to improve service delivery and support the full establishment of Graçanicë municipality.
- The Law on Waste and the Law on Water both need to be ratified before municipalities can regulate and maintain both service provisions as required by law.
- Future legislation drafted by the Government of Kosovo and amended by the Assembly must be harmonised with the LLSG as well as with the development policies of the European Union

## **International Civilian Office (ICO)**

- ICO should make all necessary steps to influence Brussels and Washington to put pressure on Belgrade to stop supporting parallel structures in Kosovo if it wants to continue its road towards European Union and if it wants access to funds from financial institutions.
- ICO in cooperation with MLGA should be more active in its field work by visiting and assisting newly created municipalities in Ranillug, Grancanica, Klllokot, Partesh, (including mamusa and Shterpce) and other communities, so that this message is conveyed to the Serbian community of Kosovo in the North and they will see practically understand the benefits and authority that they can gain if they were to participate in the local elections of Kosovo.
- ICO should assist the Government in establishing a Temporary Contact Office in North Mitrovica with clear ToRs were the communities in the North can receive the same services as in other Kosovo municipalities until proper municipalities are ready to be created. This Temporary Contact Point will greatly compliment the good work of MPTs and the local community will be more ready to participate in the local elections if they already have access to services.

# ANNEX I

## Key points of the development of local governance level in Kosovo from 1974-2010

1974	New Constitution of the Former Republic of Yugoslavia transferred local governance in Kosovo - more power and competencies to self-govern
1989	Abrogation of Kosovo's Autonomy. Start of the Milosevic regime
1989 – 1999	Organisation of parallel institutions by the Kosovo exile Government. Peaceful resistance managed by late President Ibrahim Rugova
1988-1999	Conflict Escalated – many massacres happened. Kosovo Liberation Army (KLA) became active and popular among the Albanians. The OSCE sent a Verification Mission (KVM).
1999 – 2000	Legal Gap – period of humanitarian aid and resettlement of more than 1 million refugees
2000	Adoption of UNMIK Regulation 2000/45 – legal regulation that organized functions and responsibilities of local governance in Kosovo right after the war. UNMIK provides UN municipal administrators at municipal level.
2003	UNMIK Head of Mission mandate Council of Europe (CoE) to make initial recommendations for the request of Decentralisation in Kosovo
2004	Kosovo Government silently rejects CoE Decentralisation recommendations
2004	17 of March Riots seriously hit inter-ethnic relations in Kosovo. This was a huge set back
2005	Government of Kosovo decided to establish 5 Pilot municipalities
2007	UN Negotiator, President Martti Ahtisaari presents his Comprehensive Status proposal which includes a high degree of Autonomy for municipalities in Kosovo
2008	17 February Kosovo Parliament declares Independence

- 2008 June, 15 - Parliament of Kosovo adopts new Constitution of Republic of Kosovo. This Constitution and the Law on Local Self-Government devolves huge autonomy to municipalities. Hence, 5 new municipalities were established in minority areas (Graçanicë, Partes, Ranillug, Mitrovicë and Kllokot). Mitrovicë and Graçanicë receive asymmetric competencies on higher education and secondary health.
- 2009 Local Elections held. Three Serbian municipalities are established. Several NGOs report for Election fraud (Graçanicë, Ranillug and Kllokot). Election fraud was notified.
- 2010 Discussion on changes to the Law on Local-Self-government start.

## ANNEX II

### Map of Municipalities of Kosovo – Showing Newly Created Municipalities



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