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Ministria e Administrimit të Pushtetit Lokal
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Ministry of Local Government Administration

Measuring the functionality of Municipalities that have out of the process of decentralization



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Introduction

Many theorists and practitioners argue that decentralization can be used to ease tensions in post-conflict societies. By devolving authority and responsibility to local governments, the central government may seem less threatening, and all communities can run their own affairs and settle their grievances. Decentralized powers are thought to accommodate the interest and concerns of various distinct and separate cultural, political, religious, ethnic, or linguistic groups. The high degree of self-rule offered to minorities in autonomous political units may actually mark a turning point in the conflict and enhance national cohesion.¹ It is for these reasons that the concept of decentralization in Kosovo was high on the agenda during the negotiations between Pristina and Belgrade resulting in the development of the Comprehensive Proposal for the Kosovo Status Settlement (hereinafter the Ahtisaari Plan).² As noted in the Contact Group guiding principles, the Ahtisaari Plan foresees creation of '[e]ffective structures of local self-government established through the decentralization process [to] facilitate the coexistence of different communities and ensure equitable and improved access to public services.'³ Moreover, the Ahtisaari Plan, Annex III on decentralization is purposefully dedicated to 'address the legitimate concerns of the Kosovo Serb and other communities that are not in majority in Kosovo and their members and to 'encourage and ensure their active participation in public life'.⁴ In this regard, the Law on Local Self-Government – enacted in line with the Ahtisaari Plan - provides for 'full and exclusive power' of municipalities over their territory in specific areas including provision of pre-primary, primary and secondary education, and promotion and protection of human rights.⁵ Additional to this set of exclusive

¹ Gjoni, R., Wetterberg, A., Dunbar, D., Decentralization as a Conflict Transformation Tool: The Challenge in Kosovo, *Public Administration and Development Journal*, Vol. 30, no. 5, 2010, p. 291-312, at p. 292

² United Nations, S/2007/168 Add. 1 "Comprehensive Proposal for the Kosovo Status Settlement" (The Ahtisaari Plan)", accessible at: http://www.unosek.org/docref/Comprehensive_proposal-english.pdf

³ United Nations document S/2005/709, ¶3, Annex to the "Letter dated 10 November 2005 from the President of the Security Council addressed to the Secretary-General (Special Envoy for the future status process for Kosovo; Guiding principles of the Contact Group for a settlement of the status of Kosovo), accessible at: <http://daccess-ddsny.un.org/doc/UNDOC/GEN/N05/597/68/PDF/N0559768.pdf?OpenElement>, para 4.

⁴ *Supra* note 2, Annex III, Introduction

⁵ Law on Local Self-Government, Law No. 03/L-040, Article 17, signed on 20 February 2008, entered into force on 15 June 2008.

and delegated powers for municipal units in Kosovo, the Law on Local Self-Government foresees ‘enhanced competencies’ for municipalities with majority Serb community⁶ in the areas of health, education, cultural rights and selection of local station police commanders.⁷ The international community, through this asymmetric set up, intended generally to promote decentralization as a conflict mitigation and transformation tool to reconcile ethnic Albanians and Serbs in Kosovo.⁸ In fact, by providing more authority and fiscal resources to municipalities with a Kosovo Serb majority, it premised that ‘such concession [...] will assuage Serb concerns about receiving subpar treatment in an independent Kosovo’.⁹ However, putting these rights into practice depends first and foremost on the will of the Serb community to make effective use of it. Whilst these concessions might have been considered as having positive impact on the participation of the Serb community in southern parts of Kosovo,¹⁰ they were overwhelmingly rejected in northern Serb-majority municipality of Mitrovica North. Four years after, efforts to establish the Municipality of Mitrovicë/Mitrovica North had borne no success.

This paper looks at activities undertaken by the Government of Kosovo and international community in moving the process of integration forward of the Kosovo Serb community in Kosovo.

⁶ Law on Administrative Municipal Boundaries, Law No. 03/L-041, Article 5.5, Signed on 20 February, entered into force on 15 June 2008 establishes five new Kosovo Serb majority municipalities: Municipality of Mitrovicë/Mitrovica North, Municipality of Gračanica/Graçanicë, Municipality of Ranilug/Ranillug, Municipality of Parteš/Partesh, Municipality of Klokot/Kllokot. In addition, Municipality of Novo Brdo/Novobërdë cadastral zone was expanded to include several Serb inhabited villages and establish it as majority Serb municipal unit.

⁷ Ibid, Articles 19 to 23,

⁸ Supra note 1, at p. 292

⁹ Ibid

¹⁰ Following the 15 November 2009 municipal election, municipalities of Gračanica/Graçanica, Ranilug/Ranillug, Parteš/Partesh and Klokot/Kllokot were established. See e.g. statement of the International Steering Group for Kosovo, eleventh meeting, 14 June 2010, accessible at: <http://www.ico-kos.org/d/100614%20ISG%20communique%20ENG.pdf>

A look back

The current framework for local self-government in Kosovo stems from the Ahtisaari Plan incorporating the main aspects of the European Charter of Local Self-Government.¹¹, including that the principle of local self-government shall be recognized in domestic legislation¹² and, where practicable, in the constitution.¹³

In the immediate period after Kosovo's declaration of independence, the Kosovo authorities made tremendous progress and a new Constitution and 49 legislative acts deriving from the Ahtisaari Plan entered into force.¹⁴ Four legislative acts related to the process of decentralization were enacted.¹⁵. The Kosovo Action Plan on the Implementation of Decentralization¹⁶ was a roadmap to ensure the full implementation of the provisions of the Ahtisaari Plan. As stated in this document, '[t]he strategic intention of the Government of Kosovo was the creation of a sustainable system and effective local government throughout the whole territory of Kosovo that will ensure good living conditions for all the citizens of Kosovo paying particular attention to special needs and concerns of the non- majority communities in Kosovo.'¹⁷ However, the obvious challenge for the Government of Kosovo in the ensuing period was that the whole process of decentralization was grounded on an unusual set of political and legal circumstances. As in many other countries, decentralization in Kosovo did not result from demands of the local communities. The whole process of decentralization was proposed, shaped and led by the international community as a vehicle for reengaging the Serb community with the political process. Moreover, the stipulation in the Ahtisaari Plan designating a 120-day transitional

¹¹ Council of Europe, accessible at: <http://conventions.coe.int/Treaty/en/Treaties/html/122.htm>

¹² Supra note 5

¹³ Constitution of Kosovo, article 123 on general principles of local self-government, accessible at: <http://www.kushtetutakosoves.info/repository/docs/Constitution.of.the.Republic.of.Kosovo.pdf>

¹⁴ According to the Ahtisaari Plan, Kosovo must draft and enact the Constitution and all necessary legislation in a period of 120 days enabling swift transfer of major competencies from UNMIK to the Kosovo Government. As such, the Constitution and all laws deriving from the Ahtisaari Plan entered into force on 15 June 2008. See the statement of the International Steering Group (ISG) for Kosovo, 30 June 2008, Pristina, para. 1, accessible at: <http://www.ico-kos.org/pdf/FourthISG.pdf>

¹⁵ Official Gazette of the Republic of Kosovo, *Law on Local Self-Government*, No. 03/L-040, *Law on Administrative Municipal Boundaries*, No. 03/L-041 and *Law on Local Government Finance*, No. 03/L-049, *Law on Local Elections*, No. 03/L-072

¹⁶ The Government of Kosovo, *The Kosovo Action Plan on the Implementation of Decentralization 2008 – 2010* foresaw establishment of the Inter-Ministerial Group on Decentralization included ten different ministries and was co-chaired by the Minister of Local Government Administration and the head of the International Civilian Office (ICO).

¹⁷ Ibid, at p. 3

period for drafting and enacting laws exacerbated the process further. The urgency attached to the preparation of laws related to decentralization absorbed much of the time and technical capacity of the Government.

The process of creation of new municipalities mandated by the Ahtisaari Plan included establishment of five new municipalities and expansion of one existing municipality. While a significant success has been achieved in predominant Serb areas south of Mitrovica, the Municipality of North Mitrovica has neither been established nor a clear date set for its establishment. Despite the efforts since 1999 to include the predominantly Serb populated municipalities from northern Kosovo under the administration of Kosovo, influential parallel structure under the command of Belgrade continue to have more control. It has almost completely detached this area from any contacts with Kosovo authorities. This emergence of parallel societies has had several dangerous political consequences. Firstly, political instability has made this region the most volatile part of Kosovo. Secondly, due to its closeness and substantial lawlessness, it has provided the cover for criminal activities. As such, it has contributed to their alienation and failure of previous integration policies.

Question arises as to why the southern Serbian enclaves have shown more readiness and interest in the process of decentralization. Apart from being cash delivery mechanisms to amplify the control of Serbian ruling parties over Serb inhabitants in Kosovo - by allocating €500 million in support of parallel structure in 2008 for the double salaries for health and education personnel, welfare allowance and pension payments¹⁸ - the parallel structures had employed little or no communal responsibilities in their affairs.¹⁹ The frustration of the local population further rose, as cases of embezzlement and misuse of financial assistance became frequent²⁰, creating deep economic disparity amongst local population. Being disappointed with Belgrade's policy of continued tutelage and the enclaves being surrounded by Albanian dominant areas caused the Serbs living in the southern parts of Kosovo to

¹⁸ Supra note 1, at p. 304. Note: To prevent the brain drain and manage the parallel structures, health and educational official were compensated by receiving financial incentives, that amounted double the salary for the equivalent position of education or health officials in Serbia

¹⁹ International Crisis Group, 2009. *Serb Integration in Kosovo: Taking the Plunge*, p. 9, accessible at: [http://www.crisisgroup.org/~media/Files/europe/200_serb_integration_in_kosovo_taking_the_plunge.pdf](http://www.crisisgroup.org/~/media/Files/europe/200_serb_integration_in_kosovo_taking_the_plunge.pdf)

²⁰ Ibid, p. 15

act pragmatically in reconsidering the potential and benefits of the decentralization process deriving from the Ahtisaari Plan.²¹ The participation of the Serb community in the Municipal Election in 2009 saw a substantial increase from the previous years and resulted in the establishment of four new municipalities in the southern part of Kosovo.²² By that, [the Serb community] tr[ie]d to find an operational modus vivendi placed between Pristina and Belgrade. The Kosovo Serbs south of Ibër/Ibar river have shown their readiness to accept and respect the laws of the Republic of Kosovo while publicly not endorsing the independence.²³

In contrast, the Serb community in the northern municipalities has continued to object to decentralization plans and reject any devolution of powers in accordance with the Ahtisaari Plan. With the Republic of Serbia firmly rejecting Kosovo's independence, considering it as a clear violation of the UNSCR 1244, it has redoubled efforts to entrench parallel structures and further separate northern Kosovo from the rest of the country.²⁴ As noted earlier, the Republic of Serbia organized municipal elections in May 2008 depicting a clear policy of a continuation of the support for the parallel structures and discouraging participation of the Serb community in Kosovo affairs.²⁵ In addition, the geographical proximity of northern municipalities to Serbia exacerbates the potential for a positive outcome of the decentralization process in the north. Instead, the Serb community in the north is interested in keeping strong, direct ties with Serbia and potentially ceding from Kosovo. However, the most important factor for the complete rejection of the decentralization process is that “decentralization [in Kosovo] remains linked to its status as a unitary and sovereign state.”²⁶ In that regard, the most prevalent claim is that the decentralization process has “become increasingly divorced from provision of services to citizens [...] and thus has reduced significance as a tool for decreasing ethnic conflict and is instead

²¹ For a discussion on the issue of decentralization process in the southern parts of Kosovo see International Crisis Group, *Kosovo: Štrpce, a Model Serb Enclave?*, 2009, accessible at: http://www.crisisgroup.org/~media/Files/europe/b56_kosovo_strpce_a_model_serb_enclave.pdf

²² See the European Network of Election Monitoring Organizations, *Municipal Election 2009*, Final report, accessible at http://www.enemo.eu/press/Kosovo_EOM_Final_report_2009_.pdf

²³ KIPRED, *Kosovo At a Crossroad: Decentralization and the Creation of New Municipalities*, 2009, at p. 11

²⁴ Woehrel, S., *Kosovo: Current Issues and U.S. Policy*, Congressional Research Service, 2011, p. 4, accessible at: <http://www.fas.org/sgp/crs/row/RS21721.pdf>

²⁵ European Commission, *Serbian 2010 Progress Report*, p. 18, accessible at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

²⁶ *Supra* note 1, at p. 308

seen as a test of Kosovo's capacity as an independent state"²⁷ which Republic of Serbia is wholeheartedly exploiting.

Normative aspect of a decentralization process in Kosovo

As stated above, the municipal elections in Kosovo in 2009 resulted in creation of four Serbian-majority municipalities. Despite a strong political support from the Government of Kosovo, municipalities' functioning was marred by a number of practical shortfalls. The municipal preparation teams, as nucleus of new municipalities tasked with a "technical mandate to prepare all resources, properties and administrative structures required for the future establishment and functioning of the new municipality"²⁸, were hurriedly created disallowing them to fulfil its tasks before the elections.²⁹ Housed in inadequate premises, the newly-established municipalities mostly spent initial months in ensuring their internal functioning. In addition, the new municipal staff lacked theoretical and practical knowledge for positions they have been selected/appointed. This comes as no surprise given that prominent Serb community members in those rural areas were already employed by the parallel structures utilizing lucrative payments from Serbia.

As such, ensuing period has seen a significant domestic and international financial support ranging from municipal staff's capacity building training programmes, through provision of necessary equipment for their functioning to construction of entirely new municipal buildings in all newly-established municipalities. It was clear that a decentralisation process in accordance with the Ahtisaari Plan had to succeed regardless of the level of investment it required. Moreover, it was seen that investments should at least reach certain level to be seen as on par with the support the Republic of Serbia was providing to parallel structures and, hence, minimize their influence in those areas.

²⁷ Ibid

²⁸ International Civilian Office, Press Release on the establishment of the municipal preparation team Gračanica/Graçanicë, 13 August 2009, accessible at: [http://www.ico-kos.org/d/090813%20MPT%20Eng\(1\).pdf](http://www.ico-kos.org/d/090813%20MPT%20Eng(1).pdf)

²⁹ Hajnal, G., Péteri, G., Local reform in Kosovo, February 2010, at p. 27.

Municipality of Gracanice/Gracanica

The municipality of Gracanica covers the area of 131 km² with an estimated population of 18,642.³⁰ Its administration is currently composed of seven municipal directorates staffed with 441 employees. This constitute 2,36 per cent of total population. The annual budget of the municipality for 2011 was €4.5 million. 8.8% of this budget was generated through local revenues and 91.2% was provided through inter-governmental grants as determined by the Law on Local Government Finance.³¹

Source	€000s	Percentage	Average for Kosovo Municipalities
General Administration Grant	1374	30.3%	32.4%
Education Grant	1205	26.5%	40.7%
Primary Health Grant	275	6.1%	10.9%
Other Grants (Forestry, Social Welfare and Secondary Health Care)	1284	28.3%	1.3%
Total Inter-Governmental Grant	4139	91.2%	85.3%
Own Source Revenue	400	8.8%	14.7%
Total Budget	4539	100.0%	100.0%

Table 1: 2011 Gracanica municipality budget and inter-governmental grants³²

³⁰ Ministry of Local Government Administration, 2011 report on newly-established municipalities, April 2012, at p. 15

³¹ EU Twinning Project, Basis for Co-operation between Gracanica municipality and European Cooperation for Stronger Municipalities, May 2011, at p. 7

³² Adapted from the EU Twinning Project report, May 2011

More than a half of the budget - 51.2% - was allocated for wages and salaries whereas capital expenditures totals 32.8% or €1.4 million. As regards projects, infrastructural activities topped the list ranging from improvements on a road structure to sport facilities.³³ In addition, being run by a senior SLS politician, the municipality of Gracanica has also benefitted from a number of projects supported by the SLS-run ministries,³⁴ including creation of green areas (parks), clean up of river beds, etc.³⁵ Question remains whether those projects do reflect programmatic aspect of the ministries. Moreover, the financial support from the said ministries for the municipality of Gracanica is largely disproportional vis-à-vis other newly-established municipalities. Despite strong donor and central government financial support, the municipality of Gracanica faces a range of problems “which can be attributed to internal and external factors, [...] including economic development and a lack of investments from the central level as a stimulus for development”.³⁶

³³ Supra note 30, at p. 20-21

³⁴ Ministry of Returns and Communities and Ministry of Labour and Social welfare

³⁵ Supra note 33, at p. 92

³⁶ Ibid, at p. 27

Municipality of Ranilug

The municipality of Ranilug/Ranillug is located in eastern Kosovo. It covers an area of approximately 100km² and includes Ranilug/Ranillug village as a centre of the municipality and 12 other villages. The municipality of Ranilug is run by a Citizen Initiative for Ranilug – GIZOR. The financial resources for 2011 amounted to €997,000 of which 96% generated from inter-governmental grants. The municipal administration is composed of six (6) directorates with a total number of employees amounting to 283 or 4.71 per cent of a total number of inhabitants of the municipality.³⁷

Source	€000s	Percentage	Average for Kosovo Municipalities
General Administration Grant	495	49.6%	32.4%
Education Grant	325	32.7%	40.7%
Primary Health Grant	137	13.7%	10.9%
Other Grants (Forestry, Social Welfare and Secondary Health Care	0	0.0%	1.3%
Total Inter-Governmental Grant	957	96.0%	85.3%
Own Source Revenue	40	4.0%	14.7%
Total Budget	997	100.0%	100.0%

Table 2: 2011 Ranilug municipality budget and inter-governmental grants³⁸

³⁷ Ibid, at p. 28

³⁸ Adapted from the EU Twinning Project report, May 2011

According to the MLGA report on the performance of newly-established municipalities, the service provision for the citizens of the Ranilug municipality is seen as a biggest challenge and shortcoming during 2011. As stated, the report finds that out of 1104 requests for municipal services, only 22 have been completed.³⁹ Moreover, the financial support for this municipality was primarily from the central level grants and EU, USAID and UNDP projects.⁴⁰ Unlike Gracanica municipality, the Ministry of Labour and Social Welfare have supported only one project in 2011 in amount of €24,580. Finally, the biggest challenges the municipality faces are: (i) untrained municipal staff affecting the pace of a project implementation; (ii) great dependency on government's grants; and (iii) uncompleted process of decentralization in accordance with the Ahtisaari Plan.⁴¹

³⁹ Supra note 37, at p. 29

⁴⁰ Ibid, at p. 37-38

⁴¹ *ibid*, at p. 39.

Municipality of Klokot

The municipality of Klokot is located in southeastern Kosovo. It covers an area of approximately 24 km² and includes Klokot/Klllokot town and four (4) villages.⁴² The estimate population of the municipality is 4,542.⁴³ The municipality's budget for 2011 was in amount of €856,000. Different from other municipalities, its functioning is almost entirely financed through inter-governmental grants as specified below.

Source	€000s	Percentage	Average for Kosovo Municipalities
General Administration Grant	460	53.7%	32.4%
Education Grant	313	36.6%	40.7%
Primary Health Grant	75	8.8%	10.9%
Other Grants (Forestry, Social Welfare and Secondary Health Care)	0	0.0%	1.3%
Total Inter-Governmental Grant	848	99.1%	85.3%
Own Source Revenue	8	0.9%	14.7%
Total Budget	856	100.0%	100.0%

Table 3: 2011 Klokot municipality budget and inter-governmental grants⁴⁴

⁴² OSCE, Municipal Profile Klokot/Klllokot, November 2011

⁴³ Supra note 41, at p. 40

⁴⁴ Adapted from the EU Twinning Project report, May 2011

The number of municipal employees is 119 or 2,61% of a total population. The municipality consists of six (6) municipal directorates and their work is regarded satisfactorily. In 2011, the municipality of Klokot was mostly engaged in implementation of infrastructural projects ranging from road constructions, improvements of sewage systems to street lighting. Except an MLGA-supported project in amount of €9,750,⁴⁵ municipality of Klokot received no other financial support from the central level ministries. The main challenges municipality is facing are in the area of employment, inadequate proportion between the financial needs and actual allocation of financial resources from the central level and improvement of municipal services.

⁴⁵ Supra note 41, at p. 93

Municipality of Partes

The municipality of Partes is the smallest of newly-established municipalities. The municipal territory covers an area of approximately 18km² including Partes and two (2) other villages with a population of 5,217.⁴⁶ The municipal administration is composed of six (6) municipal directorates. The budget for 2011 was €905,000 and it is entirely covered through inter-governmental grants.

Source	€000s	Percentage	Average for Kosovo Municipalities
General Administration Grant	446	49.3%	32.4%
Education Grant	382	42.2%	40.7%
Primary Health Grant	77	8.5%	10.9%
Other Grants (Forestry, Social Welfare and Secondary Health Care)	0	0.0%	1.3%
Total Inter-Governmental Grant	905	100.0%	85.3%
Own Source Revenue	0	0.0%	14.7%
Total Budget	905	100.0%	100.0%

Table 4: 2011 Partes municipality budget and inter-governmental grants⁴⁷

The number of staff employed by the municipality amounts to 228 or 4,37% of a total population, primarily in the health and education sector.⁴⁸ Again, the municipality

⁴⁶ OSCE, Municipal profile Partes/Partes, November 2011

⁴⁷ Adapted from the EU Twinning Project report, May 2011

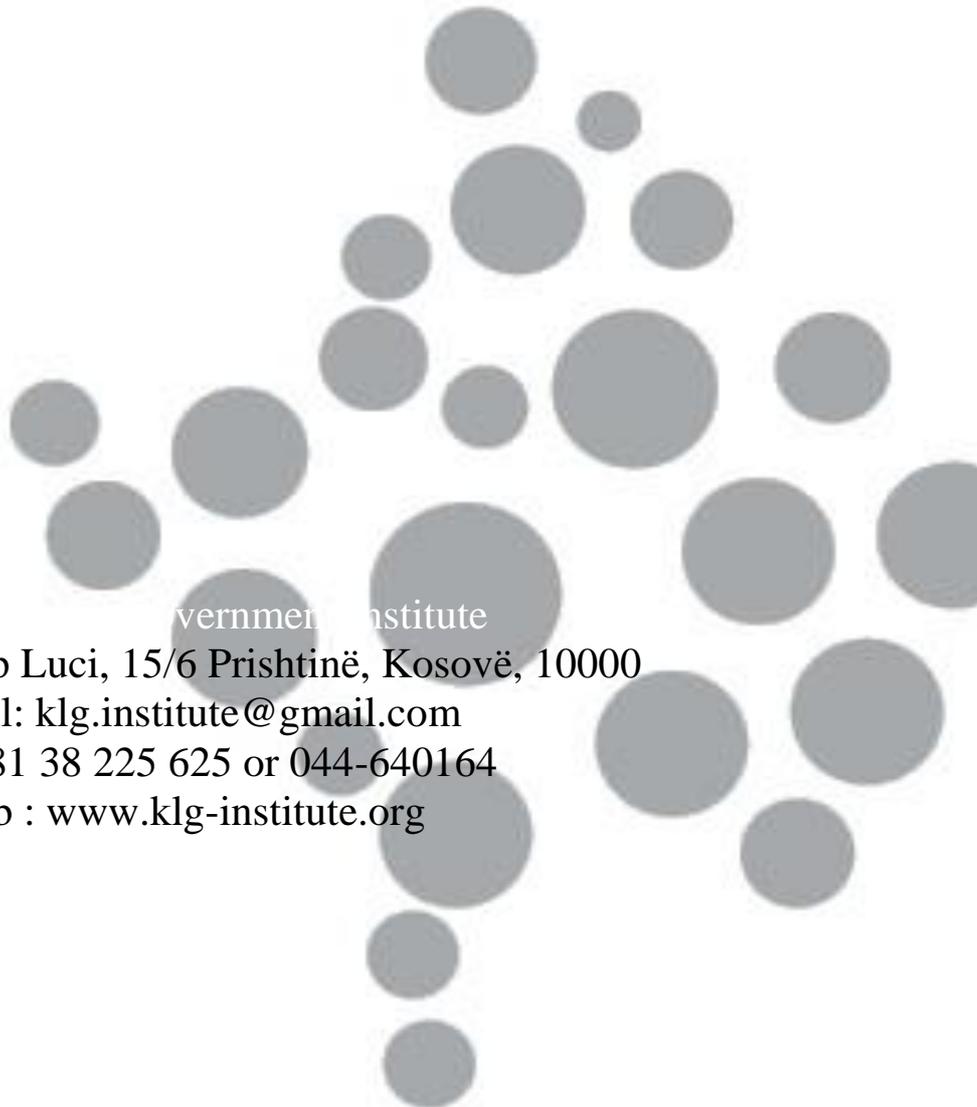
was primarily involved in the implementation of infrastructural projects given the years of neglect of the region. The implemented projects included road infrastructure, improvement of school facilities, construction of a secondary-level health centre, a new municipal building, etc. Similarly to other newly-formed municipalities, the main challenges that affects the municipality of Partes is an insufficient budget for the implementation of planned projects, unemployment and poorly trained municipal staff.

⁴⁸ Supra note 45, at p. 66

Conclusion

The preceding analysis shows that the process of decentralization holds a central part of the Ahtisaari Plan vis-à-vis participation of ethnic communities in a Kosovo society. Considering that the essential requirement of many countries in the world was commitment of the Kosovo Government to fully implement the Ahtisaari Plan, it comes to no surprise the robust approach from the Government and its international allies in moving the decentralization process forward by creating new Serb-majority municipalities and by large ensuring higher level of integration. Nonetheless the process can be considered as partially successful. Whilst the creation of the municipalities in central and eastern part of Kosovo took place following the 2009 election, its adequate functioning and provision of services is still questionable. Even though the newly-established municipalities are at the beginning of its process of its consolidation, their strong dependency on governmental and international donor's funding is clear. However, it can be argued that if donor funds slow down and the political fatigue for the decentralization process ascend, the existing Serb-majority communities will face substantial problems in ensuring its proper functioning. This will also impact integration processes of the Serb community in Kosovo, a process that has been regarded achievable through decentralization.

On the other hand, the north of Kosovo remains a challenge. The work of the municipal preparation team for Mitrovica, as a nucleus of a new municipality, was constantly hampered by the parallel structures and almost complete rejection of the process by the Serb community. Despite the establishment of the administrative office for the North Mitrovica in May 2012, the Government of Kosovo showed once more a great lack of inventiveness and political courage to move the process forward more robustly. As such, the situation continues to linger entrenching the division between the Serb community and the Government of Kosovo even more and making the process of decentralization in accordance with the Ahtisaari Plan north of river Ibar almost impossible.



Government Institute

Address: Rexhep Luci, 15/6 Prishtinë, Kosovë, 10000

E-mail: klg.institute@gmail.com

Tel: +381 38 225 625 or 044-640164

Web : www.klg-institute.org