

PUBLIC ADMINISTRATION REFORM IN KOSOVO: CONSTANT STRUGGLE TO MAKE IT



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ACRONYMS

BD	Budget Department (MF)
CSL	Law on Civil Service
DCH	Department for Central Harmonization (MF)
DCSA	Department for Civil Service Administration (MPA)
DCSAP	Department for Coordination of Stabilization and Association Process (OPM)
DDA	Department of Development Assistance (OPM)
DMPO	Department for Management of Public Officials (MPA)
DPAREI	Department for Public Administration Reform and European Integration (MPA)
ERA	European Reform Agenda
EU	European Union
GDP	Gross Domestic Product
GIZ	German Corporation for International Cooperation
HR	Human Resources
IMF	International Monetary Fund
IOBCSK	Independent Oversight Board for the Civil Service of Kosovo
IPA	Instrument for Pre-Accession Assistance
JIAS	Joint Interim Administrative Structure
KAA	Kosovo Accreditation Agency
CSL	Law on Civil Service
KIPA	Kosovo Institute of Public Administration
KJC	Kosovo Judicial Council
KPC	Kosovo Prosecutorial Council
KT	Kosovo Treasury (MF)
LGAP	Law on General Administrative Procedure
LO	Legal Office (OPM)
LOFSAIA	Law on the Organization and Functioning of State Administration and Independent Agencies
MCPAR	Ministerial Council for Public Administration Reform

MF	Ministry of Finance
MIA	Ministry of Internal Affairs
MPA	Ministry of Public Administration
MTEF	Medium-Term Financial Framework
NPISAA	National Plan for the Implementation of the Stabilisation and Association Agreement
OECD	Organisation for Economic Co-operation and Development
OPM	Office of the Prime Minister
PAR	Public Administration Reform
PFM	Public Financial Management
PISA	Programme for International Student Assessment
PISG	Provisional Institutions of Self-Government
SAA	Stabilisation and Association Agreement
SAP	Stabilization and Association Process
SIGMA	Support for Improvement in Governance and Management
SPO	Strategic Planning Office
SSA	Special Service Agreement
UNDP	United Nations Development Programme
UNMIK	United Nations Mission in Kosovo
UNSC	United Nations Security Council

EXECUTIVE SUMMARY

Public Administration Reform (PAR) is a dynamic process aimed at improving its capacity to deliver public services. In Kosovo, it is largely driven by external factors, the European Union (EU) perspective and agendas and other donors. Domestically, a number of internal factors work against effective reform; a high level of politicization, inefficient recruitment and evaluation processes, a bloated size, inadequate training and professional development, a barely functional local administration, a chaotic framework for independent agencies, a deficient focus on service delivery and lack of local ownership of the reform process.

Kosovo created its own public administration less than two decades ago, and reforms took place simultaneously with its institutional building. Along the way, from UNMIK's interim administration to the most recent national PAR Strategy, reform could never succeed without the necessary recourses and willpower. The legal framework has advanced substantially in recent years, mostly as a result of it being a requirement to implement the Stabilization and Association Agreement and the European Reform Agenda, but it is rarely respected.

The reform package of 2019 took the third phase of PAR a step forward; it comprised of three important new laws; the Law on Public Officials, the Law on Salaries in the Public Sector and the Law on Organization and Functioning of State Administration and Independent Agencies. Together, these laws clarify the rules that determine the organization of the public administration, streamline hierarchy, responsibilities, admission procedures and categorize staff levels. However, implementation has been, at best, problematic, and recent developments have practically put the entire process on hold.

As a result, several issues remain unaddressed; political interference and nepotism are still rampant, with inadequate recruitment and Human Resources (HR) policies. Accountability is sorely missing, with perfunctory evaluations that exist only on paper. The new centralized hiring process should help, as taking evaluations from the units tasked with hiring should limit opportunities for cronyism. However, for the new model to succeed, the institutions tasked with evaluating candidates and deciding on appointments must have the means and capacity to conduct proper technical assessments, based solely on merit. To that end, there is a will from the international community to provide technical assistance to these units as they start operating, and the Government should make the most use of this opportunity.

The administration has become an instrument to provide employment to party members, family members or potential voters. This has created an administration of a disproportionate size to its functions and workload, causing a burden on public finances and fails to provide effective services to the citizenry. Current managerial and planning capacities cannot

ensure that policies are based on needs assessments and cost-effect studies.

There has been a timid start for the rationalization of independent agencies and a modest streamlining of central institutions (Ministries). Yet, important challenges persist, and the process is far from unfolding; the institutional design of independent agencies has created duplications and has made them inefficient and unaccountable. The new PAR laws introduced a new framework, but the transition has yet to begin. The rationalization of the existing agencies is vital to ensure better functioning and responsiveness, and to advance it will require major political support, a missing ingredient at this point.

The process of PAR has met with further complications. If political instability and a lack of interest have limited the implementation of the Law on State Administration, the Constitutional Court prevented any action on the other two. It considered that independent constitutional institutions (Judiciary, Ombudsperson, Central Bank, etc.) should be exempt from the Law on Public Officials, at least in its current form. Moving forward, it has also requested introducing amendments to the law to ensure that the Government cannot interfere with the operations of these institutions. The Law on Salaries in the Public Sector, in addition to having the same problem, was deemed to create uncertainty and an arbitrary prejudice to certain public employees whose salary would be unjustifiably reduced. Furthermore, with the reclassification of professional categories left to be regulated with sub-legal acts in the future, the Court found the process to be opaque and having created an inexcusable level of uncertainty. Consequently, it declared the law unconstitutional in its entirety.

Concluding the current PAR phase is a requirement to make the public administration more functional, as well as a benchmark for EU agendas, also channelled through direct budget support. However, a robust political commitment is vital to advance it. Amending the Law on Public Officials will be a straightforward exercise, as the Constitutional Court clearly set the limits to respect regarding the autonomy of constitutional institutions. Introducing a new Law on Salaries in the Public Sector, however, will prove much harder. It will require striking a balance between the overseeing powers of the Ministry of Public Administration and the functional authority of the respective institutions to set their own policies. More importantly, it will also have to be comprehensive on the equivalence between existing positions and the new systematization. The previous law did that only partially, referring to future regulation by the Government. That created uncertainty for many workers who could not ascertain their position in the new scheme. At the same time, it failed to protect their rights, as nothing prevented future regulations reclassifying their positions in a way that entailed a loss of salary. The Constitutional Court deeply criticized this legislative technique; the Government should take due note and avoid it in the future.

There is much to do, and the way forward is clear. The two laws that came into force can be independently implemented, but still require substantial sub-legal regulatory development to ensure effective implementation. At the same time, further legislative action is required. The Law on Public Officials could benefit from some amendments to integrate the recent judgment, and a new Law on Salaries in the Public Sector should come forward as soon as possible to restore the comprehensiveness of the legal framework. Legal amendments, regulatory development and daily practice must go in parallel, and there is no time to lose. The third and current reform phase has introduced substantial changes that if implemented will lead to a much more effective administration. Failing to complete this process or moving to designing a “new PAR Strategy”, as it is often the practice with public institutions in Kosovo, would only serve to delay much needed reforms and changes in the administration of the country.

RECOMMENDATIONS

The way forward consists of three courses of action:

- I. Amending the Law on Public Officials and introducing a new Law on Salaries in the Public Sector;***
- II. Introducing sub-legal acts with no delay to ensure the beginning of the implementation of the laws;***
- III. Preparing all administrative levels to commence and apply the new practices and procedures resulting from the new legislation.***

These actions can take place in parallel to each other and should guide the approach to Public Administration Reform. To carry on the process, the Government must look beyond simply reinstating the three laws and continue implementing the strategic framework as a whole. To do that, the following recommendations constitute an excellent set of actions:

Completing the Reform Package (Legislation)

- The Government should start, with no delay, a broad consultation aimed at introducing a new Law on Salaries in the Public Sector. This should retake the framework set in the previous law, avoiding any element proven unconstitutional. This new law should unambiguously define the limit of central authority over independent constitutional institutions. It must also be clear and comprehensive on the new list of professional categories and their correspondence with the pre-existing framework. In particular, the new professional framework (the “jobs catalogue”) should offer a fair and equitable treatment to all sectors

and employees. Any change of status should be accompanied by a sound justification, especially if it entails a prejudice (reduction or loss of salary) for those affected. During its development, the Government must identify and allocate the resources needed for this large reform.

- The MPA must expedite the adoption of the sub-legal acts to facilitate the transition to the framework set in the surviving laws of the reform package. It should conclude those required by the Law on Public Officials, which were on hold pending Constitutional ruling. It should also prepare and propose the necessary amendments to safeguard the autonomy of independent constitutional institutions, setting specific rules defining their functions in the matter, and their especial relation with MPA.

Structure and Size of the Public Administration

- Contain the size of the public administration. The Government should commit to ensure that human resources depend on the functions and workload of institutions. Vacant positions after retirements should not be filled unless necessary and new hires should not exceed the number of departures.
- The Government must implement the action plan on the rationalization of agencies. The Draft Law on the First Wave should be put forward to the Assembly before the end of 2020, and the second wave, as foreseen by the action plan, should start immediately.
- The Government should put forward the Law on Government to establish the framework for size and composition of the executive and its appointments. It should include limiting the number of deputy ministers, who should be charged with clear responsibilities. In addition, it should clarify the role and powers of a caretaker government, specifying the types of decision that it can make through a closed list.

Human Resources and Accountability

- Establish a transparent, comprehensive process for the appointment of the National Admissions Commission; ensure public consultations and an open competition at the national level, etc. Invite donors to provide technical support and NGOs for monitoring.
- The Independent Oversight Board for the Civil Service should increase its capacities to monitor and consider staff managements; invite donors for support. Line ministries should fully implement the recommendations of the Board.

- The MPA should amend regulations to increase the standards for performance appraisals and the evaluation of civil servants across institutions. Set clear, observable and measurable criteria to ensure that evaluations are not pro forma. The evaluation of managers should include their capacity to conduct thorough and accurate performance assessments of their units. The results of these should in turn influence professional development, training, and promotion decisions. Introduce other innovative tools (i.e. integrity checks and plans).
- Increase the funding and capacities of the Kosovo Institute of Public Administration (KIPA), including the section for research and analysis. In coordination with line ministries and agencies, KIPA should conduct detailed assessments of the gaps and needs for training of members of each institution. The Government should develop a standardized needs assessment framework and with line ministries should fully support this exercise. Equally, donors and NGOs should support projects that aim to strengthen capacities and the role of KIPA.
- Ensure that trainings become mandatory across the civil service (if necessary, reviewing the legislation), and serve as a criterion for career development or, in its case, disciplinary measures.
- Limit the use of temporary hiring. The Procurement Review Body, in cooperation with the Ministry of Public Administration, should develop specific regulations to define conditions, payment structures, timeframes/duration, and renewal limits associated with SSA contracts, now that the Law on Public Officials consider these a matter for public procurement.

Planning and Policy-making

- Increase the capacities of the Strategic Planning Office (SPO), and its quality control role of sectorial strategies. It should also be able to develop a mechanism to independently monitor the implementation of these strategies without relying on the line ministries or agencies. Invite donors and specialised NGOs to support SPO.
- Harmonize special laws with the Law on General Administrative Procedure. Many administrative processes do not comply with this law, which needs to be worked out with no delay.
- Strengthen the strategic planning and management framework through defining the hierarchy of planning documents, consolidation of sector strategies and ensuring linkages with the budgetary framework. This process requires massive support from the donors and

specialised NGOs to support.

- Enhance coordination between OPM, Department of Public Administration (MPA), Ministry of Finance (MF) and the respective implementing ministries. The MF should play a key role from the start in the planning and design of reforms to ensure cost-analysis, financial support and stability. Overall, the inter-ministerial and inter-institutional coordination between centre-of-government institutions must improve in regard to policy planning, strategy design and implementation and service delivery.
- Ensure that planning takes place in accordance with the Strategy for Better Regulation; ex ante impact assessments and (EU acquis) alignment opinions reflecting on the pros and cons of the path of action chosen should take place while planning government decisions, policy documents and legislative proposals. The relevant units (Legal and European Integration Departments) should systematically conduct such analyses before the publication of the document, in order to improve evidence-based policy making.

Public Service Delivery

- The Government should integrate SIGMA indicator scores for citizen-oriented service delivery and accessibility of public services. SIGMA's framework should guide policy planning in the field of service delivery.
- The digitalization of administrative services must improve. Line ministries, government agencies and municipal institutions need central guidance on the digitalization of tools like digital signatures and online payments. The Government should provide extensive training opportunities, so that civil servants are familiar with digital procedures. All public registries need to be connected to interoperability platforms. Legislation needs to be harmonized with the EU eIDs regulation. The implementation of the eID tools currently under development need to be standardized to ensure the digital functionality of the eID cards already issued.
- Strengthen the Open Data system to ensure that it supplies citizens with comprehensive, up-to-date information about government, institutions, policies, procedures, finances (including providing real time data on revenues and expenditures for all agencies), staff and personnel of the public administration, including their demographics and qualifications.
- The Government should focus on improving access to healthcare; introduce, with no delay, a definitive calendar for the implementation of the universal health insurance scheme.

Budgetary Planning and Financial Management

- Prepare to transition budgetary planning from an agency-based distribution to a sectorial budgetary framework.
- Line ministries, in coordination with the MF, should conduct budgetary impact and fiscal assessments ahead of adopting new policy initiatives, and those should also reflect in government decisions.
- All policy and strategic initiatives should fully adhere to the Medium-Term Financial Framework (MTEF), especially developing sectorial strategies.

INTRODUCTION

A well-functioning state requires an organized, qualified, and accountable public administration. Such an administration, in turn, requires a professional civil service, clear procedures for policy and legislative development, a clear framework for accountability, and a sound public financial management. Only then can it efficiently and effectively deliver services to citizens and businesses.

Twelve years after independence, the public administration still struggles to fulfill its function, despite minor advances. Furthermore, the public sector is the main employer in Kosovo, with estimates placing the number of public administration employees at around 80,000.¹ The applicable laws are relatively well-drafted, yet policy implementation and the exercise of administrative function need to be improved. The public administration faces several challenges including improper regulation, weak management structures, insufficient capacity, inefficiency, misallocation of resources, lack of standardization, and a lack of respect for laws, regulations, and procedures. Politicization and nepotism pervade all levels of public administration and affect everything from recruitment and promotions to the day-to-day work. There also remains a lack of political will to push forward and implement necessary reforms in line with EU standards.

Since the declaration of independence in 2008, there have been three phases of Public Administration Reform (PAR). Kosovo is currently in the final year of implementing the third phase, guided by the Strategy on Modernization of Public Administration 2015 – 2020.² Public administration reform is one of three key pillars for European enlargement and through the Enlargement Strategy and Main Challenges 2014-2015 is integrated in the enlargement process and linked with accession negotiations for countries of the Western Balkans.³ As such, the European Union (EU) has heavily invested in supporting it and the strengthening of democratic institutions. While processes intended to improve the effectiveness of public administration, in line with the EU's Stabilization and Association Process (SAP), are ongoing, the aforementioned challenges continue to inhibit the development of an efficient and effective public administration and stand in the way of substantial reform.

¹ Balkans Group policy report, Kosovo 2020: A Complex Agenda for the New Government, December 2019, pg. 6, at <https://balkansgroup.org/en/kosovo-2020-a-complex-agenda-for-the-new-government-2/>

² Ministry of Public Administration, Draft Strategy on Modernisation of Public Administration 2015 – 2020, September 2015

³ European Commission, Enlargement Strategy and Main Challenges 2014-15, October 2014, pg. 4

The excessive size of public administration and lack of clarity in approaches towards public administration reform thus far demonstrate a need to deal with PAR holistically and to prevent further fragmentation. Politicians use public sector jobs as rewards to maintain clientelistic relationships. While the public sector continues to grow, deindustrialization and slow job creation in the private sector limit jobs prospects outside of the public sphere.

Public administration reform, including the latest one, have not been transparent or inclusive. While policies have usually been in line with the EU *acquis*, substantial reforms have not been implemented. Policy-makers, the political elite, and political parties are hesitant to enact substantial reforms that could lead to job losses in the public sector, and potential vote losses. Addressing PAR is risky and costly for political parties and policy-makers, and the politics-administration nexus is largely responsible for preventing substantial reform. The political and institutional power of elites and political parties is closely linked to the politicization of public administration. Many civil servants and personnel working for public institutions were hired through political connections, and political allies working in public institutions and at all levels of public administration allow major political parties and elites substantial control over policies and institutions. As such, it may not be a coincidence that the greatest improvements took place in areas where there are small opportunities for significant bribes and kickbacks such as obtaining personal documents.

Modernizing and developing the public administration requires not just the development of targeted and implementable strategies for public administration reform. This process also requires provisions for adequate financial resources and capable personnel, institutions, and oversight mechanisms which can ensure timely and full implementation. Willpower has been a key missing ingredient for public administration reform. This lack of political will for substantial reform has been the fatal flaw for PAR thus far and perhaps the most difficult challenge to address moving forward. Often, those tasked with leading PAR have the most to lose from enacting reforms which serve to limit administrative loopholes, resource misallocation, politicization, and clientelism. Thus, these continue to pervade both public administration and institutions.

BACKGROUND AND EVOLUTION OF THE PUBLIC ADMINISTRATION

Post-Conflict (2000 – 2007)

The exclusion of ethnic Albanians from public administration during the early nineties truncated Kosovar administrative history.⁴ For over a decade, until the end of the conflict in 1999, public institutions turned their back to a vast majority of the population. It is not surprising that the administration that finally emerged after the conflict owes more to international institutions than to the country's previous history. Under United Nations Security Council (UNSC) Resolution 1244, political and administrative duties and responsibilities were entrusted to the UN Interim Administration Mission in Kosovo (UNMIK), which was responsible for overseeing the establishment and development of self-governing institutions, elections, and the transfer of responsibilities to local institutions.⁵ During this initial post-conflict period, international with little local input dominated the administration.⁶ In early 2000, UNMIK established the Joint Interim Administrative Structure (JIAS), which consisted of 20 central departments (with the role of ministries), employing both international staff and domestic civil servants (including minority representatives).⁷ In 2001, the Provisional Institutions of Self-Government (PISG) replaced JIAS. The Constitutional Framework for Provisional Self-Government in Kosovo, codified in May 2001, defined the division of responsibilities between UNMIK and the PISG. Some competences were reserved for UNMIK, while others, including responsibility for public administration, were transferred to the PISG.⁸

UNMIK attempted to establish a framework for an effective, merit-based public administration through a number of regulations, including the Executive Branch of the PISG, the Kosovo Civil Service Law, the Kosovo Local Government Law, and the Administrative Direction.⁹ These regulations explicitly defined the roles and responsibilities of civil servants, terms of employment, political involvement, code of conduct, and more.¹⁰ Yet, substantial politicization

⁴ Batalli, M., *Reform of Public Administration in Kosovo*, 2012, available at SSRN at <https://ssrn.com/abstract=2627592>

⁵ United Nations Security Council. Resolution 1244, 10 June 1999

⁶ United Nations, Division for Public Administration and Development Management, *Province of Kosovo: Public Administration Profile*, 2003, pg. 3, at <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023228.pdf>

⁷ Ibid.

⁸ Batalli, M., *Reform of Public Administration in Kosovo*, 2012, pg. 19; See also Muharremi, R., Peci, L., Malazogu, L., Knaus, V., & Murati, T. *Administration and Governance in Kosovo: Lessons Learned and Lessons to Be Learned*, 2013, pg. 15

⁹ Regulation 2001/9 on the Executive Branch of Provisional Institutions of Self-Government (PISG), Regulation 2001/36 on the Kosovo Civil Service Law; Regulation 2000/45 on the Kosovo Local Government Law; and Administrative Direction 2003/2.

¹⁰ United Nations, Division for Public Administration and Development Management, *Public Administration Profile*, pg.13

of the central public administration began as soon as UNMIK started to transfer competencies. As UNMIK transferred administrative powers to PISG, “party elites brought their village or town networks and employed family and friends in the new administration.”¹¹ Civil servants were “vulnerable to political interference, corruption and nepotism,” recruited primarily on the basis of political considerations rather than merit.¹² From the outset of the PISG, public administration also suffered from overlapping competences and inefficiency.¹³

Although there were occasional pushes for genuine reform throughout this period, any hope for comprehensive transformation was “particularly hampered by the fact that the administration was divided on the authority of ‘reserved’ and ‘transferred’ competences”.¹⁴

Despite extensive support by international organisations, and especially by the EU (through its Office in Kosovo and the European Agency for Reconstruction), this lacked any coordination or long-term strategy, contributing to a lack of progress.¹⁵ A number of international NGOs and agencies also provided capacity-building programs for civil servants in the years preceding independence, but despite their good intentions these programmes neglected administrative management and did not address the specific needs and circumstances of civil servants.¹⁶ These diverse factors contributed to an inflated, inefficient and ineffective administration.

During this entire period, both international and national actors with competences on the matter emphasized establishing a functional administration as quick as possible above any criterion of efficiency. As a result, new institutions and organisations continued appearing to

Governance under the Constitutional Framework for Provisional Self-Government (under UNMIK)	
Special Representative of the Secretary General (SRSG)	Assembly
<ul style="list-style-type: none"> - Appoints Judges - Leads the Kosovo Police Service - Leads the Kosovo Protection Corps - Mediates on community right - Proposes joint committees within the Assembly in case of legal disputes 	<ul style="list-style-type: none"> - Elects the President of Kosovo - Approves the Prime Minister/ The Government - Adopts Laws
	The President
	<ul style="list-style-type: none"> - Nominates the Prime Minister
	Prime Minister
	<ul style="list-style-type: none"> - Appoint Ministers - Leads the PISG
	Ministries
	<ul style="list-style-type: none"> - Manage daily administrative issues - Competences over Health, Education, Social Welfare, Post Telecommunications, Transportation, Trade and Planning.

¹¹ Skendaj, E., “Deadly Cocktail.” *Creating Kosovo: International Oversight and the Making of Ethical Institutions*, 1st ed., Cornell University Press, 2014, pp. 61–96.

¹² European Commission, *Kosovo (under UNSCR 1244/99) 2008 Progress Report*, November 2008, pg. 12., at http://ec.europa.eu/enlargement/pdf/press_corner/key_documents/reports_nov_2008/kosovo_progress_report_en.pdf; See also United Nations, Division for Public Administration and Development Management, *Public Administration Profile*, pg. 10

¹³ European Commission, *Kosovo (under UNSCR 1244/99) 2008 Progress Report*, November 2008, pg. 12

¹⁴ Batalli, M., *Reform of Public Administration in Kosovo*, 2012

¹⁵ Muharremi, R., Peci, L., Malazogu, L., Knaus, V., & Murati, T. *Administration and Governance in Kosovo: Lessons Learned and Lessons to Be Learned*, 2013, pg. 17

¹⁶ Ibid.

take on specific competences and responsibilities, with little attention to quality of service or efficiency. The capacities and qualifications of the personnel were always secondary during hiring periods as the priority was simply getting enough people to put the institution in motion.

PAR after Independence (2008)

Public administration challenges persisted following the declaration of independence in February 2008. SIGMA, a joint initiative of the OECD and European Union aimed at assisting European candidate and neighbour countries to introduce the reforms required to make full use of their relations with the EU, conducted a thorough assessment of the Kosovar state apparatus that year. Due to its findings, SIGMA strongly criticised the public administration for having “poor professionalism, politicization, lack of qualifications and motivation of civil servants, inconsistent and incoherent legislation, insufficient management and co-ordination capacity and mechanisms, undeveloped training and unclear institutional roles.”¹⁷

There have been three broad periods, or phases, of Public Administration Reform, each one corresponding to a PAR Strategy. The first was adopted shortly before the declaration of independence to cover the years 2007 – 2012. However, it was abandoned soon afterwards, before its completion. The subsequent two phases covered the years 2010 – 2013 and 2015 – 2020, with a short period of inaction between 2013 and 2015. Each phase aimed at the establishment of an apolitical, professional public administration; a goal that is still far from assured by the end of the third phase.

Unfortunately, the complexity of and time needed for inter-ministerial reforms were not fully considered while setting this ambitious objective. Throughout the years, political polarisation and a lack of will have slowed progress down, leading to a complete halt at times.¹⁸ Even when there was will, the Ministry of Public Administration (MPA) has struggled to manage the workload associated with sweeping reforms. While financial planning for PAR has improved over time, the allocation of operational resources has been largely inadequate. Legislation, even when in line with the priorities set in the strategies, was not properly implemented. For example, new legislation in 2010 attempted to curb the growth in size of the administration, but the need to create new institutions and agencies meant that this requirement was never observed.¹⁹ To date, public administration continues to be heavily politicized, and

¹⁷ SIGMA, Kosovo (under UNSCR 1244/99), Country Assessment Reports, May 2008, pg. 20. at <http://www.oecd.org/countries/serbia/47081121.pdf>

¹⁸ Balkans Group, Kosovo 2020: A Complex Agenda for the New Government, December 2019, pg. 6, at <https://balkansgroup.org/en/kosovo-2020-a-complex-agenda-for-the-new-government-2/>

¹⁹ Bertelsmann Stiftung, ‘Country Report – Kosovo’, in Bertelsmann Stiftung’s Transformation Index (BTI) 2018, 2018, pg. 28, at https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2018/pdf/BTI_2018_Kosovo.pdf

key managerial positions, such as general secretaries and directors in ministries, are often appointed based on their political affiliations.²⁰ In practical terms, there has been limited progress on public administration reform.

First Strategy (2008 – 2010)

The Public Administration Reform Strategy 2007–2013 planned for reforms in eight key areas: human resources, institutional structure, public administration management issues, communication with citizens, e-government, financing in public administration, anti-corruption, and quality of policies and legislation.²¹ The strategy also included provisions for implementation, oversight, and monitoring. The Public Administration Reform Working Group and sub-working groups tasked with overseeing the implementation of the strategy consisted of representatives from relevant ministries and representatives from the Office of the Prime Minister. A group of experts for Public Administration Reform, led by civil society representatives and consisting of government officials from line ministries, business and private sector representatives, and representatives from the donor community also played a key role in preparing the strategy and overseeing implementation.²²

Implementation, however, met with several obstacles. The working group responsible for drafting the strategy had overestimated the capacity of the new government to implement sweeping reforms in the eight areas identified. In addition, the declaration of independence, and the subsequent political situation, introduced a substantial change to the status quo. As a result, the document was abandoned shortly after its introduction, and it never completed its intended duration.

²⁰ Balkan Investigative Reporting Network, Carving up the pie: Monitoring report on recruitment processes within Kosovo's institutions, March 2019, pg. 29, at https://birn.eu.com/wp-content/uploads/2019/04/BIRN_ndarja-e-kulaqit_ENG_web.pdf

²¹ Ministry of Public Administration, Draft Strategy on Modernisation Of Public Administration 2015 – 2020, pg. 10 at <http://www.kryeministri-ks.net/repository/docs/Strategy-for-Modernisation-of-PA-2015-2020.pdf>

²² Batalli, M., Reform of Public Administration in Kosovo, 2012

Second Strategy (2010 – 2013)

Public Administration Reform Strategy 2010 – 2013

Policy Management

- Coordinate development and strategic planning to tackle legislative and budgetary implications
- Increase capacities for policy development and coordination
- Regulate strategic and policy planning, establishing a hierarchy of planning documents.

Legislative Drafting

- Coordinate and build capacities on legislative drafting activities
- Review secondary legislation before submission for approval
- Publish secondary legislation on the Official Gazette
- Ensure that legislative drafting is carried out in a realistic fashion and according to priorities
- Establish guidelines for legislative drafters

Ethics and Transparency

- Strengthen responsibility and accountability
- Promote legal instruments to fight corruption
- Draft normative acts and conduct periodic research on ethics and transparency

Communication with and participation of citizens

- Increase capacities within OPM
- Include communication in working plans and monitor their development
- Set communication standards
- Coordinate the media calendar at the governmental level

Budgetary planning

- Develop credible, feasible and realistic budget planning
- Strengthen planning capacities in budgetary organisations
- Draft sustainable macroeconomic policies

Budgetary execution

- Complete the legal framework and adopt the Law on Financial Reporting
- Strengthen the control system for fulfilling the criteria prior to the execution of budget requests.

Internal control and auditing

- Complete the legal framework
- Continuously improve the quality of internal control
- Continuously develop capacities

<p>Public procurement</p> <ul style="list-style-type: none"> - Advancement of public procurement procedures to enable transparent public expenditure, in accordance with the new legal framework on public procurement (after its approval) and with budgetary planning process. - Realization of electronic procurement to ensure transparency, increase competition and guarantee effectiveness.
<p>Organization of the public administration</p> <ul style="list-style-type: none"> - Reorganize in accordance with the Laws on Government and on State Administration and the sectorial Functional Reviews - Draft and approve Strategic Development Plans for medium-term reorganization - Draft and approve the respective Personnel Plans
<p>Human resources management and development</p> <ul style="list-style-type: none"> - Complete secondary legislation - Promote merit based and transparent recruitment - Organize the salary system in a transparent and objective manner - Raise the education level of senior management - Strengthen the training process
<p>Rationalization of the electronic administrative processes (e-governance)</p> <ul style="list-style-type: none"> - Advancement of electronic administrative procedures through which administration provides services to the citizens and businesses and drafting standards for their simplification and reduction of administrative barriers - Drafting of standards for internal administrative procedures (back office) for all public administration organs - Drafting of standards for general procedures for offices for services to citizens (front office) and analysis of special procedures for service provision - Drafting and application of quality management standards for service provision and control/inspection of quality of service provision in all institutions
<p>Electronic government (e-Government)</p> <ul style="list-style-type: none"> - Set standards of e-government policies - Strengthen and continuously expand IT infrastructure - Set electronic systems and integrate them in administrative processes

Between 2008 and 2010, after the first strategy had failed, a functional review horizontally analysed the competences of central institutions and agencies, including human resources (HR), policy making, and public financial management. The result of this endeavour was the Strategy on Public Administration Reform 2010-2013, which launched the second phase. It focused on twelve key areas, with 39 sub-objectives, shown in the table above, and was

more ambitious in scope than its predecessor.²³ The Ministry of Public Administration was the primary coordinating body, while sharing responsibilities for specific areas of implementation and oversight with other institutions. The Office of the Prime Minister (OPM) oversaw horizontal coordination on issues such as policy planning, legal drafting, anticorruption, etc., and the Ministry of Finance dealt with public financial management. MPA would deal with issues pertaining to the civil service, human resources, administrative procedures and the organisation of the administration.

Implementation was slow once again.²⁴ In particular, improper financial planning was a recurrent concern, repeatedly mentioned by the European Commission in the following years.²⁵ Not only that, the corresponding Action Plan was only prepared in 2012. As such, for two years and until then, the implementation lacked a formal methodological approach and clear delineation of responsibilities and leadership. While a Strategic Planning Office (SPO) was established within the Office of the Prime Minister in 2010, it worked bilaterally with ministries to consolidate sector strategies, resulting in somewhat decentralized and fragmented policy planning and implementation. A Steering Group for Strategy Planning later formalized inter-ministerial coordination between centre-of-government institutions (supplementing this bilateral approach) and to develop a ‘coherent Statement of Priorities’ (also including sectorial priorities).²⁶ However, it had a very limited role during the second phase of PAR, as it only started working in late 2012. In 2013, an evaluation of the second phase of PAR (requested by the President) revealed that less than 50 percent of the criteria set out in the 2010 – 2013 Strategy’s corresponding action plan had been met.²⁷

Third Strategy (2015 – 2020)

Two years passed before PAR received a new push with the third and current strategy. During this period, a number of notable events occurred, directly affecting future efforts. In 2014, the European Union introduced Public Administration Reform as a key pillar for the enlargement

²³ A brief history of previous strategies, their scope and their successes (and failures) is part of the current Strategy. See Ministry of Public Administration, Draft Strategy 2015 – 2020

²⁴ The Country Progress Report noted “limited progress with public administration reform. The revised public administration strategy for the period 2010–2013 [...] has not yet been implemented. The action plan has not yet been finalized, thus significantly delaying implementation of the reforms envisaged. The overall process is hampered by lack of financial resources and insufficient political support...” See European Commission, Kosovo* 2011 Progress Report, December 2011

²⁵ European Commission, Communication on a Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo, October 2012

²⁶ SIGMA, Kosovo Assessment Report 2013, Country Assessment Reports, April 2013, at <https://www.oecd-ilibrary.org/docserver/5jz2rqkm2d6l-en.pdf?expires=1565862377&id=id&accname=guest&checksum=0409D5C6D32CA6DAF1336330884781B2>

²⁷ Balkans Group interview with Presidential Advisor, Pristina, 24 May 2015

process, making it part of the conditionality demanded to any candidate country.²⁸

Public Administration Reform Strategy (2015–2020)		
Civil Service in Public Administration	Administrative Procedures and Service Delivery	Organisation of State Administration and Accountability
<ul style="list-style-type: none"> - Functionalize a new job classification and salary systems - Complete functionalization of use of HRIMS. - Amend and supplement the Civil Service Law. - Establish a new recruitment system based on testing and professional practice - Develop and enhance monitoring methods and mechanisms related to human resources management - Adopt and implement the training strategy for civil service - Reorganize and increase the capacities of DPARM, DCSA and KIPA - Plan and organize the training system through a credit-based, mandatory continuous professional education system; - Develop an Excellence Programme 	<ul style="list-style-type: none"> - Develop the vision and in-depth analysis for service delivery - Adopt the new Law on General Administrative Procedure - Identify specific administrative procedures to harmonise with the new LGAP - Identify public services provided by central and local institutions to establish a register of services. - Establish institutional monitoring mechanisms to assess the level of implementation - Increase capacities in service delivery and administrative procedures - Inform institutions and citizens of their rights and service-related procedures - Develop instruments for measuring public satisfaction - Establish a 'one-stop shop' model and increase e-government methods. - Increase the accessibility of the administration 	<ul style="list-style-type: none"> - Complete the legal framework for the Organization of Public Administration - Set clear criteria and financial estimations for the reorganisation - Establish institutional and individual performance measurement mechanisms - Enhance accountability through legislation and best practices - Establish sanctioning mechanisms for not publishing information and not allowing access to public documents without any legal justification. - Develop a legal framework on the responsibility of the public administration (execution of administrative decisions, damages calculation and disciplinary measures) - Draft a legal framework for minority communities' inclusion throughout the institutions of the public administration

Kosovo would now be expected to conduct this process according to strict principles once it moved from its pre-candidate to a more formalized status. Also, in 2014, the negotiations on a Stabilization and Association Agreement (SAA) with the EU concluded; the treaty was signed in 2015 and entered into force in April 2016.²⁹ It included PAR among its key areas. These developments marked an increasing importance of PAR for the European Union, giving new

²⁸ These three pillars – Rule of Law and Economic Governance, Public Administration Reform, and Strengthening of Democratic Institutions – are key elements of the Enlargement Process and are referred to collectively under the heading of 'fundamentals first'. See European Commission, Enlargement Strategy and Main Challenges 2014–15, COM(2014) 700 final, 8 October 2014 at https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2014/20141008-strategy-paper_en.pdf

²⁹ Council of the European Union, Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo*, of the other part, 2 October 2015 at <http://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf>

impetus to the process in Kosovo, and creating the conditions for broader political support, as it became a constant element of EU-driven reforms.

With the SAA, Kosovo pledged to implement a series of measures that would require substantial administrative reform, as its institutions were not capable of fulfilling the commitments included in the

Distribution of competencies for PAR		
OPM	MPA	MF
Policy and Legislation development and coordination	Civil Service regulation, HR, service delivery and accountability	Public Financial Management

agreement back then. In order to expedite the process, the Government cooperated with the EU Office to draft a guiding document, the European Reform Agenda (ERA). Complemented by a National Plan for the Implementation of the Stabilization and Association Agreement (NPISAA) and a number of sectorial strategies, it covered 22 priorities in three broad fields of action; good governance and rule of law, competitiveness and investment climate, and employment and education.³⁰ Its broad scope and focused nature meant it shaped the most relevant policies during this period, thus heavily framing the requirements and setting the stage for PAR.³¹

In parallel, preparations for a new PAR document had already commenced in mid-2014 under the auspices of the Ministry of Public Administration, with an eye on these developments that were taking place simultaneously. The MPA led a thorough evaluation of the previous PAR strategies and request assistance from SIGMA to create a national framework, as required by the EU, to guide future reforms.³² The resulting new Strategic Framework is loosely based in SIGMA’s Principles of Public Administration, which in turn derive from the issues highlighted by the European Commission in 2014.³³ In early 2015, the Government formalized its new approach through the resulting Draft Strategy on Modernization of Public Administration, which was formally adopted in September of that year. It identified six main problems hindering PAR during the previous two cycles– (i) the ‘broad and dispersed scope of PAR strategies’, (ii)

³⁰ Balkans Group policy report, European Reform Agenda for Kosovo: Challenges to the Good Plan, November 2016 Government, Kosovo – EU High Level Dialogue on Key Priorities – European Reform Agenda (ERA) –, November 2016

³¹ Balkans Group, European Reform Agenda: Good Governance and Rule Of Law Progress Report, October 2017, at <https://balkansgroup.org/en/european-reform-agenda-progress-report-on-good-governance-and-rule-of-law-2/>

³² See SIGMA, Principles of Public Administration, November 2014, at <http://www.sigmaweb.org/publications/Principles-Public-Administration-Nov2014.pdf>. For more information on the analysis conducted by MPA, see Ministry of Public Administration, Comprehensive Report on the implementation of the Public Administration Reform Strategy 2010–2013, June 2014, pg. 13, at <http://map.rks-gov.net/getattachment/8548fd1f-60d2-4318-b226-8f1ed8e26d27/Raporti-gjithperfishires-mbi-zbatimin-Strategjise-d.aspx>;

³³ European Commission, Enlargement Strategy and Main Challenges 2014–15, COM(2014) 700 final, 8 October 2014 at https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2014/20141008-strategy-paper_en.pdf

a 'broad horizontal coordination structure and three levels of vertical management', (iii) 'lack of clear prioritization between objectives', (iv) action plans 'overloaded with activities irrelevant for the time', (v) 'performance monitoring focused on process, not results', and a (vi) 'failure to set separate budget codes for activities based on the action plan'.³⁴ The final document outlines three overarching goals with a number of reform actions, as shown in the table above.

With the third PAR phase, the MPA intended to reconfigure management structures. While the 'overall management and coordination' remains under the leadership of the Ministerial Council for PAR (MCPAR), chaired by the Minister of Public Administration, the authority and responsibility for implementation was divided amongst the three primary implementing institutions, each responsible for specific areas of reform.³⁵ The Government formalized the new distribution of responsibilities in a decision of February 2015.³⁶

As seen, the current phase of PAR is a complex process shaped by several different inputs. The European dimension appears through the principles set by the SAA and the roadmap discussed in ERA, while other national documents detail implementation within that scope. Along with the Strategy on Modernization of Public Administration 2015 – 2020, the following three documents serve as the foundational pillars for the current Strategic Framework: 1) the Strategy on Improvement of Policy Planning and Coordination 2017 – 2021, under the purview of the OPM; 2) the Strategy for Better Regulation 2017 – 2021, also under the purview of the OPM; and 3) the Strategy for Public Finance Management 2016 – 2020, under the purview of the Ministry of Finance.³⁷ A detailed analysis of these documents is provided below.

The Government is currently in the final stretch of implementing the third phase, and although complete implementation is still out of reach, it has already taken some significant steps. Among these, the approval of a new comprehensive legal package in 2019, composed of a Law on Public Officials, a Law on Salaries in the Public Sector and, a Law on Organization and Functioning of State Administration and Independent Agencies, had the highest potential to boost the process. The Constitutional Court ultimately declared the Law on Salaries unconstitutional and limited the scope of the Law on Public Officials. As a result, it delayed the schedule and, in the end, limited the scope of changes attainable during this phase.

³⁴ Ministry of Public Administration, Draft Strategy 2015 – 2020, pg. 10 – 11

³⁵ The Minister's Council for Public Administration Reform was established by the Government decision 05/09 of 21 January 2015. The Council is chaired by the Minister of Public Administration and council members include the Minister of Finances, Minister of European Integration, Minister of Local Government Administration, Minister of Trade and Industry, and a political representative from the Office of the Prime Minister.

³⁶ Government Decision 09/13 of 12 February 2015 On the organisation and functioning of the structures on implementation of Strategic Documents related to Public Administration Reform.

³⁷ The Strategy on Improvement of Policy Planning and Coordination 2016 – 2018 gave way to the Strategy on Planning and Coordination Improvement 2017 – 2021, while the Strategy for Better Regulation 2014 – 2020 also received an update to become the Strategy for Better Regulation 2017 – 2021.

LEGISLATION AND INSTITUTIONAL STRUCTURES

More than ten years after independence, public institutions are still quite young and developing their own identity, configuration, institutional role, procedures and internal and external recognition. Despite UNMIK's transfer of functions to the PISG in the early 2000s and gradual establishment of a public administration over the last decade and a half, Kosovo continues to lack a professional civil service. Before delving into a comprehensive assessment of persistent public administration challenges (politicization of civil service, non-merit based recruitment, promotion, and dismissal processes, inadequate public service delivery, and lack of local ownership and political will for public administration reform, amongst others), this chapter will provide overviews of the new legislative framework for public administration, of the domestic and international institutions tasked with overseeing public administration and public administration reform, and of recent progress and challenges in the three key areas of PAR (policy and legislative development and coordination, public financial management, and human resource management).

Legislation

Until 2010, the legal framework for the civil service was based on UNMIK regulations, with notable flaws: (i) all public employees were defined as 'civil servants', with no distinction between administrative, professional and auxiliary staff; (ii) no transparent grading or payment structure existed; and (iii) there were no open-ended contracts nor transparent criteria for the renewal of public sector employment contracts.³⁸

During the first phase of public administration reform, primary legislation on public administration was adopted (the Law on State Administration, the Law on Civil Service, the Law on Salaries of Civil Servants, the Law on Administrative Procedure, and the Law on Administrative Conflicts) resulting in a comprehensive and modernized legislative framework for the public administration in general and PAR in particular.

However, implementation of legislation and reforms was continuously postponed. The 2010 laws on Civil Service and Salaries of Civil Servants went unimplemented for many years due to poor planning and failure to allocate necessary financial resources (as well as resistance from the Ministry of Finance over budget implications).³⁹ The legislative framework

³⁸ International Monetary Fund. Republic of Kosovo: First Review Under the Stand-By Arrangement, and Request for Modification of Performance Criteria: Staff Report; Press Release on the Executive Board Discussion, 17 July 2012, at <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Republic-of-Kosovo-First-Review-Under-the-Stand-By-Arrangement-and-Request-for-Modification-26073>

³⁹ A fiscal impact assessment in 2009 put the cost of civil service reform at 9.1 million Euro in the first year.

was chaotically implemented, decision by decision, with a piecemeal approach.⁴⁰ The three primary laws that regulate the public administration (the Law on Civil Service, the Law on Salaries of Civil Servants, and the Law on State Administration) are accompanied by 86 bylaws, some in contradiction to the laws on which they are based.⁴¹ The abundance of legislation on the topic, following a piecemeal approach in which no overall strategy is present, has not led to a well-functioning administration. Laws designed to protect the public administration from political interference largely failed to do so.

Key Legislation
Law on Civil Service
Law on General Administrative Procedure
Law on Public Officials
Law on Salaries in Public Sector
Law on the Organization and Functioning of State Administration and Independent Agencies

In 2018 the Government introduced a new, long-awaited legislative package for public administration. This had been a requirement of ERA and, although executed with over a year's delay (the laws should have been presented to the Assembly at the end of 2017), it represented a very welcome development.⁴² The Draft Law on Salaries in the Public Sector, the Draft Law on Public Officials, and the Draft Law on Organization of State Administration and Independent Agencies were approved by the Government Cabinet in September 2018 and were passed by the Assembly in February 2019. These three laws "form the backbone of a very substantive reform for Kosovo, which will enable Kosovo to build the legislative and institutional framework for a public administration that is more equitable, merit-based, coherent, and accountable".⁴³ Unfortunately, certain elements of the package were controversial, and as a result the Ombudsperson appealed against the Laws of Salaries and Public Officials in the Constitutional Court.⁴⁴ While only the Law on Organization of State Administration entered into force as scheduled, the Law on Public Officials was cleared to enter into force in June 2020, as the Court abrogated the Law on Salaries. The respective subsections below describe each of the laws and, where necessary, the problems that led to their constitutional challenge.

⁴⁰ Balkans Group interview with Senior MPA official, Pristina, 18 September 2015.

⁴¹ GAP Institute, *Reforming Public Administration in Kosovo*, July 2015, pg. 7, at http://www.institutigap.org/documents/99892_Reforming%20Public%20Administration%20in%20Kosovo.pdf

⁴² European Commission, *Kosovo* 2019 Report*, May 2019, at <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-kosovo-report.pdf>

⁴³ European External Action Service, *Kosovo's progress on Public Administration Reform*, Press release, 15 May 2015, at https://eeas.europa.eu/delegations/kosovo_en/44545/Kosovo's%20progress%20on%20Public%20Administration%20Reform

⁴⁴ The Ombudsperson submitted a referral against the Law on Public Officials on 8 November 2019, and against the Law on Salaries on 5 December, requesting the suspension of both as an interim measure while the Court decided.

Law on Civil Service

The Law on Civil Service is the oldest piece of legislation, having entered into force on 9 July 2010. The law defines which public officials are considered civil servants, regulates the hiring, promotion, and employment of civil servants, codifies the rights and duties of civil servants, and identifies disciplinary mechanisms and terms for the dismissal of civil servants. Loopholes in the Law on Civil Service “allowed for contradictory practices, including the conversion of temporary staff into permanent civil servants without a public competition”.⁴⁵

Only 70 percent of civil servants were covered by the job classification system.⁴⁶ The Law on Public Officials, which will replace the Law on Civil Service once in force, builds upon the lessons learned from this law and should improve the legal framework for the recruitment, promotion, and dismissal of civil servants and represents a major step forward, with the different categories of public officials being clearly defined for the first time.⁴⁷ However, steps still need to be taken via the Law on Public Procurement to close loopholes for the hiring, transfer, and promotion of temporary staff.

Law on General Administrative Procedure

Another law that was not part of the most recent reform initiative, the Law on General Administrative Procedure (LGAP) entered into force in June 2017, replacing the previous one from 2010. It set the principles of administrative action (lawfulness, proportionality, objectivity and impartiality, active assistance and gratuity, among others), retaking some of them from the previous law, but expanding on their content and adding others, taking into consideration comparative best practices.

While the old law had a substantial amount of transitional law (clauses determining how to attribute competences to a specific organ or defining rules for cooperation and the resolution of conflicts over jurisdiction between institutions), this law focuses much more heavily in defining in detail the elements of administrative procedure, including the subjects (the party and representatives), public organs (in relation to the law setting their competencies) and the responsible official.

The law differentiates various forms in which the administration interacts with the general population, setting specific rules for administrative acts, contracts, and other actions (real acts and provision of public services of general interest), defining the purpose of each, as

⁴⁵ European Commission, Kosovo* 2018 Report, April 2018, pg. 11

⁴⁶ The World Bank, Implementation Completion and Results Report for Public Sector Modernization Project, June 2017, pg. 9 at <http://documents1.worldbank.org/curated/en/594501499374545885/pdf/ICR00004101-06212017.pdf>

⁴⁷ European Commission, Kosovo* 2019 Report, May 2019

well as their minimum elements, both formal and material. It also details the processes to conclude those actions, setting rules for language, deadlines to reply, how to treat and process requests and files, how to substantiate decisions (what constitutes administrative evidence), and the rights of the parties in an administrative process. In this regard, the new law includes detailed rules for notification to the interested parties at different stages, as well as a more comprehensive definition of the review and appeals process.

The result of this new legal framework was the simplification of some administrative procedures, but it did not include sufficient transitional clauses (how to adapt existing administrative procedures to the new law). A general abrogation clause just revokes any disposition contrary to the new law, but without specific mentions. Considering the piecemeal nature of Kosovo's legal tradition, that essentially left all special laws regulating a specific administrative process based in the previous law in contradiction with the General Administrative Procedure. Solving that issue requires identifying and individually amending every such special law, to harmonize those processes with the LGAP.⁴⁸ This lack of harmonization has limited the positive impact on public service provisions and is a cause of legal uncertainty for citizens and businesses.⁴⁹

Law on Public Officials

The Law on Public Officials is the first of the PAR package of 2019 and was supposed to enter into force by September 2019. It marked the completion of one of the most relevant ERA priorities still pending at the time.⁵⁰ However, its course has been far from smooth. After the delay in preparing, proposing and obtaining approval of the draft, the Government decided to delay its application via decree in order to gain time to make necessary arrangements that were still pending. Later, on 8 November 2019, the Ombudsperson submitted it to the Constitutional Court for review.⁵¹ The institution argued that the law encroaches into the competence of independent constitutional institutions (such as itself, the National Auditor or the Central Elections Commission, among others), transferring to the MPA key competences on staff management, including setting the regulatory framework through bylaws. The Ombudsperson noted that, unlike the previous Law on Civil Service, this one does not contain specific provisions applicable to independent institutions, which implies putting their staff

⁴⁸ Ibid.

⁴⁹ SIGMA, The Principles of Public Administration – Kosovo* 2019, Monitoring Report, May 2019, at <http://www.sigmaweb.org/publications/Monitoring-Report-2019-Kosovo.pdf>; See also European Commission, Kosovo* 2019 Report, May 2019

⁵⁰ Government, Kosovo – EU High Level Dialogue on Key Priorities – European Reform Agenda (ERA) –, November 2016

⁵¹ Decision on Interim Measure in Case No. KO203/19, Constitutional Review of specific Articles of Law No. 06/L-114 on Public Officials, VPM 1472/19, 25 November 2019, paragraph 7

under the direction of the central government, a clear source of threat to their independence.⁵²

The Court would eventually agree with this assessment, and on 30 June 2020 it decided to declare the law partially unconstitutional, determining that as it stands, it does not apply to independent constitutional institutions.⁵³ However, such exemption only applies to these institutions with constitutional status; other agencies and organizations with just a legal basis, such as the Police or independent agencies, would not have such protection, and their staff is thus subject to the framework set in the new law. The Court, however, did not bar the possibility of setting rules for constitutional institutions; on the contrary, it mandated the Assembly to amend the law to ensure that it safeguards their institutional autonomy.⁵⁴

The Court did not tell the Assembly how to articulate such an amendment, but only tasked it with doing so, leaving space to future legal developments. Although there might be a temptation to simply limit the scope of the law and leave the regulation of constitutional institutions to their own special laws, that would only serve to split the framework and prevent the much-needed reorganization. The Government should propose introducing specific rules within the law transferring responsibility for the implementation of the new legal framework from the MPA to the respective departments within the organizations. These rules should regulate the relations and interactions between the MPA's department responsible for the implementation of the law and the respective HR units. These should be balanced to guarantee the independence of the latter, so that the MPA ensures the harmony of the framework but does not interfere with its actual application and day to day practices. Its overseeing role should be limited to challenging in court the actions it considers to be not in compliance with the law.

Despite its rocky start, the Law on Public Officials improves the legal framework for the recruitment, promotion, and dismissal of civil servants. In that sense it represents a major step forward as it clearly defines the different categories of public officials, with specific rules regarding requirements, functions and responsibilities for each. In addition, it sets a clearer framework for recruitment, evaluation and disciplinary actions, compared with the legislation it replaces.

However, implementing the law will require creating several new processes and departments that deviate ,to a large extent, from the existing structures. This process has proven to be more complicated than expected, even before its suspension. On 24 June 2019, a Working

⁵² Ibid., paragraph 17

⁵³ Specifically, to the Kosovo Judicial Council, the Kosovo Prosecutorial Council, the Constitutional Court, the Ombudsperson Institution, the National Audit Office, the Central Elections Commission, the Central Bank and the Independent Media Commission.

⁵⁴ Constitutional Court, Decisions from the review session held on 30 June 2020, Press Release, Pristina, 30 June 2020, at <https://gjk-ks.org/en/decisions-from-the-review-session-held-on-30-june-2020/>

Group on the Implementation of the Legal Package was tasked with drafting secondary legislation related to recruitment and HR practices.⁵⁵ Nonetheless, most of its work stalled due to political instability. It is worth mentioning here a regulation on compensation for extra hours that never came about. This was exceptionally relevant because abuse is common. Although working hours are set (as a general rule) from 8:00 to 16:00, with overtime limited in theory to certain activities, some civil servants have been unduly receiving the corresponding compensation. Not only is this phenomenon against existing rules on working time, it also directly contradicts the Law on Public Financial Management.⁵⁶ This example shows how completing the secondary legislation is necessary, particularly now that the Constitutional Court allowed implementation, if only partially.

Law on Salaries in the Public Sector

The second law of the package, the Law on Salaries in the Public Sector was an attempt to bring clarity to a disarranged, and often unfair, payment policy, stemming, like the rest of the package, from ERA.⁵⁷ Between 2008 and 2015, public sector wages more than doubled.⁵⁸ In late 2017, the Government decided to double the salaries for its members (the Prime Minister's salary increased from 1,443 to 2,950 euros/month under the Haradinaj Government), which resulted in public outrage and several public workers' unions organizing strikes to demand an equivalent rise.⁵⁹ At the same time, local organizations considered the movement unacceptable, as it was done in complete disregard of the discussions for a new salary framework, making the Prime Minister earn over 22 times the average national salary.⁶⁰ Ultimately, his successor reversed the decision shortly after coming to power.⁶¹

The discontent generated with the situation influenced the negotiations regarding the new law, and to some extent determined the outcome as certain collectives were able to exert a greater pressure during the discussions regarding index values, which ultimately determine the final base salary for a particular category of public employees. As a result, other collectives felt abandoned, as they considered that not all employees would benefit equally from the new law, an argument that would later play a role in the ensuing constitutional challenge.⁶²

⁵⁵ Balkans Group interview with a MPA official, Pristina, August 2019

⁵⁶ Balkans Group interview with a MPA official, Pristina, April 2020

⁵⁷ Balkans Group report, European Agenda for Kosovo: Challenges to the good plan, November 2016

⁵⁸ Bertelsmann Stiftung, 'Country Report – Kosovo', in Bertelsmann Stiftung's Transformation Index (BTI) 2018, 2018

⁵⁹ Reuters, Kosovo's teachers strike for 30 percent pay rise, 24 January 2019, at <https://af.reuters.com/article/worldNews/idAFKCNIP1INE>

⁶⁰ GAP Institute, INDEP & GLPS oppose Government's decision on salary increase in the public sector, 23 December 2017, at <https://www.institutigap.org/news/2087>

⁶¹ Prishtina Insight, Kurti cuts salaries across government, 12 February 2020, at <https://prishtinainsight.com/kurti-cuts-salaries-across-government/>

⁶² Radio Free Europe, Jo të gjithë i gëzohen Ligjit për pagat (Not everyone pleased with Law on Salaries), 4 November 2019, at <https://www.evropaelire.org/a/ligji-per-pagat-/30252606.html>

The law was finally passed in late February 2019, and it should have entered into force 6 months later, but like the Law on Public Officials, it was suspended by the Constitutional Court upon request of the Ombudsperson.⁶³ It aims to “harmonise the salary structure in the civil service, in order to have equal pay for equal work”.⁶⁴ This would solve a traditional problem with the public payroll, as missing a comprehensive, unified framework, different organisations established different benefits schemes, resulting in equivalent positions in different institutions receiving different salaries. To remedy this, the law standardized salaries by instating an individualized ‘salary coefficient’ for each position, as already mentioned.

However, in doing so it collided with several constitutional principles, according to the Ombudsperson (supported in this by numerous institutions and professional collectives).⁶⁵ First, the law overlooked the autonomy of independent constitutional institutions, in a very similar way to the Law on Public Officials.⁶⁶ Furthermore, the ranking of salaries took place in an ad-hoc manner, without a proper prior systematization of positions and responsibilities. As a consequence, the application of the law happened to introduce an uneven change in salaries (even lowering it for certain collectives), which went against individual rights and poses problems regarding legal certainty; as well as introduced differences in grading for similar work, and conversely, similar stipends for varying levels of responsibility, raising concerns of equality before the law.⁶⁷

The Court accepted these three arguments in their entirety, and thus deemed the core elements of the law unconstitutional. As a result, and unlike the Law on Public Officials, the Law on Salaries could not even be partially applied, and the Court declared it completely inapplicable on 30 June 2020.⁶⁸ This decision leaves an important pillar of the last PAR phase incomplete and represents a major blow to the reform effort. It is worth considering, however, that the Court’s judgement does not condemn the purpose of the law, but rather its execution.

First, the problems derived from the interference with justice and independent constitutional institutions would not have existed simply if the law included specific clauses for them, similar to the one delegating to the Assembly the normative development within its own sphere. If simply KJC and KPC (and the other institutions) had had the capacity to issue developing

⁶³ Decision on Interim Measure in Case No. KO219/19, Constitutional review of Law No. 06/L-III on Salaries in Public Sector, VMP 1492/19, 19 December 2019

⁶⁴ European External Action Service, Kosovo’s progress on Public Administration Reform, Press release, 15 May 2015, at https://eeas.europa.eu/delegations/kosovo_en/44545/Kosovo's%20progress%20on%20Public%20Administration%20Reform

⁶⁵ A total of 34 entities, besides the Ombudsperson, submitted comments to the Constitutional Court. These are listed in paragraph 30 of the Decision, and the next paragraph offers a summary of each.

⁶⁶ Decision in Case No. KO2019/19, Law on Salaries, paragraph 18 and following

⁶⁷ Ibid., paragraph 23 and following

⁶⁸ Constitutional Court, Decisions from the review session held on 30 June 2020, Press Release, Pristina, 30 June 2020, at <https://gjk-ks.org/en/decisions-from-the-review-session-held-on-30-june-2020/>

sub-legal acts in the same manner as the Presidency of the Assembly, there would have been no issue. Second, the Court does not prohibit lowering the salaries of public employees, it does however require such an action to be justified, and not be arbitrary. Third, the law made unjustified differences in treatment by introducing seemingly random exemptions to its scope, or to the implementation, in a way that goes against the purported goal of harmonizing the salary payment system, as it left important sectors unregulated. It also failed to provide legal certainty inasmuch as it delegated in the Government setting the equivalence between the existing job categories and the ones set in law. As a result, a large portion of the civil service would not be able to place themselves in the new category list (and thus ascertain their new salaries) until the Government passed these sub-legal acts.

With these considerations in mind, the MPA should move without delay to introduce a new law that brings the failed framework back but details transitional clauses instead of unreasonably delegating those to the Government. The new law should thus bring the general framework to determine the salaries of public employees back, but it should introduce specific rules for independent institutions and a detailed, inclusive and open process to determine the equivalence of professional categories (the so-called 'job catalogue' that was so problematic in the law now abrogated). This new 'catalogue' should enjoy the maximum support possible among the organizations, unions and civil servants' groups. Its categories should be defined by taking into consideration the requirements of the Court, ensuring that there is not a disproportionate benefit (or prejudice) for any specific group, that any exception is justified and that any reduction in salary that might take place is also based in sound arguments, since they would infringe in the individual rights of the affected employees.⁶⁹

Constitutionality issues aside, the law had another serious problem regarding its effect on public finances. If in 2018 the budget foresaw 590 million euro for salaries, rising to 620 million in 2019, it was estimated that the entry into force of the law would raise the tally to 730 million in 2020.⁷⁰ Furthermore, the IMF shared concerns about the long term repercussions of the law, as allocating extra funds for staffing costs would detract from public investment in every sector, including those identified as critical and already underfunded such as justice or healthcare.⁷¹ The challenges and shortcomings associated with the increases in public sector salaries will be further addressed in the subsection on public financial management and fiscal discipline, and should serve as a lesson for future endeavours to replace the legislation.

⁶⁹ Ibid

⁷⁰ Group for Legal and Political Studies, *New Law on Salaries: An examination of Potential Socio-Economic Effects*, December 2019, pg. 9

⁷¹ Radio Free Europe, FMN, *e shqetësuar me Ligjin për pagat, viti 2020 problematik*, (IMF, concerned with Law on Salaries, 2020 problematic) 8 February 2019, at <https://www.evropaelire.org/a/fmn-e-shqetesuar-me-ligjin-per-pagat-viti-2020-problematik/29757687.html>

Law on Organization and Functioning of State Administration and Independent Agencies

The Law on the Organization and Functioning of State Administration and Independent Agencies (LOFSAIA) is the only law from the package that eluded constitutional challenge, and thus, was the first to enter into force. It aims at clarifying the administrative structure of the state by setting a consistent framework for institutional structures within the public sector, categorizing agencies according to a clear typology, and establishing clearer dependency and hierarchical lines between these and central (or local) public institutions.

The problem with independent agencies lies in their origin; they are established by special laws, apart from the Law on Civil Service, which was not comprehensive to begin with. As a result, they respond to various logics and have different lines of responsibility, creating a chaotic situation that hinders accountability. In addition, there has consistently been a confusion between independent constitutional institutions, regulatory bodies, executive agencies and watchdogs, which further complicated managing these organizations, as the term agencies is loosely applied to them, despite essential differences in their nature, scope and competencies.

While reforms relating to independent agencies could be seen by these agencies as a breach of their independence, codifying the responsibilities and lines of accountability for independent and regulatory agencies was (and still is) essential.⁷² The LOFSAIA is supposed to set the frame for future developments,

Existing “Independent Agencies”	
Subject to review:	68
— Governmental Agencies	46
— “Assembly” Agencies	22
Excluded from review:	
— Independent Constitutional Institutions	10

by specifically excluding constitutional institutions from its scope and establishing a clear distinction between executive and regulatory agencies (both dependant on the Government but with different roles) and independent agencies, which are established by the Assembly to assist in its control functions.⁷³

For this new framework to work, all existing agencies would have to adapt to it in the first place. To that end, the Government passed the Action Plan for the Rationalization of Agencies on June 2018, which should pilot the transition from the existing agency structure to that foreseen in the new law.⁷⁴ Ironically, due to the delays in adopting the legal package, the action plan

⁷² Balkans Group interview with Senior IOBCSK official, Pristina, 10 November 2015

⁷³ The Law dedicates separate Chapters to each type, defining a methodology for their establishment, organization and accountability to either a Ministry or the Assembly, as well as their internal governance and control.

⁷⁴ European Commission (2019). Kosovo 2019 Report. Brussels, 29 May 2019, pg. 86.

was ready eight months before the law passed. It foresaw four rounds of rationalization. In each, the Government expected to conduct a thorough review of the existing institutional arrangements with the support of SIGMA and in close cooperation with the Assembly, as it would directly affect the latter.

As a result of this endeavour, a draft law on 'the First Wave of Rationalization and Establishment of Accountability Lines for the Agencies that operate within the Assembly of the Republic of Kosovo' was completed. This first wave would focus on nine independent (Assembly) agencies with executive functions, although the final draft only dealt with eight. It would transfer four of these agencies to the relevant line ministries, while three more would lose their status to become simple departments within the ministerial system. The last agency, the Academy of Justice, would be subsumed by the Kosovo Judicial Council, which would integrate it within its structure.⁷⁵

Unfortunately, the political situation and the resignation of the then Prime Minister in July 2019 meant the Assembly never had the chance to consider the proposal.⁷⁶ As of June 2020, the relevant legislation is prepared but not enacted. The second and third rounds are already

Rounds of Agency Rationalisation		
First Round	"Assembly" agencies with executive functions	9
Second Round	Governmental agencies with duplicated functions or erroneous categorization	20
Third Round	Governmental agencies with duplicated functions or erroneous categorization	26
Fourth Round	Regulators and other remaining "Assembly" agencies	12

delayed as of June 2020, and it is unlikely that the fourth round, which should commence in the third quarter of the year, will be launched in time. Besides introducing some rationale to the widespread agency sector, LOFSAIA heeded the Commission's concerns regarding the number of Deputy Ministers.⁷⁷ To tackle that, it introduces a minimum definition of the position, specifying that this position has the competences explicitly delegated to him or her by the Minister, whom the Deputy replaces when necessary.⁷⁸ This should curb the number of Deputy Ministers without any function whatsoever, as the appointment now requires listing some specific functions. However, more time is needed to judge the effectiveness of the measure, as so far only one term has lapsed since the entry into force of LOFSAIA.

⁷⁵ Draft Law On amending and supplementing the Laws related to the Rationalization and Establishment of Accountability Lines of Independent Agencies, articles 42 and 43.

⁷⁶ Balkans Group interview with a MPA official, September 2019

⁷⁷ European Commission (2019). Kosovo 2019 Report. Brussels, 29 May 2019, pg. 8

⁷⁸ Law on the Organization and Functioning of State Administration and Independent Agencies, article 16

It is worth noting that the new laws represent a true regulatory step forward, but they are only effective insofar as their implementation is properly managed. To that regard, the Government must “make considerable further efforts to implement managerial accountability and to delegate decision-making responsibilities in public administration”.⁷⁹ The adoption of the package of PAR laws had the potential to dramatically change how the public administration works, but the transitional phase is proving to be more complicated than anticipated, as not even one of them is yet fully implemented. The true test of political will for public administration reform will come with concluding the needed regulations and actions to transition from the current way of working to that foreseen in the new laws, which so far has not been uneventful.

Secondary Legislation

Secondary Legislation applicable to Public Administration

Law on Public Officials

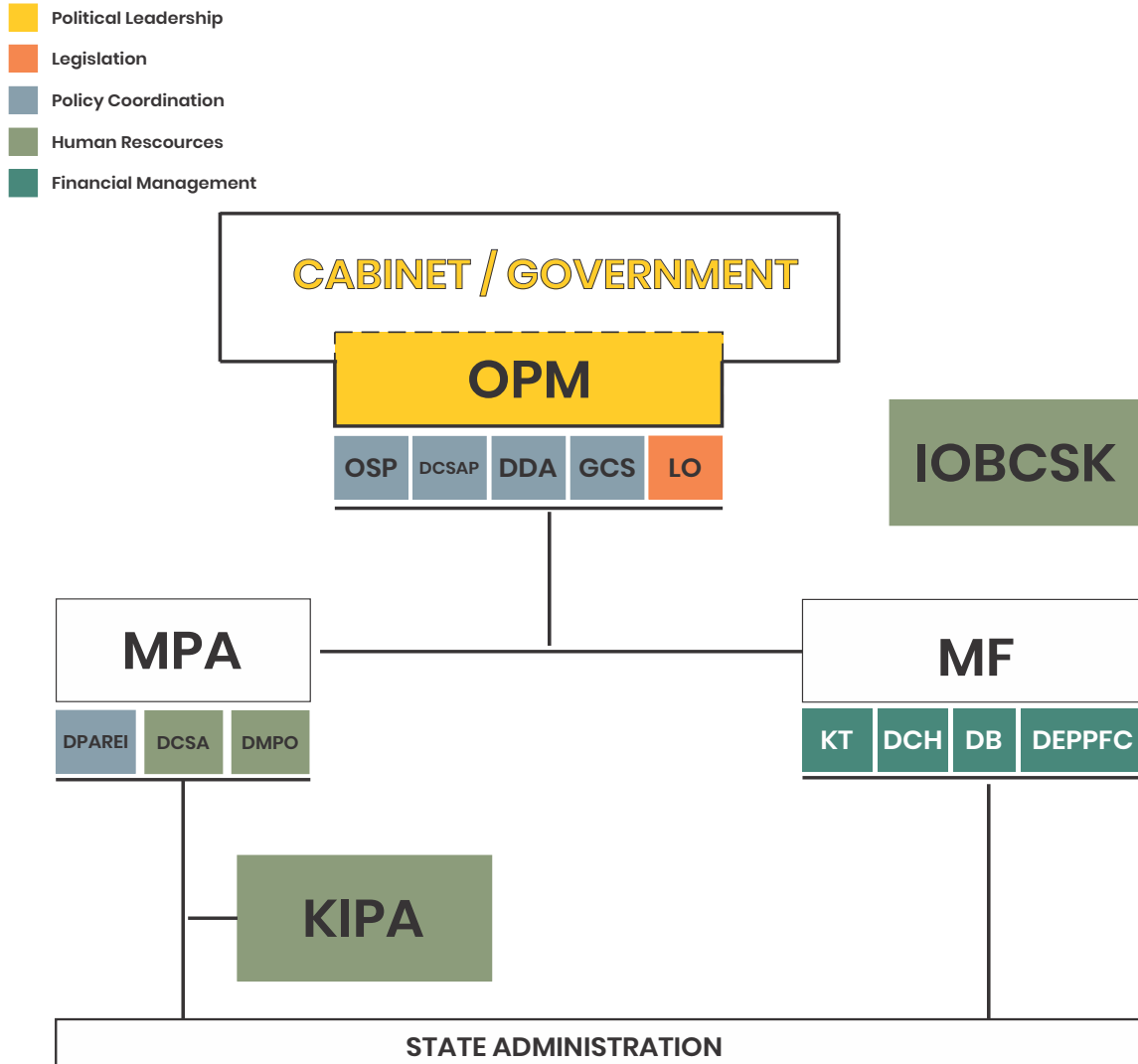
- Rules for procedure and decision-making of Admission Commissions for Senior Managerial Categories [Art. 41 (6.1)]
- Criteria and procedure for selection of commissioners [Art.41 (6.2)]
- Rules of payment for commissioners who are not civil servants [Art. 41 (6.3)]

Law on Organisation and Functioning of State Administration and Independent Agencies

- Organisation of responsible structures for internal administrative functions of ministries [Art. 21 (5)]
- Internal organisation of ministries and executive agencies [Art. 28 (3)]
- Framework for the Performance Management System (performance plan, report and statement) [Art. 30 (8)]
- Rules for cooperation between institutions [Art. 36 (6)]

⁷⁹ European Commission (2019). Kosovo 2019 Report. Brussels, 29 May 2019, pg. 13.

Institutional Structures



OPM - Office of the Prime Minister

- OSP** Office of Strategic Planning
- DCSAP** Department for Coordination of Stabilization and Association Process
- GCS** Government Coordination Secretariat
- DDA** Department of Development Assistance
- LO** Legal Office

IOBCSK - Independent Oversight Board for the Civil Service of Kosovo

MPA - Ministry of Public Administration

- DPAREI** Department for Public Administration Reform and European Integration
- DCSA** Department for Civil Service Administration
- DMPO** Department for Management of Public Officials

MF - Ministry of Finance

- KT** Kosovo Treasury
- DCH** Department for Central Harmonization
- DB** Department of Budget
- DEPPFC** Department for Economic, Public Policies, and Financial Cooperation

Office of the Prime Minister

The OPM is responsible for the development and coordination of policies and legislation, in line with the Strategy on Modernization of Public Administration. The implementation of the Strategy on Improvement of Policy Planning and Coordination 2017 – 2021 and the Strategy for Better Regulation 2017 – 2021 falls directly under the purview of the OPM. A number of offices within the OPM provide direct support for policy-making, policy coordination, and PAR. The **Government Coordination Secretariat** reviews policy content of concept documents; the **Office of Strategic Planning** provides comments on most sector strategies submitted to the Government; the **Legal Office** reviews legislative drafting quality.⁸⁰

The **Department for Coordination of Stabilization and Association Process** coordinates the Stabilisation and Association Process, European integration negotiation structures and the Government's European integration strategic documents. In addition, the **Department of Development Assistance** coordinates the planning, monitoring and evaluation of EU and other donor assistance. In addition, cooperates with Ministries to determine annual and multi-annual financing priorities in support of the Stabilisation and Association Process.

In 2016, the Government also established a **Strategic Planning Committee**, led by the Prime Minister and including 'all main ministers', to coordinate and guide the policy planning process prior to final decisions by the Government, with the support of the SPO.⁸¹ Recently the Government rearranged the policy coordination mechanism into two groups, the Strategic Planning Committee and Strategic Planning Steering Group.⁸² Driven largely by the need to integrate the former ministry of EU integration into the policy making, the new policy and coordination organisation aim to better regulate strategic decision-making structures for policy developments and investments.⁸³

Ministry of Public Administration

The MPA is responsible for the civil service and state employees, including those working with independent agencies. Although it was merged with the Ministry of Internal Affairs (MIA) in early 2020, departments in both ministries have retained their separated structures with little, if any institutional integration; the merging seems to have been limited to the Minister.⁸⁴

⁸⁰ SIGMA, The Principles of Public Administration – Kosovo* 2017, Monitoring Report, November 2017, at <http://www.sigmaxweb.org/publications/Monitoring-Report-2017-Kosovo.pdf>

⁸¹ Office of the Prime Minister, Strategy for Improving Policy Planning and Coordination in Kosovo 2017 – 2021, December 2016

⁸² Decision No. 04/12, 09 July 2020.

⁸³ Ibid, Explanatory memo for the strategic planning structure.

⁸⁴ Balkans Group interviews with Government officials, Prishtina, June-July 2020 In fact, as of July 2020, even the websites of both ministries remain separated. MIA's website just added a button on its main menu linking to the older MPA's site, which has been rehosted and rebranded to simply "Public Administration". Both pages do not share the same style and format, nor use the official title, Ministry of Internal Matters and Public Administration ,

For this, and historical reasons, this report continues referring to the MPA as a separate entity instead. The MPA oversees all operational levels at which the public administration functions – government to government, government to businesses, and government to citizens. The MPA considered the first to be relatively well established but found the second and third to remain significantly lacking. Distinguishing between services offered at the local and central levels was one way in which the MPA seeks to improve the public administration’s capacity to meet the needs of citizens and businesses.⁸⁵ Although now part of the MIA, its structure remains intact and separate. The MPA’s **Department of Public Administration Reform and European Integration** is primarily responsible for PAR and has divisions focused on Reform Policy Development and Oversight of Internal Institutional Organization; Reform Coordination, Monitoring and Implementation; and European Integration and Policy Coordination. The **Department for Civil Service Administration** drafts service and payroll-related policies updates the job catalogue and prepares an annual report on the state of the civil service. The **Department for the Management of Public Officials** will assume the functions related to the implementation of the new laws, such as developing recruitment processes and designing the staff plan for the public administration.

Ministry of Finance

The MF is responsible for overseeing and implementing policies and reforms relating to public financial management and, specifically, implementing the Strategy for Public Finance Management Reform 2016 – 2020. The MF plays a crucial function of ensuring that legislation is financially sound and that proper financial and budgetary planning is in place ahead of policy implementation. However, policy implementation has suffered from lack of inter-ministerial coordination and of fiscal planning and discipline.

The **Ministry’s Department for Economic, Public Policies and Financial Cooperation** is responsible for designing the country’s macro-economic policies, while the **Department for Central Harmonisation** leads and set rules for public financial management across public institutions. The **Budget Department** coordinates budget policy formulation to ensure a better linkage between policies and resource allocation, increasing the efficiency of public spending, fiscal discipline and higher transparency in drafting and implementing the budget. Finally, the **Kosovo Treasury** is responsible for the management of the consolidated fund of Kosovo, as well as fulfilment of all liabilities. In addition, the Treasury manages the execution of the budget as well as the payroll of all employees which receives wages from the budget.

While the recent 2019 package of laws was developed with close coordination between the

at <https://mpb.rks-gov.net/>

⁸⁵ Balkans Group interview with an Advisor on PAR, MPA, Pristina, 9 October 2015

Ministry of Finance, the Ministry of Public Administration, and Office of the Prime Minister, the European Commission still finds that the Ministry of Finance “needs to become more involved in the overall coordination of reforms, especially because of the increased focus on managerial accountability”.⁸⁶ The lack of foresight regarding the impact of PAR strategies on the budget has also been a key problem identified in the SIGMA monitoring reports. While the MF confirms that the Law on Salaries will have no negative implications for fiscal stability, the European Commission has voiced serious concerns over the fiscal risks associated with this law, which could negatively impact the sustainability of public finances and macroeconomic stability.⁸⁷ The budgetary implications of the Law on Salaries as well as recent overspending on budget lines and increases in the annual budget deficit, fiscal deficit, and the public debt have raised concerns over fiscal discipline.⁸⁸

KIPA

The Kosovo Institute of Public Administration was established in 2003 and is responsible for the organization and delivery of trainings for civil servants. KIPA works closely with central government institutions and donors but has suffered from inadequate political and administrative support and strained inter-institutional relations with public institutions and departments in the Ministry of Public Administration. In the 2017 monitoring report, SIGMA warned that KIPA’s capacity to run the training system for civil servants and accompanying budget were insufficient.⁸⁹ Its training programmes remain unchanged since they were first introduced, and thus are obsolete; there are important gaps, such as in public policy formulation, which these old programmes do not cover. In addition, the Institute lacks any clear strategic planning. Unfortunately, as noted in the 2019 Country Report, the European Commission found that KIPA continues to lack the budget and capacity to provide necessary trainings.⁹⁰

IOBCSK

The Independent Oversight Board for the Civil Service of Kosovo (IOBCSK) is a constitutional institution and autonomous body that handles complaints from civil servants amongst other duties. It reports to the Assembly, determines appeals, and ensures compliance with rules and legislation governing the civil service. The Board and the MPA have had somewhat strained relations. In the past, the Board has found that the MPA makes arbitrary decisions regarding legislation and does so without any consultation.⁹¹ MPA officials, however, have

⁸⁶ European Commission, Kosovo* 2019 Report, May 2019, pg. 11

⁸⁷ Ibid., pg. 45

⁸⁸ Ibid., May 2019

⁸⁹ SIGMA, The Principles of Public Administration – Kosovo* 2017, Monitoring Report, November 2017

⁹⁰ European Commission Kosovo* 2019 Report, May 2019

⁹¹ Balkans Group interview with Senior IOBCSK official, Prishtina, March 2019

consistently complained that the Board is politicized and as a result the relations between both institutions are limited to a constant fight, with both sides more interested in gaining the upper hand over the other rather than cooperating in any meaningful way.⁹² In addition, the low number of administrative judges at the Basic Court of Pristina means an overburdened court and delays.⁹³

European Union

After the inclusion of PAR as a 'Fundamentals First' pillar for EU enlargement, the EU established 'special groups' to focus on PAR in coordination with enlargement countries and identified the following priorities in line with SIGMA's principles of public administration: (i) Strategic Framework for PAR, (ii) Policy Development and Coordination, (iii) Public Service and Human Resources Management, (iv) Accountability, (v) Service Delivery, and (vi) Public Financial Management.⁹⁴ In Kosovo, the Government and the European Commission introduced a more structured policy dialogue on public administration reform through a Public Administration Reform Special Group. The Special Group meets roughly once a year where they review the results achieved since the previous meeting and agree upon actions to be taken moving forward. To date there have been eight meetings (three under the SAA), with the last meeting held on 26 April 2018, where an evaluation of the conclusions of the previous meeting were done and new commitments were undertaken by both parties.⁹⁵

The EU has committed to providing direct budget support and financial assistance to aid in implementing the reforms set out in the PAR strategic framework. The European Union currently provides financial support for PAR through the Sector Budget Support (SBS) instrument of Instrument for Pre-Accession Assistance (IPA) II. The Government and the EU signed a Sector Reform Contract for Public Administration Reform on 14 December 2017 under the 2016 IPA II financial agreement.⁹⁶ In line with the contract, the EU planned to provide 25 million euros of financial assistance for PAR until 2021. The assistance is divided into four annual payments, with a maximum of 22 million euros into the budget and 3 million euros for technical assistance. However, the financial support is conditional on meeting agreed upon benchmarks and making continued progress on public administration reform.⁹⁷

⁹² Balkans Group interview with an MPA official, Prishtina, June 2020

⁹³ European Commission, Kosovo* 2018 Report, April 2018

⁹⁴ See European Commission, Reinforcing Public Administration Reform in the Enlargement Process, November 2014, at <http://www.sigmaweb.org/publications/Final%20conference%20report%20-%20PAR%20conference%2012%20Nov%202014.pdf>. See also SIGMA, *Principles of Public Administration*

⁹⁵ European External Action Service, Kosovo's progress on Public Administration Reform, Press release, 15 May 2015, at https://eeas.europa.eu/delegations/kosovo_en/44545/Kosovo's%20progress%20on%20Public%20Administration%20Reform

⁹⁶ Project Preparation Facility for the Ministry of European Integration. Webpage: Infographic for the Sector Reform for Public Administration, at <http://ppfi-kosovo.com/374-2/>

⁹⁷ European External Action Service, Kosovo's progress on Public Administration Reform, Press release, 15 May 2015, at

RECENT DEVELOPMENTS

The Strategy on Modernization of Public Administration 2015 – 2020 is the cornerstone of the current PAR phase, complemented by the Strategy for Better Regulation 2.0 2017-2021, the Strategy for Improving Policy Planning and Coordination in Kosovo (Integrated Planning System) 2017-2021 and the Public Finance Management Reform Strategy. These documents constitute the strategy framework currently under implementation,

Correspondence between the Strategic Framework and the Strategies	
Policy and Legislative Development and Coordination	Strategy for Improving Policy Planning and Coordination
	Strategy for Better Regulation 2.0
Human Resource Management, Accountability, and Service Delivery	Strategy on Modernization of Public Administration
Public Financial Management	Public Finance Management Strategy

and although there are discussions about streamlining such framework, thus far these have not yielded any result. The framework identifies three broad areas for reform – (i) the development and coordination of policies and legislation, (ii) civil service, human resource management, public administrative service delivery and accountability, and (iii) public financial management. This section will give an overview of recent developments, and ongoing challenges, in line with these three overarching pillars of public administration reform. The following section will address more specifically persistent challenges, including politicization of the civil service, hiring and promotion shortcomings, size and capacity of the civil service, procurement, and inadequate service delivery.

Policy and Legislative Development and Coordination

Two of these additional documents, the Strategy on Improving Policy Planning and Coordination 2017 – 2021 and the Strategy for Better Regulation 2017 – 2021, guide this first area of reform. Policy development and coordination, in line with the Strategy on Modernization of Public Administration, falls under the purview of the Office of the Prime Minister.

Kosovo's planning system for policy-making and policy reform has seen considerable progress over the past decade. Strategies like the National Development Strategy 2016 – 2021 demonstrate an interest to improve coordination and de-fragment policy interventions.

https://eeas.europa.eu/delegations/kosovo_en/44545/Kosovo's%20progress%20on%20Public%20Administration%20Reform

This strategy also touches upon public administration broadly in the context of making it more effective in rendering services for the businesses and citizens.

In line with the Strategic Framework, the Government adopted a new administrative instruction on strategy planning, development and monitoring in April 2018 with additional practical guidance issued in January 2019.⁹⁸ These ‘unified requirements’ seek to remedy some of the persistent challenges relating to policy and legislative development and coordination, including low quality and overlaps in sector strategies, ‘over-ambitious planning and poor financial planning’ and insufficient monitoring and reporting.⁹⁹

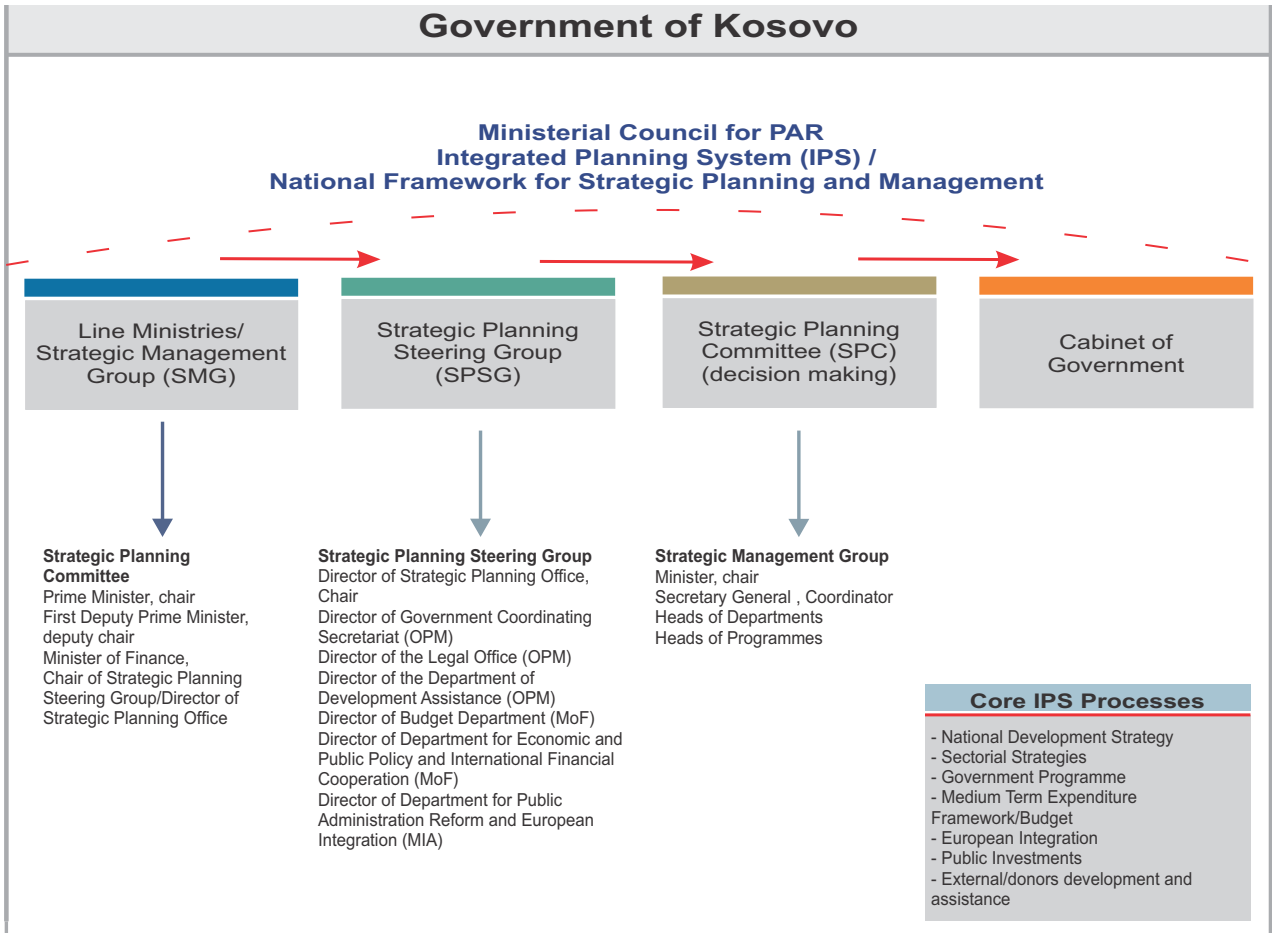
Strategy for Improving Policy Planning and Coordination in Kosovo 2017 – 2021	
Further improvement of the Strategic Planning Framework	<ul style="list-style-type: none"> - Align main documents with National Development Strategy - Improve strategic planning vis-à-vis SAA - Improve coordination at the Ministerial level
Better linkage of strategic documents with financial resources	<ul style="list-style-type: none"> - Improve the strategic orientation of Medium-Term Expenditure Framework and Budget - Improve mid and short-term budgetary planning - Manage effectively external aid
Integration of monitoring practices and processes	<ul style="list-style-type: none"> - Improve periodic evaluation of sector strategies - Strengthen the role of GAWP monitoring system - Ensure reporting coherence
Enhance capacities on policy planning and coordination	<ul style="list-style-type: none"> - Complete staff necessary for planning and coordination - Increase capacities for planning and coordination

A second decision, from July 2020, redesigned the Strategic Planning Structures, in an attempt to streamline the planning process and redistribute competences following the dissolution of the Ministry of European Integration.¹⁰⁰ This decision strengthens the Strategic Planning Committee, which becomes the sole political decision-making body, second only to the Cabinet itself. A Steering Group, composed of senior officials at OPM and MF, will conduct technical preparatory work, serving as a first filter with the support of the various line ministries whenever their input is required.

⁹⁸ Administrative Instruction (GRK), No. 07/2018 On Planning and Drafting Strategic Documents and Action Plans, 16 April 2018, at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18813>

⁹⁹ European Commission, Kosovo* 2019 Report, May 2019, pg. 11

¹⁰⁰ Government Decision No. 4/12, 9 July 2020.



Strategic Management Group (SMG)

A vertical ministerial structure which ensures sectorial planning, policy and strategic development as well as the implementation of ministerial plans, strategies, public investment plans and donor support.

Strategic Planning Steering Group (SPSG)

A horizontal inter-institutional structure that supports the SPC and is responsible for coordinating the development of strategic documents, the implementation of the IPS and ensuring their harmonisation with budgetary recourses. The SPSG oversees coordinating, developing and filtering all planning processes to the SPC and the Government Cabinet.

Strategic Planning Committee (SPC) - DECISION MAKING BODY

Serves as the Government’s single planning structure and is the only political level decision-making structure for reforms, policy, strategic priorities and investments including infrastructure projects in the Single Project Pipeline. The role of the National investment Council has been incorporated into the SPC.

Besides the setback imposed by the constitutional Court, which has already been explained in detail, some key challenges for policy development and coordination are:

Ad-hoc, fragmented policy-making: The excess and compartmentalised nature of planning documents has traditionally been an obstacle to effective policy implementation. Sectorial strategies with few links to each other and often-contradictory priorities are difficult to implement. Public Administration Reform is weakened from the same ‘ad hoc policy-making’

contributing to that fragmented policy landscape.¹⁰¹ Data made available to Balkans Group by the Ministry of Public Administration details that there are 66 strategies in place as of June 2020.¹⁰²

The Strategy for Improving Policy Planning and Coordination takes note of this issue and tries to address it by including among its priorities the consolidation of the framework for **sector strategies**, as well as improving the coordination of decision-making processes at the central level.¹⁰³ In an attempt to do so, the OPM is currently working in streamlining the sectorial framework, defining 15 thematic areas as sectors based on classification of the functions of Government¹⁰⁴ (Justice, Environment, Labour market and employment, etc.) complemented by “horizontal agendas” depending on government priorities (equality, climate and digital), all subject to a National Development Strategy.¹⁰⁵

For the time being, problems persist in this regard. While the SPO can require reports on sectorial strategy implementation, there was no clear obligation to report regularly, which limits effective evaluation.¹⁰⁶ With the new Administrative Instruction (07/2018) ministries are required to submit annual progress reports on their strategies to the Office of Prime Minister.¹⁰⁷ However, ministries do not have capacities to deliver on this requirement.¹⁰⁸ Quality control is lacking, and budgetary planning continues to pose a serious problem, as many strategies include budgetary needs but lack a clear identification of funding sources. In that regard, the administrative instruction from April 2018 could help in the planning process but is still early to assess its effects in the upcoming round of sectorial strategies.

In general, more focused efforts on improving the **alignment and harmonization** of different policy planning documents are still necessary. In 2019, only 14 of the 25 activities foreseen in the Strategy were concluded, with three not having started at all.¹⁰⁹ There has been progress in the last years, especially comparing the 20 strategies currently foreseen with the 90 applicable in 2014.¹¹⁰

¹⁰¹ Ibid.,

¹⁰² Balkans Group interview with a Government official, Prishtina, 15 June 2020

¹⁰³ These are, respectively, the specific objectives 1.3 and 1.4 of the Strategy.

¹⁰⁴ OECD, Government at a Glance 2019, 14 November 2019, pg. 200, available at <https://www.oecd-ilibrary.org/docserver/800c1533-en.pdf?expires=1595189250&id=id&accname=guest&checksum=8E889839FD07541AB16BDCF1F2BF87A6>

¹⁰⁵ Balkans Group interview with a Government official, Prishtina, June 2020

¹⁰⁶ SIGMA, The Principles of Public Administration – Kosovo* 2017, Monitoring Report, November 2017, pg. 33

¹⁰⁷ Administrative Instruction (GRK), No. 07/2018 On Planning and Drafting Strategic Documents and Action Plans, 16 April 2018

¹⁰⁸ Balkans Group interview with an official, Office of Prime minister, Prishtina, July 2020

¹⁰⁹ Office of the Prime Minister, Annual Report on Implementation of the Strategy for Improving Policy Planning and Coordination (Integrated Planning System) for the period January - December 2019, March 2020

¹¹⁰ Balkans Group report, Kosovo 2020: A Complex Agenda for the New Government, December 2019, pg. 7,

Yet, an eventual successful implementation of the SAA requires that all objectives are fully, and not just partially, met. Until that happens, Kosovo will only benefit partially from having reached the Agreement with the EU.

Evidence-based policy-making: evidence-based policy-making that builds upon regulatory impact assessments, data collection and analysis, and consultation with the public and private sector is still lacking. There are two substantial gaps in this regard; data collection and data analysis, both of which are insufficient.¹¹¹

The collection of administrative data and the analysis of regularly collected and up-to-date data must improve substantially amongst policy-makers and across the administration. Regulatory impact assessments and EU *acquis* alignment opinions must also be considered and reflected in policy; though formally required for draft laws, impact assessments and alignment opinions are “not systematically reflected in adopted government decisions”.¹¹² The Government has introduced impact assessment based on the existing system for developing concept documents¹¹³ which applied through various tools that can be used for identifying the expected impacts and determining certain impacts in more detail.¹¹⁴ In this regard, the major fault in the system is the commitment of policymakers to apply a proper planning and avoid a box-ticking approach to reforms, developing policy and on-paper reforms with little preparation or intention to committedly implement them and with little consideration of the impact of or challenges for their implementation.

Over-ambitious, poor financial planning: reforms continue to rely heavily on external support from donors like the European Union and GIZ, amongst others, and budget allocations in annual budgets do not match the required amounts called for in the strategies.¹¹⁵ This could be solved if the Ministry of Finance was engaged earlier in the planning process, as it is the best suited to conducting budgetary assessments. As it stands, the lack of these is severely impacting public accounts, as reforms and policies tend to be planned with little attention to the resources available to implement them. See for instance the case with the Law on Salaries, already discussed, which clearly exemplifies the shortcomings of policy-making. The shortcomings regarding fiscal discipline and the continued need to allocate budget lines for policy implementation will be addressed in the subsequent subsection on financial management and fiscal discipline.

¹¹¹ European Commission, Kosovo* 2019 Report, May 2019 pg. 11

¹¹² Ibid.

¹¹³ Better Regulation Strategy 2.0 2017-2021, at <https://map.rks-gov.net/desk/inc/media/44370786-C3B2-410D-9BB5-7E42B8AE6516.pdf>

¹¹⁴ Guidelines and Manual for Developing Concept Documents, at http://kryeministri-ks.net/wp-content/uploads/2018/06/Udhezuesi-dhe-Doracaku-per-Hartimin-e-Koncept-Dokumenteve-ENG-24-05-18_Publish.pdf

¹¹⁵ Ibid,

Implementation: Previous governments have largely failed to implement the strategies of the time, as the relevant institutions lacked capacities to conclude the activities planned and there was no political will to correct the problem. Previous phases of reform have largely failed because they were never a priority, designed with an insufficient resource allocation for the scope foreseen, and then evaluated based on activities rather than impact, resulting in processes that had an effect only on paper. Even the strategies currently applicable, which have a higher level of compliance, are still subject to substantial delays, with only partial implementation on schedule.¹¹⁶

Certain remedies have been put into place, including annual monitoring reports and revised action plans that make a stronger emphasis on capacities.¹¹⁷ In the case of PAR, while the new legal package represents a major step forward on paper, efficient implementation will be a major challenge, as the considerations mentioned above have shown. It is quite telling that the Government began implementing the Action Plan on the rationalization of agencies before the new legislation came into force, and yet it is already delayed.¹¹⁸

Monitoring: By focusing on activities only, monitoring has previously been a pro forma exercise ensuring only that activities have taken place without measuring their impact. Although in most cases there were indicators in place, the monitoring was not done at the appropriate level, did not adhere to the respective action plans and had a flawed methodology, in practice reducing its usefulness.¹¹⁹ Moving forward, the Office of the Prime Minister must reinforce its capacities for quality control and exercise them more actively; for instance, the current framework for planning still does not count on an integrated monitoring and reporting framework.¹²⁰

In that sense, although partial, a new requirement for line institutions to provide public annual monitoring reports on the implementation of the strategy documents is a step in the right direction. The Government has also published annual monitoring reports on the implementation of PAR strategies. However, the Government has not gone as far as to actively follow up on those reports, discussing them at the political level. Monitoring reports are only useful insofar as policymakers consider and build upon the findings moving forward. For example, even though the international community has consistently voiced concerns over fiscal discipline, budgetary planning, and the budgetary/fiscal impact of the new legal package, the mid-term review of the Public Financial Management Strategy did not result in

¹¹⁶ Democracy Plus, Government's Comprehensive Strategies: level of implementation, challenges and impact on policy-making, February 2019, at <https://dplus.org/wp-content/uploads/2019/03/Governments%e2%80%99-comprehensive-strategies.pdf>

¹¹⁷ European Commission, Kosovo* 2019 Report, May 2019, pg. 10

¹¹⁸ Balkans Group interview with a MPA official, September 2019

¹¹⁹ Ibid

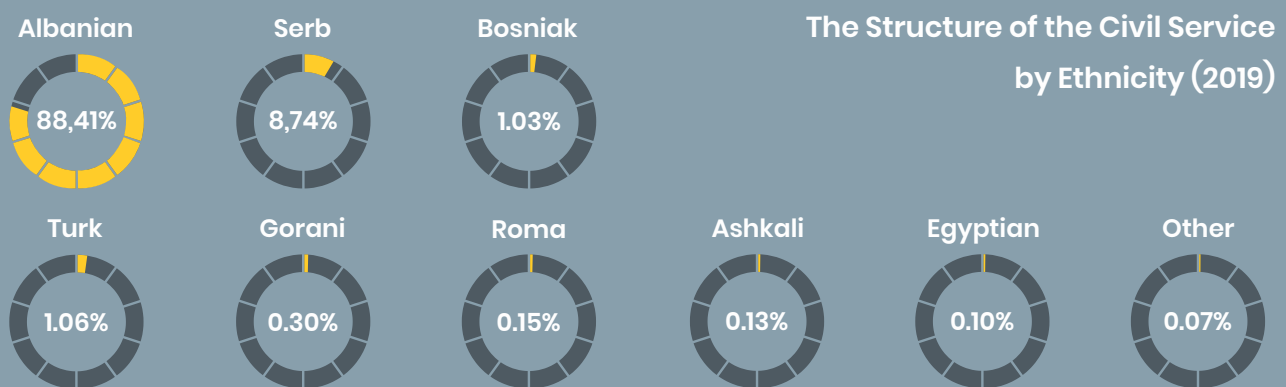
¹²⁰ European Commission, Kosovo* 2019 Report, May 2019, pg. 11

additional priorities.

A positive with regard to policy monitoring is a more active participation of civil society in monitoring the Government's public administration reform efforts.¹²¹ Public consultations have become the norm, take place regularly and now extend to legislation, sub-legal acts and policy documents.¹²² However, the level of response to consultations, and consequently, of public oversight and engagement from the civil society, depends on the awareness and spread of the platform. The more well-known it is, the better feedback it will obtain.

Human Resource Management, Accountability, and Service Delivery

This area encompasses most of the scope of the Strategy on Modernization of Public Administration. Unsurprisingly, the MPA is responsible for managing reforms related to the civil service, human resource management, service delivery and accountability, as directed by the strategy. While the following section will include more in-depth analysis of challenges for human resource management, specifically hiring, promotion, and dismissal processes, and for public service delivery, this subsection will provide a brief overview of the MPA's recent work in line with the third pillar of public administrative reform.



Source: Ministry of Public Administration

Through PAR, a catalogue of job positions was drafted and approved by the Government in January 2015.¹²³ Finally, in 2019, the new legislative package was approved, introducing for the

¹²¹ Ibid.

¹²² The main existing tool is the Platform for Public Consultation managed by the OPM, whose employment is mandatory since 2017. In 2019, the platform hosted consultations for 272 documents, including 6 strategies and 5 programs. See Office of Good Governance, Raporti Vjetor për Konsultimet me publikun në Qeverinë e Republikës së Kosovës për vitin 2019, (Annual Report on Public Consultations in the Government of the Republic of Kosovo for 2019) Pristina, March, 2020, at <https://konsultimet.rks-gov.net/Storage/Docs/Doc-5e95a82068612.pdf>

¹²³ Ministry of Public Administration, Katalogu i vendeve të punës në shërbimin civil të kosovës, January 2015, at <https://map.rks-gov.net/desk/inc/media/9DD73AF8-CB0E-4D4A-A744-31BEB2E0DCE.pdf>

first time a systematic categorization of positions within the civil service, as explained in the section on legislation. The MPA's Department for Civil Service Administration is responsible for updating the job catalogue with relevant codes and degrees, and consequently it is the body tasked to pilot the transition to the framework set in the new law.

The approval of the Law on Public Officials and Law on Salaries in February 2019 was a major accomplishment, strengthening the legal framework for recruitment and disciplinary processes, which should in turn have widespread effects in the level of professionalism and skills within the administration. However, the fact that it will likely not apply to independent institutions has the potential to introduce an immense loophole. Even if the laws raised important concerns that might derail their application, the principles upon which both are based are solid, and the documents should be revisited in the short term to integrate the recent Constitutional ruling, streamline how independent institutions work without curtailing their independence and ensure the harmony of the regulatory framework. Revisiting the Law on Salaries will be the most challenging, but necessary, endeavour in this regard.

In addition to the reform package of 2019, there have been several legislative developments in previous years that have strengthened the accountability of public officials. A Law on Conflict of Interest was adopted in April 2018, while a new law from November 2018 strengthened whistle-blower protection. The Independent Civil Service Oversight Board gained additional power through legal amendments, and legislation now foresees the removal of public officials convicted of criminal corruption.¹²⁴ However, several challenges persist in the area of human resources management, accountability and service delivery which will require ongoing interventions.

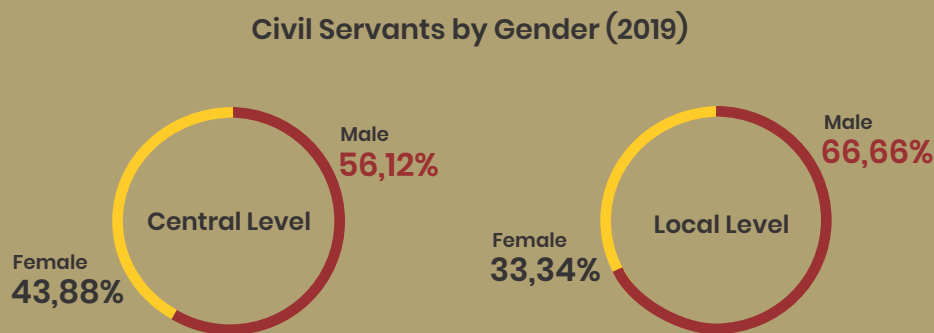
Human Resource Management: While there are HR management units in each ministry, these units must be enhanced before the new public administration laws enter force. The MPA also needs to enhance its capacity for the central coordination of HR management. In that regard, its new Department for Management of Public Officials (DMPO) can play a key role once it becomes functional, but given the responsibilities it will assume, the DMPO will require greater institutional capacity. The MPA also established human resource management information systems, but still needs to harmonize it with the payroll system and ensure full operational capacity.¹²⁵

¹²⁴ Laws No. 06/L-011 On Prevention of Conflict of Interest in Discharge of a Public Function, No. 06/L-048 On Independent Oversight Board for Civil Service of Kosovo, and No. 06/L-074 On Criminal Code of the Republic of Kosovo

¹²⁵ European Commission, Kosovo* 2019 Report, May 2019; See also Bertelsmann Stiftung, 'Country Report – Kosovo' in Bertelsmann Stiftung's Transformation Index (BTI) 2018, 2018

A key challenge for human resource management moving forward will be to ensure adequate representation of marginalized and underrepresented communities in public administration. From the main minority groups, as of 2019, the Serbs compose 8 percent of the civil service at both levels, with the Bosniaks and Turks at 1 percent each respectively.¹²⁶ The other non-majority ethnic communities are poorly represented in central public institutions, with a fraction of a percent.¹²⁷

Women hold only a small proportion of senior civil service positions.¹²⁸ Women are also underrepresented across the civil service, making up just 43 percent of the staff at the central level, and barely 33 percent at the local level.¹²⁹



Source: Ministry of Public Administration

Another key challenge is the lack of data (collection and analysis) on the civil service. According to an MPA official, there is no exact data on the levels of education of civil servants, as recruitment procedures do not take into account the academic level (the baseline is the completion of basic studies and a minimum work experience [3, 5 or 5+ years]). According to the same official, the MPA is currently planning to finalize and publish reports, which include demographic data on the civil service, including data on gender, employees with 'special needs', community belonging/association, etc.¹³⁰

A recent report on the current composition of the civil service places 68 percent of its 18,903 workforce at a postgraduate level of education, followed by 28 per cent with secondary education.¹³¹

¹²⁶ The report for the status of the Civil Service of the Republic of Kosovo, 2019, made available to Balkans Group, Prishtina, June 2020.

¹²⁷ Ibid.

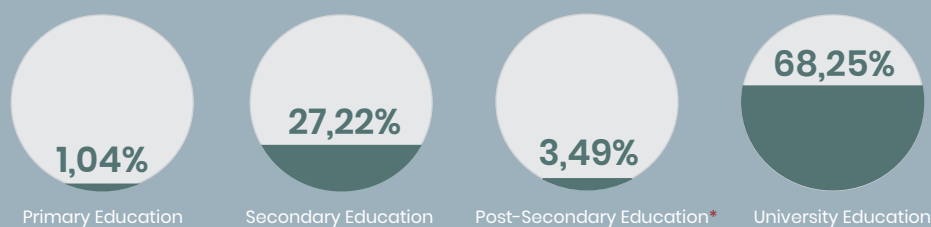
¹²⁸ INDEP, Women in decision making in Public Institutions in Kosovo, March 2019, at https://indep.info/wp-content/uploads/2019/03/INDEP_Women-in-decision-making-in-public-institutions-in-Kosovo-1.pdf

¹²⁹ Ibid

¹³⁰ Balkans Group interview with an MPA official, Prishtina, September 2019

¹³¹ Ibid

Educational Qualifications of Civil Servants (2019)



*The term refers to civil servants with two years of post-secondary education, while university education refers to those who have obtained a university degree.

Source: Ministry of Public Administration

Accountability: The lack of a proper evaluation and disciplinary process within the public administration has been a constant flaw of the system, contributing to an environment of impunity and a lack of oversight that successive governments failed to address.¹³² The European Commission has noted on several occasions that the politicization and political connections of civil servants limits accountability within the public sector, as the performance of politically-connected individuals is unlikely to be accurately evaluated. In addition to combatting political interference and influence over civil servants, integrity plans need to be systematically implemented and the Government needs to commit to implementing the recommendations of independent oversight institutions like the National Audit Office, Ombudsperson, and Civil Service Oversight Board in order to further improve the accountability of public administration and the civil service.¹³³

As further detailed in the sub-sections below, the lack of accountability of independent agencies has been a key shortcoming for the public administration. The action plan on the rationalization of agencies can support increased accountability. Moving forward, the Ministry of Public Administration also needs to create a 'framework for managerial accountability and the delegation of responsibilities in public institutions'.¹³⁴ The MPA has drafted and expects to apply this framework within the implementation of the new package of PAR laws.¹³⁵ The current plan foresees four waves of rationalization, but this proposal has met substantial opposition, and its future remains unclear.¹³⁶

An indirect manner of tackling the lack of accountability is transparency. Ensuring that the public understands what public workers do, how and why is a powerful motivator to avoid

¹³² Balkans Group report, Kosovo 2020: A Complex Agenda for the New Government, December 2019, at <https://balkansgroup.org/en/kosovo-2020-a-complex-agenda-for-the-new-government-2/>

¹³³ European Commission, Kosovo* 2019 Report, May 2019, pg. 13

¹³⁴ Ibid, pg. 10

¹³⁵ Balkans Group interview with a MPA official, June 2019

¹³⁶ Ibid

deviation from accepted attitudes, as these would be easily identified.¹³⁷ This is another area that needs improvement. The Government should make more datasets available on its open data platform, especially regarding the use of public funds. In that regard, the Ministry of Finance needs to further develop IT systems to “provide better integrated real-time information on public revenue and expenditure”.¹³⁸

Service Delivery: An extensive analysis of public service delivery is included in the section below. Briefly, recent developments include the improvement of interoperability infrastructure, the increase of data quality and availability, and an increase in public satisfaction with the efficiency of administrative procedures.¹³⁹ Administrative procedures have been somewhat simplified since the Law on General Administrative Procedures entered into force in June 2017. Businesses have also benefitted from the establishment of ‘one-stop shops’ for registration. However, improvements to citizen-oriented service delivery and accessibility of public services have been only ‘marginal’.¹⁴⁰ The ‘digitization of administrative services’ is an area where improvements could have a major impact on public service delivery.¹⁴¹ Institutions continue to implement their own solutions alongside the central electronic identification (eID) tools being developed. The Government still needs to develop a policy of digitalization of administrative services.

Most notably, there has been a notable lack of progress in two key sectors, education and healthcare, that represent a sizable portion of the citizenry’s daily interactions with the public administration. Both sectors are facing constant underfunding, which translates to both deficient equipment and insufficient permanent training. As a result, Kosovo’s educative results in PISA tests have always been abysmal, while its higher education has been excluded from European networks since 2019.¹⁴² In the field of healthcare, the mismanagement and the lack of capacities result in the exclusion of the weakest sectors from access to diagnosis and therapy.¹⁴³

In both cases, the lack of capacity is a common trend that determines to a large extent these insufficiencies. An in-depth analysis relating to the capacity and training of public servants, the hiring, promotion, and dismissal processes, and the performance evaluation systems will be presented in the following chapter on persistent challenges for public administration.

¹³⁷ An analysis of this issue applied to the field of Justice is available in Balkans Group, Kosovo Judiciary’s failure to communicate with the public, July 2019, at <https://balkansgroup.org/en/kosovo-judiciarys-failure-to-communicate-to-the-public-2/>

¹³⁸ European Commission, Kosovo* 2019 Report, May 2019, pg. 12

¹³⁹ SIGMA, The Principles of Public Administration – Kosovo* 2019, Monitoring Report, May 2019

¹⁴⁰ Ibid.

¹⁴¹ Ibid., pg. 3

¹⁴² Balkans Group report Kosovo 2020: A Complex Agenda for the New Government, December 2019, pg. 22 at

¹⁴³ Ibid, pg. 25

Public Financial Management

The Ministry of Finance is responsible for overseeing and implementing reforms related to public financial management (PFM), in line with the Strategy for Modernization of Public Administration, the Public Finance Management Reform Strategy 2016 –2020, and the complementary Public

Public Finance Management Reform Strategy	
Priority 1	Accuracy of macroeconomic indicators and revenue forecasting
Priority 2	Effective commitment controls
Priority 3	Sustainable tax revenue collection
Priority 4	Development of the Medium Term Expenditure Framework (MTEF)
Priority 5	Annual budget credibility and control of execution
Priority 6	Quality of information on capital budget
Priority 7	Public Procurement
Priority 8	Strengthening internal audit
Priority 9	Strengthening external audit
Priority 10	Enhancement of IT systems
Priority 11	Budget transparency
Priority 12	Sustainable capacity building in PFM

Internal Financial Control Strategy 2015 – 2019.¹⁴⁴ The final aim is to achieve sound financial management by improving in four key areas: (i) fiscal discipline, (ii) allocation efficiency, (iii) operation efficiency, and (iv) cross-cutting issues.

Concerns over fiscal discipline have increased. In 2018, a rise in the “fiscal ceilings on debt-to-GDP ratio, the fiscal deficit, the public sector wage bill and the bank balance were all observed”.¹⁴⁵ The European Commission also noted overspending on budget lines such as social expenses, a slight increase in the annual deficit (from 0.9 percent in 2017 to 1 percent in 2018), and a slight increase in the public debt (17.1 percent of GDP).¹⁴⁶

The IMF has expressed doubts that the increase in expenditure is sustainable in the long term.¹⁴⁷ The extra costs of the Law on Salaries were estimated to amount to 120 to 140 million euro.¹⁴⁸ The MPA provided assurances that the recent legal package, and particularly the Law on Salaries, was developed in close coordination with the Ministry of Finance; the Ministry of Finance ensured that the law had no negative implications for the budget or macro-fiscal stability.¹⁴⁹

¹⁴⁴ Government Decision 09/13 of 12 February 2015 on the Organisation and Functioning of the Structures on Implementation of Strategic Documents Related to Public Administration Reform,

¹⁴⁵ European Commission, Kosovo* 2019 Report, May 2019, pg. 12

¹⁴⁶ Ibid.

¹⁴⁷ The IMF is concerned that the expected salary hike, in addition to higher benefits that go beyond the actual economic development will be too costly for the country’s current economy, unless further measures to speed up economic growth are launched. See IMF, IMF Staff concludes visit to Kosovo, Press Release No. 19/224, at <https://www.imf.org/en/News/Articles/2019/06/18/pr19224-kosovo-imf-staff-concludes-visit>

¹⁴⁸ Balkans Group interview with Member of the Committee for the Oversight of Public Finance, Assembly of Kosovo, Pristina, June 2019

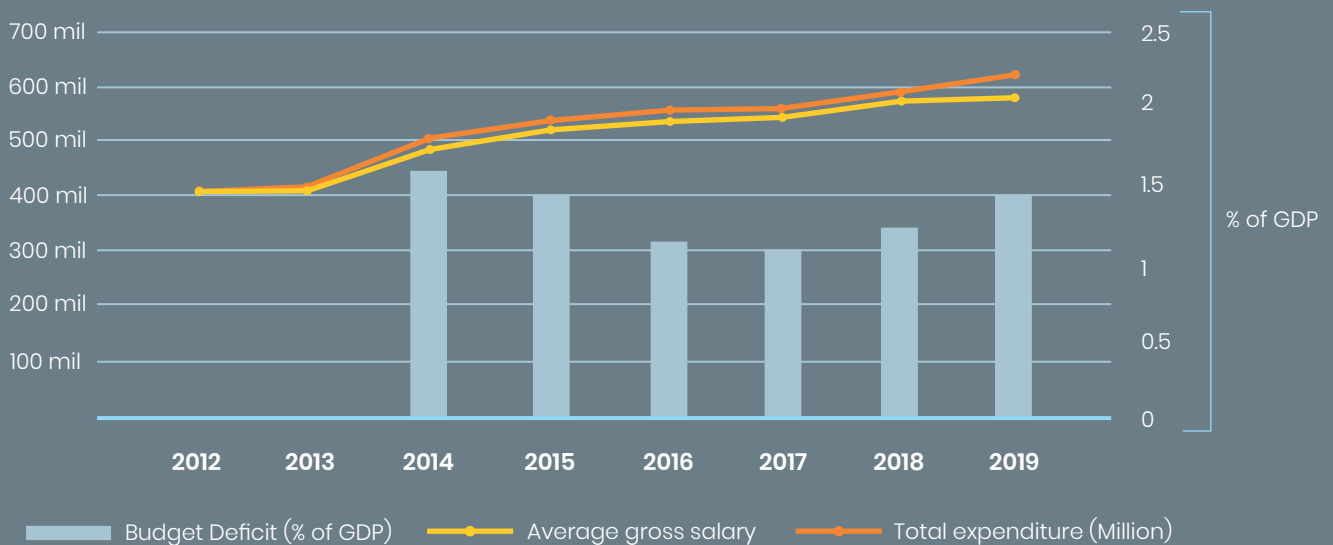
¹⁴⁹ Balkans Group interview with a MPA official, Prishtina, September 2020

However, that increase would represent an extra cost between 19 percent and 22 percent of the 616 million euro allocated to wages in 2019.¹⁵⁰ It is not surprising that this confidence has not been mirrored in the international community.

The lack of foresight regarding the impact of PAR strategies on the budget is a key problem identified in the SIGMA monitoring reports. The Government’s poor fiscal planning and discipline also remains a key concern for the European Commission. Ongoing fiscal initiatives, including the new laws and social transfers to specific groups, “create significant fiscal risks with a potentially negative impact on macroeconomic stability”.¹⁵¹ The Law on Salaries is one of the most recent initiatives demonstrating the continued lack of sufficient fiscal discipline. The effect of this law was always a major concern, as international institutions considered the fiscal analysis done by the ministry insufficient. In particular, the extra expenditures on salaries and pension supplements foreseen for teachers, but especially the ‘planned fiscal expansion in the 2019 budget’, raised concerns over the sustainability of public finances.¹⁵²

Staff Expenditure of the Public Administration

Source: Ministry of Finance, Kosovo Agency of Statistics



As the table shows, according to the figures reported yearly by the Ministry of Finance, the total budgetary expenditure on salaries has gradually increased (and the ever rising size of the administration discussed below), standing at 617 million Euro in 2019, and that considering the raise foreseen in the Law on Salaries did not materialize due to its constitutional suspension. This evolution has matched the increase in average (gross) wage reported by the Agency of

¹⁵⁰ Ministry of Finance, Annual Financial Report Budget of the Republic of Kosovo For the year ended on 31 December 2019, March 2020, pg. 19

¹⁵¹ European Commission, Kosovo* 2019 Report, May 2019, pg. 45

¹⁵² Ibid., pg. 47

Statistics. At the same time, Kosovo has not run a surplus in its history, with a deficit between 1.6 per cent and 2.2 per cent of its GDP since 2014. Although the deficit cannot be attributed exclusively to staff costs, these contribute to around a third of any organisation's expenses, and thus make a direct contribution towards this financial imbalance.

For this reason, proper budgetary and financial planning is a key challenge. Appropriate budgetary assessments must be conducted ahead of strategy adoption and the costs of implementation must be reflected in the budget. For example, the amounts required to implement the PAR strategies (and planned in these strategies) are higher than the amounts allocated via the annual budget and earmarked in the Medium-Term Expenditure Framework. As mentioned in the subsection above, sector strategies have also failed to align with the mid-term expenditure framework, often lacking information on budgetary needs, sources of funding, centralized quality control, and financial sustainability.

SHORTCOMINGS AND ONGOING CHALLENGES

Politicization and Political Interference

The politicization of the civil service is one of the key challenges that must be addressed. Some observers would go as far as to qualify this phenomenon as state capture.¹⁵³ As far back as 2015, the then Minister of Public Administration admitted that “it's very hard, impossible to get away from politicized employment”.¹⁵⁴ Going beyond words, more systematic studies have also shown that political influence in recruitment, hiring, promotions, and dismissal processes is one of the greatest shortcomings of Kosovo's public administration and civil service.

According to SIGMA, the “extent to which the recruitment of public servants is based on the merit principle,” the “extent to which the termination of employment of public servants is based on merit,” and the “extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented” saw no qualitative improvements from 2015 to 2017.¹⁵⁵ Also, the European Commission has continuously highlighted “concerns over non-merit based recruitments,” and “political influence over appointments and dismissals...especially for senior management”.¹⁵⁶ Hiring and promotions in the public sector are rarely based on institutional needs or qualifications of candidates.

¹⁵³ Kosovo Democratic Institute, *State Capture In Kosovo: The Political Economy Of Gravel*, 2018.

¹⁵⁴ Balkans Group interview with a Senior MPA official, Prishtina, 2018

¹⁵⁵ SIGMA, *The Principles of Public Administration – Kosovo** 2017, Monitoring Report, November 2017

¹⁵⁶ European Commission, *Kosovo** 2019 Report, May 2019, pg. 11

Recruitment and staffing processes remain heavily politicized and “party loyalty is often more important than professional competence”.¹⁵⁷

In early 2020 the new Government started to review its predecessor’s appointments, in a divisive movement that gave it some credit, but led to some dissatisfaction as some of the new appointments turned out to be party members, something the Prime Minister vehemently denied.¹⁵⁸ The Ministry of Foreign Affairs, particularly, was quite active in proposing the dismissal of a number of diplomats that, according to the Ministry, were unfit for the position, having been appointed in contradiction with the laws in force or whose mandate should have expired. Among them, there were some familiars of well-known politicians and even a former assistant to a previous Prime Minister.¹⁵⁹ In one case, the person in question had received numerous complaints for improper behaviour and abuse of office through the years, but her mandate was extended in 2019 for a third time.¹⁶⁰

Not only the diplomatic service was affected by these actions, other agencies also saw major changes. The General Director of the Customs Service was also fired after the Government annulled the decision extending his mandate, announcing that a public call would take place as soon as possible.¹⁶¹ Shortly thereafter, the entire Board of Directors of the University Clinical Hospital of Kosovo was dismissed by governmental decision, reasoning it had committed misadministration and acted contrary to the applicable laws and regulations on public expenses.¹⁶² These actions initially found strong support, but the Government soon faced criticism for its appointments, especially in the field of public enterprises, but this issue falls beyond the scope of the report.

History shows that politicians use public sector jobs as rewards for clientelistic behaviour. Some of those hired due to political connections and favours enter positions with low-skill requirements such as drivers and assistants. However, as less competitive candidates enter the lower levels of civil service and receive promotions throughout their tenure, non-competitive personnel can and often end up in high-level positions. For example, a driver

¹⁵⁷ Bertelsmann Stiftung, ‘Country Report – Kosovo’, in Bertelsmann Stiftung’s Transformation Index (BTI) 2018, 2018, pg. 33

¹⁵⁸ Kallxo, Arsyetimi i Albin Kurtit, nga 27 persona të emëruar në Borde, vetëm 4 janë të Vetëvendosjes, (Albin Kurti’s justification, out of 27 persons appointed to the Boards, only 4 are from Vetëvendosje) 7 April 2020, at <https://kallxo.com/lajm/arsyetimi-i-albin-kurtit-nga-27-persona-te-emeluar-ne-borde-vetem-4-jane-te-vetevendosjes/>

¹⁵⁹ Kallxo, Vendimi i Konjufcës, shkarkon 14 konsuj nëpër ambasada, (Konjufca decision dismisses 14 consuls in embassies) 20 February 2020, at <https://kallxo.com/lajm/vendimi-i-konjufces-shkarkon-14-konsuj-neper-ambasada/>

¹⁶⁰ Koha, Konjufca propozon tërheqjen e Fatmire Musliut nga Frankfurti, (Konjufca proposes the withdrawal of Fatmire Musliu from Frankfurt) 1 April 2020, at <https://www.koha.net/arberi/215691/konjufca-propozon-terheqjen-e-fatmire-musliut-nga-frankfurti/>

¹⁶¹ Kallxo, Albin Kurti e shkarkon drejtorin e doganes, (Albin Kurti dismisses the director of customs) 12 February 2020, at <https://kallxo.com/lajm/albin-kurti-e-shkarkon-drejtorin-e-doganes/>

¹⁶² Government Decision nr. 01/17 of 27, March 2020

hired by a minister can receive a degree during their employment and transferred to a legal department bypassing merit-based, competitive recruitment procedures.

While these personnel may have some competence in their field, many more capable and competent candidates are losing out on these jobs. These patterns of non-meritocratic recruitment, hiring, and appointment practices result in a public sector largely staffed with political clients who do not have the required skills needed to perform their duties and who would not be competitive for high-level positions in an open, position-based recruitment for senior civil servants. For this reason, the European Commission recommended that the Law on Public Officials require position-based recruitment (open competition) for senior civil servants rather than a “closed senior management ‘pool’ recruitment”.¹⁶³

Politicization and political influence not only affect hiring, recruitment, and promotions but also disciplinary actions against civil servants and dismissals. Although annual reports are published on the disciplinary measures taken against public servants, the Law on Public Officials needs to be updated to account for political influence dismissals, especially for senior management”.¹⁶⁴ Civil servants have legal recourse to challenge disciplinary measures, including dismissal or suspension. The regulatory and legal process to suspend or dismiss civil servants is a time-consuming, multi-step process. On the one hand, this robust legal infrastructure makes it challenging to suspend, dismiss, or take punitive action against civil servants, operating as a protection against politically motivated dismissals.

Unfortunately, political meddling within the public sector and public administration not only affect recruitment, hiring, and promotion processes but also day-to-day operations of the public administration and civil service. Even as legislative changes begin to limit opportunities for nepotistic hiring and promotion practices and recruitment slows, political hires associated with various political leaderships over time allow political parties to continue to exert influence within the civil service.¹⁶⁵ In 2015, several interviews conducted by BPRG shown a perception that “no issue can be treated without political pressure”.¹⁶⁶ Other officials stated that “political changes influence the entire system.”¹⁶⁷ Public perception is no better; according to UNDP’s regular Public Pulse, the number of respondents considering that public employment does not respond to merit criteria has remained constantly around 80 per cent from 2015 to 2020.¹⁶⁸

¹⁶³ European External Action Service, Kosovo’s progress on Public Administration Reform, Press release, 15 May 2015, at https://eeas.europa.eu/delegations/kosovo_en/44545/Kosovo's%20progress%20on%20Public%20Administration%20Reform

¹⁶⁴ European Commission, Kosovo* 2019 Report, May 2019, pg. 12

¹⁶⁵ Balkans Group interview with Senior Official at the MPA, March 2019

¹⁶⁶ Balkans Group interview with Senior Official at the Municipality of Pristina, 2 October 2015

¹⁶⁷ Balkans Group interview with Senior Official at the MIA, Pristina, 16 October 2015

¹⁶⁸ UNDP, Public Pulse Brief 17, March 2020, at <https://www.ks.undp.org/content/dam/kosovo/docs/>

Corruption and patronage “are widespread in public administration,” and the negative public impression that civil servants and politicians operate with impunity has not really improved”.¹⁶⁹ Anti-corruption cases are “not investigated thoroughly enough and are often inhibited if political interests are touched upon”.¹⁷⁰ Before the new Criminal Code entered into force in 2019, even if there was an investigation that ended in conviction, there was simply no legal norm allowing the removal of the convicted person from office.

Even with the legislative changes that limit opportunities for nepotistic hiring and promotion and seek to combat corruption amongst civil servants, the public sector is still left with poorly qualified, politically affiliated personnel. Many civil servants that were hired and promoted in the post-conflict period cannot be easily dismissed. The result is a public administration that remains heavily politicalized and lacks accountability and capacity.

Recruitment, Hiring, Promotions, and Dismissals

Recruitment: Due to the high level of politicization already referred to in the previous section, hiring and appointments often follow private interests rather than public interest. That is especially concerning for senior positions, where political pressure could be felt more intensively. Past governments have looked outside for a solution to this issue, requesting technical assistance in hiring processes, as they deemed local institutions to be incapable of conducting the without falling to external interests.

One such project ran from October 2016 to March 2020, under the auspices of the British Embassy. This British Project attached HR specialists with experience in recruiting senior managers to the selection committees for such positions. Since 2018, a second phase extended its scope to the Assembly and some municipal institutions. These specialists would conduct a parallel assessment of the suitability of potential candidates and provide recommendations regarding shortlisting and hiring to the decision makers. In these four years, the project assisted in 48 recruitment processes. The fact that it followed a consistent methodology helped introducing some standardization to recruitment practices for senior managerial positions. However, the selecting committee did not always follow the experts’ advice ending up with mixed results.¹⁷¹

[ResearchAndPublications/English17.pdf](#)

¹⁶⁹ Bertelsmann Stiftung, ‘Country Report – Kosovo’, in Bertelsmann Stiftung’s Transformation Index (BTI) 2018, 2018, pg. 15, 14

¹⁷⁰ Ibid, pg. 34

¹⁷¹ British Embassy Pristina, “Independent, accountable, meritocratic and professional recruitment in Kosovo” Recruiting senior positions in the civil service and independent institutions, March 2020, at https://c7e576c3-03cb-43c9-886e-9e6545cc0888.filesusr.com/ugd/e4426b_5b150d8ed1a5432aa96749e95f2b7b76.pdf

The new Law on Public Officials redefines recruitment practices, in order to reinforce merit criteria in hiring. Since the law clearly differentiates several categories within public workers, each has its own specific selection rules, which vary depending on the nature of their functions. In that sense, Cabinet members and other political appointees are picked simply by decision of the public official who requires their services, while the law tries to objectivize entry to the civil service. According to the new law, the DMPO will centralize all entry procedures for the state administration, which will depend mostly on the results of a written test (70 points), thus, in theory, displacing the subjectivity of CV + Experience and Interview (which will only account for 30 points).¹⁷² A higher threshold, set at 60 points, together with this decoupling between the institution that is hiring and that who organize the process, should increase the objectiveness and the selection processes, reducing space for nepotism.

The process to appoint senior managerial positions follows a somehow similar logic. With the new law, the selection process will be transferred from the hiring institutions to a newly minted National Admissions Commission. According to this new scheme, the respective HR departments will only organize the call for applications and verify that applicants fulfil the requirements set therein.¹⁷³ This should minimize nepotism, since the decision falls on an outside evaluator, and not in the own ministry's internal structures. However, this centralization poses a clear risk; the Government selects the members of the Commission, and if it chooses to do so based on political, and not technical, criteria, any appointment they make will be doubtful. That is particularly relevant since, as said earlier, these competitions are initially closed to persons already within the civil service and will be open to the public only if there is no suitable candidate from within its ranks. It is particularly important that the Government is transparent when making these appointments, as their quality will ultimately determine the quality of any subsequent hiring. At the bare minimum, it should consult civil society for these nominations. To ensure a de-politicisation of the managerial level, it should also consider introducing a foreign support scheme for the commissioner's selection process similar to the one active from 2016 to 2020.

¹⁷² Law No. 06/L-114 On Public Officials, Article 32 and following

¹⁷³ Ibid, Article 40 and onwards

Temporary Hires: the process of temporary hiring has been misused to employ political supporters, enabling these personnel to remain in public administration while bypassing merit-based recruitment and hiring processes. Loopholes in the Law on Civil Service “allowed for contradictory practices, including the conversion of temporary staff into permanent civil servants without a public competition”.¹⁷⁴ As SIGMA noted in 2017, the CSL “provides for temporary vacancies to be covered through the so-called Special Service Agreements (SSA) for periods of up to six months. Such contracts are often used to fill regular civil service functions without any recruitment procedures required for hiring permanent civil servants, for longer periods than those established in the CSL. This is becoming a common practice in public institutions under the CSL: in 2016, of the total staff hired in these institutions, 816 (56 per cent) were through the SSA, and 645 (44 per cent) through regular recruitment”.¹⁷⁵

Due to restrictions and regulations for hiring permanent staff, politicians, including mayors and ministers, have used temporary contracts to hire friends, relatives, and members of their political parties. Despite a 2015 SIGMA report noting concern over the “application of coherent standards in selection processes” and the role that temporary hires play in undermining merit-based recruitment, “temporary contracts bypassing regular recruitment procedures, often to fulfil civil service functions, increased” between 2015 and 2017.¹⁷⁶

No. of Civil
Servants

18.903

The Civil Service of Kosovo in 2019

Civil Servants by position

Senior Management **123**

Management **3132**

Professional **10656**

Technical-Administrative **4992**

Source: Ministry of Public Administration

¹⁷⁴ European Commission, Kosovo* 2018 Report, April 2018, pg. 11

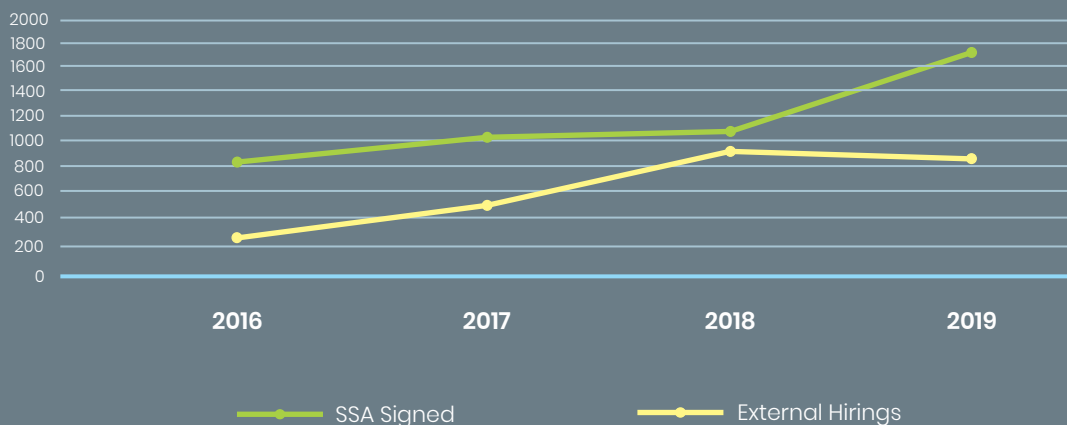
¹⁷⁵ SIGMA, The Principles of Public Administration – Kosovo* 2017, Monitoring Report, November 2017, pg. 66 - 67

¹⁷⁶ The 2019 SIGMA report did not address current trends in temporary hiring, as it focuses exclusively on the service delivery area. For more information, see SIGMA, The Principles of Public Administration – Kosovo* 2017, Monitoring Report, November 2017, pg. 55

The IOBCSK has highlighted similar concerns over the use of SSA contracts. The Board's Annual Work Report for 2017 noted that over 1,000 employees were hired with Special Service Agreement contracts, with many of these temporary employees filling positions designated for civil servants.¹⁷⁷ Many of these SSA contracts were non-specified employment agreements, were not in line with recruitment procedures, and violated regulations allowing persons on SSA contracts to work for only 6 months.¹⁷⁸ According to the Kosovar think tank Democracy Plus, in the period 2016 – 2018, around a tenth of all hires took place under this framework (1,948 out of around 18,000).¹⁷⁹ In this regard, the MPA's own Report on the Situation of the Civil Service seems depicts an even worse picture, with more recruitments taking place through SSAs than through regular processes for the whole period.¹⁸⁰ In 2019, the number of staff hired by the civil service on Special Service Agreements was 1745, almost twice as large as the 836 hired through regular recruitment procedures which are used to hire permanent civil servants.¹⁸¹

Special Service Agreements and External Recruitment

(source: Ministry of Public Administration)



¹⁷⁷ Independent Oversight Board for the Civil Service of Kosovo, Annual Work Report of the Independent Oversight Board for the Civil Service of Kosovo 2017, March 2018, at https://kpmshc.rks-gov.net/repository/docs/22_530539.pdf

¹⁷⁸ Ibid.

¹⁷⁹ Democracy Plus, Utilisation of Special Service Agreements and Acting Positions in Civil Service during 2016 – 2018, March 2019, at <http://www.dplus-ks.org/wp-content/uploads/2019/05/04-Shfryt%C3%ABzimi-i-marr%C3%ABveshjeve-p%C3%ABr-sh%C3%ABrbime-t%C3%AB-ve%C3%A7anta-ENG-03-min-1.pdf>

¹⁸⁰ At the time of writing these lines the report for 2019 was not yet public, and so the historical series covers only until 2018. All data has been extracted from the respective Report on the Situation of Civil Service of the Republic of Kosovo for the years 2016 – 2018, which are available at <https://mpb.rks-gov.net/ap/page.aspx?id=1140>

¹⁸¹ The report for the status of the Civil Service of the Republic of Kosovo, 2019, made available to Balkans Group, Prishtina, June 2020.

The Independent Board repeatedly recommended drafting specific regulations on recruitment procedures for SSA contracts, amend the Law on the Civil Service, and remove the article on Special Service Agreements (as these agreements would not allow contracted persons to be considered civil servants).¹⁸² The new Law for Public Officials has respected the spirit of the latter recommendation, leaving special service agreements to be regulated by the Law on Public Procurement.¹⁸³ The SSAs concluded in line with the Law on Public Procurement (whenever the Law on Public Officials enters into force and replaces the CSL) will be made public, must include job descriptions and position requirements, and can be appealed and, in turn, reviewed by the Procurement Review Body.¹⁸⁴ This may serve to increase transparency. However, public institutions may still misuse SSAs to employ persons fulfilling functions/roles intended for civil servants. Additionally, the Law on Public Procurement will not limit monthly payments under SSA contracts to 300 – 500 euro as the Law on Civil Service, which creates additional incentives for misuse. Also, contracts can last up to three years under the law on public procurement, rather than the 6-month limit defined in the Law on Civil Service.¹⁸⁵ As such, the duration, renewal, and payment restrictions associated with SSAs must be further defined via legislation.

Performance Evaluations: Regular performance appraisals are intended to provide metrics to evaluate personnel (over time) and influence training and promotion decisions. Unfortunately, performance evaluations are largely conducted pro forma and have “little influence on professional development”.¹⁸⁶ There is no central institution responsible for coordinating or standardizing performance appraisals, and no central or standardized system for evaluating the performance of civil servants across institutions.¹⁸⁷ This lack of standardization makes performance evaluations vulnerable to clientelism and political interference. Often, performance evaluations are seen as a perfunctory exercise, with the vast majority of civil servants receiving top scores. This misuse of the performance evaluation system undermines merit-based promotion processes. A standardized performance evaluation system should be implemented, and managers should commit to conducting thorough and accurate performance evaluations, which can then be used as resources to assist with promotion and training decisions.

¹⁸² Independent Oversight Board for the Civil Service of Kosovo, Annual Report 2017

¹⁸³ Democracy Plus, Special Service Agreements 2016 – 2018

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ European Commission, Kosovo* 2019 Report, May 2019, pg. 12

¹⁸⁷ Doli, D., Discussion Paper: Kosovo Civil Service Reform, Task Force on European Integration, pg. 23. at http://www.mei-ks.net/repository/docs/Discussion_Material_Civil_Service_Reform.pdf

Evaluation Grades in the Civil Service in 2019					
Number of Civil Servants Evaluated	Grades				
	Excellent (5)	Very Good (4)	Good (3)	Adequate (2)	Poor (1)
13.289	2.399	6.204	3.900	770	16

Source: Ministry of Public Administration

Standardization of Procedures: Non-merit-based recruitments remained commonplace throughout 2018.¹⁸⁸ The need to standardize procedures for recruitment was addressed in the Law on Public Officials of 2019, which improved the legal framework for merit-based recruitment, promotion and dismissal, but implementation will be a challenge. Different institutions continue to apply different rules, and recruitment procedures remain largely ad-hoc and under the discretion of ministers and senior management. As mentioned above, “serious efforts are needed to tackle the political influence on recruitment of senior civil servants”.¹⁸⁹

All ministries are required to obtain approval for and report to the MPA on all recruitment procedures. Considering the constitutional considerations already discussed above, a new regulation on the procedures for recruitment to senior management positions in the civil service was introduced, and the MPA and its Department for Civil Service Administration has been working on drafting and adopting bylaws (see legislation subsection above) and preparing guidelines for the application of the new recruitment system for civil servants.¹⁹⁰ The new legal package and expected bylaws and guidelines should provide greater guidance, structure, and clarity for recruitment processes moving forward.¹⁹¹

Size of Public Administration and the Civil Service

A government “focused on civil service job creation [is] a problematic legacy of the post-conflict era”.¹⁹² In part due to de-industrialisation and lack of prospects for job creation in the private sector, the public sector grew continuously throughout the post-conflict period and remains excessively large. In the post-independence period, waves of recruitment followed each election cycle, further ballooning the public sector.

Between 2008 and 2016, the number of public employees and number of agencies increased under each new government, partly due to the creation of new agencies. However, each government brought their own people and ‘militants’ to the institutions. For example,

¹⁸⁸ European Commission, Kosovo* 2019 Report, May 2019

¹⁸⁹ Ibid, pg. 3

¹⁹⁰ Balkans Group interview with a MPA official, Prishtina, June 2020

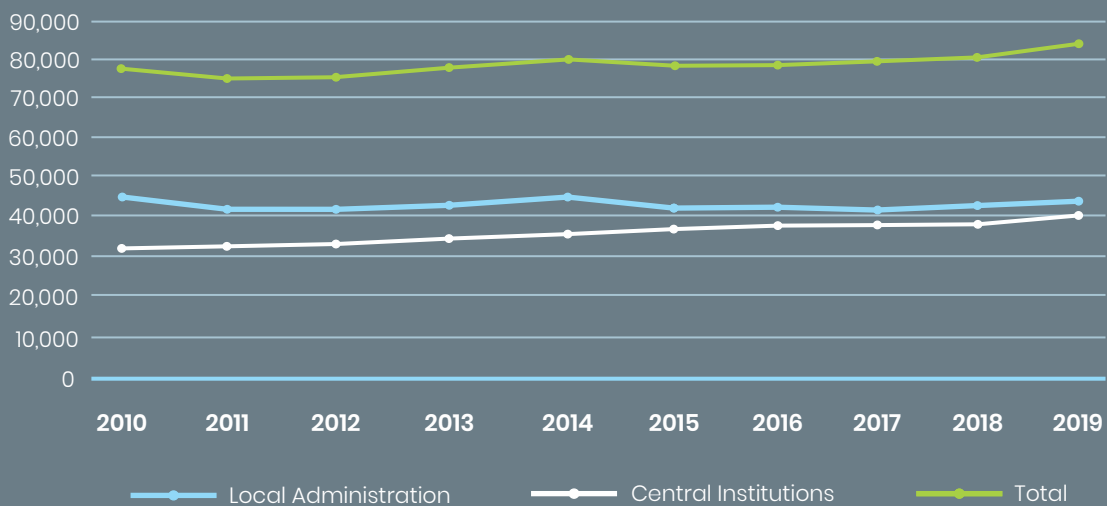
¹⁹¹ Ibid.

¹⁹² “Bertelsmann Stiftung, ‘Country Report – Kosovo’, in Bertelsmann Stiftung’s Transformation Index (BTI) 2018, 2018, pg. 23”.

between 2013 and 2015, 2000 more people joined the public administration.¹⁹³ In 2015, the MPA recognized that any attempts to reduce the number of public sector employees would likely fail without substantial job creation in the private sector.¹⁹⁴ Growth in the private sector remains too slow to account for the number of young Kosovars entering the labour market each year (around 30,000).¹⁹⁵ As such, the temptation to use the public sector as a job creation engine is strong for politicians. The public sector is more attractive for employment, as the employment is more secure, attracts further possibilities through connections and currently has higher salaries than the private sector.

Number of Employees in the Public Administration

(source: Ministry of Finance)



With these numbers, and as said earlier, the public administration continues to be the largest employer in the country. Although the yearly growth has remained somehow stable, it is dubious whether new expansion has followed any needs assessment whatsoever. In fact, the international community has been very vocal about the need of reducing the number of public employees.¹⁹⁶

¹⁹³ Ministry of Finance, Raporti vjetor financiar, December 2015, pg. 84 at <http://mf.rks-gov.net/desk/inc/media/3BAC8FEA-4544-4169-94BA-0D619CF6745C.pdf>.

¹⁹⁴ Balkans Group interview with an advisor on PAR, MPA, Prishtina, March 2019

¹⁹⁵ Kosovo has the youngest population in Europe, with a quarter of its people below 14 years old according to the last census (2011). As a consequence, the ratio of working people to dependants will not reach the levels of 2010 until the late 2040s, which could largely benefit the economic perspectives of the country. For more demographic data, see Cojocar, A., Jobs Diagnostics Kosovo, World Bank, 2017, at <http://documents.worldbank.org/curated/en/814361497466817941/pdf/ACS21442-WP-PUBLIC-ADD-SERIES-KosovoJDWEB.pdf>

¹⁹⁶ Bertelsmann Stiftung, 'Country Report – Kosovo', in Bertelsmann Stiftung's Transformation Index (BTI) 2018, 2018, pg. 32 – 33

Training and Professional Development

With the support of UNDP, the MPA developed an updated Strategy for Training of Civil Servants 2016 – 2020 to complement the Strategy for Modernization of Public Administration 2015 – 2020.¹⁹⁷ With the objective of increasing the knowledge, professionalism, and capacity of civil servants, the strategy offers recommendations centred on increasing the quantity and quality of trainings for civil servants.

A number of shortcomings were highlighted in the strategy, including the lack of selection criteria within ministries to define which staff should participate in trainings, lack of standardized needs assessments, lack of coordination between ministries, external donors, and KIPA, insufficient incentives for civil servants to participate in trainings and to employ the skills garnered via trainings, and insufficient monitoring and evaluation of trainings, amongst others.¹⁹⁸ Today, the training and professional development models for civil servants continue to suffer from a number of shortcomings.

In this regard, trainings continue to be voluntary, and civil servants lack incentives to participate regularly. This is clear from the participation rate where out of the total civil service workforce of 18,903 only 24 percent of civil servants attended one of the 128 training courses organized by KIPA in 2019.¹⁹⁹

Due to the problems already described regarding the evaluation and promotion system there is essentially no need to participate in professional development activities and trainings, nor pitfall from avoiding these. Rather, the primary incentive for participation is purely personal gain. The strategy goes as far as claiming that many civil servants felt trainings were “only attractive if held abroad”.²⁰⁰ In particular, since Kosovo still lacks a visa liberalization agreement with the European Union, the opportunity to visit a foreign country (and possibly acquire a longer-term visa for travel within the EU) remains a major draw. Some civil servants who have been invited to multiple trainings/exchanges in EU countries have been able to acquire multi-month visas, which they are able to use for personal travel to EU member states.²⁰¹ The per diems allocated to civil servants who travel out-of-country for work or trainings can substantially supplement the low salaries of civil servants and

Training in the Civil Service (2019)	
Training Courses	128
Training Participants	4534
Training Days	721
Source: Ministry of Public Administration	

¹⁹⁷ Ministry of Public Administration, Strategy for Training of Civil Servants 2016 – 2020, Pristina, 2015, at http://www.kryeministri-ks.net/repository/docs/THE_STRATEGY_FOR_TRAINING_OF_CIVIL_SERVANTS_2016-2020.pdf

¹⁹⁸ Ibid.

¹⁹⁹ The report for the status of the Civil Service of the Republic of Kosovo, 2019, made available to Balkans Group, Pristina, June 2020.

²⁰⁰ “Ministry of Public Administration, Strategy for Training of Civil Servants 2016 – 2020, Pristina, 2015”.

²⁰¹ Balkans Group interview with an international advisor to the Government, Pristina, August 2019

remain a major incentive for participation in trainings held abroad.

For these reasons, weekend workshops, trainings, and conferences (both those paid for by the national budget and those funded by international donors) are often held in neighbouring countries or abroad.²⁰² However, the responsibility for selecting participants for these trainings remains in the hands of managers and senior civil servants, which makes the system vulnerable to political influence and clientelism and may preclude lower level civil servants. Often, ministers and senior managers reward civil servants by sending them abroad on business trips or training sessions. In 2015, a KIPA officials stated that there were “cases where public administrative officials were sent to Dubai for trainings from ministries’ budgets and training sessions in Durres are very common”.²⁰³ Although this practice may yield legitimate professional benefits for more qualified civil servants, staff that are in the greatest need of training may be less likely to receive it. By controlling access to trainings and the accompanying benefits for out-of-country trainings in particular (high per diems and visas, etc.), political leaders and senior managers are able to expand their influence.

Those who do receive trainings are unlikely to implement the methods and techniques learned upon returning to their posts, as there are few incentives to do so. Training cannot be effective without incentives to learn, and evaluations should be used to measure the effectiveness of specific trainings and professional development of civil servants over time. Proper performance evaluations and skill assessments must be used to evaluate the capacities and skill development of civil servants. These evaluations should inform planning for future training based on individual and institutional needs as well as promotion processes and decisions.

Local Government Administration

Many challenges at the central level are mirrored, and even exacerbated, at the local level. Politicization and political influence over local administrative structures and personnel hinders local government and public service provision at the municipal level. Public services provided by local institutions are very deficient, and most municipalities struggle to fulfil the most basic tasks, including collecting taxes and enforcing regulations.²⁰⁴ In 2019, only 20 municipal administrations had installed electronic kiosks to provide municipal services (which in Kosovo can be as relevant as property certificates and documents from the civil registry).²⁰⁵

²⁰² Ibid.

²⁰³ Balkans Group interview with Senior KIPA official, Pristina, 20 October 2017

²⁰⁴ European Commission, Kosovo* 2019 Report, May 2019, pg. 9

²⁰⁵ GAP Institute, The failure of municipalities to provide administrative services through electronic kiosks, July 2019,

Budgetary planning and execution remain problematic. Although the capacities have slowly increased in the last decade, most municipalities rely heavily on transfers from the central government, which in some cases account for more than 80 percent of their budget.²⁰⁶ At the same time, the proportion of expenses dedicated to capital investments remain lower than that spent on staff costs, which is undesirable.²⁰⁷ Plainly, municipal governments currently spend more on simply existing than on exercising their competences.

While public consultations at the central level has improved substantially in recent years, the quality of public consultations at the local level remains insufficient and in need of improvement. Public information has somehow improved, but it remains reactive, based on requests for documents in an ad hoc basis rather than a systematized transparency effort.²⁰⁸ Like at the central level, underrepresentation of marginalized groups is an issue, with women holding a disproportionately low number of decision-making positions.

Independent Agencies

The many problems faced by the decentralized administration have already been covered extensively. The Law on the Organization and Functioning of State Administration and Independent Agencies introduced a new typology of agencies, clearly differentiating them according to their purpose and whether they report to the Assembly or the executive. The main obstacle at the time of writing is organizing the transition from the chaos created by the previously existing framework to that of LOFSAIA.

The Government had already begun implementation of the Action Plan on the Rationalization of Agencies in June 2018, even before the adoption of the law. The Concept Paper on the first wave of rationalization and establishment of accountability lines for agencies was adopted on 9 October 2018.²⁰⁹ The Concept Paper identifies seven independent bodies which report to the Assembly that need to be repealed or integrated within government or judiciary structures; the Agency Rationalization Action Plan ultimately included nine agencies for the first wave of rationalization.²¹⁰ The Secretariat concluded the review, and even finished the draft law to that end, but political instability has prevented it from passing thus far.²¹¹

pg.8, at https://www.institutigap.org/documents/2459_e-kiosks.pdf

²⁰⁶ Kosovo Democratic Institute, KDI, The 2019 Municipal Budget Development Process in Kosovo, November 2019, pg. 25, at <http://kdi-kosova.org/wp-content/uploads/2020/02/Municipal-Budget-Development-Process-in-Kosovo-ENG-me-ISBN.pdf>

²⁰⁷ Ibid., pg. 26

²⁰⁸ Ibid

²⁰⁹ Government of Kosovo, Concept Document for the First Wave of Rationalization and Establishment of Accountability Lines for Agencies within the Assembly of Kosovo, Decision No. 09/68, October 2016

²¹⁰ Balkans Group interview with a MPA official, Prishtina, June 2019

²¹¹ Ibid.

As it stands, there are currently 33 independent agencies listed on the website of the Assembly.²¹² However, this list mixes and confuses independent constitutional institutions, executive agencies, and regulatory bodies. Furthermore, as seen earlier, of the nine agencies under review in the first wave of rationalization, eight will be reclassified as executive agencies dependant on a ministry. This only show the importance of expediting the rationalization process in order to bring order to the sector.²¹³

Moving forward, safeguarding the autonomy of independent agencies while also ensuring proper oversight and regulation will be a key challenge. While some agencies have the capacity to fund themselves, many rely on budget allocations/approval from the Government and the Assembly. Sustainable financing models for independent agencies are needed to safeguard the independence of these institutions and eliminate vulnerabilities that allow for political influence and interference. Until now, political influence over senior-level appointments has been a problem not only affecting central public institutions but also independent institutions and agencies. In a recent case, the interference was so blatant that it merited a not-so-diplomatic remark by the then EU Ambassador Apostolova, who stated that “it was precisely the interference by the authorities that resulted with the exclusion of the KAA [Kosovo Accreditation Agency] from the European Quality Assurance Register and put its membership in the European Association for Quality Assurance in Higher Education into question. This has grave consequences for Kosovo students, hurting their ability to pursue studies or seek employment abroad”.²¹⁴

Public Service Delivery

Effective public administration is crucial for service delivery to citizens, which is of high importance for a developing society seeking to accelerate human and economic progress. Instituting transparent, clear, and straight-forward administrative procedures and user-friendly services is vital for enabling access to healthcare and education and supporting the growth of SMEs and the private sector, and in turn job creation and economic growth.

SIGMA finds that Kosovo made ‘gradual progress’ in the area of service delivery since 2015, largely due to the formulation of strategic and legislative frameworks, but that recent

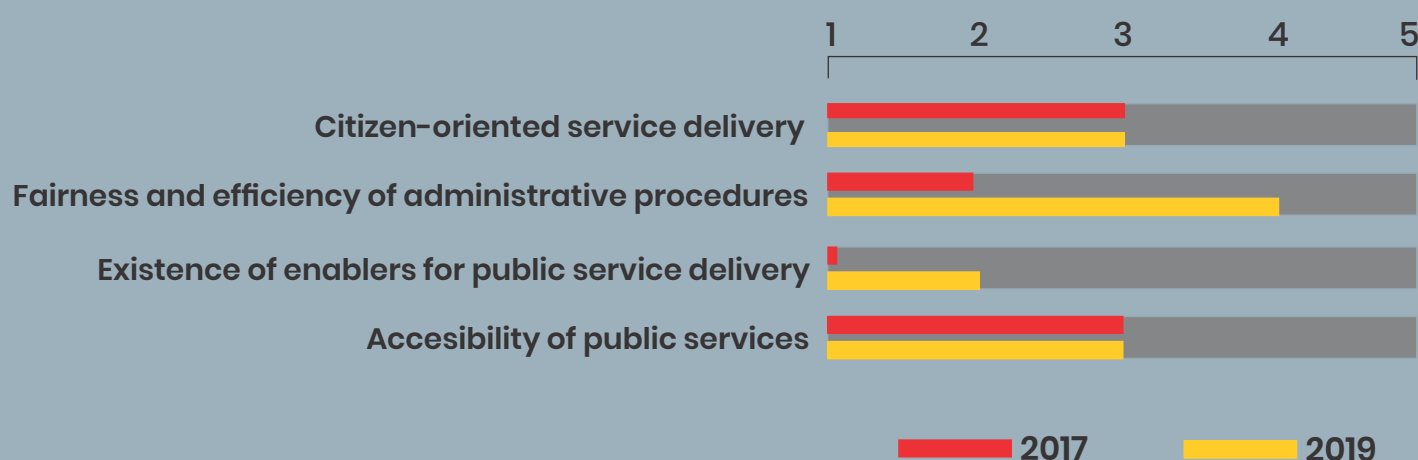
²¹² The list is available on the webpage of the Assembly, (in Albanian), at <http://www.kuvendikosoves.org/shq/per-publicun/agjensionet-e-pavarura/lista-e-agjensioneve-te-pavarura>

²¹³ For an extended analysis on the matter, see Balkans Group report Kosovo 2020: A Complex Agenda for the New Government, (section on Public Administration), December 2019

²¹⁴ European External Action Service, Statement of the Head of EU Office/EUSR, Nataliya Apostolova, following meeting with the Kosovo Accreditation Agency, Local Statements, 28 January 2019, at https://eeas.europa.eu/delegations/kosovo/57276/statement-ambassador-apostolova-following-meeting-kosovo-accreditation-agency_en

progress has since been incremental.²¹⁵ Unlike previous SIGMA reports which evaluated progress in line with the principles of public administration reform, the 2019 monitoring report focuses exclusively on progress in the service delivery area. While the policy and legislative frameworks in this area have been largely modernized, better implementation and coordination of central government initiatives are needed, especially regarding the digitization of administrative services, to substantially improve service delivery.²¹⁶

Kosovo's Performance in SIGMA-OECD Service Delivery Indicators 2017-2019



Legislative Framework

The National Development Strategy 2016 – 2021 guides reforms in the area of service delivery, alongside the Strategy for Modernization of Public Administration and the Better Regulation Strategy 2017 – 2021. The Strategy for Modernization of Public Administration includes seven objectives relating to the implementation of the LGAP – interoperability of public registers and databases; provision of services through one-stop shops; the central management, planning, monitoring, and implementation of public services.²¹⁷ Since the Law on General Administrative Procedures entered force in June 2017, administrative procedures have been simplified on paper. However, the LGAP did little to improve public service provision, as “special laws are not harmonised and front-desk service delivery procedures have not changed”.²¹⁸ The Government has also taken inventory of laws with special administrative procedures, but has been slow to harmonize them, which “continues to cause legal uncertainty for citizens

²¹⁵ SIGMA, The Principles of Public Administration – Kosovo* 2019, Monitoring Report, May 2019

²¹⁶ Ibid.

²¹⁷ Ministry of Public Administration, Strategy on Modernisation 2015 – 2020

²¹⁸ SIGMA, The Principles of Public Administration – Kosovo* 2019, Monitoring Report, May 2019

and businesses”.²¹⁹ There are still some “231 laws and approximately 1,000 by-laws with special administrative procedures that may need to be harmonized with the LGAP”.²²⁰ Additionally, the administration, line institutions, and the public still need to be informed about the obligations and rights afforded by the new law.

Digitization of Administrative Services

This is an area where improvements could have a major impact on service delivery. Central guidance on the digitalization of services and tools like digital signatures and online payments are required to further simplify administrative and service delivery procedures.²²¹ Similar to other areas of public administration, the lack of coordination and policy direction has prevented standardized and systematic implementation in this area. There remains a lack of “clear policy on the digitization of administrative services” and “only a few of the most resourceful agencies have succeeded in making their services function well digitally”.²²² Also, institutions continue to implement their own solutions alongside the eID tools. While an extensive analysis of the role of digitalized services is beyond the scope of this report, SIGMA identified a few digital improvements which could have a big impact on public service provision. These include connecting all public registries to interoperability platforms, implementing a digital signature solution, harmonizing legislation with the EU eIDs Regulation, and ensuring the functionality of the 1.9 million eID cards already issued.²²³

Service Delivery for Businesses

Strengthening the business climate is a key aim of public administration reform.²²⁴ In certain areas, Kosovo has made vast strides regarding ‘ease of doing business.’ Out of 190 economies evaluated in the World Bank’s 2020 ‘Doing Business’ report, it ranks 57th overall, with an even better position in four sub-indexes (12th for ease of starting a business, 15th for getting credit, 37th for registering property, and 48th for paying taxes).²²⁵ Over the years, the country performance in certain areas has slightly improved, while others have stagnated, as shown in the table.²²⁶

²¹⁹ European Commission, Kosovo* 2019 Report, May 2019 pg. 10

²²⁰ SIGMA, The Principles of Public Administration – Kosovo* 2019, Monitoring Report, May 2019, pg. 5

²²¹ Ibid., pg. 3

²²² Ibid., pg. 4

²²³ Ibid.

²²⁴ Bertelsmann Stiftung, ‘Country Report – Kosovo’, in Bertelsmann Stiftung’s Transformation Index (BTI) 2018, 2018, pg. 26

²²⁵ World Bank Group, Doing Business 2020: Economy Profile Kosovo, October 2019, at <https://www.doingbusiness.org/content/dam/doingBusiness/country/k/kosovo/KSV.pdf>

²²⁶ The list of changes year-on-year is available on the Doing Business webpage, under Business Reforms in Kosovo, at <https://www.doingbusiness.org/en/reforms/overview/economy/kosovo>

The establishment of one-stop shops for registering businesses heavily contributed to the high ranking in this area. However, the MPA needs to clarify a number of elements relating to the one-stop-shop concept, including “the standards of service, what services should be provided, and how and by whom the service desks will be staffed and the work with individual service providers in the back offices”.²²⁷

Some areas, however, still require substantial improvement. In particular, progress has been slow in areas where lack of transparency, corruption, or poor institutional coordination is prevalent (protecting minority investors, enforcing contracts, and resolving insolvency).²²⁸ Although the construction sector has seen some progress, and dealing with construction permits has become slightly easier, it is still ripe for bribes, kickbacks and money laundering, particularly related to the licensing system. There are many allegations of corruption concerning licenses given to firms to import and export hazardous materials, and in one case, a 120,000 EUR bribe has been paid for a license.²²⁹

Doing Business 2020 Report – World Bank	
Eastern Europe	Index Score (0-100)
Georgia	83.7
North Macedonia	80.7
Turkey	76.8
Serbia	75.7
Moldova	74.4
Montenegro	73.8
Croatia	73.6
Kosovo	73.2
Ukraine	70.2
Albania	67.7
Bosnia and Hercegovina	65.4

Doing Business in Kosovo					
Category	Score (0-100)				
	2016	2017	2018	2019	2020
Ease of doing Business (Index)	63	64.9	70.5	71	73.2
Ease of starting a Business	93.1	95.5	95.7	95.7	95.9
Dealing with construction permits	49.4	49.9	50.3	52.9	55.3
Getting Electricity	61.1	61.2	64.4	64.4	73.9
Getting Credit	75	75	85	85	85
Registering Property	77.5	77.5	77.5	77.5	77.5
Protecting Minority Investors	32	32	32	32	40
Paying taxes	71.1	80.8	80.8	81.9	81.9
Trading Across Borders	87	92.5	92.5	93.8	94.2
Enforcing Contracts	63.8	63.8	63.8	63.8	64.7
Resolving Insolvency	20.3	20.9	63.3	63.4	63.5

²²⁷ SIGMA, The Principles of Public Administration – Kosovo* 2019, Monitoring Report, May 2019

²²⁸ World Bank Group, Doing Business 2020: Economy Profile Kosovo, October 2019, at <https://www.doingbusiness.org/content/dam/doingBusiness/country/k/kosovo/KSV.pdf>

²²⁹ Balkans Group interview with private businessman, Pristina, 2017

Vulnerable Sectors

Public services not related to economic development or the exercise of sovereignty (police, justice) have been largely neglected. That is particularly worrisome in the cases of healthcare and education, which are crucial but have a purely domestic dimension. The poor quality of public education and public healthcare are key reasons for the migration of Kosovars to Western European countries; many emigrants belonged to the middle class and held salaried positions but sought a higher standard of living for their families. A lack of development of these crucial sectors will likely continue to contribute to emigration, but more importantly, it will continue to inhibit human and socio-economic development.

Healthcare remains particularly inefficient, relatively ineffective and at times it fails to provide basic services. Kosovo is the only European country that does not have a universal healthcare, at least on paper.²³⁰ Although the Assembly introduced legislation to establish one already in 2014, successive governments have repeatedly postponed the launch of the system via decree, as there is no will to start collecting premiums nor capacity to improve the services portfolio. The former would be perceived as a tax rise, especially if services do not improve in parallel, while the latter simply requires greater resources than those currently allocated to healthcare. Meanwhile the ministry has introduced some minor changes on management that do not alter the foundations of the current system, based on private insurance and care.²³¹ This reliance on private actors have caused their dominance over the whole sector. Bribery and out-of-pocket payments are commonplace. Many doctors engage in dual practice (practicing in both the public and private sectors).²³² Any reforms there must proceed with caution, because health is also where citizens are most vulnerable and willing to pay bribes.

Education is not coping better. Since Kosovo started participating in the well-known Programme for International Student Assessment (PISA) report (a standardized study of the capacities of students that allows for comparative study) the results have been appalling. If in 2015 Kosovars were far below OECD average in all three categories studied (Reading, Mathematics and Science), in 2018 the results were no better; in fact in Science they were worse.²³³ There is a lack of pre-scholar services, insufficient funds for primary and secondary education, and a still unclear framework for Vocational Education Training.²³⁴ Higher Education is no better, as the meddling of the Haradinaj Government in the Kosovo Accreditation

²³⁰ Balkans Group, Kosovo 2020: A Complex Agenda for the New Government, December 2019, pg. 26

²³¹ Ibid., pg. 25

²³² Ibid., pg. 26

²³³ PISA, 'Country Note: Kosovo' in Results from PISA 2018, December 2019, at https://www.oecd.org/pisa/publications/PISA2018_CN_KSV.pdf

²³⁴ Balkans Group, Kosovo 2020: A Complex Agenda for the New Government, December 2019, pg. 23

Agency led to its dismissal from European networks and associations, a damage it has still not recovered from.²³⁵

Overview of Service Delivery Progress and Challenges

Quality of public services and the time it takes to obtain them is a key pillar of public administration reform.²³⁶ Recent developments include the improvement of interoperability infrastructure, the increase of data quality and availability, a decrease in the length of time for issuing documents (IDs, passports, birth certificates), and an increase in public satisfaction with the efficiency of administrative procedures.²³⁷ While Kosovo has made improvements in eliminating unnecessary licenses and permits for businesses, there has been “no process in basic central government services provision for citizens, such as personal ID renewal or vehicle registration”.²³⁸

Like in other areas of public administration, the “lack of clear policy directions and co-ordination of government initiatives prevent transformative improvements” to public service delivery.²³⁹ Improvements to citizen-oriented service delivery and accessibility of public services have been only ‘marginal’.²⁴⁰ Kosovo needs to focus on progress in the following areas – feedback collection systems need to be developed; further efforts are needed to combat corruption in service provision; the digitalization of services must improve, especially interoperability among registries and infrastructure for digital signatures; the public services inventory should allow for access to standardized information, and the Government portal should serve as a ‘central one-stop-shop for digital service delivery’; the functions, standards, responsible personnel/institutions, and relations with individual services providers relating to the one-stop-shop service for businesses needs to be further codified; special laws need to be harmonized with the Law on General Administrative Procedures; quality management tools and frameworks need to be developed; common standards for service delivery need to be established, and policy application and monitoring in line with these standards must be implemented.²⁴¹

²³⁵ Ibid., pg. 24

²³⁶ SIGMA, The Principles of Public Administration – Kosovo* 2015, Baseline Measurement Report, April 2015, at http://www.sigmaxweb.org/publications/Baseline_Measurement_2015_Kosovo.pdf

²³⁷ SIGMA, The Principles of Public Administration – Kosovo* 2019, Monitoring Report, May 2019

²³⁸ Ibid., pg. 12

²³⁹ Ibid., pg. 4

²⁴⁰ Ibid.

²⁴¹ Ibid.

Local Ownership and Political Will

A lack of local ownership has been identified time and again as an obstacle for actual reform in many sectors. That owes to a certain trend from decision makers to justify reforms because some external donor wants them and is willing to contribute to the costs associated, not because they understand the benefits of conducting them and share the same vision. Applied to PAR, it can be argued that the main driver behind it in the last years has been the European Commission's insistence, and not a belief that the public administration needed improvement or could be better. While the process of state consolidation has advanced substantially, institutions still rely heavily on external support to initiate and conduct reforms.

This reliance raises substantial challenges. The turnover and short-term contracts of international personnel and technical assistants can result in a lack of institutional memory and sustainability of reforms. For example, GIZ funded an expert to develop new procedures on training curriculum in coordination for KIPA. However, after three years with KIPA, the expert's contract expired, and the procedures were left unfinished.²⁴²

On the other hand, Kosovo's EU perspective is a major driver for reform. An element which previously contributed to the lack of political will to engage in PAR was the lack of a codified EU perspective prior to the SAA.²⁴³ While a partnership dialogue between the EU and Kosovo began in 2008, it was difficult to motivate political actors to undertake reforms without a definitive prospect for EU membership. Although trade was a key issue demanding political energies, diplomatic relations were not seen as formalized or sustainable prior to the Agreement.

Reforms undertaken prior to the SAA were misused by political leaders. For instance, in 2009 there was an initiative to provide incentives for qualified candidates to join the civil service. Higher pay was offered to candidates with Master's degrees, PhDs, or work experience abroad.²⁴⁴ Nevertheless, politicians abused this program, giving the higher salaries to political supporters and cronies. Of course, some politicians advocated for public administration reform. For instance, the former Minister for European Integration, Vlora Çitaku, proposed national testing for civil servants at all levels.²⁴⁵ However, this initiative encountered immediate

²⁴² Balkans Group interview with a GIZ official, Pristina, 2017

²⁴³ Balkans Group interview with a Government advisor, Prishtina, November 2018

²⁴⁴ The Cadre Fund Scheme was established based on a decision of the Government of Kosovo to attract, maintain, and develop the experience, qualifications and skills for personnel in strategic and priority positions of relevant government bodies. The Scheme enabled competitive payments relative to the private sector and international organizations for a certain number of positions in the civil service, which are of priority and strategic importance to the Government.

²⁴⁵ The proposal suggested providing training for those who performed poorly on the test. Alternatively, they would be laid off within a year or two. They would be notified of the decision in advance, so they would have time to seek employment elsewhere.

political resistance, and her proposal never reached the Assembly. She was attacked in the media as, literally translated, ‘kissing internationals’.²⁴⁶

The emphasis placed on comprehensive public administration reform by the EU as a result of signing the SAA has helped PAR to gain momentum. Political support has increased (albeit insufficiently) since substantial and demonstrated public administration reform became a requirement for EU integration. The commitment and reliance on EU support have resulted in a modern legislative framework for building a professional civil service and public administration. However, progress on paper has not been reflected on the ground, and implementation has often fallen behind schedule.²⁴⁷

²⁴⁶ For an example of the bombastic and misleading reporting in media, see the following article published in a LDK-leaning outlet. Bota Sot, Vlora Çitaku flet për lidhjen e dashurisë me Zhbogarin!, 6 October 2013, at: <http://botasot.info/kosova/244881/vlora-citaku-flet-per-lidhjen-e-dashurise-me-zhbogarin/>

²⁴⁷ SIGMA, Kosovo Assessment Report 2012, Country Assessment Reports, October 2012, at https://www.oecd-ilibrary.org/governance/kosovo-assessment-report-2012_5jz2rqljfmwx-en

MOVING FORWARD: CONCLUSION

Although the regulatory framework has improved in recent years with the approval of new laws and (part of) the corresponding regulations, effectively implementing them will require a political commitment that has not been present in the past. The list of pending tasks is daunting, as shown by the list of recommendations proposed.

Real reform requires a proactive approach, implementing the actions and priorities devised and put into strategies, and a constant monitoring is a prerequisite to analyse and understand the level of completion. Quite often in the past sound strategies failed simply because there was no actual intention on following them through and remained dead letters. In some cases, even when there was a will, insufficient monitoring mechanisms resulted in poor implementation.

Consequently, the public administration nowadays faces substantial challenges. Civil servants will remain unaccountable if hiring processes rely on political connections more than merit and evaluations take place pro forma, and not based on actual performance. This lack of accountability has a direct effect in efficiency and service quality, as there are virtually no consequences for failing to fulfil the position's duties. Legislative action will still be necessary, as the Law on Public Officials will require some review to adapt it to the requirements of the Constitutional Court, while a new Law on Salaries is now more necessary than ever. At the same time, several specific administrative processes need to be brought in line with the Law on General Administrative Procedure.

But there is plenty of room for the Government to act at the executive level; policy development remains problematic, and there are often few links between policy initiatives and actions. Budgetary planning, and especially, execution, need to improve, which will require extensive trainings for civil servants. Internal processes, hierarchical lines and responsibilities still need clarification, especially regarding independent agencies and, to a large extent, local administrations. Overcoming all these issues will require moving beyond words and executing actions backed by enough resources, and a constant oversight and monitoring of their effect.

The Balkans Policy Research Group is an independent, regional think-tank based in Prishtina, Kosovo. We provide timely policy analysis and recommendations on a wide array of state building issues; institutional and democratic consolidation; minority integration and good neighbourly relations; European integration and policy change. We have decades of experience in policy reporting and development, strategic thinking and advocacy with governmental, international and non-governmental organisations.

Our rigorous, detailed, impartial reporting, always based on in-depth fieldwork, is the core of our work. We go beyond mainstream positions and seek to make change through creative, feasible, well-measured and forward-looking policy recommendations with the aim of helping develop strong, vibrant democracies, prosperous states and societies based on rule of law in the Western Balkans.

We engage in high-level advocacy, domestically, regionally and internationally, impacting policy discussions and options with regard to the home affairs and European policies toward the Western Balkans.

Balkans Group has developed other tools and platforms to achieve this change:

The Policy Dialogue promotes Kosovo's domestic dialogue, cohesion and reform-making agenda.

The Policy Forum (a Think-Tankers High-level Advocacy Forum) committed to enhancing the dialogue between the civil society and the institutions.

The Kosovo Serbia Policy Advocacy Group (a forum for Cross-Border Civil Society Cooperation) that aims to communicate, promote and enhance dialogue toward full normalisation between Kosovo and Serbia, and their societies.

Women in Politics promotes the empowerment of women and girls; their security and inclusiveness; and is committed to strengthen the Women Caucus' impact and reach throughout Kosovo

The Dialogue Platform promotes the dialogue process between Kosovo and Serbia, by informing the wider public and generating debate about the agreements, benefits and challenges of the Dialogue.



Norwegian Embassy