

Kosovo Debate on European Issues

A compilation of eight Policy Papers in
the area of education, rule of law and
economy

Prishtina
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economy**

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ABOUT THE PROJECT:

KOSOVO DEBATE ON EUROPEAN ISSUES

Initiated and implemented by Kosovar Civil Society Foundation (KCSF) and EUROPEUM Institute for European Policy (Czech Republic)

OBJECTIVES:

- Create a framework for a structured expert debate concerning urgent problems of Kosovo society, which are crucial for approximation of Kosovo with the EU; building of the platform for the formulation of political recommendations in the key areas for Kosovo society (which at the same time represent European standards).
- Increase capacity to lead a structured debate, identify key problems in the society and search for their solutions, with the assistance of the Czech expertise; enabling transfer of know-how and best practices from CR to Kosovo.
- Strengthen the domestic debate in Kosovo on the pressing issues that will strengthen local ownership of ideas and solutions.
- Advocate the proposed solutions, with the view of incorporating the recommendations of the expert and public debates in the decision-making.

PROJECT COMPONENTS:

- policy training and strategy
- meetings of working groups on individual topics and elaboration of policy briefs
- public discussions /seminars
- advocacy vis-à-vis decision makers and public authorities

AREAS ADDRESSED BY THE PROJECT:

- *EDUCATION* – Vocational Education and Training, Financing the professional development of teachers, Recognition of the ECTS credits of academic courses by the University of Prishtina (UP).
- *RULE OF LAW* – Kosovo Anti - Corruption Agency; Financing of political parties.
- *ECONOMY* – Regional Cooperation – Free Trade Agreements - CEFTA, Privatization of the POEs in Kosovo, Export capacities and competitiveness.



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EDUCATION

1.1 Financing the professional development of teachers: Urgent need for a strategy

Elaborated by **Melinda Mula, Kosovo Educational Centre (KEC)**

Introduction

Research repeatedly confirms that investment in education is an important source of sustainable economic growth of a country. A quality education increases the opportunities of new generations for better employment and thus a higher living standard. In Kosovo, with the smallest economic growth in the region of 3.9 % and the highest unemployment rate of 43.6 % on the one hand, and on the other with the highest birth rate of 1.6 % and more than 33 % of the population under 15, the investment in the quality of education has to be taken seriously and used as a tool to change the current situation.

The last two Kosovo governments have included education among their priorities. This led to the increase of capital investment in education, from €9.6 million in 2006 to €35.4 million in 2009, as well as the increase in public spending on education from €104.2 million in 2006, to €151.4 million in 2009. Despite this growth, public spending on education does not exceed 3.8 % of the GDP. This amount is insufficient to convey a reformist scenario and to implement strategic documents on education.

Also encouraging was the declaration of 2009 as “The Year of the Quality of Education” by the Ministry of Education, Science and Technology (MEST). Since the professional development of teachers is one of the most important factors in assuring the quality of education, the MEST established the National Council for Teacher Licensing (NCTL) in January 2009 in order to develop documents that set criteria and procedures for the professional development of teachers. However, the uncertainty on the forms of financing the professional development has remained.

Until 2008, the MEST was responsible for teachers’ professional development, but with the approval of the Law on Education in the Municipalities this responsibility has been transferred to municipalities. This transfer has been accompanied by difficulties, since the municipalities do not possess the necessary mechanisms or human and material resources to cope with the additional responsibilities.

This policy brief will focus in identifying various forms of financing the teachers’ professional development, as well as proposing alternatives for setting up the mechanisms within municipalities to foster this process. It may serve as a ground to issue normative acts from the MEST, which will regulate the financing of the professional development of teachers.

The climate for professional development

The establishment of the Department of Education and Science (DES) was one of the first interventions made by UNMIK. The lack of experience within pre-service teacher education institutions, as well as the long isolation of the education system from the influences of developments in the world, pushed DES to identify the need for the professional development of teachers as one of the priorities and to mobilize international donors and agencies in this endeavor.

Thanks to the financial support of many international donors (e.g. UNICEF, Save the Children, World Bank, CRS, CIDA) and the commitment of local NGOs (e.g. KEC, KEDP) a considerable number of teachers attended various in-service teacher training programmes. After the establishment of the MEST in 2002, all the above mentioned organizations co-operated with it by harmonizing their projects to the priorities of the MEST as well as to teachers' demands for professional development.

During 2002 – 2008, approximately €200,000 per year was dedicated from the MEST budget for the professional development of teachers. Taking into account that the number of teachers in Kosovo is around 25,000, we end up with only €8 per year for each teacher. This awkward situation was even further aggravated by the lack of initiatives from the MEST to fairly co-operate with training providers which were financed from outside sources, as well as with Municipal Education Departments (MED) and the community. Complicated financial and procurement procedures have further hampered the MEST's ability to enter into contractual relations with service providers. Due to the lack of co-operation with MEDs, it has been difficult to explore possibilities for co-financing the training using the municipal incomes. Further, the MEST did not take into account the input that could be given by the community and business sector. Last but not least, the lack of accreditation of training programs and the lack of initiatives to admit professional development in the system of salaries have led to the impoverishment of supply and initiatives for professional development, as well as in the restriction of financial support by some donors.

Challenges for financing the professional development

From 2000, the professional development of teachers has been financially supported by powerful international donors. After the establishment of the MEST, some donors continued supporting teacher training programmes. By the end of the emergency phase and consolidation of the institutions, many agencies started to leave Kosovo, which also caused the reduction of financial support to the MEST. For the time being, there is a lack of funds for the professional development of teachers, and an uncertainty regarding to the forms of its financing. On the one hand, the MEST still manages money allocated for training; though on the other hand the law delegates this responsibility to municipalities.

MEDs were quite unprepared when the Parliament of Kosovo adopted the Law on Education in the Municipalities of the Republic of Kosovo. The lack of mechanisms and human resources to cope with the extra responsibilities, are the main difficulties

the MEDs have faced. This situation pushed the World Bank to start a multiyear pilot project in Gjilan, Kaçanik and Istog municipalities in 2008 on a new funding formula which transfers funding from the MEST to the municipality, and further more from the municipality to schools. MEDs representatives of these municipalities mentioned many problems regarding the implementation of specific parts of the Law, especially in the area of the professional development of teachers. The lack of co-operation with the MEST in organizing the training caused a situation where these municipalities were no longer in a position to seriously engage in the professional development of teachers. This is an alarming situation, taking into account that the experience of these municipalities is supposed to be transferred to other municipalities, starting from 2010.

Commencing in 2010, the government will allocate €600,000 per year for the professional development of teachers. Although this is a tripling of the funds by the MEST, it is still insufficient to fulfill the needs for professional development. Despite this deficiency of funds, the situation complicates the lack of a MEST strategy on the way of transferring funds from central to the municipal level.

For the moment, the decentralization of the education process, the delegation for professional development of teachers to municipalities, as well as new policies on teacher licensing, have raised some important issues related to the professional development of teachers, such as:

- How will the professional development of teachers in Kosovo be funded?
- What will the funding ratio between central and municipal level be?
- How will the co-funding of projects from education NGOs be regulated?
- What will the role of schools in assuring the professional development of teachers be?
- How will the right of each teacher to participate in activities of professional development be met? Is there a need for co-funding?
- How will the financial contribution of the school community and business sector be incorporated?

New competences for professional development within municipalities are associated with the need to establish proper mechanisms to manage this process. So far, MEDs have been short of officials, responsible for the professional development of teachers. So, another issue that emerges is:

- What mechanisms for professional development of teachers are going to be established within municipalities?

Finding solutions to these issues, demands the engagement of an expert team. In any case, some possible answers will be given below.

Possible funding approaches

So far, there is not any official document that defines the modality for funding the professional development of teachers. For this reason, it is of vital interest to suggest alternatives for possible funding forms of professional development. Taking into consideration the decentralization process and competences given by law to MEDs for professional development, this policy brief identifies three alternatives to channel funds from central to municipal level. Each alternative is associated with strengths and weaknesses, as well as with recommendations to be considered during its implementation.

First approach: The MEST manages the fund for the professional development of teachers.

The MEST continues to manage the fund for professional development with the justification that there is a lack of capacities within municipalities to plan and manage this fund.

Strength:

- The MEST has some knowledge on various in-service teacher training programmes, as well as some experience in organizing these training programmes.

Weaknesses:

- The MEST would not help municipalities to build capacities in exercising competences given by law,
- It is very difficult from the perspective of the central level to identify and address the needs of teachers from various municipalities,
- Non-involvement of MEDs in the process would make it almost impossible for contributions from the business community and NGOs operating in municipal level to contribute in the professional development of teachers.

Although there are very limited chances of being selected for such a course of action and if the MEST decides on this approach, it is highly recommended to explore the possibility of involving MEDs in the provision of training, as municipalities have accurate data regarding the enrollment of teachers in training programmes and are more likely to be in a position to identify the teachers' needs for certain programmes exactly.

Second approach: The MEST devolves the fund for the professional development of teachers to MEDs.

The MEST devolves the fund for the professional development of teachers to MEDs, based on some relevant indicators such as: the number of schools, the number of teachers and the number of students. As the size of schools in Kosovo vary considerably, and the number of students changes from year to year, the most convenient indicator seems to be the deployment of funds according to the number of teachers.

Strengths:

- The easiest way to transfer the budget to MEDs is ensured. One only needs to know the exact number of teachers from registers. This automatically deter-

mines the amount of funds allocated for each municipality.

- MEDs would know in advance the fund allocated for the fiscal year, so they would be able to plan training programmes, and also the number of participants in those in-service teacher training programmes.

Weaknesses:

- A mobilizing element for MEDs would be missing. MEDs might be passive in ensuring additional funds, by not contributing their own funds, or by not engaging in co-operating with NGOs, the business sector and the community.
- In case there were complaints on the low quality of education or on the licensing of a small number of teachers across various categories, MEDs might be hiding behind the very low budget devolved to them by central authorities.

In the case of the eventual implementation of this approach, the MEST should request clear transparency and accountability from MEDs.

Third approach: The MEST defines the funding formula based on the level of municipal contributions.

This approach implies the co-financing of professional development by the MEST and MEDs. This co-financing would be defined through a formula relying on the level of funding from the municipality, but also taking into account the realistic funding capacity of each municipality. So, the funding formula would be different for municipalities with different economic development. In a possible scenario, municipalities would be divided into four categories, thus defining the ratio of funding from central and municipal level for each category. An example of defining the ratio of funding would be:

- 3 : 1 for seven largest municipalities of Kosovo,
- 5 : 1 for smaller municipalities,
- 7 : 1 for new and economically underdeveloped municipalities,
- Full funding from central level for municipalities that do not have funding capacities.

Strengths:

- A more efficient way of ensuring maximum funds for professional development,
- The mobilization of MEDs to obtain more funds from various sources at the municipal level, in order to increase funding from central level,
- The provision of efficient professional development services for teachers,
- The possibility of applying a "voucher", in order to accomplish teachers' needs for professional development within each school. This helps to extend the process of decentralization at school level, as foreseen in article 8.4 of the Law on Education in the Municipalities of the Republic of Kosovo.

In the case of implementing this approach, it would be good if the MEST keeps a separate fund for rewarding municipalities that show an especially good performance. This primarily means rewarding those municipalities that have mobilized other institutions, the business sector and the community into funding the professional development of teachers as well as those which have demonstrated initiatives for the provision of training with active participation.

Mechanisms for implementation

If the first approach were implemented, there would not be a need to set up any mechanisms for professional development, as such mechanisms already exist within the MEST. The effectuation of the second or third approach needs to set up certain mechanisms to plan and manage the professional development of teachers within municipalities. Some options for setting up these mechanisms are:

1. The establishment of a Municipal Board and assignation of an officer in MED, responsible for the professional development of teachers.

The Municipal Board would be heterogeneous, composed of MED officials, school principals, experienced teachers and representatives of the community. Some of the duties to be carried out by the Board would be:

- The approval of the annual working plan, presented by the officer,
- The selection of training programmes for the following academic year,
- The making and taking of decisions on the involvement of schools and teachers in training programmes etc.

The officer would carry out the daily management of the professional development of teachers. He/she would be responsible for:

- Developing and implementing the working plan,
- Searching for alternative sources of funding,
- Co-operation with training agencies, other institutions, school boards and the business community,
- Reporting to the Municipal Board, etc.

2. The assignation of an officer in MED, responsible for the professional development of teachers.

If the municipality cannot afford the establishment of mechanisms identified in the first option, then it would at least be recommended to nominate an officer in MED, who would fulfill his duties, but would also take over the responsibilities of the Municipal Board described in the first option.

3. The assignation of an officer within the municipality, responsible for the professional development of civil servants and professional servants.

If the municipality cannot afford to nominate an officer within MED to carry out the responsibility of the professional development of teachers, then it would be possible to transfer this responsibility to the officer nominated at the municipality level, which would be in charge of the professional development of civil servants as well as professional servants within the municipality.

Conclusion

The decentralization process in general and the decentralization of the education system in particular are in line with government policies. This process aims to bring services closer to the citizens by respecting their needs. In tune with this, the Law on

Education of the Municipalities of the Republic of Kosovo transfers competences in the field of professional development from the MEST to MEDs. In order to implement the above mentioned law regarding professional development, the modality of funding such a development needs to be defined.

In this policy brief three possible approaches have been identified for financing the professional development of teachers within a framework of new legislation as well as three options for setting up proper mechanisms within municipalities to manage the professional development of teachers. Approaches for financing professional development of teachers are:

- The MEST manages the fund for the professional development of teachers.
- The MEST devolves the fund for professional development of teachers to MEDs.
- The MEST defines the funding formula based on the level of municipal contributions.

The first approach is a continuation of the existing modality of funding professional development, which is managed by the Department of Trainings within the MEST. The two other approaches demand the setting up of mechanisms at the municipal level to cope with the process of professional development. The three options presented for these mechanisms are:

- The establishment of a Municipal Board and assignation of an officer in MED, responsible for the professional development of teachers,
- The assignation of an officer in MED, responsible for the professional development of teachers,
- The assignation of an officer within the municipality, responsible for the professional development of civil servants and professional servants.

Recommendations

1. The MEST needs to define the funding formula based on the level of municipal contributions.

The most efficient approach for ensuring maximum funds for professional development is to define a funding formula based on the level of municipal contributions. In this case, the MEST would not only have to consider the amount of contribution from the municipality, but also consider the realistic funding capacity of each municipality. Since municipalities are not equally economically developed; the MEST needs to divide municipalities into categories thus defining the ratio of funding from central and municipal level for each category. The co-financing of the professional development of teachers will mobilize representatives of MEDs to engage more seriously in professional development, as the amount of allocation from central level will depend heavily on the ratio of participation with internal sources of funding. Effectuation of this scenario will push MEDs to explore possibilities of closer co-operation with education NGOs, other institutions, the business sector, as well as with the school com-

munity. The fact that MEDs are participating with their funds, will make them more accountable to provide better professional development services. Finally, the transfer of competences to municipalities will allow lowering the decentralization to the school level. The significant contribution of this step would be the application of the system of "voucher", as a democratic approach in meeting the professional development needs of teachers within each school.

2. A Municipal Board should be formed and a MED officer responsible for the professional development of teachers should be nominated in each municipality.

The establishment of the Municipal Board will significantly help the process of the professional development of teachers. The heterogenic composition of the Board will assure the selection of training programmes taking into consideration the best interests and needs of teachers, and would allow NGOs, other institutions, and the business community to take part in the process of professional development. The nomination of the officer for professional development within MED is of great interest, as he/she would co-ordinate the efforts of all stakeholders, and could act as a bridge between the MEST, MED, NGOs and teachers.

3. A guiding package regarding the professional development of teachers should be developed.

To successfully implement the process of the professional development of teachers, in addition to defining the financing approach, the MEST needs to develop, publish and distribute a guiding package which will help MEDs in this process. This package should contain:

- The list of licensed service providers with the training programmes,
- The catalogue of training programmes,
- The Administrative Instruction which defines the criteria and the forms of professional development of teachers,
- The manual for evaluation of the teachers' performance,
- Set of criteria for selection of teachers in training programmes, etc.

4. A special fund to fulfill emerging needs for training or to promote innovations in education should be raised.

The MEST should keep a separate fund to intervene in emergent cases, or to pilot a project which brings innovation. It could happen that the results of the ninth grade or mature tests, or even other circumstances in education would introduce the need to urgently intervene in any municipality with targeted special training programmes in order to accomplish standards set by the MEST. Since education is a process which undergoes constant changes, especially in the field of the professional development of teachers, there will always be some demand to implement the training programmes which bring innovations, or convey positive developments of the education systems in the region and wider.

All these measures should be undertaken in order to assure the most qualitative professional development of education employees. Teachers are agents of change in society. They prepare the new generation of people with the necessary knowledge and

skills which will contribute to the economic and social development of a country. For this reason, the investment in the professional development of teachers is the best investment in the future of Kosovo.

Sources:

- Statistical Office in Kosovo, <http://www.ks-gov.net/esk/>
- Kosovo Consolidated Budget for the year 2006, Mid-term Spending Framework 2009-2011, MEF, June 2008
- Law on Education in Municipalities of the Republic of Kosovo No. 03/L-068, May 2008

1.2 Is Vocational Education and Training in Kosovo designed to meet the market needs?

Elaborated by Arjeta Emra, British Council Kosovo

Introduction

This paper looks at policy options and gaps in the development of vocational education in Kosovo.

Kosovo is one of the poorest countries in Europe but with a young population. People in Kosovo often refer to Kosovo's young population as 'the biggest asset'. However, if we look at the current skills being provided, it would be difficult not to say that the youth are rather a liability!

There is a general recognition that all economies benefit from the youth of the country being exposed to information about the way in which industry and commerce work and the creative culture necessary in an entrepreneurial society to enhance employment possibilities. Revitalising the Kosovan economy and providing jobs for the unemployed are two of the major challenges not only for the Kosovo Government but also for society in general.

Vocational education and training (VET) is currently undergoing a reform process in Kosovo. The law on vocational training was adopted to regulate the formal sector in April 2006. One keystone of the Kosovo government's draft education strategy for 2007 to 2017 is assuring quality and effectiveness in education with a view to EU harmonisation. The reform of vocational and technical education and training is being implemented amidst very high unemployment, particularly amongst the youth.

Youth employment is therefore a central concern for the Ministry of Education, Science and Technology (MEST), the Ministry of Labour and Social Welfare (MLSW), and for employers and labour associations. So far, the private sector has not been systematically involved in planning and implementing vocational and technical education and training in Kosovo and it is not generally sufficiently aware of the role it can play.

Currently, there is a specific project which is looking at Entrepreneurship Education and Training. This project is about the development of personal skills and qualities so that people of all ages gain knowledge and understanding of the way in which the economy works and reacts to market forces. This involves approaches to the development of creativity, problem solving, team working, taking calculated risks, communication skills, leadership, decision taking, time management, taking responsibility and other individual skills which can lead to improved employment prospects. Entrepreneurship Education and Training also identifies the role of the entrepreneur in society and identifies the various requirements of self employment.

The methodology for delivering such an educational and training package is through "Learning by Doing". This could potentially be a good way forward!

The legal basis is already in place to make this a success story. It will, however, depend on how Kosovo will act on all potentials being offered. If Kosovo succeeds in providing high quality skills for its young people then it has succeeded in making them a 'real asset' for the future.

Analysis of the labour market

Demographic trends

Kosovo has a growing population dominated by younger age groups. Young men and women aged less than 25 years make up 49% of the population, of which 19.1% are aged between 15 and 24 years.¹ This youthful age distribution will inevitably lead to a further expansion of the labour force. It is estimated that in the next five years roughly 200,000 young people will reach working age, and approximately 110,000 of them will enter the labour market,² while approximately 60,000 persons will reach retirement age over the same period. Ongoing net growth in labour supply will further increase the need to create more jobs.

Employment and unemployment

There are two main sources of labour market statistics in Kosovo: the Labour Force Survey (LFS) conducted annually by the Statistical Office of Kosovo (SOK) since 2001 and the registration data of the Public Employment Services (PES). There are a number of limitations to the data available. First, the lack of a recent census of the population poses questions on the reliability of the sampling rates of less than two percent used in the LFS. Second, LFSs are usually conducted in the last quarters of the year, and are unable to adequately capture seasonal employment during the summer months. Third, the unemployment register of the PES is inflated by a high number of people who are not actively looking for work, or are working informally, while there are many unemployed who are not registered with the PES. Further support is required for the PES and the SOK to address these limitations and bring together all data collectors so as to produce the indicators needed to monitor and evaluate employment and labour market policies.³

Labour market conditions remain difficult (table 2.1). Key indicators such as the labour force participation rate and the employment rate are low by international standards, while the unemployment rate is very high. Based on the recently published LFS of 2007, the labour force participation rate defined as the share of employed and unemployed persons in the total working age population (15-64 years) was 46.8% - the lowest rate in the region. Low labour force participation is mainly due to a dis-

1 Statistical Office of Kosovo, Labour Force Survey (2007)

2 Calculated using the participation rate of young people aged 15-24 years old.

3 Firm surveys or skills gap surveys of employers also need to be conducted regularly to analyse changes in labour demand.

proportionately large youth population, worker discouragement and low participation among women. While the activity rate for men was 65.2% in 2007, the comparable rate for women was only 28.3%. Compared to 2005, the labour force participation rate in 2007 decreased by 2.4 percentage points largely as a result of a falling activity rate for men and women.⁴

Table 1: Key labour market indicators in percentage (2005-2007)

	2003		2005		2007	
	All	Women	All	Women	All	Women
Labour Force participation rates	50.3	29.3	49.2	29.9	46.8	28.3
Employment rates	25.3	8.3	28.5	11.7	26.5	12.7
Unemployment rates	49.7	71.9	41.4	60.5	43.6	55.2

Source: SOK, Labour Force Surveys (2003- 2007)

Limited access to jobs is a major concern, and job creation performance has lagged behind expectations. In 2005-2007, the employment rate⁵ declined despite annual economic growth accelerating to an estimated 4%,⁶ and remains very low compared to other countries in the region. The employment rate for women is also exceedingly low at around 13%.

Table 2: Key labour market indicators in selected countries (2007)

Countries / Key labour market indicators	Labour Force Participation rate		Employment rate		Unemployment rate	
	All	Women	All	Women	All	Women
EU 27	70.5	63.4	65.4	58.3	7.1	7.8
EU 15	72.1	64.8	67.0	59.7	7.0	7.8
Bulgaria	66.3	62.1	61.7	57.1	6.9	7.3
Croatia	63.4	56.4	57.1	50.0	9.6	11.2
Macedonia	55.7	44.1	36.2	28.4	34.9	35.5
Montenegro	61.0	53.0	49.2	41.9	19.4	21.0
Serbia	51.0	42.8	41.8	33/8	18.8	21.0
Kosovo	46.8	28.3	26.5	12.7	43.6	55.2

Source: Eurostat and National Labour Force Surveys

The structure of employment by sector in 2007 indicates that the service sector is the largest provider of employment in Kosovo, accounting for some 71% of total employ-

4 The labour force participation rate for men decreased from 68.3% in 2005 to 65.2% in 2007.

5 Defined as number of employed workers divided by working age population (15-64 years).

6 When economic growth is not associated with an increase in employment, then it must be generated primarily through productivity growth.

ment. Within the service sector, trade and education represent the largest sub-sectors (respectively 16.9% and 12.1%). Agriculture accounts for about 14.6% of total employment, whilst industry has an employment share of around 14.1% (and, manufacturing of around 10.4%). Compared with 2005, trade, education and other services registered an increase in employment, while agriculture and construction accounted for a decrease. The shift from agriculture to services confirms the trend experienced in other developing and transitional countries. The large share of agriculture (over 18% in 2005) in total employment makes significant additional job losses likely in the light of future modernisation and labour shedding in the countryside.

Table 3: Employment by main economic sectors (percent)

Main Economic Sectors	2005	2007
Agriculture	18.8	14.6
Industry	14.4	14.1
Service	66.8	71.3
Total	100	100

Source: Statistical Office of Kosovo (SOK), Labour Force Survey (2005-2007)

There is a positive relation between the employment rate and education achievement as the 2007 LFS indicates that 74.7% of people with tertiary education are employed as against 32.7% of those with only upper secondary education. The substantial difference in employment rates between these groups may partially be attributed to the lack of an acceptable qualifications system that induces employers to use university education as a proxy for occupational qualifications.

As noted above, the unemployment rate in Kosovo is extremely high. Data from the 2007 LFS indicate that about 43.6% of the labour force is unemployed: some 2.2 percentage points higher than in 2005. The unemployment rate in Kosovo is nearly twice as high as the average unemployment rate in the Western Balkans.

Unemployment is particularly high among young persons, women and individuals with limited education. Young Kosovars are twice as likely as adults to be unemployed and have a very long transition period from school to work.⁷ Despite relatively low participation rates among women, the female unemployment rate is 11.6 percentage points higher than that for the labour force as a whole. Those with low levels of education are more likely to be unemployed. Nearly 55% of the unemployed possess less than secondary school education.

Another matter of particular concern is the long average duration of unemployment as nearly 85% of the unemployed in 2007 had been without work for more than one year. In addition, 81.7% of the unemployed (and 97.6% of the unemployed in the 15-24 age group) have no work experience at all, highlighting the importance of the first contact with the labour market and/or working experience in obtaining sustainable employment.

High unemployment is a key determinant of the widespread poverty prevailing in Kos-

⁷ The World Bank reports that it takes about 10 years for young males to transition from school to work in Kosovo, while in Macedonia it takes four to five years and in developed countries it takes even less time (World Bank: Youth in Jeopardy: Being Young, Unemployed and Poor in Kosovo, 2008).

ovo. According to the Kosovo Poverty Assessment (2007), about 45% of the population has consumption levels below the poverty line, and one-third of the poor are estimated to be extremely poor, as defined by inability to meet minimum nutritional needs.⁸ However, poverty in Kosovo is relatively shallow, in that an increase in employment would have a substantial impact on reducing the poverty rate and putting the country on a more equitable growth path.

Although there is not a complete overlap between unemployment and poverty,⁹ the risk of poverty is much higher for the unemployed. A comparison of the incidence of poverty between the employed and the unemployed indicates that the latter have a 20 percentage point higher risk of being in poverty than the former, i.e., the likelihood of being poor is significantly higher if one is unemployed than if one is working.

Quality of Employment

Limited access to jobs is not the only problem in the labour market. Widespread challenges also persist in relation to existing jobs.

Informal employment¹⁰ is an important feature of Kosovo's labour market, although there is a lack of information and analysis about its overall magnitude and characteristics. While the Labour Force Survey does not disaggregate information on informal employment, some estimates can be calculated by comparing the estimated number of workers from the LFS with the number of workers registered for wage tax purposes as reported by the Ministry of Finance and Economy. Based on this calculation, about 50% of all employment in Kosovo was informal in 2007. The ILO's (International Labour Organisation) school to work survey also suggests a similar rate for young workers.¹¹ The degree of informality becomes even more pronounced if appraised according to whether enterprises complied with tax and pension contributions, as 67% of young workers are not registered in the social security system.¹²

For workers, being informally employed is often the only means of securing a job in an economy with very high unemployment. Widespread informal employment can have a number of consequences for the economy and society. Such employment deprives workers of employment protection and rights at work and thus lowers labour standards in general. A high level of informal employment can also have a negative fiscal impact as it reduces government revenues.

Although informal employment is a significant feature of the labour market in Kosovo, little research has been conducted on this topic. Therefore, as a part of the sustainable employment strategy the primary data sources covering informal employment will be

8 The Poverty Assessment suggests that poverty is higher among those who live in families that are large, have many unemployed members, and have low educational levels.

9 Not all of the unemployed live in poor households, and not all of the employed are free from poverty.

10 Informal employment broadly defined includes self- and wage employment in informal enterprises and informal jobs in formal enterprises.

11 V. Corbanese, G.Rosas; Young People's Transition to Decent Work: Evidence from Kosovo, ILO Employment Policy Papers 2007/4

12 V. Corbanese, G.Rosas; Young People's Transition to Decent Work: Evidence from Kosovo, ILO Employment Policy Papers 2007/4

improved with subsequent analysis.¹³

The labour market in Kosovo is characterised by relatively high shares of temporary, part-time and self-employment. The share of temporary employment as a percentage of total employees is declining but remains high at 51.5%.¹⁴ The corresponding share of part-time jobs is about 17%, although this share is much higher for females than for males (28% and 13% respectively). The school to work transition survey conducted by ILO indicates that about 72% of all youth working on a temporary/part time basis reported that they do so because they can not find permanent/full time jobs.¹⁵ Self-employment continues to contribute about 21% of overall employment and is an alternative to wage employment when the latter is hard to obtain.

It should be emphasized that there are many workers engaged in low-paid and low-productivity jobs who do not earn enough to move out of poverty. The World Bank Poverty Assessment for Kosovo reports that the working poor constitute up to 35% of those living below the poverty line.¹⁶ Among the employed, per diem workers¹⁷ and self-employed agriculture households (subsistence farmers) have the highest poverty incidence. The high incidence of poverty among the unemployed and the significant fraction of working poor indicate the need to promote both better access to jobs and higher job quality as an essential pathway to poverty reduction.

Key labour market constrains

As noted in the previous section, although economic growth has increased recently, labour market conditions have failed to improve. While, ongoing labour supply growth and skill mismatches have contributed to this disappointing outcome, the inadequate level of labour demand remains the key constraint. Labour demand has been insufficient to absorb new labour force entries and reduce the number of unemployed.

Broadly speaking, the best way to improve labour market conditions is to *increase labour demand* and simultaneously *equip the labour force with the qualities* necessary to respond adequately to this demand. Increasing labour demand is also a necessary condition for improving the quality of jobs. Given a substantial labour surplus, increased labour demand would lead to higher employment and reduced unemploy

ment. Later, as the surplus of labour became exhausted or nearly so, most of the impact would be felt in terms of lower levels of seasonal/temporary and part-time

13 A detailed analysis on informal employment could focus at the following topics: the overall magnitude and different forms of informal employment (segmentation of informal employment), poverty risks and earning gaps for each form of informal employment, different causes of informal employment etc.

14 About 30% of all youth are employed on a temporary basis on contracts of less than 6 months.

15 V. Corbanese, G.Rosas; Young People's Transition to Decent Work: Evidence from Kosovo, ILO Employment Policy Papers 2007/4.

16 World Bank. Kosovo Poverty Assessment: Accelerating Inclusive Growth to Reduce Widespread Poverty. Report No. 39737-XK. 2007. Washington, DC.

17 Mainly casual laborers who are paid a wage for specific tasks.

employment along with higher returns to labour.

Achieving this objective is a long-term challenge and needs to address constraints in the following areas:

1. The investment climate presents obstacles that restrict firms' entry and expansion;
2. The education and training systems do not achieve enough in enhancing the employability of labour;
3. Existing labour market institutions, policies and regulations are inadequate as a basis for improving the functioning of the labour market.

Key constraints in education, skills and training

The importance of a well educated workforce to the competitiveness and growth of an economy is well documented. People with higher skills tend to be more successful in their undertakings. The skills base is also an important factor that foreign investors take into account when deciding on where to invest. Notwithstanding the significant improvements that have been made, challenges still remain in achieving relevance and effectiveness of education and training delivery, as well as in evaluating learning outcomes. The lack of relevant skills also limits the ability of many people to get productive employment and to perform the tasks required by employers well. Quality education and training that respond to labour market requirements are highly consistent with improving productivity and competitiveness.

Vocational education

More than 60% of secondary schools in Kosovo provide vocational education courses. Almost 2/3 of these schools have little or no appropriate equipment to facilitate practical interaction between teachers and students. There are also no structured links between vocational schools and the local economic environment. In most schools, education courses and vocational training are provided without any consideration of labour market needs and the private sector does not systematically participate in the planning and provision of practical in-company training.¹⁸ Most schools also lack textbooks and modules for practical learning. Based on initial assessments, a considerable number of teachers lack appropriate qualifications in the courses they teach and teaching methods. Furthermore, school management mostly depends on the personal commitment and managerial ability of school directors, which varies from one school to another. Instructors that are mandated to monitor the standards and practical knowledge of respective courses and profiles must be upgraded in conformity with affirmed standards, criteria and norms of respective courses. Schools do not yet have the autonomy to manage their administration and own financial resources.

¹⁸ With the disappearance of public enterprises, the vocational schools lost their traditional partners for workshop based training.

Vocational training system

In Kosovo, vocational training provision by the private sector, the non-profit sector, and the public sector has not been systemised. At present, certification is provided by training institutions on the basis of extremely variable examination and testing arrangements. These factors currently constitute an impediment both to raising quality standards in Kosovo's training system and to recognizing skills, knowledge and competences acquired outside formal learning programmes. Even though the Law on Qualifications has already been approved by the Assembly of Kosovo, the National Qualifications Framework (NQF) has not yet been defined, nor has the National Authority for Qualifications (NAQ) been established to accredit all institutions that offer vocational education and training. Along with the Law on Vocational Education and Training, these three mechanisms potentially offer sufficient scope for improvement in both the quality and supply of VET and lifelong learning. Even though the documentation and the legal framework for establishing the NQF has been prepared, in view of the lack of relevant studies and analysis, the real challenge will be to set-up nationally-agreed competency standards oriented towards labour market needs. Also, establishing the NAQ and making it operational will be difficult given the need to accredit and issue licenses to hundreds of training providers and informal institutions for various training modules.

In addition to issues regarding the national qualification framework, the coverage of training for the unemployed still remains very limited. Labour market training programmes are delivered through a network of eight vocational training centres and a number of training institutions partnered to the Ministry of Labour and Social Welfare. Although these programmes have improved in quality and quantity, they are still serving only a limited number of applicants (less than one per cent of the registered unemployed) and their flexibility and relevance has not kept pace with changing labour market requirements.¹⁹ There is also currently no system to measure the relevance and cost-effectiveness of such training.

Higher education

One of the basic challenges in linking higher education with the needs of the economy is to establish qualitative and systemic standards and criteria both in the public universities (the Public University of Prishtina, and the Public University of Mitrovica) and in the private sector. Another challenge relates to the low level of research and scientific capacities in Kosovo, also the capacities to innovate and absorb transfers of technology. This later weakness is related to a lack of a clear relationship between the universities and the private sector, on which a law is currently under preparation. Connecting research – scientific capacities with the private sector may lead to higher production capacities and more jobs.

¹⁹ According to a tracer study conducted by the ILO in 2007, only 27% of VTC graduates in 2006 found employment during that year.

Vet-specific regulations

A Vocational Education System that many countries inherited from the past has been one of the options for the students with lower success. Therefore, the low status of vocational education and the fact that the result of its programmes was not so clear made it less attractive for the students.

Vocational Secondary Education or Vocational Schools aim at preparing students for the labour market, and according to the vocational education strategy and law on vocational education and training they also offer a possibility for students' application in post secondary higher education and university education.

The duration of the vocational higher secondary education, as a part of the pre-university education, is regularised in 3 levels. The first level includes grades 10+11. This level offers a basic qualification and enables employment in the labour market as a semi qualified worker. The second level, is a continuity of the first level, and includes grade 12 – it offers employment in the labour market as a qualified worker. In these two first levels a professional and competent staff can be created for qualified work in the labour market, but doesn't guarantee the academic preparation for successful studies at university. The reason is that to fulfill the needs of the labour market, the curricula of these schools has 60% theory and only 40% professional practice. Therefore the concept of the 13th grade has been drafted and which offers the students two possibilities: 1) to obtain the vocational Matura which opens the chance to university and 2) to obtain the third level qualification for vocational education which provides better chances for employment and opens the doors for a fourth level which leads to the qualification as a technician. The administrative decision for further education has just been approved and details are explained below. This form of vocational education is the practice of many European countries.

If the Ministry succeeds in implementing this system then Kosovo will be on the right track to building a flexible system of vocational education and training which will facilitate the work and life for everyone in the future, and which will be in harmony with most of the systems in EU countries. Kosovo's National Qualification Framework Law (recently adopted) aims at setting a qualitative system, to contribute to the development of the abilities for work and an active citizenship for youths and adults, a system providing vocational qualifications in accordance to the economic and social conditions in the country in the context of regional and European integration.

As mentioned above, the Ministry of Education, Science and Technology has recently adopted an administrative instruction which aims at regularising the Higher Professional Schools and Higher Technical Schools in Kosovo.²⁰

²⁰ This instruction is based on articles 4, 11, 23.3 of the Law on Higher Education in Kosovo (LHE; 2002/3), articles 2, 5, 6 and 10 and 14.2 of the Law on National Qualifications (LNQ; 2008/060), the Administrative Instruction for Licensing Private Institutions of Higher Education (AI14/2003), the Administrative Instruction on the Establishment of the Kosovo Accreditation Agency (AI 11/2004); the Administrative Instruction on the School (Academy) of Educational Administration (AI 17/2005); the Administrative Instruction on the Implementation of ECTS in Kosovo (AI 14/2008); and the Administrative Instruction for the Accreditation of Higher Education Institutions in Kosovo (AI 2/2009).

The purpose of this Instruction is to lay down the general principles, responsibilities and procedures to be observed for the accreditation of Higher Professional Schools and Higher Technical Schools within the Republic of Kosovo.

General requirements:

- Professional and higher vocational programmes at the level of post secondary higher education (i.e. at EQF/NQF level 5 and above) may be provided by public or private providers of vocational education and training, accredited by Kosovo Accreditation Agency (KAA) and licensed by MEST as either a Higher Professional School or as a Higher Technical School.
- Where an Institution makes provision at EQF/NQF Level 6 or above it may apply to be licensed as a Higher Professional School. Where its provision is at EQF/NQF Level 5, it may be licensed as a Higher Technical School. A Higher Professional School may also make provision at EQF/NQF Levels 4 and 5. A Higher Technical School may also make provision at EQF/NQF Level 4. Level 4 provision should be designed to provide a route to higher level qualifications for those (usually mature) students who can demonstrate practical competence within the vocational field but who do not possess a formal qualification at Level 4. An institution which makes provision at Level 4 only, cannot apply to be accredited as a Higher Professional School or a Higher Technical School.
- No Higher Professional School or Higher Technical School may award professional degrees. Only Institutions of Applied Sciences may award professional degrees as specified in Article 12 of the Administrative Instruction for the Accreditation of Higher Education Institutions in Kosovo.

Accreditation by KAA

All public and private Institutions of higher and vocational education in Kosovo, whose study programmes lead to the attainment of an academic degree or a professional award at EQF/NQF Level 5 or above, may be candidates for accreditation by KAA. They may be:

- Active public or private Institutions of higher or vocational education in Kosovo
- A new Institution of education aspiring to offer study programmes in the private sector of higher or vocational education.
- An accredited Institution of higher or vocational education which aspires to offer new study programmes
- An accredited Institution of higher or vocational education which desires to extend accreditation for a further period of time – that is, seeking re-accreditation.

Accreditation may be conducted at the level of:

- Institution
- Study programme
- Both Institution and study programme

A higher or vocational education provider applying for accreditation as a Higher Professional School or a Higher Technical School must submit an application to the KAA at least one year prior to the date before accreditation is expected to commence.

Where the application is for a study programme at EQF/NQF Level 5 or higher, KAA will be competent to approve the qualification to which the programme leads, pending the full establishment of the National Qualifications Authority of Kosovo. Thereafter, it will exercise this approval in conjunction with the NQA. In approving a qualification at EQF/NQF Level 5 or higher, KAA will apply the philosophy, criteria and standards specified within the European Qualifications Framework.

Conclusion and Recommendations

Given all (and potentially more initiatives currently taking place), it is important we concentrate on gaps and give some recommendations for the Ministry to consider:

1. Vocational secondary schools do not adequately meet the needs of enterprises for competent and employable skilled labour. This places a major constraint on economic development and the transition process in Kosovo.

The vocational training strategy geared to industry, on which the VET project is based, falls under the priority area of sustainable economic development. Promoting vocational education and training is a sectoral focus of development and should make a contribution to economic growth by providing industry and business with adequately qualified skilled labour.

Recommendation: the Ministry should take an initiative and create a National VET Board which brings together representatives from industry. Industry should be the driving force behind the VET agenda

2. A Vocational Education System that many countries inherited from the past has been one of the options for the students with lower success. The low status of vocational education and the fact that the result of its programmes was not so clear made it less attractive for the students.

Recommendation: The Ministry should organise public campaigns to promote the benefits of vocational education and training. The Campaigns should present young people with clear career paths and make VET schools attractive.

3. The Ministry needs to make the system more responsive to the needs of the labour market and to support competitiveness, policy will focus on making vocational education more flexible and relevant to the needs of the labour market and attractive to a wider range of young people. The Ministry of Education, Science and Technology (MEST) needs to pursue the reform of vocational education to bridge the gap between formal education and training and the world of work.

The reform needs to be built on three pillars: a) introducing niche schools called Centres of Competence (already in progress) b) strengthening the link between school and

work and c) further re-allocating responsibilities to schools.

4. The key policy measures regarding the vocational training system comprise: a) Improving access to adult education and lifelong learning opportunities and b) Designing and implementing the overall framework of qualifications.

The expansion of adult education and training opportunities is already being pursued alongside the design of the Centres of Competence and vocational schools for adult training. These institutions will outsource, when feasible, to external providers, mainly to enterprises, but also to community-based training centres.

When setting these up the Ministry (MEST) should:

a) define and implement a National Qualification Framework comprising nationally-agreed competency standards oriented towards labour market needs in accordance with the European Framework for Qualifications and

b) Set up a system of certification of skills that are recognised and portable across enterprises, industries and education/training institutions.

1.3 Recognition of the credits of academic courses obtained abroad by the University of Prishtina

Elaborated by **Valentina Qarri, SPARK**

Acknowledgment: Ass. Prof. Dr Ferdije Zhushi-Etemi, Director of National Quality Council in Accreditation Agency of Kosova; Prof. Dr. Dukagjin Pupovci, Executive Director of the Kosova Education Center; Prof. Dr. Luan Ahma, Deputy Rector for teaching and scientific research at the University of Prishtina; Msc. Mimoza Ibrani –Pllana, Director of Office for Academic Development at the University of Prishtina

Introduction

The reform process at the University of Prishtina (UP), is driven by the Bologna Declaration that the UP started to implement during and has been implementing since the academic year 2001-02. Compliance with the Declaration requires that all academic and organisational arrangements are developed in full compatibility with this document.

Within the Bologna process, the University of Prishtina has also implemented the European Credit Transfer System (ECTS), which is a student oriented system of credit transfer and accumulation encouraging the mobility of students and graduates adopted by European Union countries and other signatory countries. The ECTS rewards and shows the effort of students in attaining objectives of a specific programme during their studies. Objectives should be specified through expected results and competences that should be developed (according to A.I. No.14/2008, Article 2, Point 1). Law No. 2003/14 on Higher Education in Kosovo and Administrative Instruction No. 2008/14 of the Ministry of Education, Science and Technology (MEST), whose provisions are in harmony with the Bologna Declaration and to oblige the institutions of higher education in Kosovo to implement and comprehensively introduce the European Credit Transfer System.

However, the performance of the UP when it comes to the recognition of credits from academic courses taken abroad is a question which continues to be a concern to students, administration and academic staff. The lack of policy on this matter and the inability of the UP to comply properly with the ECTS requirements, hampers the mobility of students, limits the exchange of knowledge and possibilities for the UP students to obtain practical experience of studying at an institutions of higher education abroad.

Therefore, the University of Prishtina has to ensure full implementation of the ECTS, in a clear and transparent manner, so that it might be applied fairly by the students, academic staff and administration.

ECTS at the UP does not serve the envisaged purposes

According to the Guidelines for the use of the ECTS, credits awarded in one programme may be transferred to another programme offered by the same or another institution. The University of Prishtina, along with its bodies (mainly the Office for academic development) enables the implementation of the ECTS in its technical aspect, but not to a great extent with regard to its practical and effective usage. Therefore, action should be taken, through which the UP will comply fully and maintains the ECTS in harmony with the "Guidelines on the use of the ECTS".

The ECTS at the University of Prishtina continues to be used mainly for accumulation purposes rather than as a credit transfer system supporting the students' mobility and better quality of education. Recognition of credits for academic courses taken abroad (academic courses of another institution in another place) at the University of Prishtina is not regulated at present, and requests are dealt with on a case by case basis. The lack of proper treatment plus the lack of a decision on formal recognition of credits for academic courses taken abroad at the UP continues to undermine the mobility of students, leaving unresolved the transfer of credits accumulated at the UP. This does not serve the interests of facilitating and promoting internationalization of the University, which cannot prove full implementation of the ECTS.

UP to take immediate measures

The recognition of credits from academic courses taken abroad by the University of Prishtina is an internal matter of the university and it is in the competence of the UP to resolve the problem. To guarantee the legal aspect, the University of Prishtina should draft and approve a special regulation about the full applicability of the ECTS. In addition to this regulation, the UP should establish tracking mechanisms that will ensure full applicability of the ECTS, in this case the recognition of credits from academic courses taken abroad. A quick mechanism of recognition of credits of academic courses taken at higher education institutions (HEI) abroad should be made possible with regard to those HEI approved in advance by the UP. The fair assignment of corresponding grades should be achieved through comparison of relevant curricula using recommended methods. The mutual agreement of the UP with the respective HEI should be the main method underlying the recognition and should be made possible for students accepted to study at the UP upon an agreement with another one of the HEI.

In the case of requests for transfer of the ECTS credits obtained at other, non-listed and not contracted HEI, the mechanism of recognition should be developed that would include gathering necessary information from the country of origin of the original HEI as regards their overall accreditation status, as well as about the classification system applied and other data needed for preparing the transfer mechanism.

Conclusion and Recommendations

The policy for recognition of credits from academic courses taken abroad by the University of Prishtina among others, ensures the mobility of students and graduates, promotion and internationalization of the UP, and full implementation of the ECTS. This policy requires the following action to be undertaken:

1. To develop and approve (by the Senate of the UP) special regulation for the transfer of credits, for the recognition of credits by the University of Prishtina from academic courses taken abroad.
2. With this regulation it should be clearly specified when the UP is obliged to accept the ECTS from other institutions, particularly in the context of the exchange of students on the basis of agreements of co-operation with other institutions in other countries, and in these cases the compatibility of programmes of courses that are transferred should be handled.
3. To develop special administrative procedures for applicability of the European Credit Transfer System that will enable administration to provide effective services, and students a clear and easy transfer.
4. To present tracking mechanisms as needed, especially for certain fields, that support and guarantee the full functioning of the ECTS, which will be common for all academic units in the UP.
5. To make mandatory the use of standard ECTS documents, without exception.
6. To make the ECTS fully implemented and mandatory at the central level of the UP.
7. To hold regular meetings and various forms of contact with students, academic staff and administration where the mobility of students is promoted.
8. To sign agreements with other universities about the exchange of students and implement them routinely.
9. To allow and enable students to conduct at least one academic course at a different institution of higher education in another country.
10. The Ministry of Education, Science and Technology should establish a special fund fully supporting the implementation of the ECTS (i.e. development of regulations, processes, student mobility and others).

RULE OF LAW

2.1 Fighting Corruption: How to make the Anti-corruption Agency more effective?

Elaborated by **Ramadan Ilazi, FOL Movement**

Acknowledgement: **Bekim Kupina, Eli Gashi and Mentor Borovci**

Introduction

This paper focuses on the role of the Kosovo Anti-Corruption Agency as the main administrative institution to organize and co-ordinate activities to prevent and fight corruption. Even though the name promises a lot, the performance of this institution is the concern that this paper aims to address. The fight against corruption is a crucial issue in Euro-Atlantic integration of the Republic of Kosovo and the pursuit of a policy of zero tolerance against corruption is a key issue in the European partnership for Kosovo.

This policy paper addresses the issues of functionality and independence of the Kosovo Anti-corruption Agency (further referred to as the Agency or KAA). It proposes concrete amendments and changes to the Law against corruption, strengthening the position of the Agency, so that the instructional arrangements enable the Agency to effectively contribute to the actual fight against corruption. It is important to outline that in conversations with civil and political society the need to strengthen the agency for the fight against corruption is not questioned. However, the same people would call for the closing of the agency on bases of the existing performance.

In elaborating upon the above mentioned issues the paper discusses two areas that we consider as crucial: a) the legislative framework of the Anti-corruption Agency; b) the relationship of the Agency with other key institutions, which is directly linked with issues of the Agency's impartiality, independence and transparency.

The key questions tackled by this paper are as following: How to make the Agency fully independent and establish its envisaged role as the main body in charge of the fight against corruption? Shall the Agency deliver just public awareness or shall it be an active actor in decreasing corruption in public institutions? How to organize the relationship between the Agency and other state institutions such as the Government, Parliament and the Prosecution Office so that the Agency's independence is ensured in terms of resources, privileges, and autonomy and its job effectively performed? While this paper outlines rather technical aspects of corruption, the political will to fight corruption remains the crucial pre-condition for success in this prolonged battle, were the institutions are absent, or at least incapacitated.

Agency: Current situation

According to the European Commission 2008 and 2009 Kosovo Progress Reports, corruption is still widespread and remains a major problem across the state institutions as well as different parts of society's life. This is due to insufficient legislative and implementing measures and a lack of determination and the weakness of the judicial system. Furthermore the EC outlines that a recent report from the Office of the Auditor General (AG) pointed on unexplained losses to the Kosovo budget of €0.5-5 million per ministry per year. A study by the American Chamber of Commerce says that 66% of businesses in Kosovo admit that bribing is necessary in order to be able to function in an effective manner. Moreover, it is estimated that the non-formal economy is equal to 38% of GDP of our country, which translated into monetary terms means that over €1 billion circulate, and are controlled by criminal groups, without entering the regular system of our economy.

Transparency International in its periodic Corruption Barometer Report gives the Republic of Kosovo a 3.4 grading for the level of corruption (5 being the highest level of corruption). The report makes Kosovo the least corrupted country in the Balkans which contradicts the data of perception of corruption among the public in the early warning reports of the United Nations Development Program in Kosovo. Since before independence the international presence had a strong say in the fight against corruption, some Kosovans perceive corruption as the price the international authorities paid to maintain the fragile stability in Kosovo. Another challenge in the anti-corruption fight is the problematic public understanding of what corruption actually means and which forms it can take. Generally, corruption is understood as a kind of synonym for bribing; while conflict of interests and nepotism are excluded by the public and sometimes the media sight when corruption is in question.

In 2003 the Kosovo Parliament approved the Law against Corruption which provides affirmative legislation that allows for the institutional fight against corruption. The law regulates and established the Kosovo Anti-Corruption Agency as an independent institution that works to prevent and fight corruption. The Agency carries out administrative investigations relating to disciplinary actions against civil servants. Public bodies, local authorities and official persons are required by the law to provide the Agency, at its request, with all the information they need to perform their tasks, and to enable them to inspect any relevant documentation. The funds for the functioning of the Agency are provided from the Kosovo Consolidated Budget at the Agency's proposal. The Agency decides on the methods of utilizing the funds. However the budget request first goes to the government, then the government passes the request to Parliament. The 2008 approved budget was €456.600.00 and for 2009 it was €495.484.00. Based on an interview with a high ranking Agency staff member, in 2007 the government did not include in the final budget sent to the Parliament the budget requested from the agency for increasing the number of staff. This has created problems with the implementation of the duties of the agency. This is a concrete example of how the agency can be influenced through the process of budget making.

The Agency is managed by a director, who holds a five year term of office and may be reappointed once. The post of the Agency director shall not be compatible with any position in the Government, Assembly, local authorities, political parties or trade unions, or with performing any work in a public domestic, international or supranational

organization or local authority.

Direct supervision over the work of the Agency provides the Agency's Council, which also initiates the selection of the Agency's director through a public invitation 6 months prior to the expiration of the mandate of the incumbent director. The Council recommends two candidates for the Agency's director to the Kosovo Assembly, which is supposed to elect one of them for the post. The Agency Council has 9 members: 3 appointed by the Assembly and 1 member appointed by each: the President's Office, the Government, the Supreme Court, the Public Prosecutor's Office, the local authorities and civil society. Members are entitled to the remuneration of expenses arising from their work in the Agency Council. Members of the Agency Council have a term of office of two years and may be reappointed.

Agency in relation to other institutions

The Agency has established formal co-operation through memoranda of understanding with the Independent Judicial and Prosecutorial Commission, the Financial Intelligence Centre, the Head of EULEX Prosecutors and the Ombudsperson.

This paper considers the relationship of the Agency to the State Prosecutor as the most important and yet most challenging. The 2009 EC Kosovo Progress Report acknowledges the insufficient co-operation between the Agency and the Prosecutors office. During 2007 – 2008 the Anti-corruption Agency filed more than 100 cases to the Prosecutor's office but received very negative feedback. Based on the facts raised at the round table discussion on the topic of this paper, the Prosecution often returns the files with excuses of insufficient evidence provided. This excuse presents rather a political rhetoric to divert responsibility. This rejection is an indicator of the poor relationships between these two independent Agencies, which negatively affects the fight against corruption. In the course of September 2008 the KAA submitted 35 cases to the prosecution, which initiated seven criminal proceedings. In the area of conflict of interests, the Agency intervened in nine cases from January to June 2008, and in a further four from July to September. In April 2008, the Agency published a list of officials who had not declared their assets. In August, the Agency asked the institutions employing 17 officials who had still not declared their assets to start dismissal procedures.

The delineation of responsibilities between the KAA and the Office of Good Governance, whose head is deputy head of the Anti-Corruption Council, has led to friction. Co-operation with the office of the Ombudsperson remains weak. The training provided to ministries' procurement offices is uneven.

Another important institution of co-operation for the Agency is the Kosovo Police. While the agency only became fully functional and staffed in 2009, the Police have the necessary technical support to conduct better research and investigations into corruption. The relationship of the Agency with this institution remains weak.

The supposed scope of co-operation and interaction between the Agency and The Ombudsperson Office remains unclear. The Ombudsperson produces an annual report

which also provides information regarding the alleged corruption in public administration; however the Agency has only a poor performance in using them as a base for further investigation. The co-operation of the KAA with the Kosovo General Audit is also cloudy. The General Audit publishes an annual audit report which contains many hints of corruption and power abuse cases.

The challenge of impartiality and independence

Impartiality and the independence of the KAA are crucial for its success. As a result of the lack of sufficient political will to fight corruption and due to the broken judicial system and the failure of the prosecution, the work of the Agency does not go beyond a good report on many occasions. The agency does not enjoy the necessary political and financial support to implement its mandate. The salaries and overall operational budget of the agency is very poor. This nevertheless impacts on the performance of the KAA officers. Their job and duties imply a certain level of risk and therefore they need stronger support.

The final success of the work of the agency depends a lot on the follow-up from other institutions; police, prosecution and the courts. For example in Latvia, with a similar institution, the respective agency against corruption has its own police unit and a detention centre. There is a need to look better into the option of strengthening and extending the mandate of the Agency. Discussions should involve the option for the Agency to have the authority to arrest and detain individuals for corruption

In the case of Kosovo, the name Anti Corruption Agency creates a different perception of its role from what it actually is. In this context the authority of the Kosovo Anti-corruption Agency does not go hand in hand with the name of the institutions. The perception of the public for the work of this institution is oriented from the very name of the organization thus creating confusion among the public on the true role and functions of the agency. The expectations are very high yet there is not much that the agency can do without the necessary support and co-ordination with other institutions.

Another component that is a potential for intrusion of the independence of the agency is Article 23, (c) which says that the Agency "prepares an anti-corruption strategy for the Government and approval by the Assembly and has the responsibility for making amendments and its implementation". The fact that the government has to approve the anti-corruption strategy and this very process itself is a potential for the interference of the government into the strategy.

Conclusions and Recommendations

The following recommendations and conclusions are made taking into account the capacity of the institutions to comply with them. The recommendations mainly propose changes that would provide for more political independence of the Agency thus fostering efficiency in the fight against corruption.

Strengthen the leverage of the Agency and diminish the possibility of the government's direct interference (control) in the work of the Agency:

- The role that the Law establishes for the Agency is more an administrative and monitoring role and acts as an intermediary between the public bodies and prosecutors office. Article 16 of the Law says that the Agency shall forward all cases of corruption to the Office of the Public Prosecutor of Kosovo for consideration. While this is not a problem, the Law against corruption needs to extend and strengthen the authority of the KAA in terms of investigations.
- Change the Law provisions dealing with issues of wealth and assets of public officials, as well as cases of conflict of interest.
- Disperse the Council of the Agency in order to allow for more efficiency and less control of this Agency by the government and political parties.
- The road to the budget should not be through the government. The law against corruption and the law on public finances should be amended for independent agencies so that the process of budget making has direct access and relation with Parliament, not through the government.
- Article 23 (c) should change so that the Strategy against Corruption does not need to be approved by the government before proceeding to Parliament. The agency should be able to go only to Parliament for confirmation of the Strategy.

Improve the interaction of the Agency with Parliament through:

- The officers of the Agency need to take an active role in the meetings of the Parliamentary commissions especially on issues that fall within the Agency's profile.
- Parliament should extend the mandate of an existing parliamentary committee to cover the work of the agency.

Improve the Agency's interaction and follow-up on the work of other institutions, thus linking the effort in the anti-corruption fight through:

- The Agency needs, based on the report of the Ombudsperson, to conduct further investigations thus building the trust of the public in and to the Agency.
- These General Audit reports need to be followed with administrative investigations by the Agency thus pressuring the prosecutor to take the findings into account.
- Providing the public with assessment and statistical information with regards to the relationship with the Ombudsperson Office and the Kosovo General Audit institutions.

The Agency needs a better strategy for transparency and public relations through:

- Increasing the promotion of the results of its work and success stories.
- Strengthening its capacities in the field of research; thus improving consulta-

tions and produce statistics and reports in the field of anti-corruption. Producing study reports on the implementation of the Laws against corruption.

Sources:

- European Commission 2008 and 2009 Progress Reports for Kosovo
- Law against Corruption

2.2 Financing of political parties: Need for a single Law

Elaborated by **Merita Mustafa and Besnik Ramadanaj, Kosovo Democratic Institute (KDI)**

Acknowledgment: Armend Zemaj, LDK; Bahri Hyseni, PDK; Sejdë Tolaj, LDD; Petrit Zogaj, FOL Movement; Arban Abrashi, LDK; Fehmi Ajvazi, KQZ; Ardian Gjini, AAK; Ismet Kryeziu, KDI; Driton Selmanaj, KDI

Introduction

Political parties form a firm part of democratic societies as representatives of the people. However, politicians should, prior to preaching about promoting democratization at different levels of the society's life, assure transparency and accountability within their own ranks. Political parties in Kosovo often claim to struggle for transparency at governmental level, while they do not consider these issues in their parties' structures. Parties remain closed to the public gaze and often operate in a rather obscure manner. Internal democratization and more transparent functioning of political parties would without doubt increase the public's confidence in their work and encourage citizen participation.

Without questioning the right of the political parties to raise funds in addition to those assigned to them from the state budget, as it is common in other European democratic countries, we claim that this should be done in a transparent manner. Unfortunately, the current confusing legal framework in Kosovo allows for political parties to behave without clearly set benchmarks and rules. The danger of dependency from one donor is as risky as a close relationship between donors and politicians. Clear rules are important in order to prevent a conflict of interest and corruption within the parties' structures that necessarily also have an influence on the government and parliamentary work of the party members.

The inevitable step in assuring the accountability of our elected representatives is to put into force a legal framework that would set firm boundaries within which the political parties would ensure the financing of their everyday work as well as electoral campaigns. With a firm legal framework in place, the parties could be held accountable for their financial performance.

The financing of political parties in Kosovo continues to be a taboo topic for all political parties, both governing as well as those in opposition. This is also the reason why ten years after the war and a year since the entry into force of the Constitution of Kosovo, our country has not yet attained a full legal regulation on political parties' funding.

The draft Law for The Financing of Political Parties sponsored by the Office of the Prime Minister was supposed to solve the problem described above. Although the adoption

of the Law was anticipated for May 2009, the Law was only submitted to the Assembly in October.

Through the recommendations provided in this paper we aim:

- to push the state bodies to adopt the Law on the financing of political parties, through which adequate mechanisms that ensure transparency in the origin and management of funds would be created
- to contribute to the responsible behavior of the institutions responsible for drafting and approving the Law
- to propose concrete provisions to be incorporated in the final document.

Current confusing and insufficient legal framework

Generally, political parties in Kosovo suffer from organizational problems, lack of political strategies and concentration on short term projects rather than having a vision and a lack of definition of the ideological profile. Moreover they lack transparency in their financing, which is a crucial issue to the democratization of the political scene in Kosovo and society in general.

In 2004 the Kosovo Assembly approved the Law on the Financing of the Political Parties, but the Special Representative of the Secretary General (SRSG) refused to sign it. Five years later, political parties are still being financed from private sources without clear rules set by legislation. This legal vacuum enables the abuse of financial resources, and reduces the accountability of political parties.

The problems with the preparation and adoption of the Law in the government were caused by the need to incorporate several essential recommendations of the Council of Europe guided by the following principles: reasonable balance between public and private funding, fair criteria for the distribution of state contributions to parties, strict rules concerning private donations, threshold on parties' expenditures on electoral campaigns, complete transparency of accounts, establishment of an independent audit authority and meaningful sanctions for law violations.

The financing of political parties still continue to be regulated by the UNMIK Regulation 2004/11 and the Laws on General Elections and the Local Elections, both adopted in 2008. However there are serious contradictions between the UNMIK and post-status legislation.

Chapter 6 of the Law on General Elections foresees "Campaign spending limit and financial disclosure", whereas Article 39 stipulates the obligation for political parties and the maximum allowed costs. However, the law does not define the donor from which the political parties can receive a contribution. Meanwhile, Article 40 stipulates the deadline for the submission of the electoral campaigns' financial report. This article also determines that all costs exceeding the sum of €100 must be supported by an invoice. Several political parties' representatives who participated in the KDI workshop in May 2009 admitted that this obligation is not always respected. With regards to the

audit, the Central Electoral Committee (CEC) is currently responsible for appointing an auditor. Article 42 of this Law also regulates the sanctions for breaching the law. Under Article 39, the parties are allowed to use the right of appeal.

The lack of an adequate legal framework reduces the accountability of political parties towards citizens and thus leaves a window open for the political parties' financial misuse. The endless delays of the Government to prepare and submit the Law for the financing of political parties arouses suspicion that the political parties take advantage of the legal vacuum for misusing funds or for personal gain.

Rules to be applied for the parties' financing

At the workshop organized by KDI on May 6 and attended by members of the Kosovo Assembly, representatives of political parties, experts and civil society representatives, many participants confirmed that the current situation requires the urgent adoption of a single law which comprehensively regulates political parties' financing. The law would clearly define the origin of funds, spending limits, payment of parties' staff, and the spending of funds allocated from the Kosovo Budget. The participants also expressed the need to limit the financial expenditures of political parties and disable subsidizing parties' electoral campaigns from the state money. They proposed that private donations be sanctioned by law and limited. The independent audit of the parties' performance should be provided by the Office of the General Auditor.

The creation of an adequate threshold for political parties' expenditures and regulation of the salaries and obligations to parties' staff would open a space for a better management of the party's budgets and reduce the possibility of escaping from legal obligations.

The legal basis would create the opportunity for political parties to invest in real estate and non real estate with non-profit character. These investments will enable the parties to be self-sustainable and develop further. Investments would need to have a non-profitable character, such as parties' office, cars, electronic or print media, foundations, institutions dealing with research analysis, publications, etc.

Another important element considered is also the possibility of incorporating the principle of equality between the political parties in the availability of funds. The financing of political parties is suggested to be composed of several sources: state budget, which means from the citizen's taxes; donations of individuals and legal persons; membership fees; and products that a political party offers for sale on the open market. This will enable the development of political parties, financial sustainability and decrease the danger of dependency from a single source of finance. In cases where these elements of financing are included, the dependency of political parties on interest groups would be avoided.

Given that a large number of Kosovo citizens live abroad, the Law should also apply to the parties' financing by individuals and legal persons from abroad.

In order to avoid any risk to political parties and their development, especially of new or small parties, funding should be calculated by the number of votes received at elections and not the number of seats obtained in parliament. Sums allocated for political parties from the state budget should not exceed the average amount for similar allocations in European Union countries.

There is also a need to change the practice by which funding of political parties is made by the Assembly, the so called Budget for democratization. Political parties should be financed solely from the Ministry of Economy and Finance budget and not from the Assembly budget. This would offer the possibility of strengthening not only political parties that have received a considerable number of votes, but also to those that have failed to reach the electoral threshold.

As far as obligations and direct conditions of the parties are concerned, the law shall regulate the wages – contributions – taxes of the political staff and the expert's fees who work within the party. Party branches shall have the bank account numbers as well as take responsibility for (head, secretary) those who need to be sanctioned and limited. Meanwhile, to strengthen equality between the political parties, the thresholds for membership fees should be also determined by law. The maximum amount that political parties should receive should not be more than one euro per member.

Another alternative to parties' financing regulated by law can be the financing through products that the parties themselves offer for sale. These can be publications or research that parties would also have the right to sell.

The advancement of transparency and accountability of political parties to raise and manage funds is considered to be crucial in the context of the law. In this sense, the lists of donors to political parties should be public and be accessible to the public. Individuals, legal persons or members must fill in the forms of financing, forms that contain data such as amount, name, surname, personal identity card number, address and contact person. To do otherwise political parties would not demonstrate transparency towards state and citizens. To be more transparent, funding should be made through bank transactions. Natural and legal donors should make transactions through the bank. The value of donations which are allowed to be made, other than through a bank transaction, should not exceed the monetary value of €100.

Another important element which needs to be considered by the Law is to avoid the misuse of funds by the parties during the campaigns through setting expenditure limits and where the amount needs to be set (depending on number of votes) that parties may spend.

Implementation of the Law and mechanism of control

The drafting and publication of the annual budget is the next important segment. Political parties need to produce financial reports and make them public

for the general public and not more than three months after the end of the calendar year. These reports should be published on the websites of the parties. Responsibility is delegated to the CEC to publish the financial reports for the parties which do not have websites. Should this not be the case, citizens would not have access to the financial reports of political parties and thus they would create perceptions of suspicion in the financing and activities of political parties.

Every law is required to be implemented, but an important element is the sanctions in cases of violation of the law. For this to succeed, the finances of political parties should be subject to external audit. Political parties must demonstrate willingness, readiness and respect of law to permit access to and to permit opportunities for the development of the activities of the independent external audit of party finances. In this way they will avoid the manipulation of political parties through financial means.

With regard sanctions, mechanisms that create the possibility of penalties and prosecutions with fines must be determined precisely in those cases where natural / legal persons give donations to political parties or officials and those who receive the funds on behalf of political parties, violate the law. This would decrease the possibility of abuse through financial means.

We also have to bear in mind that the Law shall allow for full transparency on the finance of political parties; allowing for the fact that the funds of political parties are made public, strong mechanisms shall also be established to supervise these finances. In addition, it has to be foreseen that the financial reporting of political parties is carried out on a regular basis.

Conclusions

What is most evident in this analysis is the lack of political will of the institutions to pass the law as soon as possible. As in November of this year the local elections will be held and based on a promise to the public the responsible authorities should prepare the Law on The Finance of Political Parties before the elections.

Now, a few months before the local elections, set for November 15, the parties risk entering the game once again and this time without a law that defines methods of financing. Promises from the highest levels of government are that the law will be ready before the elections. But, given the progress in this direction, as well as information from the legal office of the Prime Minister as the responsible body for drafting the law, it is difficult to envisage that the law will be drafted by the end of year.

Its content shall be compatible with democratic standards and the recommendations of the Council of Europe. Also, the Law shall include the interests of all political parties in order to be comprehensive in content as well as in representing the interests of the minority parties. A key element is considered to be that the Law on The Finance of Political Parties allows sufficient room for transparency and accountability in the aspect of finances of the political parties.

The realization of these objectives could regulate the issue of financing of political parties based on legal norms and democratic standards. Seeing the importance of the law as a demonstration of political will and a legal battle against corruption, Kosovo's parliament, government and political parties, being committed to drafting the law and approving it, will demonstrate the political will to reinforce law and fight corruption. The Law on the financing of political parties creates mechanisms that reduce the possibility of political parties having relations with corruptive phenomena. In the absence of the law in question, there are chances for the abuse of funds by political parties.

The Legal Office of the Prime Minister, as sponsor of this law, parliamentary committees and the Assembly of Kosovo shall follow the legislative agenda and place as a priority the drafting and design of the law on the financing of political parties. The Kosovo Parliament should be engaged to make certain that the law is in harmony, and without creating contradictions in the interpretation and implementation of the law, with the Law for Public Finances, the Law on Elections and the Law on Audit. In addition, this law must be compatible with European legislation. To be more acceptable and in order to exchange knowledge and practices, it would be extremely necessary to have the involvement of the wider relevant actors. In this segment, research and public hearings should be organized. By taking into account these elements, the credibility at the citizens will increase, the possibility of abuse would be reduced, the performance of institutions would improve, and processes of integration into the European Union would accelerate.

With the inclusion of these elements there will be an effect on the increase of transparency of political party finance, limitation on spending, and it would reduce the possibility of escaping from legal obligations. Also, this policy will affect the reduction of abuse, the growth and sustainability of political parties, as well as increase the credibility among public opinion towards the activities of political parties.

Taking into consideration this policy paper, the responsible institutions shall have the possibility of finding real answers in conformity with democracy requests which would make the law acceptable and be implemented.

Sources:

- KDI workshops discussions – May, June 2009
- UNMIK Regulation 2004/11
- Law on General Elections
- Law on Local Elections

ECONOMY

3.1 Are we ready to privatize the publicly owned enterprises?

Elaborated by Alban Zogaj, RIINVEST Institute

Introduction

Regardless of the mixed experience and poorly evaluated lessons learned from the privatization of the Socially Owned Enterprises that have been ongoing since 2003, the government has already introduced plans to privatize the large strategic enterprises that are still in its hands. This "large" privatisation should include parts of the Kosovo Energy Corporation, the Post Telecommunications of Kosovo, as well as Prishtina International Airport (ANP). While there is a wide society and stakeholders consensus on the issue of the necessity to privatize these enterprises, concerns remain about the lack of strategies and proper planning of the privatization so as to maximize benefits for society as well.

In this framework, this policy brief will be centred on the alternative methods of privatization rather than privatization itself since the reasons for privatization are clear: a political symbol of reform and addressing the inefficiencies of the state sector. Moreover, this brief will discuss the best practices in the region and how government should act prior to continuing the process of divesting itself of Publically Owned Enterprises (POE) and if there are clear legal mechanisms for the continuation of this process? The appealing questions that this policy brief tackles are: How privatisation in the case of POE should be carried out? Has the right time for "large" privatisation come? What procedures to follow? Are we ready – in regard to legal framework and post-privatization obligations – to privatize publicly owned enterprises?

Lessons learned from privatization in Kosovo

Privatization has been an important component of economic and social reform in the Central and Eastern Europe transitional economies for the past two decades. Kosovo inherited the Yugoslavian legacies of both the self management system and the privatization process launched in 1989 by Ante Markovic's Government. However, in Kosovo only a minimal number of companies managed to enter the privatization scheme since the process was soon interrupted after the Serbian Government imposed emergency measures in Kosovo in March 1989. The process itself recommenced only after 1999 under the auspices of the Kosovo Trust Agency (KTA) established in 2002 under the EU-led UNMIK Pillar IV. After independence, the KTA was transformed into the Privatization Agency of Kosovo (PAK) by Law No. 03/L-067 and operates as an independent public body.

Before 1989, almost all economic activities in Kosovo were operated by Socially Owned Enterprises (SOE), while only the strategic sectors remained “publicly owned”, which can be basically understood as “large state owned enterprises”. Even though the privatisation of SOEs was launched in 2003, after seven years it is still at its half way stage. Out of an estimated 500 SOEs in Kosovo (the estimation results from ambiguities about the legal definition of “social ownership” as well missing documentation, as a large part of it was destroyed during the 1999 war) up until now more than half have been privatised. Around 450 enterprises possess their records clearly indicating their social ownership status, whereas the status of the remaining remains unclear. Apart from a report on lessons learned from privatisation, published by the Riinvest Institute in 2008, there are no comprehensive analyses of the privatization process and no serious evaluation of the impact of privatization on enterprise performance in Kosovo have been conducted. The Riinvest report likened the privatization process to a kind of a “half empty or half full glass”, depending on the perceptions of different stakeholders. The study revealed that around one third of the privatised companies have continued their previous business, while the remaining two thirds have changed the nature of activities or does not perform any business at all. The high number of inactive privatized enterprises, a phenomenon not very common in other transitory economies, remains an alarming aspect of the privatization process in Kosovo.

Within this mixed picture of results and experience with privatization of the SOE, the Kosovo Government announced its dedication to embark on the privatization of the Publicly Owned Enterprises (POE) starting in early 2009. The POEs in Kosovo consist of utilities (electricity, telecommunication, and water supply), rail transport, the airport terminal and a few smaller companies providing water and sewerage services mostly at the municipal level. Based on an interview with the Minister of Economy and Finance, Minister Ahmet Shala, the Kosovo Government’s decision to consider the involvement of the private sector in utilities (electricity and telecommunication) is necessary and maybe even comes too late as results of the inefficient management and corruption scandals in the strategic enterprises show. This “new” privatization should include the privatization of parts of the Kosovo Energy Corporation (KEK), the Post Telecommunications of Kosovo (PTK), Prishtina International Airport (ANP) and also some concession arrangements for mines.

The KEK and PTK are the largest employers in Kosovo, with the KEK alone employing around 8000 employees. These enterprises have a strong influence on the performance of other economy sectors as they provide crucial services, e.g. electricity supplies. They also impact on citizen’s welfare in a direct manner through providing basic services. Any improvement in their performance shall therefore naturally have a positive impact on the overall economy and social situation.

Currently, the strategic enterprises face shortcomings in management and some of them also have serious financial difficulties. The UNDP Early Warning Report has, for many years, been ranking these companies among the top institutions tainted by corruption. The corruption scandals accompanying every tender opening announced by any of the POEs became known to the wider public. Other serious mismanagement problems lie in the unclear employment procedures (the publicly owned enterprises in Kosovo are over-employed and hence inefficient) and generous management remuneration schemes. This situation leads to the generally shared wider consensus of

all key stakeholders and wider society about the inevitability of privatizing the POEs. However, the concerns about the right timing and firm and transparent procedures and rules remain.

Designing the privatisation of POEs

The Law on Publicly Owned Enterprises of the Republic of Kosovo, which entered into force on 15 June 2008, establishes a new regulatory framework for POEs, placing them under the authority of the Kosovo Government (central POEs) or municipalities (local POEs). The large strategic enterprises operating throughout Kosovo that are planned to be privatized are owned by the Republic of Kosovo, which currently constitutes 100% of the shares in the government's ownership. Government's shares in any of the POE may be freely sold if the Government adopts a Decision authorizing a Government Privatization Committee²¹ (GPC) to proceed with the tendering and selling of shares. When the government's decision has been approved by the Kosovo Assembly (simple majority vote), the GPC then proceeds with opening the tender and selling the shares concerned.

The situation in Kosovo POEs planned for privatization varies significantly in many aspects. On the one hand PTK, despite its extensive history of financial scandals, is currently the most profitable public enterprise in Kosovo. Its income increased by more than 46 percent in the period from 2002 to 2006, and its operating profit increased by 148 percent during the same period. On the other hand the KEK, due to low capacity to invoice and grave technical problems, continues to operate with financial losses and is dependant on regular subsidies from the state budget. In the periods of 2005 and 2006, the KEK invoiced for only 52 percent of the energy distributed and collected only two-thirds of the amount invoiced, i.e. only 35 percent of the electricity distributed to the network. In contrast, the electricity Transmission System and Market Operator (KOSTT), an enterprise established relatively recently during the unbundling process of the KEK, had a positive performance in 2006 and 2007. Prishtina Airport has also showed quite positive trends whereby the value of assets increased by 44.6 percent during the period from 2002 to 2006.

Until recently, PTK essentially had a monopoly over telecommunications services in Kosovo. In December 2007, the Government licensed a second telecommunication operator IPKO, while in 2008 two additional mobile operators obtained a license to operate in Kosovo. On the other hand, the energy market in Kosovo is in a position of natural monopoly. According to a policy research working paper by R. Bradburd (World Bank, 1992), if natural monopoly public enterprises are privatized in an environment in which property rights are not secured, the new management of the enterprise is likely to take an extremely short-sighted strategy of profit maximization. There is a fear that this situation can also happen in Kosovo.

21 Each Government Privatization Committee shall be composed of five members: Minister of Economy and Finance chairing the Committee; Minister of Trade and Industry; the minister of the line ministry having the leading policy-making role in the sector in which specific POE operates; and two other ministers appointed based on the government's decision.

The table presented below introduces some indicators that need to be tested and implemented in regard to public policies facing each country, in order to see whether it is possible to design the privatization process and to avoid adverse externalities, and whether an effective regulatory framework can be put in place. As we can see, deciding about the privatisation of a non-competitive enterprise in a country with low capacities to regulate the market, should take into consideration following steps: 1. the privatization of management arrangements; 2. the installation of a market-friendly policy framework; 3. the installation of an appropriate legal environment; and finally 4. consider selling the enterprises.

	Enterprise	Conditions
Country conditions	<i>Competitive</i>	<i>Non-competitive</i>
High capacity to regulate; market friendly	Decision Sell	Decision Ensure or install appropriate regulatory environment Then consider sale
Low capacity to regulate; market unfriendly	Decision Sell, with attention to competitive conditions	Decision Consider privatization of management arrangements Install market-friendly policy framework Install appropriate environment Then consider sale

Source: World Bank study by S. Kikeri, J. Nellis and M. Shirley (1992)

The emphasis made by Kikeri *et al.* on achieving an appropriate regulatory environment before any sale, is entirely acceptable. Ongoing competition and the regulation of market power are fundamental to realizing benefits that may be promised by privatization.

Concerns regarding privatisations of POEs

According to several studies regarding the privatization of public utilities (for extensive summary see Megginson, 2005), vertically integrated operators, should be split before the privatization process continues, in order to avoid the private ownership of a natural monopoly. In cases of an energy market, the separation of energy generation from transmission distribution should be done in advance, in order to reduce the probability of cross-subsidisation. Parallel to the separation of vertically integrated operators, there is a need for a defined regulatory framework. If such a framework exists then the privatization for governments will be much easier (Bortolotti *et al.*, 1998), because it

is supposed that the regulation reduces uncertainty regarding the process and hence transaction costs.

Considering that the privatization of POE in Kosovo requires a basic consensus over key principles, many analysts consider the involvement of civil society and other stakeholders both at the discussions and debates, before starting the process, and at the monitoring during the implementation phase to be a crucial factor. Transparency is equally important in maintaining the confidence of investors (Saba, Privatizing Network Industries, 1998). Where enterprises are natural monopolies or dominate the markets (as the KEK in Kosovo), unless the reforms to a market structure and incentive-based regulatory programmes are designed, when the enterprise is still in government's hands, the benefits of privatization are likely to be wholly captured by the new owners (Asher, 1999).

As already mentioned, there is a broad consensus on the need to reform, restructure and privatize these POE in order to make them economically viable and attractive to investors, but on the other hand, there are also legitimate concerns, expressed by civil society, media, trade unions, and political parties, mostly related to:

- **Current legal framework:** the issue of privatization of Publicly Owned Enterprises is partially regulated by two articles at Law on POE, which is considered a poor base for ensuring the necessary procedures, authorizations, accountability and transparency;
- **The lack of policies and strategy:** there are no policies yet in place regarding which models and forms of privatization will be used, while there is a great deal of experience from the region which could serve for building up a sound privatization process of POE for the benefit of society as a whole in Kosovo;
- **Lack of transparency:** the government has not informed the general public on its policies towards this process and also there is a lack of public debate on costs and benefits of such a process, possible alternatives to privatization and what could be the best solution to the given conditions.

If such issues are to be considered, and clear policies are to be developed, the government should decrease the risk of mistakes. More importantly, it should reduce uncertainty regarding the process and costs of transaction.

Conclusions and recommendations

In the process of developing policies and regulations regarding the privatization process of POE, the Government of Kosovo should take into account, among others, the following issues:

1. Setting a clear strategy that will also take into consideration social consequences, the influence on unemployment, environmental aspects (especially in the case of the KEK), and will address contractual and cultural factors.

2. In the case of the KEK, the distribution division of the enterprise should be privatised first. Capacity-building in the regulatory bodies is essential, in order to prepare them for the reform of infrastructure utility industries and exposure of enterprises to normal commercial and competition law.

3. The Prishtina International Airport should be privatized by a concession contract for up to 20 years, with a Build – Operate – Transfer (BOT) model.

4. Coal mines should also be privatized with concession contracts for up to 20 years.

5. Participation in wider regional and international regulatory forums in order to expose regulators to the experience of counterparts and to assist in developing co-operation in regional issues and to develop links with representative business and consumer organizations.

Sources:

Riinvest Institute, "Corporate Governance in Publicly Owned Enterprises", November 2006

Privatization and Post-Privatization in Kosovo: Glass half empty or half full? – Research Report, Riinvest Institute (Forum 2015), 2008

3.2 Implementation of CEFTA: Reality or just a nice wish?

Elaborated by Mimoza Kusari – Lila, American Chamber of Commerce in Kosovo

Introduction

The Central European Free Trade Agreement was initially established to create a trading union among signatory countries most of which are today members of the EU. The same agreement was applied to Western Balkan countries and Moldova and was finalized in 2007 when the agreement was ratified by Parliaments of all countries except for Kosovo, who was under UNMIK 1244 and the SRSG ratified the agreement.

Free trade and custom unions are the core idea of the establishment of the EU. Therefore, it goes without saying that free trade is essential to the stability and normalization of the Western Balkans. However, there is a tendency to prove that the Western Balkans is totally politically stabilized, while ignoring some real issues and problems that surface from the implementation of the CEFTA and other regional agreements, which often present a lack of political will by the signatory countries to implement the agreement.

Kosovo's economy generates its income mostly through trade, making Kosovo a serious customer of neighbouring countries, but can not compete or act at the same capacity level to the neighbouring countries or other CEFTA members. Problems arising are twofold:

- A lack of capacity to compete with well established industries of other countries.
- Political issues arising from the declaration of independence of Kosovo and the acceptance of the new reality from most of the CEFTA member countries.

Working towards solving these issues takes more than just formal meetings organized through the CEFTA secretariat on committees and sub-committees. It will take major political involvement and engagement by all countries signatories to this agreement.

Regional cooperation on the ground

The silent conflict or political battle between Kosovo and Serbia is most likely the hardest obstacle for development of the regional cooperation. However, we can not neglect the fact that Bosnia and Herzegovina and Moldova did not recognize Kosovo and we can not predict if recognition will happen at any time soon, which would ease economic cooperation as well. In addition, the fact that Kosovo has signed the CEFTA through UNMIK resolution 1244, legally gives ground to countries that have even

recognized Kosovo and still dispute shipments from Kosovo which pass through their borders with the argument that Kosovo's new seal is not the one initially confirmed when the agreement was signed. So, problems of this nature have been reported with Montenegro, who has also been running CEFTA secretariat for 2009. The problem will become greater and get bolder when Serbia takes over its leadership role (chairmanship) of the CEFTA Secretariat.

Implementation problems did not only start after the declaration of independence. Initial problems were reported as soon as the agreement was officially in power, in 2006. A major problem was the bilateral and later multilateral agreement with Bosnia and Herzegovina. The agreement was signed in 2006 at which time Bosnia did not recognize UNMIK travel documents or Kosovo license plates (under UNMIK 1244). This agreement has automatically created disadvantages and imbalance between Kosovo businesses and Bosnia businesses. Furthermore, Macedonian customs started applying restrictive measures (non tariff barriers) for major Kosovo flour producers. The Macedonian authorities, having been influenced by their flour mill lobby and other political factors, kept Kosovo trucks at the Macedonian border for more than 6 weeks with the argument that Macedonian Customs needed to check the origin of the product and if it was in compliance with CEFTA rules. The issue was reported all the way to the EC and the CEFTA secretariat and it took two meetings involving the Minister of Trade and Industry, engagement from the international and local political factors to start discussions.

The question arises: If the free trade agreement passes through difficulties of this nature, how would countries respect bilateral agreements which are not monitored or supervised through international bodies. To support this statement, problems have risen often (considering that Kosovo is not a large nor serious exporter, €96 million for 2008 compared with €1.8 billion imports), enough to discourage local producers, and also provide the proof to our neighbouring countries that Kosovo institutions will never apply reciprocity measures and Kosovo Customs, not being instructed by any supervisory authority, will keep implementing the agreement according to the law. The same situation does not apply to other countries signatories of the free trade agreement.

Countries are exploring different areas to protect their market and products. During the month of May of 2009, Bosnia's parliament passed the first reading a draft law that protects and gives an advantage to Bosnian agricultural products. Action taken by the Bosnian authorities initiated serious reactions from various international institutions, including the European Parliament and country heads of State, for example the Croatian head of state as Croatia is a net exporter to Bosnia. The issue is still pending.

Other resolved disputes among signatory countries include Macedonia and Croatia, Albania and Macedonia, disputes which were resolved by reciprocity measures. Kosovo seems to be the only signatory not reacting in the same way as other trading partners. In addition, Kosovo is the only partner to the agreement which did not negotiate any article of this agreement, nor put any conditions on its implementation.

Western Balkan countries, in general, have difficulties implementing the trade agreements fully and it should therefore be noted that a period of a few years should pass, before we see the full implementation (without political interference) of these agreements. One key factor in the process is also the attitude and intermediation of the European Commission in these agreements and conditionality factors they present for countries violating regional agreements.

Why the trade agreements do not work

All signatory countries of the CEFTA are transitional economies, originating from a centralized market economy and aiming at becoming an open market economy, a process which is going to take some time and to have countries and their administrations fully believe and work for and on the benefits of these agreements. In Kosovo legislation is in full accordance with the EU, but problems arise in the implementation of this legislation and the functioning of the Rule of Law. Often civil servants, being the key people in the administration, have difficulties understanding the objective they are supposed to implement. The same situation is evident with other countries that have problems overcoming political prejudice related to issues within their own system.

In addition to political issues, the financial global crisis has only increased the desire of countries to think about protective measures for their markets and products. The new situation has decreased global purchasing power and therefore decreasing the scale of every local economy, including the Western Balkans. In order to protect what is left; Governments are trying to prioritize, regulating markets to the advantage of their own products, regardless of the commitment taken from the multilateral trade agreement. Developed countries are no exception to the rule, therefore it becomes harder to criticize only the developing world.

As stated, the crisis has effected the EU as well as the rest of the World so managing and dealing with problems from the Western Balkans trade agreement is going to take extra political engagement from Member Countries who are also on the spot and trying to solve the economic crisis effecting their countries and the Union as a whole. Therefore a solution lies in the change of perception and a decision to make the trade agreement work by Governments of the signatory countries. People of signatory countries are the ones who will benefit the most from these agreements and Governments should plan and prepare steps to overcome obstacles.

The most critical situation to solve will remain the normalization of diplomatic relations between Kosovo and Serbia. Through the use of reciprocity measures, Serbian authorities might start behaving differently with Kosovo products which use Serbia as a transit country to the rest of Europe, and knowing that if Kosovo starts applying reciprocity measures a trade volume of €300 million is at stake. Country wise, Serbia is Kosovo's second largest trading partner after Macedonia. Imports from Serbia are mainly food products, drinks and cigarettes (30.7% of the total imports from this country).

Possible development in regard to CEFTA

Since the above described situation is not sustainable, this paper introduces five possible scenarios that could happen in relation to the future of the CEFTA:

First Scenario: Remaining Status Quo

Pros: None, the trade deficit is so high and issues so many, that the chances of the situation changing with no action taken are minimal or do not exist.

Second Scenario: Kosovo starts the implementation of reciprocity measures immediately. As soon as there is a blockage of Kosovo products at the Customs of any of the neighbouring countries, Kosovo customs apply the same measures to products of that particular country.

In addition, a note through our Ministry of Foreign Affairs is sent to respective countries on the identified problem. On related note: the MFA should hire, as soon as possible, commercial officers at Kosovo Embassies who will be dealing with commercial issues in countries where they serve. If the MFA has no budget or the hiring process takes too long, an alternative representative should be assigned to deal with commercial matters.

Pros:

Presents sovereignty and functionality of the state
Gains attention from the CEFTA countries who will act more carefully before implementing non tariff trade barriers .
Increases budget (Kosovo customs charge customs tariffs for goods otherwise customs free, there will be increase in the KCB)

Offers opportunities to local producers by making it harder and more expensive for foreign products to penetrate the market thus local producers will have an opportunity to reach local consumers.

Cons:

Damages importers and those related to import
Increased smuggling while some traders will try to avoid customs tariffs

Third Scenario: Kosovo withdraws from CEFTA

Pros:

Offers market space for local producers
Dissatisfaction with the process is presented openly
Enables a new agreement with new rules and regulations

Cons:

Kosovo will be perceived as an isolated country
Endangers integration process

Offers the space and perception for controlled market and

- Politically presents serious difficulties to re-start negotiations (knowing that five EU countries did not recognize Kosovo)

Fourth Scenario: The EU (European Commission) will play a more active role in region. While negotiating the status of candidate country can create pressure on all possible candidate countries.

Fifth Scenario Change the CEFTA agreement to make it more functional. Amend the agreement based on the political and functional changes that have taken place in the region. In addition, observatory mechanism from the EC should be more active and engaging when problems persist.

From the five recommended scenarios, the second and fifth are more likely to present any concrete results towards the fulfillment of the CEFTA objectives.

Conclusion and Recommendations

The CEFTA agreement is, without any doubt, a very important mechanism to integrate the Western Balkans and normalize relations among member states. However, knowing that reality on the ground has changed so dramatically, the declaration of independence of Kosovo, the global financial crisis, the changes in status of signatory countries advancing toward EU accession and without taking into consideration the CEFTA violation (Serbia, Macedonia), it is a key time to start looking into modifications or potential changes to this agreement. Certainly, the agreement itself did not serve its purpose in Kosovo, failing to fulfill any of the three objectives that the CEFTA was initially designed to fulfill: stabilize neighboring relations, improve the investment climate and increase exports. None of the three is actuality in Kosovo case.

In order for Kosovo to improve its position with neighboring countries, the Government of Kosovo should take the matter seriously and work on two aspects:

1. Develop an export oriented approach by enforcing quality standards and offering assistance to production companies (either legally or infrastructure) and
2. Be more active in its foreign relations by putting commerce as one objective of our foreign policy. The Government should engage more in increasing capacities of Embassies to handle trade exchanges in or any problems related to it and react if there are serious violations from other countries.

3.3 How to Increase the Kosovo Capacity to Export

Elaborated by Flamur Keqa, Kosovo Chamber of Commerce (OEK)

Introduction

The post-war economy in Kosovo has been struggling with many structural problems and has not managed to recuperate to even its pre-1990 strength. Local production is still very low and the quality of Kosovo products has not yet reached a quality standard to be able to compete in the markets of the region, not to mention the markets further afield in Europe. Foreign capital is arriving very slowly and is directed primarily into the banking and telecommunication sectors. Institutional support for businesses in Kosovo is almost non-existent and the work of the businesses companies with a potential to export is not supported and facilitated enough. The businesses, in the absence of institutional support, have operated in the market with only limited assistance from business associations. The export sector is considered to be the weakest point of the Kosovo economy and greater support from the government is inevitable in order to allow for it functioning better.

An increase in production and thus also export potential of business may speed up Kosovo integration capacity into regional and international markets. On the one hand it would increase self-sustainability in that there would be a local supply to the market of basic products and therefore decrease the dependency on imported goods. Conversely, it would increase the competitiveness of Kosovo products on the markets abroad.

This shows that the issue of export requires to be addressed in a complex and comprehensive manner, in which the involvement of all relevant stakeholders is inevitable, as well as a strategy and vision by the government institutions is crucial. In this regard the greatest burden falls on the Ministry of Trade and Industry, Ministry of Finance and Economy, Ministry of Agriculture and the Investment Promotion Agency of Kosovo (IPAK).

Structural problems in the Kosovo economy

By the end of the 1980's, Kosovo's economy, although less developed than the other constituent units of the former Yugoslav federation, however, had a more favorable economic structure in comparison to the existing one. It was comprised of small enterprises, as well as medium and large producers whose products were sold not only in other parts of Yugoslavia but also abroad, even in the markets of Western Europe.

The Kosovo economy in the late 1980s, before the dissolution of Yugoslavia, was based on a higher number of enterprises producing semi finished and finished products. In 1987, industry and mining constituted 47.5% of the gross domestic product of Kosovo, with fishing and agriculture at 20.8 %, trade with 12%, construction with 6.8%, trans-

port and communications infrastructure with 4.5% etc. In 1987 simple and highly processed products comprised almost 95% of Kosovo's export products. Industry and mining made up 98.53% of the total exports. However, Kosovo constituted approximately only 1.4% of the imports and exports in total trade balance of the former Yugoslavia. Therefore, compared to the former Yugoslav republics, we can safely say that Kosovo is still bearing the negative consequences of economic recession in terms of foreign trade, exports especially.

After the continuous destruction of the economy during the 1990's and the 1999 war, production in Kosovo was almost non-existent and the traditional external market for products previously exported was lost. Most of the production capacities with export potential were destroyed, while new capacities with new export potential have not been able to be developed yet.

In the current situation, with an imbalance in the economy structure, export remains one of the weakest and most unprotected sectors. While other countries in the region use various measures to stimulate or subsidize production and the export of their products, the Kosovo economy is not on an even level in this field. And the stagnation in Kosovo for more than the last 15 years has had a negative impact on the competitiveness of products in comparison to the products of countries in the region and beyond.

While the amount of imports covered by exports in Kosovo for 2007 was 7%, 2008 was slightly better as this figure had increased to 10%. During 2008, Kosovo imported products to a value of €1.83 billion, while exported goods to a value of only €184 million. Kosovo's trade deficit in 2008 reached the sum of €1.65 billion, or about 60% of GDP. An important element that can be a determinant for this situation is the quality of local products or their competitive level.

Most of the exports, 44.2% (in 2007- 42%), consist of metals and metal parts to a value of €39.3 million. Exported mineral products comprised 10.9 % of the total goods exported followed by alimentation (9.95%) and vegetable products (9.2%). With Regards markets, most of the exports were directed to the signatory countries of the Central European Free Trade Agreement (CEFTA) in 2008 with 42.7% of total volume (year 2007- 49%) while exports to EU countries constituted 33.5% of total exports. During the years immediately after the war, the main export was scrap iron, but over the years several developments occurred in the manufacturing sector and especially in agriculture and the timber sector etc., and thus these economic sectors have also started exporting their products.

An important role in terms of development in certain sectors of production and consequently exports, has been played by donations from the offices of USAID, GTZ, SDC, ADA and others. These agencies have supported industrial sectors such as the food, metal, timber industries and rural development among others, in various forms.

Kosovo applies a 0% VAT level on, and does not apply customs duty for export products. Moreover, it does not impose quotas on exports and imports.

Kosova is a member of CEFTA, which is comprised of 8 states, 7 Western Balkans countries plus Moldova. CEFTA represents a market of approximately 28 million cus-

tomers. However, even in this field Kosovo has been facing various challenges from neighbouring countries such as Serbia and Bosnia and Herzegovina.

The most serious problems in Kosovo that negatively affect the export sector are as follows:

- The lack of capital and high prices
- A lack of experienced producers in the export field
- A lack of standards and quality certificates (imported goods are subject to little quality control in comparison to domestic products which are exported and are highly controlled)
- Weak marketing and promotion
- Small role of governmental institutions in supporting exports and in the creation of a better environment for increasing their competitiveness.

Necessity to improve the trade policies

Currently, the structure of the Kosovo economy is unfavorable. The trade deficit is too high. The institutions have still not committed their effort to the export sector and to reduce the trade deficit.

The sectors with export potential in Kosovo are considered to be: mining and energy, agriculture and a wide range of consumer goods. These sectors would contribute positively in improving the trade balance until the economical restructuring of Kosovo and which is to be seen as a long-term goal.

According to the Kosovo Trade Policies approved by the Ministry of Trade and Industry, a great deal of attention will be paid to the export sector. However, there is a danger that these policies will not be implemented according to the new legislation and in an efficient manner.

Since the domestic producers do not yet fulfill high quality standards, their chances are greater of initially penetrating the markets of the region where the standards are less strict. However, the goal should be to gradually improve the production standards and marketing in order to extend the export area further. It means that the promotion of exports into the regional markets should be the short-term goal of trade policy while export promotion into the EU would be the medium-term goal. However, stimulation of activities (through proper political tools) for exporting into regional markets and the EU should be further continued and developed. Kosovo products may be exported to the EU under preferential terms and are highly favoured by the USA.

Law nr.2002/6 on activities of foreign trade dated 8th of May 2003 also regulates exports. This law contains basic rules on, among others, the export of goods, standards and technical requests for exported goods, export licenses and prohibited exports. The law assures that some specific products should have specific certificates such as technical, sanitary, phytosanitary and basic standards of products.

For the export of goods from Kosovo no license or authorization from public authorities is required except for products that are on an export check list.

Conclusion and Recommendations

To summarize the current situation in exports, the situation is as follows:

- Low institutional support for producers and exporters
- Low product quality accompanied with high production costs
- Low export in comparison to trade turnover, low participation of exporters in foreign trade
- Difficulty in improving domestic production competitiveness with regards to regional and foreign markets
- Negative effect on macroeconomic factors

As the initial steps to promote export, we propose:

- Drafting programmes for export promotion, to be more specific, it is highly recommended to the government and IPAK – Investment Promotion Agency in Kosovo, to create a:
- Database of potential exporters and foreign partners

This database would serve as an instrument for informing producers and domestic exporters on the foreign markets, opportunities for seeking out foreign partners and the possibility of developing international marketing.

- For the domestic exporters, it should be important to produce products with added value, increase the competitive and professional skills, and increase communication with foreign partners.
- Regional integration and exports will lead to improvement in the quality level of domestic products. Some interventions has been made on behalf of certain specific products and have brought results. This initial positive development, signals that there is a potential for progress in the export sector. Therefore, despite the difficulties and various barriers, businesses should have self-confidence in that there is a chance of penetrating export markets.