

Kosovo

Author: Gezim Grasniqi¹

Introduction

Despite being a post-conflict and ethnically divided society and a contested state, Kosovo has managed to make substantial progress in building and consolidating democratic institutions at national as well as local level. Yet, since the end of the war in 1999 and the establishment of the United Nations Administration in Kosovo (UNMIK), the country has been characterised by tension between the need to establish functional central(ised) state institutions, on the one hand, and the need to decentralise power and devolve competencies to local self-government institutions, especially in non-majority municipalities, on the other.

Although free, democratic and multi-party elections were organised since 2000, a major step in consolidating local democracy was a law change in 2007 to enable the direct election of mayors in municipalities and the introduction of open lists of candidates for municipal assemblies in 2008. These steps enabled measures to strengthen accountability at the local level and to challenge the embedded political allegiances of political parties who controlled local institutions, and thus strengthened local democracy.

Yet, the current legal and administrative situation is highly complex. This is mainly due to the unique situation in Kosovo stemming from its ongoing status dispute; a lack of clarity in certain

provisions that regulate the supervision and oversight by the central level; and considerable municipal dependence on the central level, largely because of a lack of local capacity. Above all, financing remains a major issue, with most funding for the operation of the municipalities coming from the central government in the form of grants.

About ICLD

The Swedish International Centre for Local Democracy (ICLD) is part of the Swedish development cooperation. The mandate of the organization is to contribute to poverty alleviation by strengthening local governments.

This report is part of a publication series that investigates local democracy in the 19 countries where the ICLD municipal partnership programme operates.

This report covers events up to 31 May 2019. Events occurring after this period are not considered.

General country analysis

Kosovo's constitution (2008) established a decentralised territorial organisation in which public powers and decision-making processes are handled at the closest possible level to its citizens. In other words, the basic organisation of Kosovo is that of a unitary state with a decentralised structure. Municipalities are the

¹ Career Development Fellow, University of Edinburgh
Email: G.Krasniqi@ed.ac.uk

basic units only of local self-government, which have full and exclusive powers in relation to a range of issues. Article 123.4 of the Constitution stipulates that 'Local self-government is based upon the principles of good governance, transparency, efficiency and effectiveness in providing public services having due regard for the specific needs and interests of the Communities not in the majority and their members'. Clearly, the governance structure in Kosovo is much more complex than the typical Weberian state model given that it establishes an asymmetric decentralisation model, granting particular powers to Serb-majority municipalities to govern their own affairs (Stroschein 2008). Currently, there are 38 municipalities in Kosovo.

Importantly, according to Article 124.3, 'Municipalities have their own, extended and delegated competencies in accordance with the law. The state authority which delegates competencies shall cover the expenditures incurred for the exercise of delegation'. Municipal competencies are determined and regulated by Law N0 03/L-040 on Local Self Government (2008). The enhanced competencies are designed for Serb-dominated municipalities exclusively, thus creating an asymmetry of municipal competences and local self-governance powers. Another exception is Kosovo's capital city Pristina, which since 2018 was granted a special status and will no longer be subject to the Law on Self-Government. According to the new law on the capital city, Pristina municipality will be entitled to establish public enterprises without government approval, and will receive extra competencies in healthcare and policing, with a new Directorate for Municipal Police established to specifically deal with the capital's requirements.

Fiscal decentralisation

Since the end of the war in Kosovo, the main focus of the international community and Kosovan institutions has been on political administration, with decentralisation used as an instrument for political integration of minorities in the Kosovan system and society. Immediately after the declaration of independence in 2008, the Kosovan authorities initiated the creation of five new municipalities (Gracanica, Ranilug, Partesh, Mitrovica North and Klokot) with a Serb majority and the border extension of one other (Novo Brdo), thus bringing the number of Serb-dominated municipalities to 10. All of these municipalities have enhanced competences in administrative matters, education, culture and policing.

The process of decentralisation also saw the transfer of various fiscal powers and competencies to local units of self-governance as regulated by Law No. 03/ L-049 on Local Government Finance (2008). The financial resources of a municipality consist of its (i) own source revenues as specified in Article 8 of the present law, (ii) operating grants, (iii) grants for enhanced competencies, (iv) transfers for delegated competencies, (v) extraordinary grants, (vi) financial assistance from the Republic of Serbia, and (vii) proceeds from municipal borrowing. However, the financial stability and autonomy of municipalities remain problematic, with most municipalities relying on grants and financial transfers from the central government. For instance, in 2017, municipalities' own resources amounted to less than 20 percent of their budget, covering just €80 million from a total budget of €421 million (Freedom House 2018). Most of the municipalities' own resources are generated from building permits, immovable property tax, traffic fines and administrative services' fees. Lack of transfer of public property and a poor record in collecting local revenues make municipalities highly dependent on central government.

Political decentralisation

Local elections for mayors and local assembly members are organised every four years. Since 2007, no party has managed to build a monopoly in terms of controlling local power. Although local democracy has strengthened over the years, independent candidates and women mayors remain marginal. The Ministry of Local Government Administration (MLGA) is the institution in charge of affirming the rights of municipalities in regulating public affairs, and for strengthening capacities of municipalities to exercise their activity in accordance with the principle of legality, subsidiarity, transparency, efficiency and effectiveness and other principles of good governance. In addition, the Association of Kosovo Municipalities (AKM) is a key institution, which provides an important platform for communication for municipal administrations. Yet, despite its long existence and broad membership, AKM has not been very active in advocating for local interests, thus making it a superficial actor.

Central government has limited means to interfere in the daily running of local affairs. Yet the Ministry of Finance still retains powers to approve draft budgets of municipalities mostly to make sure that they do not exceed planned government grants, their own projected revenues and other external grants and loans. This has often become a source of disagreement between the government and municipalities.

Conclusion: possibilities and barriers for municipal partnerships

Kosovo allows municipalities to exercise various responsibilities in the areas of their own and enhanced competencies through municipal partnerships. In the case of Serb-majority

municipalities, they can also engage in cross-border cooperation and partnership with municipalities in Serbia. Yet, disagreements over competencies and powers of the already planned Association/Community of Serb Majority Municipalities (2013) have prevented any such partnerships and cooperation.

In sum, despite having the highest level of decentralisation in the region, Kosovo's lingering inter-ethnic tensions and disagreements, weak economy and poor municipal capacities in generating their own revenues have undermined local autonomy (Agimi 2011). In particular, continuing low municipal own-source revenues as a percentage of GDP significantly reduce the potential financial autonomy of municipalities.

References

- Agimi, I., 2011. 'Decentralisation in Kosovo: challenges of reforming the local level', LSE Papers on Decentralisation and Regional Policy in South Eastern Europe (6), London: The London School of Economics and Political Science.
- Freedom House, 2018. 'Nations in Transit. Country Report Kosovo.' Last known access 29 January 2020, available at: <https://freedomhouse.org/report/nations-transit/2018/kosovo>
- Stroschein, S., 2008. 'Making or Breaking Kosovo: Applications of Dispersed State Control,' *Perspectives on Politics* 6 (4): 655-674.

Legislation

- Kosovo Assembly, 2008. 'Constitution of the Republic of Kosovo', 15 June 2018.

- Kosovo Assembly, 2008. Law No. 03/ L-049 on Local Government Finance, 13 March 2008.
- Kosovo Assembly, 2008. Law Nr. 03/L-040 on Local Self-Governance, 20 February 2008.