

# Division of Inspection Responsibilities Between Local and Central Level

July 2015

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The Example of Market and Sanitary Inspectorate





## Introduction

Inspectorates are executive and administrative bodies, mainly within ministries, responsible for checking implementation of laws and other sublegal acts covering a specific area. In Kosovo, there is no unified law for organization and functioning of the Inspectorates, which would regulate the allocation of responsibilities among inspectorates as part of ministries at the central level, and inspection directorates at local level. As a consequence, each inspectorate has its own legal basis (being that law, regulation, administrative instruction or decision) which establishes its organization and functioning, and the scope of its competencies from central to local level.

If we analyze it from this point, inspectorates in Kosovo can be categorized into three groups:

- 1) Inspectorates operating only in central level;
- 2) Inspectorates that except central level operate also in regional offices; and
- 3) Inspectorates which, except central and regional level, they also cover the local level. These three groups constitute a number of 18 inspectorates, with 800 employees, responsible to check the implementation of around 140 laws.

However, in some cases, there are conflicts of competencies (powers) between central and local levels. In order to illustrate this, we are providing two examples, of market and sanitary inspectorate. Despite the fact that the scope of their action is regulated by law, in practice they seem to encounter many obstacles, .i.e. between central and local level inspectorates.

According to the Law on Market Inspectorate, municipal market inspectors should be transferred within the Ministry of Trade and Industry (MTI),<sup>1</sup> while according to Law on Food of 2009, based on which the Agency for Food and Veterinary was established (AFV) as an executive agency within the Office of Prime minister, sanitary, phytosanitary and veterinary inspectors of local level should be transferred to AFV.<sup>2</sup> However, although this is clearly foreseen by law, in practice, sanitary, phytosanitary and veterinary inspectors still operate under municipalities.

The purpose of this paper is to analyze the current situation regarding the division of responsibilities in the inspection area between Market Inspectorate (MTI) and AFV Inspectorate at local level, namely with Inspection Directorates which have different numbers of market, sanitary, phytosanitary and veterinary inspectors. In order to have a clear picture of the current situation, GAP Institute contacted the relevant Inspectorates at the central and local level and conducted an analysis of all legislations defining this matter.

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<sup>1</sup> Law No. 03/L-181 on market inspection and surveillance: <http://bit.ly/1lyZots>

<sup>2</sup> Law No. 03/L-016 on food: <http://bit.ly/1pKWEvH>

# 1. Market Inspection: interaction between Market Inspectorate (MTI) and market inspectors at local level

Market inspection and division of responsibilities between Market Inspectorate within MTI and local market inspectors was initially regulated by law on Market Inspection in 2005.<sup>3</sup> According to this Law, the first level tasks will be allocated to municipal inspectors whereas the second level tasks will be dealt by established Inspection body within the MTI.<sup>4</sup>

A year later, drafted by the Construction Department and suggested by MTI, the law on establishing Inspectorate of Construction products was adopted as a part of Market Inspectorate.<sup>5</sup> However, according to Market Inspectorate, this department has been transferred within the Ministry of Environment and Spatial Planning (MESP) and one inspector of construction products has moved to the section for the safety of products of Market Inspectorate within MTI.<sup>6</sup>

This allocation of responsibilities in the market inspection between local level inspectors and Market Inspectorate within MTI has continued until 2010, when the Law on Market Inspectorate and market supervision was adopted which annulled the previous law and integrated the market local inspectors within the Market Inspectorate of MTI.<sup>7</sup>

According to this Law and Regulation on Internal Organization and Systematization of jobs in the Market Inspectorate,<sup>8</sup> market inspectors belong only to the central level, namely Market Inspectorate within MTI. However, in practice, this rule defined by Law was not followed by municipalities. Allocation of the inspectors under the

<sup>3</sup> Law No. 02/L-1 for Market Inspection: <http://bit.ly/1nCYOQa>

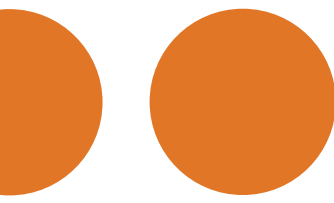
<sup>4</sup> Law No. 02/L-1 for Market Inspection, Article 3.

<sup>5</sup> Law No. 02/L-62 for the Inspectorate of Construction products, Article 4: <http://bit.ly/1rMGnuW>

<sup>6</sup> Interview with Muharrem Pozhegu, former Chief Inspector and Lebibe Haliti, Head of Section for Legal Issued of Market Inspectorate, 14 November 2013.

<sup>7</sup> Law No. 03/L-181 on Inspectorate for Market supervision, Article 38 and 39: <http://bit.ly/1lyZots>. Title of the law “law on market inspectorate” and some other unsubstantial amendments were done by amending this law in 2013, when the Regulation on Internal organization and systematization of jobs in Market Inspectorate was issued.

<sup>8</sup> The Decision of the government 01/161, date 27.03.2013: <http://bit.ly/1rMGvL0>.



responsibility of MTI Market Inspectorate was rejected by local level, and the allocated budget from the central level to municipalities where those inspectors are included did not pass as a separated budget within the Market Inspectorate's budget, in MTI. As a consequence, local market inspectors continue to receive payment by and operate within the municipality (mainly Directorates of Inspection).

Based on this existing division which exists in practice, it is not clear as which institution obliges (tasks) those inspectors (municipality or Market Inspectorate in MTI), to whom they report and how the inspection responsibilities of economic entities are allocated among market inspectors of local level and those of Market Inspectorate within MTI. However, regarding tasking and reporting, according to Market Inspectorate, these inspectors receive instructions also from the Market Inspectorate in MTI and report in this institution because each regional sector has one supervisor who reports to Chief Inspector in Market Inspectorate within MTI.<sup>9</sup>

Market Inspectorate in MTI is consisted of the Chief Inspector Office with two employees (chief inspector and one technical-administrative level staff), section for the safety of products, section for legal issued, and general affairs section with 14 employees and seven inspection supervision sections deployed in seven Kosovo regions with 66 inspectors. In total 82 inspectors.

Division according to seven inspecting sectors in seven regions in Kosovo is as follows:

1. Inspective Supervision section in Pristina and surrounding (Fushe Kosove, Lipjan, Obilic, Drenas, Podujevo and Gracanica);
2. Inspective Supervision section in Mitrovica with surrounding (Vushtrri, Skenderaj, Leposavic, Zubin Potok and Zvecan);
3. Inspective Supervision section in Peja and surrounding (Istog, Klina, Decan and Junik);
4. Inspective Supervision section in Gjakova and surrounding (Malisheve and Rahovec);
5. Inspective Supervision section in Prizren and surrounding (Dragash, Suhareke and Mamushe);
6. Inspective Supervision section in Gjilan and surrounding (Viti, Kamenice, Partesh, Ranillug, Klllokot and Novoberde);
7. Inspective Supervision section in Ferizaj and surrounding (Kacanik, Shtime, Hani i Elezit and Shterpce);

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<sup>9</sup> Interview with Lulzim Sylja, Chief Inspector of Market Inspectorate, 14.07.2014.

## 2. Sanitary, phytosanitary and veterinary inspection: interaction between AFV and inspectors at local level

Sanitary, phytosanitary and veterinary inspection was initially regulated by a separate legislation which spread inspection responsibilities among different institutions. In 2001, phytosanitary and border phytosanitary<sup>10</sup> were established by two UNMIK Regulations. In 2003, the Sanitary Inspectorate was established within the Ministry of Health (MH),<sup>11</sup> and in 2004 the Law on Veterinary was adopted, by which the Service for Veterinary and Food of Kosovo was established (SVFK), as an entity within the Ministry of Agriculture, Forestry and Rural Development (MAFRD).<sup>12</sup>

This separation of inspection responsibilities in the relevant fields continued until 2009, when the Law on Food was adopted, based on which the Agency for Food and Veterinary (AFV) was established as an executive agency within the Prime Minister's Office.<sup>13</sup> Based on this Law, the following institutions should join the AFV:

- AFVK
- Sanitary inspectorate within MH
- Phytosanitary and border phytosanitary Inspectorate and,
- Municipal inspectorates of such services.<sup>14</sup>

With the adoption of this Law, a unification of legal and institutional basis was achieved, thus establishing AFV Inspectorate consisted of sanitary, phytosanitary and veterinary Inspectorates,<sup>15</sup> which have their branches of border phytosanitary and veterinary inspectorate<sup>16</sup>. Without counting the local level, AFV structure and its branches has 77 sanitary inspectors, phytosanitary (including border) and veterinary (also including border).

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<sup>10</sup> UNMIK Regulation 2001/03 on establishing Phytosanitary Inspectorate and 2001/07 on establishing Phytosanitary Border Inspectorate, date 29 May 2001.

<sup>11</sup> Law No. 2003/22 on Sanitary Inspectorate of Kosovo: <http://bit.ly/1o3hQPk>

<sup>12</sup> Law No. 2004/21 for Veterinary: <http://bit.ly/1IW8BfC>. VFSK later was referred as Kosovo Agency for Food and Veterinary (KAFV).

<sup>13</sup> Law No. 03/L-016 on Food, Article 36: <http://bit.ly/1pKWEvH>

<sup>14</sup> Law No. 03/L-016 on Food, Article 39.

<sup>15</sup> Law No. 03/L-016 on Food, Article 24.

<sup>16</sup> Official webpage of the Agency for Food and Veterinary (AFV): <http://bit.ly/1pq6ULk>

However, although the Law on Food foresees that municipal inspectorates for such services are under the AFV and the selection of inspectors shall be done by this Agency;<sup>17</sup> municipal inspectorates still operate within the municipalities, and are selected and paid by municipalities.<sup>18</sup>

Since in practice these inspectors of relevant fields operate under the municipalities, it is not clear as who tasks them and to whom they report.

### 3. The number of market and sanitary inspectors, phytosanitary and veterinary inspectors

According to the Regulation on the Internal Organization of Market Inspectorate, the total number of 66 inspectors in seven Inspective Supervision sections in Kosovo regions is allocated as following: Prishtina and its surrounding area with 15 inspectors, Mitrovica and its surrounding area with 8 inspectors, Peja and its surrounding area with 9 inspectors, Gjakova and its surrounding area with 8 inspectors, Prizren and its surrounding with 9 inspectors, Gjilani and its surrounding area with 11 inspectors, and Ferizaj and its surrounding area with 6 inspectors.<sup>19</sup>

However, since this regulation doesn't indicate how many market inspectors are allocated in each municipality, and the number of sanitary, phytosanitary and veterinary inspectors is not known for each municipality, GAP Institute has contacted all municipalities to see the exact number of inspectors of these areas for each municipality and whether this number is in proportion with the entities they have under inspection.

**Table 1:** The number of market and sanitary inspectors, and phytosanitary (border) and veterinary (border) inspectors<sup>20</sup>

No.	Municipalities	Market Inspectors	Sanitary inspectors	Phytosanitary inspectors	Veterinary inspectors
1.	Deçan	1	1	-	-

<sup>17</sup> Law No. 03/L-016, Article 24, point 2.

<sup>18</sup> Interview with Ilirjana Zymberaj, Director of AFV Inspectorate, date 05.11.2013 and Ismet Fejzullahu, Chief of phytosanitary inspectorate at AFV, 25.06.2015.

<sup>19</sup> Regulation No. 10/2013 on Internal organization and systematization of jobs in Market Inspectorate: <http://bit.ly/1FCH1wz>


<sup>20</sup> Contacts of municipalities about the number of inspectors in respective fields have been done during the second part of 2014.



2.	Dragash	1	1	-	1
3.	Ferizaj	2	5	-	2
4.	Fushe Kosove	2	1	-	1
5.	Gjakova	1	2	-	1
6.	Gjilan	4	3	1	1
7.	Glogovc	2	1	-	-
8.	Hani i Elezit	1	1	-	-
9.	Graçanica	2	1	-	-
10.	Istog	1	1	1	1
11.	Junik	1	1	-	-
12.	Kacanik	1	1	-	-
13.	Kamenica	3	3	1	1
14.	Klina	2	1	-	-
15.	Klllokot	1	1	-	-
16.	Leposavic	-	-	-	-
17.	Lipjan	1	1	1	-
18.	Malishevo	1	1	1	1
19.	Mamushe	1	1	-	-
20.	Mitrovica S.	5	6	-	1
21.	Mitrovica N.	-	-	-	-
22.	Novoberdo	-	1	-	-
23.	Obilic	1	1	-	-
24.	Partesh	1	1	1	-
25.	Peja	4	3	-	1
26.	Podujevo	4	1	-	1
27.	Prishtine	1	5	-	1
28.	Prizren	5	4	3	4
29.	Rahovec	3	1	-	1
30.	Ranillug	-	-	-	-
31.	Shterrpce	-	2	-	-
32.	Shtime	1	1	-	-
33.	Skenderaj	1	1	-	-
34.	Suhareka	2	1	1	1
35.	Viti	2	1	1	1
36.	Vushtrri	4	1	-	1
37.	Zubin Potok	-	-	-	-
38.	Zvecan	-	-	-	-
Local level		62	57	11 <sup>21</sup>	21
Central		12 <sup>22</sup>	16	14	11
Border				21	15
Total		74	73	46	47

<sup>21</sup> Municipalities have declared this number of phytosanitary inspectors. However, according to AFV, the number of such inspectors is 24 which are called as agriculture inspectors since Municipalities do not have phytosanitary inspectors. Interview with Ismet Fejzullahu, Chief of Phytosanitary Inspectorate at AFV, 25.06.2015.

<sup>22</sup> From the total number of 14 employees, in the three sectors of Market Inspectorate at MTI, as this is foreseen with the Regulation 10/2013 on the Internal Organization and Systematization of Jobs in the Market Inspectorate, 12 of them are inspectors (5 oil inspectors, 4 of the general trade, and 3 of food safety). Interview with Remzi Hoxha, Senior Inspector in the Market Inspectorate at MTI, 23.06.2015.



As it can be seen from the table, the number of market inspectors indicated by the municipalities (62) is four less than the number indicated by the Market Inspectorate in MTI (66). Except north municipalities (Leposavic, Zubin Potok and Zvecan), municipalities as Shterpce, Ranillug and Novobrdó have not declare any market inspector while the biggest number of inspectors is concentrated in municipalities such as: Prizren and Mitrovica with five inspectors each, Gjilani, Peja, Podujeva with four each, Kamenica and Rahovec with three inspectors each, seven municipalities with two each, and majority of municipalities with one inspector each. As an example, Prishtina has only one inspector and falls into the group of municipalities with one market inspector.

If we refer to the duties of Market Inspectorate prescribed by Law: *“Market inspectorate has the authority to inspect the standards of trade in goods, and the quality of services provided by economic entities in the whole territory of Kosovo”*<sup>23</sup>, it can be concluded that the number 74 market inspectors (both central and local) is not sufficient. Also, if we compare the number of 29,057 active enterprises according to economic sections for years 2008-2013, based on data from Kosovo Agency of Statistics (KAS), the number of 74 inspectors is very small in comparison with economic entities they have under inspection.<sup>24</sup> According to this, a market inspector will have to inspect 392 economic subjects per year, or 32 per month.

Also, the situation doesn't seem to be good regarding the number of sanitary, phytosanitary and veterinary inspectors. As you can see from the table, the number of sanitary inspectors at the central and local level is 73, phytosanitary inspectors at central, local and border level is 46 and veterinary inspectors is 47. However, according to AFV Inspectorate, the number of inspectors is insufficient because the local inspector does not report to central level and as a consequence, the number of sanitary, phytosanitary and veterinary inspectors at central level must be increased.<sup>25</sup>

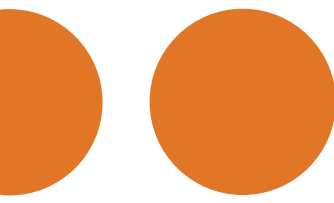
Until early 2014, another characteristics between the Market Inspectorate and the AFV Inspectorate (sanitary inspectorate) has been the conflict of responsibilities in inspection which is triggered by having in place two Administrative Instructions, issued in 2005 and 2007, while the laws or legal basis as per which the Market and

<sup>23</sup> Law No. 03/L-181 on Inspectorate and Market Supervision, article 9 – Market Inspectorate Authorizations: <http://bit.ly/1lyZo\lts>

<sup>24</sup> Kosovo Agency of Statistics (KAS), Results of enterprises' structured survey 2008-2013, p.10: <http://bit.ly/1E3yLan>

<sup>25</sup> Interview with Ilirijana Zymberaj, Director of AFV Inspectorate, 05.11.2013 and Ismet Fejzullahu, Chief of phytosanitary inspectorate at AFV, 25.06.2015.





AFV Inspectorates exercise their functions under the Law on Market Inspectorate issued in 2010 and the Law on Food issued in 2009. In the other hand, at the time when Sanitary Inspectorate was part of MH, in 2005 an Administrative Instruction was issued on “labeling food products”<sup>26</sup>, while in the other hand, MTI in 2007 issued the Administrative Instruction for “labeling and declaration of goods”.<sup>27</sup> Although the latter has been amended in 2009,<sup>28</sup> this conflict of responsibilities in inspection among inspectors of local level and Market Inspectorate of the central level was not resolved. However, according to Market Inspectorate at MTI,<sup>29</sup> this conflict has been resolved with the new Regulation 09/2013 for Labeling, Presentation, and Advertising of Food Products”.<sup>30</sup>

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<sup>26</sup> Administrative Instruction (MH) No. 12/2005 for labeling food products:  
<http://bit.ly/1knUGnL>

<sup>27</sup> Administrative Instruction No. 2007/05 on labeling and declaration of goods:  
<http://bit.ly/1lfefjO>

<sup>28</sup> Administrative Instruction No. 2009/21 on amendments and supplementation of Administrative Instruction No. 2007/05 on labeling and declaration of goods:  
<http://bit.ly/1s5XCpD>

<sup>29</sup> Phone conversation with Lebibë Haliti, Head of Section for Legal Issues at Market Inspectorate, MTI 26.06.2015.

<sup>30</sup> Regulation (MTI) No. 09/2013 on Labeling, Presentation and Advertising of Food Products: <http://bit.ly/1fIF0tN>. This regulation repeals the two Administrative Instructions 2007/05 and 2009/21 mentioned above.

## 4. Conclusions and recommendations

There is an overlap of responsibilities between the central and local level. The reason for this is the refusal by local level to implement the Law on Market Inspectorate and Law on Food, which specifies that the relevant inspectors are transferred under the responsibility of central level, respectively Market Inspectorate and AFV Inspectorate.

This conflict is also reinforced by the fact that the Ministry of Finance continues to allocate the budget for local inspectors of relevant fields, although according to relevant laws, such budget should be allocated to Market Inspectorate and AFV Inspectorate. As a consequence of not having a single law for the organization and functioning of Inspectorates, each law or legislation that serves as a basis for the organization and functioning of an inspectorate, defines the organization, functioning and the scope of authorizations of an inspectorate.

As far as the number of trade, sanitary, phytosanitary and veterinary inspectors is concerned, compared to the entities they have under their inspection responsibility, it can be concluded that there is a lack of inspectors in those inspectorates.

Based on the analysis of the situation, and conclusions, GAP Institute recommends the following steps:

- Kosovo Government should turn the Draft law on Inspections and instead, prepare the Draft Law on Inspectorates;
- MTI with Market Inspectorate within its structures and with the inclusion of relevant institutions at local level, shall conduct an analysis to ascertain what is the most effective way, that of having market inspectors within central level or returning those inspectors under the responsibility of local level (Inspection Directorates)
- AFV and Inspection Directorates at local level shall conduct an analysis to ascertain what is the most effective way, that of having sanitary, phytosanitary and veterinary inspectors within central level or returning those inspectors under the responsibility of local level structures;
- Market Inspectorate and AFV Inspectorate should consider the possibility of increasing the number of inspectors in order to enhance the level of inspection supervision thus increasing the level of law enforcement supervision in those areas.



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