

Reforming Public Administration in Kosovo

July 2015

A Proposal to Decrease the Number of Employees in the Public Administration



EXECUTIVE SUMMARY

- In terms of territorial compactness and population, Kosovo has a large number of public administration institutions and employees thereof.
- Despite promises to decrease the number of ministries, the current Government has increased the number of Ministers, from 20 to 21.
- The Ministries and the Office of the Prime Minister have established over 70 subordinate bodies which, based on law, are recognized as central state administrative bodies.
- The Assembly has established 34 institutions and independent agencies.
- There are more than 91 thousand employees in the public sector.
- There are three basic laws governing the functions of public administration: the Law on the Civil Service, the Law on Salaries of Civil Servants, and the Law on the State Administration.
- Based on the above-mentioned laws, from 2010 to July 2015, another 86 bylaws (regulations and administrative instructions) have been issued.
- There are at least two issues related to the legal framework in this area: 1) supplementing and amending laws before having a well-established implementation of laws in practice; and 2) collision between bylaws and laws.
- There are no criteria as to how many departments and divisions a ministry should have.
- Within a ministry there are divisions that report to the department, departments that report to the Secretary General, and other departments and divisions, as separate structures, that report directly to the minister.
- Besides the large number of ministries, a large number of central state administrative bodies have been established within ministries, which, in daily communication, are called executive agencies or simply agencies.
- The legal ground for their establishment is not clear and the Law on the State Administration mentions only the central state administrative bodies, but not the executive agencies.
- Out of 19 ministries that the Government has, only six ministries have no executive agencies.
- Agencies within the Office of the Prime Minister create confusion regarding their institutional position as well as the responsibility that they have within the institution.

- For example, the Kosovo Agency for Radiation Protection and Nuclear Safety appears at the same time within the Office of the Prime Minister and the Ministry of Environment and Spatial Planning (MESP).
- The Food and Veterinary Agency (FVA), instead of being under the Ministry of Agriculture, Forestry and Rural Development (MAFRD) or the Ministry of Health (MoH), as policy related ministries, it is under the Office of the Prime Minister.
- There are numerous divisions composed of two employees, one head of the division and one employee of that division. Even worse, there are divisions with one employee only.
- In February 2015, the Government of Kosovo has adopted the Civil Service Job Catalogue. However, so far it is not clear how this Catalogue will be harmonized with the Government regulations on internal organization and systematization of jobs, adopted for each ministry.
- Over one thousand public servants retire annually. Within the five-year period (2015-2019), 7.179 public servants shall retire.
- In order to address the size of the public administration, structurally and numerically, GAP Institute recommends the Government to apply a policy of decreasing the number of public and civil servants, which would be implemented through their regular retirement after reaching the age of 65 years, in accordance with the Law on Civil Service and the Law on Labour.
- The Government, in order to apply this policy, should not recruit other civil servants in those positions remaining vacant, but rather have those positions filled in with current staff, and apply a policy of re-allocation of civil servants to those positions considered as deficient.
- Such a policy should initially be implemented for a five-year period (2015-2019), the effects of which would be seen following an analysis thereof.
- The Government should proceed to approve the Law on the Government, whereby it would specify the need and the procedure on establishment of ministries through supplementing and amending the Law in the Assembly.
- The Government should establish a committee to review the functionality and the need of having over 70 central state administrative bodies
- In addition, the Assembly should initiate similar procedures to review the functionality and rationale of 34 independent agencies.

1. Introduction

The size of the public administration is related to two aspects: the large number of institutions composed of, and the large number of employees. Public administration is a broader concept than state administration, and as such, it includes the administrations of institutions beyond those with executive powers. Legal framework of the public administration consists of a large number of legal acts, starting from the Constitution, laws and bylaws.

Concerning the legal framework, this analysis identifies two problems: supplementing and amending laws before having their full implementation, and collision between laws and bylaws. In regards to the institutional framework, the Ministry of Public Administration (MPA), as the ministry responsible for the public administration, lacks capacities mainly in two directions: in managing the public administration reform and in civil service administration policy.

The public administration should not be seen only as a structure implementing laws, but also as a structure where policies are developed and proposed to decision makers. Therefore, a professional and effective public administration enables a good execution of policies (*policy execution*), as well as a mechanism whereby proposals for policies and programs are formulated for decision makers (*policy formulation*).

According to authors: Donald Kettl and James Fesler, "*we are surrounded by public administration, and without it, public policies would have neither meaning nor effect.*"¹ A professional public administration, well planned and built, with accountable institutions and free of political influence, is one of the main institutions of every developed and democratic country. In addition to the European Commission Progress Report, that addresses the public administration reform each time due to its importance, the public administration reform is presented as one of the three pillars of the European Commission Enlargement Strategy 2014-2015. So far, the pillars addressed, and still being addressed, by this document are the rule of law and economic governance.²

To address the size of the public administration structurally and numerically, GAP Institute recommends the Government to apply a

¹ Donald F. Kettl and James W. Fesler, "The Politics of Public Administration" pg. 22, fourth edition, 2009, CQ Press, SAGE, Washington D.C.

² European Commission, Enlargement Strategy and Main Challenges 2014-15, October 2014 <http://bit.ly/1EBgfp9>

policy of decreasing the number of public and civil servants, which would be implemented through their regular retirement after reaching the age of 65 years, in accordance with the Law on Civil Service and the Law on Labour. The Government, in order to apply this policy, should not recruit other civil servants to those positions remaining vacant, but rather have those positions filled in with current staff, and apply a policy of re-allocation of civil servants to those positions considered as deficient staff. Such a policy initially should be implemented for a five-year period (2015-2019), the effects of which would be seen following an analysis thereof. Furthermore, the Government should proceed for approval the Law on Government (pursuant to the Government's Legislative Program 2015), whereby it would specify the need and the procedure on establishment of ministries through supplementing and amending that Law in the Assembly. The Government should establish a committee to review the functionality and the need of having over 70 central state administrative bodies, and the Assembly should also initiate similar procedures to review the functionality and rationale of existence of 34 independent agencies.

The purpose of this analysis is to provide a general overview on the size of central level public administration, both structurally and numerically, and to develop the above-mentioned proposal on the manner of gradual decrease of the number of employees in the Government. This proposal is not about dismissing employees from work, but not replacing them following their regular retirement.

The first section of this policy analysis provides a general overview of the legal and institutional framework of the public administration, and identification of the issues of this framework. The second section deals with the lack of criteria on the size of the administration, in terms of institutions, and the third section addresses this problem in terms of the number of employees. In conclusion, we have provided a proposal on the manner of gradual decreasing of the number of employees in the public administration and the steps that should be undertaken by the Government and the Assembly.

2. Legal and Institutional Framework

There is a large number of legal acts composing the legal framework of the public administration in Kosovo. In addition to the institutions of the legislative, executive and judicial power, the Constitution of

Kosovo establishes also a number of independent institutions.³ The Assembly has adopted specific laws to establish a considerable number of independent agencies.⁴ Upon the proposal of the Government, the Assembly has adopted a series of laws on public administration, while the Ministry of Public Administration (MPA) has issued a number of bylaws for these laws.

The Law on the State Administration is one of the basic laws in this area. This law includes bodies with executive powers, namely the higher authorities and bodies of the state administration, the Government as a whole and the central and local bodies under the ministries, and the Office of the Prime Minister. On the other hand, the Law on the Civil Service has a wider horizontal scope compared to the Law on the State Administration, regulating the employment relationship of around 20.000 civil servants, including municipal administrations. Categories of non civil servants employees are known as public servants and their employment relationship with the public administration body is regulated by the Law on Labour.

Table 1: Administrations where the Law on the State Administration does not apply, and categories of public servants not being civil servants under the Law on Civil Service.

Not included in the Law on the State Administration		Non civil servants according to the Law on the Civil Service
1.	Administration of the Assembly	Educational staff of the education system
2.	Administration of the Office of the President	Medical staff of the health system
3.	Administration of the Constitutional Court	Art creators and performers
4.	Administration of the judiciary and prosecution	Kosovo Police officers
5.	Administration of independent institutions	Customs officers of the Kosovo Customs
6.	Administration of higher education public institutions	Correctional officers of the Kosovo Correctional Service
7.	Municipalities (municipal administration)	KSF members
8.	Publicly Owned Enterprises	Support and maintenance staff

In addition to the above mentioned legal basis, there are additional laws that regulate the sphere of public service in general and the

³ The Constitution of Kosovo, Chapter XII - Independent Institutions, establishes the Ombudsperson, the Office of the Auditor General, the Central Election Commission, the Central Bank of Kosovo and the Independent Media Commission.

⁴ The Constitution of Kosovo, Article 142 - Independent Agencies.

sphere of civil service in particular. The Law on Salaries of Civil Servants has been adopted alongside the Law on the Civil Service, and the Government is currently preparing also the Law on Salaries and Compensation of Public Employees, who are not part of the civil service, and the Law on Salaries of Senior State Officials. In addition to new laws, the Government has foreseen, in the Legislative Program 2015, also the supplementing and amending of several other laws falling in this field, such as the supplementing and amending of the Law on the State Administration, the Law on the Civil Service, the Law on Salaries of Civil Servants, the Law on the Administrative Procedures, and the Law on Administrative Conflicts.⁵

In relation to the institutional framework, the Ministry of Public Administration (MPA) is the Ministry responsible for the public administration in Kosovo. The MPA exercises its activity based on Regulation 02/2011 on the Areas of the Administrative Responsibilities of the Office of the Prime Minister and Ministries and, among others, is responsible for managing the public administration reform.

3. Problems related to the Legal Framework

The major part of the public administration is composed of the state administration. Whereas, a considerable part of public servants is composed of the civil servants.

In relation to the civil servants and salaries of civil servants, in 2010, two laws were issued: The Law on the Civil Service⁶ and the Law on Salaries of Civil Servants.⁷ In the same year was adopted also the Law on the State Administration.⁸ These three laws are essential to the regulation of the state administration functioning.

After the adoption of these three laws, the process of issuance of a large number of bylaws followed. Based on the above-mentioned three laws, from 2010 to July 2015, 86 bylaws (regulations and administrative instructions) have been issued: 25 bylaws for implementation of the Law on the Civil Service,⁹ 2 bylaws for

⁵ Legislative Program 2015 <http://bit.ly/1cvSBD2>

⁶ Law No. 03/L-149 on the Civil Service of Kosovo: <http://bit.ly/1P2LymY>

⁷ Law No. 03/L-147 on Salaries of Civil Servants: <http://bit.ly/1dSOZOa>

⁸ Law No. 03/L-189 on the State Administration: <http://bit.ly/1Im42uE>

⁹ Official Gazette of the Republic of Kosovo. Source: <http://bit.ly/1D2CvaW>. Last opened on July 9, 2015.

implementation of the Law on Salaries of Civil Employees¹⁰ and 59 bylaws deriving from the Law on the State Administration.¹¹

There are at least two problems related to the legal framework in this area: 1) supplementing and amending of laws without having a well-established implementation of laws in practice; and 2) collision between bylaws and laws.

- 1) **Supplementing and amending of laws:** The Law on the Civil Service and the Law on Salaries of Civil Employees are still not fully implemented in practice. European Commission Progress Report for Kosovo 2014 assesses that "there are still delays in implementing these two laws".¹² However, based on the Government's Legislative Program 2015, the MPA will proceed for adoption to the Government and the Assembly the supplementing and amending of both laws, including the Law on the State Administration and several other laws.
- 2) **Collision between bylaws and laws:** large number of bylaws resulted in having some of the bylaws being in noncompliance with the laws on which they are based. For example, based on the Annual Report 2014 of the Independent Oversight Council for the Civil Service of Kosovo, Regulation 04/2011 on Disciplinary Procedures, and Regulation 05/2011 on Resolving Disputes and Complaints are in collision with the Law on the Civil Service.¹³

4. The Size of Public Administration and the Number of Employees Thereof

Despite the criticism and recommendations of the reports of international and national organizations, the public administration in Kosovo has constantly grown. According to the Public Administration Reform Assessment of Kosovo 2014 conducted by

¹⁰ Official Gazette of the Republic of Kosovo. Source: <http://bit.ly/1D2Cwf3>. Last opened on July 9, 2015.

¹¹ Official Gazette of the Republic of Kosovo. Source: <http://bit.ly/1fpUvqM>. Last opened on July 9, 2015.

¹² European Commission Progress Report for Kosovo (2014), pg. 10 <http://bit.ly/ZsGHTK>

¹³ The Annual Report 2014 of the Independent Oversight Board for the Civil Service of Kosovo has not been made public yet, because it has not been voted/adopted in the Assembly.

SIGMA Project,¹⁴ "the public administration has grown mainly on the basis of ad hoc criteria, resulting in a fragmented structure, characterized of micro institutions, and without a clear line of accountability".¹⁵ In addition, GAP Institute published in July 2014 a paper on restructuring of the Government, proposing decreasing of the number of ministries from 19 ministries to 13.¹⁶ Decreasing the number of ministries means also reduction of state administration, and as a result reduction of the public administration. Despite these proposals, the new Government of Kosovo, established in December 2014, increased the number of ministers and so far it did not deal with decreasing of either the number of ministries or reduction of the public administration.¹⁷

At European Union (EU) level, regardless of internal state regulation, only Sweden and United Kingdom have bigger number of ministries than Kosovo, namely Sweden 23 and United Kingdom 24 Government Departments. At this level, Denmark with 5.6 million inhabitants has the same number of ministries as Kosovo (19). At the regional level, only Albania has the same number of ministries as Kosovo, while Bosnia and Herzegovina (at Federation level) has 16 ministries, Macedonia 14 ministries and 7 ministers without portfolio, Montenegro 16 ministries, and lastly Serbia 16 ministries and 2 ministers without portfolio.¹⁸

The public administration in Kosovo is divided into central and local level. At central level, the public administration is composed of the administration of the Assembly of Kosovo, the Office of the President, the Office of the Prime Minister, ministries, two ministers without portfolio, over 70 State Administrative Central Bodies (or executive agencies) that function under the ministries and the Office of the Prime Minister, and 34 independent institutions and agencies that report to the Assembly.

Regarding the number of employees in the public administration, employees are divided into public servants and civil servants according to the Law on the Civil Service. The total number of public

¹⁴ SIGMA Project is a joint initiative of EU and Organisation for Economic Co-operation and Development which, among others, performs assessment of public administration reforms in several countries, including the Western Balkans countries.

¹⁵ SIGMA Project, Public Administration Reform Assessment of Kosovo, April 2014: <http://bit.ly/1zFcRqW>

¹⁶ GAP Institute, Restructuring of the Government, July 2014: <http://bit.ly/1vijfxo>

¹⁷ The new Government, established in late 2014, increased the number of ministries from 20 to 21, appointing the former Deputy Prime Minister of Kosovo, Edita Tahiri, as Minister without Portfolio. Rasim Demiri is the other Minister without Portfolio in the Government of Kosovo.

¹⁸ Official websites of the Governments of the region. Last opened on 21.04.2015.

employees is 91,281, namely 47,555 in the central level and 43,726 in the local level. The following table shows the separation of the central level, both in institutions and independent agencies, according to the 2014 budget, and the number of public employees of publicly owned enterprises under central ownership for 2014.¹⁹

Table 2: Number of public and civil servants in central and local level institutions

Level	Institution	Number of public servants
Central	The Assembly	353 ²⁰
	The Office of the President	57
	The Government	29,567
	Independent institutions and agencies ²¹	6,317
	Publicly Owned Enterprises ²²	11,261
	Total:	47,555
Local	Municipalities	43,726
Total		91,281

Source: Annual Financial Budget Report 2014

5. Lack of Criteria on the Size of the Public Administration

Increasing the number of ministries is neither subject to legal restriction nor approval by the Assembly; therefore, increasing the number of ministries has always been untroubled. Regulation 02/2011 on the Areas of the Administrative Responsibilities of the Office of the Prime Minister and Ministries serves as legal basis for the responsibilities of the Prime Minister, Ministers and specific areas of responsibilities of the ministries.²³ Establishment of ministries, appointment of ministers and deputy ministers is purely a matter of agreement between political parties on government coalition rather

¹⁹ The number of employees in publicly owned enterprises includes only the enterprises under central ownership based on the Publicly Owned Enterprises Policy and Monitoring Unit (MED).

²⁰ Including 120 Deputies.

²¹ Number of employees includes 30 independent institutions and agencies (not 34 that exist currently) based on the Annual Financial Report 2014

²² Publicly Owned Enterprises under central ownership.

²³ Regulation 02/2011 on the Areas of the Administrative Responsibilities of the Office of the Prime Minister and Ministries: <http://bit.ly/1nM1OIA>

than based on law or approval of the number of ministries by the Assembly. A good example concerning the legal restrictions and the requirement for approval of the Assembly is found at local level. Municipal Directorates are part of the Statute of Municipality, and increase of the number of directorates requires amending of the Statute of Municipality, as the main legal act of the municipality. Based on the Law on Local Self Government, the Statute of the Municipality shall be adopted and may be amended by at least a two-thirds vote (2/3) of the members of the Municipal Assembly.²⁴ In a nutshell, although the Mayor is elected directly, manages the executive of municipality and its administration (directorates), amending the number of directorates requires the vote of two thirds (2/3) of the members of the Municipal Assembly.

A Law on the Government is foreseen by the Government's Legislative Program 2015,²⁵ and adopting such a Law on the Government that would specify the need and the way of establishment of new ministries is indispensable in Kosovo. Regardless of the proposal of the Government, establishment of new ministries would be able only after the approval in the Assembly through supplementing and amendment of the Law on the Government.²⁶

According to the Law on the State Administration and the secondary legislation,²⁷ ministries are organized in four levels (cabinet of minister, secretary general, department, and division), whereby the hierarchy of reporting between them is set. According to this, the division is the basic unit within a ministry, led by head of division, and it is located under a department. A department is led by the head of department and, for his/her work, head of department reports to secretary general. This order is applicable in all ministries, except for the Office of the Prime Minister that is organized at lower offices under the Office of the Prime Minister.²⁸

Although determining the organization of ministry in four levels is positive, there are no criteria as to how many departments and divisions a ministry should have. Furthermore, this has been exacerbated even more by giving the right by law to ministries to

²⁴ Law No. 03/L-040 on Local Self Government, Article 12, item 3: <http://bit.ly/1EYKuWq>

²⁵ Government's Legislative Program 2015

²⁶ For more information, see GAP Analysis on the Law on the Government: <http://bit.ly/1HkZC1m>.

²⁷ Regulation 09/2012 on standards of internal organization and systematization of jobs in state administration: <http://bit.ly/1dsbo2S>

²⁸ Law 03/L-139 on the State Administration of the Republic of Kosovo, Articles 35, 36, 37, and 39.

establish more other special departments and divisions that report directly to the minister, and also divisions that report directly to Secretary General.²⁹ In short, within a ministry there are divisions that report to the department, departments that report to the Secretary General, and also other departments and divisions, as separate structures, that report directly to the minister.

However, besides the large number of ministries, a large number of central state administrative bodies have been established within the ministries, which, in daily communication, are called executive agencies or simply agencies. The legal ground for their establishment is not clear and the Law on the State Administration mentions only the central state administrative bodies, but not the executive agencies. Based on this Law, the central state administrative bodies shall be established by law, shall perform non ministerial tasks, routine tasks, requiring a high degree of specialization, and shall have the right to establish by decision local bodies within them.³⁰

Even though related to modernization of the administration, and certain tasks are delegated to the central state administrative bodies, the Government has created a big number of these bodies, without any known criteria or objective. Furthermore, no study has been made so far to analyze whether the work performed by the central bodies are of a ministerial nature, and whether they are a duplication of the structures of the ministries themselves. It is worth mentioning that, out of 19 ministries that the Government has, only six ministries have no central bodies (or executive agencies) within them.³¹ Even though according to the Law on the State Administration, the central state administration bodies are subordinated to a particular ministry or in exceptional cases to the Office of the Prime Minister, the latter has eight central bodies under itself.

In addition, the agencies within the Office of the Prime Minister create confusion regarding their institutional position as well as the responsibility that they have within the institution. For example, the Kosovo Agency for Radiation Protection and Nuclear Safety appears at the same time within the Office of the Prime Minister and the Ministry of Environment and Spatial Planning (MESP). Then, the Food and Veterinary Agency (FVA), instead of being under the Ministry of Agriculture, Forestry and Rural Development (MAFRD)

²⁹ Law 03/L-139 on the State Administration of the Republic of Kosovo.

³⁰ Law 03/L-139 on the State Administration of the Republic of Kosovo, Articles 23 and 28.

³¹ Ministry of Local Government Administration, Ministry of Diaspora, Ministry of European Integration, Ministry of Foreign Affairs, Ministry of Communities and Return, and the Ministry for the Kosovo Security Force. For more information, see SIGMA Report on Public Administration Reform Assessment of Kosovo, April 2014.

or the Ministry of Health (MoH), as policy related ministries, it is under the Office of the Prime Minister. Setting this Agency within the Office of the Prime Minister makes its control more difficult, because the Office of the Prime Minister lacks capacities in this area that would enable to control it.

Based on the Report on Public Administration Reform Assessment of Kosovo 2014, these central bodies or executive agencies, in many cases do not perform the role of real “executive agencies”, but most of them function as ordinary departments within a ministry, and are usually created on the initiative of line ministries. Prior to their establishment, other options are not considered and often they are created without the full participation of the MPA and MoF. According to this report, the only difference is that these bodies or agencies report to the minister and not to the secretary general. These bodies create “parallel ministries” and enhance opportunities for political interference in day-to-day management.³²

Internal organization of them is different from the one of the ministries, and they are organized in two levels: directorates and sectors. A sector is the basic unit, lead by head of sector and it lies under a directorate that is lead by head of directorate. In many cases, these bodies are lead by a Chief Executive Officer or Director who, for their work, do not report to secretary general but directly to minister; they are selected in the same manner as a secretary general; and they have significant budget independence.

The central state administrative bodies present the largest number of administrative bodies in the public administration. The following table shows the division of these bodies or agencies in ministries to which they belong.

Table 3: Central bodies under ministries and the Office of the Prime Minister

Ministry	State Administration Central Bodies
The Office of the Prime Minister	Agency of State Archives Agency on Gender Equality Kosovo Agency of Statistics Food and Veterinary Agency Kosovo Agency for Radiation Protection and Nuclear Safety Commission on Investigation of Aeronautic Accidents and Incidents

³² SIGMA Project, Public Administration Reform Assessment of Kosovo, April 2014: <http://bit.ly/1zFcRqW>

	Inter-Ministerial Water Council Kosovo Security Council
Ministry of Public Administration	Agency for Information Society Kosovo Institute for Public Administration
Ministry of Justice ³³	Agency for the Administration of Sequestered or Confiscated Assets State Advocacy Office Kosovo Correctional Service Kosovo Probation Service
Ministry of Finance	Tax Administration of Kosovo Kosovo Customs Financial Intelligence Unit Central Procurement Agency
Ministry of Internal Affairs	Civil Registration Agency Kosovo Police Police Inspectorate Academy for Public Safety, Education and Development Emergency Management Agency Kosovo Agency on Forensics
Ministry of Environment and Spatial Planning	Kosovo Environmental Protection Agency Kosovo Cadastral Agency Kosovo Agency for Radiation Protection and Nuclear Safety Hydrometeorology Institute of Kosovo Institute for Spatial Planning
Ministry of Health	Agency for Medical Products and Medical Devices National Institute of Public Health Health Financing Agency Health Inspectorate Dentistry Clinical Center of Kosovo University Clinical Center of Kosovo
Ministry of Culture, Youth and Sports	National Theater of Kosovo Kosovo Cinematography Center Kosovo Art Gallery Gallery of the Ministry of Culture "Qafa" National Songs and Dance Ensemble "Shota" Kosovo Philharmony Kosovafilm Kosovo Ballet Kosovo Museum Archaeological Institute of Kosovo Kosovo Institute for the Protection of Monuments Regional Centres of Cultural Heritage Library for the Blind "Syri Ynë"

³³ The Ministry of Justice has also the War Crimes Research Institute, headed by the Director General and reports directly to the Minister of Justice.

Ministry of Infrastructure	Road Transportation Agency
Ministry of Labour and Social Welfare	Labour Inspectorate Executive Agency
Ministry of Trade and Industry	Kosovo Investment and Enterprise Support Agency Kosovo Accreditation Directorate Kosovo Metrology Agency Industrial Property Agency Market Inspectorate
Ministry of Education, Science and Technology	Pedagogical Institute Albanological Institute Institute of History Institute of Leposaviq Kosovo Accreditation Agency National Qualifications Authority Agency for Vocational Education and Training and Adult Education Inspectorate of Education National and University Library Students Center
Ministry of Economic Development	Kosovo Agency of Energy Efficiency Geology Agency of Kosovo
Ministry of Agriculture, Forestry and Rural Development	Kosovo Forest Agency Agency for Agricultural Development Kosovo Agriculture Institute

Source: *List of the state administration bodies according to the MPA and official websites of the Ministries.*

6. Lack of Criteria on the Number of Employees in the Public Administration

Based on the relevant laws on the public administration, firstly the Law on the Civil Service and the Law on the State Administration, the Government of Kosovo in 2012 adopted the Regulation on Classification of Jobs in Civil Service,³⁴ and Regulation on Standards of Internal Organization and Systematization of Jobs in State Administration. Both regulations address the issues of positions, grades, levels of organization of state administration bodies, criteria concerning the tasks of department and division, but not the number of civil servants a ministry, department, division, or a central administration body under a ministry or the Office of the Prime Minister, shall have. If setting the exact number of civil servants for all ministries is difficult, there should exist an optimal number of civil

³⁴ Regulation 05/2012 on Classification of Jobs in Civil Service: <http://bit.ly/1P6a7tY>

servants a ministry should have. If it is considered that a ministry may have bigger number than the optimal number, there are legal procedures for obtaining the approval from the MPA and the MoF for increasing the number.

In addition to the number of civil servants for a ministry, there should be criteria also in regard to the number of civil servants that a department or division should have same as there are criteria for non-duplication of tasks between departments and divisions within a ministry. Such a criterion would specify what should be the required number of civil servants for a department to exist, and what should be the required number of civil servants in order for a department be divided into divisions.

Based on the regulations which set out the internal organization and systematization of jobs in each ministry, there are numerous divisions composed of two employees, one head of the division and one employee in that division. Even worse, there are divisions with one employee who due to the fact of the existence of the division is the head of division. Such cases have been found in the following ministries: the Ministry of Integration, within the Department of Finance and General Services, has the Human Resources Division with one employee, the Ministry of Agriculture has four divisions with one employee each, the Ministry of Health has five divisions with two employees each, Ministry Trade and Industry has three divisions with two employees each, the Ministry of Culture has one division with two employees, the Ministry of Education has seven divisions with two employees each, the Ministry of Foreign Affairs has two departments with two employees each, the Ministry of Finance has three divisions with two employees each, and the Ministry of Justice has three divisions with two employees each.³⁵

In addition to this negative characteristic, distribution of civil servants across departments, divisions and agencies is not commensurate to the duties and tasks that a department, division or agency has. For example: the Department for Public Administration Reform, as a key structure in the MPA and the entire public administration, has seven employees, while the Agency for Information Society has 58 employees. Furthermore, while the Department of Civil Service Administration that designs policies for a number of over 20.000 civil servants has 25 employees, the Department of Finance and General Services in the MPA has 49

³⁵ The Office of the Prime Minister, legislation, registry of the secondary legislation in power, approved by the Government and the Ministers. Regulations on internal organization and systematization of jobs in ministries: <http://bit.ly/1bgSTwB>

employees. Or, the Kosovo Institute for Public Administration that provides training to civil servants has 16 employees. Such a disproportion has been found also in several other ministries.

The structure of the ministries as a whole and the number of employees in them, has greatly increased due to the establishment of central bodies as part of them. As noted above, only six out of 19 ministries have no central bodies under them. For example, the Ministry of Justice has 169 civil servants in the four levels of the organization of the ministry; however it has 1.750 public and civil servants in the central bodies within this Ministry.³⁶ The Ministry of Internal Affairs (MIA) has 198 civil servants in the ministry level; however it has another 629 persons in the Civil Registration Agency (CRA).³⁷ Same tendency has been found also in the Ministry of Education, Science and Technology (MEST) and the Ministry of Culture, Youth and Sports.

On the other hand, in the group of 13 ministries having central bodies, a number of central bodies have been found with a very small number of employees, which make it very difficult to justify the existence of such bodies. Their existence is more an expense of the budget, and also poses a possibility for mismanagement of public funds, due to higher budget independence, rather than posing a proper division of tasks between a ministry and its central body. In this regard, six central bodies have been found within certain ministries, which have less than ten employees. For example, in the Ministry of Economic Development (MED), the Energy Efficiency Agency has nine employees, while the General Accreditation Directorate and the Standardization Agency in the Ministry of Trade and Industry (MTI) have seven employees each.³⁸ In the MEST, the National Qualifications Authority and the Agency for Vocational Education and Training and Adult Education have six employees each, and the Kosovo Accreditation Agency within this Ministry has nine employees.

A characteristic of the MEST is the existence of the Institute of Leposaviq as a central body within this Ministry. No description of tasks for this Institute or its employees was found in the official website of the Ministry or in the Regulation on internal organization and systematization of working places in the MEST. Based on the

³⁶ Regulation (GRK) – No. 31/2013 on the internal organization of the Ministry of Justice: <http://bit.ly/1bug4n7>

³⁷ Regulation (GRK) – No. 36/2013 on internal organization and systematization of jobs in the MIA: <http://bit.ly/1bgSTwB>

³⁸ Regulation No. 29/2012 on internal organization and systematization of jobs in the MTI: <http://bit.ly/1bZX8gA>

Law on Budget 2015, this Institute has 14 employees, around 80 thousand Euros budget planned for 2015, of which approximately 60 thousand have been allocated only for wages and per diems.³⁹

Regarding the systematization of jobs in the civil service, the Government of Kosovo in 2015 adopted the Civil Service Job Catalogue.⁴⁰ However, so far it is not clear how this Catalogue will be harmonized with the Government regulations on internal organization and systematization of jobs, adopted for each ministry. According to the Director of the Department for Public Administration Reform in the MPA, there is a dilemma concerning the chronology of having the catalogue compared to the above mentioned regulations, and harmonization of the catalogue with the regulations. According to him, the job catalogue should have been issued first, and thereafter the systematization of jobs in the ministries, based on this catalogue. Consequently, there is the possibility of not having a compliance of 20% between the adopted catalogue in February 2015 and regulations on harmonization and systematization of jobs, adopted by the Government mainly during 2013.⁴¹

7. Proposal on Decreasing the Number of Employees in the Public Administration

As the issue of decreasing the number of ministries has been addressed in a previous analysis of GAP Institute,⁴² and the proposal on decreasing of the number of central bodies is difficult to be fully addressed in a policy analysis, the following section provides a proposal on decreasing the number of public and civil servants in all public administration institutions. The proposed method is not about dismissing public and civil servants from work, but rather not having them replaced in those positions that remain vacant following the regular retirement of public and civil servants.

Employment relationship in the public sector for public and civil servants is set forth by the Law on the Civil Service and the Law on

³⁹ Regulation (GRK) – No. 39/2013 on internal organization and systematization of working places the MEST: <http://bit.ly/1dJVxg4>

⁴⁰ Decision 05/12 of the Government of Kosovo, dated 05.02.2015: <http://bit.ly/1c0n5fU>

⁴¹ Interview with Fatos Mustafa, Director of the Department for Public Administration Reform in the MPA, 24.04.2015.

⁴² GAP Institute, Restructuring of the Government, July 2014: <http://bit.ly/1vjlfxo>

Labour, adopted in 2010.⁴³ Both laws have specified the age of 65 years⁴⁴ as the time when a civil and public servant terminates the employment relationship with the institution where the employee has worked. However, the Law on the Civil Service entitles a civil servant to seek early retirement not earlier than two years before the pension age, and it also gives the right to a civil servant to work voluntarily, without payment, even after the retirement until the age of 70 years.⁴⁵

Based on the data provided by the MPA, a considerable number of public and civil servants go on regular retirement after the age of 65 years. According to the table below, over one thousand public servants retire annually, and within the five-year period (2015-2019), 7.179 public and civil servants is expected to retire.

Table 4: Number of public and civil servants that will retire during 2015-2019 based on law

Year	Civil servants	Public servants	Total
2015	326	871	1.197
2016	318	787	1.105
2017	417	1.088	1.505
2018	459	1.125	1.584
2019	528	1.260	1.788
Total	2.048	5.131	7.179

Source: The Ministry of Public Administration (MPA), based on the request of GAP

Such a formula of gradual decreasing of the number of public and civil servants in the public administration institutions would have the effect of setting a rule in relation to employment in the public sector. This formula should be applied by the MPA, initially for a five-year period (2015-2019), and it should be followed by an assessment of the process, and follow-up steps based on this assessment. In addition to the policy on decreasing of number of employees by regular retirement, at the same time the MPA should also apply the freezing employment policy for the same period.

During the implementation of the above mentioned process, where some positions that become vacant following the retirement of civil servants have to be replaced, the MPA should apply the policy of re-allocation of civil servants to those positions considered to be deficient. Such policy of re-allocation of civil servants is about

⁴³ Law No. 03/L-212 on Labour, Article 67: <http://bit.ly/1IQCcFX>

⁴⁴ Except for elected officials, and University professors that may work until the age of 70 years.

⁴⁵ Law No. 03/L-149 on the Civil Service of Kosovo, Articles 90, 91, 92: <http://bit.ly/1P2LymY>

moving the civil servants in institutions depending on the needs and priorities set either by the Government or the relevant institution. Such a process of re-allocation should be assisted by the job catalogue which would codify a number of positions and grades according to which all civil servants would be categorized. The catalogue effects the unification in the civil service and facilitates the re-allocation of civil servants from one institution to another.

In addition to the above mentioned policies, the MPA should apply, with the support of the Government, full centralization of employment via vacancy announcements. Prior to opening a vacancy announcement, the MPA should assess, based on the data and registers under its possession, whether such a position could be filled with the current staff, and whether it could be filled with civil servants that may be considered as redundant in another institution.

Such an implementation of these policies by the MPA, as the ministry responsible for the public administration, would have the effect of setting a rule in relation to employment in the public sector. The MAP should not be left alone, and this process should receive the support of the Government, and the latter should have the political will to establish a rule regarding employment in the public sector. Without the Government's support and its political will, such a policy of the reform concerning the employment in the civil service followed only by the MAP would not deliver the intended outcomes.

8. Conclusions and Recommendations

Since the establishment of the Provisional Institutions of Self-Government in Kosovo, the number of ministries and other bodies has continually increased. As a result, also the number of employees in these institutions increased. Since 2001, the number of ministries has increased sometimes by UNMIK Regulations and sometimes by Kosovo laws, and in some cases by Government decisions. Despite two attempts to pass a Law on the Government, in 2009 and 2011, the Government of Kosovo functions without law even in 2015.

To put an order in relation to the size of the public administration in terms of structure and number of employees in it, GAP Institute recommends as follows:

For the Government:

- The Government should proceed the Draft Law on the Government in accordance with Legislative Program 2015 and the Assembly should adopt it. The Law on the Government should contain rules that set out the need and procedure of establishing new ministries, and the Assembly should only establish ministries by supplementing and amending the Law on the Government;
- The Office of the Prime Minister should remove some of its subordinate bodies, and have the latter distributed to policy related ministries.

For the Ministry of Public Administration (MPA):

- The MPA should make the necessary legal changes regarding the need and procedure for establishment of subordinate bodies of ministries. The Government should establish a mechanism that will review the rationale and functionality of subordinate bodies of ministries and the Office of the Prime Minister. In those cases where duplication is created with departments of ministries, such agencies should be abolished;
- The MPA should freeze employment initially for a five-year period (2015-2019) and execute the policy of not replacing civil and public servants in those positions that remain vacant as a result of their retirement after the age of 65 years;

- After such a period, the MPA should fully centralize the vacancy announcement for central bodies, and apply the system of re-allocation of civil servants in positions in accordance with the job catalogue in the civil service;
- The MPA, as the ministry responsible for the public administration, should set criteria for the number of departments in each ministry, the number of employees in that ministry, and the criteria as to when a department can be divided into divisions.

For the Assembly:

- The Assembly should establish a mechanism to review the functionality and necessity of independent agencies, and recommend undertaking relevant steps in conformity with the review.

INSTITUTI PËR STUDIME TË AVANCUARA



GAP Institute for Advanced Studies is a Think Tank established in October 2007 in Kosovo. Its main goal is to attract professionals in creating a professional development and research environment, which may be found at other similar institutions in western countries. This also provides Kosovars with opportunities to research, develop, and implement projects aiming to advance Kosovar society. This Institute's priority is to mobilize professionals in addressing economic, political and social challenges in the country. GAP's main objectives are to bridge the gap between the Government and citizens and between problems and solutions

GAP Institute is supported by:

