

International Workshop

KOSOVO: (RE)ENERGIZE LOCAL GOVERNANCE THROUGH CIVIC ENGAGEMENT (PART I)

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REPORT

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On 20 - 21 March 2018, the **Southeast Europe Association** (Suedosteuropa-Gesellschaft / SOG) organised an International Workshop on the topic: “Kosovo: (Re)energize Local Governance Through Civic Engagement” in at the premises of the German Federal Foreign Office in Berlin. The workshop was supported by the **German Federal Foreign Office** through the **Stability Pact for Southeast Europe**.

The purpose of the workshop was to contribute to a discussion on civic engagement and local government in Kosovo. Drawing on experience from the post-Yugoslav EU-member-state Croatia, the workshop explored how local issues, such as **water supply** and **property rights**, can be part of a productive dialogue of local government and civil society. Through the dialogue of local governments, think tanks and civil society groups, the workshop sought to explore the challenges of civic engagement at the local level in Kosovo and bring in the experience in Croatia.

PANEL 1: CHALLENGES OF LOCAL GOVERNANCE AND CIVIC ENGAGEMENT*Rapporteur: Ivana Jerković*

In recent years, local self-government in Kosovo has seen some progress. First, the local elections held in October/November 2017 were the second elections held in 38 Kosovo municipalities (including the North) since 2013. In all of them, mayors and municipal assembly deputies have been successfully elected. Second, in the last two years, the percentage of illegal municipal acts has been reduced to 1% compared to the municipal bodies elected in 2013 where the percentage of unlawful acts was up to 30%. Third, progress has been made concerning gender representation in municipal assemblies, since 35% of elected officials were female and the percentage of women in municipal executive positions has grown up to 20%.

But, despite some progress, local governance in Kosovo continues to face judicial, economic, social and political challenges. The rapid pace of legislative changes after the adoption of the Constitution in 2008 has resulted in overlapping competencies, collisions, and ambiguities, which further caused problems with the implementation of the legal provisions on the local level and in an uneven coordination and cooperation between central and local level. Also, the same set of competencies has been given to all municipalities, regardless of the size of the municipality. Thus, Prishtina as the largest municipality has the same competencies as the smallest one.

Concerning the deliverance of public services, municipalities are facing two main challenges. First, the lack of sustainable financing. The municipalities remain financially highly dependent on the central level, since partly up to 85% of the total budget of municipalities came from central government grants, while under 15% came from own revenues. In addition, this financing was rather fragmented, as a large amount of public investment intended for the local governance remained in the line ministries, because of the weak coordination between central and local level. Second, regional and local public enterprises remain inefficient in delivering services. As noted in the discussion, these public enterprises cope with limited professional capacities, political interference and with inefficient revenue collection.

The main topic discussed was the cooperation between local government(s) and civil society, particularly the inclusion of citizens and civil society organizations (CSOs) in decision-making processes.

The law on self-government has foreseen several mechanisms for direct democracy and civic engagement on the local level. First, citizens have the right to take part in general meetings/discussions organized by municipalities. At these open agenda meetings, citizens can discuss any issue and raise local governments' attention on certain topics. In 2017 56 of these meetings were held in municipalities across the country. However, as noted in the discussion, these consultations have often "been held only to be held", without having any impact.

Second, municipalities are obliged to inform citizens about any plans or programs of public interest, for example budget discussions, urban development plans, tax regulation and so on. Yet, unlike the central

level, where institutions are obliged to upload annual plans, regulations and policies on an online platform, minimum standards for public consultations on the local level are still missing.

Third, citizens have the right to access public documents. Yet, in practice, as some of the participants reported, the access has often been denied by local authorities, and citizens were repeatedly not provided with the information they requested.

The Ministry of Local Governance Administration (MLGA), as the main institution on central level dealing with local governance, has developed some useful online tools and platforms to strengthen and advance transparency in municipalities:

- First, an advanced system for monitoring the work of municipal assemblies using **telepresence**, which enables state officials, stakeholders, as well as citizens to access and observe municipal assembly meetings via live streams that are linked to the municipals website.
- Second, all municipal acts must be announced in the digitalized **official gazette** published by the office of the Prime Minister and are entering in force after they are published there.
- Third, the MLGA has implemented a digitalized **reporting system** for the procedures of reviewing the legality of municipal acts, which enables a quicker assessment and response from the central to the local level regarding the legality of municipal acts.
- Fourth, an **electronic procurement system** should provide insights into local government spending and thus improve and strengthen civil society monitoring.
- Finally, the MLGA established an advanced **performance management system** to improve efficiency and effectiveness of service delivery in municipalities as well as to reinforce transparency and accountability.

Despite these useful online tools and platforms most municipalities do not publish their executive decisions or regulations in the web-pages and thus fail to provide full access to municipal information. Hereby, the reason is not on financial means but on the lack of will on the side of municipal officials. According to government officials, a legal basis to oblige municipalities to use these online tools will be created.

Cooperation between local and national government(s) and civil society

In the past 10 years, the role of CSOs in Kosovo has shifted from peace-building- and conflict resolution oriented CSOs to CSOs mostly dealing with issues like democracy and state consolidation. There has been some progress regarding the cooperation between local and national government(s) and civil society, although civic engagement remained much stronger on central than on local level. On central level, a Council for cooperation between the government and civil society has been established in March 2012. The Council comprises of 29 members: 14 officials from national and local governments and 15 CSO representatives. This Council has 4 objectives: (1) ensuring the participation of CSOs in decision-making processes; (2) informing CSOs about services and public funding from the government to the CSOs,

particularly CSOs on local level; (3) developing a new system and criteria for financing CSOs; (4) encouraging and developing voluntarism and civic engagement in Kosovo.

Some CSO representatives stipulated that the government institutions were at least engaged in encouraging civic engagement and involving CSOs in decision-making processes. On the other hand, they also stated a lack of willingness for engagement and participation among citizens and CSOs because of previous events where citizens' voices have been ignored. For example, a study¹ showed that 81% of the respondents felt that they never have a say in matters concerning the municipality. On the other side, 65% of them replied, they have never dealt with any issue concerning their community life or the municipality.

CSOs from the capital receive more funds than those in the countryside. The percentage of funds given to CSOs working on the local level is rather low whereas grassroots are totally forgotten. Participants underlined that grassroots initiatives should be more strongly supported because they are closer to the communities and could thus tackle local problems in a more effective way.

Nevertheless, in 2017 the Ministry of Finance adopted the Regulation on the Criteria, Standards and Procedures for Public Funding of NGOs, promising a transparent and project-based manner of giving public funds to CSOs. With this regulation, CSOs, especially grassroots organizations, are invited to discuss and define priorities and local needs with municipal representatives, before calls for public funding are opened.

In sum, the discussion has shown that municipalities often fail in implementing existing laws, due to ambiguities, overlapping competencies, the lack of expertise, human resources, and funding or the lack of will on the side of municipal officials. Thus, the existing legal framework needs to be further improved and effectively implemented. It has also been acknowledged, that local governments' work was more successful if CSOs were involved.

LOCAL GOVERNANCE AND PROPERTY RIGHTS

Rapporteur: Florian Bieber

Property rights in Kosovo are impacted by a number of factors, which complicate legal status. First, gender matters greatly when it comes to property, with women being severely disadvantaged in terms of legal ownership. Second, property sales or transfers during the 1990s have often been insufficiently documented. Third, the transfer of many land registries to Serbia in 1999 has also created legal uncertainties that were only partly resolved through the Belgrade-Prishtina dialogue. Fourth, the legalization of illegal and 'wild' property is a particular challenge that Kosovo shares with most other countries of the Western Balkans. Finally, IDP/refugees, in particular Serbs and Roma, have faced challenges in receiving their properties back.

¹ See, for example: http://d4d-ks.org/assets/D4D_Elections_6_ENG_WEB1.pdf

While some of these challenges are common to post-Communist, post-Yugoslav and post-war Western Balkans, many of these challenges are exacerbated by specific circumstances in Kosovo.

The low rate of property ownership among women is particularly pronounced in rural regions and is based on tradition and the exclusion of women from land and property ownership. Overall, the rate of ownership for women is around 10-15 percent.

Efforts have been undertaken by state and municipal authorities to increase the share of women owning property. One measure has been to encourage adding women as co-owners of property with their husbands, which is more easily achievable than sole owner at first.

Another problem, as noted in the discussion, has been the transfer of ownership during the 1990s. As this period was marked by police repression, legal discrimination over the transfer of property from Serbian to Albanian owners and administrative and other measures that impacted the reliability of property records from this period.

This challenge is compounded by the multiple forms of ownership inherited from the socialist period, including socially owned property whose status was further obscured by the 1990s. Courts rather than municipality administrations are mainly responsible for resolving the challenges arising from these legal uncertainties, yet courts are often overwhelmed in terms of the caseload and their capacity, resulting in long delays.



The Serbian authorities took with them the ownership records after 1999 and these were only returned gradually following the dialogue between Serbia and Kosovo after 2011. The return has not resolved all question and legal uncertainties over ownership.

Legal uncertainties, weak state institutions over decades and corruption have given rise to substantial illegal construction, both on land owned by citizens building illegal housing and on land with unclear ownership.

Finally, as thousands of inhabitants fled Kosovo in 1999 and most have not returned, tens of thousands of claims from IDP/refugees over private housing and commercial claims are unresolved. There has also been an abuse of the uncertain ownership and absence of owners with forged documents staking illegal claims.

These challenges taken together constitute serious obstacles to a transparent, fair and legal property structure in Kosovo. Authorities have recognized this and the 2016 National strategy on property rights seeks to address them, but progress is limited. Furthermore, the involvement of multiple actors, multiple state institutions, municipalities, and courts complicate a resolution.

This also creates uncertainty among citizens who are often not aware which institution is responsible. Thus, legal changes and a more systematic implantation of existing laws and regulations appear to be required.

LOCAL GOVERNANCE AND WATER SUPPLY

Rapporteur: Hansjörg Brey

Kosovo is divided into seven regions, where seven public water companies operate. Yet, out of 1,467 settlements in Kosovo, 684 do not have a water supply network. 144 villages have a water supply network, which is not managed by public water companies and have to manage their water resources and distribution network themselves. Often, residents have to find alternative ways of supplying water through wells. Sometimes, communes are reluctant to connect to public water supply, even in cases where such supply is available. Uncertainties as concerns the quality of drinking water and potential health hazards are mostly, though not exclusively, related to the provision of water from wells.

The overall perception of water network management in Kosovo differs considerably. Government



officials stipulate that there have been significant improvements during the last years. Through the establishment of seven public water companies, services have been improved, payments from citizens increased, responsibilities shifted to municipalities. Water supply is controlled by an independent regulation authority and there is a national coordination body (Inter-ministerial Water Council) dealing with water supply issues, chaired by the Prime Minister.

According to a Report of the World Bank from 2015, water supply in Kosovo is considered to be much better

compared to other western Balkan countries!

Scientific analysis, as well as reported evidence from the municipal level, tells a slightly different story: Overall, there seems to be a great deal of uncertainty about competences and water network management. Public enterprises manage regional water companies. They are controlled by the central level but operate at the local level. This causes a situation where institutions shift responsibilities to each other. This situation is aggravated by unclear legal provisions. While according to the Law on local self-government municipalities enjoy exclusive competences in many local policy fields, including water supply, in reality, these competences are intertwined with the central level. Elected representatives from the local level demand a better representation and right of co-determination of municipalities in regional enterprises. At present, at least half of the board of directors from the regional water companies are recruited from representatives of the communes. Yet, there was a warning voice from one expert: municipalities would be overcharged if they would take over the responsibility of a regional water company. After all, regional companies are (solely) responsible for investments in water supply, using

incomes from water fees and sometimes loans as means of finance. On the other hand, citizens address their local authorities – and not the companies - with their complaints about lacking water supply, as one mayor remarked.

Although there has been an initiative for changing the law on local self-government already years ago, the change has never been processed in the Assembly, as it needs to be approved by a double majority of MPs, including those from the Serb community. There is the need for “a single address of responsibility” in the hands of municipalities. While in fact substantial sums are invested into new water supply networks, public enterprises are said to be unwilling to manage them, partly because citizens are not paying for the water supply services. In consequence, parts of the new investments, most of them from donors, fail.

There is a quite unanimous opinion that water losses constitute a considerable problem. 50-65 % of these losses are technical; others are physical and commercial, mostly through the waste of the scarce resource by consumers, who, more often than not, do not pay for their water consumption. Often, there is even no provision of meters for measuring household consumption.

As concerns the regional water companies, the pictures seem to differ widely. Company “Hidrodrini”, operating in the Peja region, is reported to operate with considerable success. Based on a business plan and external auditing through German KfW, management and efficiency have reportedly improved. Representatives from the five major communities, with different party affiliations, cooperate successfully. Competences are said to be clearly defined. Through incomes from water tariffs, Hidrodrini is able to work cost efficiently without subsidies, and even is able to invest in improvements.

As for the Serbian commune of Gračanica, a quite bleak report was given. Gračanica is so far lacking a municipal development plan. Water supply is characterized by a deficient supply system with high technical losses, there are frequent break-downs in supply. Water from wells is in many cases contaminated from heavy metal originating from mining activities. Wastewater (non)treatment is another serious problem in Gračanica – as in the entire territory of Kosovo. Waste water is regularly channeled into the rivers without prior treatment, with contaminating water constituting a threat for the riparian communities.

There is no wastewater treatment in Kosovo – this finding was endorsed by the representative from German KfW (the biggest donor in the water sector). Waste water is channeled into rivers – thus reinforcing the problem of water pollution. As one participant remarked, solid waste is also regularly deposited illegally in rivers. Citizens sometimes do this despite the garbage collection services offered by local communes.

With the support of technical assistance from France and Germany, at least some plants for wastewater treatment are in the state of planning. Finances from foreign donors seem to be even more important for wastewater treatment in comparison to water supply installations. The treatment of water for drinking purposes was said to be quite efficient in most of the communes with a centralized supply of water.

In sum, the discussion has shown the high importance of water supply and wastewater treatment for local (good) governance in Kosovo, entailing a high necessity of both decentralization and cooperation beyond territorial and ethnic boundaries. A lot remains to be done, in creating an appropriate legal basis for an efficient water supply, in empowering municipalities and other communes, in technical improvements and installations, in environmental protection and, last but not least, in securing metering and payment of fees from consumers according to real consumption.

SPECIAL FOCUS ON WATER SUPPLY – NORTH KOSOVO / MITROVICA

Rapporteur: Franz-Lothar Altmann

Mitrovica's water supply comes from the Gazivoda Lake in the northern part of Kosovo but is processed in the water treatment plant located in the village of Shipolje in the South from where it is redistributed partly to North-Mitrovica and Zvečan. It was reminded that the water plant in the South was constructed during the socialist time and was financed with contributions of the citizens. Back then, for example, Zvečan in summertime had usually only 7 to 10 days water, and for three months, the rest of supply had to be covered from cisterns.

The double crossing of the water of the invisible and informal border between northern and southern Kosovo, naturally, requires interethnic cooperation, which is burdened by competing political agendas. If cooperation functions, then this happens only on an ad hoc basis. Kosovo Serbs in the North complain that they are discriminated regarding water supply because the larger part of the processed water remains in the South when directed to the North. South Mitrovica, on the other hand, insists that the North has accumulated a huge debt of up to € 13 million by not having paid for the delivered water over the past years.

Since in principle the northern region of Kosovo is rich in water, but households in the North suffer from water shortage, the Serb municipalities of Zubin Potok, Zvečan and North-Mitrovica started a project in 2013 to construct a separate regional water supply system for the North, which by Prishtina is regarded as violation of Kosovo's sovereignty. But until now only 30% of the project is completed. In the meantime, IPA funds enabled partly the technical improvement of the pipeline system in the South as well as in the North.



The problem, however, is not only the supply with potable water but also the question of the insufficient wastewater sewage system. The high contamination of the Ibar River affects all the riparian communities. Mitrovica hosts three rivers but none of their water is usable. The citizens of the communities are inadequately informed although in particular this issue would require close cooperation. Investment into the sewage system in the North, but also into the water pipeline system in the North and between

South and North is not happening mainly because Prishtina firstly insists on payment of the owing fees from the past. Shipolje claims that 40% of the processed water goes to the North, but due to the aging pipelines, only part of it reaches the northern municipalities. Those therefore refuse to pay although a positive discrimination of the North exists concerning the tariffs: 1 m³ water in the North costs 17 cents, in the South 50 cents. Prishtina claims that even if the fees would be paid in the North they would not cover the operating expenses. Water therefore became a highly politicized issue.

In the panel discussion several **recommendations** were addressed:

- It was acknowledged that the most urgent technical problem remains with the old pipeline system from which too much water is leaking. Financing for the necessary reparations should come from Prishtina, Belgrade and Brussels.
- It was required that the responsibilities for both, the water supply as well as for the wastewater sewage, must be shared between the North and the South, wherefore an interethnic dialogue on the central level should be supported.
- Furthermore, a common forum of Mitrovica North and South must be established including political local officials and representatives of the water enterprises as well as of the civil society in order to dismount the existing tensions. In the beginning, weekly meetings should happen to exchange information, to stabilize the system and to build up a common crisis relief forum for emergency cases like flooding.
- The outstanding debt of € 13 million should be resolved through a compromise between Prishtina and Belgrade since it is a political question. From then on new debts should be avoided, and a new payment model must be installed.
- All households in the North must be equipped with water meters which enable a clear and undisputed fixing of the required payments. The existing dispute between how much is delivered from the South and how much reaches the North would thus be resolved.

MAKING CIVIC ENGAGEMENT WORK – LESSONS LEARNT FROM CROATIA

Rapporteur: Johanna Deimel

After the war, Croatia had phases where people asked themselves what civil society actually constitutes. In the first stage after the war CSOs were regarded as national traitors, as notorious militant persons and it was a long process of reaching civil society's acceptance. It took efforts from both sides – officials, public and civil society – to understand that civil society's role is not only to criticise and to examine those in power; but it is also the role of civil society to assume responsibilities in which the state or the government has not become active yet.

However, CSOs in any country have to live with a certain political environment, which might be supportive or restrictive in terms of room for manoeuvre and activities. Democratic consolidation is not irreversible but may potentially even return to the status quo ante. As one discussant observed, there is a new conservative wind blowing at the moment in Croatia. The churches, the religious communities have more influence and impact on the education system and also on the media. It could happen that



people become more and more open to an authoritarian leadership where no criticism is allowed under the excuse that pluralisation also means support to other organisations, including extremist groups.

Croatia's membership in the EU has opened many opportunities for civil society. Croatian experience underlines the importance to use the EU-accession process and the room for manoeuvre to influence people in positions of power. Kosovar CSOs were recommended to take advantage of the EU-accession phase in order to establish capacities required for networking and for creating networks. CSOs were further advised to focus on their own resources. As it was stated, it is sometimes difficult and not even desirable to build civil society organisations and to have a top-down approach (in particular regarding local self-governance), since it undermines civil engagement and public participation.

Relations between local government and CSO in Croatia

Croatia is subdivided into 20 counties and below subdivided into local governments (cities and municipalities). CSOs cooperate with the regional level, the local level and with municipalities. The institutional framework set in Croatia for the development of civil society was regarded as exemplary. The National Strategy for the Creation of an Enabling Environment for Civil Society Development from 2012 to 2016² was mentioned. Over the years the normative framework has been set in place in Croatia, consultation processes are ongoing, and CSOs receive financial support through the National Foundation Civil Society Development. CSOs also receive funds from lottery.

Experiences made by CSOs in Croatia confirm that it is very important for CSOs to do their job independently and to have an opportunity to work on alternative solutions for the local government. It was stressed that civil society must not be dependent on municipalities and local governments but be able to play an equal role. Areas for Croatian local civil society's engagement mentioned are for example when public space had been privatized or when agricultural lands have been turned into construction sites for buildings in an unclear, questionable manner; or where the military or the defence industry is expanding without getting consent from private citizens. Thus, local CSOs can be active in cases where the citizens and the citizens from the villages have not been consulted before.

² http://www.ohchr.org/Documents/AboutUs/CivilSociety/ReportHC/states/5_Croatia_National%20Strategy-Civil%20Society-Croatia-2012-2016-eng.pdf

In order to bring positive change, local civil society shall work with the central and with the local government alike. Essentially, local authorities have to include people into the process. It is also about mobilising the public and about working with the public. People need to be engaged and to raise awareness to certain projects. Admittedly, working with the people may be demanding and not always easy. Maybe out of hundreds consulted people only five understand what it's about. It's not a walk in the park. It can be grey and a very difficult and challenging situation also for the governmental authorities.

Recommendations addressed during the panel discussion

- **To establish an inter-sectoral cooperation:** Institutes and organisations often express discontent concerning the way in which local authorities' services and enterprises are presented and managed. The same dissatisfaction applies for national companies and for the energy sector, transports, water supply etc.
- In the public sphere - local or national - an alternative set of services has to be available in order to democratise the process. In short: **Supply has to be democratised** in alternative supply sources. Examples in European countries demonstrate how the administration of companies and of the resources can be democratised (water supply).
- **Local authority enterprises should be opened to the public**, to the citizens. It means that utility companies should open the door to citizens and to their participation in the oversight. Public enterprises need to be as open as possible not only concerning the management structures. Furthermore, oversight structures have to take into account people related to different areas: from a consumer perspective and from an ecological perspective for example.
- Not just technical know-how and the political dimension need to be taken into account but also the civic side, the **civic dimension**.
- There is often a **lack of transparency in terms of governance**. The problem could be solved if the public would be informed more often about the work public enterprises are doing, if they would disclose their finances and if on the other hand, they would have more rotation in the administrative organs, for example. Sometimes people are represented in a number of boards and bodies at the same time. Zagreb and Dubrovnik provide examples how community utilities could be transformed. It would be possible not just to take in NGOs but to create a sort of mixed bodies which would also include consumer representatives. The bodies could look at how these utility companies are run and whether they are run properly.
- There are models like **Public Civic Partnership** and **Public Private Partnership**. Yet public interest is not really represented in them because local authority just wants to get investments and at the same time somebody should be there to look at whether the public interest is being protected in a longer term by these contracts that have been drawn with the private sector.
- Local self-administration and citizens should have possibilities to pull together and to **manage resources collectively**. This might be organised in different formats to bring local authorities and communities together - consumers, users, customers – all those who consume respective public utilities. Consumers are relevant in terms of consumer rights, for example. But, as it was stated, it would be more damaging if citizens were reduced to the status of consumers only.

- It has proved to be very good to engage in **sustainable development issues**. Sustainability is broad and also touches sports, culture and consumer protection. Civil society dealing with sustainability affairs influences law making that affects society. At the same time, CSO's engagement has a positive impact on the perception of civil society.

Finally, one participant expressed the plea: "If you don't have a system you need to fight for it. You need to have a system in order to be able to stand up for further development".

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