

5 Recommendations

Kosovo is a province that suffered discrimination for over a decade and where ethnic communities discriminated against have established and are maintaining “parallel institutions”. This is, however, an indication of the understanding, by the Kosovar peoples, of the need for functioning public institutions.

The international presence, both civilian and military, is having a stabilisation effect, but ethnic tensions remain vivid. The more as the future status of the province remains uncertain.

The creation of public institutions, in their current format, has mainly been promoted by the UNMIK and the international community. This result in developing an interesting patchwork of existing governance systems which coherence and manageability was never questioned. The administrative system in Kosovo is developing along radically different tracks from those prevailing in the State Union of Serbia and Montenegro, rendering future reconciliation of administrative systems, at best, potentially very difficult.

The adoption of common European values and norms, through the mechanism of the *acquis*, by each of the two current systems of administration could prepare the way for their eventual merger to occur: delay in doing so seems likely to perpetuate increasing separation.

Lacking certainty about future status of the province, it is necessary, for the time being at least, that the Kosovar Government keep its options open to the extent possible: it should seek to establish and operate its own public institutions on the basis of common European values and approaches, to maximise the likelihood of developing common institutions with the State Union of Serbia and Montenegro in the foreseeable future.

5.1 For the Provisional Institutions of Self-Government of Kosovo:

1. A major hindrance for PISG in attempting to develop a sustainable and functioning system of governance is its lack of capacity to design, implement, and coordinate public policy.

Remedies for this situation should aim at helping the Kosovo Provisional Institutions of Self-Government build the professional capacity which is

essential to enable PISG to gradually take over responsibilities in major public policy areas: in particular, there is a need to focus on the development of a professional civil service, because of the crucial role played by the civil service and the institutions of governance in effective policy development and service delivery.

Operational recommendations

- Strengthen policy-development and evaluation capacities at the PMO;
- Develop policy-coordination capacities, across all line ministries;
- Establish civil service terms and conditions of employment which support the attraction and retention of skilled staff, and promote the development of a professional civil service and institutional capacity-building;
- Develop effective development and training mechanisms and strategies to promote professional development and training at all hierarchical levels in the public administration, including the municipal level;
- Develop a fiscal base which is adequate to support the range of governmental institutions which are in place, functioning at an adequate level of activity;
- Develop strategies for harmonising existing governmental institutions with European norms and values, with a view to achieving a unified public administration in the foreseeable future.

2. The current components of the legal system in Kosovo originate in different legal traditions, and are not necessarily fully coherent: this situation reflects the fact that a variety of different influences and origins (e.g. from UN, EU and various bilateral sources) are represented in the legal framework.

It is desirable to harmonise the Kosovo legal framework with EU values and standards, and to develop policies which are relevant, both to the likely future status of Kosovo, and to its current level of administrative development, geographical location, and likely future resource-base.

Operational recommendations

- Review and harmonise the legal framework so as to create coherence and promote legal certainty;
- Ensure that the legal framework is coherent with the institutional framework; ;
- Simplify the legal and administrative frameworks so as to be more coherent, more effective, less costly, and potentially sustainable from within Kosovo's own resources.

5.2 For the UNMIK

1. While the existing legal and institutional frameworks have reached a high degree of complexity stemming from recent history and inputs from diverse origins, it would be **useful for the UNMIK to coordinate with EC so as to promote alignment of both institutional and legal frameworks with the *acquis communautaire*.**

Operational recommendations

- Review and harmonise the legal framework so as to promote legislative coherence and legal certainty;
- Ensure that the institutional framework is simple, effective and coherent with the legal system, and potentially sustainable from Kosovo's own resources;

2. The Kosovo Provisional Institutions of Self-Government should be encouraged to gradually take responsibility for policy development and implementation: while PISG develops the necessary policy-making and implementation capacities, the UNMIK should gradually move from *ex ante* to *ex post* control, in a planned way which effectively promotes relevant capacity-development within PISG.

Operational recommendations

- Continue support for strengthening policy-development and evaluation capacities at the PMO;
- Review the civil service system, its terms and conditions, so as to support attraction and retention of valued/qualified staff, professionalisation of the public services at all levels, and institutional capacity-building;
- Strengthen policy coordination capacity across line ministries;