

Public administration reform-challenge of states in transition - The case of Kosovo

Valon Grabovci

Abstract

Public Administration reform is a global tendency. Today there is no society which isn't trying to reform its administrative system in order to be more efficient, more productive, more transparent and more responsive to the needs of the citizens. The improvement of the performance and capacity of any public institution is critical to any political administration that seeks to enhance the performance of the government as a whole.

The methodology used in this paper is a mixed methodology. The main methodology we applied is the analytical method which has been very important and has occupied a central place throughout the work. After collecting the materials, it was necessary to process them analytically and to extend the problem across its breadth, also applying the descriptive and comparative method.

The aim of this paper is to reflect the challenges, shortcomings, bureaucratic procedures in the public administration in general but also to provide our suggestions and recommendations to reform, simplify the procedures and to enhance the efficiency and performance of public administration in the Republic of Kosovo.

There has always been a debate over whether the concepts applied in the private sector can also be fully transferred to the public sector. Although management experts argue that large organizations face the same bureaucratic problems as public authorities, the more critical experts feel that these two sectors operate under completely different conditions. An effective, correct, transparent administration without bureaucratic procedures remains a challenge for both sectors, in particular for the public sector.

Keywords: Administration, legislation, reform, transparency, strategy.

Introduction

Public administration in Kosovo is relatively new since the post-conflict period starting in 1999 when the building of a new system and a new social order commenced, preceding a new system of public administration in Kosovo. Although its functioning is known early, in particular after World War II, public administration in Kosovo did not maintain the continuity of action following the deployment of the Civilian and Military Mission (UNMIK and KFOR)¹.

The origin of public administration in Kosovo is known early on, especially after World War II, but after profound political, legal, constitutional and territorial changes,

¹ <https://aab-edu.net/assets/uploads/2016/11/01-2012-SQ-03-Mirlinda-Batalli.pdf> (Accessed on 21.01.2020).

public administration in Kosovo did not maintain the continuity of action following the deployment of the Civil and Military Mission (UNMIK and KFOR) for reasons already known.

UN Security Council Resolution 1244, as well as the model of the UN civilian and military protectorate, set the stage of a specific legal framework for the functioning of public administration in Kosovo. The Resolution determined UNMIK as the carrier of responsibilities in exercising the functions of public administration. By such Resolution, the international civilian mission was entrusted with duties and responsibilities in the political and administrative field at three levels: a) the interim administration of Kosovo; b) the establishment of democratic self-government institutions, their oversight, including the electoral process; and c) the transfer of responsibilities to the Kosovo institutions, which is a unique case in the state-building space following the dissolution of the former Yugoslav federation, and that this type of transition is not encountered in the Western Balkans region. The time period 1999 - 2004 will be quite dynamic in the building of the Provisional Institutions of Self-Government (PISG), by building also in a parallel manner the public administration in Kosovo at both the local and central levels under the legal umbrella of the Kosovo Constitutional Framework deriving from Resolution 1244 of the UNSC. The building of the public administration has gone through three major phases: the creation of the United Nations Interim Administration as an international civilian mission, the establishment of the Provisional Institutions of Self-Government (PISG) and the launch of the "Standards for Kosovo" implementation plan or the pre-final status standards which is a distinctive and unique feature with the construction of public administration in relation to the countries of the region.

After resolving Kosovo's final status as an independent and sovereign state, Kosovo now has its own constitution, legislation and legal framework on the basis of which public administration is built which is constantly supplemented with new laws and bylaws aligning legislation with EU directives and its explicit requirements for an efficient, depoliticized, practical administration that meets the needs of the public. Kosovo's public administration is undergoing a profound reform process which means it is still in a dynamic transition phase.

The public administration of Kosovo – Basic orientations and time trends reform strategy

The Public Administration reform constitutes a complex process from whose success and results the development and implementation of government policies in a broader context depends, with a direct impact on all areas of a country's functioning, especially those for economic development and the offering of public administration services to citizens and businesses. The efficiency of the public administration and its administrative capacity building are the main tools on which the ability of the country to deal with the reforms and criteria required by the country's European integration process depends, being this a crucial process for Kosovo as a country that claims EU integration and full membership.

The Government of the Republic of Kosovo, after many years of leading a complex

process, a process combined with the step-by-step establishment of administration structures, the development of its capacity and reforms, is now focused on capacity development, defragmentation and rationalization of the processes and services that the administration provides to citizens and other beneficiaries, based on professionalism and non-politicization in the civil service².

In the time period before and after independence, Kosovo has drafted several strategic documents to reform and structure public administration such as: Government Decision No. 4/172 dated 25.10.2005, which has approved the initiative of the Ministry of Public Services (MPS) to draft the "Strategy for Public Administration Reform in Kosovo" (PAR)³. The main purpose of drafting the Strategy for the RAP was: a) to facilitate implementation of the Standards for Kosovo and objectives regarding the EU Stabilization and Association process; b) to promote the development of an enabling environment for the return of refugees and displaced persons; c) to develop mechanisms for institutionalizing citizen participation in consultative processes; d) to mobilize additional resources in order to implement reform programs, and e) to present the long run to ensure the ability of a successful government.⁴ As far as these drafted documents and strategies are concerned, some have produced good results, others have not, but despite the difficulties and barriers of transition, significant progress has been made in some sectors of public administration in Kosovo.

But one of the most important documents for building and reforming public administration in line with the contemporary trends and requirements of the European Commission's Progress Reports of the recent years, is the Public Administration Modernization Strategy 2015–2020, which quite comprehensively defines the strategic objectives and policies which the Government of the Republic of Kosovo aims to achieve in the next medium term period in order to improve the functioning and modernization of public administration. Following two cycles of planning and implementation, the public administration reform remains a high priority for the Government of Kosovo. This strategy, third in a row, marks the beginning of a new cycle, in which the circumstances require intensification of dynamics of public administration reforms, as well as specific and implementable reformative policies. After concrete steps towards consolidating the administration, in the coming period, the institutions of Kosovo will focus in increasing efficiency of its work and improving services provided by the administration, but also to support reform and capacity building with the necessary appropriations and set time limits, as this reform has been greatly assisted financially but also with expertise from various donors and EU mechanisms

The priority in modernizing public administration will be to advance the use of Information and Communication Technology in order to increase the level of implementation of e-government which is a prerequisite for modernizing public administration, streamlining, optimizing and digitizing administrative processes.

² <http://www.kryeministri-ks.net/repository/docs/Strategy-for-Modernisation-of-PA-2015-2020.pdf> (Accessed on 25.01.2020).

³ Annual report of the work of the Ministry of Public Services for 2006, p. 4 to 30.

⁴ Public Administration Strategy towards professional, responsible and impartial public services, PISG and UNMIK, July, 2004, p. 3.

The implementation of this strategy aims to create conditions for the administration to be oriented towards meeting the specific requirements and needs of citizens and businesses in order to work in their interest. It is expected to work on reducing procedural and administrative barriers, reducing costs and reducing the time spent on receiving public-administrative services, taking into account the appropriate access for persons with disabilities.

Legal framework of the public administration of kosovo and its implementation

The scope of Public Administration in Kosovo is regulated by basic Law No. 03/L-189 on the State Administration of the Republic of Kosovo⁵, as well as with a large number of other derivative laws or of fields that are directly or indirectly related to public administration at both levels and some bylaws that regulate different areas of application of this legislation in force. Important laws that have a direct impact on Kosovo's public administration are: Law No. 03/L-149 on the Civil Service of the Republic of Kosovo, Law No. 03/L-202 on Administrative Conflicts, Law No. 03/L-147 on the Salaries of civil Servants, Law No. 05/L-031 on the General Administrative Procedure, Law No. 04/L-221 on the Kosovo Institute for Public Administration⁶ as well as other laws that regulate certain fields and the implementation of this legislation by the public administration of the Republic of Kosovo.

Law No. 03/L-189 on the State Administration of the Republic of Kosovo is the basic law, which regulates the scope of state administration bodies. The state administration performs the duties of the administration within the rights, responsibilities and duties of the Republic of Kosovo. The state administration exercises its functions and performs its duties in accordance with the constitution, law, other provisions and general acts. The tasks of the state administration include the direct implementation of the law, the issuance of provisions for their application, the exercise of administrative oversight and the performance of other administrative and professional duties⁷. We consider that this basic law and the laws mentioned above do not meet the necessary legal basis for a public administration that meets the needs of the citizens of Kosovo. It is also a recommendation of some European Commission Progress Reports of the recent years to adopt the necessary legal package covering all the segments necessary for an efficient public administration.

The challenges of the Kosovo public administration reform

The broad scope of the past PAR strategy, the lack of the prioritization of reform policies and the complexity of the functioning of the management and coordination structures have been considered as some of the reasons that have influenced the success of the reform. Therefore, the challenges, on which this strategy will focus and needs to address are:

1. the legal framework regulating the organizational structures of public administration is unclear and insufficient. Internal organization in many institutions at both central and local level is not rational;

⁵ <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2706> (Accessed on 30.01.2020).

⁶ <https://map.rks-gov.net/page.aspx?id=1%2c49> (Accessed on 11.01.2020).

⁷ <https://map.rks-gov.net/desk/inc/media/2F756AEE-D666-4304-839F-3BD80A968FA7.pdf> (Accessed on 05.02.2020).

2. the implementation and strengthening of the system to ensure the realization of the principles of ethics and integrity in the civil service according to the Code of Ethics for Civil Servants which has been approved after a long process

3. the lack of proper mechanisms for access to public documents and information. Proactively published information by institutions of general interest is not sufficient;

4. Compensation mechanisms are not sufficient in cases where public authorities cause damage when making decisions or by their actions or inactions;⁸ and also politicization, the lack of inexperience as a result of politicizations and the irrational overload of Kosovo's public administration continue to be major barriers and challenges to public administration and its reform as modern trends and public needs demand. But it is not only the large number of employees that has stalled these reforms, which have been repeatedly requested by the European Commission in its progress reports. It is noted that Kosovo is late with the reforms, due to the lack of political will. Public Administration Reform is one of the top priorities for Kosovo's approximation with the EU integration process⁹. We consider that the EU and its mechanisms have monitored every stage of public administration reform in Kosovo, this process still being a challenge for Kosovo even now as a signatory of the Stabilization and Association Agreement, and now as a contracting party it is obliged to implement the recommendations that emerge from the European Commission's progress reports. The Stabilization and Association Agreement (SAA) is the framework within which the EU and Kosovo administrations regularly discuss technical and political issues related to the European agenda. There are seven fields under the SAA that are covered by subcommittee meetings. Two other areas covered during special group meetings are public administration reform and the normalization of relations with Serbia¹⁰, therefore, we consider that the institutions of Kosovo must continue to engage with political, legal and financial support to meet the criteria set out in the SAA agreement for the purpose of efficient public administration and serving the public interest at both levels, at the national and local level.

Now, after 12 years as an independent state, it is a matter of time for the construction and functioning of public administration in Kosovo to be conducted on the basis of internationally accepted principles and standards. The European integration processes and the drafting of policies and legislation in line with EU principles represent a key point of public administration and at the same time one of the biggest and continuing challenges of public administration in the future.

Conclusions

- The legal framework which regulates the organizational structures of the public administration is unclear and insufficient. The internal organization in many institutions both at central and local level is irrational;

⁸ This strategy will not focus on accountability related to public finance management, financial control system, public procurement, auditing etc. as this area will be dealt with under the third pillar of public administration reform, namely in the area falling under responsibility of the Ministry of Finance. (Strategy-for-the- Modernization-of-Public Administration-September-2015-2020).

⁹<https://www.evropaelire.org/a/numri-i-madh-i-te-punesuarve-pengese-per-reforma/29487983.html> (Accessed on 01.02.2020).

¹⁰ https://eeas.europa.eu/delegations/china/26549/node/26549_sq (Accessed on 06. 02. 2020).

- From the analysis of the basic documents of public administration reform in Kosovo we can conclude that the public administration reform in Kosovo is of the modernization type of administration, despite the challenges and shortcomings in the political and legal field. This way of public administration reform is typical for countries in transition.
- We consider that the reforms which are geared towards modernizing the administration are more understood as a form of reform aimed at re-structuring the administration in line with systemic changes or as a way of increasing the efficiency and effectiveness of public administration work as required by modern trends.
- Despite the challenges, failures and shortcomings, nevertheless, public administration reforms in Kosovo have brought about significant changes because they are part of inclusive developments. A functioning and transparent public administration is also an important contributor to the state's legitimacy and credibility. Political will and serious commitment from all institutions is required to achieve these objectives.
- Kosovo needs an efficient public administration for social development, economic growth and poverty reduction. The institutions of Kosovo must commit themselves to support the maximum modernization of administration. The fulfillment of such objectives is done through the basic dimensions of e-administration such as: e-services, e-democracy, e-management and e-commerce which are the guarantee of equal access for all citizens of Kosovo.
- The public administration of Kosovo is constantly being tested to prove its efficiency, responsibility, public commitment, stability and political impartiality. The facing of these challenges requires the support on the basic principles of its functioning, which are related to professionalism, meritocracy, competitiveness and transparency. This process is also parallel to the fulfillment of many other criteria set forth in the SAA contractual agreement, which we consider to be a dynamic process and which will continue for a longer period of time in order to achieve the necessary objectives.

References

- Public Administration Strategy towards professional, responsible and impartial public services, PISG and UNMIK, July, 2004.
- Annual report of the work of the Ministry of Public Services for 2006.
- Strategy-for-the- Modernization-of-Public Administration-September-2015-2020
<https://aab-edu.net/assets/uploads/2016/11/01-2012-SQ-03-Mirlinda-Batalli.pdf>
<http://www.kryeministri-ks.net/repository/docs/Strategy-for-Modernisation-of-PA-2015-2020.pdf>
<https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2706>
<https://map.rks-gov.net/page.aspx?id=1%2c49>
<https://map.rks-gov.net/desk/inc/media/2F756AEE-D666-4304-839F-3BD80A968FA7.pdf>
<https://www.evropaelire.org/a/numri-i-madh-i-te-punesuarve-pengese-per-reforma/29487983.html>
https://eeas.europa.eu/delegations/china/26548/node/26548_en