



**Organization for Security and Co-operation in Europe  
MISSION IN KOSOVO**

**Monitoring Department**

**Report on the Establishment of the Municipal  
Executive Branch according to UNMIK Regulation  
2007/30**

April 2008

## TABLE OF CONTENTS

<b>A. Introduction</b> .....	<b>4</b>
<b>B. Implementation of UNMIK Regulation 2007/30</b> .....	<b>5</b>
1. <i>The Mayor – tasks and functions</i> .....	5
2. <i>The Board of Directors – composition and responsibilities</i> .....	7
3. <i>The Municipal Civil Service</i> .....	9
4. <i>Potential implications on the municipal budget</i> .....	11
<b>C. Conclusions</b> .....	<b>12</b>
<b>D. Recommendations</b> .....	<b>13</b>

## Executive Summary

Local governments are one of the main foundations of any democratic system. Local self-government represents the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.<sup>1</sup> In order to ensure a functioning local self-government, the relevant legal framework has to be fully and timely implemented.

This report provides an assessment of the current status of the municipal executive branch in view of the implementation of United Nations Interim Administration in Kosovo (UNMIK) Regulation 2007/30 amending UNMIK Regulation No. 2000/45 on Self-Government of Municipalities in Kosovo (UNMIK Regulation 2007/30).<sup>2</sup> It is the result of a recent survey undertaken by the OSCE Mission in Kosovo (OSCE), and refers to the situation as it was on 11 March 2008.<sup>3</sup>

The report has been written to assess the establishment of the executive branch of the local government and to facilitate a good understanding of its functions and roles in the context of the changes foreseen by UNMIK Regulation 2007/30. It attempts to appraise the actual situation in the executive branch of Kosovo municipalities and to identify areas which need further attention.

In general, the assessment shows that the Kosovo municipalities have largely established the new executive structure. The main exceptions are the municipalities of Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok, which continue to work under the previous structure, and Štrpce/Shtërpçë which shows reluctance to implement UNMIK Regulation 2007/30.

In view of the discussions regarding a future law on local self-government, municipalities try to find efficient solutions which apply to both UNMIK Regulation 2007/30 and the new draft law currently under discussion. The OSCE believes that the preliminary passing of the new law on local self-government has created confusion among local interlocutors at this point of time and recommends to the municipalities to make an additional effort to implement the applicable legal framework.

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<sup>1</sup> Article 3, European Charter of Local Self-Government, Council of Europe, Strasbourg, 15 October 1985.

<sup>2</sup> Promulgated on 16 October 2007.

<sup>3</sup> During the time of drafting this report further progress is likely to have taken place with respect to the implementation of UNMIK Regulation 2007/30.

## A. Introduction

The OSCE is mandated to support and promote the principles of good governance in Kosovo, and carries out activities to strengthen local governance through proactive monitoring of municipal compliance with the applicable legal framework and good governance standards.

UNMIK Regulation 2007/30 amending UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo established a new legal framework for Kosovo municipalities requiring changes in both legislative and executive municipal structures after the Kosovo 2007 elections. Correct and timely implementation of these changes is essential to advance the decentralization process in Kosovo.

The present report is the second OSCE report on the implementation of UNMIK Regulation 2007/30.<sup>4</sup> It assesses changes in the municipal executive structure following the political decision to introduce directly elected mayors in October 2007. The report looks at the new post of the Mayor, the duties and responsibilities of the Board of Directors, and the municipal civil service. At the same time, the report examines how the changes in municipal structures have affected the municipal budget.

The report aims to provide an overview of the current municipal executive branch, supporting a sustainable system of government at the local level. The basis for the report consists of data provided by the OSCE assessing the situation in all 30 Kosovo municipalities,<sup>5</sup> through, *inter alia*, interviews conducted with municipal officials and other stakeholders.

The report first looks at the responsibilities and tasks of the mayors in Kosovo, and describes the composition and responsibilities of the boards of directors. It then assesses the establishment of the new structure of the municipal civil service and touches upon basic budgetary questions. The report closes with conclusions and a set of recommendations.

This report is oriented towards the general public, the Kosovo institutions, municipal officials, UNMIK, and other international presence in Kosovo as well as the donor community and non-governmental organizations. It can be used as a reference in the ongoing decentralization process in Kosovo and as a tool to assist all actors engaged in local governance in general and local governance reform. Separately, it serves as an

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<sup>4</sup> The present report does not follow but complements the first OSCE report on the Municipal Inaugural Session and the Set-up of the New Municipal Structure according to UNMIK Regulation 2007/30, available at [http://www.osce.org/kosovo/documents/mik/2008/03/29999\\_en.pdf](http://www.osce.org/kosovo/documents/mik/2008/03/29999_en.pdf), which assessed the inaugural steps implementing the new municipal arrangements and focused on the legislative branch.

<sup>5</sup> UNMIK Regulation 2007/30 does not apply to Pilot Municipal Units which were established by Administrative Direction 2005/11, On Pilot Projects Implementing UNMIK Regulation No. 2000/45 on Self-Government of Municipalities in Kosovo, on 20 July 2005 as amended with Administrative Direction 2007/13, on 19 December 2007. Therefore, they are not included in this report.

indicator allowing for an educated estimation on how long future decentralization measures might take to be implemented.

## **B. Implementation of UNMIK Regulation 2007/30**

This chapter presents the implementation of UNMIK Regulation 2007/30 in the executive branch of Kosovo municipalities. It first explains the legal requirements followed by a description of the actual situation and a brief conclusion.

### *1. The Mayor – tasks and functions*

The most substantial change in the new municipal set-up is the introduction of the Mayor as the directly-elected head of the municipality.<sup>6</sup> UNMIK Regulation 2007/30 defines the competences and responsibilities of the Mayor.<sup>7</sup> She/He shall serve as the Chairperson of the Municipal Assembly, the Chairperson of the Board of Directors, and the Chairperson of the Policy and Finance Committee. The Mayor is not a member of the Municipal Assembly and thus does not have a regular vote. However, as the Chairperson of the Municipal Assembly and the Policy and Finance Committee, the Mayor has a casting vote if an equal number of votes is cast for and against a proposal.

The Mayor shall also be responsible for the implementation of regulations and decisions by the Municipal Assembly and shall ensure the protection of the rights and interests of communities. Furthermore, the Mayor is responsible for the financial administration of the municipality, including the proposal of the annual budget to the Municipal Assembly. The Statute and the Rules of the Procedure, adopted by the Municipal Assembly, can assign further responsibilities to the Mayor.<sup>8</sup>

The general assessment reveals that in all Kosovo municipalities the mayors have sworn a solemn oath or declaration of office before the members of the Municipal Assembly. Subsequently, all mayors are in full charge of their offices and are performing their duties as Chairpersons of the Municipal Assemblies and of the Boards of Directors. The vast majority of Kosovo mayors are also performing their duties as Chairpersons of the Policy and Finance Committees. Exceptions are Štrpce/Shtërpçë and the three northern-most municipalities Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok, which are hesitant to restructure their governmental organization according to UNMIK Regulation 2007/30.<sup>9</sup> The appointed Mayor in Štrpce/Shtërpçë (a member of the Kosovo Serb community) is not performing his duties as he discontinued co-operation with the Kosovo institutions as of 17 February 2008. The appointed mayors of Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok are not complying with UNMIK Regulation 2007/30 and the respective executive decisions, while the municipalities are still functioning as under the municipal structure in the previously-applicable law.

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<sup>6</sup> Section 1.1 (w), UNMIK Regulation 2007/27 on Municipal Elections in Kosovo.

<sup>7</sup> Section 27 and 22.2, UNMIK Regulation 2007/30.

<sup>8</sup> See: *Guide on Municipal Statutes*, OSCE Mission in Kosovo, December 2007.

<sup>9</sup> In these municipalities the Special Representative of the Secretary General has not certified the results of the 2007 November elections. The respective municipal assemblies and mayors were constituted/appointed by UNMIK Executive Decisions 2007/60, 2007/61, 2007/62 and 2007/64.

In 26 Kosovo municipalities, mayors have chaired the Municipal Assembly sessions (on average, two or three have been organized up to now) and are regularly chairing meetings of the Board of Directors. In those cases, where the Policy and Finance Committee is in place and has had its first meetings, the Mayor is in full charge of his functions as its Chairperson.<sup>10</sup>

In general, the mayors have quickly adapted to their new tasks and have started performing their duties. In addition, some of them are proactively promoting inter-community dialogue.<sup>11</sup> However, in some cases the mayors do not take enough efforts to provide the desirable level of transparency envisaged by UNMIK Regulation 2007/30 nor did they provide any justification for exclusions of the public.<sup>12</sup> In Kaçanik/Kaçanik, the reviewed budget for 2008 was approved by the Mayor, bypassing the Policy and Finance Committee and the Municipal Assembly which is the only responsible authority for the budget approval.<sup>13</sup> The OSCE also observed a case where the Mayor splits his executive duties between himself and the Vice-Chairperson of the Municipal Assembly, thus wrongfully giving executive power to the legislature, as the Vice-Chairperson should only call and preside over the sessions of the Municipal Assembly in the absence of the Mayor.<sup>14</sup>

The good relationship between the Mayor as the highest executive body on the one side and the Municipal Assembly as the highest municipal legislative body on the other side is essential for the smooth functioning of a municipality. This becomes most evident in the case of Podujevë/Podujevo where the Mayor belongs to a political party which is not the biggest party in the Municipal Assembly. In combination with a lack of political sensibility this situation caused a political stalemate leading to a setback in the establishment of the new municipal structure. Although the Podujevë/Podujevo Mayor was performing his duties as the Chairperson of the Assembly as from the beginning, he reportedly disregarded establishment of municipal structures showing lack of flexibility. Only in mid-March, the Podujevë/Podujevo Municipal Assembly established the Policy and Finance Committee and appointed four municipal directors.<sup>15</sup>

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<sup>10</sup> Novobërdë/Novo Brdo and Istog/Istok have not yet established the Policy and Finance Committee, while in Podujevë/Podujevo, Kamenicë/Kamenica, Gjakovë/Đakovica, Dragash/Dragaš this Committee has not met yet.

<sup>11</sup> E.g., the Mayor of Skenderaj/Srbica, apart from his regular tasks and functions, is very much engaged in trying to foster the relations with the Kosovo Serb inhabitants. He conducts regular meetings and pays visits together with KFOR, UNMIK and the OSCE to the Kosovo Serb community in Banja/Bajë and Suvo Grlo/Syriganë.

<sup>12</sup> Section 7.1, UNMIK Regulation 2007/30 stipulates that public and media shall be admitted to all meetings of the Municipal Assembly and its committees, as well as all meetings of the Board of Directors. However, in Kamenicë/Kamenica for example, public and media were never informed about those meetings (like the preparation/revision of the project priority list, which will be presented to the Municipal Assembly).

<sup>13</sup> According to Section 11.3 (a), UNMIK Regulation 2007/30, the Municipal Assembly may not delegate its responsibility for decisions concerning the approval of the municipal budget. Section 27.4 UNMIK Regulation 2007/30 authorises the Mayor to propose the budget to the Municipal Assembly for its adoption.

<sup>14</sup> Section 13.2, UNMIK Regulation 2007/30. In Ferizaj/Uroševac, there seems to be confusion as to the role of the Vice-Chairperson of the Municipal Assembly who is convinced that should be the second person of the municipal executive.

<sup>15</sup> Only recently, upon intervention of OSCE and UNMIK Department of Civil Administration representatives, the Podujevë/Podujevo Municipal Assembly members formed a coalition that

To summarize, the mayors have in general adapted well to their new role, show good leadership skills and, with some exceptions, demonstrate a good apprehension of the functioning of municipal bodies.

## *2. The Board of Directors – composition and responsibilities*

UNMIK Regulation 2007/30 introduced a politically appointed Board of Directors as a part of the executive branch of the municipality.

The Board of Directors is composed of the directors of the municipal departments, who are appointed by the Mayor in consultation with the Municipal Assembly. The Head of the Community Office is an ex-officio member of the Board of Directors. In contrast to their previous status as civil servants, the members of the Board of Directors are now political appointees. The Board of Directors together with the Mayor constitute the “government of the municipality.” It is responsible for implementing regulations and decisions of the municipality and for assisting the Mayor in initiating municipal legislation as well as assisting the Municipal Assembly and its committees in the decision making process. The Board of Directors assists the Mayor in setting the political agenda of the municipality and implementing decisions of the Municipal Assembly, thereby taking political decisions. A Director may be assigned supervisory competencies for more than one Municipal Department.<sup>16</sup>

The assessment reveals that the new directors of municipal departments have been appointed in all Kosovo municipalities except for Shtërpçë/Štrpce and the three northern municipalities.<sup>17</sup> The number of members of the Board of Directors varies, as the number of municipal departments differs from one municipality to another. The ethnic composition of the Board of Directors usually does not reflect the community composition of the municipality; positive exceptions to this situation are Lipjan/Lipljan and Dragash/Dragaš.<sup>18</sup>

Almost all directors appointed while being members of the respective Municipal Assemblies have resigned or are in the process of resigning from their mandate in the Assembly,<sup>19</sup> suggesting an increasing understanding of the principle of separation of powers.<sup>20</sup> Conversely, Prishtinë/Priština and Podujevë/Podujevo stand out as opposite

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enabled forming the municipal structure: the Policy and Finance Committee and the Communities Committee were established, four Directors of the municipal Departments were appointed, as well as the acting Head of Administration and Personnel, and the commission to work on amendments to the Municipal Statute was formed.

<sup>16</sup> Sections 23.13, 27.3, 29 and 30.2, UNMIK Regulation 2007/30.

<sup>17</sup> Štrpce/Shtërpçë, Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok have not appointed Directors of the municipal departments in accordance with UNMIK Regulation 2007/30.

<sup>18</sup> An unfortunate example is Prizren, with approximately 22% of the population belonging to minority communities. There, only one director, out of ten directors appointed, belongs to a non-majority community.

<sup>19</sup> Glogovc/Glogovac, Viti/Vitina, Novobërdë/Novo Brdo, Ferizaj/ Uroševac, Kamenicë/Kamenica Kačanik/Kaçanik, Prizren, Gjakovë/Đakovica, Malishevë/Mališevo, Rahovec/Orahovac, Suharekë/Suva Reka and Klinë/Klina.

<sup>20</sup> Section 32.7, UNMIK Regulation 2007/30 explicitly states that the Head of a Municipal Department, Office or section may not be a member of the Municipal Assembly in the municipality that employs them, while Section 17.4 stipulates that members of the Municipal Assembly shall not be employed in any supervisory position by the municipality.

examples in this regard. The directors of departments of education and health and social welfare in Prishtinë/Priština are at the same time Municipal Assembly members. The same applies for the recently appointed Director of Department of Health and Social Welfare in Podujevë/Podujevo.

In most cases, each Director is supervising one department.<sup>21</sup> In Prishtinë/Priština, however, a full allocation of departments has not yet taken place.

Only in 18 Kosovo municipalities the Board of Directors has met in its full composition. In addition, in some municipalities the directors have seemingly insufficient understanding of their roles and responsibilities as they apply the previous set-up of the Board of Directors when they headed the municipal departments as civil servants. As a result, some of the newly appointed directors perceive their new role as continuity of the previous post of the departmental heads, and do not perceive themselves as the decision-making body.<sup>22</sup>

The vast majority of Boards of Directors meet on a weekly basis.<sup>23</sup> The OSCE has observed some practices that tend to exclude the public from Board of Directors meetings, although all meetings of Boards of Directors should be open to the public.<sup>24</sup> Sometimes, Boards of Directors meet without a previously determined agenda, and in some cases Mayors only verbally proposes the agenda at the beginning of the meetings.<sup>25</sup>

In Štrpce/Shtërpçë no director was appointed until 17 February 2008, and the Board of Directors was operating under the previous structure. This conduct was meant to be only temporary until the Municipal Assembly would be fully composed and thus able to establish all bodies envisaged by UNMIK Regulation 2007/30. However, the declaration of independence on that date increased political tension in particular with regard to the co-operation with Kosovo institutions, which, in turn, has also affected the establishment of the new Board of Directors.

In the municipalities of Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok UNMIK Regulation 2007/30 is not applied at all.<sup>26</sup> There, the function of the Board of Directors has not changed after promulgation of UNMIK Regulation 2007/30.

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<sup>21</sup> Only in Kaçanik/Kaçanik and Mitrovicë/Mitrovica some directors supervise two or more departments.

<sup>22</sup> In Gjilan/Gnjilane, the directors have expressed confusion over the position of heads of departments. They simply report to the Mayor on the activities and consult on challenges facing their departments. In Kamenicë/Kamenica, the directors mostly take their role as sole supervisors of the departments and their respective staff, but are inactive as members of the Board of Directors.

<sup>23</sup> Exceptions are Fushë Kosova/Kosovo Polje, Kaçanik/Kaçanik, Prizren, Suharekë/Suva Reka, Skenderaj/Srbica with bi-weekly meetings, as well as Pejë/Peć and Shtime/Štimlje where the regular meetings are held only once per month.

<sup>24</sup> Sections 7.1 and 7.3 UNMIK Regulation 2007/30. However, in Kaçanik/Kaçanik, there is a practice of daily meetings of the Mayor with the Board of Directors which tend to exclude the public from the decision making process. In Prizren, usually a so-called “pre-Board” meeting takes place behind closed doors. In Viti/Vitina, the Board of Directors has every day consultative meeting, but just recently started with the official meetings.

<sup>25</sup> Gjilan/Gnjilane and Malishevë/Mališevo.

<sup>26</sup> See also the OSCE report on the Municipal Inaugural Session and the Set-up of the New Municipal Structure according to UNMIK Regulation 2007/30, Chapter C, available at [http://www.osce.org/kosovo/documents/mik/2008/03/29999\\_en.pdf](http://www.osce.org/kosovo/documents/mik/2008/03/29999_en.pdf).



To conclude, the new Board of Directors although established in the majority of Kosovo municipalities is still not fully composed in some of them. There is confusion regarding the new role, and sometimes a wrong perception that the Board of Directors is a part of the civil service prevails. In some municipalities there is a need to increase public transparency of the work of the Board of Directors.

### *3. The Municipal Civil Service*

The municipal departments shall be established by the Municipal Statute and shall include the Department of Administration and Personnel, the Department of Health and Social Welfare, the Department of Education and Culture, the Department of Finance, Economy and Development, the Department of Urban Planning, Cadastre and Environmental Protection, the Municipal Community Office, and other departments as deemed necessary.

Section 32 of UNMIK Regulation 2007/30 envisages that the administrative staff shall form the municipal civil service. Each municipal department comprising municipal civil servants shall have a head who is recruited in accordance with the civil service legal framework. The highest municipal civil servant is the Head of the Department of Administration and Personnel, who shall be appointed by the Municipal Assembly in conformity with the procedure for selection and recruitment of senior civil servants. The Head of the Department of Administration and Personnel shall be the Chief of Staff in regard to the municipal civil service and shall act as a Secretary to the Municipal Assembly and a Secretary to the Board of Directors.<sup>27</sup>

As an integral part of the municipal administrative structure a Community Office, enhancing the protection of community rights and ensuring equal access to public services, shall be established in those municipalities where a community that is not in the majority forms a substantial part of population.<sup>28</sup> The Framework Convention for the Protection of National Minorities, which is indirectly applicable in Kosovo,<sup>29</sup> applies to “areas inhabited by persons belonging to national minorities traditionally or in substantial numbers.”<sup>30</sup> Due to the lack of an up-to-date census in Kosovo, the issue of accurate population data including the number of members of minority communities remains open. On the other hand, for traditionally represented communities the “substantial numbers” requirement does not apply, since the requirement applies alternatively for such traditionally-represented communities.

In the previous municipal structure, the highest civil servant was the Chief Executive Officer.<sup>31</sup> However, the post of the Chief Executive Officer is not envisaged by UNMIK Regulation 2007/30, as the functions related to this post are now entrusted to the Head of the Department of Administration and Personnel or to the Mayor.

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<sup>27</sup> Sections 29.5, 32, and 33, UNMIK Regulation 2007/30.

<sup>28</sup> Section 23.10 to 23.13, UNMIK Regulation 2007/30.

<sup>29</sup> Section 3.2 (h), UNMIK Regulation 2001/9 on the Constitutional Framework for Provisional Self-Government in Kosovo.

<sup>30</sup> Articles 10.2, 11.3, and 14.2 including the general right to effective participation in Article 15, Framework Convention for the Protection of National Minorities, European Treaty Series - No. 157, Council of Europe, Strasbourg 1 February 1995.

<sup>31</sup> Section 30, UNMIK Regulation 2000/45.

Most municipalities have established or restructured their departments due to UNMIK Regulation 2007/30, creating at least four or five of the six mandatory departments,<sup>32</sup> 18 of them have established all mandatory municipal departments.<sup>33</sup> Only Shtërpçë/Štrpçe and the three northern municipalities refuse to change the departmental structure. However, the majority of municipalities have not named their departments according to UNMIK Regulation 2007/30. In six municipalities there is no department responsible for environmental protection and six municipalities have not yet set up a Department of Administration and Personnel.<sup>34</sup>

Only five municipalities have not yet established a Municipal Community Office.<sup>35</sup> Its staffing varies from only one employee in Shtime/Štimlje to 17 in Gjilan/Gnjilane and 30 in Prishtinë/Priština.

In none of the Kosovo municipalities has the head of department been recruited<sup>36</sup> and the recruitment process for the senior civil servants has started in only four municipalities.<sup>37</sup> The reasons are manifold. In some municipalities, the officials claimed they had received contradictory information about the recruitment procedure and about alleged budgetary constraints. Therefore, they wait for instructions by the Ministry of Local Government Administration.<sup>38</sup> Other municipal officials argue that a new law on local self-government (supposedly soon to enter into force) would require a new structure of the civil service, thus leaving the whole recruitment process dispensable. Others see a need to first amend the municipal statutes before starting with the hiring process.<sup>39</sup> In the remaining municipalities the recruitment process simply needs more time than envisaged.<sup>40</sup> A considerable number of municipalities also report negative intervention from different ministries for various alleged reasons.<sup>41</sup>

On the other side, the majority of municipalities (16) have recruited and appointed the Head of the Department of Administration and Personnel. All others expect to finish the recruitment procedures within the next days. As the only exception, in Prizren the recruitment process did not start until mid of March 2008. None of the appointed

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<sup>32</sup> Section 29.1, UNMIK Regulation 2007/30.

<sup>33</sup> Only Gjilan/Gnjilane, Viti/Vitina, Novobërdë/Novo Brdo, Ferizaj/Uroševac, Prizren, Gjakovë/Đakovica, Dragash/Dragaš and Vushtrri/Vučitrn have established all municipal departments.

<sup>34</sup> Prishtinë/Priština, Obiliq/Obilić, Lipjan/Lipljan, Podujevë/Podujevo, Shtime/Štimlje, Fushë Kosovë/Kosovo Polje.

<sup>35</sup> Glogovac/Glogovac, Podujevë/Podujevo, Malishevë/Mališevo, Kačanik/Kaçanik and Suharekë/Suva Reka; worth mentioning is that the establishment of a Municipal Community Office was already mandatory under UNMIK Regulation 2000/45.

<sup>36</sup> Section 29.5 UNMIK Regulation 2007/30.

<sup>37</sup> Gjakovë/Đakovica, Obiliq/Obilić, Malishevë/Mališevo and Novobërdë/Novo Brdo; in Suharekë/Suva Reka some of the Heads of Department were appointed by the former Chief Executive Officer after the official certification of the local elections, therefore, not in accordance with UNMIK Regulation 2007/30.

<sup>38</sup> E.g., Kamenicë/Kamenica and Ferizaj/Uroševac.

<sup>39</sup> E.g., Pejë/Peć.

<sup>40</sup> Novobërdë/Novo Brdo had to repeat the advertisement due to a lack of qualified candidates.

<sup>41</sup> In Deçan/Dečane the Ministry of Local Government Administration was even reported to having instructed the municipal official not to recruit heads of departments; there was also intervention on the part of the Ministry of Economy and Finance under the pretext that the municipalities could not increase the number of employees or that there were not enough funds available.

heads of the Department of Administration and Personnel is at the same time a member of the Municipal Assembly of the same municipality.

In ten cases, the former Chief Executive Officer is not working any more within the new municipal structure. In most other cases she/he is acting Head of the Department of Administration and Personnel. Five former Chief Executive Officers are now elected Mayor and two of them are now elected Municipal Assembly members.<sup>42</sup> Interestingly, the former Chief Executive Officer of Mitrovicë/Mitrovica is holding the office of the Minister of Local Government Administration with the former Chief Executive Officer of Klinë/Klina as his Deputy.

The OSCE welcomes the structural development within the local civil service, but notes that UNMIK Regulation 2007/30 is not being followed in many cases as regards the recruitment of heads of municipal departments. The OSCE believes that the Kosovo ministries should not intervene in the recruitment procedures, as this would go beyond their supervisory powers. Although the names of the municipal departments as stipulated in UNMIK Regulation 2007/30 are not a first priority, the activities and tasks of the departments should include each sector mentioned in Section 29.1 of UNMIK Regulation 2007/30.

Finally, it is unfortunate that the Assembly of Kosovo approved a non-applicable potential future law on local self-government before the applicable one only recently promulgated in October 2007 had been implemented. By doing so, so soon after the promulgation of UNMIK Regulation 2007/30 and before its full implementation, the Assembly has effectively sowed confusion among municipal governments as to whether they should implement the currently applicable law.

#### *4. Potential implications on the municipal budget*

The municipal budget shall contain a plan for municipal activities and economic management during the fiscal year, and shall include all revenue estimates, capital expenditure and current expenditure of the municipality in order to allocate funds available to meet the expenditure requirements of the municipality. Financial transfers shall be made to the municipality by the Government through the Ministry of Finance and Economy.<sup>43</sup> The Policy and Finance Committee and the Mayor shall be responsible for proposing the budget to the Municipal Assembly. The latter is responsible for the approval of the budget.<sup>44</sup>

All Kosovo municipalities have approved the budget for 2008. As a general pattern, the 2008 budget was prepared by the former municipal leadership and has been approved at the end of 2007 within the previous Municipal Assembly mandate. However, not all municipalities have received respective financial transfers. For example Prishtinë/Priština municipality has received transfers only for goods and services, but not for the capital investments, while some other municipalities receive transfers on a monthly or quarterly basis.

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<sup>42</sup> In Shtime/Štimje, Fushë Kosovë/Kosovo Polje, Kamenicë/Kamenica, Gjakovë/Đakovica and Malishevë/Mališevo the former Chief Executive Officers are now Mayors, while in Prishtinë/Priština and Prizren they are now members of the Municipal Assembly.

<sup>43</sup> Sections 37 and 38, UNMIK Regulation 2007/30.

<sup>44</sup> Sections 11.4, 22.1, and 27.4, UNMIK Regulation 2007/30.

The new municipal structure has considerable financial implications and, therefore, requires changes in the budget which was prepared based on 2007 projections, without taking into account changes envisaged with UNMIK Regulation 2007/30. However, it seems that the Ministry of Economy and Finance does not allow the budgetary changes until the mid-year review. As a result, in some municipalities the directors have not received their salaries since their appointment, while in others directors, although now political appointees, continue to receive their previous salaries of municipal civil servants.<sup>45</sup> Some municipalities requested instructions from the Ministry of Economy and Finance on how to proceed under the new circumstances, while others requested clarifications from the Ministry of Local Government Administration.<sup>46</sup>

The Kosovo-wide survey gives the general impression that, in view of the budget implications of the new set-up, municipalities are delaying the implementation process until a new law on local self-government may enter into force.

### **C. Conclusions**

UNMIK Regulation 2007/30 has been implemented in large parts in the executive branch of most Kosovo municipalities. However, virtually no implementation of the new municipal structure is taking place in Štrpce/Shtërpçë and the three northern municipalities of Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok.

All directly elected mayors have sworn a solemn oath or declaration of office before the members of the Municipal Assembly and are in full charge as chairpersons of the Municipal Assembly, the Policy and Finance Committee and the Board of Directors.

Although the new Boards of Directors have been established in 26 municipalities, most of them are not fully staffed and have not yet met in their full compositions. The directors sometimes lack a full understanding of their new double-hatted role as supervisors of the municipal departments and members of the Board of Directors which should serve as a forum for discussing local issues – usually open to the public.

The majority of municipalities did not use the names of departments as established by UNMIK Regulation 2007/30 and there is not a single Kosovo municipality that has fully established the new municipal civil service. Although more than a half of Kosovo municipalities have established or restructured municipal departments and the majority of them have recruited and appointed the Head of the Department of Administration and Personnel, no Kosovo municipalities has recruited the heads of departments.

The vast contrast between Štrpce/Shtërpçë and the three northern municipalities of Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok on the one side and the other 26 municipalities suggests the following evaluation. The first four municipalities refuse to comply with UNMIK Regulation 2007/30 for political reasons. While the

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<sup>45</sup> E.g., Fushë Kosovë/Kosovo Polje and Malishevë/Mališevo.

<sup>46</sup> E.g., Kamenicë/Kamenica and Malishevë/Mališevo.

three northern municipalities have always refused co-operation with the Kosovo Institutions of Provisional Self-Government, Štrpce/Shtërpçë has boycotted any further observance of instructions and laws since the declaration of independence.

As regards the remaining 26 municipalities the causes for non-compliance and sometimes slow pace of implementation are of a different kind. First, UNMIK Regulation 2007/30 was promulgated only shortly before the local elections in November 2007, leaving little time for the newly elected officials to make themselves familiar with the new structure. In addition, the implementation process was slowed down by Kosovo Serb officials and civil servants not reporting to work after the declaration of independence. Moreover, the Assembly of Kosovo recently approved a future law on local self-government, which it envisaged to be promulgated after the end of a transitional period under a constitution of Kosovo. This draft Law foresees certain changes to the existing legal framework. Therefore, most municipalities are reluctant to implement provisions on the municipal set-up that are not foreseen in the new legal framework.<sup>47</sup> Furthermore, Kosovo municipalities are currently operating under a budget which was prepared without taking into account the new changes of the municipal structure envisaged by UNMIK Regulation 2007/30.

To summarize, the process of the establishment of the new municipal executive structure under UNMIK Regulation 2007/30 differs very much between two groups of Kosovo municipalities (those with a Kosovo Serb majority community and those without) but also as regards the different municipal bodies – the Mayor and the Board of Directors on the one side, and the municipal civil service on the other. While the executive branch is established at the local level, the major concern is the non-implementation of provisions regulating the civil service. This concern stems from the rapidly changing legal environment in Kosovo which, combined with arbitrary perceptions on future legal developments, results in insufficient attention being paid to the municipal civil service.

The OSCE welcomes the structural development within the local civil service, but considers that the municipal authorities cannot apply a selective approach in implementation of UNMIK Regulation 2007/30. As long as the regulation is in force, it should be applied in its entirety.

## **D. Recommendations**

The OSCE approves of positive developments in the new arrangements of the municipal executive branch in Kosovo. In those areas, for which room for further improvement has been identified, the OSCE provides the following recommendations:

### **Recommendations to municipalities**

- The mayors, as the chairpersons, should ensure regular meetings of the Policy and Finance Committee, in particular in the municipalities where the Policy and Finance Committee has not met thus far.

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<sup>47</sup> Especially as regards the recruitment of the heads of departments and the function of the directors.

- The mayors should take responsibility to adhere strictly to the separation of powers, especially with regard to the adoption of the municipal budget.
- The mayors, as the chairpersons, should ensure regular meetings of the Board of Directors and encourage all its members to participate in the discussion. The meetings should have a determined agenda and be open to the public.
- The municipality shall ensure that functions of positions newly established in UNMIK Regulation 2007/30 are carried out in an interim capacity as long as the recruitment process is pending. This should not release municipalities from the obligation to initiate the recruitment process.
- The mayors, in consultation with municipal assemblies, should appoint all directors of the municipal departments, reflecting the community composition of the municipality.
- The municipalities of Prishtinë/Priština and Podujevë/Podujevo should ensure that the appointed directors are not at the same time Municipal Assembly members.
- Municipalities should recruit the heads of municipal departments in order to ensure the full functionality of the municipal civil service.
- The municipalities together with the Kosovo institutions should ensure that the mid-year review of the budget includes the necessary changes to fully establish the new municipal executive branch, including new arrangements in the civil service.

#### **Recommendations to the Ministry of Local Government Administration**

- The Ministry of Local Government Administration should encourage the Kosovo municipalities to recruit the heads of municipal departments to avoid selective application of the UNMIK Regulation 2007/30.
- The Ministry of Local Government Administration should co-operate with the Ministry of Public Services in areas of municipal civil service, taking into account the latter's competences under UNMIK Regulation 2001/36.

#### **Recommendations to the Ministry of Finance and Economy**

- The Ministry of Finance and Economy should make sufficient financial transfers to the Kosovo municipalities to enable the full establishment of the new municipal structure.