Discussion Paper: Kosovo Civil Service Reform

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Introduction

It is noteworthy to mention that civil service system is an important tool for an efficient administration and development-oriented state. In this vein, many authors recognize that the bureaucracy is a mechanism that: ‘...stands ready to provide an appropriate category of solutions through an appropriate set of standardized skills’.

While the 2010 Law on Civil Service intended to provide for a merit-based, professional, sustainable, and efficient civil service system, high levels of political influence and formal political discretion over the employment status and policy orientation of the civil service and an unsuitable and unstandardized training and evaluation system continue to prevent the emergence of a merit-based and professional civil service system in Kosovo. This pattern is comparable with many post-communist countries’ efforts to establish a specialized civil service system. In such cases, the reforms of the administration varied between two competing models; on the one hand models that aimed to establish a civil service system based on political oriented management, or on the other, models that aimed to create a civil service system based on merit, career and professional values.

In addition, and given these differences, the legal guarantees that regulated procedures related to recruitment, promotion and dismissal have in particular preconditioned the level of professionalism and efficiency of a given civil service system in those countries. Consequently, in this report, a special attention will be devoted to the model that Kosovo’s legislation governing civil service puts in place to protect and orient the relations between political appointees and civil servants.

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In Kosovo, the current legislation safeguards a largely politicized system within the civil service in regards to the recruitment, promotion, and appointment of senior managing officers. In general, regulating and de-politicizing the procedures for recruitment, appointment, and promotion of civil servants is an important tool to ensure and enhance the professionalism, merit and capabilities of civil servants. In addition, training and education that will ensure the merit and enhance the principles of professionalism and capabilities of civil servants must as well be improved. Protection mechanisms that support career-based civil service, reduce rates of turnover, and diminish political influence and control over civil servants are, as a result, crucial.

Many authors still argue that Kosovo ‘is the only country in the region that does not yet have a fully functioning civil service law subject to implementation’. An absence of proper and standardized training which could ensure the merit and capacity of civil servants leaves room for political influence in cases of appointment and promotion. In Kosovo’s current civil service system, the independence of the civil service is compromised by incumbent political parties and governments influence over the administration of the civil service. Of general note is the fact that the law guarantees a leading and dominant role for the government in the management of the civil service, in contrast to the roles of other institutions, especially the Parliament.

It appears as a common practice that the civil service system is being utilized as a tool to employ loyal partisans and provide positions and financial support for those civil servants who align and support the government and incumbent political parties. This trend limits the merit, capacity and professionalism of the civil service and puts pressure on the national budget. Moreover, the lacking abilities and professionalism of some civil servants inhibits the civil service system from properly supporting a functioning government that represents and meets the needs of the people.

Kosovo’s civil service remains excessively large, with unsatisfactory credentials, merit, training and credentials, underpaid in many cases, and politicized. The current civil service system in Kosovo leaves many gaps wherein central institutions go beyond the “limits of the institutional autonomy of the local institutions, the judiciary, the executive agencies, and the independent regulatory offices”. While the 2012 Law on Civil Service supported a more diverse civil service in regards to gender and ethnic demographics, much work remains on the path towards a depoliticized, demographically diverse, merit-

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6 It should however be noted that almost all post-communist civil service systems have produced features, ‘which include, along with the centralized management system, an insufficient concern for efficiency, corruption, partisanship, and partiality, as well as marked secrecy and un-market practices’. See for more Sevic, Z., and Rabrenovic, A., (1999). The Civil Service of Yugoslavia: Tradition vs. Transition. In T. Verheijen (Ed.) Civil Service Systems in Central and Eastern Europe (pp. 47–85), Cheltenham and Massachusetts: Edward Elgar Publishing.
7 According to Shepherd, the ‘public employement welfare’ this is a common developed practice were incumbent political parties use the civil service sector as a tool to attract political support. See for more: G. Shepherd, ‘Civil Service Reform in Developing Countries: Why Is It Going Badly?’ Paper presented at the 11th International Anti-Corruption Conference 25-28 May 2003, Seoul, Republic of Korea.
based, efficient and effective civil service system. Not only must Kosovo strengthen the civil service legislation and system to eradicate political interference and clientelism, but Kosovo must enshrine the European principles of civil service into the current legislation and system in order to progress on the path towards European integration and negotiating a Stabilization and Association Agreement with the EU.

The following report identifies characteristics of the current legislation and civil service system, identifying areas where Kosovo strays from and the path towards a politically-independent, career-based, professional, well-trained, and efficient civil-service system.

**Civil Service Legal Framework**

*General description of Civil Service Legal Framework*

The current law on civil service designates a civil servant as a “person employed to exercise public administrative authority... who participates in making and implementation of policies”. The 2010 civil service law enshrines the principles of “legality, non-discrimination, effectiveness and efficiency, accountability, impartiality and professionalism, transparency, and the principle of equal opportunities for women and ethnic minorities”.

For the first time, the 2010 civil service law introduced a hierarchical system within the civil service, introducing four categories of positions within the civil service. The highest level of civil service is the “senior management level” which includes general secretaries (formerly, permanent secretaries) of an institution or chief executive officers (CEOs) of executive agencies; the second highest level is the “management level” which includes heads of departments or agency directors; the third highest level is the “professional level” which includes senior officers and administrative advisers; and, the lowest level of civil service is “technical-administrative level”.

Each position differs in regards to the duties, responsibilities and required qualifications, which makes manifest in the appointments of senior-managerial levels and managerial levels. In regards to career development, the 2012 legislation recognizes two civil service models, career-based and position-based models. The 2010 legislation applies an open-ended mandate for career-based positions and a maximum two-year mandate for non-career positions (after which the specific objective is accomplished or the position is refilled by a career-based civil servant position). Each civil servant goes through a process of recruitment; although due to high level of political influence, some find themselves in comfortable civil service positions easier than others. However, even within the ministries the application of the law on civil service varies. For example, the Ministry of Foreign Affairs, based on the Law on Foreign Service, entirely disregards the application of the rules of civil service when deciding on the employment of civil servants working in Kosovo Foreign Service.

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11 Law on the Civil Service of the Republic of Kosovo, No.01/L – 149. (2012). Art. 23, para. 1
12 Law on the Civil Service of the Republic of Kosovo, No. 03/L – 149. (2012). Art. 12, para. 1
13 See fore more Law on Foreign Service, art. 23.2, 35.1, and the Law on the Ministry of Foreign Affairs No. 03/L-207, art. 7.10 and 7.11.
Recruitment
Controlling and standardizing the process of recruitment of civil servants is one of the most critical steps that can challenge the role that political parties and politicians play in the structure, staffing and functioning of the civil service. A recent report acknowledges that ‘looking across the region, Kosovo’s recruitment system is the least capable of bringing about merit-based recruitment outcomes’.\(^{14}\) Legally, positions for non-senior-level civil servants are open to all. The current civil service system builds upon a decentralized employment model, wherein Personnel Units within each institution are responsible for the management and development of civil servants. These units recruit civil servants in cooperation with the Ministry of Public Administration.\(^{15}\) In regards to hiring, each institution must prepare a human resources admission plan and manage, organize and implement the recruitment procedures in cooperation with the Ministry for Public Administration.\(^{16}\) Ad-hoc committees, established by general secretaries, municipal mayors or CEO’s of institutions, are established to evaluate candidates for positions in the civil service.\(^{17}\) As such, it falls to the general secretaries of ministers, CEOs of executive agencies, and administrative heads in municipalities to initiate and manage the recruitment process within their institutions. As the government commonly appoints and dismisses general secretaries and CEOs based on political will, general secretaries serve as a medium through which the government and ministers influence the recruitment and appointment of many other civil servants. Though the news law has introduced some changes with regard to procedure for selection the candidates (especially in relation to the examination procedure), the latter is not expected to lead to fundamental changes.\(^{18}\)

Moreover, for every career position within the civil service that gets filled, the government must approve the civil servant.\(^{19}\) The appointment of civil servants within the executive branch also requires the approval of the government, which “not only violates the autonomy of Kosovo’s independent executive agencies and regulatory offices, it also positions the government as an important actor when it comes to the functioning of the independent institutions”.\(^{20}\)

Disciplinary Measures and Dismissal
Poor performance (two consecutive evaluations of poor performance) or a violation of the code of conduct are grounds for dismissal of non-senior level civil servants.\(^{21}\) A civil service member may only be dismissed after two consecutive evaluations of poor performance by a supervisor or by a disciplinary commission, established by the general secretary, Mayor or CEO of the relevant institution that must assess the violation of the code of conduct.\(^{22}\) In addition to the termination of contract or non-

\(^{14}\) Jan-Hinrik Meyer-Sahling (2012) ‘Civil Service Professionalisation in the Western’, SIGMA PAPER No. 48, p.33
\(^{15}\) Law No. 03/L–149 on the Civil Service of the Republic of Kosovo, art. 18, para. 8.
\(^{16}\) Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 18.
\(^{17}\) Law No. 03/L–149 on the Civil Service of the Republic of Kosovo, art. 18, para. 7.
\(^{19}\) Law No. 03/L–149 on the Civil Service of the Republic of Kosovo, art. 12, para. 3.
\(^{21}\) Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 87.
\(^{22}\) Law No. 03/L–149 on the Civil Service of the Republic of Kosovo, art. 70, para. 1 and 2.
continuation of contract due to poor performance or a violation of the code of conduct, civil servants may also be suspended from their position or demoted in grade and title.

The performance appraisal system, which will be discussed more thoroughly below, is largely based on subjective criteria rather than a standardized, objective and quantifiable evaluation metric, which leaves much room for political interference and partisan influence. If dismissed or disciplined, civil servants do have the opportunities to appeal to the Independent Oversight Board, which, as discussed later in the report, has the capacity to turn over the decisions of employing authorities but has itself problems with the implementation of its decisions and political interference.

**European Public Administration Principles embedded into the legislation regulating Kosovo’s Civil Service**

With Kosovo focused on European integration and, most immediately, achieving those objectives outlined in the feasibility study, it is critical that Kosovo embeds EU principles for civil service into Kosovo’s own civil service legislation and system.

The Kosovo civil service system is built upon a centralized management system directed primarily by the Ministry for Public Administration; this corresponds with most European civil service management systems. But the European Union requires multiple specific requirements relating to the civil service which include emphasizing the need to ensure that public administration is independent of the political authorities, improved and increased training mechanisms, bringing public sector pay in line with private sector pay. And, in the European Commission’s October 2012 Feasibility Study for Kosovo, the European Commission called for Kosovo to adopt secondary legislation on the Law on Civil Service and Wages as one of eleven objectives that Kosovo must achieve before beginning to negotiate a Stabilization and Association Agreement. In addition, very many European norms focus on differentiating the role of the civil servant from that of the political staff. This falls in line with the overall European goal of ensuring that the role of a civil servant is not political and that civil servants’ employment status should not depend on the government.

The table below reveals that the European Commission has repeatedly identified the weak public administration “as the main obstacle in building a sustainable and efficient system of fighting corruption, advancing the state-building process and efficiently carrying out legal, political and economic reforms”. This speaks for the fact that the reform of the civil service, with the aim of increasing its professionalism, capacity and independence, remains the core function that needs to be addressed by Kosovo in its association and stabilization phase.

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23 According to the SIGMA paper no. 27 "European Principles for Public Administration (1999)", these principles refer to: the separation of public administration from politics, the legal certainty and the proportionality of administrative decisions, the openness and transparency of administrative acts, the accountability of administrative bodies, the efficiency and effectiveness of public administration in achieving its goals.

24 Fournier in Sigma, 1998, p. 113
<table>
<thead>
<tr>
<th>Year</th>
<th>Addressing the Public Administration Reform (EC Progress Report(s))</th>
<th>EC Progress Report Assertions (through years)</th>
<th>Progress</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>NO</td>
<td>1. The administrative and financial capacity and the coordinating function of KIPA remain weak. This affects its capability to provide a more rational strategic approach to capacity-building for civil servants; 2. The skills of the civil service need to be significantly improved; 3. Civil servants continue to be vulnerable to political interference, corruption and nepotism.</td>
<td>Improve (I)</td>
</tr>
<tr>
<td>2011</td>
<td>YES</td>
<td>1. Public administration and the coordination capacity of public bodies in Kosovo continue to be weak; 2. Civil servants continue to be vulnerable to political interference, corruption and nepotism.</td>
<td>D</td>
</tr>
<tr>
<td>2010</td>
<td>YES</td>
<td>1. Further efforts are needed to reinforce the capacity of institutions in charge of public administration reform as well as to</td>
<td>D</td>
</tr>
<tr>
<td>2009</td>
<td>YES</td>
<td>1. Further efforts are needed to reinforce the capacity of institutions in charge of public administration reform as well as to</td>
<td>D</td>
</tr>
</tbody>
</table>

Figure 1: explaining the EC attitude toward civil service reform.

25 Figure from: Group for Legal and Political Studies. “For a professional public administration: An orientation toward strengthening the professional education of civil servants in Kosovo.” Policy Analysis No. 03/2011. (2011).
In order to align Kosovo’s legislation and civil service system with the *acquis*, it is critical that Kosovo implement secondary legislation and adopt additional secondary legislation relating to the civil service.

**Secondary legislation adopted and a general assessment on its adequacy**

The government has the “authority to adopt sub-legal acts relating to the procedures for the appointment of senior managerial positions, the implementation of special capacity-building programs,
the procedures for the implementation of admission procedures, the conditions for limiting the right to strike for specific services in the civil service, the regulation for the performance appraisal, the periods of probation, and for the appeals process and the resolution of disputes”.

The Law on Civil Service required the government to adopt secondary legislation on civil servant promotion procedures, leaving the government to decide on the principles and institutions that manage the promotion system.

The Assembly has adopted a number of important secondary laws relating to Kosovo’s civil service system. First, the Regulation No. 02/2010 on Recruitment Procedures in Civil Service defines the unique recruitment rules and procedures in the Civil Service of Kosovo, in accordance with the Law on Civil Service of the Republic of Kosovo. This regulation orders Personnel Units to develop competitive selection procedures for the purpose of recruitment of civil servants, requires applicants for career or non-career positions to pass a written and oral test developed in accordance with the regulation, ensures that all positions are open for candidates, and identifies the roles and responsibilities in the recruitment procedures.

Second, the Regulation No. 06/2010 on the Procedures for Appointments to Senior Management Positions in the Civil Service of the Republic of Kosovo outlines the procedures for appointment to senior management “for the purpose of transferring from the existing system to the new system of appointments to senior management positions”. The Regulation reiterates that appointments and promotions should be based on merit, outlines the policy obligations of the administration of the system of appointments – policy directions are determined by the government – and provides instruction regarding the Council on Senior Management Positions. According to the legislation, the Prime Minister appoints the members of the council which include deputy prime ministers, the minister of public administrator and finance, one minister from the communities, and three members from the ranks of general secretaries or equivalent positions. Clearly the role that the government plays in implementing and overseeing the appointment system for senior civil servants is excessive and challenges the independence and depoliticization of Kosovo’s civil service.

An additional critical piece of secondary legislation is the Regulation No. 07/2010 on Civil Servants Appointment which defines unique rules and procedures for civil servants appointments, places the Personnel Manager in charge of ensuring that the recruitment procedure was carried out properly, and identifies the legal instruments for civil service appointment. However, as this report will show, these secondary pieces of legislation have a long way to go in ensuring that recruitment and appointment procedures for all civil servants are merit-based and depoliticized.

Legislation regulating the recruitment, career development and disciplinary measures for senior (general secretaries and CEOs) and middle (department and division directors) management;

It should be noted that the law conditionally applies the open-employment system in the cases of appointments at the highest levels in the civil service. Senior civil-servant positions are only open to those who are already civil servants, unless the position requires a specialization that no existing civil-

26 Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 6, para. 2, art. 16, para. 3, art. 18, para. 10 and art. 48, para 2.
27 Regulation No. 02/2010 on Recruitment Procedures in Civil Service of the Republic of Kosovo.
servant application possesses or if no existing civil servants apply for the position.\textsuperscript{28} “If a non-civil-service member will be considered for the position, the institution must establish an ad hoc committee to review the applicants and propose candidates for the position.”\textsuperscript{29} The “selection of the senior managing staff from the list of the civil servants also limits the entry of new professionals into the civil-service system-or at least limits their direct entry into management.”\textsuperscript{30} When it comes to the appointment of the senior managing staff members within the executive branch, Kosovo has employed the hybrid appointment model. As such, in Kosovo, a Criteria Assessment Commission proposes a list of candidates for the open position to the government for approval. The government then has the discretion to appoint one of the candidates proposed by the commission, certainly using pure political/partisan criteria.

Formerly, under UNMIK legislation, the Senior Public Appointment Committee (SPAC) appointed senior civil servants and was designed to separate political influence from professionals within the civil service. Civil servants were recruited and appointed for each position through an open competition. A panel consisting of permanent secretaries of the Ministry for Public Administration and the ministry under which the civil service member would serve and one Kosovar citizen nominated by the prime minister and at least one international member of SPAC nominated by the prime minister were to propose at least three candidates for each position to SPAC.\textsuperscript{31}

The UNMIK framework of which SPAC was the foundation for the appointment of permanent secretaries and CEOs is illustrated in the table below.\textsuperscript{32}

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\textsuperscript{28} Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 18, para. 6, sub-para 1, 2, 3.
\textsuperscript{29} Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 18, para. 7.
As the table illustrates, the political influence in SPAC was present but at a lower level. The civil society and international representatives (over the government representatives) achieved a majority and, if aligned, could overrule the political element of SPAC regarding decisions of appointment, dismissal, and disciplinary measures, or the performance evaluations of permanent secretaries and CEOs. The table...

**Figure 2:** The Senior Public Appointment Committee (SPAC)

<table>
<thead>
<tr>
<th>Actors involved in appointment of SPAC members</th>
<th>Actors involved in decision-making (SPAC members)</th>
<th>Political / Neutral P/N</th>
<th>Powers of SPAC</th>
<th>Other actors involved in the decisions of SPAC</th>
<th>Possibility to decide alone</th>
<th>Bargaining power/politicization degree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assembly</td>
<td>G (Prime Minister, ex-officio) P</td>
<td></td>
<td></td>
<td></td>
<td>Outcome (P) → Political Membership of SPAC</td>
<td></td>
</tr>
<tr>
<td></td>
<td>G (Minister for Public Administration, ex-officio) P</td>
<td></td>
<td></td>
<td></td>
<td>4 (P) votes NO High</td>
<td></td>
</tr>
<tr>
<td></td>
<td>G (Minister, ex-officio) P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Representative of the Secretary General of United Nations</td>
<td>IR (International Representative) N</td>
<td></td>
<td></td>
<td>Dismissal in consultation with Special Representative of the Secretary General (of United Nations)</td>
<td>5+1 (N) votes YES Low</td>
<td></td>
</tr>
<tr>
<td></td>
<td>IR (International Representative) N</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>CSR (Civil Society Representative) N</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>CSR (Civil Society Representative) N</td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>CSR (Civil Society Representative) N</td>
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</tr>
</tbody>
</table>

Outcome (N) → Neutral Membership of SPAC
below reveals the high levels of political interference in senior-levels of civil service during the first Thaqi’s Government.

### Replacement of Permanent Secretaries/Chief Executive Officers

<table>
<thead>
<tr>
<th>Year</th>
<th>2007-2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ruling Party/ies</td>
<td>Democratic Party of Kosovo (DPK) + Democratic League of Kosovo (DLK) + Minorities</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number of Permanent Secretaries (Central Level)</th>
<th>Political Party governing with the Ministry and/or specific sector</th>
<th>Number of Chief Executive officers (CEO-s) of Executive Agencies (Central Level)</th>
<th>Political Party governing with the Ministry and/or specific sector</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Replaced</td>
<td>7</td>
<td>38.80%</td>
<td>4 (DPK)</td>
</tr>
<tr>
<td>2 (DLK)</td>
<td>1 (Minorities)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dismissed by SPAC</td>
<td>1</td>
<td>5.50%</td>
<td>N/A (not applicable)</td>
</tr>
<tr>
<td>Resigned (after agreement with minister)</td>
<td>3</td>
<td>16.60%</td>
<td>2 (DPK)</td>
</tr>
<tr>
<td>1 (Minorities)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not replaced (the same party holds the office)</td>
<td>2</td>
<td>11.10%</td>
<td>2 (DLK)</td>
</tr>
<tr>
<td>Not replaced</td>
<td>5</td>
<td>27.70%</td>
<td>3 (DPK)</td>
</tr>
<tr>
<td>1 (DLK)</td>
<td>1 (Minorities)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>18</td>
<td>100%</td>
<td>12</td>
</tr>
</tbody>
</table>

In general, as this table indicates, many changes within the higher civil-service ranks occurred after the 2007 Kosovan general election. However, these changes stemmed from problems in the SPAC’s ability to function and from the changes introduced in the SPAC’s membership rather than from the degrees of political discretion that the UNMIK civil service legislation introduced.

While the 2010 law requires that recruitment and appointment for civil service positions should be done in accordance with “the principles of merit, professional capacity, impartiality, equal

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opportunities, non-discrimination and equal representation” (Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 11, para. 1), it establishes a new system largely relying on the governments and incumbent political parties, allowing the government to appoint both the senior managing staff of executive agencies and general secretaries of ministries after receiving a list of candidates from the MPA-established Criteria Assessment Commission. The table below reveals the current procedures for appointment senior-level civil servants including permanent secretaries and CEOs.34

Figure 3: The Procedure for the Appointment of General Secretaries and CEOs

<table>
<thead>
<tr>
<th>Pre-selection Procedure (Criteria Assessment Commission CAC)</th>
<th>Appointment/Dismissal Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Actors involved in appointment of the CAC members</strong></td>
<td><strong>Actors involved in the appointment and dismissal of GS and CEO</strong></td>
</tr>
<tr>
<td><strong>Composition of CAC</strong></td>
<td><strong>Degree of Political Discretion</strong></td>
</tr>
<tr>
<td><strong>Powers/Competences of CAC</strong></td>
<td><strong>Output I</strong></td>
</tr>
<tr>
<td>1. Review the applications of the candidates;</td>
<td>Low</td>
</tr>
<tr>
<td>2. Determine/identify the list of competences required for the positions and define a marking scheme for the interview;</td>
<td></td>
</tr>
<tr>
<td>3. Interview the shortlisted candidates;</td>
<td></td>
</tr>
<tr>
<td>4. Propose to the Minister responsible for public administration three (3) of the best candidates.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Phase I</strong></th>
<th><strong>Phase II</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Political Affiliation</strong></td>
<td><strong>Political/Neutral P/N</strong></td>
</tr>
<tr>
<td><strong>Political Affiliation</strong></td>
<td><strong>Required/Not-required R/NR</strong></td>
</tr>
<tr>
<td><strong>Minister for Public Administration</strong></td>
<td><strong>Political/Neutral P/N</strong></td>
</tr>
<tr>
<td>1. University Professor</td>
<td><strong>Government (only) P</strong></td>
</tr>
<tr>
<td>2. Civil Society Representative</td>
<td><strong>Kosovo Case</strong></td>
</tr>
<tr>
<td><strong>Degree of Political Discretion</strong></td>
<td><strong>Output II</strong></td>
</tr>
<tr>
<td><strong>Low</strong></td>
<td><strong>High</strong></td>
</tr>
</tbody>
</table>

The current legislation, as compared to the SPAC era, provides for government ministers to select the representatives who will have control over the applications of candidates, interviewing candidates and proposing candidates to back to the Minister for Public Administration.

Post-2010 Ministry for Public Administration uses an internal competition for the appointment of the senior managerial positions. The MPA establishes a commission of three general secretaries, one university professor, and one member of civil society.35 If the position is within the executive office of an agency, the head of that agency appoints two members to the commission; otherwise, the agency head only appoints one member to the commission.36 Then, the ministry selects candidates for the general secretaries and equivalent positions from a list of civil servants, and the commission reviews these applications and proposes three candidates for each position to the ministry. These proposals from the commission are passed through the ministry to the government, who appoints a senior manager under a three-year mandate.37

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36 Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 15.
37 Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 15.
Current legislation introduces a career-based employment system with an open-ended contract, which provides for increase stability and sustainability of the civil service and will ideally decrease the high rates of turnover within the civil service. However, the 2010 law maintains a three-year mandate for general secretaries within the civil-service system, which places general secretaries at the whim of politicians. However, still, there have been relatively high levels of turnover of senior civil servants after elections, suggesting a high level of political interference. In 2007, OSCE concluded that “civil servants in managing positions, including permanent secretaries and department directors, are considered to be political persons by more than the half of civil servants”.

The dismissal of a senior managing officer is initiated by the head of the institution; if the senior officer is a general secretary of a ministry, then the minister is required to recommend the dismissal of the said general secretary to the government who, in consultation with the disciplinary commission appointed by the government, decides which action to take regarding the accused senior civil servant. However, two consecutive poor performance evaluations of a violation of the code of conduct must take place before a senior manager can be dismissed. There are multiple problems with the current system. First, the government has the final say over the dismissal of a senior managing staff within the executive, leaving much room for political interference. Second, the dismissal procedure, particularly for senior managers, is politicized and does not safeguard the administrative autonomy of senior management.

The status of Civil Servants as distinct from the status of other public administration employees;

The 2010 Law on Civil Service selected a narrower scope of public administrators as civil service. Teaching staff of educational institutions, medical staff, police and customs officers, members of the KSF and political appointees and elected officials are not consider to be part of the civil service under the latest 2010 Civil Service Law. The 2010 civil service legislation applies to people working under local and judicial institutions as well, which has raised questions about the autonomy and independence of these institutions.

Challenges and Recommendations

The primary short-coming in Kosovo’s legislation surrounding the civil service system is that many loopholes and channels exist for political influence and interference, particularly regarding the recruitment, appointment, promotion, and dismissal processes of civil servants. As this report progresses to analyse the institutional setup for the implementation of civil service framework, human resources and support mechanisms for civil servants, and training opportunities for civil service, we

identify many shortcomings in legislation and implementation that illustrate an interrelation between the appointment process, lack of standardized and adequate training, and the politicization and partisan influence on the administration of the civil service. In each section, we offer multiple challenges and recommendations to ameliorate the high levels of political influence and to orient Kosovo towards a civil service system that is merit-based, professional, qualified, independent and depoliticized, and efficient and effective.

Institutional Setup for implementation of Civil Service Legal Framework

The 2010 Law on Civil Service initiates an integrated civil-service system wherein the civil service has a centralized management system directed by the government and the Ministry for Public Administration. The government is responsible for setting the policy orientation of the civil service, ensuring its implementation, and providing annual reports to the Assembly on the functioning of the civil service.

MPA’s capacity to ensure the implementation of the mentioned framework;

The Ministry of Public Administration acts as a regulatory body, defining standards for recruitment, developing policies relating to remuneration and awards, and implementing training and education programs for civil servants. The Ministry for Public administration is the authority that drafts and supervises the policies surrounding the civil service. The Ministry also drafts sub-legal acts relating to the civil service, proposes these acts to the government for approval, and enacts these acts. The MPA also builds the civil service registry, maintains and administers the registry, ensures that the registry stands as a unified system which includes the civil service payroll database and the pension and insurance database, and ensures that civil servants have access to their personal files. Ultimately, the Ministry for Public Administration manages the overall civil service system in Kosovo, while Personnel Units manage the system within each institution.

IOB’s and Assembly’s capacity to oversee the implementation of such framework;

The Assembly is responsible for adopting laws related to the civil service and civil service reform. Also, the Assembly employs civil servants and maintains the corresponding Personnel Unit which oversees the human resources management of the Assembly’s civil service personnel. What’s more, the Assembly is authorized to oversee the work of the government and to request reports. However, arguably the Assembly’s largest responsibility relating to civil service is their role in appointing the members of the Independent Oversight Board (IOB). The IOB is tasked with reviewing the appeals of civil servants relating to employment decisions. Via the appointment of Board members and legislation, the Assembly has the opportunity to check and balance political influence over/in the civil service system.

42 Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 6, para. 2, sub-para. 3, 4 and 5.
44 Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010), Arti. 8.
As an autonomous body that is responsible only to the Assembly and reports annually to the Assembly, the IOB’s seven members are elected by the Assembly (upon the recommendations of the Ad Hoc Committee) for a five-year term with the possibility of extension. The IBO is a body that reviews and decides upon the appeals of civil servants. The IOB has “three main function: first, it supervises and reports to the Assembly on the implementation of the civil service law; second, it decides the legality of appointments to senior managerial positions and evaluates whether the latter have been in compliance with the law on civil service; and third, it decides civil-servant (and/or unsuccessful applications) appeals of the decisions of the employing institutions”.

The table below displays the number of appeals between 2008 and 2011 that were submitted to the IOB from 11 randomly-selected ministries (CL) and 11 randomly-selected municipalities (LL).

<table>
<thead>
<tr>
<th>Year</th>
<th>DG</th>
<th>SP</th>
<th>TAP</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 4 [explaining the number of civil servant’s appeals against the decisions of central and local level authorities (11 central and 11 local level institutions)].

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46 Law on Independence Oversight Board for Civil Service of Kosovo. No. 03/L-192. (2010). Art. 7, para. 1. It should be noted that there are different practices of the composition of similar bodies in the neighboring countries. In Slovenia, three different appellate commissions review the appeals of the civil servants: a) the appellate commission of the government, b) the appellate commission of other state bodies, and, c) the appellate commission of the representatives of municipalities. The institutions within which these commissions work make the appointments. See Civil Servants Act, Official Gazette of Slovenia, No. 020-05/98-20/8, Arts. 35 and 36. Moreover, a similar pattern is also utilized in Serbia. Two appeals commissions exist, namely, a) the Judicial Appeals Commission, and b) the Appeals Commission of the government, see for more: Law on Civil Servants Official Gazette Of RS, No. 79/05, Art. 151.


48 Group for Legal and Political Studies Analysis No. 02/2012. “On the defence of professionalism of bureaucrats: A discussion upon the protection mechanisms of civil service in Kosovo.”
The results in the table reveal that decisions related to recruitment (CPC) and dismissal (TEC, NEC) were most likely to be appealed. There were also relatively high levels of appeal related to demotions.

However, even when the Board rules in favour of civil servants’ appeals, there is no mechanism to ensure the implementation of the Board’s decision. There is no legal mechanism in the Law on Civil Service that requires institutions to implement the decision of the Board properly or in a timely fashion. The only mechanism that attempts to safeguard the decisions of the Board is the notification of the Assembly and Government about organizations that are not implementing Board decisions.49

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49 Group for Legal and Political Studies Analysis No. 02/2012. “On the defence of professionalism of bureaucrats: A discussion upon the protection mechanisms of civil service in Kosovo.”
The following table identifies the decisions of the board in contrast to the number of decisions implemented by public authorities.

**Table 5 (explaining the number of decision of the Independent Oversight Board from 2009-2011).**

<table>
<thead>
<tr>
<th>Year</th>
<th>09</th>
<th>10</th>
<th>11</th>
<th>09</th>
<th>10</th>
<th>11</th>
<th>09</th>
<th>10</th>
<th>11</th>
</tr>
</thead>
<tbody>
<tr>
<td>IQ</td>
<td>No</td>
<td>16</td>
<td>20</td>
<td>40</td>
<td>15</td>
<td>24</td>
<td>15</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>IL</td>
<td>No</td>
<td>18</td>
<td>43</td>
<td>31</td>
<td>7</td>
<td>36</td>
<td>46</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>W</td>
<td>No</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>7</td>
<td>15</td>
<td>40</td>
<td>10</td>
<td>7</td>
</tr>
<tr>
<td>IL</td>
<td>No</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>3</td>
<td>30</td>
<td>24</td>
<td>23</td>
<td>24</td>
</tr>
</tbody>
</table>

**Legend**

- Decisions that approve/reaffirm the right of the individual and annul the decisions of public authorities: DA
- Decisions that reject the complaints as inadmissible: DR
- Decisions that reject the complaints as procedurally inadmissible: DPR
- Withdrawal of complaints: W
- Number of decisions implemented by public authorities: DI
- Number of unimplemented decisions: DNI

The table above analyses complaints submitted to the Board between 2009 and 2011 from 11 randomly-selected ministries and 11 randomly-selected municipalities. As the table reveals, the number of appeals that have been approved in favour of the civil servant have increased, and in almost each instant have been higher than the number of appeals that have been rejected in favour of the employing authorities.
However, despite the success of the IOB in assessing, processing and requesting appeals, the number of cases wherein the Board’s decision has been implemented as compared to the number where the Board’s decision has not been implemented is disappointing.

In addition to the concern surrounding the lack of implementation of the Board’s decisions, there is concern surrounding the loopholes for political interference and influence within the Board. While the Board is created as the final administrative mechanism intended to protect civil servants against politically-influenced decisions, the current structure of the IOB leaves room for much political interference. First, the Ad Hoc Committee in the Assembly is responsible for establishing a list of candidates for board membership. However, the current legislation no longer ensures (as was under the earlier UNMIK regulation) that at least five different political parties should be represented on the Ad Hoc committee. Under this UNMIK regulation the ad hoc committee consisted of 9 representatives from at least five of the biggest political parties in the Assembly and at least two representatives of political parties of ethnic communities. The current law only requires the participation of one member from communities on the ad hoc committee, which in no way safeguards the pluralism that was ensured by the previous UNMIK regulation. Currently, the ad hoc committee could be composed of representatives from the same political party and their proposal of IOB candidates only requires a simple majority vote from the Assembly. Board members are appointed for a five year term with the possibility of one additional term. While two out of seven members of the Board must come from non-Albanian majority communities and two must be women, this still does not ensure partisan pluralism and allows the “appointment and dismissal of the Board members [to be] entirely related to the coalition and/or political parties that have the majority of seats in the parliament, that is to say the governmental coalition in the parliament.

Second, the IOB is not financially sustainable opening itself to high levels of political interference. It is the responsibility of the government to propose the IOB’s annual budget to the Assembly, which makes the IOB heavily reliant on the government. Third, the Chair of the Board selects three IOB members to deliver the board’s decisions, leaving room for the Chairman to rely on political loyalties in selecting the panel. One aspect, which in actuality does not counteract the political influence over the Board’s appointment procedures or the lack of financial support, does provide a safeguard against political interference within the IOB.

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51 Group for Legal and Political Studies Analysis No. 02/2012. “On the defence of professionalism of bureaucrats: A discussion upon the protection mechanisms of civil service in Kosovo.”
According to the law, the Board’s decision constitute a final administrative verdict – subject only to the Supreme Court’s review, and the civil servants may challenge the decision of the IOB by making an appeal to the Supreme Court of Kosovo, therefore utilizing the administrative conflict procedure.\(^{54}\)

**Appointment of Senior Officials**

The government-established Council on the Senior Management Positions serves as the central managing body under the executive branch that is responsible for developing and managing the appointment process for senior managers, developing and reviewing standards for job descriptions, developing a sustainable system for the appointment of senior managing staff, ensuring quality in the recruitment process, and issuing instructions for the appointment system of senior management.\(^{55}\) In this regard, the Council’s functions somewhat overlap with those of the Ministry of Public Administration.

The Council is responsible to the government and its seven members are appointed by the prime minister. Members include one deputy prime minister, who acts as chairperson, the ministry of public administration, the minister of finance, one minister from non-majority communities, and three general secretaries or staff holding equivalent positions. The structure of this council, and thus the appointment system for senior managing staff within the executive is open to extreme partisan influence and politicization. The appointment system for senior management is controlled almost entirely by the government which “disrupts the independent functioning and professionalism of the regulatory offices and executive agencies, which must be accountable only to the assembly of Kosovo.”\(^{56}\)

**Political Interference in Appointment and Dismissal**

According to Hacek there are two patterns of the relationship between politicians and civil servants. Both patterns offer a significant tool via which to assess the civil service system. According to the first model, the civil service system is dominated by politicians, which use the former to achieve their partisan aims.\(^{57}\) According to the second model, “civil servants have maintained a high degree of independence and power, which they use in pursuance of their own aims as opposed to those of politicians.”\(^{58}\) That said, in Kosovo exists high potential for political interference, partisan affiliations and

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high levels of influence by ministerial cabinets and political advisers.\(^5^9\) The ability to dismiss civil servants based on two consecutive evaluations of poor performance does not ensure a proper level of protection for a civil servant because of the continuous opportunity, inherent in the process to become a political instrument.

When appointing a senior, the government in particular considers the preferences/choices of the head of the institution that will hire the managing officer. This requirement of the law conflicts with the principle of merit and professionalism, since the personal/subjective preferences of the political head of the institution may prevail when it comes to the appointment of the senior manager within the institution concerned. The government therefore plays a significant role in the appointment of the senior civil servants in every executive institution, and this limits the civil autonomy of the concerned institutions.

In terms of depoliticization of the civil-service system in Kosovo, one can note that this process may be even more difficult when considering both the high number of politically motivated employments within civil service, and the number of civil servants promoted through political support. The Criteria Assessment Commission’s authority does not safeguard merit and professionalism as the principles of the appointment process, and allows for the final appointment decisions for senior managing staff to rest with the government. This is not in line with the Venice Commission or European principles which argue that those responsible for appointing civil servants should have institutional independence from political authorities. Rather, Kosovo’s current system safeguards the political will and political interference at the top levels of the civil service system.

In Kosovo, there are a number of channels through which the civil service becomes highly politicized. First, Kosovo’s broad coalition government lessened the ability of the Assembly to control the government. Second, the coalition partners divided their responsibilities to each control a number of ministries, and thus, the senior managing staff within those ministries. Third, coalition partners have often networked to terminate certain civil servants’ employment contracts. Lastly, clientelism is pervasive in Kosovo’s civil service. Political parties have been able to offer promotions, transfers, and wages via the “Excellency Fund” to civil servants in exchange for their party loyalty and support.

The following table was built by in accordance with Van Der Meer’s collection of politicization methods to identify the primary channels of political interference and influence over Kosovo’s civil service system.\(^6^0\)

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<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>formalized political discretion to appoint top civil servants</td>
<td>UNMIK System</td>
<td>Current System</td>
<td>A</td>
<td>A</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>informal political appointment of permanent civil service positions</td>
<td>A</td>
<td>NA</td>
<td>A</td>
<td>A</td>
<td>NA</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>political advisers/ministerial cabinets</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

Note: This table has been built by the authors according to the Van Der Meer's collection of politicization methods.
**Recommendations for improvement**

First, Kosovo should promote and introduce an integrated system of recruitment, promotion and dismissal that is based on merit and professionalism. A standardized and required professional training and education is one way to ensure at least a baseline of merit and professionalism for civil servants. Second, Kosovo should reinstate secondary legislation that enshrines the values of partisan pluralism on the ad hoc committee. Third, Kosovo must develop a mechanism that ensures the implementation of the IOB’s decisions. The Law therefore should introduce a mechanism wherein the decisions of the IOB, if not executed within a specific time and if there has been no appeal to the court of jurisdiction, be automatically submitted to the law-enforcement division of the relevant territorially-authorized municipal court to execute the IOB decision independent of the government.

**Human Resources Management Policy for CS**

The Government of Kosovo is responsible for human resource management. This management responsibility is shared between the Ministry for Public Administration, Personal Units placed within each institution, the Independent Oversight Board and the Kosovan Institute for Public Administration. The Personal Units are established within each institution that includes civil servants to manage and develop the civil servants, the internal-institutional human-resource admission plans, and the organization and management of admission procedures. The Ministry for Public Administration, IOB, and KIPA generally support the registry, appointment, training, and appeal processes of civil servants.

**A registering system for civil servants**

The MPA also builds the civil service registry, maintains and administers the registry, ensures that the registry stands as a unified system which includes the civil service payroll database and the pension and insurance database, and ensures that civil servants have access to their personal files.

**Performance appraisal for civil servants**

Performance appraisals are carried out by each institution, with no central institution responsible for coordinating or standardizing performance appraisals. Each institution conducts performance

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61 Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 18, para. 2 and 8.
62 Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010), Arti. 8.
63 It should be noted that many authors argue that the performance appraisal remains “...highly controversial in the mostly egalitarian environment of post-transition states” and generally is considered a “tool for politicians to get rid of staff they do not consider loyal” see for more Verheijen, J.G.T., and Rabrenovic, A., (2007). Civil Service Development in Central and Eastern Europe and the CIS: Swimming with the Tide?, in C. N. Jos Raadschelders et
appraisals to evaluate work performance and improve the quality and capacity of the civil service.\textsuperscript{64} These evaluations determine whether civil servants need additional training, should be considered for a promotion, are capable of carry out temporary or international positions, or should be considered for dismissal.\textsuperscript{65}

While there is no standardized or central system for evaluating the performance of civil servants across institutions, within institutions the performance evaluation serves, according to Meyer-Sahling, as a “critical tool for managers to communicate and align the organizational aims and objectives with the efforts of individual civil servants”, “provide an instrument for reviewing and redirecting the efforts of officials,” are “linked to incentive systems, in that they may determine promotion decisions and monetary bonus payments for civil servants,” and “play a role as a diagnostic tool for the identification of civil servants’ training and development needs”.\textsuperscript{66}

However, multiple risks/challenges may prevent Kosovo from achieving the objectives of performance appraisal that are listed above. First, partisan influence is likely to affect the dismissal process of civil servants. With two poor performance evaluations, politicians can rid themselves of civil servants who do not display partisan ties or partisan loyalty.\textsuperscript{67}

The Prime Minister also has the authority to establish a Performance Investigation Commission, which can initiate an appraisal of senior managing staff.\textsuperscript{68} These performance appraisals may impact the status, promotion, and training of civil servants and, thus, incentivizes clientelism. The performance evaluation system, due to a lack of standardization and base principles, is open to political interference and can be used as a tool to dismiss civil servants. In the end, it should be noted that this system may become a discretionary power having regard the fact that the law does provide a list of principles that govern promotion procedures and that guarantee the civil servants promotion. Thus, the current legislation does not seek to ensure a promotion based on merit, but it leaves to the government to adopt principles and institutions that will manage the promotion system.

**Promotion and transfer of civil servants;**

A civil servant in Kosovo may be promoted via two channels. First, a civil servant may be promoted to a higher functional category; second, a civil servant may be promoted to a higher grade within the same functional category.\textsuperscript{69} Any career civil servant may be promoted and promotions are supposedly based on merit. If a civil service position is vacant and a civil servant has demonstrated the capacity and professionalism to assume the open position, he/she may be promoted, as goes the law. However, the promotion of civil servants and selection of current civil servants for positions of permanent secretaries or CEOs is open to political influence due to the composition of the government ministry and commission that oversees these processes and due to the lack of standardized merit-based training

\textsuperscript{64} Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art 33, para. 1.
\textsuperscript{65} Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art 34, para. 1.
\textsuperscript{66} 2009, p. 42
\textsuperscript{67} Verheijen and Rabrenovic in Raadschelders et al., Eds., 2007, p. 23.
\textsuperscript{68} Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 76, paras. 1 and 2.
\textsuperscript{69} Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art 26, para. 1.
program that would offer a platform for deserving, qualified, and capable applicants; as such, the IOB should serve as a protection mechanism for those applicants or civil servants wanting to challenge a decision of the employing authorities. The Independent Oversight Board, while open to political influence itself and unable to oversee the implementation of their decisions, serves as a protection mechanism for civil servants who are transferred against their will and who intend to challenge the employing authorities for not receiving a promotion.

**Salaries**

There are two challenges in the current civil service salary system. First, salaries in Kosovo’s civil service are not competitive, inspiring young professionals to turn away from civil service and towards the private sector. Second, the structured salary system introduced in the 2010 legislation allows for a high level of managerial discretion relating to the determination of a civil servants salary grade. As of 2008, Kosovo had approximately 70 singular salary levels within the civil service, revealing an element of a chaotic and undoubtedly politically-influenced pay grade. 70 While the current legislation initiatives four general categories of salary levels according to the four position levels – the senior managing level, the managing level, the professional level, and the technical and administrative level – fourteen salary grades divide the four salary blocks. The salary received within each pay grade is determined based upon the performance evaluation and the civil servant’s individual skills and merits. These criteria however, especially the latter, paces the way for subjectivity and political influence of the institutional heads and direct managers in determining the salary of civil servants.

**Disciplinary measures**

The government-created disciplinary commission, which includes a deputy prime minister, the minister for public administration, a minister from communities, and two members from senior managerial positions within the executive branch, determines whether alleged violations have actually been committed and decide on the punishment, if applicable. 71 As such, given the demographics of this commission, the decision is likely to be highly politicized. However, if civil servants feel that their demotion, dismissal, or discipline was unjust, the Independent Oversight Board stands as the mechanism for which to challenge the administration’s decision. Again, the IOB is somewhat successful in processes and overturning cases, but is subject to political influence and is unable to ensure the implementation of decisions.

**Training and Professional Education of Civil Servants**

**Training Strategy**

The performance of the civil service depends largely on the skills, education and professional capacity of civil servants. The Ministry of Public Administration is in charge of setting standards for recruitment,

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70 Sigma, 2008, p. 11.
71 Law on the Civil Service of the Republic of Kosovo,, No. 03/L-149. (2010). Art. 74, paras. 1, 2 and 3.
implementing the remuneration and awards policies, implementing training and professional education programmes for civil servants, and creating the development objectives for the civil service system. The Ministry for Public Administration uses a specialized agency, Kosovo’s Institute for Public Administration, to train and educate professional level civil servants. While KIPA’s purpose includes supporting administration reform and modernization and improving the skills and qualifications of civil service staff, KIPA does not have the full capacity to fulfill these functions. There is a long way to go on the path towards establishing a functional and effective education system for Kosovo’s civil service.  

Training budget

The Ministry of Public Administration allocates the budget to KIPA, who may also acquire additional funds from external sources. The financial reliance of KIPA on the government obviously opens KIPA to high levels of inefficiency. However, the primary misgivings surrounding KIPA’s inability to carry out their function surround the low levels of funding that KIPA has received from the government. While domestic and international sources have stressed the need to improve the training and professional education system for Kosovo’s civil service as one of the top ways to generate improved efficiency and ensure that civil servants are capable and professional, the government has steadily decreased funding for KIPA over the last decade, as shown in the table below. This reveals the very low commitment of the government to invest in the training and professional education of civil servants, which stands as a major challenge for Kosovo’s civil service on many fronts (ie. Professionalism, capacity, efficiency, etc.).

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Fig. 7: This figure explains the data related to the overall budget of the Kosovo Institute for Public Administration, covering the period between 2003 and 2011.74

Capacity of institutional setup to provide training policy and deliver the training

The Kosovo Institute for Public Administration (KIPA) is the authority that manages and administrates the civil service training and implements capacity-building strategies.75 KIPA is the executive institution in charge of proposing and implementing the government’s training and capacity-building strategies, as well as providing generic training for civil servants. KIPA has an eight-member advisory board and is led by a CEO appointed by the government in accordance with the law. KIPA’s functions and responsibilities are outlined in a 2003 administrative directive.76

KIPA is tasked with three broad objectives/initiatives. First, KIPA must implement training and capacity building strategies that are developed by the Ministry for Public Administration and must

74 Group for Legal and Political Studies. Policy Analysis No. 03/2011. "For a professional public administration: An orientation toward strengthening the professional education of civil servants in Kosovo."
75 Law on the Civil Service of the Republic of Kosovo, No. 03/L-149. (2010). Art. 10.
advise the Ministry on the success and development of training strategies. These strategies should enshrine two critical objectives: to support and modernize administrative reform and to increase the skills and qualifications of staff with the central aim of improving efficiency. Second, KIPA is the authority tasked with coordinating donors’ training programs and ensuring that donor-run trainings correspond with the national training strategy. Third, KIPA provides a forum for a long-term broader discussion on public administration and the development of policies and reforms.

However, in reality, KIPA’s output is sub-par. First, KIPA largely provides short-term trainings rather than long-term professional education. It does not function like a school for public administration. The majority of KIPA’s training course last one to two days, while less frequently KIPA offers trainings up to two weeks. Second, the number of civil servants who take part in KIPA’s training is only a small percentage of the approximately 21,000 civil service employees in Kosovo.

<table>
<thead>
<tr>
<th>Years</th>
<th>Number of trainees</th>
<th>Number of certified trainees</th>
<th>Structure of participants</th>
<th>Managerial classification in percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Senior managers</td>
<td>Middle-level managers</td>
</tr>
<tr>
<td>2003</td>
<td>235</td>
<td>12.76%</td>
<td>0%</td>
<td>0.85%</td>
</tr>
<tr>
<td>2004</td>
<td>969</td>
<td>70.79%</td>
<td>0.92%</td>
<td>8.35%</td>
</tr>
<tr>
<td>2005</td>
<td>1837</td>
<td>89.60%</td>
<td>0.10%</td>
<td>10.07%</td>
</tr>
<tr>
<td>2006</td>
<td>1819</td>
<td>80.42%</td>
<td>1.09%</td>
<td>13.35%</td>
</tr>
<tr>
<td>2007</td>
<td>1245</td>
<td>86.02%</td>
<td>0.08%</td>
<td>9.07%</td>
</tr>
<tr>
<td>2008</td>
<td>2148</td>
<td>84.07%</td>
<td>0.46%</td>
<td>8.51%</td>
</tr>
<tr>
<td>2009</td>
<td>1612</td>
<td>64.64%</td>
<td>0.49%</td>
<td>11.29%</td>
</tr>
<tr>
<td>2010</td>
<td>1878</td>
<td>41.85%</td>
<td>1.59%</td>
<td>22.09%</td>
</tr>
<tr>
<td>Total</td>
<td>11743</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 8: showing the number of civil servants trained by KIPA (output), and their structure as to their rank.

While the table shows that the number of civil servants who participate in KIPA’s trainings have increased over the last decade, a small percentage of the total civil service took part in the trainings and the training duration was small. Moreover, only a percentage of those who take part in the trainings succeed in winning the certification; this fact is likely due to insufficient trainings or low levels of interest by civil servants.

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The table also reveals that senior managers over the last decade have consistently shown very little interest in the trainings; middle-level managers show low participation; low-level managers show slightly higher participation rates, although consistently under 20 percent; professional officers show the highest rate of interest in KIPA’s training; administrative officers have steadily declined in participation. The fact that senior management level and middle-level managers have shown little interest in the trainings does not bode well, as these will be the civil servants leading the civil service in their transition towards European norms.

<table>
<thead>
<tr>
<th>Year(s)</th>
<th>2011</th>
<th>2010</th>
<th>2009</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualification Level</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
</tr>
<tr>
<td>BA/Sc</td>
<td>3810</td>
<td>55.38%</td>
<td>3651</td>
<td>54.77%</td>
</tr>
<tr>
<td>AD</td>
<td>545</td>
<td>7.92%</td>
<td>468</td>
<td>7.02%</td>
</tr>
<tr>
<td>HS</td>
<td>2410</td>
<td>35.03%</td>
<td>2427</td>
<td>36.40%</td>
</tr>
<tr>
<td>PS</td>
<td>117</td>
<td>1.70%</td>
<td>120</td>
<td>1.80%</td>
</tr>
<tr>
<td>Total</td>
<td>6879</td>
<td>100%</td>
<td>6666</td>
<td>100%</td>
</tr>
</tbody>
</table>

Comments: 36 central level institutions as of September 2011; 34 central level institutions as of December 2010; 33 central level institutions as of December 2009; 35 central level institutions as of December 2008

**Legend**

1. Bachelor of Arts/Science (BA/Sc)
2. Associate Degree (AD)
3. High School (HS)
4. Primary School (PS)

Table 9: Structure of the (central-level) Civil Service as to the Level of Education(2008-sept.2011)\(^{81}\)

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The table clearly reveals that KIPA’s trainings, while unfortunately short-term, also are poorly attended. While the poor attendance reflects the lack of interest and professional commitment of civil servants (perhaps due to the absence of a merit-based system, their understanding that promotion is largely

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\(^{81}\) Group for Legal and Political Studies. Policy Analysis No. 03/2011. "For a professional public administration: An orientation toward strengthening the professional education of civil servants in Kosovo."
politicized, or their low salaries), the low levels of government funding for KIPA largely explain the short duration of training sessions and perhaps the lack of interest in completing the training for many of the civil servants who participate but do not receive the certification.

**Challenges with regards to the training offered to civil servants**

The level of education of civil servants is unsatisfactory and does not meet European standards. While the number of civil servants who possess a bachelor degree have increased in the last half-decade, approximately only half of civil servants hold at least a bachelor degree. This raises questions about the integrity and politicization involved in recruitment for the civil service, as half of civil servants have not achieved a bachelor degree which raises questions as to whether they possess the credentials, merit, and capacity to carry out the function of a civil servant and are capable of creating and implementing legislation. More importantly, the low levels of education of nearly half of the civil service reflects the even greater need for a robust professional education and training system for civil servants. The table below, released in Group for Legal and Political Studies Policy Analysis 03/2011, identifies the level of education of civil servants between the years of 2008 and 2011.

**Recommendations for improvement**

Kosovo must take a number of steps to improve the training and education of civil servants. As revealed in this section, the current system of training and education for Kosovo’s civil service is unsatisfactory, and there are a number of issues that need to be addressed. First, the government must increase its commitment to supporting the development of an improved professional education and training system for civil servants; this will require the government to heavily increase the funding for KIPA and training programs. Second, the Ministry of Public Administration and KIPA must work together to ensure that a long-term training system is devised wherein civil servants can partake in training institutions that support the long-term professional development of civil servants; this should be done by transforming KIPA into a national school of public administration. Third, the development of a new school of public administration that functions within KIPA should become a required, element for assessing the merit, credentials, and capacity of civil servants as part of the selection, recruitment, appointment, and promotion processes of Kosovo’s civil service. 82

This national school of public administration would allow for the standardization of recruitment, appointment, and promotion practices by instating certain required credentials for all civil servants and civil service applicants. This practice would also go a long way in standardizing the recruitment system for civil servants and eradicating some of the political influence in the current practices relating to recruitment, appointment, and promotion. A number of mechanisms relating to the national school could serve this function. First, all aspiring and new civil servants should be required to pass a one-year

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82 Group for Legal and Political Studies. Policy Analysis No. 03/2011. "For a professional public administration: An orientation toward strengthening the professional education of civil servants in Kosovo."
professional education programme. Additional training’s should also be available at 6-months and shorter intervals to offer continuing education for senior civil servants, and those aspiring to improve their credentials and pursue higher levels within the civil service. This would also prevent itself as a standardizing mechanism on which to evaluate the merit, credentials, and professional training of higher-level civil servants and those civil servants seeking promotion to higher positions, while also making it easier to discern and trim cases of political interference and clientelism wherein the civil servant did not have the merit, credentials, and professionalism to win his/her position in the civil service.

The table below reflects the Group for Legal and Political Studies’ proposal for the National Programme on Civil Service, intended to focus on developing a number of skills divided into four blocks while allow one block specialized in the area where the civil servant or applicant intends to work.

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83 Group for Legal and Political Studies. Policy Analysis No. 03/2011. "For a professional public administration: An orientation toward strengthening the professional education of civil servants in Kosovo."

84 Group for Legal and Political Studies. Policy Analysis No. 03/2011. "For a professional public administration: An orientation toward strengthening the professional education of civil servants in Kosovo."
Lastly, the school should be independent with an external independent advisory board and external reviewers for the students.

**Conclusions**

This report reveals a number of trends that define Kosovo’s civil service and prevent the civil service system from recognizing the central principles of independence, depoliticization, education and merit, and professionalism. The current legislation that was introduced in 2010 heavily changed the recruitment, promotion, and appointment procedures as well as protection mechanisms for civil servants. In many ways the new legislation opened the door wider for political influence and intervention, limiting institutional autonomy and the political autonomy of the civil service system. The recruitment, appointment, promotion, salary grade and dismissal procedures should be standardized, depoliticized and merit-based. As it stands, the current system of performance evaluations and (lack) of foundational and standardized training and continuing education for civil servants prevents clear

<table>
<thead>
<tr>
<th>Core professional development requirements</th>
<th>Specific Module(s) Contents</th>
<th>Timeframe</th>
<th>Objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leadership skills</td>
<td>1. Provide direction for the administrative organization; 2. Deliver managerial and organizational results; 3. Build capacity addressing capability/resource/policy challenges; 4. Develop the integrity of a career civil servant.</td>
<td>1 (one) year professional education</td>
<td>1. A scheme to recruit civil servants on basis of professional education; 2. Compulsory professional education for new civil servants; 3. Advancement of the career civil servants, and a system of promotion on basis of professional education results.</td>
</tr>
<tr>
<td>Professional knowledge and skills</td>
<td>1. Provide very narrow knowledge and skills according to the position/sector/area the civil servant will work.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Practicing work</td>
<td>1. Students will learn by doing civil service work in a certain institution while supervised by senior practitioners.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
principles and standards from regulating the appointment, promotion, dismissal and salaries of civil servants. It is critical that Kosovo revise current legislation, create secondary legislation to address these challenges, fully fund and implement procedures and decisions from bodies (like the IOB and KIPA) to serve as a protective and supportive mechanisms for civil servants in order to commit to the development of a merit-based, professional, and effective civil service system and in order to strive towards and align with the *acquis* and European standards.