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## Moving Towards Consolidated Interactions Between the Local Government and Central Institutions at Local Level

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Supported by the Open Society Foundation for Albania – SOROS

July 2008

This publication is a product of the research work of the Institute for Democracy and Mediation (IDM) and the Institute for Development Research and Alternatives (IDRA). The viewpoints expressed in this study are those of the authors and do not necessarily reflect the donor's ones or the official standpoints of the target institutions.

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# FOREWORD

This study is a product of a one-year research work carried out by the Institute for Democracy and Mediation (IDM) and the Institute for Development Research and Alternatives (IDRA) under the joint project “Monitoring the interactions between the local government and the central institutions at local level in their joint competencies” which was implemented in August 2007 – July 2008 through the support of the Open Society Foundation for Albania (Soros). While aiming at improving the cooperation between the target institutions in their joint competencies/delegated authority through assessing their performance and the respective legislative solutions as well as through drafting alternative solutions to ensure good governance and high-quality services closer to the community, this joint project has been focused on six main areas of interactions between the two levels of power: local government’s relations (municipality) with the prefect, state police, Education Department, Environment Agency, Civil Registry Service and the Water supply service.

This joint initiative has been carried out in four main municipalities – Durrës, Shkodra, Fier and Korça – and it has been designed to identify not only the current problematique as such but also eventual solutions aiming the improvement of the institutions’ interactions at local level. In order to ensure an objective process, as well as sustainable and efficient alternative solutions (recommendations) the implementing organizations have encouraged active involvement of institutions’ representatives and independent experts in the project’s activities through the informing and joint consultation events. While focusing on one of the least debated aspects of the decentralization process – local government’s interactions with central institutions at local level – this study intends to further deepen the debate and to influence policy and decision makers in the country to reflect on its recommendations.

The research work and wide consultations under the project have benefited from the support of IDM and IDRA’s teams of researchers as well as their associates. We would like to express our gratefulness to the executives and representatives of the target institutions at local and central level for their contribution, as well as to the project’s local coordinators in Shkodra (Mrs. Zemaida Mozali), Durrës (Mrs. Mirjam Reci), Fier (Mr. Artan Marku) and in Korça (Mr. Anesti Treska) for their support provided to our research team throughout the various stages of this initiative. Special thanks goes to IDM associates and experts, Mr. Zyher Beci and Mr. Kadri Gega for their valuable comments and advice on the final report, as well as to all civil society representatives in the target cities for their active involvement in the debates organized under this monitoring and assessment initiative on the cooperation of institutions at local level.

Last but not least, IDRA and IDM would like to express their gratitude Open Society Foundation for Albania (Soros) for the generous support provided for this study.



# I. THE PREFECT

The Prefect is one of the main institutions granted concrete responsibilities for the coordination of local government with central institutions at local level. Acting as a direct representative of the Council of Ministers in the region and being the only central government administrative institution verifying the legitimacy of local government acts (at the municipal/communal and region level), the Prefect institution seems to be placed in a favorable position for the coordination of work and cooperation between the government entities at both levels. Nevertheless, the Prefect's coordinating role and lack of visible results in this regard have often been contested by representatives of both central and local government. Such contestation includes all possible options related to the reconfiguration of such role.<sup>1</sup>

Although various possible scenarios related to the best schemes introducing high efficiency of this institution (in the coordination of local governance and central institutions at local level) offer relevant arguments in support of respective institutional settlements, the joining component for the entire debate is the conclusion that such a situation comes as a result of not only the legal framework (often contradictory and ill-defined) but also of the trend to see inter-institutional cooperation as a superficially-addressed formal obligation. Taking into consideration the responsibilities (although often evasive), the Prefect institution cannot fully exclude itself from its accountability related to lack of concrete cooperation between institutions at local level, something that burdens the community and worsens services towards citizens.<sup>2</sup>

The findings of the survey, the monitoring report and consultations with experts and institutions' representatives, which constitute the very focus of this report, indicate that the main problems directly affecting the role of the Prefect as a structure responsible for the coordination or supervision of institutions at local level are not exclusively interlinked with the lack of competencies related to appointment or dismissal of executives of central institutions at local level, as presumed by the new Decentralization Strategy.<sup>3</sup>

Avoiding jumping to hastened conclusions regarding the prerequisite or expectations for this measure provided in the Strategy, it is, however, important to emphasize that the policy-makers' approach would be mistaken if limited to this

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1) Recently, representatives of central government have put forward the thesis of the re-configuration of the Prefect's Institution to further strengthen its competencies.

2) The Law "On the Prefect" No. 8927, dated 25.7.2002, not only recognizes the right of the Prefect to review the activity of central institutions at local level, and inform central institutions on the performance and extent of accomplishment of services in the respective sectors (Article 12) but also creates the space for monitoring and taking of appropriate measures in the exercise of functions and fulfillment of duties established in the legal acts and bylaws. (Article 8)

3) See the new Decentralization Strategy, page 40.

measure without a deeper analysis. Indeed, analysis of the problematic from a local perspective highlights a series of drawbacks, which have a direct impact on the role and efficiency of the Prefect in the coordination of inter-institutional cooperation at local level. Although strengthening of this institution vis-a-vis the central institutions at local level would potentially influence in this context, restriction and lack of response towards other problems –analyzed also below– would hardly mark any change in the quality of cooperation among central institutions at local level or their cooperation with the local government.

In order to offer a much clearer description of the cooperation problematique as well as the role of the Prefect in this frame, this subsequent part of the report focuses initially on the legal framework and involved institutions as entities of cooperation at local level. It further proceeds with the actual problems of such cooperation and recommendations for greater efficiency of the Prefect institution.

### **I.1. Legal Framework**

The position, mission, and institutional responsibilities of the Prefect are regulated by the Law No. 8927, dated 25.7.2002, “On the Prefect”. Although the Prefect’s main competency, largely recognized by institutions’ representatives and the public, is to ensure the legitimacy of local government acts (at the municipal, communal and district level), the existing legislation grants this institution other competencies as well, such as the supervision over (implementation of) delegated authorities and responsibilities by the central government (Article 16); coordination of the work of central institutions at local level as well as their cooperation with local government units. Placed in such a specific position, the Prefect is assigned the crucial role of ensuring the progress of institutions’ interaction to the service of local communities.

Nevertheless, an analysis of the legal framework and its practical implementation<sup>4</sup> indicate that supervision of legitimacy of local government acts (Article 14 and 15 of the Law on the Prefect) is the only function well-defined by the law and applied under clear procedure.

As far as the role of the Prefect in the advance of inter-institutional cooperation at local level is concerned, it is noted that formulations used in the Law on the Prefect are simply generalizations and do not clearly define means by which expected results are to be achieved, none the less performance evaluation in this regard. On the other hand, ambiguity in law has not only caused for these “coordinating meetings” to deteriorate to a mere formality but at the same time has brought about clashes between institutions at local level, especially in cases when their coordinated intervention is required for specific local problems.<sup>5</sup> The same ambiguity is also

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4) At least for cities covered by this evaluation report- Durres, Shkodra, Fier, and Korça.

5) The monitoring report has identified a few cases of dispute between institutions in all four cities and



noticed in the provisions of other sub-regulatory acts, which regulate the activity of institutions at local level for given sectors (i.e. education, environment, etc.), where their relationship with the institution of the Prefect is superficially handled and where the coordinating role of the Prefect as well as responsibilities of each institution in the process are not clearly set out.<sup>6</sup>

Another function of the Prefect, yet not clearly defined with all its components, is the supervision and monitoring of activities of central institutions at local level.<sup>7</sup> Regardless of the fact that Article 8 of the Law on the Prefect recognizes him the right to demand from these institutions the undertaking of measures for the fulfillment of duties established by the law (or sub-regulatory acts), it seems that this specific provision does not fully respond to the function of supervision and monitoring of activities of central institutions at local level by the Prefect, more than ever when it comes to the reflections-conclusions and recommendations aspect. Similarly truncated is the Prefect's capability to actually "influence" the central institutions for an improved performance of their agencies at local level. Article 12 (clause ç) of the law restricts the Prefect within the limits of merely reporting towards central institutions, when demanded by them or when considered appropriate by the Prefect.<sup>8</sup> Placed in such a legal framework, it seems that the Prefect's functions do not go beyond mere ascertainments on the institutions' activities. This comes mainly due to ambiguity in the required instruments to be used to ensure the necessary influence for the improvement of supervised institutions' performance (through reflection of eventual recommendations). Consequently, it would be excessive to ask for accountability from this institution, not only in terms of the institutions' level of performance but also in terms of cooperation between the latter and the local government units.

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the Prefect has often been unable to solve the situation or it has been subject to these clashes itself. Such situation has been identified in Shkodra where the weak (formal) inter-institutional cooperation continues to influence the environmental issues related to the Lake; in Durrës, the Prefect has been in one occasion subject to dispute (with the Municipality and its civil registry office).

6) These provisions are mainly limited to obligations imposed on respective institutions – such as education Department, Regional Environment Agency, Regional Police Department, etc. – to seek advice from the Prefect (Law No. 9749, "On the State Police", Article 122) or to give provide counseling to him/her (Law No. 8934, "On Protection of Environment", Article 68).

7) The Prefect has also the right to supervise the realization of the delegated responsibilities and functions from the central government and the use of accompanying financial resources. Nevertheless, bearing in mind the relationship between the two institution (no jurisdictional), the lawmakers have made sure that the implementation of the supervision does not affect the autonomy of the local government and thus remain focused only on the respective functions. The eventual disagreements between the Prefect and local governments still remain present (however in limited cases) also as regards the supervision of the delegated functions, especially when they are delegated in absence of an objective financial fund covering the costs of its implementation (for the local government).

8) Article 12, point ç explicitly reads that: "When deemed necessary **and** when asked, **informs** the ministers and heads of other central institutions on the activity of central institutions at local level, as well as on the level of fulfillment of the service in the respective sectors."

Viewed from this perspective, it is clearly comprehensible that strengthening the Prefect institution as provided by the new Strategy on Decentralization (granting this institution the right to appoint /dismiss their executives) would not improve the overall situation. The above analysis of the legal framework and the monitoring report carried out in the four targeted cities (Durrës, Shkodra, Fier and Korça) demonstrate that the drawbacks in the coordinating role of the Prefect vis-a-vis the central institutions at local level and the local government are not related to the authority (or lack of it) over their executives' appointment, but with the legal provisions (and means for their enforcement), which establish the instruments for its coordinating role, the evaluation criteria in terms of the institutions' performance, and the Prefect's competencies to influence for work improvement based on supervision and monitoring.

On the other hand, the same approach should be reflected also in the legal provisions that regulate the activity of central institutions at local level as well in the subregulatory acts, which they base upon.

As far as relationship of the Prefect with the local government units (commune, municipality, and region) is concerned, the existing legal provisions apply a very cautious approach, in order to preserve the autonomy of local government in accordance with the decentralization trends. What needs to be emphasized in the context of strengthening the coordinating role of the Prefect is the need for legal improvements (addressing the gaps) to respect not only the autonomy of local government but at the same time to be guided by a visionary approach towards decentralization. While intensive debate takes place for a placement of some of the central institutions at local level under a more emphatic responsibility of the Prefect, naturally emerges the demand for their factual decentralization, bringing them closer to the local government and accordingly also to the citizens.<sup>9</sup>

Lastly, it is very important to point out that although the existing legislation places precisely the Prefect as the main structure to ensure the coordination of activities of the central institutions at local level as well as their cooperation with local government, the cooperation challenge constitutes a legal responsibility for each of the institutions, especially for their executives who should transform it to a basic principle of the ethics of their activities' management and administration.

In order to acquire a much clearer review of the practical aspects of the Prefect's role in the coordination of institutions at local level, the following part focuses on the institutions involved in cooperation, a framework for which legislation grants the Prefect a particularly important role.

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9) Such a proposal is very relevant in the case of education departments, particularly bearing in mind that some services in this sector have already been associated with the local government.

## I.2. Involved institutions and the cooperation problematic

Local institutions with which the Prefect's activity is closely connected fall into three main categories:<sup>10</sup>

- **Central institutions at local level** – The Prefect has the right to supervise, monitor, and coordinate their activities;
- **Institutions of local government** - (level of region, municipality, and commune) – Independent from the Prefect;
- **Police** and defense structures – which by law are separate from the central institutions at local level.

This categorization of structures, with which the Prefect maintains institutional relationship, implies also different terms under which relations are developed, depending also on the status of each institution – independent as local government, or centralized such as police structures, etc. Following the legal frame which regulates the mission and activity of the Prefect, it would be quite functional to have an analysis of the cooperation *problematic*, involved institutions and the main elements that condition their relation with the Prefect. This would, therefore, help to identify adequate recommendations for the improvement of the role and efficiency of the Council of Ministers' representative in the region.

### I.2.1. Local Government

The relationship of the Prefect with the structures of **Local Governance** is well established by the current legislation – “There are no subordinate relations between the prefect and the local government bodies.” (Law on the Prefect, Article 13) Nevertheless, such definition cannot exclude any kind of “supervision” relation, none the least cooperation between them. By law, the Prefect is authorized to:

- Verify legality of acts approved by the local governance units, in communes, municipalities, and regions. (Article 14).
- Review the citizens' appeals regarding the legality of acts with normative and individual character issued by the local government organs. (Article 17).<sup>11</sup>
- Control the performing of the functions and responsibilities delegated from the central government and the use of funds planned for them. (Article 16).<sup>12</sup>

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10) As a representative of the Council of Ministers at local level, the Prefect's relations with the Council of Ministers, line ministries, and other central institutions represent a very important component. Nevertheless, in view of the report's focus, this relationship will be analyzed only from the point of view of the activity and performance of the institutions at local level.

11) Article 15 of the Law states: 1) The prefect verifies the legality of normative and individual acts directly and periodically not less than once in six months at the local government organs, as well as in the other organizations established pertinent to them, when it is not envisaged otherwise in the other legal acts. 2) If during the verification process, the prefect observes that there are acts, which have not been submitted to the prefect, he entitles the right to request the invalidity of those acts from the court.

12) Law No. 8652 “On Organization and Functioning of Local Governments” (date 31.07.2000) entitles the Prefect other rights, such to define the number of members in commune/municipality councils under his jurisdiction; call extraordinary meetings of the councils of communes, municipalities or regions

Although verification of legitimacy, as one of the most important functions vis-a-vis the local governance, bears in itself also the potential for “clashes” through each institution’s stance, the eventual resolution of such a context occurs under clear legal procedure. What can constitute a problem in such cases is the fact that the legitimacy verification procedure takes place without impeding their implementation and in order to avoid undesired consequences deriving from such act, cooperation and understanding of the two institutions is required. This is something that is not usually sanctioned through legal acts.

During the monitoring period, in several cases have been noticed difficulties and disputes between institutions. Particularly problematic has proved to be the practice of authority’s delegation usually unaccompanied by an adequate financial bill, if not total lack of it by the local government. Meanwhile, such practice has often affected the quality of services offered to citizens (or certain groups such as services offered to high school boarders). Contestations between the local government and the Prefect’s supervision service have had as subject those specific cases of fulfillment of delegated authorities, except for local government funds (in absence of an adequate fund from the central government). Equally problematic are also disputes that eventually derive from an overlapped exercised supervision. This comes mainly due to the type of supervision (either financial or administrative) and to the applying institutions (internal audit, the Prefecture, the line ministry). On this purpose, it is essential that all supervision practices, applied by the central government administration to the local government, are guided solely by legal provisions, in agreement with the principles set forth in the European Charter of Local Autonomy (sanctioned also in Law No. 8652), which states that “administrative supervision over local government shall be exercised only in those cases provided by law”.

Cooperation and relationship of the Prefect with the second level bodies of the local government (region) appear to be less intensive if compared to cases of interaction with the municipality or the commune. Although responsibilities and competencies of these two structures include the same administrative territory, it seems that in practice their interaction remains mainly focused on aspects related to the Prefect’s competency to verify the legitimacy of acts and very little focus drops on other responsibilities (which often intertwine and necessitate cooperation between the two institutions), such as initiation or coordination of regional initiatives that aim the overall development of the region, etc.<sup>13</sup> Perhaps this axis of cooperation, whose expected intensity has constantly been lacking, discloses more powerfully the concern raised by these institutions’ representatives on responsibilities unaccompanied by

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(qark), etc.

13) Article 12 point a) of the Law on Prefect assigns to this institutions direct responsibility also in this aspect. On the other hand, article 13 point 1 of Law no. 8652, date 31.7.2000 on the Organization and functioning of the local governance defines as one of the main functions of the region (qark) exactly the “drafting and implementation of regional policies and their harmonization with state policies at the regional level”.

the necessary instruments for their implementation. This is particularly true in the case of responsibilities and competencies that the existing legislation groans to the region by so placing it in a peripheral position and with almost no efficient instrument at all for the fulfillment of its foremost function – elaboration and implementation of regional policies.<sup>14</sup> Furthermore, the financial resources established by the legal frame on the functioning on the region's bodies seem to be limited and insufficient for an active role of this structure. Consequently, the conclusion that the Prefect's major coordinating activity is mainly focused on the first level of local governance (municipalities/communes) is logically expected.

Viewed from this perspective, it is indispensable to resolve the legal dilemma of the region's position and its role in the framework of possible sectors of cooperation with the Prefect. Taking into consideration the Prefect's responsibilities in terms of coordination of the activities of a series of institutions at local level as well as the region's potential in this aspect, as an elected local institution that should possess a more extended vision of regional policies in the administrative division, the monitoring report concludes that the legal frame should offer more sustainable solutions for a more active role and involvement of the region. In this sense, the improvement of the region's position and particularly the financial aspects of its functioning would enable a realistic response to the responsibilities stipulated by the Law No. 8562 and, eventually, to the need for extended cooperation with the Prefect in sectors deemed important for the regional development.

### 1.2.2. Central institutions at local level

With central institutions at local level, the Law "On the Prefect" implies all the institutions and bodies of the Council of Ministers, ministries, and central institutions that are under their authority as well legal persons, who, according to the law, are supervised and administered by them and who exercise their activity in the region's territorial administrative unit.<sup>15</sup>

In addition, IDM and IDRA monitoring project included in its focus some of these institutions, such as the Education Departments, the Environment Agencies, and the Water Supply and Sewage Enterprise (when organized as public enterprises). As emphasized by the above legal framework analysis, the Prefect's role as coordinator for activities of central institutions at local level remains limited in its competencies and influence, regardless of legal responsibilities it has assumed. The monitoring process and consultations undertaken by IDM and IDRA point out that the current level of such coordinating role, and to a lesser extent that of the supervision role of the Prefect, comes due to the affinity with central government and to the superior position of the Prefect (appointed by the Council of Ministers), rather than as a product

14) Based on Law No. 8652 (point 2 and 3), other functions of the regional include those which are delegated by the communes/municipalities and the central government.

15) As previously mentioned, this category does not include the institutions and structures of Armed Forces, State Police, Intelligence Service, and other state bodies explicitly envisaged in the law.

of the efficiency of legal instruments.<sup>16</sup> Such a factor seems to have been taken for granted and has further been reflected in the existing legislation, which specifies the institutional positioning and the interaction instruments between them.

Although the legal framework grants the Prefect the competency to supervise and coordinate the activities of central institutions at local level, it seems that its role is yet confined in ascertainments and announcements given to the line institutions (when deemed appropriate and called for) or to the Council of Ministers.

The Prefect assumes the right to request to central institutions at local level to take the necessary measures for the fulfillment of their duties and functions. Yet, lack of strong institutional ties between them (without the “mediation” of the central power) renders this specific function of the Prefect entirely dependant on subjective factors or on the influence from the perception that these institutions are part of the axis of power (central power) or of politics (governing coalition).

It seems that this very factual situation in the exercise of competencies and relationship of the Prefect with these institutions is the main reason standing behind the request of the Prefect’s representatives for the placement of central institutions at local level under the Prefect’s jurisdiction.

Conclusions drawn from the monitoring processes –carried out within the frame of this project– confirm the fact that the integral of competencies and legal instruments granted to the Prefect *vis-a-vis* the central institutions at local level do not fully respond to the level of responsibilities demanded to this institution for ensuring the progress of these institutions’ activity.<sup>17</sup> Although less present, the same handicap can also be identified in the second component of the Prefect’s competencies related to the central institutions at local level. Taking into consideration the complexity of issues (in the sector of cooperation and involved institutions), the analysis on the Prefect’s competency to coordinate their activities should allow for two main elements:

- The institutional relationship between the Prefect and the central institutions at local level is not fully comprehensible in terms of accountability (as the law prescribes it within the frames of reporting);
- Unlike the Prefect, who is appointed to that position, the representatives of local governance are elected (what grants them greater legitimacy) and their relationship has no subsidiarity elements.<sup>18</sup>

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16) In view of the (still present) hiring/firing practice based on political criteria by heads of institutions under the authority of local or central government, the political affiliation appears as an additional factor of the relationship between the impact of the Prefect’s coordinative role and the “common centre” (central government) of these institutions.

17) Nonetheless, addressing this concern solely through granting authority to the Prefect over the central institutions at local level does not appear to be an efficient and sustainable solution.

18) This element of the analysis is particularly important for the approach which should be eventually

Consequently, the role of the Prefect in the coordination of these institutions' activities can be exercised and supervised only in the framework of common working groups or coordinative meetings on specific issues with representatives of central institutions at local level, local governance, and other institutions, such as police, etc.

Despite the positive impact these working groups have had in several cases –for instance, the working group on road traffic during the tourist season in Durrës– it is important to stress that generally speaking this practice of activity coordination has produced limited results due to several reasons:

- First, although the Prefect is responsible for the coordination and performance of their cooperation, the central institutions at local level remain more attached with the line institution to which they report directly.
- Second, being part of the same political coalition with that of the central government, the eventual influence of the Prefect on the executives of the central institutions at local level is mainly perceived as a political one.
- Third, in absence of suitable legal instruments (in terms of accountability to the Prefect) the exercising of competency related to coordination of activities remains incomplete.
- Fourth, since specific issues have brought about also clashes among the central institutions at local level (or between them and the local government) or reciprocal justifications in terms of lack of competency for problem solutions, the Prefect proves to be quite weak in “coordination” of their activities due to lack of respective legal competencies.<sup>19</sup>
- Finally, in cases of these institutions' activity coordination with the local government (regarding the latter, within its own authority and not as delegated by central power) the institution of the Prefect is still lacks the legitimacy to motivate a coordinated reaction between the local government and the other institutions.<sup>20</sup>

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employed for legal improvements to the position of the Prefect and it does not imply amendments or other measures that would affect the local government's autonomy (currently defined in full compliance with the decentralization principles).

19) The Law on Prefect refers to the resolution of disputes between this institution and central institution at local level or the leaders of central institutions in post-factum cases (after the offence has occurred/ the decision or other act has taken place), but it does not define any legal procedure or other competency of the Prefect in cases when the solution of a specific problem is delayed due to the lack of coordination among institutions (which, to their own in defense, they usually state that they are not responsible for the issue under consideration). The same conclusion is also relevant for cases when the Prefect is entitled to file a case with the court (post-factum situations).

20) In regard to this, the careful approach of Albanian lawmakers can be easily understood as they have sought to preserve the balance and the principle of local government autonomy.

The above-mentioned factors constitute some of the main reasons influencing the limited role of the Prefect in the coordination of the activities of central institutions at local level. Furthermore, they constitute the main basis for the above mentioned argument that their placement under the Prefect's jurisdiction (as a sole measure) would not necessarily improve the actual level of cooperation among institutions but would simply turn the experience of working groups and the coordinating meetings of the institutions forums at local level into common meetings of the Prefecture various directories.<sup>21</sup>

Another very important body for the cooperation of institutions at local level as well as the role of the Prefect as a coordinator of their activities is the State Police. Such relationship is analyzed separately from the central institutions at local level not only due to differentiations in legislation but also due to the nature of work and specific issues of cooperation with institutions.

### 1.2.3. State Police Structures

As also mentioned above, the Law on the Prefect refers to police structures, separately from the central institutions at local level not only due to the Prefect's relation with such institution but also due to the State Police's nature of work and centralized organization.<sup>22</sup> Such an approach of the legislator is perceived not only from the duties assigned to the Prefect in relation to the Police activity but also from the very wording that characterizes this relationship: "The prefect **cooperates** with the state police bodies in order to take measures for keeping the order and public security in the territory of the region" (Article 10 of the Law on the Prefect). Both these institutions share the same characteristics in terms of organization of structure and activity, which converge in a common ground: the connection they have with central government. Being part of a centralized institution, executives of police structures at local level disclose themselves as "attached" to the centre (central government) and its representative in the region (the Prefect). However, such ascertainment is mainly valid for aspects of activity coordination and reporting on security and public order issues, rather than police structures' performance in this context or their cooperation with local government.

In fact, the monitoring process in the four cities has noticed a sort of practice that at first sights seems paradoxical. Thus, most of the representatives of Police at local

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21) Although at first sight all factors evolve around the Prefect's position vis a vis central institutions at local level, the recommendation for a structured intervention to enhance its role (and not simply to expand Prefect's authority over these institutions) takes into account additional aspects of the argument including: the issues of other sectors, ensuring a satisfactory performance of cooperation (immune of to-date practices of political influences/hiring practices), the possibility for an eventual expansion of decentralization philosophy in these structures as well, etc.

22) In addition to the Police, the law approaches through the same way also the Prefect's relationship with Armed Forces, Intelligence Service and other state bodies (when explicitly referred to in various laws). The report will provide an analysis of the relation - Prefect - State Police only, because this institution is the only (in this category) which has been included in the monitoring and assessment report.



level (region and commissariat) state that cooperation with the Prefect's institution is fairly important and that relations between these two institutions have traditionally been quite close. Yet, they admit that the most relevant institution for the success and efficiency of police activity is not the Prefect but the local government and all its structures. Such assessment seems to somehow materialize inconsistencies in the approach applied by the legislator while at the same time sheds light on the paradox in the police executives' perception on the importance of the Prefect's role in their activity.

It is more than obvious that the only argument motivating such a perception of the police structures is not associated with any specific role of the Prefect in the efficiency of police daily work (crime exposure or prevention, etc.), but, above all, with the feeling of political dependency on the centre, which is certainly associated with the Prefect and by no means with the executives of local government. Such ascertainment is also noticed in the only aspects of legal relations between the two institutions:

- The Law on the Prefect assigns to this institution duties that are mainly related to coordination of activities. Article 10 of the Law makes use of wordings like “cooperate”, “coordinate”, “ensure support”, etc., but in no case does it include components of control or police accountability to the Prefect.<sup>23</sup>
- The Law on State Police (No. 9749, dated 4.6.2007) addresses the relation to the Prefect in only two cases: Article No. 46 (Bodies of the Region's Police maintain relations with the Prefect in accordance with the existing legal provisions”) and Article 122 which binds the Director of the Region Police to consult with the Prefect in the case of the annual strategy of policing for the community security<sup>24</sup>

As it can be found out, none of these provisions sanctions any specific role to the Prefect in the daily activity of Police or in their accountability process, which implies that the feeling of common political dependence is the only reason for such a perception. However, the role of the Prefect's institution in the coordination of activities of central institutions at local level and provision of support for police work constitutes one of the most appreciated aspects of such relationship by police representatives.

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23) Point 1 of Article 10 of the Law on Prefect states: “The prefect receives regular information on the problems of order by the region police director, and he requires the enforcement of measures to keep the order according to the responsibilities and tasks stipulated in the legal and sub-legal acts.” Yet, the police structure at regional level report only to the highest level of the State Police and the Ministry of Interior.

24) It is important to note that point 4 of the same provision (Article 122) requires from the Head of Regional Police Department to present the annual policing strategy to the heads of local government units, while it does not envisage the submission of the same strategy to the prefect.

Although cooperation of police with institutions at local level generally takes place with no serious obstacles (due also to the nature of services it offers), the coordinating role of the Prefect, as a representative of the central government in the region, is particularly important in specific issues that call for involvement of various institutions at local level, (such as the elaboration of strategies for community policing, crime prevention, fight against various phenomena like planting of narcotics etc.). Occasionally, it may include the combination of competencies and activities of a series of institutions (for instance the road safety and public order during tourist seasons in the coastal cities, environment protection from illegal acts, etc.).

Collaboration of police with the local government units is one of the most important links for the efficiency of police structures and, in this sense, one of the Prefect's tasks is precisely related with the enabling of such coordination and support (for maintenance of public order and security as well as enforcement of local government units' acts) .

Nevertheless, even though the coordinating and supportive role of the Prefect vis-a-vis the central institutions at local level, for police activities (even in absence of clear accountability instruments) is comprehensible and efficient within the limits of legislation, it seems that cooperation of police with the local structures takes place out of the influence of the Prefect's coordinative initiatives. Articles 10 and 11 of the Law on the Organization and Functioning of the Local Government assume the local power with the responsibility for public order (and civil security) through a legal provision that does not fully reflect the issues and the necessity for a close cooperation between the police and local government units.<sup>25</sup>

On the other hand, Law No. 9749, dated 4.6.2007, "On State Police" seems to have made some steps backwards, as compared to the previous law, in the assignment of duties and responsibilities related to cooperation with local government units, while it provides nothing new for the Prefect's role. Provisions of the previous law have somehow paid specific importance to the real involvement and cooperation of the local government on issues of security and public order;<sup>26</sup> whereas Law No. 9749 does not reflect such an active role of local institutions, which in practice can be crucial for police performance.

This legal deficiency in the Police-Local Government relationship cannot be addressed through the legal solutions of the "coordinating role" of the Prefect. This

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25) The legal formulation reads – "The protection of public order to prevent administrative violations and enforce the implementation of commune or municipality acts" (Article 10 of Law No. 8652, dated 31.7.2000, "On Organization and Functioning of Local Government").

26) See Article 59 of Law on the State Police (No. 8553, dated 25.11.1999) which grants the local government units the right of involvement in the selection process of police chiefs at local level, while requires from local (region/commissariat) police leaders to submit to local government an annual report on the status of public order and security.

is due not only to the independence of local government, but also because of the nature of police work as more than a mediator (the Prefect) police needs a partner responsible to the community, closer to the citizens, aware of the importance of cooperation in the field of public order and security for the community (local government).<sup>27</sup> On the other hand, as stipulated in the existing legal framework, the coordinating role of the Prefect can only offer one complementary instrument to this (missing) component of the police-local government relationship.

### **I.3. Recommendations**

The need to further improve the Prefect's performance and, particularly, its coordinative role as a representative of the central government at regional level represents a challenge that is still present in Albanian lawmakers' agenda. The new decentralization strategy provides some hints regarding the eventual direction of legal amendments by focusing on the relationship of the prefect and the central institutions at local level.

As previously stated in the report, the monitoring and assessment project of IDM and IDRA identifies the same need for changes and clarifications of the existing legal framework on the Prefect's relationship with other institutions and its coordinative role. This is important not only to enhance the cooperation of central institutions at local level with local government units but also to improve the quality of services they provide to the common citizens.

From the perspective of Prefect's relations with local government, the eventual amendments should preserve the existing legal balance in respect of local government autonomy. Within such a limiting framework, the prefect's role may take up a more dynamic shape in terms of coordination of activities of both government levels at local level, without necessarily amending the existing legal provisions. A practical example is provided under the Article 31 point c) of Law no 8652 date 31.07.2002 (which states: "*1) The Council meets in extraordinary meeting in the following cases: c) With the motivated request of Prefect concerning issues related to the functions of the Council.*"). In this context, the role of the prefect may be further materialized as a coordinative institution of the activity of other institutions at local level. Under these terms, the prefect should ask to include in the agenda some analyses of problems urging solution by suggesting concrete measures and should request the support of the local government.<sup>28</sup> Another component which may improve the coordinative

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27) Police cooperation with institutions at local level is more thoroughly analyzed below. See section on Police.

28) In relation to this recommendation, there is no need for legal amendments, since the existing legal framework provides enough space for these opportunities. On the contrary, this approach may be employed also through an act of the Council of Ministers that would further clarify the regulation on the functioning and responsibilities of the Prefect and its administration in order to correctly use the opportunity provided by the organic Law no. 8652.

role of the Prefect is the second level of the local government – the region (Albanian ‘qark’ [pronounced *kyark*]) – especially in view of this structure’s potential as an elected local body, which has a more comprehensive perspective of regional development policies in the respective administrative unit.

The monitoring report identifies a number of gaps particularly regarding the Prefect’s relation with central institutions at local level which calls for a more sustainable solution than the current approach that focuses on the expansion of prefect’s authority in the nomination of these structures’ leaders. Based on the progress of the efforts to consolidate the role of the prefect and also in view of the area of each institution, the eventual changes and improvement should take place under a framework of dialogue and problem-oriented debate, which should involve local level authorities (mainly prefects) and those at the central level (line ministries). Accordingly, the report’s recommendations focus on the main issues that this initiative may include in order to enhance the prefect’s role and performance. Some of the competencies for review may include:

- The right of the prefect to outline its opinion on important documents of central institutions at local level. In order to increase effectiveness of the current provisions (of the Law on Prefect), this competency should take an obligatory shape thus allowing that these documents be always accompanied with the prefect’s opinion. (Such documents would include annual and 3-year programs of activity, financial programs, periodic reports, conclusions of the supervising process, information on emergencies, etc.)
- The obligation of central institutions’ leaders (minister, general director) to take into consideration within a clearly defined timeframe the concerns submitted by the prefect<sup>29</sup>
- There is space to increase the prefect’s role in supervising the central institutions at local level not only through expanding the area which is subject to supervision but also through imposing an obligation to the supervised institutions to implement the related acts.<sup>30</sup>
- The concerns on the overlapping of supervisions especially as regards the delegated authority to the local government or on issues of implementing governmental policies emphasize the need for a coordinated approach of the prefect with the respective central institution. A possible solution to this concern may be offered through the coordination of supervising processes via the prefect – either through authorizing it or through establishing joint

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29) This should serve as a concrete element of the relationships currently stated in the law and that should also allow for the Prime Minister to review cases of disputes between the Prefect and the Minister (or leaders of other institutions).

30) This requires more concrete involvement of the Prefect in supervising procedures by also specifying the cases and ways how to accomplish them. On the other hand, the right of the (supervised) institution to submit a complaint to the leader of the line ministry may be integrated under the same framework of provisions that regulate the eventual disputes between the prefect and the minister (or other leader) by the Prime Minister.

- supervision task forces of the prefect and the central institution.
- While the report concludes that enhancing the prefect's authority in hiring/ firing leaders of central institutions at local level alone may not significantly influence the improvement of its role, it is important to note that the implementation of this measure should take into account the wide *problematique* covered by special categories of institutions and the prefect's role in these developments. In this context, consultation instruments and joint decision-making modalities represent tools that should be taken in consideration.

## II. CIVIL REGISTRY SERVICE

While in other countries the civil registry service may barely attract the public attention, this service in Albania remains one of the most debatable and problematic for the citizens. In absence of identification documents (IDs) for Albanian citizens, the civil registry offices for years have been in constant pressure of citizens' request for registry documents, which condition a wide range of actions in the country and abroad – parliamentary/local elections, requests for various services from state and private national/foreign institutions, etc. Accordingly, the civil registry service appears under the current conditions as an institution, which directly or indirectly is present in the activity of many other institutions, public or private, national or foreign.<sup>31</sup>

The Law on Civil Registry Service (Law No. 8950, dated 10.10.2002) defines the service as a state and unique institution, which is exercised as a delegated authority also by local government structures. The service is structured in the following four levels:

- General Department of the Civil Registry at the Ministry of Interior (the highest body of civil registry service)
- Civil Registry Office at the regional level
- Civil Registry Office at municipalities and communes
- Civil Registry Service in Albanian diplomatic and consular missions

The monitoring and assessment report focuses on the first three levels while the fourth level – civil registry service at diplomatic and consular mission - is only partially included in the analysis.<sup>32</sup> Unlike the case of Prefect, the following analysis on the relations and cooperation of the civil registry service at municipality/commune/region with other institutions at local level identifies more elements of supervision and jurisdictional relationship of the service, which is understandable bearing in mind the institutional setup of the service and its dual jurisdictional relationship. The civil registry service thus represents a particular case study for analysis where identification of alternative solutions for further facilitation of its work still remains a difficult mission also for this institution's experts and representatives. The immediate conclusion of the analysis in fact was that the current institutional setup has often negatively influenced the quality of services provided to citizens. On the other hand, it is clear that any eventual intervention aiming at improving the situation in this respect would have to take into account the forthcoming changes and the decrease of the frequency of requests for service from citizens as a result of the introduction

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31) The uniqueness of this institution represent not only a legal component (Law on Civil Registry characterizes this institution as a unique service) but also a practical component due to the intensity/frequency of this function and the variety of organizations which benefit from this service.

32) The fourth level is discussed only in relation to the cases when the service is requested for reasons that involve foreign institutions outside Albania.

of electronic IDs. One of the measures that may be undertaken in this context is the limitation of the number of procedures/processes requiring a document issued by the civil registry office –more concretely, birth and family certificates.

It is worth mentioning also that these developments (new IDs for Albanian citizens) and the reduced political tensions (mainly during electoral periods) will facilitate the performance not only as a result of the decrease of the number of citizens' requests but also through limited political tensions and attempt to control the service and balanced access to supervision through dual jurisdictional relationships (from central and also local government). The monitoring and assessment report on the cooperation between the Civil Registry Service focuses on few main aspect of its performance that directly affects the efficiency of performance and the quality of services rendered to citizens.

The outlined recommendations on the improvement of this service are based on a comprehensive analysis of the legal framework, the experience, and cooperation of this structure at local level, the wider *problematique* of the institutional setup as well as on the findings of the monitoring, and the consultations with representatives of the institutions.

## II.1. Legal framework

The civil registry service is perhaps one of the public services with the most complicated institutional setup. According to the legislation in force, this service is structured in few levels of the executive power, with a rather complex supervision system.<sup>33</sup> Not only the character of this service and the actual conditions that affect the frequency of the citizens' requests (in absence of IDs) but also the political sensitivity on the service represent factors that have imposed such a complex setup of this institution. According to the Law No. 8950, dated 10.10.2002, "On the Civil Registry Service", there are three main levels of this structure in the country: central level (General Department of the Civil Registry Service at the Ministry of Interior), regional level (at qark – part of the administration of the Prefect), and the local (municipality/commune) level, which is closer to the citizens. A common feature of this institutional setup is that the closer this service gets to citizens (from the first level – central, to the last one – local), the more complex become the organizational and supervising instruments over the performance of the institution.

The *first level* of the service – General Department of the Civil Registry Service – is the highest body within the service and some of its main duties include the following:

- Establish and administer the National Civil Registry Record
- Draft and submit for adoption (to the Minister of Interior) the methodologies

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33) The report analyzes the legal framework of the organization and the structure of the civil registry service while the legal acts that regulate the operation of this service are included in the analysis only from the viewpoint of their influence in the institutional setup and cooperation with other institutions.

- and regulations on the functioning of civil registry offices
- Provide methodological guidance and supervise the activity of civil registry offices in the region, commune, and municipalities as well as in the diplomatic and consular missions
- Take measures, draft and implements specific training programs for civil registry service’s employees
- Draft professional criteria to be met by civil registry service’s employees

From the functional point of view, the first level of the service ensures the quality of the functioning of the service’s other levels through management, supervision, and guidance. In addition to the General Department (at MoI), the structure of civil registry office is also “conditioned” by the Council of Ministers, which defines the number of employees, the structure and organization of the service at each local government unit. From the financial point of view, the civil registry office at the municipality, commune, and regional level transfers the income of the service (tax) to the State Budget, which covers (under a special heading) the expenses of the civil registry work.<sup>34</sup>

The **second level** of the service – Civil Registry Office at the regional (qark) level) – is part of the administration of the Prefect and, according to the Law on Prefect, the Prefect hires/fires employees of this office. While the General Department is entitled to supervise the work of the civil registry office at regional level, the latter is allowed to supervise the performance of the third level of the service (civil registry office in municipality/commune) and report back to the Prefect and the General Department. Based on its reports, the civil registry office at the regional level may suggest to the respective institutions to take the necessary measures (Article 62 of the Law on Civil Registry Service). Furthermore, this level of service has other functions that are similar to those of the third level (which are subject to supervision by the General Department):

- Administer the archive of civil registry records at regional level;
- Issue certificates of civil registry service related to documents administered by the office (upon request of the individuals or the civil registry office at municipality or commune); and,
- Provide data to state institutions and private entities based on the legislation in effect.

Such combination of duties and responsibilities –supervision of performance and service to citizens– of the civil registry office at regional level further complicates its work as well as that of civil registry offices at municipality/commune level.<sup>35</sup>

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34) The monitoring process in all four cities has concluded that the State Budget funding for these expenditures do not correspond to the intensity of work of these offices.

35) One of the proposals that was discussed with experts and representatives of this service at different levels dealt precisely with the simplification of responsibilities of the civil registry office at regional level by assigning to it only the responsibilities related to the archive of civil registry records.



The **third level** of the service – Civil Registry Office at municipality or commune level – represents the structure of the service which is closest to the citizens. According to the legislation in force, these offices are part of the respective local government units' administration and they are charged with the following tasks (Article 64 of the Law on Civil Registry Service):

- Prepare and manage the fundamental register of nationals in the respective territory;
- Register acts of the birth, marriage, and deaths in the respective records;
- Issue certificates of birth, family, marriage, and death, as foreseen in the law;
- Register actions of civil registry service as specified in the law or relevant sub-regulatory acts
- Respond to assigned duties in relation to other state institutions and interested persons;
- Inform the municipality/commune council and mayor about the performance of the civil registry office, upon request or periodically (according to the relevant guidelines)
- Respond to all tasks assigned through legal acts of the municipality/commune council or the mayor, in line with the legislation in force.

Taking into consideration the nature of activity of this level of the civil registry service and the responsibilities set forth in Article 64 of the Law and other sub-regulatory acts (decisions and guidelines on specific tasks – national census, address system, etc.), it becomes clear that the civil registry offices at municipality/commune level are the most work-overloaded structures in terms of intensity of work and supervision and accountability. Therefore, from a legal perspective, it appears that the work of civil registry offices at the municipality/commune level is conditioned by a number of factors, the most important ones being the following:

- a) Appointment and dismissal of employees is the authority of the head of local government unit, while the General Department may request the dismissal of individual employees in case of offences committed by the employees;
- b) The structure and number of employees in the civil registry offices is defined by the Council of Ministers;
- c) The financial jurisdiction and the way this problem is being addressed in practice are unclear. On the other hand, the service has no authority to manage the financial income (transferred to the State Budget) and it often appears to be a victim of disputes between the local and central government in regard to funding covering civil registry office expenditures.
- d) Inspections (from the first and second level of the service) of activities and of administrative and financial operations – currently, the local government, central government (as a delegated authority) and independent oversight institutions overlap with one another.

The overall structure of the civil registry service and the complexity of the dual jurisdiction have further affected the focus of the report's analysis, which pays particular attention to inter-institutional aspects of cooperation and coordination. The monitoring process in all four cities identified a particularly sensitive *problematique* concerning this institution's dual jurisdiction and the legal position assigned to each level of the service that influences the level of cooperation with other institutions at local level. Nevertheless, in view of the character of the work of the civil registry service, there is a limited number of institutions (mainly law enforcement institutions – police, courts, prosecutor) with which this structure cooperates.

The subsequent part provides details on the main issues and factors conditioning the coordination of work within the civil registry service, its relations with other institutions involved in this area (local government, prefect, Ministry of Interior/General Department of Civil Registry Service) as well as other aspects of cooperation with other state bodies.

## **II.2. Involved institutions and Issues of Cooperation**

As stated earlier in the analysis of the legal framework, the civil registry service appears to be a state body with the most complex institutional setup and with a dual jurisdiction from the central and local government. Considering the fact that the coordination within the service represents the most sensitive issue of the activity of this service, the report focuses particularly on this aspect and aims to provide alternatives to improve services provided to citizens. The monitoring process concluded that under the actual conditions (in absence of IDs, continuous problems with the mailing address system, etc.), the dual jurisdiction of the civil registry service is the most optimal and unavoidable solution for high quality and close-to-citizens service. It is worth mentioning, however, that there is enough space for improvement of the service quality even under the current institutional setup through better categorizing the competencies of each institution and its jurisdiction in the civil registry service as well as the responsibilities of each level of the service – central, regional, local (municipality/commune).

The institutional setup of the service (dual jurisdiction) and the nature of its activity do not allow for a comprehensive analysis of its cooperation with other institutions at local level. Experience of cooperation of this service with other institutions at local/regional level involves mainly law enforcement bodies and the judiciary.<sup>36</sup> In most cases, the cooperation has one direction and is related to the activity of law enforcement institutions in discovering forged documents, identification of nationals, expertise in trials court, etc. Therefore, in accordance with the issues of this service

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36) The relationship of the Civil Registry Service with the Ministry of Foreign Affairs (in terms of verification of authenticity of documents issued upon citizens' request and with a final destination – foreign institutions outside the country) appears to be a formal interaction rather than tangible cooperation, regardless of the number of citizens' requests (including Albanian citizens residing abroad) for this service.

and its legal framework, the report provides a brief description of the main factors affecting the coordination /cooperation and thus influencing the quality of services. This description is outlined as follows:

- Aspects of technical coordination within the various levels of civil registry service; and,
- Aspects of the activity of service and its administrative and functional supervising mechanisms.

In view of the eventual impact on the overall problematic of the latest developments and progress in introducing IT means within the service and providing nationals with IDs, the report endeavors to go beyond the conclusions on the current state of affairs and to include also these circumstances in its analysis.

#### II.2.1. Aspects of technical coordination within the civil registry service

In addition to gaps and deficiencies in the activity of civil registry service at all three levels, there are other aspects –including technical ones– that affect the quality of service offered to citizens. The difficulties in finding an efficient solution to the concerns confronting the civil registry service further complicate the situation in this context due to the approach employed by lawmakers while dividing the types of competencies and associating them with two main institutions that have jurisdictional relationship with the service. A typical example represents the continuous problems with the overloaded work of the civil registry offices' employees in municipality/commune, particularly during the periods of temporary return of Albanian emigrants. The civil registry offices in the target areas (Durrës, Shkodra, Fier, and Korça) cover an average population of approximately 20.000 – 25.000 residents per employee in civil registry office.<sup>37</sup> Although at first sight this may be a simple technical issue that could be easily addressed by local government (as part of its administration), the approach of legal framework continues to affect the quality of service. The Law on Civil Registry Service grants the Council of Ministers the right to define the structure and organization of the service, ignoring the local government units. Another problem that has often placed local and central governments in conflicting situations is the financial aspect of the functioning of the civil registry service related to both administrative costs of the service and infrastructural investments.<sup>38</sup> Although the Law assigns to the central government the duty to transfer special financial resources to the local government (under an individual heading of MoI's budget), experience shows that this fund covers only a part of the administrative expenditures of the civil registry offices and in some cases it does not meet even the minimal needs of the work. While this issue has often been the main subject of the dispute between the local government and the prefect or the General Department of the civil registry service, the lack of sufficient financial resources (and transparency of their use) has encouraged questionable attitudes vis-a-vis the service.

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37) Municipality unit no. 5 in Durrës provides service to nearly 60.000 residents.

38) This is particularly important for the municipalities/communes, because the general public perceives local government as the main institution responsible for the quality of service – long queues and inappropriate waiting facilities, delays in issuing certificates, etc.

The general assessment of experts and representatives of the civil registry service on these aspects is that the recent progress and developments (in finalizing the electronic records, online connection within the service, issuing IDs for nationals, etc.) will significantly facilitate the work and the aforementioned technical aspects. Furthermore, structural changes within the service may appear as a result of both the stabilized workload and the IT infrastructure in the civil registry offices. Until then, the civil registry offices at municipalities/communes will still be facing with the present and additional challenges aiming at ensuring a smooth reforming process (national census, address system, etc.). It is, therefore, necessary that the eventual improvements of the technical aspects of cooperation take place under a well-planned set of actions aiming to adjust the service to the new structure.

#### II.2.2. Coordination of Activity and Supervision within the Civil Registry Service

The second category of factors underlined in this report is related to the concrete activity of the service and especially the supervisory mechanisms within the service (at all three levels). It seems that the institutional setup and the legal responsibilities/competencies assigned to each level of the service have to some extent affected negatively the quality of service provided to citizens. While the general conclusion is that the present institutional setup is the most optimal solution, the legal framework's analysis and the assessment of the service's performance in all four cities shows that some competencies often overlap and thus impede the work of the service, particularly at its third level – civil registry office in municipality/commune (closest to citizens).

The civil registry office at municipality/commune level as part of the administration of the local government unit (administrative jurisdiction) and the structure closest to citizens (functional jurisdiction of the General Department of the civil registry service) represents the institution linking the supervisory competencies of the local and central government. A particularly complex element represents in this sense the legal position and inter-institutional relations between this level of the service on one hand and the General Department (first level) and the civil registry service at the regional (second) level on the other. While acknowledging the necessity of the functional jurisdiction (on the side of the General Department), it seems that the jurisdiction between the second (region) and third (municipality/commune) level of the service has often negatively shaped the latter's performance. Furthermore, there are two additional reasons that oppose this institutional setup:

- First, the experience shows that the civil registry office at the regional level (prefect) has limited capacities (normally with two employees) to efficiently respond to its duties and competencies in supervising the offices in municipalities and communes.
- The second level's supervision (region) appears to duplicate the supervision of the General Department of the civil registry service and to some extent even the supervision of other institutions (which are given the authority under the Article 68 of the Law on Civil Registry Service).

It is important to note that the civil registry service at the regional level (part of prefect's administration) is mainly engaged in duties and responsibilities related to the archive of civil registry records at the regional level and to a lesser extent in direct services for the citizens (verification of authenticity of civil registry acts, issue of certificates based on the pre-1974 civil registry records, etc.). Under the current settings of the service and in view of the recent progress in introducing IT solutions in civil registry operations, it seems that managing the records' archive is the only competency that should be assigned to this level of the service (region). Such solution would not only support the current institutional setup of the service in general, but would also facilitate its work at all three levels and especially the work of the civil registry offices at municipality/commune level.<sup>39</sup>

As states earlier, the introduction of IT solution in the operations of this service may well result in the need to reformat its structure. Yet, bearing in mind the need for an easy-to-access and closer-to-citizens service, the administrative jurisdiction of the local government unit (over the civil registry service) will most likely continue to appear as a feature of the service (at least from a medium term perspective).<sup>40</sup> Accordingly, it seems that simplification of the dual jurisdiction and avoidance of overlapping competencies and ill-defined responsibilities appear to be the only sustainable solution under the current and (future) enhanced IT solution settings.

### **II.3. Recommendations**

The introduction of IT solutions in the civil registry service and the recent progress in issuing IDs to Albanian citizens has entered its final stage. Representatives of state institutions at local level share the report's conclusion that these developments will significantly improve the quality of services provided to citizens not only due to the new technology to be used but also as a result of the decline in the number of citizens' requests for this service. Accordingly, the report's recommendations take into account the current issues in this area and the identified shortcomings in the light of these events. While at first glance part of the recommendations seem technical, their importance for the improvement of civil registry service performance and cooperation with other institutions remains in the spotlight. Some of the aspects requiring greater attention and appropriate measures include the following:

- The process of issuing IDs to Albanian citizens alone cannot facilitate the service work. Rather, it is necessary to undertake legal amendments aiming

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39) Both the right of the civil registry service at regional level to supervise the third level of the service and (with the introduction of IT solutions in the service) the responsibility to verify the authenticity of certificates are not deemed necessary under the new developments.

40) In few occasions, participants at the focus groups have articulated the assumption that the re-structuring of civil registry service may also affect the administrative jurisdiction of local government units. Nevertheless, the re-structuring would not improve anything (as regards the citizens' present concerns and the request to avoid the verification of authenticity) if this process would simply concentrate the third level of the service (from the municipality/commune) at the regional level.

at decreasing the number of cases when the citizens must accompany their requests to various institutions with (birth or family) certificates issued by the civil registry office. Furthermore, under such circumstance the IDs will serve as an instrument to partially replace the verification process of the authenticity of the civil registry documents.

- In view of the dual jurisdiction of the civil registry service, it is necessary to further clarify the competencies of the local government by extending their authority on the administration of the service, its structure, and management of human resources.
- On the financial aspects of the service, while the legal framework stipulates the modalities of the financial operations of this service, the experience of the civil registry offices (commune/municipality) reveals the need for an adequate intervention that would allow for a budgeting procedure based on clear standards for each local government unit.
- It is necessary to expand the measures and the incentives for a more tangible involvement of the local government in funding this service. (This will include local government access to the revenues generated by this service.) The to-date solutions in funding this service and its infrastructure are unsustainable while in some cases auditors have declared them to be non-compliant with the law.
- In compliance with the new law on budgeting (June 2008), it should be taken into consideration the possibility of setting up of a special fund for the civil registry service. Yet, this option should be preceded by a thorough analysis on the level of revenues (of the service) and the potential impact of the IT developments within the civil registry service.

### III. POLICE

The monitoring report focuses also on the relations between local authorities and state police, which represent quite an important link. This is particularly true when considering the following items: first, the cooperation between the two bodies is highly important for the efficiency of the police performance; second, local government represents an important institution for the quality of life in community. On the other hand, the cooperation with the state police is equally important even for the performance of central institutions at local level and for support that police authorities may offer in this context.

The monitoring and assessment project went through a number of components where in addition to the research, the consultations with representatives of institutions and independent experts as well have offered an important perspective in drafting the recommendations. However, the experience of enforcing organizations in all stages of the project (presentation, interviews, focus groups, and survey) showed that representatives of police structures have been rather concerned in trying to appear “politically correct”, regardless of explanations on the project objectives and the fact that the state police are one of the beneficiaries of recommendations produced from this report. Local police representatives’ opinions and answers provided during the meetings and interviews have mainly tended to support an assessment that would not be problematic for the institution or for their leaders. Such attitude is especially evident in their answers to the question “With which institution do you cooperate most often?” and also in the analysis of issues on relations with local government authorities. The (almost) unanimous answer of the question emphasizes the cooperation with the Prefect. When asked “With which institution do you have to cooperate most closely in the interest of your work as state police?”, the same group of interviewees shared the opinion that the local government represents the main institution for ensuring public security and addressing community problems.

The cooperation of the state police (at department and commissariat level) with central institutions at local level and with local government authorities is being analyzed in the subsequent part from the perspective of the legal framework and the facilities being offered for a sound performance in the collaboration with other institutions.

#### **III.1. Legal framework**

In order to objectively assess the institutional interactions of the police with other institutions at local level, a comprehensive examination of the main elements of the legal framework regulating this cooperation is needed. The legislation in force on local government institutions, the prefect, and the state police may also be analyzed from the perspective of the existing practices and the space that it allows for enhanced collaboration among these bodies in seeking to improve services to citizens and the quality of life in the community. The references of the legal and strategic documents

–essential for the target of this report– focus mainly in those provisions that provide opportunities for collaboration or that directly refer to the interactions between the institutions. Therefore, it is important to point out the following ones:

- The Law No. 8652, dated 31.7.2000 “On Organization and Functioning of Local Government” has clearly defined the mission of the local government (Article 3) which brings the governance system closer to citizens. Article 4 outlines the main principles of the functioning of local government units including: local government’s autonomy, central – local government relations based on the principle of subsidiary and cooperation in order to address common concerns, compliance with the Constitution, laws and sub-regulatory acts, etc. Articles 10 (IV, a and b) and 11 (point 3, ç) define local government’s own and shared functions in the field of public security, civil defense, and ensuring the implementation of local government’s acts. Article 72 (5-II-a and b) envisages the execution of the abovementioned rights and competencies of commune, municipal, and regional councils.
- Law No. 9296, date 21.10.2004 “On Verification, Identification, and Registration of Citizens from the Local Government Units”. Articles 12 and 14 outline the methods of collaboration with the state police on the verification, identification, and registration of unregistered citizens.<sup>41</sup>
- Law No. 9559, dated 08.06.2006, “On an Addendum to the Law No. 7975, dated 26.07.1995, “On Narcotic Drugs and Psychotropic Materials” stipulates a legal obligation to local elected officials to collaborate on the prevention and fight against the planting and cultivation of narcotic plants, thus assigning them legal responsibility under certain conditions.
- Article 17 of the Law No. 8756, dated 26.03.2001, “On Civil Emergencies” specifies the establishment of local commission on civil emergencies under the leadership of municipalities or communes. Article 18 outlines the operational structures (including the state police as well) for planning and addressing civil emergencies.
- The Strategy on Decentralization and Local Government sets out the functions of local government in the field of public security (including the public order and civil security) and sharing of responsibilities with central government in the context of national policies. This approach recognizes the coordinative role of the Prefect at the level of region.
- Article 10 of the Law No. 8927, dated 25.07.2002 “On the Prefect” specifies the duties of state police structures and the cooperation with this body in order to take appropriate measures for preserving the public order and security in the territories of regions. In doing this, the Prefect requests that measures on public order be taken in accordance with the responsibilities and duties envisaged in legislation and sub-regulatory acts. In addition, the Head of Police at regional level regularly informs the Prefect about the status of public order. The latter coordinates the activities and ensures mutual

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41) This law is of a provisional character (in force until 28.02.2005, Articles 3 and 21.).



- support to state police structures, central institutions at local level and local government bodies operating to preserve public order and security and enforcing the legal acts of local government units.
- Decision of the Council of Ministers No. 8, dated 05.01.2002, “On Establishment of the National Committee for the Fight Against Trafficking of Human Beings”, as amended (as well as the National Strategy Against the Trafficking of Human Beings 2005 – 2007); National Committee for the Coordination of the Fight Against Drugs (and the National Strategy on Prevention of Drugs); State Committee for the Coordination of Fight Against Money Laundering (and the National Strategy on Money Laundering); Inter-ministerial Committee on Road Safety. The establishment and functioning of these national committees is accompanied with the establishment of the local committees under the Prefect of the region.
  - Article 122 of the Law No. 9749, dated 04.06.2007, “On State Police” outlines the responsibilities and attributes of the police in terms of collaboration with local government on security. The Director of the Police at the regional level is entitled to draft an annual policing strategy in the region on community’s security following consultations with the prefect, head of municipality, and leaders of local government bodies, representatives of other institutions at the regional level, and interest groups. The police director submits the strategy to the leaders of local government units. Article 4 assigns crime prevention as one of the responsibilities of the police, further supported by a number of CoM decisions on the establishment of inter-ministerial and local committees on the prevention of and fight against various figures of crime.
  - The Strategy on the State Police 2007 – 2013 is deeply based on the philosophy of community policing encourages the creation of partnerships with the community, local government bodies, education and social service institutions, and non-profit organization. This philosophy employs a preventive approach to the problem of reducing the reasons of crime, enhancing security, and addressing other concerns of citizens. Furthermore, the Action plan of the 7-year strategy underlines the importance of partnerships for a sustainable solution of problems related to prevention and fight against figures of crimes such as blood feud, drugs (especially the planting and cultivation of narcotic plants), trafficking, family crime, road safety, etc.
  - The legal basis and the professional ethics of cooperation of the state police with the municipal police – Law No. 8224, dated 15.05.1997 “On Organization and Functioning of Municipal and Communal Police” defines its functions as an executive body serving to public order and security, the functioning of public works in the territories of the commune or municipality which are not under the authority of other state bodies (Article 1 of this Law). Article 8 sets forth the duties of the municipal/communal police to ensure enforcement of acts issued by local government bodies (mayor or council) in the field of public order and other areas. Furthermore, in compliance with

the Criminal Procedure Code, the law provides for additional competencies (Article 10) related to different measures regarding the authors of criminal acts, safeguarding the crime scene and evidence until the judicial police takes them over. In addition, when deemed necessary for public order reasons, the chief of police commissariat, and the head of the municipality/commune, through the endorsement of the prefect, may decide to coordinate the activities of the respective police structures (Article 16).

The above description of the legal framework regulating the inter-institutional cooperation of the state police and other institutions at local level (especially the local government) gives the impression of a system of provisions still in need of improvements despite its comprehensiveness. In certain cases, the vague competencies of police structures vis-a-vis those of other institutions and the instruments of coordination of the joint activities are still challenging.

The subsequent analysis of the cooperation of State Police with some of the main institutions at local level will highlight the practical influence of the legal aspects and the to-date experience of collaboration of the state police.

### **III.2. Issues of Collaboration of State Police**

The monitoring process, research, and the consultations with representatives of this institution have generally identified a number of issues and practices related to models of cooperation and coordination of activities with other institutions at local level. Therefore, in compliance with an internal order, the police structure at the regional level must submit a weekly report to the Prefect on police work and public security in each administrative unit. The data of the survey –carried out under this project with representatives of the target institutions– show that police representatives share different opinions in regard to this practice. Asked more specifically about reporting practices at local level, more than half of respondents (17 out of 23) stated that police should report to the prefect.

In addition, participants at the focus groups report that the joint meetings with police representatives, local government, and central institutions take place often under the leadership of the Prefect. Respondents declare that “these meetings have somehow facilitated the collaboration among institutions” as well as the coordination of their work. Nevertheless, according to police representatives, the legal framework on police cooperation with institutions at local level still “needs improvements”. Representatives in all four target regions share the opinion that *the cooperation of police with local government is particularly important, and the coordinative role of the prefect has lately shifted its importance to a lower level.*

This widely acknowledged position brings up a range of issues. The representatives of the state police perceive the prefect as the main institution due to the following reasons:

- Being a centralized institution, under the direct authority of the General Department of the State Police and the Ministry of Interior, it appears as a politically correct stand that the Police at the regional level consider the prefect (assigned by the Prime Minister) as the main institution at local level.
- The involvement in or the leadership role of the prefect in a number of initiatives regarding local committees on specific concerns of law enforcement at local level (in support of laws, decisions of the Council of Ministers or other sub-regulatory acts) has put the state police under a seemingly dependent relationship or direct responsibility. This is why the cooperation with the prefect is widely accepted by the leaders of the police at local level.
- In certain cases, this may be influenced also by some factors of a political character, especially in those areas where the local government's political composition differs from that of the central government.
- Finally, the issue of low level of familiarity with laws and competencies and in some cases the lack of professional performance is a great concern. The prefect actually possesses and may undertake in the future more coordinative competencies at local level. However, until the law stipulates otherwise, other institutions at local level (including the state police) must be oriented towards the "mission accomplished-driven" partnerships.

On the other hand, the local government, as the highest structure that represents the local community (council) at the level of commune, municipality or region, as well as the highest executive structure (Mayor) for managing the public life – remains the most important institution and accountable for the quality of life in the community, including public order and security. This is the main foundation of the opinion of police representatives who believe that "the local government remains the most important body with whom police is closely related in order to accomplish its mission".

In view of these comments, the conclusion is clear and it states that the police collaboration at local level with local government units is based on its mission as a public service, which is fully justified in the 7-year strategy of the State Police (as compared to the cooperation of the police with the prefect, which is influenced from external factors –the competencies of the prefect to coordinate the work of the institutions at local level).

In this context, it is worth analyzing the practical experience of cooperation between the police and local government serving to the wellbeing and the improvement of public services. The survey respondents state that the actual level of cooperation between the two bodies is generally satisfactory. It is interesting to notice that according to leaders of state police the good and cooperative relations with the local government come as a result of the established contacts during the

meetings organized by the Prefect, as part of the legal obligations described above. Although these representatives perceive the meetings as a positive too, they are not able to provide concrete examples of accomplishments as a result of it. Local police leaders characterize it as sufficient “the good practice which has been established with the periodic meetings organized by the prefect with the participation of police and other institutions’ representatives at local level”

On the other hand, their response to the question about the relations with local government includes as a reference mainly the meetings or personal relations with the leaders of the local government units. In fact, there exist no practices of institutionalized cooperation or accountability, joint action plans or strategies on improvement of public security in compliance with concrete local needs. Local police representatives have not reported (during the project consultations) any reference of the legal framework that regulates the current collaboration. This means that this practice is generally based on the willingness of the institutions’ leaders.

Police representatives have appreciated the need for awareness campaigns in order to clarify legal competencies of the police and local government. This need arises from the fact that “citizens often ask the police to act on concerns that are a legal obligation of the local government” and thus overload police work with duties which fall outside the domain of police, such illegal parking, acoustic pollution in late hours, etc. Even they are truthful concerns according to the existing legislation, these problems were not considered by police representatives at local level as part of the responsibility to cooperate with local government units.

Lack of clear competencies due to legal deficiencies appears to be rather challenging for the municipality (33 out 35 respondents), Civil Registry Office, the Regional Council, closely followed by the Prefect. These institutions admit that this has largely or somewhat affected the quality of services they provide. Almost half of the respondents from the police commissariats and 65% of those from the police departments at the regional level share the opinion that legal deficiencies and inconsistencies of sub-regulatory acts have influenced both the cooperation with local government and the quality of services to citizens.

In general, representatives of the police at regional or commissariat level declared that they have a good cooperation with all institutions at local level. Yet, according to them, “this is not perceived as an obligation by local institutions”. Although there are a number of exceptions from this practice, the lack of a clearly defined legal basis on the collaboration between the police and local institutions has put this cooperation as a “variable” dependent on the personal relations/acquaintances among the leaders of these institutions. During the meeting with the focus group in Korça organized under the monitoring project, participants have urged for “the conclusion of MOUs between the police and institutions at local level, as a tool for improving their cooperation”.

The above issues make evident the spontaneous cooperation relations among institutions at local level, particularly the cooperation of police structures with the local government and the prefect. This relationship is largely based on:

- Institutional management which is based on an agenda from the top (central government) and not guided by the needs of local communities;
- Personal contacts of leaders of institutions at local level and not on institutional accountability;
- The inter-personal and not the institutional product from which should benefit the community;
- Lack of a problem solving-oriented strategy; and,
- The sensitivity for being “politically correct”

Furthermore, the analysis may reach up to the identification of a superficial familiarity of the legal framework or, more precisely, lack of a work plan that would implement the sectorial and inter-sectorial strategies. When considering the 7-year strategy of the state police, it should be emphasized that this basic document for the policing strategies has not been taken into consideration as a policing philosophy or practice on whose basis policing tends to solve problems and establishes functional extra-institutional partnerships with local actors including the citizens. In other words, the Police partnership with local government as the main manager of the public life in each local government unit lies in the heart of this document.

Interviewees from most of the target institutions have suggested that the adjustment of relations and accountability of institutions in support of enhanced services to citizens should take place through legal amendments or even through MOUs.<sup>42</sup> Namely, 60% of the interviewees believe that there is a lack of legal rules that would regulate institutional cooperation at local level and, accordingly, shared competencies are often implemented under indistinct legal framework. On the other hand, 70% believe that this situation has negatively influenced the quality of services provided by institutions.

Furthermore, respondents are at odds when asked about the level of coordination among institutions that jointly offer a specific service – 58% declare that the level of coordination is “somewhat efficient” and 41% state that it is “very efficient”. If seen within each target institution, the analysis shows that the Municipality, Region, Civil Registry Office, Commissariat, and the Prefect have mostly assessed the coordination level as “somewhat efficient”.

Overall, the level of accountability of local government units does not appear to have influenced the public services, which are being jointly provided to citizens. Yet,

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42) MOUs should, however, be based on clear legal framework in order to ensure their sustainability, regardless of the changes in the management team of the institutions.

most of respondents from the prefect institution (69% or 11 out of 16) and in the Municipality (67% or 22 out of 33) share the opinion that the level of accountability of central institutions that have shared responsibility for a specific service has influenced the quality of that service.

The monitoring report is aimed to instigate an active stand of public institutions at local or central level not only in terms of familiarity with and enforcement of laws, but also in view of the consolidation of institutions and improvement of services. The country's development level necessitates the deepening of reforms and consolidation of practices oriented towards the attainment of strategic goals. More specifically, the need for addressing the shortcomings in the governance and management system as defined by the Law No. 9749, "On the State Police" vis-a-vis the 7-year Strategy of the State Police 2007 – 2013 takes up more importance, since this law would facilitate the implementation of the Strategy. Furthermore, to the same purpose would also serve the adoption of sub-regulatory acts based on the philosophy of Articles 56 – 59 of the previous Law on State Police (No 8553, dated 25.11.1999) and the Joint Directive No. 4, dated 24.04.2002 of the Minister of Public Order and the Minister of Local Government and Decentralization "On Cooperation of Local Police Structures with Local Government Units".

The above analysis on experience of the institutional relationships as well as the tendency to appear "correct" in the eyes of their superiors (especially present in the answers to questions on budget or the autonomy to manage it), makes evident the lack of professionalism or **sufficient professional ethics** that would be based on creativity, autonomy, and flexibility of the police to utilize the respective budget in accordance with the challenges of a specific reality. Namely, while most of the institutions' respondents (approximately 40%) share the opinion that there is a lack of financial resources, it seems that this is not an issue for the state police where only a limited number of respondents identify the lack of sufficient financial and human resources as a concern.

**The decentralization concept** within the state police is not presently open for a debate and may often provide ground for misinterpretations. As a rather philosophical approach essentially linked with the implementation methodology of the 7-year strategy of the state police (that still remains within the practices of extra-institutional partnerships), the concept of decentralization is recently associated with the necessity of responsibility and accountability of police towards the community and particularly towards the representative structure of the local government– the council of the municipality, commune or the region. Community or problem solving-oriented policing makes even more obvious the necessity of the cooperation with the local government.

Furthermore, specific sectors within the State Police, especially the road traffic unit, are very much influenced by the decisions of the local government. Some of

the interviewees share the opinion that road traffic issues should be put under the authority of local government units, although police representatives have by large opposed this option.

Asked about whether the decentralization concept is applicable to the state police, the majority of respondents answer negatively, while 30% say that this concept should be more present within the police due to the following reasons: “as a service offered to the citizens, police services should be more close to local government”; “the state police should take more competencies over the financial and human resource management”; “is closer to community” and “has direct responsibility for exercising of competencies”; “offers more choices for actions to address the community’s concerns”.

### **III.3. Recommendations**

The cooperation and relations of the state police with local government and other institutions at local level represent one of the most sensitive issues of the monitoring report, because the legal responsibility for public security services has been assigned to the police and to the components of services provided by local government. Findings of this report, however, show that there exist legal deficiencies and lack of sub-regulatory acts that would regulate the inter-institutional cooperation at local level. The Law on State Police defines this service as a centralized structure and, regardless of provisions on cooperation with other public institutions, it still prevails the common view that the cooperation is largely driven by the willingness of the institutions’ leaders rather than by legal obligations.

In view of the importance of the last argument and also in compliance with the main findings of the report, the subsequent part outlines some key recommendations on cooperation of police with other institutions and on efficiency of police performance within its legal competencies and responsibilities:

- Reflect on the current Law on State Police (drafting of sub-regulatory acts) in view of accountability and cooperation of police structures with local government bodies as a tool for enhancing police services and public security;
- Although the legislation in force recognizes the responsibility of local government in the field of public order and security, further clarification on the role and obligation of local government to public security is needed. In addition, the clarification should include the obligations and competencies of each institution to establish practices of inter-institutional coordination oriented towards the accomplishment of their mission in the service of local communities;
- Increasing the level of knowledge on legal aspects of these obligations and the consolidation of human and institutional capacities to improve cooperation and sharing the responsibilities represent a recommendation which is valid for both institutions, the state police and the local government;

- The consolidation of public relations on important issues of public security through informing the citizens about the cooperation and the sharing of responsibilities between institutions at local level, as a reaction to concerns over community's security;
- Clarification of the role of Prefect in encouraging and coordinating the collaboration of institutions at local level in order to enhance public security.



## IV. ENVIRONNEMENTAL PROTECTION SERVICE

### IV.1. Legal Framework

The legal framework on issues related to the environment protection service is broad and fragmented in a series of laws and decisions, which assign their enforcement to various institutions. In this report, the following section will be focused in that main part of the legislation that affects the operation of local government units and the main ministries responsible for the environment.

*Inter-sectoral Environment Strategy* is the most recent document drafted by the Ministry of Environment, Forests, and Water Administration (MEFWA). It provides the state policy on protection of environment. Based on programs and actions set forth in the sectoral strategy, it offers integrated training on the environment sector and other areas affecting the environment, including transport, industry, agriculture, territory adjustment, etc. The Strategy provides a description of current problems for each of elements of environment and lays down strategic priorities as well as a monitoring system on the progress of its implementation.

The very way of this strategy's conceptualization *admits the responsibility shared among many institutions, both at local and central level with the aim of protecting the environment and ensuring a sustainable development of the country*. This aimed aspect of the strategy is expected to provide solution to issues considerably affecting this service and to increase the possibility for its long-term enforceability and success. Establishment of Environment Fund is also expected to produce its positive effects aiming to avoid lack of coordination of project and funds identified to date. In the meantime, the strategy anticipates the need of institutional strengthening and significant funding for this service.

*Law No. 8934, dated 5.9.2002, "On Protection of Environment"* is the basic law that regulates the relationship between humans and environment, protects environment components and environmental processes, and ensures material conditions for its sustainable development, by completing the necessary framework for the enforcement of the constitutional requirement for an ecologically clean environment. It sets out fundamental principles for the protection of environment, its use, protection of environment components, the process of issue of environmental permits, etc.

Article 73 of this Law sets out the duties of local government units, including, among others, enforcement of the law on the protection of environment, drafting of local plans on environment, drafting of territory adjustment plans, administration of urban waste, administration of treatment of polluted water and solid waste, notification to public on environmental situation and local activities affecting the

environment, discipline of transport and constructions in urban environment, and cooperation with and support of environmental NGOs.

According to Article 69 of the above-referenced law, *Regional Environmental Agencies (REAs)* enforce the law on protection of environment at local level, promote use of clean technologies and introduction of environmental administration systems, help local government units on administration and protection of environment under their jurisdiction, collaborate with them on drafting and implementation of action plans on environment, participate in the process of approving permits and environmental declarations, give their consent and environmental authorizations on local activities, etc.

Article 71 of the this law assigns Environment Inspectorate (EI) to conduct continuous inspections on environmental and polluting activities, to request participation of local government units, representatives of municipalities, environmental NGOs, and media in these inspections to polluting activities, to define and take mandatory measures on improvement of environmental situation, to impose sanctions in compliance with the law, to regularly inform local government units on status of environment, etc.

*Law No. 8990, dated 23.1.2003, "On Assessment of Impact on Environment"* seeks to ensure an overall, integrated, and timely assessment of environmental impacts in order to prevent and alleviate the negative impacts on environment. It also seeks to accomplish an open and impartial evaluation and administration process through the participation of all stakeholders affected by the project, including local and central governments, the public, civil society organizations, project proposers, and field expertise.

*Law No. 8094, dated 21.3.1996, "On Public Removal of Waste"* aims at providing guidance on protection of urban environment from pollution from waste, on public removal of waste, regulation of cleaning of towns from waste, including delivery, collection, cleaning, and transportation of waste.

*Law No. 9010, dated 13.2.2003, "On Environmental Administration of Solid Waste"* seeks to protect environment and human health from pollution and damage from solid waste, through their environmental administration in each phase, with the aim of reducing waste and decreasing their harmful and dangerous impact. The law assigns duties to state entities, such as MEFWA, in collaboration with REAs and Environment Inspectorate. In addition, the law designates local government units to provide services for the protection of environment to be achieved in collaboration with MEFWA.

Subject of this law are all physical and legal, public and private, national and foreign persons, whose activities produce waste, who are owners of waste, and who

are engaged and licensed in waste collection, disposal, transportation, recycling, processing, and annihilation. In addition, any other state entity, society organization, and citizens are subject of this law.

*Law No. 9774, dated 12.7.2007, "On Assessment and Administration of Noise in Environment"* aims to protect the (human) health and environment from noises, by defining the ways to avoid the noise and by stipulating measures for the prevention, reduction, and destruction of harmful effects of exposure to them. As the principal responsible entity, MEFWA defines the limit level (of noise) and implements the protective measures, while the Ministry of Health is the main responsible agency for the protection of human health from negative impacts of noise. In addition, the law stipulates a series of duties for local government units, which lead the drafting and implementation of local action plans on noise and the process of noise mapping, declare quiet zones, request to physical and legal entities to undertake preventive measures for compliance with noise limit levels, and request to inspection entities to exercise control, measure the noise level, and suspend or close down any activity that does not abide to legal provisions on noise pollution.

*Law No. 8672, dated 26.10.2000, "On Ratification of Aarhus Convention"* grants the public the right to information, participation in decision-making and access to justice in environmental matters. Ratification of this convention has created practical opportunities to community, which will be encouraged to take active part in the process of issuing of permits for activities that impact environment.

*Law No. 8897, dated 16.5.2002, "On Protection of Air from Pollution"* assigns duties to road-owning entities, such as General Road Department, municipalities, communes, etc., which, in collaboration with REAs and institutions specialized in air monitoring, will monitor emission of gases or noises caused by road traffic in urban areas or outside them, through establishment of monitoring and control system.

*Law No. 8652, dated 31.7.2000, "On Organization and Functioning of Local Government"* is the organic law that regulates the organization and functioning of local government units. Protection of environment is defined as a shared function, carried out in collaboration with the central government. The law foresees that "To the extent that the central government requires a local government to perform any shared function or meet a national standard in the performance of a shared function the central government shall provide financial support of the requirement."<sup>43</sup>

The law stipulates that *municipalities and communes have exclusive competencies on administration, service, investment, and regulatory powers for their own functions in the area of infrastructure and public services*, including operation of drinkable water supply and sewage system, construction, rehabilitation, and maintenance of

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43) Article 11 of this Law

local roads, sidewalks, and public spaces, administration of parks, recreational and public green areas, collection, removal, and processing of waste, urban planning, drafting of local economic development plans, etc.

### **Enforcement of Legislation**

The low level of enforcement of environmental legislation is one of the main results identified in this study. Factors such as *quality of legislation, level of enforcement and compliance with the law, institutional structures and their organization, level of efforts, and financial expenditures* are among most acceptable factors that affect law enforcement.

If analyzed individually, we can state that the environmental legislation is being updated and, furthermore, is being harmonized with the European legislation. However, lack of a legal base or intelligibility is the first excuse brought up on environmental issues confronted on daily basis. The judgment of the quality or completeness of this legal framework is different in both municipalities and REAs. Municipalities consider the legal framework vague in terms of authorities granted to municipalities. Regional Environmental Agencies think that the current legislation needs improvement, but it provides sufficient authority to local government units to act. Furthermore, there is no need to make frequent amendments to the law, when this law has not 'proven itself' to be flawed to the extent it has not been duly enforced. However, highly necessary laws, such as the law on territory planning, are expected to establish criteria on urban management, which will consequently enable the solution of some of the environmental issues.

There is considerable need for sub-regulatory acts, which should take into account other laws that regulate relationship with local government units. In several cases, these acts are evasive and do not clearly stipulate the segregation of duties or are differently interpreted by municipalities or REAs. In other cases, issues are procrastinated because of interpretation of the law/decision leading to delays and direct consequences to environment.

Similarly to civil awareness, *level of enforcement and compliance with the law* is low. Administrative and financial punishments are almost inexistent and collection of penalties is virtually zero. Although physical and juridical entities, whose activities create or process waste, are legally required to use techniques and processes that do not pose threat to human health and do not harm environment (and all its elements), practice indicates that little is done in this respect.

Environmental permit stipulates the condition of installation of filtering equipment right at the pollution source, while in several cases this requirement is ignored, particularly for those small business activities assessed unable to create big pollution. In these cases, inspections are not conducted regularly. Environment inspectors admit that if they were to enforce the law, they would be forced to close

down many businesses. Advice and penalty fines are acceptable options, though fines are never collected.<sup>44</sup>

*The network of responsible agencies for environmental services has improved, though it is far from sound consolidation.* It is a fact that this network is scattered to several ministries or decentralized institutions; it has limited staff and lacks equipment and means to accomplish its duties. This is very true for REAs and municipalities, where municipal structures directly involved in environmental issues have at best only one person.

For municipalities, this is related with their insufficient evaluation of this service on one hand, and with their limited concrete duties assigned to them for this service on the other. In the meantime, other issues such as cleaning and removal of waste, etc., are duties that local government units accomplish with their own specialized structures of public services and are not included as part of the environmental protection service structure.

REA's limited number of staff and lack of logistics have considerably affected accomplishment of work and its quality. The Environmental Inter-Sectoral Strategy does not anticipate an increase in the number of staff, though regional environmental agencies are deemed very important.<sup>45</sup> Environmental problems are numerous and unpredictable, while Environment Inspectorate is unable to provide timely solutions to them. In towns under the study, same people carry out the duties of REA specialist and environment inspector. Though considerably unimportant if compared with the approval of a law or decision, this situation is estimated by specialists as very problematic, which, in most cases, leads to their inability to solve the problems.

In many cases, both municipalities and REAs identify the need for more commitment, endeavors, and accountability on the part of the other party on issues of protection of environment. REAs admit that the law/decision has established them as specialized entity for monitoring and controlling environment and as advisors and assistants to local government units, while the latter are considered as enforcers of legislation on protection of environment within their jurisdiction. Furthermore, REAs state that *'the local government unit is the legal owner of the town and it should be more interested for the benefit of its citizens and town. The spirit of self-initiative and action should dominate in both its request for technical and professional assistance in drafting local environmental plans and in aspects of implementation of the law*

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44) Consider the positive experience of the company that exploits brute oil in Marinza area. This company rehabilitated the oil field of Marinza. The contract signed with it included a requirement of area rehabilitation, leading not only to avoidance of harm to environment but also producing a positive impact on environment. Similar task is expected to be completed with Ballsh Oil Refinery Plant. In addition, it seems that a solution has been identified for Durres Port area in terms of maintenance and removal of waste through Port Authority's outsourcing of waste removal to a private company.

45) Inter-sectoral Strategy on Environment, November 2007, page 40 (Albanian edition)

*on issuing environmental permits/consent/authorizations to businesses.* However, a number of questions need further discussion: As an executive entity, how can a local government unit act on its own initiative when it does not have authority to issue environmental permits and to impose administrative measures? What would be its functions in environmental domain with the exception of those duties it has to accomplish in public services? What would be the local government unit's mandatory executive role in its interventions in private and state-owned entities that impact environment?

The efforts and accountability are affected by the *number of responsible staff and their qualification*. Lack of skilled (and sufficient number of) staff and level of qualification on environmental issues is one of the main deficiencies that has rendered communication among central institutions difficult. Each party admits that it is responsible to the extent of its authority/operation, while environmental problems are present each passing day. However, it is admitted that this factors has direct effect on decisions issued on environmental permits. It is also a known fact that some of the consequences of economic activities on environment are noted quite some time after the initiation of those activities, but these issues should have been studied during the environmental-impact assessment procedure.<sup>46</sup>

In regard to this problem, without wishing to ignore the responsibility of local government units to establish environmental protection offices, one of the main causes for local government units' inability and ungrounded lack of will to engage in this issue is the fact that central institutions are little or not at all coordinated in their work to train local staff and to provide assistance to local government units in their efforts to accomplish their duties. Local governments have not received training materials to qualify their staff. This is a duty of central institutions to fulfill.

## **IV.2. Responsible Institutions and Their Functions**

Due to their causes and effects, issues related to the service of protection of environment call for the engagement of many institutions. The environmental institutional network includes MEFWA, REA, EI (reporting to MEFWA), other line ministries, a number of agencies of various ministries at central level, local government units, etc.

Article 65 of the Law No. 8934, dated 5.9.2002, "On Protection of Environment" stipulates that "state organs perform duties for the protection of environment on the basis of designation of responsibilities and their clear segregation between central and local organs, through continuously expanding the duties of local government

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46) There are many cases of approval of important investments, where secondary aspects quickly become primary ones: construction of a production plant causes damages to roads during construction work, more traffic, and acoustic pollution to the environment to an area much larger than what is planned in the project. In most cases, these aspects are ignored by local government or REA when giving/issuing their opinion on/approval for this investment.

units.” Since a series of institutions have already predefined and somewhat designated duties, collaboration, and coordination are important factors that directly affect the quality of offered service.

*a. Ministry of Environment, Forests, and Water Administration*

MEFWA is the first and principal responsible institution for the protection of environment in Albania. Mainly focused in drafting environmental policies, laws and necessary sub-regulatory acts, this institution aims at establishing a modern legal framework in compliance with international standards, trying to provide leadership and to monitor this important service. In its efforts to coordinate responsibilities and duties of institutions with shared responsibility on protection of environment, MEFWA produced an Inter-sectoral Strategy on Environment<sup>47</sup> as part of the National Strategy on Development and Integration.

According to the law, MEFWA, as the central specialized institution for the protection of environment, collaborates with central institutions, local government units, the public, and professional and environmental NGOs to increase the level of enforcement of environmental legislation; it studies the country’s needs for specialists on environmental protection and coordinates with the Ministry of Education and Science for the qualification and specialization of these specialists; it assists local government units for the protection of environment and for drafting and implementation of environmental local plans, etc.

In addition, MEFWA is engaged in a series of important donor-funded projects for the rehabilitation of inherited environmental hotspots as well as for addressing current environmental issues. The ministry is continuously looking for this kind of assistance.

*b. Regional Environmental Agencies*

At local level, the ministry’s work is transmitted and accomplished through decentralized institutions, such as Regional Environmental Agency and Environment Inspectorate as its part. In one way or another, they have been in place even before, but upon specific decisions for their establishment and functions<sup>48</sup> they are now entities specialized for the protection of environment, which are organized and operate regionally under the authority of MEFWA.

With their positioning at the environmental institutional network, they can be considered as a connecting bridge between the central government and local government units on implementation of policies on protection of environment. Therefore, solution of issues of environment protection at local level depends

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47) Council of Ministers’ Decision (CMD) No. 847, dated 29.11.2007

48) Law No. 8934, dated 5. 9.2002, “On Protection of Environment”; CMD no. 599, dated 20.12.1993, “On Establishment of Regional Agencies of Environment Protection in Prefectures”; CMD no. 24, dated 22.1.2004, “On Activity of Environment Inspectorate”

completely on the extent and quality of relationship and collaboration as well as coordination among these agencies and local government units.

From the legal aspect, it is a duty of REA to promote the use of clean technologies and the introduction of environmental administration system right from the process of issuing environmental permit and declaration. It is, then, the duty of Environment Inspectorate to exercise continuous inspections on environmental and polluting activities.

*c. Environment Inspectorate*

Established only four years ago, this institution has been given a very important role: ensure enforcement of environment legislation and monitor activities that affect environment. Its activity is generally defined in a control and monitoring plan approved by the Ministry of Environment.

In the organization of inspections on the status of certain components of environment, EI collaborates with a number of institutions<sup>49</sup> and “*requests participation of local government units, representatives of municipalities, environmental NGOs, and media in the inspection to polluting activities.*” EI has the authority to collect fines or, depending on the level of pollution and the harm caused by it, order temporary or permanent termination of an activity.

Though EI has an important duty, its activity is not based on a basic law and is not an independent well-organized structure, unlike other inspectorates. This has been anticipated in the National Action Plan on Environment of 2001 and should have been accomplished by year 2006.

*d. Other Institutions*

Many institutions –reporting to other ministries that manage many various aspects of protection of environment– are operating at local level. A number of guidelines and joint agreements have facilitated the collaboration among them. Local specialists in municipalities under study state that these structures are more organized, which has made their cooperation easier. Positive experiences with Regional Public Health Departments and Health Inspectorate should be taken as an example.

*e. Prefect*

As an institution, the prefect does not have direct responsibility for the environment protection service. In its mission to ‘*coordinate the activity of central institutions at local level with the local government units in communes, municipalities, and regions*’, the prefect has put some efforts to promote cooperation. Establishment of working groups continues to be widely used, but since these groups are not set up on a

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49) Article 61 of Law on Protection of Environment stipulates: “Coordination of work with other inspection entities, exchange of data, and joint inspections are regulated with joint guidelines of relevant ministries.”



formalized cooperation among institutions, the solutions they provide to problems are either worthless or based due to respect for 'personal or friendship relations'.

*f. Local Government Units and Decentralization*

Initiated with the approval of the Constitution of the Republic of Albania in 1998, Article 13, the European Chart of Local Autonomy<sup>50</sup> and followed by the Strategy of Decentralization and Law on Organization and Functioning of Local Government, the process of decentralization has encompassed almost all areas of public services. It has aimed at transferring responsibilities and at achieving autonomy of local government units since they are closer to community and directly responsible for the quality of community life. *"Decentralization in the context of environmental administration will lead to a greater role for local authorities in the funding and management of local environmental services, including management of drinkable water, sewage, and solid waste."*<sup>51</sup>

The decentralization strategy and the organic law on organization of local government define the environment protection service as a shared function of local and central governments, implying that specific competencies are approved in laws and sub-regulatory acts. Despite a series of laws and sectoral strategies on environment have been passed, there is still no clear definition of specific competencies for each level of governance.

According to the Law No. 8934, dated 5.9.2002, "On Protection of Environment", local government units represent the highest state structure for the administration and protection of environment under their jurisdiction, by complying with the responsibilities, rights and duties granted to them by the Law No. 8652, dated 31.7.2000, "On Organization and Functioning of Local Government"

Local environment specialists perform their duties set forth in the Law on Protection of Environment, while some municipal function either directly or indirectly are related to or affect this service. An analysis of these duties indicates that the law grants some authority to municipalities to act on their own initiative for the protection of environment and to initiate collaboration. The experience of institutions analyzed in Korça proves this issue true to some extent. Furthermore, the principle of cooperation is one of the fundamental principles of their functioning: *"The relationship between Local Government levels and Central Government and among the local government units themselves will be based on the principle of subsidiarity and collaboration for solving mutual problems."*<sup>52</sup>

However, two problems arise: the first one is the issue of clear segregation of competencies between structures of central government and those of local government; the second problem arises from the first one and, for shared functions

50) Law No. 8548, dated 11.11.1999

51) Inter-Sectoral Strategy on Environment, CMD No. 847, dated 29.11.2007.

52) Article 4, Law No. 8652, dated 31.07.2000 "On Organization and Functioning of Local Government"

such as protection of environment, coordination and collaboration for the most effective exercise of these functions takes up greater importance.

Precisely speaking, what is clearly deficient in the law on environment is the lack of competencies for local government to *undertake preventive measures, to control and to impose administrative measures and even more so to violations from various entities regarding their acts in enforcement of their competencies*. This makes mutual communication and cooperation difficult. For instance, according to Law on Environment, local government units have no inspection authority; therefore, they cannot be obliged to take part in environmental inspections, though they subjectively accept and assess this participation as very necessary. The law sets forth one-sidedly the Environment Inspectorate's obligation to request the cooperation of local government units, but this cannot be treated as an authority of duty of local government units.

#### *g. Regional Council*

Regional council's role is completely unknown in issues related to environment, not only due to lack of clarity of functions granted by the organic law, but also due to its organizational structure. The municipality-regional council relationship is vague similar to that between the regional council and REA. The latter submits two semiannual reports to the council on the status of environment and assigns duties to be carried out by local government units.

The new strategy is expected to bring in important changes to the role of the regional council. As problems and consequences related to aspects of urban and environmental planning exceed the limits of a municipality or commune, many solutions may and should be provided at regional level; otherwise they would not be economically effective and long-term.

#### *h. Municipal Police*

Law No. 8224, dated 15.5.1997, "On Organization and Functioning of Municipal and Communal Police" defines its role "*to identify and prevent pollution of environment, disposal of various wastes...*" and it grants the authority to impose penalty fines for violations." This and other competencies of the municipal police may be exercised only on decisions of municipal councils in compliance with their competencies. In the concrete case, the law on environment has not empowered the council to authorize penalty fines, with the exception of the Law on Public Removal of Waste of year 1996, which sets forth a measure of this type. It is interesting to note that the law of 1996 has authorized the local government as the inspection authority to take punitive measures against violators, while the laws passed after 2000 (though based on the constitution and the new law on local government) have not granted this authority to local government units.

### IV.3. Aspects of Inter-Institutional Collaboration

Indeed, environmental issues are considerably diminished at local level. Municipalities are focused in administration of solid waste and green spaces as well as follow-up and solution of urgent problems/complaints, etc., i.e., within their own function of public services. This lack of cooperation or dismissal of responsibility from institution is present not only in common urban areas but also in protected areas, such as Lake of Shkoder.

REA-municipality relationship can be simply summarized as meetings to give opinion/approval on the exercise of economic activities with impact on environment within their jurisdiction, as part of the procedure in issuing permits/consent or environmental authorization. To the extent defined in the law, this collaboration relationship is not always fruitful. Its quality varies from good to inexistent. These relations may quite well be considered as subjective relations,<sup>53</sup> since the law is not clear about the authority of each institution. For example, it is unclear and undefined as to what happens when the local government unit gives a different opinion from the one of the agency or the ministry, as to what and how would be the reaction or the right to complaint or solution in case of objection or conflict. If this is true, is it not a case for the local government unit's refusal to be effectively involved and, subsequently, subjectively consider the protection of environment as an issue of others?

#### *a. Issue of environmental permits/declarations*

Communication between REA and municipalities on procedures of issue of permits does not seem to cope with problems that relate to lack of laws or procedures. Lack of sub-regulatory acts, vague interpretation of the law, etc., add to the problems. This is later reflected in the official correspondence between them (requests of REA or response of municipality).

Law No. 8990, dated 23.1.2000, "On Assessment of Impact on Environment" sets forth a seemingly clear procedure on communication between REA and local government units. This procedure starts with the advice given by REA to municipality before it gives its grounded written opinion for approval or rejection of a project, prior to the submission of the file to MEFWA. After this, "*the Minister of Environment requests an opinion to see if the project complies with national and regional development plans and programs and for the expected level of impact on environment, by submitting the project description and the fully analyzed report on assessment of impact on environment ... to local government units of the area where the project will be implemented.*" Legally, this procedure has been regarded as request for preliminary opinion from the agency to the local government unit and does not

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53) Local government units, as entities independent from central government take up duties only through the law and, rarely, on joint agreements (memorandum of understanding).

constitute an authority for the municipality. Therefore, it does not make the local government an active player in the protection of environment.

The procedure continues with the *public debate* (Article 20) where, besides field experts, interested public and environmental NGOs participate. This debate is organized and headed by local government units, in whose jurisdiction the project will be implemented. Their opinion is taken into account in the Commission for review of requests.

REA-municipality communication is expected to be more frequent, particularly when it is defined that this activity will undergo the deepened process of assessment of impact on environment.

REA is the main actor in this procedure. It is generally admitted that the documentation for environmental permits issued by MEFWA is more complete, since it passes through several phases and possibilities for inaccuracies are to some extent very few.<sup>54</sup> Meetings with the public are carried out, but they are not always effective or are considered of no value because of delays they cause. However, the place and role of municipality for environmental assessment and declaration is an artifice rather than an authority with a simple contribution in formal relationship. The municipality does not see itself as a contributing party to this process. Even worse, sometimes REA does not notify or inform the municipality on this issue.

#### *b. Issue of Consents/Authorizations*

Decentralization of competencies had continued with Guideline No. 3, dated 17.8.2008, and with the recent Guideline No. 2, dated 21.5.2007, "On Approval of Lists of Activities with Impact on Environment, Way of Application as well as Rules and Procedures of Issue of Environmental Authorizations and Consent from Regional Environmental Agencies". It includes a number of local activities that impact the environment for which REA in cooperation with local government unit approves environmental consents/authorizations. These activities are subject to inspection from Environment Inspectorate and are punished by it just like other activities equipped with environmental permit from the Ministry of Environment.

With the entity's submission of request in accordance with the type requests,<sup>55</sup> REA prepares the respective file. It is the responsibility of REA to check that the

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54) Law/decisions state that a physical or juridical person seeking to implement a project or activity will initially communicate with local government units, public, and local environmental NGOs, to which he/she will submit not fewer than 2 versions of his/her activity and its type, its capacity, technology, impact on environment, and measures for its alleviation. The entire documentation is then submitted to the Ministry of Environment, through REA, as the responsible entity for the review and evaluation of the request and for issuing the decision through an environmental declaration or permit.

55) Guideline No. 2, dated 21. 05. 2007 "On Approval of Lists of Activities with Impact on Environment, Way of Application as well as Rules and Procedures of Issue of Environmental Authorizations and Consent from Regional Environmental Agencies".

file has the complete documentation to prove the counseling with interested parties (community and environmental NGOs), in compliance with the nature and type of activity, to *seek consultations with local government*, forestry service, health, tourism, etc. and with representatives of the public from the area.

After this, the procedure requires a *public debate where the project will be discussed and a report on the assessment of impact on environment will be produced. This debate is organized by local government upon notice from REA*. When the documentation is complete, the file is then submitted for review in the next meeting of REA, in which a representative of the local government takes part. The minutes report is signed by all inspectors, whereas the authorization/consent is signed by the head of REA.

This entire procedure calls for a concrete collaboration between REA and local government if they seek to implement it appropriately and to produce results for which it has been drafted. The current collaboration is truly disappointing. A number of businesses, mainly the small ones, do not apply at all for environmental documentation and the municipality is left aside in this issues and irresponsible in this process. Municipal representatives do not sign the meeting minutes report and the municipality does not have a copy of the approved authorization/consent to describe the concrete, measurable, and controllable conditions and requirements.<sup>56</sup>

### *c. Business Registration*

It is a fact that a considerable number of informal and formal businesses operate without having obtained an environmental consent/authorization from REA. Lack of collaboration between REA and municipality constitutes the first factor. Other factors include momentary interest of local government to increase revenues from income, failure to impose penalty fines, termination of activities by Environment Inspectorate, which have to a certain extent caused the loss of control on the situation.

With the introduction of recent changes and establishment of the National Registration Center (NRC), local businesses are registered in the local NRC offices<sup>57</sup>, while being simultaneously registered in local tax offices. In addition, legal changes stipulate that: *“Licenses required for specific activities will be obtained later and will not constitute a condition to be met before business registration in tax register.”*<sup>58</sup> Transition from the traditional method of business registration with the court, where a business had to submit the entire documentation for its activity, has brought about confusion to local government as business may start their operations without

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56) For each approved request, its environmental authorization or consent is produced in three copies. One copy is given to the petitioner, one to the Environment Inspectorate at the Ministry of Environment and the third one is archived at REA

57) Article 1, Law No. 9737 dated 17.05.2007 “On Some Changes and Additions to the Law No. 8560 dated 22.12.1999 “On Tax Procedures”, as modified.

58) National Registration Center website: <http://www.qkr.gov.al>

relevant environmental permits. The lack of a consolidated structure of control, environment inspectorate, or municipal police (with related functions in this area) will lead to the uncontrollable continuation of environmental pollution.

Establishment of NRC calls for more institutional collaboration and coordination and for more initiatives and coordination within the local government unit, tax office, and environment office. "NRC informs electronically the municipality in which the business central office is registered, within the same working day of registration, on the registration of the new business in its jurisdiction and on all initial registration details.<sup>59</sup> In this way, the municipality can estimate those businesses that have or are expected to have impact on environment and request them to follow the procedure of obtaining that document.

*d. Collaboration with Other Institutions*

Because of the complexity of their duties, municipal specialists cooperate with a number of central institutions, similar to REA, including Public Health Department, Health Inspectorate, Regional Forest Department, etc. Collaboration with these departments has been somewhat more successful than with REA, because they are better structured or organized and their duties/competencies are more clearly defined.

In addition, collaboration with tax offices has been requested more often, because businesses have more communication with these offices, both at local and central level. According to REA, during its inspection/control, the tax office may add another requirement to include businesses' submission of environmental consent/authorization or payment proof of environmental fee. This collaboration has not been institutionalized yet.

*e. Drafting of Action Plan on Environment*

The decentralization process considers local government units not simply as service providers, but as managers of the life in the area under their jurisdiction, through drafting and implementation of development plans. Environment is not excluded and, in accordance with the Law on Protection of Environment, *local government units shall draft action plans/local strategies on environment* in compliance with the priorities and requisites of the national strategy on environment.

In this process, local government units will be assisted by line ministries with the necessary data and technical expertise and will cooperate with REA on drafting and implementation of these plans. Likewise, they must engage the public, environmental organizations, and the businesses.

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59) NRC website:[http://www.qkr.gov.al/nrc/How\\_to\\_Register\\_a\\_Business.aspx](http://www.qkr.gov.al/nrc/How_to_Register_a_Business.aspx)

As a separate process, drafting of local environmental plans has not received the due attention of local government units. Durres, Shkoder, and Fier do not have local plans on environment, though they are putting efforts to draft partial strategies mainly for protected areas or for environmental hotspots in their towns. Some environmental elements have been included in the local economic development plan as part of the municipality's exclusive function. Reasons include lack of coordination, insufficient funding, difficulties in obtaining data, etc.

In the meantime, if a third party –usually a foreign project– has provided assistance or realized the process, this plan has been drafted, as in the case of Korça municipality, which received assistance from the Swedish International Development Agency (SIDA). This is a duty of municipality and the latter must be more active, while the role and work of REA –despite its efforts and readiness so far– should be organized with the aim of providing assistance and expertise to local government units specifically on this duty.

Another similarly important aspect related to the action plan on environment is their concrete implementation. As legislation on drafting and producing action plans is in place, legal instruments for their implementation are missing. Local government units lack the decision-making role and the authority to control and intervene with administrative and preventive measures in compliance with competencies or environmental programs approved by them.

*f. Other Aspects of Protection of Environment and Role of Local Government*

Local government units are often facing pressure from citizens' continuous complaints on issues mostly related with environment, but it cannot always state that it has the due authority to act. Local specialists admit that subregulatory acts and guidelines on implementation of the law are constantly missing. For instance, Guideline No. 6, dated 27.11.2007, "On Approval of Rules, Content, and Deadlines for the Preparation of Plans on Solid Waste Administration" to the implementation of the Law No. 8934, dated 05.9.2002, "On Protection of Environment" was issued in November 2007. Moreover, according to established deadlines, about 4 years will be needed to have a local plan in place for the administration of solid waste with an increasingly serious pollution of environment.

In addition, lack of funding –while need for financial resources is increasing– is seen as an obstacle for a quality service in the protection of environment. Local specialists point out the permanent lack of funding for environment, though the law envisages that local government units will receive the necessary financial and material support for shared functions and/or achievement of national standards. Lack of funding has delayed or hindered the application of concrete responsibilities of municipalities, such as installation of acoustic/air pollution meters, etc.

According to Law No. 8562, dated 31.7.2000, "On Organization and Functioning of Local Government", the *municipality has the authority and responsibility* to act in many aspects that are directly linked with the environment and the quality of life in its territory, with the infrastructure, and public services. It is responsible for the cleaning, collection, removal, and processing of waste, for the operation of drinkable water supply and sewage system, administration of parks, recreational and green areas, etc. However, Law No. 9010, dated 13.2.2003, "On Environmental Administration of Solid Waste" (Article 5) stipulates that local government units, in collaboration with central institutions and Ministry of Environment, "will conduct continuous inspections on activities that create waste as well as on those activities that engage in the waste transportation, recycling, processing, and annihilation in area and sectors they cover."

- Cleaning, collection, removal, and processing of urban waste is the responsibility of local government and is practically carried out by municipal enterprises in Durres and Fier and is outsourced to private companies in Korça. The quality of work conducted either by the municipal enterprises or private companies is not very good, though the situation is sufficiently satisfactory in Korça and considerably improving in Durres. More work should be done in terms waste bins and increase of their numbers, prevention of waste burning, cleaning, and disinfection of waste collection points, etc.

Current administration of urban waste includes only waste removal and disposal in landfills specified by local government units. Few efforts are being made for the separation of waste in the source and for its recycling, but they are insufficient and incomplete.

Assessment of causes of environmental pollution is highly simplified if we were to assess the cleaning of streets. The law stipulates the washing of streets<sup>60</sup>, but this is not performed regularly. It is necessary to modify the law to include an obligation for washing the streets.

- In addition, *construction of suitable landfills in compliance with environmental criteria of urban waste* is the hot debate of the day, as municipalities are putting some efforts on this issue. Failure to collaborate with REA is also identified in the fact that there are some local government units that have not applied to REA to get an environmental permit for waste landfills. Moreover, since this is a decision that affects more than a municipality or commune, the level of cooperation and coordination as well as the way of communication takes up a special importance. Their realization or failure favors (as in Korçe) or hinders (as in Fier) undertaking such investments.

- *Removal and depositing of inert materials* is an increasing problem that directly affects environment and that has never been in the focus of central and local

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60) Law No. 8094 dated 21.03.1996 "On Public Removal of Waste", Article 18.



government units. Delays in approval of sub-regulatory acts have caused a negative effect. The Joint Regulation of the Ministry of Environment and Ministry of Public Works, Transport, and Telecommunication of 2007, "On Treatment of Construction Waste from Creation, Transportation to its Annihilation" provided the necessary legal space for the management of this aspect with impact on environment. It seeks to discipline the process of administration of construction waste by establishing rules and concrete requirements to all entities operating in this field and on waste generated from them. Local government units should react promptly to improve their regulations on administration of this waste.<sup>61</sup> In addition, these units, Environment Inspectorate, and Urban and Construction Inspectorate have now the legal authority to exercise frequent inspections on generators of construction waste, its landfills, and facilities for their treatment.

- *Air pollution* is caused mainly by subjective factors and dust of construction works, road infrastructure, etc. Results of a Ministry of Environment monitoring during 2006 confirm the following situation, particularly for the content of dust, which is considerably higher (with the exception of Korça town) than the norms.

Town μ/g / m3	LNP	PM <sub>10</sub>	SO <sub>2</sub>	NO <sub>2</sub>	Ozone	Pb
Durres	201	93	19	24	106	0.28
Korça	172	82	17	20	94	0.18
Shkoder	213	100	18	21	103	0.28
Fier	219	106	24	25	105	0.29
Country average	250	119	21.4	27	103	0.28
Albanian rate	140	70	60	60	120	1
EU rate	70	40	50	40	110	0.5
WHO recommendation	60	30	40	40	110	0.5

Source: Ministry of Environment, Forests, and Water Administration

Pollution of air from motor vehicles is another critical problem in which municipalities have no authority to intervene. The high level of depreciation of vehicles and the quality of fuel are the basic factors causing this situation. Evaluation of the technical status of vehicles for the effect of air pollution from emission of gases and noise is part of the technical check process of vehicles in the Technical Check Centers. In terms of the second factors, efforts have been mainly focuses in legal issues<sup>62</sup> to define the quality and standards of imported/domestic fuel. However, improvements are expected to be considerable if the law is duly enforced in 2011.

61) Municipalities should draft plans on management of construction waste and should request builders (contractors/owners) to monitor and calculate its volume from its creation to reuse or depositing. This requires regulations to the process and documentation of issuing construction/utilization permits of objects, licensing of transportation means of construction materials, establishment/licensing of construction waste processing facilities, process of construction inspection, etc.

62) CMD, March 2007 "On Quality of Combustibles, Gasoline, and Diesel"

Municipalities have the only legal authority to monitor pollution of air from emission of gases and noises caused by the road traffic, in collaboration with REA and other specialized institutions, through installation of monitoring systems of control, as stipulated in the Road Traffic Code of the Republic of Albania and in the Decision of the Council of Ministers, No. 103, dated 31.3.2002, "On Monitoring of Environment in the Republic of Albania".

Inter-sectoral Strategy of Environment foresees the establishment of an air quality management system based on the data obtained from monitoring, with the aim of bringing in improvement where standards are not met. MEFWA is monitoring the air pollution indicators in the 4 towns under the study, but local governments units in these towns are not conducting such monitoring because of lack of monitoring equipment and funding.

*Level of pollution from construction* can and should be controlled by municipalities. It is the responsibility of local government to discipline the *transport and construction in urban areas*. Good management of construction sites, rules on circulation of construction material vehicles, etc., are under the authority of local government and could be well regulated with decisions or internal rules in order to decrease their impact on environment. Strengthening of rules in obtaining construction permit, particularly their application, is a duty of local government. With the Urban and Construction Inspectorate under the subordination of local government, an improvement to this situation is expected. However, clear segregation of responsibilities and competencies is a primary requirement for the process to work.

- Development has brought about a higher level of noise in urban areas. Through the Institute of Public Health, MEFWA is conducting continuous monitoring of the noise. Its Environment Bulletin of June 2007<sup>63</sup> states that traffic is the main source of this noise. Monitoring results of 2006 of towns under the study indicate that the "situation has not changed as compared with 2005".

The new Law No. 9774, dated 12.7.2007, "On Assessment and Administration of Noise in Environment" designates MEFWA and Ministry of Health as the primary responsible institutions to manage this aspect of impact on environment. The law also assigns several duties to local governments within their jurisdiction. However, local government units consider themselves outside any specific role, though noise is the main concern to local leaders and specialists in Durres, particularly during summertime.

Competencies of local governments are summarized in drafting and implementation of local actions plans on noise, designation of quiet areas, and imposing other

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63) MEFWA website

restrictions on noise. In accordance with their action plans, they require physical and juridical entities operating and using facilities and installations that produce noise to take preventive measures in order to comply with the value limitations of noise. They also request inspection bodies to conduct inspections, to measure, and to suspend or close down activities that do not abide to legal provisions. A clear-cut estimation of deadlines specified in the action plans indicates that only in 2013 we can have the first local action plans<sup>64</sup> and later on the mapping of noise.

In the meantime, local government should make use of the possibilities<sup>65</sup> available to them. It can use construction permit and building utilization criteria to manage reduction of noise in new constructions or reconstructions. Considerable improvements would be noticed if local government units possessed preventive and stringent tools starting with more concrete responsibility in issues environmental permits/authorizations and in inspections. To date, these units submit requests to competent authorities to take measures for the inspection/termination of activities. Instead, they should be granted the right to undertake actions, including termination of business activities, for a certain category of entities that violate environment legislation.

- *Environmental awareness* is one of the areas where collaboration and coordination of efforts among institutions have been deficient. Good examples –collaboration of local government with schools– have been encouraging, but lack of sustainability has produced short-term effects. Local government units are very interested in school programs on environmental education, but other actors should be involved, including REA, regional education departments, public health departments, regional council, environmental NGOs, etc.

#### **IV.4. Recommendations**

Deficiencies in the legal and institutional framework and its enforcement, low level of environmental awareness, and lack of inter-sectoral coordination and collaboration are among most prominent issues that affect the functioning of environment service. However, municipal and REA experts estimate that this service remains a *shared function, but with a legally clear segregation of authorities between the two levels of governance. This would facilitate and render the collaboration real.*

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64) In cooperation with the line ministries, the Ministry of Environment shall draft a national action plan on management of noises within 5 years from the entry into force of this law. The Ministry will approve guidelines for minimal requirements on drafting of action plans. The national action plan on management of noises shall be approved by a decision of the Council of Ministers, upon proposal from the Minister of Environment. One year after the approval of the national action plan, local government units shall draft local actions plans to be approved by the municipal/communal council. They will carry out the mapping of noise in compliance with their action plans in pursuance of the minister's guidelines.

65) A series of guidelines are necessary for the enforcement of this law, including guidelines on technical regulations, and measures for the protection from noise in the phase of design and during construction of buildings; guidelines for requirements and regulations on acoustic verification of buildings prior to their utilization..

In this aspect, *a real harmonization of the legislation on environment with the organic law on local government* is essential. It would enable an effective exercise of competencies by local government units. Consultations with these units before laws or sub-regulatory acts are approved should become a standard procedure. In addition, the financial support to local governments should be complete and coordinated for those responsibilities required for this function.

*Competencies of central government* should be focused mainly in sector-related development policies, drafting, and approval of laws and sub-regulatory acts as well as regulations on activities. In addition, it is completely justifiable for the central government and its entities at local level to have competencies in the realization/accomplishment of services and inspections on issues of major importance, which are above local interests of a certain community.

*Institutional strengthening of the Regional Environmental Agency* and its reorganization as well as of the *Environment Inspectorate* as independent institutions is another recommendation. Clear separation of duties within the Inspectorate should be taken into consideration in order to have one inspector responsible for a certain zone to know well environmental issues and provide timely solutions for them.

With changes in the way of business registration to the National Center of Registration, *REA should be one of the institutions to be informed on registration of any business.*

*REA and local government should draft an action plan to publicize the legislation on environment*, prepare promotional but simplified materials for citizens and businesses. In addition, in collaboration with education departments and schools, educational program should be concrete in order to change the current attitude of citizens to environment.

It is a fact that some small business activities are overloaded with a number of permits/authorizations required for them. For some of these businesses, *unification or combination of environmental documentation with some other permits*, such as hygiene-sanitary permit, would lead to reduction of time and burden for them.

*Local government should have its decision-making role in the service of environment protection.* With the aim of accomplishing the process of decentralization and to bring services closer to the beneficiaries, transfer to local government units of a part of environmental permits, particularly for small businesses, should be taken into consideration. To achieve this, it is necessary to review the list of business activities for which REA issues environmental consent/authorization to date, in order to identify permits that can be issued by local government.

In case decision-makers think that this authority should not be centralized for all local government units, there is no reason why this transfer cannot be realized for municipalities. In the most restricted case, this authority should be provided to municipalities where problems are more intensive or where specialized officers can be identified and hired.

Local government should be granted with instruments to enforce decisions within its competencies. *It is necessary to increase and concretize the control role of local government in the field of environment protection.*

The Strategy on Environment envisages improvement of structures of ministries for issues of environment and establishment of Environment Commission as well as collaboration with local government.

*Establishment of environment office with qualified specialists within the local government should become a priority.* However, it is necessary to provide an initial and detailed description of duties and processes of work required to be carried out by this office. In addition, conceptualization and concentration of duties conducted by other environment offices in local government units is a main concern.

Moreover, *establishment of the Municipal Environmental Inspectorate as a well-organized entity* is identified as a solution particularly for cities under survey. Tirana Municipality' example could serve as guidance in this endeavor. Establishment of these entities should be accompanied with the training/provision of skills on various aspects. With the creation of Environment Fund, many of the priorities are expected to be proposed by local governments. Ministry of Environment, through REA, Institute of Training of Public Administration in collaboration with the Association of Albanian Municipalities and NGOs should draft a training program plan to include, among others, training on drafting strategic and action plans on environment.

## V. Education

Pre-university education is undergoing a continuous reformation phase and is engaged in the process of decentralization seeking to increase the quality of this service highly important to the country's cultural development and economic growth. This service is currently a shared function between the local and central government. As such, it is coping with problems related with the sharing of functions and responsibilities through regional education department and office and local government units. This report seeks to point out problematic aspects of this collaboration to the function of the increase of quality of this service to citizens (community of parents and teachers).

### V.1. Legal Framework

The most important documents on pre-university education are "National Strategy on Education 2004-2015" and "Decentralization Policy in the Sector of Pre-University Education". These strategies and policies aim to segregate responsibilities and functions in the education sector among levels of governance as well as to identify conditions for the increase of accountability for functions expected to be decentralized. However, much remains to be done in terms of organization of work for their drafting and monitoring of implementation as the only way to impact the improvement of quality of the decentralization process and to improve provision of this service to community. Besides these documents, there are a series of laws and sub-regulatory acts that aim to regulate the relationships in the pre-university education at central and local level. These legal provisions include:

Law No. 8652, dated 31.07.2000, "On Organization and Functioning of Local Government" stipulates that pre-university education is considered as a shared function in which local government units assume responsibility distinguishable from the one vested to central government. Despite what the law stipulates, there are cases of conflicting authorities between the local government and the regional education departments (REDs) or education offices (EOs). The law does not clearly specify competencies to concretize separate duties for local government and for REDs as well as coordination of work between them.

Law No. 7952, dated 21.06.1995, "On Pre-University Education System" amended with the Law No. 8387, dated 20.7.1998, provides the classification and functioning of pre-university public education. <sup>66</sup> According to this law, education is classified in (i) *pre-schooling public education*, which includes kindergartens, (ii) *mandatory public education*, which includes elementary and upper education, (iii) *public middle education*, and (iv) *special public education* for people with physical, mental,

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66) Based on 7952, dated 21.06.1995, "On Pre-University Education System" amended with the Law No. 8387, dated 20.7.1998.

or emotional disability, so that they can get an education in conformity with their requirements for a more successful life.

The Council of Ministers' Decision No. 707, dated 16.10.2003, "On Reorganization of District Education Departments to Regional Education Departments (REDs) and Education Offices (EOs)" stipulates that REDs operate at regional level and report to the Ministry of Education, whereas EOs operate in districts and report to REDs. Albania has 13 REDs and 24 EOs. The decision specifies the main functions, method of designation of structure and number of staff as well as internal regulations for their operation.

The Council of Ministers' Decision No. 162, dated 7.3.2007, "On Renting, or Leasing assets of state enterprises, companies, and institutions" regulates the renting or leasing of assets that are given for business activities in education through competition of some elements, such as (i) level of investment, (ii) level of employment, and (iii) monthly fee of rent/lease. The law specifies the entity entitled to enter into contractual agreements for renting or leasing of education buildings, procedures of renting, definition of base fees, etc.

The Council of Ministers' Decision No. 432, dated 28.6.2006, "On Generation and Administration of Revenues Generated by Budgetary Institutions" stipulates that revenues generated by budgetary institutions through their main activities and provision of services to third parties. These revenues (including those generated by educational institutions) are considered public income and are deposited to the state budget. These revenues are classified as follows: (a) *proceeds created by budgetary institutions while performing their functional duties*, such as issue of licenses, permits, certificates; all proceeds are deposited to the account of the state budget; (b) *proceeds realized by budgetary institutions through provision of services or goods to third parties*, making use of their free capacities, such as printing houses, publications, etc., for which these institutions use 30% of the amount obtained from these proceeds to cover the additional material costs spent for these services and goods; (c) *proceeds realized by budgetary institutions through services to third parties for which the state budget has not anticipated funding or funding of these institutions is ensured from the difference between revenues and expenditures of these institutions*; some 10% of these proceeds is deposited to the state budget and the rest is kept by the institutions to cover the anticipated costs for these activities. According to this decision, all revenues realized by budgetary institutions are deposited in the revenue account of the State Budget.

The Council of Ministers' Decision No. 260, dated 18.4.2007, "On Publication, Printing, and Distribution of School Textbooks of the Pre-University Education System" stipulates that the process of publication, printing, distribution, and sale of school textbooks of the pre-university education is carried out by publishing houses. These houses submit their textbooks for approval to the Ministry of Education and

Science after they have complied with the criteria and procedures established by this ministry. This guideline sets forth deadlines, schemes of distribution, and points of sales of school textbooks. According to the decision, publishing houses must sell textbooks at school premises or in their bookshops, if any. School principals are required to provide space in their schools to publishing houses for the sale of textbooks. Booksellers must issue proof of purchase or a fiscal receipt, as specified by the Ministry of Finance, to buyers for cash payments. Implementation of this decision has coped with difficulties.

The Council of Ministers' Decision No. 502, dated 16.4.2008, "On Administration of Dormitories of the Pre-University Education System" transfers all functions of the administration of pre-university education system dormitories –in accordance with their location– as a delegated function to local government units. Capital is transferred for free and movable state properties include: (i) utensils of kitchens and dining halls; (ii) inventories under utilization; (iii) food and non-food commodities; (iv) stock of the warehouse to the service of dormitories and cafeterias to local government units.

Guideline No. 29, dated 25.9.2007, "ON Collection, Safeguarding, and Use of Proceeds from Parents of Students in Pre-University Education Schools" defines the procedures for collecting, safeguarding, and use of proceeds from parents of students in the pre-university education schools, their cashing, safeguarding and use of the money/contributions provided to school. School principals do not know this guideline or they do not make a uniform interpretation on its implementation.

## **V.2. Institutions Involved in Pre-University Education**

Pre-university education is a shared function of local and central governments; consequently, actors operating in both local and central level need to cooperate with them, which is also crucial to the success for the accomplishment of this function. These actors are: (i) institutions at central level, such as Ministry of Education and Science, REDs and Eos; (ii) responsible structures at local level, such as municipal or communal departments dealing with education as well as education commissions in municipal and regional councils; (iii) educational institutions, such as schools; and, (iv) citizens, including community of parents and teachers organized in boards, parents' councils, and teachers' councils.

The Ministry of Education and Science (MOES) is the central institution dealing with the drafting of state policy in pre-university education. In order to ensure a proper processing of the educational policy, MOES creates a consultation entity made up of personalities in various fields as well as leaders of education and recognized teachers.

By means of special acts, it defines curricula and teaching plans, which are accomplished at various levels of the pre-university education. MOES and its subordinate institutions approve the fundamental documents that include, plans,



programs, and teaching texts, conduct inspections, and are entitled to the right to experiment for the improvement of quality in education in compliance with international standards. REDs and EOs report to MOES; they serve as local institutions that lead education service at local level.

Regional education departments and education offices are decentralized organs that aim to allocate the authority of decision-making and responsibility from the central level of governance to local level. The purpose of these decentralized bodies is to improve the management scheme of the education sector by bringing this service closer to citizens. REDs are decentralized entities at regional level and report to MOES. They are responsible for the assurance of quality of education service. REDs' functions include the following:

- a) Drafting of development policies in the pre-university education at regional level, taking into consideration features of demography, terrain, climate, economic development, and local infrastructure;
- b) Implementation of regional policies in compliance with and implementation of national strategy of development of education;
- c) Drafting and implementation of projects with local or national character, through mutual agreements;
- d) Organization of inspections to public and non-public educational institutions by making real assessment of the quality of offered service;
- e) Organization and realization of training and qualification of teaching staff of the schools under its authority by collaborating with specialized institutions.

Education offices must cooperate with REDs as well as other structures at local level for the coordination of works.

RED staff consist of employees who are: (i) *specialists of legislation*; (ii) *specialists of financial-economic auditing*; (iii) *specialists of human resources*; (iv) *specialists of inspection sector*, who conduct inspections to all schools under the authority of RED; (v) *specialists who deal with training of teachers of all levels*; and, (vi) *specialists dealing with accounting* and covering the coordination with local government on issues under the authority of municipality, such as repair and maintenance of school premises and investment in schools.

The shared function of municipality with the central government is the education service. Local government unit's competencies on the issue of education are:

*Operation and maintenance of pre-university education buildings* with its own funds in compliance with the funding allocated for this function through the unconditioned grant of the state budget and through other sources available in the local budget.

These expenditures are approved as part of the budget of each municipality and commune. The problem is that there are no clear standards for the premises of the pre-university education upon which these local government units will make their decisions. Standards must be implemented in terms of equipment of schools, heating, consumables and supplies, such as chalks, teaching items, etc., which should be calculated using a formulae clearly defined in the law and should be in proportion with the number of students per school including fluctuations to the benefit of the schools' conditions.

*Investments* in 2007 were defined in the form of competitive grants, according to which municipalities could be entitled to this funding by submitting their projects to MOES and after the relevant commission established for this very purpose had evaluated them. *Competitive grants* are destined to be used for capital spending related to own and shared functions (including education function) of the local government units.

In addition, local government units can make investments on their own using their own revenues in compliance with the standards established by MOES and under the monitoring of RED as an entity of the central government. According to the law on state budget, local government units are authorized to pay the salary of teachers of the pre-university education. They accomplish this duty as an administrative service, because the money for the salaries does not come from the local government; funding for teachers' salaries comes from MOES.

**Municipal Council** is an organ elected for a 4-year term. The mandate of the councilor is valid from the time when the councilor takes the oath and signs it until the constitution of the next municipal council. Several commissions operate in the municipal council; one of them is for culture and education.

**The Region** is the harmonizer of the national policies with regional ones. It collects information and identifies priorities in collaboration with local government units and education departments, which are institutions closer to education and its problems. Until last year, the regional council used to receive funding for investments, but this year funding was allocated to local government units, despite of various problems, such as a clear division of competencies between them (region and local government unit).

According to the law on state budget for 2008, municipalities and **regional councils** are responsible for the realization of *investments on new constructions, capital repair, and furnishing of pre-university education buildings* with funds from the state budget, own resources, donors, etc., in accordance with the annual plan and in compliance with the standards established by MOES. Consequently, the regional council for rural areas is assigned by the law on the annual budget to realize investments in pre-university education in all cases of funding resources.

**A school** is a very important education institution, whose operation requires the collaboration among a series of institutions, such as MOES, RED, EO, and certain structures in local government units, in whose territory the school is located.

Like any other institution, a school needs a good manager, who should know the legislation well, be professionally skilled, and possess good will not only to improve the quality of teaching but also be able to attract investments. The school principal and teaching staff should be hired based on meritocracy and by means of a fair competition and based on professional capacities.

According to normative provisions “On Public Schools”, the school principal is the juridical person with signatory authority and use of schools official seal. He/she drafts the school’s internal regulation in reliance of applicable legislation and after having taken the opinion of the teachers, parents, and administrative staff as well as after considering the concrete and specific conditions of the school and its surrounding community.

According to sub-regulatory acts, a school principal has many duties and responsibilities, and one of them is to draft budget needs for the upcoming academic year and to submit them to the regional education department and local government. The principal is responsible for ensuring normal conditions, including health, heating, lighting, etc., for the operation of the teaching process as well as for safeguarding and maintaining school assets. Therefore, he/she has to provide his/her contribution to the improvement of quality of these services in the school he/she leads. On these issues, the principal collaborates with the local government, education department, school parents’ council, school board, teachers’ council, and specialists of psychological, pedagogical, medical, and social fields. In addition, the principal must cooperate with other schools, education institutions, foundations, and national and international non-governmental associations to exchange experience, study tours, etc., without affecting the teaching-educational program and in compliance with normative provisions and approval of RED.

The principal exercises his duties in cooperation with institutions that represent interests of the community, including: (i) school board, including its establishment and operation, (ii) parents’ council of classroom students, and (iii) parents’ council of school made up of representatives of parents’ councils of classroom students, based on a plan drafted by this council.

Functioning of the **School Board** is very important, because this is the decision-making body for administrative and financial issues and management of the school. The school principal has the authority and runs the procedures for the establishment of this board; within ten days of the setup of this board, the school principal must inform in written form the education department and local government. Efforts should be placed to make the role and responsibilities of this board more powerful,

and this can be achieved when electing members to this board in conformity with the established rules and not through selecting people for simply filling in the vacancies. The school board is the institution that should cooperate most closely with the local government and school leadership; its duties include the following:

- Draft the financial-economic plan for the next academic year;
- Itemize the budget set available by the state;
- Follow up use of budget in accordance with reports submitted by the school principal;
- Manage other revenues generated from: (i) proceeds earned by school during its activities performed for third parties; (ii) sponsorship from community, foundations, associations, and various individuals; (iii) revenues ensured by the school itself.

Membership of school board includes teachers, students, 5-7 parents of school students elected by vote of school students' parents, one representative of local government, and 1-2 outstanding clients or sponsors who are interested in the growth of school.

### **V.3. Issues of Collaboration**

According to the European Charter of Local Government, Constitution of the Republic of Albania, and Law on Local Government, each function and authority transferred from the central government to the local one should be accompanied with the respective financial bill. Local government representatives state that this issue is clearly defined in the law, but central government does not provide funding for accomplishment of functions and competencies transferred to local government. They declare: "We don't need functions and competencies unless we have the necessary financial sources." This constitutes a major issue on collaboration between the central government and local power.

The budget tends to enhance local decision-making on collection of revenues and making expenditures. The current criterion on which *unconditioned transfers* for investments are calculated is the equal funds per capita criterion. Local government representatives think that subjectivisms should be avoided through a fairer allocation based on needs. The same thing applies to *competitive grants* for investments in education, because there is no transparency in the process of obtaining the funds. Some representatives are skeptic about the decision-making, which they think is subjective rather than based on merits in terms of both definition of criteria and the process of allocation of funds from MOES. This constitutes another major issue on collaboration between the central government and local power.

Education issues in several municipalities are covered by the Education Sector and the Economic Center of Education, which report to the Department of Education, Culture, Youth, Sports, and Religious Communities. Since education issues are sharper than the others, municipalities need to give more priority to education and

they should seek to expand their education departments and increase number of staff. By means of laws and sub-regulatory acts, they should also provide a better division of duties and responsibilities for municipal, RED and EO employees in their respective districts.

In regard to this, the Korça Municipality has initiated positive efforts aiming to give priority to education service. In this municipality, the service for education institutions will be provided by the support services enterprise for education issues. This enterprise will manage the funds obtained from the Ministry of Finance. In 2008, this municipality has established a new structure, called Department of Development Policies, Planning, and Coordination with Donors, whose staff includes experts of education as well. This could serve as a potential model of operation, though the new structure could face collaboration problems. The latter should be regulated with legal provisions and should not be left to the will of collaborating parties.

In addition, RED has a structure dealing with the economic and administrative aspect; this structure monitors collaboration with the local government on investments in kind in schools. Since this structure collects data, an officer of this office should be entitled with the right to inspect schools at site to certify that the investment requested by the school principal is necessary, fair, etc.

These problems arise as a result of officers' lack of knowledge on the legal framework. This hinders accomplishment of duties and puts barriers in the institutional collaboration between local government and RED. Most employees do not know the legal framework, upon which they run their daily activities. In most cases, they state that the legal framework on segregation of competencies is in place, when, in fact, it is clear that this law is lacking.

Problems exist even in the absence of legal division of competencies for local government and regional education departments separately. Policy document on implementation of education strategy introduces the idea of segregation of competencies for the central government and local government, but this is not reflected in the law. Segregation of competencies should be conducted on the principle that competencies of the local government should include administration and improvement of quality of service by exercising competencies such as repair, maintenance, investment, renting, and leasing, while RED competencies should include ensuring of smooth operation of the teaching process through employment and training of teachers, and inspection of educational process.

Other problems arise from delays in issuing legal and sub-regulatory acts, such as transfer of ownership of schools to municipality; this process is still incomplete. Other problems include confusion and vague language of the existing legal and sub-regulatory acts. For instance, if we refer to the Council of Ministers' Decision No.

162, dated 7.3.2007, “On Renting or Leasing assets of state enterprises, companies, and institutions”, paragraph 7, it is unclear as which institution (local government or RED) has the right to lease education institution buildings. This gives rise to problems in the interpretation of this decision. Local government representatives state that local government is the legal owner; therefore they are entitled to lease the building. RED officials state that transfer of ownership is not complete yet; thus, they have the right to sign lease/rent contracts. In this aspect, it is necessary to have a special decision on renting/leasing of educational buildings. This decision should not include other state institutions; it would make that decision confusing and hard to interpret.

Paragraph 3 of Article 8 of the Law on Local Government, which stipulates the rights of local government units, specifies that these units are granted the right to ownership. They may earn, sell, and lease immovable or movable assets as well as exercise other rights in compliance with ways set forth in the law. Rumors are spreading on an act that would enable transfer of ownership of schools to municipalities, i.e., as assets of local government, but this process is still incomplete. Durres Municipality officials stated that this process is under way, but they are not acquainted with this law, which is highly necessary to define the role, duties, and responsibilities of the local government as the owner of school premises.

The process of transfer of school premises’ ownership is regarded as a phenomenon that would greatly help the solution of many collaboration problems between local government and RED. The owner enjoys inalienable rights to ownership –to be definitely transferred to local government. Ownership should not serve as an issue of dispute and conflict between local government and RED. If the municipality becomes owner of school premises, then leasing/renting them is a definite authority of municipality.

Infrastructure problems are due to movement of population to urban areas. Due to the concentration of many people in urban areas, schools are now overpopulated; this makes the operation of the educational process very hard and construction of new schools very necessary. The number of students in rural schools is very low because of lack of roads, transport means, and economic reasons. Such phenomenon necessitates that investments be made based on maps of future urban planning of population, because it would help to better designate the location and number of schools with the aim of increasing the quality of the educational process.

Supply with schooling and educational items and equipment and lack of labs, computers, etc. comprise a problematic situation for the schools. The problem of collaboration among institutions responsible for education has lead to purchase of supplies at high cost, but of no use to the improvement of situation. Similar situation applies to very expensive items, which have had poor quality and block funding for their technological renovation.

#### **V.4. Recommendations**

- Clear definition of competencies and duties for certain institutions operating in pre-university education, separately for local governments and education departments in districts. This constitutes the decisive factor for the improvement and concretization of collaboration among various actors;
- The decentralization process should be associated with the financial bill; this means that funding should be sufficient to accomplish the functions transferred to local government. This implies not only funds but also the due amount specified in compliance with the legal standards for the achievement of the duties.
- Completion of the transfer of responsibilities and competencies on schools and structures that should operate at school level, such as board of school, parents' council, and teachers' council.
- Update of legal framework on dormitories and avoidance of conflicts on hiring the staff. RED and local government units are conflicting on hiring non-teaching staff, such as cook of dormitories. According to local government officials, local government inspects the quality of service this staff provides; therefore, it should have the authority to hire and fire the staff and supervise/inspect their activity.
- RED should deal with the educational process and should conduct respective inspections, while local government should deal with the management and improvement of quality of service as well as inspection of related services.
- The RED's inspection process should periodically monitor even the institutional collaboration between local and central levels by identifying problems and reflecting them in the Strategy on Development of the Pre-University Education System.
- Training and qualification sector of RED should identify the need of training school principals on issues of administration of school budgets, opportunities for fundraising, and knowledge and proper interpretation of the applicable laws.
- Give more priority to issues of education at local level through establishment of support services enterprise, like the initiative in Korça Municipality;
- Improvement of transparency system for obtaining information on education issues through establishing information offices at municipalities to provide information to citizens;
- Increase of transparency in the process of allocation of funds for repair of and investments on schools through establishing a board that would define the real needs of schools. As all school principals try to get as much funding as possible in this process, it is necessary to set up a commission to identify needs of each school and to define allocation of funds based on the urgency of these needs. This commission should be impartial and visit each school to identify the needs, starting from the urgent ones.
- Designation of investments in schools should be realized in conformity with

the maps of Perspective Urban Planning of Population, which will define locations for realization of investments (construction of new schools) or for their reduction in those areas where the number of schools is larger than the need with the aim of increasing quality of service.

Improvement of pre-university education service requires establishment of working groups with the participation of the best education experts of all collaborating levels (MOES, RED, local government) to identify issues of collaboration. These groups will also seek to build cooperation on concrete issues and will draft legislation for a clear definition of competencies, duties, and responsibilities of all actors.



## VI. WATER SUPPLY AND SEWAGE SERVICE

During the one-year period of this project, there have been some important legal modifications in the water supply and sewage service. Local government units under this study have either become or are becoming complete owners of the Water Supply and Sewage Enterprises (WSSE). The legal framework on organization and functioning of these enterprises has been addressed in many publications; therefore, it would not be highly useful to treat it broadly in this report. The *National Strategy on Drinkable Water Supply and Sewage*, approved with the Decision of the Council of Ministers, No. 706, dated 16.10.2003, is undergoing review and consultation to identify and define sectoral policies until year 2020, including reformation of the Water Regulatory Entity (WRE). This report will, however, address aspects that are valuable for the future.

For this reason, the following analysis will not abide to the structure of other analysis in this report. It will seek to assess the operation of this process, address problems identified at local level, and provide recommendations.

### VI.1. Institutions with Shared Responsibility

Changes have shifted local government's role from provider of water supply and sewage service to drafter of policies and national strategies in this sector. The central government has always expressed its political will to realize the process of transfer of ownership on WSSE to local government units. This process has, however, been slow. Implementation of the water reform and its success depend not only on the support of the central government but also on the support and initiative of the local government.

*The Ministry of Public Works, Transport, and Telecommunication* is committed to achieve the reform and the process of transfer. With the aim of developing the water supply and sewage infrastructure to provide effective service of water and hygiene, the main reforms are expected to include aspects of management (of demand, monitoring, qualification of staff, increase of management capacities); legal and institutional aspects to make enforceable the decentralization process and competencies of local authorities in this sector; financial aspects to reduce poverty and provide subsidies; and technical aspects.

The Ministry of Interior has the role of coordinating the decentralization reform with other institutions through its Decentralization Department. In addition, this department represents the central government in Executive Boards of water enterprises under management contracts (in Durres and Fier).

*The Water Regulatory Entity (WRE)* is an independent entity established by Law No. 8102, dated 28.03.1996, "On Regulatory Framework of Water Supply Sector and Removal and Processing of Polluted Water". The law provides for creation and

operation of WRE, its competencies and relationship with licensed operators in this sector. Article 21 assigns WRE to establish procedures and standards as well as to define and approve fees for selling of water. In the framework of decentralization reform, the subsequent modifications transferred this authority to local government units, though late, and gave WRE the regulatory and supervisory role.

The recent change<sup>67</sup>, Law No. 9915, dated 12.5.2008, "On Some Changes and Additions to the Law No. 8102, dated 28.3.1996, "On Regulatory Framework of Water Supply Sector and Removal and Processing of Polluted Water" as amended, brings in important changes to the role and relationship of WRE with local government units and WSSE as operators. This change is a step backward in the procedures of establishing the fee (Article 10) by transferring this authority back to WRE. "The procedure starts with a proposal made by the licensed, provision of opinion by local government units, and ends with the final approval of fee by the regulatory entity." In the meantime, this law entitles the local government units as owners of systems of water supply and polluted water removal and processing to supervise entities licensed for the implementation of this law.

*Local government units*<sup>68</sup>: Law No. 652, dated 31.7.2000, "Organization and Functioning of the Local Government" assigns the water supply and sewage service as the exclusive function of the local government by giving them full administrative, investment, maintenance, and regulatory authority. However, the place and role of local government in the management of these enterprises, at least in view of number of seats at Supervisory Council, has been legally limited to only one person. Local governments admit that they have not considered themselves as responsible for this function. Their daily work includes solution of emergencies in collaboration with WSSE, while their budget is too little for important interventions to improve this service.

The local government is now working in a new legal, institutional, and, understandably, confusing environment. It is coping with: a) ownership of enterprises with huge financial problems and need for huge capital investments; b) lack of experience in administrative and enterprise management issues; and, c) fact and concern that the process of running these enterprises will be influenced by political passions and not technical reasons.

In this new environment, the need of cooperation and coordination as well as of recognizing the role of each one in this process takes up special importance. This is not only in principle but also in reality, since WSSE operate with management contracts.

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67) This new legal modification, then under the process, was not discussed in round tables of May.

68) This material uses "municipality or local government" to refer concretely to experiences of towns under this study.

*The Water Supply and Sewage Enterprise* is the main part in this entire process. In the four towns under the study, the institutional structure and position of WSSE in the process of transfer is different. Yet, some generalizations can be provided for their achievements or the cause of problems confronting them.

- The WSSEs in Durres and Fier serve several local government units at the same time, while the ones in Korçe and Shkoder serve only the respective town/municipality.
- In terms of legal status, these enterprises are shareholder companies, whose ownership will be transferred to the related local government units. Fier WSSE is an exception – Fier Municipality owns 53% of the shares, implying that ownership of this enterprise has been transferred to local government.

All four enterprises have benefited from international assistance in the form of capital investment, particularly in Korça and Shkoder, and in managerial aspects. WSSEs of Durres and Fier are part of the World Bank project, which is providing a new method for their organization and management. In these towns, two new structures have been established: Executive Committee and Contract Monitoring Unit, which are responsible for identification of priorities, making important decisions, and drafting action plans.

The *Executive Committee* was established upon a decision of the Council of Ministers to manage the World Bank loan. It is the main entity in the decision-making and is entitled to review and approve actions undertaken by private operators. This committee is made up of seven members, out of which four are representatives of the four local government units where the project is being implemented. From the technical viewpoint, the Executive Committee is assisted by the Contract Monitoring Unit, whose aim is to improve the managerial capacities of these enterprises.

## **VI.2. Issues of Drinkable Water Supply and Sewage Service**

### *Ownership Transfer Process*

Though defined as one the priorities of local government and specified by law to be provided by local government as its own function, the water supply and sewage sector has continuously coped with problems in both quality and quantity. The current situation is a concern to local government, because water supply and sewage service represents one of the most important functions and responsibilities, but, on the other hand, this service requires huge investments that local governments cannot actually afford.

Local and WSSE leaders and specialists admit that the process is, to a certain extent, unclear as to the transfer of these enterprises to the ownership of local governments and on the way of regulating the relationship between the two levels of governance, among municipalities, communes, and enterprises themselves. It is

also admitted that the process is facing legal delays and deficient transparency. In addition, political influence in the process is a major concern.

The process is complex and difficult in some cases because of the current organization of these enterprises. In Durrës, the water supply enterprise serves to the town and 14 communes. Establishment of the Executive Board would mean a group of at least 50 members – practically impossible to manage. Until the transfer is complete, WSSE thinks that it is appropriate to enter into service contracts with local government units. This is deemed effective and is expected to lead to increase of accountability of communes for this service, to decrease of illegal interventions to the supply network, and increase collection of fees.

WSSE of Fier reveals its own specific issues in this analysis. The timing of implementation of this project coincided with the transfer of ownership of this enterprise to the municipality and communes it services to. The ownership transfer process completed by the end of March in Fier. This enterprise used to operate based on a status approved by the Ministry of Economy. Now, distribution of shares among municipality and communes gave rise to a new leading board with many members. The new method of leadership and organization brought about many problems even in the process of electing the leader for the enterprise.

Transformation has not led to what was expected, at least for the Fier Municipality, as the local government with the largest number of shares. Political conflicts have produced obstacles and delays. According to them, “since the municipal council, not the mayor, is taking decision for the municipal representative in the Management Board of WSSE, ownership to enterprise is simply formal. If it is an enterprise to be used by municipality as an own function and as the municipal executive authority/mayor have the responsibility and have promised to provide this service, then the mayor must have the authority to hire the enterprise director.” Regardless of the situation in Fier, the to-date solution is legally based on the role of the municipal council representative to exercise the right of ownership on local public assets on behalf of the community it represents. The role of mayor/executive authority may be reviewed with the purpose of enhancing it. However, solution to problems should be identified in the legislation on functioning of public-owned enterprises.

WSSE of Korça is an exception. It has received technical assistance and capital investments, making it an enterprise with no financial worries and skilled in terms of management. The enterprise and municipality see no problem in the process of transfer. We have similar situation in Shkoder. Investments made so far, good collaboration of municipality with WSSE, and the enterprise’s efforts to considerably improve its financial situation are expected to enable a trouble-free transfer process.

### *Need for Investments*

This sector requires huge capital investments with an increasing need for drinkable water supply and updated sewage system. The network is maintained and repaired only in urgent cases. If we seek improvement in the quality of this service, realization of important investments must be the first step. Durres case is a concrete reality. Losses in network are at alarming rate, accounting for about 40% of the drinkable water lost in the neighboring communes of Durres. Illegal interventions in the network are added to the figure stated above. The water supply distribution network was constructed 30 years ago; it was planned to provide water to 47 thousand inhabitants, while the same system is trying to supply water to a population of 12 times as large in peak periods.

While many investments are made in the water supply service, municipalities under the study are coping with serious issues in terms of sewage system. Needs for investments in this system are endless and deficiencies in urban planning and failures of law enforcement have added up to the problems in this sector. Specialists of this sector provide to suggestions to solve the problems, though they consider this issue as very important for the quality of urban life and closely related with environment and its pollution. Application of a new fee on removal of polluted water is an innovation introduced by this enterprise. The fee is inconsiderable, but it has introduced the concept of payment for this service. The central government has promised to complete construction of sewage water processing for about half of country's population within year 2010 with donor support.

### *WSSE Financial Situation and Management in the Future*

Though the central government is committed to make the transfer of ownership of these enterprises after they are released from the debts, the local governments are concerned about the future financial situation of these enterprises. The current scheme of subsidies is related to the assistance in alleviating their losses. Changes subsidies based on indicators and progress of WSSE should be clear and practicable.

Service fees are too low to cover operational costs and are not applied based on the measured consumption, except for Korça. Municipalities have taken advantage of the law and have raised the water bill, thus increasing their revenues. The overall thinking is that raise of service fee could meet with citizens' objection, but this was not the case for towns under consideration. On the contrary, associated with a well-planned awareness campaign, particularly in Shkoder and Korça, this service fee raise has been accepted by citizens.<sup>69</sup> Civic accountability is, however, critical and highly influential. Towns have their own features and their expansion has brought about many changes. Leaders of this service in Korça state that this factor has worked to their favor; leaders and specialists of this service in other towns emphasize the fact

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69) In Shkoder, the water service fee has tripled and collection of fee has increased considerably.

that “Korça has generally remained an autochthonous town with a controlled increase of population and similarly accountable”. This fact is an advantage for producing the expected results.

However, in this period of change and poor quality of service, great care should be taken with increase of service fee. WSSE wishes to move quickly to harmonization of production cost with the selling price to consumers. Therefore, central policies in this aspect should be well-oriented. At local level, citizens should see this improvement and be informed in advance about it before they are willing to pay for an increased fee of the water supply or sewage service.

Billing of consumption in ratio with the production is very low, while collection of fee from bills, though increasing, is still insufficient. Durres Municipality is coping with significant difficulties to identify ways for collecting the water service fee, particularly for the newly-established areas. Its collaborations, including the one with the Postal Service, have not produced satisfactory results. Specialists think that current mandatory measures, such as termination of water supply service, have not failed, so they need to change. It is to the benefit of local government and WSSE to make citizens aware of the need to pay for this service while enforcing the legal obligation, which states that the water bill is an executive title.

The analysis of the four towns indicated one tendency related with the management of demand for drinkable water. Installation of water meters is a priority and the experience in Korça certifies that this remains the most important factor for the management of this business. Specialists of this service in other towns share this opinion, though shortage of funding has prevented installation of water meters to all consumers. Associated with the improvement of the collection system, this will enhance economic indicators for these towns. Furthermore, collective installation of water meters to prevent abuses is one of the objectives of the reform in the water supply sector.

*Situation of drinkable water supply service in towns under survey:*

Shkodra	Supply (hours per day)	Up to 12
	Collection of fee (%)	70
	Assistance	Austrian financing for capital investments and technical assistance
	Changes	Capital investments (water depot) and improvement of managerial skills
Durres	Supply (hours per day)	Up to 12
	Collection of fee (%)	25
	Assistance	World Bank/ Statute/Contractual Agreements/Supervisory Council
	Changes	Changes are expected in the method of management and increase of local government's role in the leading board / partial capital investments

Fier	Supply (hours per day)	14
	Collection of fee (%)	60
	Assistance	World Bank/ Statute/Contractual Agreements/Supervisory Council
	Changes	Changes are expected in the method of management and increase of local government's role in the leading board / partial capital investments
Korça	Supply (hours per day)	24
	Collection of fee (%)	98
	Assistance	KfW /capital investments and drinkable water supply system
	Changes	New network of water supply / significant improvement in management capacities

*Source: The data is obtained during meetings with leaders and specialists of WSSE of towns under this study.*

### *Leadership and Management Capacities*

Local specialists do not possess management skills to solve new problems and lack the necessary experience in running public-owned enterprises, particularly when WSSE provides services to several local government units, as in Fier and Durres. These specialists mention their experience in running other municipal enterprises, such as cleaning, but difficulties arise in the management of large boards. Furthermore, WSSE should operate like any other business, with the aim of generating profits, based on an economic and financial program for each local unit as well as on a business plan. In this aspect, the role of the central government with technical assistance and the increase of local capacities acquire specific importance.

### *Foreign Assistance*

The reform on decentralization of water supply and sewage sector does not simply entail some legal modifications and transfer of competencies/rights of ownership to local government. Method of management should have similar effect and is probably the most difficult to change. Foreign financial and management assistance has been present for many years in this sector. Results of this assistance vary considerably, however, from the viewpoint of effectiveness and of what they have provided to enterprises. Positive examples and experiences exist.

The four municipalities under this study have received foreign assistance, which has been focused in the improvement of enterprise management and in capital investments. In Korça, investment from the German KfW has significantly improved the water supply to this town and the management of this enterprise. Training and qualification of leadership and management staff has produced good results, including aspects in addressing the problems and in the perception of WSSE as a business activity seeking to generate profits.

In Shkoder, the water supply system rehabilitation project in this town is funded by the Austrian Government in the form of a grant. This project aims at improving the infrastructure (rehabilitation of water supply system) and at institutional

strengthening by introducing and consolidating sustainable management methods.<sup>70</sup>

Since March 2003, water supply enterprises of Durres and Fier are receiving support from the World Bank on management issues. The overall objective of the project is to improve the drinkable water supply and sewage service in four municipalities, including Durres and Fier, and to increase WSSE's financial capacities through management contracts. The project anticipates a status that would enable municipalities to exercise their competencies in the water supply service. The change would allow municipalities to enter into agreements with these enterprises and increase the number of local government representatives in the Supervisory Council.

WSSE and local specialists are not optimistic about the operation and effect of this project. They never were able to solve a legal contradiction: management of enterprise by the existing leading board (elected in accordance with the law and with only local government representative), while the assistance project is expecting Executive Committee to manage this enterprise. WSSE specialists state that the role and responsibilities of the Executive Committee and Contract Monitoring Unit are unclear, while the enterprise is still operating as it did before the start of the project. The only changes are some meetings with foreign experts. Local government specialists declare that unification of water supply enterprise with the sewage enterprise has been simply formal and unclear, but this has affected the financial state of WSSE.

Financial data indicates a partial improvement in achieving performance indicators defined by the project, including collection of fee, quality of water supply, and number of hours of supply. The subsidy scheme –supply of 20 liters of water per person for free– seems to have worked well, but it is still hard to fairly identify families in need. In addition, the central government should identify ways to compensate needy family considering that WSSE will now operate as a for-profit business.

The concept of this project may have been good and promising, but in reality it brought in insignificant improvements in the management of enterprises under this assistance. Moreover, capital investments realized so far have not been studied well and loans for them will be repaid by the enterprises themselves, something considered ineffective. Without elaborating specific problems of the contracts, it seems that Durres and Fier experiences dictate the need for a preliminary work of direct information, communication, and collaboration among parties involved in the project, with the aim of acknowledging their roles and responsibilities because of the new experience in the management of these enterprises.

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70) Other investments include rehabilitation of a reservoir of 8,000m<sup>3</sup>, reconstruction of water supply system in a part of the town, installation of equipment for monitoring the water pressure, flow, and level in 11 wells, pumping stations and reservoirs, installation of data transmission system, etc.



### *Inter-Institutional Relationship*

Due to the timing of this study, focus of WSSE and local governments was placed on the transfer process and its issues. In terms of collaboration with other institutions, they state that it is normal to the extent foreseen in the law. They consider relationship with Water Regulatory Entity (WRE) good and expect to remain so even in the future. Similar relationship is established with the Ministry of Public Works and Ministry of Economy. Little cooperation is noticed with the Regional Environmental Agency, even though drinkable water supply and sewage service is directly linked with environment protection service.

Though tending to increase, interaction with civil society and citizens is still low. Parties place the blame on one another: citizens complain of irregular and deficient water supply; WSSE complains that consumers are abusing, over-consuming, and are not paying the bill. Institutional collaboration among enterprises, civil societies, media, and municipalities should be achieved through concrete commitments. Citizens are not aware and informed on what is really happening with this service and what is expected of them.

### **VI.3. Conclusions**

Collaboration between the central and local governments takes up particular importance in this changing situation. Drafting of policies or donor-funded project should undergo a consultation process; otherwise, it will not produce the expected effects. Transparency and exchange of information should be conducted concretely.

Avoiding as much as possible the politicization of the transfer process will produce results, which will truly take time. Enforcement of law and avoiding political affiliations in this endeavor are the starting points. WSSE must be led by a technical and accountable staff.

#### *At Central Level*

Nature and extent of authority of local government on these enterprises or procedures of exercising this authority must be clearly specified. The role of the mayor (executive authority) in heading these enterprises must be reviewed. Central institutions must be concretely committed through assistance programs to increase human capacities for this sector in local government units and to ensure institutional strengthening of these enterprises with drafting development programs and business plans.

The new way of subsidy from the state budget should be studied based on enterprise performance and a new monitoring system must be designed to serve as the base of evaluation of subsidies. In addition, relevant ministries should collaborate in a study on subsidies to support needy groups.

Collaboration must be ensured in drafting and implementing project at regional level with the aim of avoiding problems of WSSE in serving to several local units simultaneously.

Involvement of the private sector in the management of these enterprises should be carefully studied. Typical contracts should be based on performance criteria of this service. Privatization option, including billing and distribution, is deemed appropriate in some cases. However, central institutions should specify relevant policies and the role of various actors in this process.

A deep analysis on experience acquired so far from projects should be conducted to avoid failures and seek successes. Good examples are in place. Korça's WSSE used to be in similar conditions with some of the current enterprises.

#### *At Local Level*

Local leaders and officials need to show commitment in studying the specific legislation related to the organization and management of public-owned enterprises, to recognize and exercise their role and to strengthen the new relations they have with central government and other actors.

Drafting of water supply and sewage sector development programs must be based on national policies and be conducted in collaboration with WSSE. More efforts must be placed in the management of demand for drinkable water, in informing about the real costs of the service, and in the improvement of the financial situation of enterprises. Installation of water meters for all consumers must finish as soon as possible.

Local government must collaborate with WSSE so that each family/business enters into service contract with WSSE. Make use of deadlines and then punitive measures in case of failure.

Citizens' awareness on their rights and obligations under the new conditions must become a priority to both local government and WSSE, though this is time-consuming process.

# ANNEX I

## **Main Findings of Survey**

Part of the Study:

*“Monitoring and Evaluation of Collaboration of Central Government with Local Government Units in the Exercise of Shared Functions”*

Prepared by IDRA  
Supported by SOROS Foundation, Albania

We express our appreciation to leaders and officials of institutions participating in this survey and for contributing with their opinions.

This report summarizes the main findings of the survey conducted with leaders and officials of institutions in four towns involved in this study. This survey is part of the analysis of the relationship of local government units with central institutions at local level on the exercise of shared functions.

A total of 163 interviews were conducted in 10 institutions and water supply and sewage enterprises. One fourth of interviews were conducted with leaders and officials of local government units and municipal councils.

*Table 1: Allocation of interviews by towns*

<b>Town</b>	<b>No. of interviews</b>	<b>%</b>
Durres	43	26,4
Fier	40	24,5
Korça	42	25,8
Shkoder	38	23,3
<b>Total</b>	<b>163</b>	<b>100,0</b>

*Table 2: Allocation of interviews by institutions*

<b>Institution</b>	<b>Number</b>	<b>%</b>
REA/ Environment Inspectorate	10	6,1
Municipality	35	21,5
Regional Education Department	18	11,0
Regional Police Department	17	10,4
Municipal Council	9	5,5
Regional Council	16	9,8
Police Commissariat	12	7,4
Water Supply & Sewage Enterprise	9	5,5
Prefecture	16	9,8
Civil Registry Office	21	12,8
<b>Total</b>	<b>163</b>	<b>100,0</b>

Interviewees included leaders of above institutions, in decision-making positions, leaders of specific departments, and experts of areas under study.<sup>71</sup>

Taking into consideration the importance of written job descriptions on the good organization of work within an institution as well as in the construction of relationship within and with other co-responsible institutions, interviewees were asked about their formal job description. Some 84% of interviewees stated that they have one.

71) Interviews were conducted with mayors and deputy mayors of municipalities under study, leaders and officials of the prefecture, regional council, members of commissions of municipal councils, leaders of legal departments and lawyers, officials of civil registry offices, leaders of police commissariats and departments, etc.

*Table 3: Do you have a formal job description?*

	<b>Number</b>	<b>%</b>
Yes	137	84
No	21	13
No answer	5	3
<b>Total</b>	<b>163</b>	<b>100</b>

When asked specifically about duties and responsibilities of their institutions, the answers were generally referring to the law. When asked about the legislation on which the activity of their institution or department is based, the interviewees generally quoted the organic law, a second law similarly important with the first one, and fewer of them (less than 10 cases) mentioned subregulatory acts.

The respondents have a relatively long work experience in public sector. On average, respondents have a work experience of about 13 years in the administration, while employed in that position/institution for an average of more than 4 years. Some 28% of respondents have up to 5 years of employment in the public sector, and 35% have been working in this sector for more than 15 years. Only 24% of respondents have 10 or more years of work in the same position or institution, in which about 56% have up to 2 years of employment in that institution.

When asked about the type of relationship that institutions have with one another, the word ‘collaboration’ is the most used one to characterize relationship among them. This is quite true, except when discussing about relationship with the line ministry, which these local institutions report to (respectively Ministry of Interior, Ministry of Education, Ministry of Environment, Ministry of Public Works, and Ministry of Economy). However, some municipal respondents that cover specific problems of education or environment quote the respective line ministry as the main collaborating institution, not the Ministry of Interior. The case of civil registry offices is more specific, in which all (21) respondents stated they report to the Ministry of Interior, though half of them expressed their opinion on subsidiarity or collaboration with the municipality. One respondent specified this service as ‘a delegated function’, which is simply located at the municipality, but is subordinate to the central government.

Collaboration relationship among co-responsible institutions in the provision of services is generally qualified as ‘somewhat good’ or ‘very good’. As ‘somewhat problematic’ or ‘very problematic’ are described relationship of WSSE, municipality, and prefecture have with other state enterprises or communes.

The evaluation on level of qualification of staff of their institutions and of those with which they cooperate is above average. Staff is described as ‘qualified’ and ‘somewhat qualified’. Same evaluation is given on efficiency of the staff of their own and collaborating institutions. Evaluations different from this tendency are given for

other state enterprises and communes with which institutions under this study have relations.

A number of questions sought the opinion of interviewees on several important aspects on the performance of these services from these institutions. Without making differentiations among institutions, about 63% of the respondents stated that financial resources are sufficient or completely sufficient to operate the services, while a considerable number of them, 32% stated that these resources are insufficient.

*Table 4: Mjaftueshmëria e burimeve financiare (vlerësimi nga 1-4)*

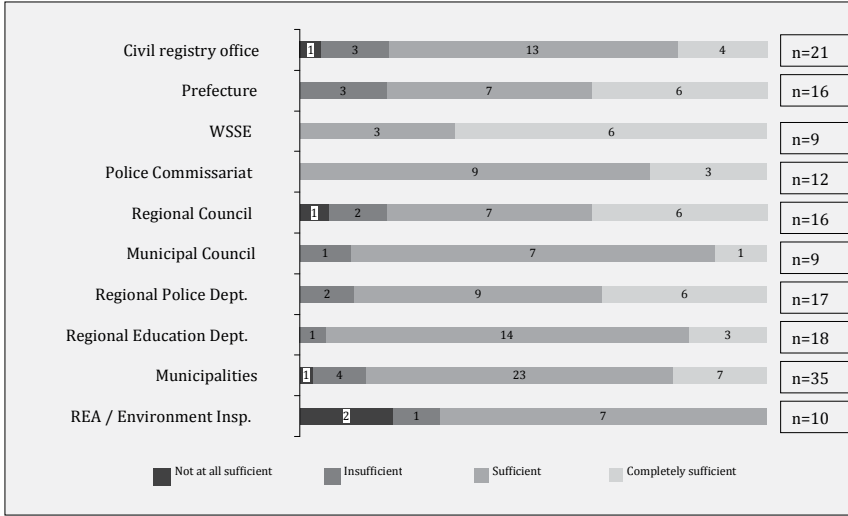
<b>Level of Sufficiency</b>	<b>Nr.</b>	<b>%</b>
Completely sufficient	8	4,9
Sufficient	94	57,7
Insufficient	53	32,5
Completely insufficient	8	4,9
<b>Total</b>	<b>163</b>	<b>100</b>

A further analysis of each institution under the study showed that Regional Environment Agency stated that financial resources are insufficient or completely insufficient (8 out of 10 respondents), while respondents in police departments, commissariats and officials of civil registry offices stated that financial resources are sufficient. Respondents in municipalities, prefectures, and regional councils are divided equally in terms of sufficiency of financial resources.

In regard to sufficiency of human resources, REA and environment inspectorate admitted their insufficiency (9 out of 10 respondents said that they are insufficient or completely insufficient), while 79 of respondents declared that the human resources in their institutions are sufficient or completely sufficient. The data indicates that police departments and commissariats, and educational departments have sufficient staff to accomplish their duties.

Generally, all respondents stated that their institution has sufficient or completely sufficient autonomy in using the above-mentioned resources.

*Graph 1: Evaluation of autonomy in using human and financial resources for the accomplishment of duties and responsibilities (1= completely insufficient, 4= completely sufficient)*



The opinion on the legal framework is considered very important, particularly when the final goal of the analysis is the quality of provision of public service. The legal framework is evaluated by 68% of respondents as somewhat complete and specified, while about 1/3 of the total interviewees stated that legislation is complete and specified. This result is compatible with the opinions expressed in focus groups and individual meetings/interviews. In addition, it is reinforced by answers obtained for the following questions on the impact of legislation deficiencies on the quality of service. (See table 6.)

*Table 5: Evaluation for the legal framework for the accomplishment of duties and responsibilities*

	Number	%
Complete and specified	55	33,7
Somewhat specified	94	57,7
Somewhat unspecified	14	8,6
Total	163	100,0

*Table 6: Level of impact of legislation deficiencies on the quality of service*

	Number	%
High affected	18	11,0
Somewhat affected	96	58,9
Not at all (service had quality)	47	28,8
Total	161	98,8

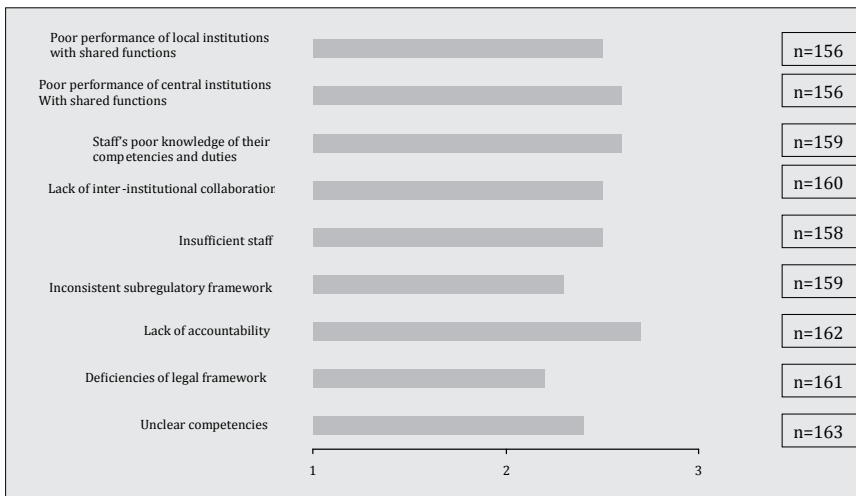
*Note: 2 respondents did not answer.*

According to the respondents' opinion, it seems that the quality of services provided by their institutions has not been much affected by aspects, such as lack of accountability, their staff's poor knowledge of their functions/duties, and poor performance of the central or local institutions co-responsible for this service.

Deficiencies of legislation and inconsistent and incompatible sub-regulatory acts have had a great impact as compared with other aspects. Thus, about 70% of respondents think that legislation deficiencies have affected much or to some extent the quality of services, while 63% blame the inconsistent and incompatible sub-regulatory acts.

These deficiencies are mostly disturbing and problematic for municipalities (33 out of 35 respondents), civil registry offices, and regional councils followed by prefecture. These very institutions state that lack of clear competencies has affected much or to some extent the quality of the services they provide. Police commissariats, education departments, and police departments of the region seem to be divided in two groups in terms of their opinion on the impact of legislation deficiencies. Regional police department (11 out of 17 respondents) together with the municipality and region (14 out of 16) and the civil registry office (13 out of 21) state that inconsistency and incompatibility of sub-regulatory acts have affected the quality of service.

*Graph 2: To what extent have the following issues affected the quality of service provided by your institution? (1=A lot, 2=somewhat, 3=Not at all)*



Interviewed public officials state that the staff's low level of knowledge on their duties and competencies has not affected much the quality of service.



Insufficiency of staff is admitted to have affected the quality of service of REA (9 out of 10 respondents), while this is not seen as an obstacle by the WSSE (8 out of 9 respondents). Moreover, water supply and sewage enterprise respondents state that their enterprise has more employees that needed.

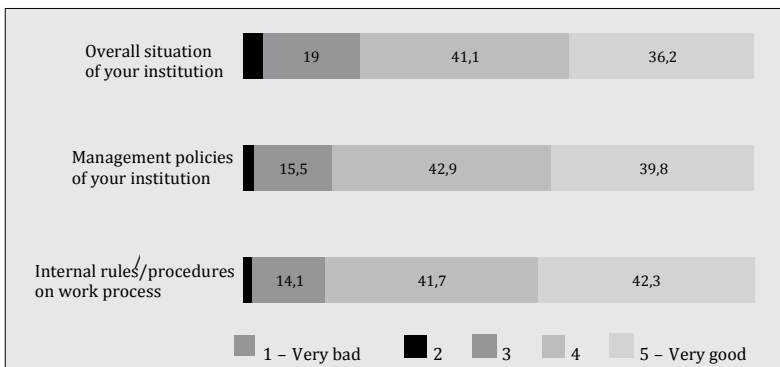
It does not seem that the level of accountability of local government units co-responsible for this service has affected the latter. However, majority of respondents in prefecture (11 out 16) and in REA (7 out of 10) stated that this aspect has affected the service as compared with those that the service of their institution is of high quality. Almost all respondents (22 out of 23) in municipalities state that the level of accountability of local government entities co-responsible for the services has affected much or to some extent the quality of these services.

Interviewees said that there are contradictions among duties/responsibilities they have, though this happens rarely. This is mainly admitted by respondents in municipalities, civil registry office, and prefecture, while this happens rarely or never in commissariats.

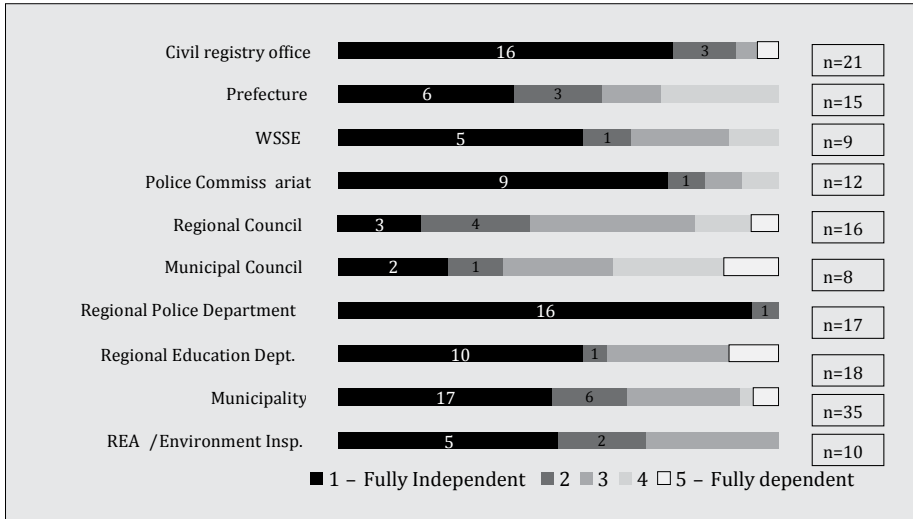
Responses on the level of coordination among institutions involved in the provision of certain services are divided between ‘somewhat effective’ and ‘very effective’, 58% and 41% respectively. An analysis by institution reveals that municipality, regions, civil registry office, commissariat, and prefecture lean on ‘somewhat effective’ evaluation, while regional education department, regional environmental agency, and regional police department lean on ‘very effective’ evaluation in terms of communication.

Respondents give a positive opinion on their institution regarding management policies, rules, and internal procedures of work. In addition, they judge that their institutions are politically independent, particularly the regional police department, REA, and commissariat.

*Graph 3: Evaluation of characteristics/issues of your institution (data in %)*

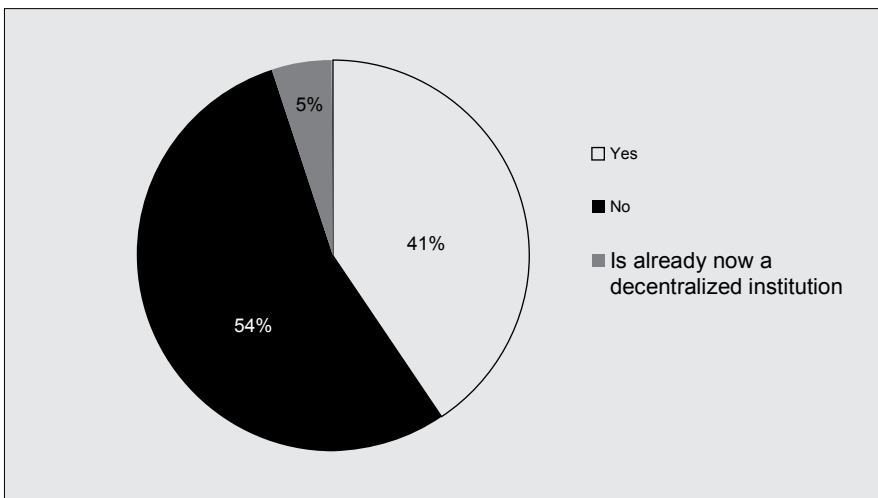


*Graph 4: Political Independence of Institution (1=completely independent, 5=completely dependent)*



Less than half of respondents (41%) are aware of the decentralization strategy involving their institution. While a number of interviewees in regional police department and commissariat state that their institutions are already decentralized, the other part admits that they are not aware of such strategy.

*Graph 5: Are you aware of a decentralization strategy involving your institution?*

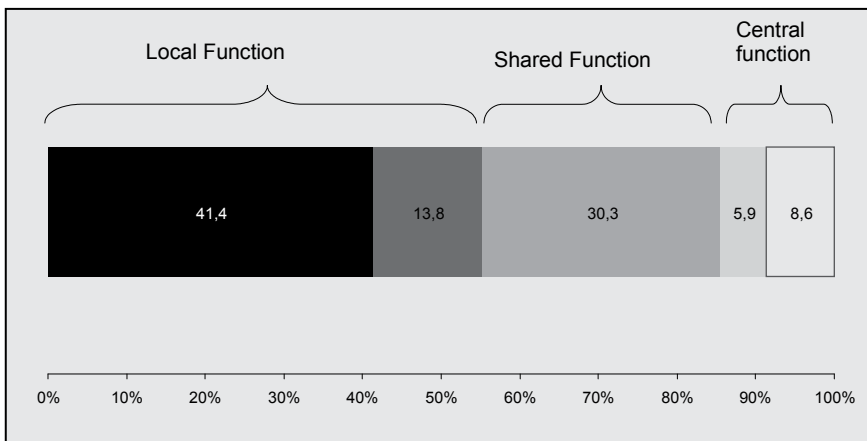


An analysis by institution indicates that the respondents in WSSE and municipality are more aware, because the former is involved in the process of ownership transfer to local government, and the latter is the focus of this strategy. None of respondents in civil registry offices state to be aware of any decentralization strategy involving their institution.

When asked about the progress of the strategy they are aware of, most respondents (57 out of 65) confirm that the progress has been good or very good. However, they cannot express their opinion on the new strategy involving the regional council, because this strategy was approved recently.

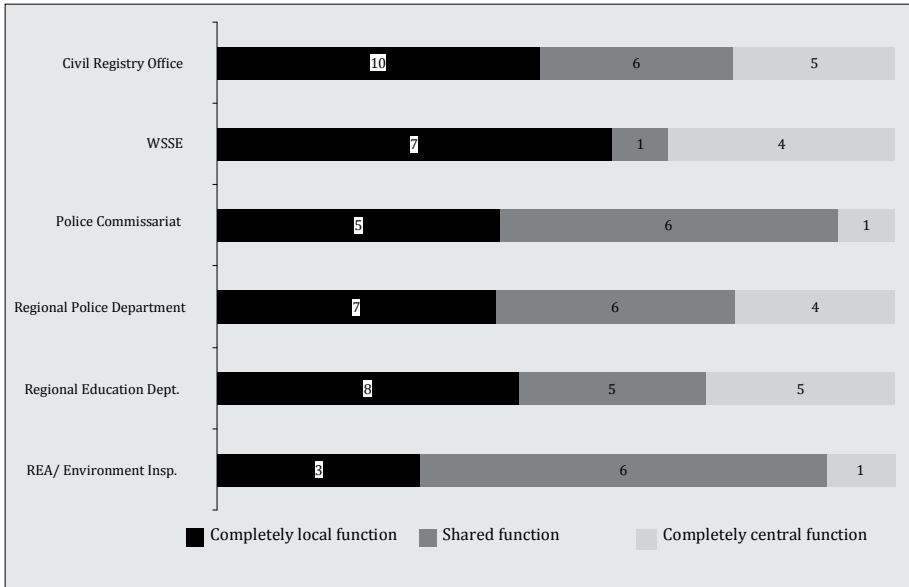
Some 30% of respondents think that functions analyzed in this survey should be shared functions, while 55% of them state that they should be mostly exclusive function of local governments.

*Graph 6: Management of sector/field covered by your department/institution should be:*



The analysis by each institution becomes more difficult, because the number of respondents for each department is too small to draw conclusions. However, tendencies are almost similar, inclining that water supply service should be an exclusive function of local government, while services provided by commissariats and REA should be shared functions. Respondents' opinion on education and civil registry services is divided between exclusive local and central functions.

Graph 7: Future of Function



### Water Supply and Sewage Service

A total of 34 respondents, mainly leaders and officials of municipalities and water supply enterprises, responded to the questions, to one of which, 27 out of 35 stated that their municipality has had limited or no legal authority to accomplish its exclusive function. More than half of respondents think that ownership transfer to municipality is expected to improve this service. It is assumed that good management, increase of collection of service fee, reduction of illegal interventions in the supply network, enhancement of public investment effectiveness, and increase of local government accountability to citizens will produce positive effects. Some negative effects that may be incurred from this transfer include lack of clear specifications of competencies, local government-enterprise relationship, financial worries which the enterprise will undergo upon removal of central government subsidies, level of management capacities of local government, etc.

When asked about the role of other institutions, co-responsible in this service, respondents stated that Water Regulatory Entity is considered to be a coordinator among institutions, while the Ministry of Public Works is seen as designer of policies and standards and as coordinator among institutions with shared responsibilities.

### Civil Registry Service

Under dual subsidiarity, respondents, specialists of the area, were asked about the impact of this positioning on the service provided by this office. According to

those who answered, this dual subsidiarity has affected much or to some extent or the quality of this service. Interviewees express two opinions on the future of this service, while giving reasons in support of their opinion. Those who consider this service as local function give the following reasons: better application of the subsidiarity principle as one of the fundamental principles of the functioning of local government; avoidance of the very dual subsidiarity; and, enhancement of local government independence and of opportunities for the creation of better working conditions. Those who consider this service a central government function give the following reasons: need for coordination; opportunity for increase of capacity through training; and better possibilities for investment in and computerization of this service.

#### Environment Protection Service

Regardless of their institutions, most of respondents (24 out of 38) who responded to the question on the necessary legal space to carry out the environment protection service stated that this space has been somewhat sufficient to accomplish this shared function.

#### Education Service

Respondents in municipality are divided between 'have not changed' and 'have increased' in regard to evaluation of the competencies of their institution on this service. Considering the municipal council and the regional council as local governments, most of respondents think that competencies on education have not changed. Almost all interviewees (36 out of 38) stated that investment on education have increased in their region.

#### Police Service

When asked specifically about practices of reporting at local level, more than half of respondents (17 out of 23) stated that this reporting should be with the prefect, while almost the same number of specialists of this area did not provide an answer to this question. In terms of the decentralization concept in the state police, most of respondents stated they did not know of such concept. However, 8 out of 25 respondents admit that this concept has found some ground and give the following reasons: it is a service to citizens and should be close to local government just like many other services; state police should acquire competencies on management of human and financial resources; it is closer to community and bears direct responsibility for the exercise of competencies; provides freedom of action mainly for the local level.

