

Kosovo Fiscal System and Policy under the UNMIK Administration until the Formation of State of Kosovo

SIMEANA BESHI, LL. M.

Faculty of Law
Pristina, "Fama" University College, Kosovo

SAFET KRASNIQI, DR. SC

Faculty of Law
Pristina, "Fama" University College, Kosovo

Faculty of Law
Prizren, "Ukshin Hoti" University, Kosovo

Abstract:

The purpose of this paper is to treat the differences, reforms and the stances regarding the policy and fiscal system in Kosovo that at the same time is also the subject of this study. The reason of the paperwork, is relying to facts and researches conducted by national and international organizations, which conclude that, within the economic development of a country, a huge impact to development of the productive powers and the development of economic capacities in general, doesn't need a comment that have the fiscal policies applied by the governments of different states. The research methodology, used in this study is the quality analysis. Some of the methods that will be used during this paper are: the historic method and the descriptive method.

This research is aiming to issue a statement of administration of taxes closely related with the country future, because by this plan will depend the economical – social development and its perspective.

Key words: fiscal policy, taxations, transition, reforms

INTRODUCTION

This paper presents an general evolution for the fiscal system and policy in Kosovo, including here the period from the UNMIK administration (1999-2007), afterwards the treatment of fiscal policy after approving the Kosovo Constitution, declaring the independence of Kosovo (2008) by which the institutional basis for the system and fiscal policy in Kosovo was created, which are by high importance for collecting of incomes, social development and the country perspective.

The current fiscal system in Kosovo has been constructed after the intervention of the international community and after the establishing of the administration of United Nations in Kosovo, the essence of which rely on accumulation of budget means and the method how those budget means to be spent, is constructed a completely new fiscal system, where an undeniable contribution on the building of this system It has given the international community. In building of this system, drafting laws and legal mechanisms, are taken the basis and the practices of EU countries.

DEVELOPMENT OF SYSTEM AND THE FISCAL POLICY IN KOSOVO

In the postwar years, Kosovo has faced disaccorded and impetuous tax intervention, based mainly in the other countries experiences and practices, especially the UE countries inconsistent with the real situation and needs of the postwar Kosovo, in many sectors needed to start from the beginning.

The main objective of taxing is the financing of the state expenses. All the other objectives, such as the structure policies or redistribution of the incomes are secondary.¹

¹ Michael Lang, Peter Melz, Eleonor Kristoffersson, Thomas Ecker, *Value Added Tax and Direct Taxation: Similarities and Differences*, (Holland: IBFD 2009), p. 107

The policy and the fiscal system based on Resolution 1244, practically failed in the aspect of public financing and economic development by all the elements.

Even during the period of UNMIK administration, the most important instrument of the fiscal system is the customs. The customs system had the intense of just filling the UNMIK budget ark, but it wasn't in function of country economic development. By the declaring of the Independence (17 of February 2008), and after the approving by the Republic of Kosovo Constitution, the institutional basis for the system and fiscal policy was created.

The economic development low level and the inherited fiscal system from UNMIK, not advanced to the extent that corresponds to a developed country, ensures limited measures for the Kosovo budget.²

The system and the fiscal policy at the postwar Kosovo were discomposed with the real situation and unimplemented for the country.

AUTHORIZATIONS OF THE INTERIM ADMINISTRATION MISSION IN KOSOVO, UNMIK

The UNMIK mission in Kosovo after the war is determined by ensuring donations with the purpose of completing the emergent needs for financing and activation of the Public Administration, recuperation of infrastructure and the public services.

An important document- act is the regulation no. 1999/1 regarding the authorization of the Interim Administration Mission in Kosovo, approved by SRSG of Kosovo.³

² Sabri Kadriu, *Financa publike*, (Prishtinë: SABRICO, 2012), p. 12-13

³ Regulation no. 1999/1 it was first approved by the chief administrator in Kosovo, Bernard Kouchner, Special Representative of the Secretary-General, on June 25, 1999

This regulation in article 1.1 expressly provides: “All legislative and executive authority in relation to Kosovo, including the administration of justice is vested to UNMIK and exercised by the SRSB”.⁴

All the individuals which take over public duties or keep public functions in Kosovo, during the performance of their functions must respect the internationally accepted standards of the human rights and to not discriminate individuals because of gender, race, color, language, religion, political or other opinion, national, ethnic or social origin, accompaniment with a national community, wealth, birth or other status.

The Kosovo Laws, in force in its territory, before the 24 of March 1999 will continue to apply In Kosovo if they aren't inconsistent with the international accepted standards on human rights and not discriminating in any base, with the accomplishing of the UNMIK mandate given by resolution 1244(1999) of the Security Council of United Nations or by this regulation or any other regulation issued by UNMIK.

Article 6 of this regulation, foresees the state property according to which to UNMIK is accepted the exclusive right in administration of movable and immovable property, finances, bank accounts and other types of properties registered in the name of Federative Republic of Yugoslavia, to Republic of Serbia or to any other respective organ , which are located at the territory of Kosovo.

THE INSTITUTIONAL BASIS OF PUBLIC REVENUES IN THE PERIOD 1999 – 2010

The policy and the fiscal system in Kosovo's case is based on the competences that UNMIK performed based on the resolution 1244, which enabled the creation of Fiscal Central Authority and by the same institutional basis It has not been established

⁴ Ibidem

the Banking Authority which would apply a proper credit – monetary policy.

The constitutional framework enabled the establishing of interim self-government bodies, establishing of forums and bodies, which implies also the Ministry of Finance in framework of which is determined the policy and the fiscal system for the Banking Authority by the competence of exercising the policy right and the credit – monetary system, as integral part that ensures stabile economic development.

The Kosovo Central Bank which enables the credit – monetary policy, in the period of UNMIK hasn't existed ever, therefore are not achieved results regarding the economic and social development.⁵

The policy and the fiscal system before, in this period and after, would be limited by many factors such as: economic grave situation of postwar; absence of statistical system and macroeconomic indicators for creation of the policy and the fiscal system; absence of strategy for economic and social development of Kosovo; the dysfunction of credit – monetary system; customs operation mainly for tax purposes; high level of corruption, contraband and organized crime, absence of adequate Laws, unfair competition, free market without selective elements etc.⁶

The taxing policy in Kosovo in all its phases of development also in the period UNMIK administration, have had only fiscal functioning, fulfilling of the state ark, while was not realized the collection of public revenues from contributors taxpayers.

Also in the time of UNMIK administration, the participation of indirect taxing in the structure of public

⁵ Kadriu, *Financa publike*, op.cit. p. 422.

⁶ Ibidem

incomes was 70-80%, which speaks for a taxing system which charges the poorest categories.⁷

The policy and fiscal system regulation by a regulation of UNMIK, compiled without the presence of Kosovar experts and international derecognition of the economic situation in Kosovo, the Kosovar mentality, makes these regulations to not be in function of economic and social development.

THE BUILDING OF FISCAL SYSTEM IN KOSOVO IN THE PERIOD OF UNMIK ADMINISTRATION

In specific case of Kosovo, the applying of instruments of fiscal policy was conditioned by UNMIK, who had deciding competences and in case of failures had no responsibility.

The Special Representative of Secretary General, in accordance with authorization given has institutionalized in level of Kosovo these instruments of fiscal system: Taxing, Customs, Excise, Taxes and contributions.

After the war in the phase of emergence and reconstruction, begins also the raising of the interim organs and institutions of public administration in Kosovo. Institution of Central Fiscal Authority, and later on Kosovo's interim institutions, Ministry of Finance in collaboration with UNMIK determined these taxing forms: tax on hotelier services,⁸ Presumptive tax, tax on personal income⁹, tax on corporate incomes,¹⁰ value added tax (VAT)¹¹ Games of Chance tax and the tax on extra profit.¹²

⁷ Sabahudin Komoni, *Financat Publike*, (Prishtinë: Universiteti i Prishtinës, Fakulteti Ekonomik, 2008), p. 120-129

⁸ Institute for Development Researches RIINVEST, *Key Issues in Building a Taxation Policy in Kosovo*, (Pristina: RIINVEST, 2001), p.17

⁹ Regulation no. 2002/4 dated February 20, 2002 on *Personal Income Taxes in Kosovo*; Regulation no. 2003/3, amending Regulation no. 2002/4 on *Personal Income Taxes in Kosovo*, dated January 31, 2003; Regulation no. 2004/52 dated December 4, 2004 on *Personal Income Tax*.

¹⁰ Regulation no. 2004/51 on *Corporate Income Tax*, dated December 4, 2004.

By this kind of taxing is extended the taxing basis, is reduced the taxing charge of businesses and are raised the budget incomes.

CONCLUSIONS

Through this paper is presented the past taxing system from the period under the UNMIK administration, transition process, challenges and the achievements of the taxing system in Kosovo. Reforms in taxing structure of Kosovo are essential part of the state building process.

The taxing system in Kosovo in general is facing some continuous problems from 1999 to upwards; with the taxing system and the regulations and Laws of UNMIK almost all copied from the other countries by countries in transition as well as the EU countries also their unsuitability of these regulations (Laws), with the critical situation in Kosovo keeping in mind that after 1999 the economy in Kosovo has been almost entirely destroyed.

The intention of all states in transition it remains setting of a balance between direct and indirect taxes, also creating of a taxing system which would be neutral to the competition in market economy. Must be created an internal system of taxing, in a way that from the direct taxes and by the internal VAT to be collected more incomes in order tax charge to be transferred from the border inside the country.

¹¹ Regulation no. 2001/11 dated May 31 2001, on *Value Added Tax in Kosovo*, Law no. 03L/114 on *Value Added Tax*, was approved by the Assembly on 18 December 2008 and entered into force on 1 January 2009

¹² Kadriu, *Financa publike*, p. 424

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About the authors:

LL. M. Simeana Beshi, was born on 15.05.1991 in Prizren, Republic of Kosovo, finished the bachelor studies at University of Prishtina in the field of law. Also has finished the master studies at the University of Prishtina and got the title, LL. M. of Financial Law, also she has finished her second masters studies at the College of European School of Law and Governance in Prishtina, and got the title MA of Law and Real Estate Management. Actually she works as a teaching assistant at University College "FAMA" in Prishtina, Republic of Kosovo. Her main interests are focussed in Financial law, civil law and international law.

Dr. sc. Safet Krasniqi, was born on 1.03.1969 in Prizren, Republic of Kosovo, finished the bachelor studies at University of Prishtina in the field of law. Also has finished the master studies at the University of Prishtina and got the title, Ma.Sc of Law. He has finished his doctor studies at the International University of Struga in Macedonia, and got the title Dr. Sc. of Political Science. Actually he works as a Professor at University College “FAMA” in Prishtina, Republic of Kosovo and Lecturer at Public University of Prizren “Ukshin Hoti”, Republic of Kosovo. His main interests are focussed in Political Science, financial law and international law. Some of his latest publications are: *The Human Rights and the Social Groupings in the age of Globalization Democracy and Other Concepts*, *Social Globalization in political and legal terms*, *Forms of Terrorism in Countries in Transition*.